

## FGO – UNC DRAFTING

### GENERAL TERMS – SECTION D – CDSP AND UK LINK

#### 1 GENERAL

##### 1.1 Introduction

1.1.1 This Section D sets out:

- (a) provisions relating to the CDSP and CDSP Services;
- (b) requirements in respect of the Data Services Contract;
- (c) the basis on which the DSC Committees are established; and
- (d) provisions in relation to UK Link.

1.1.2 This Section D includes the provisions required to be included in the Code pursuant to the CDSP Licence Condition.

1.1.3 The provisions of this Section D apply subject to the Transition Document (including the ~~DSC~~ Transitional Arrangements Document referred to in the Transition Document).

1.1.4 It is recognised that this Section D and the DSC are based on the assumption that (as provided in paragraph 7(~~a~~b) of the CDSP Licence Condition, and reflected in paragraph 1.4.6) the CDSP will not return a profit through its share capital; and that if (as contemplated by ~~that~~ paragraph 7(b)) the Authority were to consent to the CDSP doing so, it would be necessary to modify this Section D and amend the DSC to take account of the change in nature of the CDSP.

##### 1.2 Interpretation

1.2.1 For the purposes of the Code:

- (a) the "**Central Data Services Provider**" or "**CDSP**" is the person for the time being appointed by the Transporters as ~~{Central Data Services Provider}~~central data services provider pursuant to the CDSP Licence Condition;
- (b) the "**CDSP Licence Condition**" is ~~{Standard Special Licence-Condition A15A}~~ of Gas Transporter's Licences;
- (c) the "**Data Services Contract**" or "**DSC**" is the contract between the Parties and the CDSP in the form approved by the Authority (as provided in Part ~~{I}~~ paragraph 3} of the Transition Document) as from time to time amended in accordance with its terms and the provisions of this Section D;
- (d) "**Core Customer**" means a Party to the Code (other than a Trader User) in the capacity of a party to the DSC;
- (e) "**Customer Class**" means each of the following classes of Core Customer:

- (i) Shipper Users;
- (ii) DN Operators;
- (iii) National Grid NTS;
- (iv) Independent Gas Transporters;
- (f) **"Customer Group"** means a single Customer Class or a group of Customer Classes;
- (g) **"CDSP Cost"** means any cost, expense, liability or other outgoing of the CDSP, however arising or incurred;
- (h) **"CDSP Charge"** means any charge made by the CDSP to a Core Customer or ~~Third-Party~~ other person for the provision of a CDSP Service or otherwise for the recovery of any CDSP Costs;
- (i) **"CDSP Year"** means the period from 1 April in any year until and including 31 March in the following year; and
- (j) **"IGT Code Communication"** means a communication, equivalent to a TPD Communication, to be given by or to an Independent Gas Transporter under the IGT Code<sup>421</sup>.

#### 1.2.2 The **DSC Objectives** are:

- (a) compliance with the requirements of the CDSP Licence Condition, including (without limitation):
  - (i) that the CDSP should provide services effectively to help facilitate the efficient and integrated operation of the gas industry; and
  - (ii) so far as concerns CDSP Charges, compliance with the charging methodology objective in paragraph ~~48(e)~~ 1.2.4 of the CDSP Licence Condition; and
- (b) ~~so far as consistent with paragraph (a),~~ the objectives in paragraph 1 of ~~[Special-Standard~~ Special Condition A11 of Gas Transporter's Licences<sup>421</sup>.

1.2.3 Subject to paragraph ~~1.2.4~~ 1.2.4, references in this Section D to Shipper Users include such persons in their capacity as IGTS Users.

1.2.4 Nothing in the Code operates to create any rights or obligations as between an Independent Gas Transporter and an IGTS User (in that capacity), such matters being the subject of the IGT Code.

### 1.3 **CDSP Services**

1.3.1 For the purposes of the Code, subject to paragraphs 1.3.2 to 1.3.4, **"CDSP Services"** means the following services (to the extent that such services are provided by the CDSP):

- (a) services ("**core services**") which consist in:

- (i) performing functions assigned to the CDSP in, or
- (ii) performing or facilitating performance of obligations on behalf of a Core Customer under

the Code, the IGT Code, a Gas Transporter's Licence, or another document designated for the purposes of Section 173 of the Energy Act 2004; and

- (b) any service which the CDSP can provide efficiently and economically by using resources and/or data used by the CDSP to provide core services and which:
  - (i) is provided to any Core Customer or Core Customers of any Customer Class; or
  - (ii) is provided to Trader Users; or
  - (iii) is provided to a person or persons of a class which are not Parties, where one of the following conditions is met:
    - (aa) the service is the same or substantially the same as a service which the CDSP is for the time being providing to any Core Customer or Core Customers of a Customer Class; or
    - (bb) the Code requires or authorises the CDSP to provide the service to such person(s); or
    - (cc) the provision of the service to such person(s) helps facilitate the efficient and integrated operation of the gas industry.

1.3.2 Paragraph 1.3.1 is without prejudice to the provisions of this Section D and the DSC which determine which CDSP Services the CDSP actually provides.

1.3.3 If the Authority consents (under paragraph ~~7(b)~~ of the CDSP Licence Condition) to the CDSP providing a service beyond what is provided in paragraph 1.3.1, and such service is provided to Core Customer(s) under the DSC, such service shall ~~also be~~ treated as being a CDSP Service.

1.3.4 ~~If at any time it appears to the Transporters and the CDSP (after discussion with the Authority) that a question arises as to whether~~ a service being or proposed to be provided by the CDSP ~~as a CDSP Service is not a 'CDSP service' as provided in the CDSP Licence Condition~~ qualifies as a CDSP Service under paragraph 1.3.1(b), at the request of any Transporter the CDSP and the Transporters will consult the Authority on such question; and if (following such consultation) the Transporters are not satisfied that the service does so qualify, the CDSP in consultation with the Transporters shall take such steps as are necessary to cease or not to commence the provision of such service unless the Authority consents to such provision under paragraph ~~7(b)~~ of the CDSP Licence Condition; and nothing done by the CDSP pursuant to this paragraph 1.3.4 ~~shall~~ shall be a breach of the DSC.

1.3.5 "**Code Services**" means the CDSP Services referred to in paragraphs 2.1.1(a) and 2.2.1(a) (being ~~CSDP~~ CDSP Services required under or in order to give effect to the Code or IGT Code).

1.3.6 CDSP Services are divided into:

- (a) services provided by the CDSP on its own account ("**Direct Services**");
- (b) services which comprise the performance by the CDSP of functions on behalf of one or more of the Transporters or Independent Gas Transporters ("**Agency Services**").

#### **1.4 Agreement to engage the CDSP and be party to DSC**

1.4.1 The Parties acknowledge and agree that CDSP Services which are Code Services must be performed in order to implement and give effect to the Code and the IGT Code.

1.4.2 Accordingly the Parties shall, and each Party undertakes that it will:

- (a) use the Code Services;
- (b) engage the CDSP to perform and carry out the Code Services;
- (c) for that purpose, enter into and comply with the DSC; and
- (d) without limitation of its obligation to comply with the DSC, pay CDSP Charges as applicable to each Party in accordance with the DSC and the CDSP's Annual Charging Statement.

1.4.3 In accordance with TPD Section V2.1.2(h), OAD Section N4.2.2(e) and IGTAD Section F3.2.2(d) no person may become a Party (other than as a Trader User) without acceding to the DSC.

1.4.4 Each Party undertakes that it will act and exercise its rights and powers in relation to the CDSP (including [its powers under the CDSP Articles of Association and] its rights and powers under the DSC) so as jointly to control and govern the CDSP on an economic and efficient basis.

1.4.5 A Party may appeal the CDSP Budget for a CDSP Year by notice in writing to the Authority in accordance with and subject to the process set out in the Budget and Charging Methodology provided for in paragraph 3.3 [(and the relevant provisions of the Budget and Charging Methodology are deemed incorporated into the Code for the purposes of the CDSP Licence Condition)].

1.4.6 The Parties agree and acknowledge that:

- (a) the CDSP will not declare dividends or distributions (of income or capital) to its shareholders;
- (b) the shareholders of the CDSP have no obligations in respect of the funding of the CDSP;
- (c) the objective of the CDSP is to operate without making a net surplus (other than a margin to provide working capital) or net loss in any CDSP Year (and while some over or under-recovery of CDSP Costs in any one year is likely to occur, the provisions of the Budget and Charging Methodology ensure that such over or under-recovery is corrected in subsequent years);
- (d) accordingly (in accordance with the further provisions of this Section D):

- (i) the CDSP Services are provided 'at cost' to Core Customers (save as to the margin referred to in paragraph (c)); and
- (ii) all CDSP Costs (to the extent not recovered from third parties) are to be recovered from Core Customers.

## 1.5 Relevant Licence Provisions

1.5.1 For the purposes of this paragraph 1.5 "Relevant Licence Provisions" are:

- (a) the CDSP Licence Condition;
- (b) ~~Special~~ Standard Special Condition A31 and Standard Condition 31 of the Transporters' and Independent Gas Transporters' Gas Transporter's Licences; and
- (c) any other condition of the Transporters' and Independent Gas Transporters' Gas Transporter's Licences, to the extent to which the CDSP Services or other functions of the CDSP are relevant to compliance with such condition.

1.5.2 ~~Nothing in~~In the event of a conflict between a provision of this Section D or the DSC ~~shall take effect in a way which would be in conflict with or result in a Transporter or Independent Gas Transporter being in breach of~~with a Relevant Licence Provision; ~~(or with compliance with a Relevant Licence Provision);~~

- (a) such provision of this Section D or the DSC shall be deemed modified to the minimum extent necessary to make it consistent with the Relevant Licence Provision;
- (b) if such modification is not possible, the relevant provision of this Section D or the DSC shall be deemed deleted;
- (c) any such modification or deletion of a provision shall not affect the validity or enforceability of any other part of this Section D or the DSC.

1.5.3 It is agreed that:

- (a) the CDSP shall not knowingly do or omit to do anything;
- (b) a DSC Committee shall not take a decision (and any such decision shall be invalid and of no effect); and
- (c) no Party shall knowingly exercise any right under this Section D or the DSC in a way,

which would result in a Transporter or Independent Gas Transporter being in breach of a Relevant Licence Provision.

1.5.4 Where a Transporter or Independent Gas Transporter considers that any possible or proposed action or decision within paragraph 1.5.3(a), (b) or (c) would result in a breach of a Relevant Licence Provision, the Transporter or Independent Gas Transporter may and shall so inform the relevant person or committee accordingly.

## 1.6 Trader Users

1.6.1 This Section D, other than paragraph 5, does not apply in relation to Trader Users, and except in paragraph 5, references in this Section D to a Party do not include a Trader User.

1.6.2 Trader Users are required (pursuant to TPD Section V~~(3)~~2.1.2(i)) to be party to a UK Link User Agreement with the CDSP.

## 1.7 Further provisions in relation to ~~CDS~~CDSP

1.7.1 The Code and IGT Code also assign certain functions ("**Non-Service Functions**") to the CDSP which the CDSP is to perform but which are not treated or charged for as separate services provided by the CDSP, including:

- (a) establishing and operating UK Link (except that the operation of UK Link Gemini is performed as a service to National Grid NTS);
- (b) maintaining the UK Link Manual; and
- (c) functions assigned under the Modification Rules in connection with the Modification Procedures;

~~(d)~~ ~~[others?]~~

and any function assigned to the CDSP in the Code or the IGT Code which is not specified as a CDSP Service in or pursuant to the ~~DSC~~CDSP Service Description is a Non-Service Function of the CDSP.

1.7.2 The Code also contains certain other provisions ("**CDSP-Related Provisions**") which relate to the CDSP or the DSC as follows:

- (a) the provisions of paragraphs 1.3.3, 1.3.4, 1.5, 2.2.3, 2.4.1(c), 2.4.2(b), 2.4.3, 5.2.4, 5.5.3 ~~and (f)~~;

(b) any provision of the Code which is expressed to be a CDSP-Related Provision;

(c) ~~(b)~~ any other provision of the Code (other than one which provides for a Direct Function or Non-Service Function of the CDSP) which is expressed to provide a right, entitlement, or discretion of the CDSP, or to prescribe the manner in which the CDSP is to exercise any Non-Service Function under the Code.

## 1.8 Functions of Code entities under DSC

1.8.1 The DSC may assign functions to the Code Administrator, Modification Panel, a Workgroup or ~~UNCC~~UNC Committee, and each such person or body shall have and perform the functions so assigned to it.

## 2 CDSP SERVICES AND ROLE OF CDSP

### 2.1 Direct Services

2.1.1 Direct Services comprise:

- (a) the performance of functions (other than Non-Service Functions) assigned to the CDSP in the Code or IGT Code ("**Direct Functions**");
- (b) services provided under the DSC to Core Customers which are not prescribed by the Code or IGT Code (as the case may be), comprising:

- (i) services provided on a uniform basis to all Core Customers or Core Customers of a Customer Class or Customer Classes;
- (ii) services available on a uniform basis to all Core Customers or Core Customers of a Customer Class or Customer Classes, but provided only on the request of a Core Customer;
- (iii) services provided at the request of and as specified by an individual Core Customer (**Additional Customer Services**);
- (c) services ("**Third Party Services**") provided (consistent with [the policy provided for in paragraph 3.7](#)) to persons who are not Core Customers, or to Core Customers on terms other than those of the DSC.

2.1.2 Direct Services within paragraph 2.1.1(a) comprise:

- (a) performance of the following Direct Functions under the Code:
  - (i) the maintenance of the Supply Point Register and the performance of the functions of the CDSP (in connection with supply point administration) in TPD Section G;
  - (ii) the functions of the CDSP (in connection with demand estimation) in TPD Sections H1, H2, H3 and H4;
  - (iii) the functions of the CDSP (in connection with Supply Point metering, meter data and meter reading) in TPD Section M;
  - (iv) the Direct Functions of the CDSP under other provisions of the Code which provide for such functions;
- (b) performance of the Direct Functions of the CDSP under provisions of the IGT Code equivalent to the provisions of the Code listed in paragraph (a) above.

2.1.3 The CDSP acts on its own account and not as agent of any Party in the provision of Direct Services, but without prejudice to paragraph ~~2.3.2~~ [2.4.2](#).

## 2.2 Agency Services

2.2.1 Agency Services comprise:

- (a) the performance of certain functions of the Transporters and Independent Gas Transporters under the Code and the IGT Code, as the case may be (such functions to be performed by the CDSP being "**Agency Functions**");
- (b) the performance of certain functions of the Transporters and Independent Gas Transporters pursuant to conditions of their respective Gas Transporter's Licences;
- (c) the performance of certain functions of the Transporters ~~and/or Independent Gas Transporters~~ in connection with other gas industry codes or agreements.

2.2.2 Agency Services within paragraph 2.2.1(a) comprise:

- (a) the performance of the Agency Functions of the CDSP in TPD Sections ~~B~~, C, ~~D~~, E, F, G, H, Q, S, V, and X and the performance of the agency functions in the equivalent provisions of the IGT Code;
- (b) the performance of the Agency Functions of the CDSP (in connection with data flows between Transporters and Independent Gas Transporters in IGTAD Sections D and E;
- (c) ~~the performance of the Agency Functions of the CDSP under other provisions of the Code which provide for such functions.~~

2.2.3 In relation to Agency Services which are Code Services, where the Agency Functions of the CDSP include sending or receiving Code Communications or making determinations on behalf of any Transporter:

- (a) the CDSP acts as agent of the relevant Transporter(s) in the performance of those functions.
- (b) in accordance with paragraph (a):
  - (i) Code Communications are given between Users and Transporters, and in sending or receiving such Code Communications the CDSP acts as agent of the Transporter or Transporters;
  - (ii) any such Code Communication given by the CDSP shall be deemed to have been given by and be binding on the Transporter, and Users shall be entitled to rely on such Code Communication;
  - (iii) where there is a requirement in the Code under any such provision that a User give a Code Communication to a Transporter or the Transporters collectively, the User shall be treated as having complied with such requirement where the User gives the Code Communication to the CDSP;
- (c) where the Agency Service requires the CDSP to act on behalf of the Transporters in the exercise of any discretion or rights conferred on the Transporters, the Transporters may provide guidance or instructions to the CDSP in respect thereof.

2.2.4 The IGT Code contains provisions equivalent to paragraph 2.2.3.

## 2.3 Direct Services which are Code Services – further provisions applying in relation to the Code

2.3.1 The Parties acknowledge and agree, in connection with Direct Services which are Code Services, that:

- (a) the Code sets out or describes the functions of the CDSP as obligations of the CDSP (as if the CDSP were a party to the Code);
- (b) the CDSP is not a Party, and is not bound by any Framework Agreement to comply with the Code;
- (c) accordingly the DSC operates to bind the CDSP to perform those functions assigned to it under the Code.



2.3.2 Where a provision of the Code referred to in paragraph 2.1.2, in relation to which the CDSP performs Direct Services, contains a rule, requirement or obligation binding on a Party and not expressed to be owed to any other Party or Parties in particular:

- (a) such provision operates for the benefit of all Parties, notwithstanding that such provision may be expressed as a provision about a TPD Communication to be given by or to, or a process to be followed by or with, the CDSP;
- (b) any Party which is or would be adversely affected by a breach of such provision may seek to enforce such provision (and GT Section B 2.4.1 does not apply to this paragraph).

2.3.3 The rights and obligations of the Parties under the Code shall not be affected by any failure or delay on the part of the CDSP in performing the Direct Services which are Code Services, so far as such rights and obligations are capable of being construed and determined notwithstanding such failure or delay, but without prejudice to any provision of the Code which expressly addresses any such failure or delay or the consequences thereof.

2.3.4 In the event of any conflict between the provisions of the Code and the provisions of the DSC:

- (a) as between the Parties, the provisions of the Code shall prevail;
- (b) any Party may propose (in accordance with the applicable provisions of the DSC) an amendment to the DSC to remove such conflict.

2.3.5 The IGT Code contains provisions equivalent to those of this paragraph 2.3.

## **2.4 Direct Services which are Code Services – further provisions applying in relation to the Code and IGT Code**

2.4.1 In relation to Direct Services which are Code Services:

- (a) the CDSP acts as the operator in its own name of the Supply Point Register and the supply point register under the IGT Code;
- (b) TPD Communications and IGT Code Communications given or received by the CDSP under the provisions of the Code and the IGT Code referred to in paragraph {2.1.2} are given or received by it in its own name (as such operator), and not as agent of any particular Party.

2.4.2 So far as any of the Direct Functions comprise the functions to be fulfilled by the Supply Point Information Service ("SPIS") pursuant to Standard [Special Condition](#) ~~or Special~~ [A31 and](#) Standard Condition 31 ("SC31") of the Transporters' and Independent Gas Transporters' Gas Transporter's Licences:

- (a) the DSC shall take effect as an arrangement by which (as contemplated by SC31) the Transporters and the Independent Gas Transporters procure the establishment and subsequent operation and maintenance by the CDSP of the SPIS;
- (b) the CDSP shall perform the CDSP Services and otherwise act so as to ensure the Transporters and the Independent Gas Transporters comply with SC31.

2.4.3 Where, in connection with Direct Services, a provision of the Code or the IGT Code confers on the CDSP any discretion or choice, or requires or entitles the CDSP to make a judgement or

form an opinion, in connection with any action taken or communication given by a particular Party (the **relevant** Party):

- (a) the Contract Management Committee may prescribe principles or guidance to be followed by the CDSP in doing so;
- (b) the CDSP may request the Contract Management Committee to provide such principles or guidance (in general or in particular cases);
- (c) subject to or in the absence of any such principles or guidance, the CDSP shall act with a view to meeting the following principles:
  - (i) to avoid undue discrimination between Parties or Parties of a particular Customer Class;
  - (ii) to avoid any significant cost or risk being imposed on any Party or Parties other than the relevant Party;
  - (iii) to avoid any significant cost or risk being incurred by the CDSP (including any risk to UK Link) which may affect other Parties;
  - (iv) to allow the relevant Party to enjoy the benefit of the relevant provision where no significant cost or risk will be imposed on any other Party or Parties, but subject to paragraph (v);
  - (v) not to allow the relevant Party to avoid complying with the Code or IGT Code, as the case may be, on a persistent basis;~~(vi)~~ ~~[others?]~~.

2.4.4 Except as expressly provided in the Code or the DSC, no provision of the Code or the IGT Code is incorporated into the DSC and nothing in the Code or the IGT Code shall operate to impose any obligation or confer any right on the CDSP.

## **2.5 Amendment of DSC by Code Modification**

2.5.1 This paragraph 2.5 applies where the Code or the DSC provides that any part of the DSC may be amended, or may only be amended, where authorised by a Code Modification pursuant to the Modification Rules.

2.5.2 Any Party may make a Modification Proposal to authorise the amendment of the relevant part of the DSC, subject to the provisions of the DSC.

2.5.3 The CDSP will, in accordance with the applicable provisions of the DSC, amend the relevant part of the DSC in accordance with any Code Modification which authorises such amendment, and such amendment shall be made and effective as provided in the DSC.

## **3 DATA SERVICES CONTRACT**

### **3.1 Content of "Data Services Contract"**

3.1.1 The DSC comprises:

- (a) an agreement ("**DSC Agreement**") in accordance with paragraph 3.1.2;

- (b) terms and conditions ("**DSC Terms and Conditions**") in accordance with paragraph 3.1.3;
- (c) further documents ("**CDSP Service Documents**") in accordance with paragraph 3.1.4.

### 3.1.2 The DSC Agreement:

- (a) is an agreement, to which the CDSP and all Parties are (or by accession become) party, by which the DSC Terms and Conditions are given effect and made binding between the CDSP and the Parties;
- (b) may be amended only by agreement of all of the parties to it.

### 3.1.3 The DSC Terms and Conditions:

- (a) give effect to and make binding (as between the CDSP and each Party) each CDSP Service Document;
- (b) oblige the CDSP to perform the Non-Service Functions assigned to it under the Code and the IGT Code;
- (c) incorporate and make binding (as between the CDSP and each Party) the CDSP-Related Provisions of the Code;
- (d) ~~require~~provide for the CDSP to provide ~~for otherwise procure~~ CDSP Services effectively to help facilitate the efficient and integrated operation of the gas industry;
- ~~(e) give effect to further provisions of the Code [and IGT Code?] which are expressed to operate so as to bind or benefit the CDSP (including applicable provisions of this Section D);~~
- (e) ~~(f)~~ contain terms and conditions of the DSC which are not contained in the CDSP Service Documents;
- (f) ~~(g)~~ may only be amended by way of Code Modification in accordance with paragraph 2.5.

### 3.1.4 The CDSP Service Documents:

- (a) comprise the following documents:
  - (i) a description ("**CDSP Service Description**") of the CDSP Services, in accordance with paragraph ~~{3.2}~~;
  - (ii) a methodology ("**Budget and Charging Methodology**") for budgeting CDSP Costs and setting CDSP Charges, in accordance with paragraph ~~{3.3}~~;
  - (iii) a policy ("**DSC Credit Policy**") for Core Customer credit risk management and debt enforcement in relation to the DSC; in accordance with paragraph ~~{3.4}~~;
  - (iv) the UK Link Manual in accordance with ~~{paragraph 4.5-12}~~5.2;

- (v) rules and procedures ("**Change Management Procedures**") for amending the ~~DSC~~CDSP Service Documents and for modifications of UK Link in accordance with paragraph ~~[3.4]~~3.5;
- (vi) arrangements ("**Contract Management Arrangements**") for management and reporting in respect of the DSC in accordance with paragraph ~~[3.6]~~;
- (vii) a policy ( "**Third Party and Additional Services Policy**") for Third Party Services and ~~[Additional Customer Services]~~ in accordance with paragraph ~~[3.7]~~;
- (viii) the ~~DSC~~ Transitional Arrangements Document in accordance with Part I paragraph 3 of the Transition Document, for so long as its provisions continue to be effective;

- (b) may be amended in accordance with the provisions of the DSC ~~ETCs~~Terms and Conditions and the Change ~~Control~~Management Procedures.

3.1.5 Each document comprising part of the DSC shall be kept up to date and published by the Transporters (or the CDSP on their behalf) on the website of the Code Administrator.

## 3.2 CDSP Service Description

3.2.1 The CDSP Service Description shall set out a specification of each of the CDSP Services (other than Third Party Services and Additional ~~Individual~~ Customer Services), based on the classification of Direct Services in paragraph 2.1.1 and Agency Services in paragraph 2.2.1, including a definition of the service and (in certain cases) a service level or service levels for performance of the service.

3.2.2 Under the CDSP Service Description:

- (a) CDSP Services shall be divided into areas ("**Service Areas**") of related CDSP Services;
- (b) within each Service Area each individual CDSP Service is a "**Service Line**".

3.2.3 The CDSP Service Description shall (without limitation):

- (a) oblige the CDSP to perform the functions assigned to it under the Code and the IGT Code as Code Services; and
- (b) in relation to a Code Service, specify the CDSP Service by reference to the relevant provision of the Code or the IGT Code, as the case may be, (and in the case of a Direct Service, by identifying the relevant function of the CDSP as specified in the Code or IGT Code).

## 3.3 ~~[~~Budget and Charging Methodology

3.3.1 The Budget and Charging Methodology shall provide for:

- (a) the CDSP to prepare, consult on and publish ~~the a budget~~ ("**CDSP Budget**") for each CDSP Year, identifying the activities expected to be performed by the CDSP in the CDSP Year and the forecast CDSP Costs in respect of those activities;

- (b) the basis for an appeal to the Authority in respect of the CDSP Budget as provided in the CDSP Licence Condition and the implementation of the Authority's decision;
- (c) a basis for the allocation of CDSP Costs to the activities of the CDSP, including the provision of CDSP Services;
- (d) the basis on which the CDSP will determine ~~{CDSP Charges}~~ to Core Customers (and other persons) in respect of CDSP Services and other activities of the CDSP, with a view to recovering CDSP Costs and ensuring an adequate level of working capital, and consistent with the principles in paragraph ~~H~~1.4.6;
- (e) the CDSP to prepare and publish an annual charging statement ("Annual Charging Statement") for each CDSP Year setting out the ~~{CDSP Charges}~~ payable by Core Customers in respect of CDSP Services (other than Additional Customer Services);
- (f) the circumstances in which and basis on which the CDSP Budget may be amended within the ~~Charging~~CDSP Year, and the Annual Charging Statement and CDSP Charges amended as a result.

3.3.2 The Budget and Charging Methodology shall provide for:

- (a) the CDSP to publish and keep under review the Budget and Charging Methodology [and Annual Charging Statement];
- (b) the Budget and Charging Methodology [and Annual Charging Statement] to facilitate the charging methodology objective set out in the CDSP Licence Condition;
- (c) the further matters required under the CDSP Licence Condition.

~~(d)~~ -

### 3.4 Credit Policy

3.4.1 The Credit Policy shall provide for:

- (a) the basis on which the CDSP shall assess the creditworthiness of, and set an unsecured credit limit for, each Core Customer;
- (b) requirements for Core Customers to provide credit cover for indebtedness under the DSC in excess of the unsecured credit limit;
- (c) the determination of the outstanding indebtedness of Core Customers under the DSC;
- (d) the steps to be taken where a Core Customer fails to comply with its credit obligations under the Credit Policy;
- (e) the steps to be taken where a Core Customer fails to pay an amount due under the DSC or is in other financial default of the DSC.

### 3.5 Change Management Procedures

3.5.1 The Change Management Procedures shall provide for:

- (a) the basis on which a change or modification may be proposed:

- (i) in respect of CDSP Services under the DSC;
- (ii) in respect of UK Link;
- (iii) in respect of the UK Link Manual;
- (iv) in respect of any other ~~DSC~~[CDSP](#) Service Document;
- (b) the procedures to be followed in respect of any such proposed change or modification;
- (c) the coordination of such procedures with the Modification Procedures, where the change to CDSP Services is required by a Code Modification;
- (d) the role of the Change Management Committee in connection with the foregoing.

3.5.2 The Change Management Procedures shall also provide for the procedure by which ~~the DSC~~[a CDSP Service Document](#) will be modified pursuant to a Code Modification as provided in paragraph ~~4.2.5~~.

### 3.6 Contract Management Arrangements

3.6.1 The Contract Management Arrangements shall provide for:

- (a) requirements as to the manner in which the CDSP meets its obligations to provide CDSP Services under the DSC;
- (b) the role of the Contract Management Committee in managing the DSC on behalf of Core Customers;
- (c) reporting and audit requirements in respect of the performance by the CDSP of its obligations under the DSC;
- (d) procedures to be followed in respect of disputes arising under the DSC.

### 3.7 Third Party and Additional Services Policy

3.7.1 The Third Party and Additional Services Policy shall set out the basis on which the CDSP may provide and may agree to provide Additional Customer Services and Third Party Services.

3.7.2 The Third Party and Additional Services Policy shall include:

- (a) limits to the scope and amount of Third Party Services with a view to limiting risk and cost to Core Customers;
- ~~(b) [requirements as to service priority in case of conflict with provision of CDSP Services to Core Customers];~~
- ~~(b)~~ [\(e\)](#) principles governing the liability which the CDSP may accept in the provision of Third Party Services;
- ~~(c)~~ [\(d\)](#) the requirement to earn a margin (above an allocation of CDSP Costs) in the charges made for Third Party Services.

## 4 DSC COMMITTEES

### 4.1 Establishment and functions of DSC Committees

- 4.1.1 In connection with the DSC and the activities of the CDSP the following Network Code Sub-~~Committees~~committees (each a "**DSC Committee**") are established:
- (a) Change ~~Control~~Management Committee; and
  - (b) Contract Management Committee.
- 4.1.2 The Change ~~Control~~Management Committee shall perform the functions and have the powers and duties provided in this Section D and in the DSC in connection with changes to the DSC.
- 4.1.3 The Contract Management Committee shall perform the functions and have the powers and duties provided in this Section D and in the DSC in connection with the management of the DSC and review or approval of the activities of the CDSP.
- 4.1.4 A DSC Committee may establish a sub-committee for such purposes (within the scope of its functions, powers and duties) and comprising such members and on such terms as it decides; and references to a DSC Committee include any such sub-committee.
- 4.1.5 The DSC Committees are autonomous and (except pursuant to an appeal in accordance with paragraph 4.5 or otherwise as expressly provided in this Section D) the ~~UNCC~~UNCCommittee has no power to overrule a decision of a DSC Committee or reduce or qualify the scope of its functions, powers and duties.
- 4.1.6 A DSC Committee may decide to refer a matter (within the scope of its functions, powers and duties) to the other DSC Committee, but otherwise neither DSC Committee is subordinate to the other.
- 4.1.7 No decision of a DSC Committee may be made or (if made) shall be effective if the decision would cause the CDSP to be or act in breach of the DSC.

### 4.2 Constitution of DSC Committees

- 4.2.1 Each DSC Committee shall comprise representatives ("**Committee Representatives**") of each Customer Class as follows:
- (a) 6 individuals appointed as representatives of Shipper Users ("**Shipper User Representatives**")
  - (b) 6 individuals appointed as representatives of Transporters and IGTs, of which:
    - (i) 1 shall be appointed by National Grid NTS ("**NTS Representatives**");
    - (ii) 4 shall be appointed by DN Operators ("**DNO Representatives**");
    - (iii) 1 shall be appointed by IGTs ("**IGT Representatives**").
- 4.2.2 Annex ~~{D-2}~~ sets out the basis on which the Committee Representatives of each Customer Class are to be appointed and from time to time removed and/or replaced.

4.2.3 References to Committee Representatives of a Customer Group are to Committee Representatives appointed as representatives of the Customer Class or Customer Classes comprising that Customer Group.

4.2.4 Each meeting of a DSC Committee shall be chaired by a person (not being a Committee Representative or the Committee Secretary) nominated by the Code Administrator (["Committee Chairperson"](#)).

4.2.5 The Code Administrator shall nominate and may from time to time remove and replace) a person (not being a Committee Representative) as secretary ("**Committee Secretary**") for each DSC Committee.

4.2.6 A person who is a ~~Director~~[director](#) of the CDSP may not be a Committee Representative.

4.2.7 The same person may be a Committee Representative on both DSC Committees.

### 4.3 Voting arrangements

4.3.1 A decision of a DSC Committee shall be made:

- (a) where the DSC or this Section D expressly so provides, by the vote of the Committee Representatives of a particular Customer Group; and Committee Representatives of a Customer Class not comprised in that Customer Group shall not vote on the relevant matter;
- (b) except as provided in paragraph (a), by the vote of all Committee Representatives (a **Full Vote**).

and in relation to any matter to be decided by a DSC Committee, the "**Voting Representatives**" are the Committee Representatives who (pursuant to this paragraph 4.3.1) are to vote on the matter.

4.3.2 If (after considering the views of the CDSP) there is a bona fide difference of opinion within a DSC Committee as to the question whether a matter falls within paragraph 4.3.1(a), that question shall be decided under paragraph 4.3.1(b), but that decision is subject to appeal under paragraph 4.5.

4.3.3 Decisions of a DSC Committee shall be made:

- (a) where expressly so provided in the DSC or this Section D, by the unanimous vote of the Voting Representatives who are present at the relevant meeting and who vote in respect of the matter to be decided (a "**Unanimous Vote**");
- (b) except as provided in paragraph (a) by a simple majority of the votes of the Voting Representatives who are present at the relevant meeting and who vote in respect of the matter to be decided;

and accordingly where a Voting Representative is not present at the relevant meeting or abstains from voting in respect of a decision, such Voting Representative shall not be counted in determining whether a unanimous vote or (as the case may be) a simple majority of votes has been obtained.

4.3.4 Where on a vote conducted under paragraph 4.3.3(b), there is an equal number of votes in favour of and against the matter to be decided:



- (a) no person shall exercise a casting vote;
- (b) for the purposes of the provisions of paragraph 4.5 in respect of appeal of decisions, the DSC Committee shall be treated as having made a decision against the relevant matter.

4.3.5 It is expected that decisions of DSC Committees will generally be consensual; and the person chairing a meeting of a DSC Committee may, in respect of any matter to be decided, invite any Voting Representative who objects to indicate his or her objection, on the basis that (in the absence of any such objection) the matter shall be treated as decided (by a Unanimous Vote).

#### 4.4 Proceedings of DSC Committees

4.4.1 Unless in conflict with any provision of this paragraph 4, the provisions of Sections 4.5 and 5 (excluding [Section ~~5.15.1, 5.2, 5.5, 5.6, and 5.8~~]) of the Modification Rules shall apply (mutatis ~~mutandis~~mutandis, and disregarding references therein to other provisions of the Modification Rules) in relation to each DSC Committee. ~~{Consider whether other interpretation required?}~~

4.4.2 Committee Representatives (of whom at least two shall be Shipper Representatives and two shall be DNO Representatives, NTS Representatives or IGT Representatives, excluding the Committee Chairperson) present at a meeting of a ~~UNCDSC~~ Committee who can exercise six votes shall be a quorum.

4.4.3 The ~~person chairing a meeting of a DSC~~ Committee Chairperson may not make a determination (as provided in Section 5.10.1 of the Modification Rules) which would exclude a representative of a Party from attending or participating in the business of a meeting of a DSC Committee (but without prejudice to any other provision of this Section D or the DSC which limits the right of a Party to attend such a meeting).

4.4.4 The CDSP is entitled and required to attend (by one or more representatives) each meeting of a DSC Committee.

4.4.5 In relation to any matter to be considered by a DSC Committee, the "next eligible" meeting of the DSC Committee is the first meeting for which the matter can be included in the meeting's agenda in accordance with the requirements in paragraph 5 (including its provisions for meetings called on short notice, where applicable) of the Modification Rules.

4.4.6 A Committee Representative which is employed or otherwise engaged by a Core Customer shall not in general be precluded from participating in any meeting of a DSC Committee or voting on a matter in respect of which that Core Customer has an interest; but where:

(a) a decision to be taken by a DSC Committee concerns a dispute between the CDSP and a Core Customer, or a breach or a claim of breach by a Core Customer of the DSC; and

(b) the identity of the Core Customer is known to the DSC Committee;

then a Committee Representative, or alternate, employed or otherwise engaged by such Core Customer shall not vote on such decision and (if requested by the person chairing the meeting) shall leave the meeting when the matter is discussed.

#### 4.5 Appeal

- 4.5.1 ~~This paragraph [4.5] applies where this Section D or the DSC provides that~~ A Core Customer may appeal a decision of a DSC Committee ~~may be appealed~~ subject to and in accordance with this paragraph 4.5.
- 4.5.2 The grounds on which a decision of a DSC Committee may be appealed are:
- (a) that the decision is not in accordance with a provision of this Section D or the DSC; or
  - (b) that the decision is not consistent with the DSC Objectives.
- 4.5.3 A Core Customer ~~or Customers of any~~ Customer Class may, ~~within [ten Business Days] after the publication of appeal~~ a decision of a DSC Committee, give notice to the Committee Secretary of appeal of the decision, if [one or more of] [a majority of] the Committee Representatives of that Customer Class voted against the decision.
- 4.5.4 ~~Notice of appeal of~~ A Core Customer appealing a decision of a DSC Committee ~~shall specify~~ must give notice to the Secretary of the appeal, within [10] Business Days after the publication of the decision, specifying the decision in question and the grounds (as provided in paragraph 4.5.2) on which the ~~person giving the notice objects to the decision.~~ appeal is made.
- 4.5.5 ~~The decision is provisionally appealed if~~ Where notice of appeal of a decision is given in accordance with ~~paragraph [4.5.2]~~ paragraphs 4.5.3 and 4.5.4:
- (a) the Secretary shall send the notice to the relevant DSC Committee, the CDSP and each other Core Customer, and place the appeal on the agenda of the [next] meeting of the UNC Committee;
  - (b) any Core Customer may, within five Business Days after the notice of appeal was sent under paragraph (a), send to the UNC Committee representations in respect of the matter;
  - (c) the UNC Committee may request further information from the CDSP, the DSC Committee or any Core Customer in connection with the appeal;
  - (d) the UNC Committee shall decide the matter, by reference to the grounds of appeal in paragraph 4.5.2 (and consistent with the provisions of the DSC in respect of the decision in question), in one of the following ways:
    - (i) by upholding the decision of the DSC Committee;
    - (ii) by making a different decision in substitution for the DSC Committee's decision;
    - (iii) [by remitting the matter to the DSC Committee for a further decision with such guidance or instruction as the UNC Committee shall decide;]
- 4.5.6 ~~Where a decision is provisionally appealed, the Committee Secretary shall refer the matter to the UNCC which shall be requested to give its opinion of the matter including whether it considers the decision was appropriate. Subject to paragraph 4.5.8, the decision of the UNC Committee in respect of the appeal is final and binding.~~

**Note: Paragraph 4.5.7 under review following comments received from the Authority on 21 October.**

- 4.5.7 ~~The opinion of the UNCC does not bind the Parties or the CDSP or the DSC Committee.~~ Where a Core Customer considers that:
- (a) the grounds of appeal in paragraph 4.5.2 are met in respect of the UNC Committee's decision on an appeal; and
  - (b) the UNC Committee's decision may, to a material extent, adversely affect competition between Parties or any class of Parties, result in a breach of a Relevant Licence Provision, otherwise adversely affect the interests of consumers or otherwise raises issues which should be considered by the Authority;
- the Core Customer may, by notice given to the Authority and the Secretary within five Business Days after the publication of the UNC Committee's decision setting out the basis on which it considers the conditions in paragraphs (a) and (b) are met, request the Authority for consent to appeal the UNC Committee's decision to the Authority.]
- 4.5.8 ~~Following the giving of the UNCC's opinion the Customer or Customers who gave notice of appeal~~ If the Authority notifies the Core Customer and the Secretary that the Authority consents to such appeal the Core Customer may, (within five Business Days after the publication of the UNCC's opinion) Authority's consent, give notice of appeal of the UNC Committee's decision to the Secretary confirming the appeal.
- 4.5.9 Where ~~the~~ a Core Customer gives notice of appeal of ~~a decision of a DSC~~ the UNC Committee ~~is confirmed's decision~~, the matter shall be referred to the Authority as follows:
- (a) the ~~Committee~~ Secretary shall send to the Authority a statement of the decision subject to appeal together with relevant papers which were considered by the UNC Committee in reaching its decision;
  - (b) any Core Customer may, within five Business Days after the statement in paragraph (a) is published, send to the Authority representations in respect of the matter;
  - (c) the Authority is requested to determine the matter, by reference to the grounds of appeal in paragraph 4.5.2, in one of the following ways:
    - (i) by upholding the decision of the DSC Committee;
    - (ii) by making a different decision in substitution for the DSC Committee's decision;
    - (iii) by remitting the matter to the DSC Committee for a further decision with such guidance or instruction as the Authority shall decide.
- 4.5.10 The decision of the Authority in respect of ~~the~~ an appeal is final and binding.
- 4.5.11 Subject to paragraph 4.5.12, until the UNC Committee or (if its decision is appealed to the Authority ~~makes a determination (or if)~~ the Authority makes ~~no~~ a determination) in respect of an appeal, the decision of the DSC Committee stands; but where a decision is ~~provisionally~~ appealed the DSC Committee shall make a separate decision (under paragraph 4.3.1(b)) as to whether the CDSP is to act on the decision pending ~~confirmation~~ the decision of the ~~appeal~~ UNC Committee and ~~(if confirmed where applicable)~~

4.5.12 If the Authority notifies the Committee Secretary that the Authority considers that the matter subject to the appeal is not appropriate to be decided by it (and accordingly that it has not addressed the questions in paragraph 4.5.9(c)), then:

- (a) the original decision of the DSC Committee shall lapse;
- (b) the DSC Committee shall decide the relevant matter again, having regard to any additional information or representations of Parties available to it since its original decision;
- (c) the decision of the DSC Committee under paragraph (b) is final and may not be appealed.

## 5 UK LINK

### 5.1 Introduction

5.1.1 This paragraph ~~4.5.12~~<sup>5</sup> sets out:

- (a) requirements of the Code in respect of UK Link and the UK Link Manual; and
- (b) the basis on which Code Communications are to be given as UK Link Communications.

5.1.2 For the purposes of the Code:

- (a) **"UK Link"** means the information technology and communications (ITC) systems (in aggregate) used by the CDSP to provide CDSP Services (including an information exchange system allowing the electronic transfer of information between the CDSP and UK Link Users and access to other parts of such ITC systems), as described in the UK Link Manual, and as from time to time modified in accordance with the Change Management Procedures;
- (b) **"UK Link Gemini"** means those parts of UK Link which support the implementation of the provisions of TPD Section B in relation to NTS Entry Capacity and NTS Exit Capacity and of TPD Sections E and F in respect of the determination of Energy Balancing Charges, as further specified in the UK Link Manual;
- (c) a **"UK Link User"** is:
  - (i) the CDSP;
  - (ii) any Party in its capacity as a user of UK Link, provided that a Discontinuing User shall cease to be a UK Link User upon the User Discontinuance Date; and
  - (iii) any other person permitted to have access to and use of UK Link in accordance with the Code, the UK Link Manual and/or the Third Party and Additional Services Policy;
- (d) a **"UK Link Communication"** is a message transmitted by a UK Link User by means of UK Link in accordance with the requirements of the UK Link Manual; and for these purposes a **"message"** is a discrete transmission electronically sent or electronically posted by a UK Link User;

- (e) a **"Code Communication"** is:
  - (i) a TPD Communication;
  - (ii) an IGTAD Communication (excluding an IGTAD Communication given pursuant to IGTAD Section B); and
  - (iii) for the purposes of the provisions of this paragraph 5 relating to the UK Link Manual, an IGT Code Communication which is stated in the IGT Code to be a Code Communication;
- (f) a **"UK Link User Agreement"** is an agreement between the CDSP and another UK Link User other than a Core Customer which provides for such person to have access to and use of UK Link or any part of it.

5.1.3 The CDSP will secure the establishment and operation of UK Link, and will afford to UK Link Users access to and use of UK Link, subject to paragraph 5.1.4.

5.1.4 In relation to UK Link Gemini:

- (a) the CDSP maintains UK Link Gemini on behalf of National Grid NTS;
- (b) National Grid NTS will afford to UK Link Users access to and use of UK Link Gemini;
- (c) accordingly the CDSP makes UK Link Gemini available and performs other functions in relation to UK Link Gemini (in accordance with the relevant Service Lines in the CDSP Service Description) as Agency Services for National Grid NTS.

5.1.5 Parties and the CDSP will communicate with each other by means of UK Link, subject to and in accordance with this paragraph ~~4.5.125~~.

5.1.6 Parties and the CDSP are required to comply with the relevant requirements of this paragraph ~~4.5.125~~ and the UK Link Manual in respect of access to and use of UK Link.

5.1.7 Annex D-1 sets out provisions relating to facilities within UK Link available for trading between Users.

5.1.8 The IGT Code contains provisions equivalent to provisions of this paragraph 5 which relate to sending and receiving UK Link Communications.

## **5.2 UK Link Manual**

5.2.1 The **"UK Link Manual"** is the document of that title containing the following matters:

- (a) a description of UK Link (or each part of UK Link);
- (b) terms and conditions on which UK Link Users have access to and use of UK Link;
- (c) details of how UK Link will be made available to UK Link Users, and when it may not be available;
- (d) details of the means by which Code Communications are to be made; and (in relation to Code Communications to be made as UK Link Communications) details of how

such UK Link Communications are made and recorded, including the matters set out in paragraph 5.6 and 5.8;

- (e) the Code Contingency Guidelines Document as referred to in paragraph 5.9;
- (f) such further matters as are provided for in this paragraph 5 or elsewhere in the Code, or as the CDSP considers and the Change Management Committee or (in a case within paragraph 5.2.3) the ~~UNCC~~UNC Committee accepts are appropriate.

5.2.2 The UK Link Manual is a ~~DSC~~CDSP Service Document for the purposes of this Section D and the DSC, and is a UNC Related Document for the purposes of the Code.

5.2.3 It shall be an obligation of a UK Link User under the Code to comply with a provision of the UK Link Manual where such provision is expressly identified in the UK Link Manual as one which is made binding on such UK Link User by this paragraph ~~4.5.12, 5.2.3~~, and not otherwise; but it is acknowledged that as respects all provisions of the UK Link Manual ~~and the DSC~~ (whether or not made binding by this paragraph ~~4.5.12, 5.2.3~~) a UK Link User may be unable to make a UK Link Communication (and so may be unable to exercise an entitlement to make a Code Communication required to be made as such) where the UK Link User does not comply with such provisions.

5.2.4 The UK Link Manual does not form a part of the Code (without prejudice to paragraph ~~5.1.8, 3.5.2.3~~); and in case of any conflict between the Code and the UK Link Manual, the Code shall prevail.

### 5.3 Code Communications

5.3.1 A UK Link Communication given in accordance with this paragraph ~~4.5.12, 5.3~~ and the UK Link Manual shall be treated as an effective and valid Code Communication, and each Party confirms that it intends and agrees that UK Link Communications shall have legal effect for the purposes of the Code.

5.3.2 The UK Link Manual specifies in respect of each Code Communication therein listed whether it is to be given as a UK Link Communication, by Active Notification System, by Conventional Notice, by e-mail, by facsimile or by telephone, and in some cases alternative such means by which it may be given; and (subject to paragraph 5.2.4 and ~~{GT Section B5.1.2}~~) a Code Communication may only be given by the means so specified or (where alternative such means are specified) by one of such alternative means.

5.3.3 Where the Code or the UK Link Manual specifies the form and/or format of UK Link Communication by which a particular Code Communication is required to be given, that Code Communication may be given only in that form and/or that format.

5.3.4 In the event of a Code Contingency, Code Communications shall be (and are permitted to be) given on the basis set out in paragraph 5.9.

5.3.5 Where a Code Communication which is required to be given as a UK Link Communication (and is not permitted to be given by another means except pursuant to paragraph 5.3.4) is not given in accordance with the requirements of this paragraph ~~4.5.12, 5.3~~ and the UK Link Manual, and as a result is not properly received by the intended recipient, it shall be deemed not to have been given and shall be of no effect.

- 5.3.6 The failure of a UK Link User to comply with a requirement that a Code Communication be given as a UK Link Communication, or as to the form or format in which such UK Link Communication is to be given, shall not of itself be a breach of the Code (but without prejudice to paragraph 5.3.5 or to any breach which may result from the failure to give the Code Communication).

## 5.4 Planned UK Link downtime

### 5.4.1 Pursuant to the UK Link Manual:

- (a) on each Day and/or particular Days UK Link, or (where so specified in the UK Link Manual) particular parts of UK Link, will not be operational at certain times and for certain periods ("**planned UK Link downtime**") specified in or determined in accordance with the UK Link Manual; and
- (b) during planned UK Link downtime, UK Link Users will not be able to have access to or use UK Link or the relevant part thereof, and accordingly will not be able to make UK Link Communications, except to the extent, if any, provided for in the DSC or the UK Link Manual.

- 5.4.2 During planned UK Link downtime, notwithstanding any other provision of the Code, Parties will not be entitled to make any Code Communication which is required to be made as a UK Link Communication, except to the extent (if any) provided for in the UK Link Manual or (where part only of UK Link is subject to such downtime) where such part is not required to enable such communication to be made, and their respective rights under the Code shall be construed accordingly.

- 5.4.3 Except as provided in paragraph ~~1.1.1(a)~~ [6.5\(b\) of the UK Link Terms and Conditions \(as defined in the DSC\)](#), the unavailability of UK Link during planned UK Link downtime will not be a Code Contingency for the purposes of paragraph 5.9; but any such unavailability which extends or the CDSP reasonably anticipates will extend beyond the period of planned UK Link downtime will (subject to and in accordance with the Contingency Procedures) be a Code Contingency.

## 5.5 Access to and use of UK Link

### 5.5.1 For the purposes of the Code:

- (a) the UK Link Manual sets out requirements ("**UK Link Access Requirements**") which UK Link Users must comply with in order to have access to and use UK Link;
- (b) (without prejudice to the DSC) it is a requirement for the purposes of the Code that each Party complies with the UK Link Access Requirements;
- (c) where a Party does not comply with the UK Link Access Requirements, the Party may be unable to give or receive Code Communications, and (unless otherwise provided) such inability shall not relieve the Party from any obligation or liability under the Code.

### 5.5.2 [The UK Link Access Requirements include requirements for the provision by the CDSP of certain facilities and services to enable a UK Link User to have access to UK Link:](#)

- (a) [which are provided as Direct Services as specified in the CDSP Service Description:](#)  
and



(b) for which the CDSP Charges are to be determined on a uniform basis for Core Customers, Trader Users [and UK Link Users who are not Parties].

5.5.3 ~~5.5.2~~ The security arrangements set out in the UK Link Manual include the basis on which a UK Link User may nominate representatives as authorised to access and use UK Link on behalf of and using the identification of that UK Link User.

5.5.4 ~~5.5.3~~ Any other UK Link User shall be entitled to assume that any person nominated as such a representative by a UK Link User or otherwise using the identification of the UK Link User is fully authorised to access and use UK Link (and in particular to initiate, authorise and transmit, and to receive or access for the purposes of receiving, UK Link Communications); and any UK Link Communication transmitted by such a person shall be treated as given by the UK Link User.

5.5.5 ~~5.5.4~~ In any case (including a Code Contingency) where the CDSP suspends or inhibits access (by a UK Link User or UK Link Users) to UK Link in accordance with the DSC, such UK Link User(s) may be prohibited from using ~~the~~ UK Link; and it is acknowledged that in such circumstances, such UK Link User(s) may be unable to make a UK Link Communication (and so may be unable to exercise an entitlement to make a Code Communication required to be made as such).

## **5.6 UK Link Communications**

5.6.1 The UK Link Manual specifies:

- (a) different forms of UK Link Communication; and
- (b) for each Code Communication required to be given as a UK Link Communication, the required form of UK Link Communication.

5.6.2 For each form of UK Link Communication, the UK Link Manual specifies (in respect of messages comprised in that form of UK Link Communication):

- (a) the class or classes of UK Link User by which and to which each message is sent;
- (b) in certain cases, times at which and/or periods within which such messages may be sent;
- (c) the basis (if any) on which the message is validated as complying with applicable requirements of the UK Link Manual and may be rejected by UK Link where invalid;
- (d) the basis on which and the facility or system (within UK Link) in which the sending or receipt of the message will be recorded;
- (e) the basis on which the time and date of sending or receipt of the message will be recorded;
- (f) whether the message is treated as received by the recipient when recorded as sent or as received;
- (g) whether a recipient of the message must access the message within UK Link after the message has been sent and treated as received;



- (h) in a case within paragraph (g), the basis on which the recipient(s) of the message can access the message, and the period within which they may do so (and the basis on which the message may or will be removed after such period and following which the message is or may be no longer accessible);
- (i) whether a message acknowledging receipt of the UK Link Communication is automatically generated and sent;
- (j) in a case within paragraph (i), procedures to be followed by the sender and intended recipient where no such acknowledgment is received.

5.6.3 The provisions of the UK Link Manual referred to in paragraph ~~5.6.2~~ are effective for the purposes of the Code; and accordingly where any Code Communication is sent as a UK Link Communication:

- (a) the Code Communication may be given only in accordance with those provisions;
- (b) the Code Communication shall be deemed given and received in accordance with those provisions; and
- (c) any question as to whether and when the Code Communication was effectively given or received shall be determined in accordance with those provisions.

5.6.4 In any case referred to in paragraph ~~5.6.2(g)~~:

- (a) each UK Link User which is a recipient of the UK Link Communication shall be responsible for accessing the relevant part of UK Link (to access such messages) at such intervals as shall be appropriate and prudent;
- (b) the relevant Code Communication shall be deemed to have been received by a UK Link User to whom it is transmitted at the time determined in accordance with the UK Link Manual, irrespective of whether or when accessed (as referred to in Section 5.6.2(h) by that UK Link User.

5.6.5 In any case referred to in paragraph ~~5.6.2(j)~~:

- (a) the relevant UK Link Users shall comply with the procedures in the UK Link Manual;
- (b) the question whether the message is treated as received by the intended recipient shall be determined, by reference to those procedures, as set out in the UK Link Manual.

## 5.7 Active Notification

5.7.1 An "**Active Notification Communication**" is a message transmitted by National Grid NTS by means of the Active Notification System, as described in the UK Link Manual.

5.7.2 The "**Active Notification System**" is the system (as described in the UK Link Manual) provided and operated by National Grid NTS for transmitting messages to a warning device ("**Active Notification Device**").

5.7.3 The Active Notification System does not form part of UK Link and the CDSP has no functions in relation to the Active Notification System.

- 5.7.4 An Active Notification Communication shall be deemed to have been received by the UK Link User to whom it is transmitted at the time it is logged 'as sent' by the Active Notification System.
- 5.7.5 Each UK Link User (of a class to which Active Notification Communications may be sent) shall ensure that at all times a representative of the UK Link User has an Active Notification Device in his continuous possession and control.
- 5.7.6 An Active Notification Communication may (where so provided in the UK Link Manual) be notice to the effect that a Code Communication has been given by National Grid NTS by some other permitted means (in which case the Active Notification Communication will not contain the Code Communication itself).

## 5.8 Audit Trail

- 5.8.1 The CDSP will retain a complete and chronological record of all UK Link Communications transmitted received by means of UK Link, for the minimum period applicable in respect of the relevant communication, as specified in the UK Link Manual, following transmission or receipt.
- 5.8.2 The CDSP (in accordance with the DSC) and each other UK Link User shall ensure that electronic or computer records containing UK Link Communications are readily accessible and are capable of being reproduced in a human readable form and of being printed, if required.
- 5.8.3 Records made by the facilities or systems (as referred to in paragraph 5.6.2(d)) within UK Link of the transmission or receipt of UK Link Communications, and (as respects UK Link Communications the transmission or receipt of which is not so recorded) other records retained by the CDSP and/or UK Link Users in accordance with this paragraph 5.8, shall be prima facie evidence of the transmission or receipt of such UK Link Communications.
- 5.8.4 In the event of a dispute between any UK Link Users as to any Code Communication the sending of which was (as a UK Link Communication) recorded by UK Link, the CDSP will, as soon as reasonably practicable after a request to do so, provide to the UK Link User a copy of what is recorded (in respect of such communication) in such facility.

## 5.9 Contingency Arrangements

- 5.9.1 For the purposes of the Code:
- (a) the "**Contingency Procedures**" are procedures contained in the Code Contingency Guidelines Document forming part of the UK Link Manual for the UK Link Users to communicate with each other in the event of a Code Contingency;
  - (b) a "**Code Contingency**" is an event or circumstance affecting UK Link, of a kind specified in the Contingency Procedures, which affects the ability of UK Link Users (or where so specified in the Contingency Procedures, of a particular UK Link User or particular UK Link Users) to give or receive UK Link Communications, or to generate information to be contained in a Code Communication;
  - (c) The "**Code Contingency Guidelines Document**" is the document so titled forming part of the UK Link Manual and containing consolidated guidelines in respect of Code Contingencies.
- 5.9.2 The Parties and the CDSP adopt and (in the event of a Code Contingency) shall implement the relevant Contingency Procedures.

- 5.9.3 In the event of a Code Contingency, where so provided in the Contingency Procedures, a Code Communication which would normally be required to be given as a UK Link Communication may (notwithstanding any other provision of the Code or the UK Link Manual) be given by any means provided for in the Contingency Procedures.
- 5.9.4 Except as provided in the Code or the Contingency Procedures, the provisions of the Code will apply in and will not be affected by a Code Contingency; and in particular any requirements under the Code or the UK Link Manual as to the timing and content of any Code Communication, and the giving of communications by means other than UK Link, will continue to apply.
- 5.9.5 Under the Contingency Procedures communication resources of UK Link Users will be used for the purposes of facilitating the continued giving (in accordance with the Contingency Procedures) of certain kinds of Code Communications in a Code Contingency, and so may not be available for other kinds of Code Communications; and accordingly in any case where the Contingency Procedures do not make provision for the giving of a particular kind of Code Communication (which is required to be given as a UK Link Communication), it may not be possible for Code Communications of that kind to be given.
- 5.9.6 It is agreed that where certain Code Contingencies occur or continue for particular periods or at particular times:
- (a) the application of certain provisions of the Code (in particular, the requirement for Users to pay certain charges, or the basis on which such charges are determined), will be modified); and/or
  - (b) the timetable provided for in the Code for the giving of certain Code Communications may be extended
- as provided in the relevant Section of the Code.
- 5.9.7 A Code Contingency of the kind referred to in paragraph 5.9.6 is a "**Class A Contingency**".
- 5.9.8 Code Contingencies which are Class A Contingencies are specified, for the purposes of the relevant provisions of the Code, in the Contingency Procedures and referenced where appropriate in the relevant Sections of the Code.

## **Annex D-1 - TRADING BETWEEN USERS**

### **1 General**

- 1.1 Users may use the UK Link Network (in addition to use for communicating with the Transporter) for the purposes of making User Trade Communications, in accordance with and subject to the relevant provisions of the UK Link Manual.
- 1.2 A "**User Trade Communication**" is:
- (a) an invitation by a User to other Users to make such an offer as is referred to in paragraph (b);
  - (b) an offer by a User to another User to make:
    - (i) a System Capacity Transfer, as Transferee User;
    - (ii) a Storage Transfer, as transferee;
  - (c) an acceptance by a User of such an offer (made by another User) as is referred to in paragraph (b) (such Users, the "**Trading Users**").
- 1.3 A User Trade Communication shall be a UK Link Communication but (without prejudice to paragraph 4.1) is not a Code Communication.
- 1.4 Without prejudice to any other provision of the Code, nothing in this paragraph 1 prevents any User agreeing with another User a Capacity Transfer, Trade Nomination or Storage Transfer other than pursuant to a User Trade Communication.

### **2 Basis of User Trade Communications**

- 2.1 A User Trade Communication shall be made and recorded as provided in the UK Link Manual.
- 2.2 The UK Link Manual sets out:
- (a) the basis on which a User Trade Communication may be made, and restrictions applying thereto;
  - (b) details of the information concerning the User making the User Trade Communication, or comprised in that communication, which will be available to or accessible by other Users by or on the UK Link Network.

### **3 Effect of User Trade Communications: Users**

- 3.1 Each User agrees with each other User that:
- (a) a User Trade Communication shall be treated as a valid and effective communication as between Users;
  - (b) a User Trade Communication under paragraph 1.2(b) shall be an offer capable of acceptance by the User to whom it is addressed;

- (c) a User Trade Communication under paragraph 1.2(c) shall be an acceptance of an offer giving rise to a contract between the relevant Users.

3.2 The terms of the contract referred to in paragraph 3.1(c) shall be those terms contained in the relevant User Trade Communication(s) and such other terms as shall have been agreed by the Trading Users or in default of such agreement the terms in the Appendix to this Annex D-1.

3.3 ~~{GT Section B2.4.1}~~ shall not apply in respect of paragraphs 3.1 and 3.2.

#### **4 Effect of User Trade Communication: Transporter**

4.1 Upon a User making a User Trade Communication under paragraph 1.2(c), the Trade Notices will (as described in the UK Link Manual) automatically be given, and shall be treated as having been given for all purposes of the Code, by that User and the User who made the corresponding User Trade Communication under paragraph 1.2(b).

4.2 For the purposes of paragraph 4.1, the "**Trade Notices**" are:

- (a) in the case of a System Capacity Transfer, the notices required under ~~{TPD~~ Section B5.2.1~~};~~
- (b) in case of a Storage Gas Transfer, the notices required by the relevant Storage Terms.

## APPENDIX TO ANNEX D-1

### 1 Application of this Appendix

- 1.1 This Annex does not form part of the Uniform Network Code.
- 1.2 This Annex sets out certain terms which, subject to paragraph 1.3, are incorporated into every contract arising as a result of a User Trade Communication made under Annex D-1 paragraph 1.2(c) (a "**User Trade Contract**").
- 1.3 In accordance with Annex D-1 paragraph 3.2, a term set out in this Annex is not incorporated into a User Trade Contract:
  - (a) if the Trading Users have expressly agreed another term; or
  - (b) to the extent that such term is inconsistent with any term expressly agreed by the Trading Users.

### 2 Interpretation

- 2.1 Terms used in this Annex have the same meanings as in the Code.
- 2.2 For the purposes of this Annex:
  - (a) "**applicable daily rate**" means:
    - (i) in respect of System Capacity, the Applicable Daily Rate (in pence per kWh/Day) of the relevant Capacity Charge; and
    - (ii) in respect of Storage Space, the Applicable Storage Space Charge Rate (in pence per kWh of Storage Space for a Storage Year) divided by 365; and
    - (iii) in respect of Storage Deliverability, the Applicable Storage Deliverability Charge Rate (in pence per kWh/Day of Storage Deliverability for a Storage Year) divided by 365; and
    - (iv) in respect of Storage Injectability, the Applicable Storage Injectability Charge Rate (in pence per kWh/Day of Storage Injectability for a Storage Year) divided by 365;
  - (b) "**Capacity Transfer**" means a System Capacity Transfer or a Storage Capacity Transfer;
  - (c) "**Capacity Transfer Day**" means a Day in the Relevant Transfer Period in respect of which the Trade Transferee is treated as holding the Transferred Capacity in accordance with the Code;
  - (d) "**Relevant Transfer Period**" means:
    - (i) in respect of a System Capacity Transfer the Transfer Period;

- (ii) in respect of a Storage Capacity Transfer the Storage Transfer Period;
- (e) **"Trade Transferor"** means:
  - (i) in respect of a System Capacity Transfer the Transferor User; and
  - (ii) in respect of a Storage Transfer the Transferor Storage User;
- (f) **"Trade Transferee"** means:
  - (i) in respect of a System Capacity Transfer the Transferee User; and
  - (ii) in respect of a Storage Transfer the Transferee Storage User;
- (g) **"Transferred Capacity"** means Transferred System Capacity or Transferred Storage Capacity.

### 3 Price

#### 3.1 Capacity Transfer

- 3.1.1 In respect of a Capacity Transfer the Trade Transferee shall, subject to paragraph 3.1.2, pay to the Trade Transferor in respect of each month some or all of the Days of which are Capacity Transfer Days a sum determined in accordance with the following formula:

$$A = B * C * D$$

where

- A = the sum payable by the Trade Transferee in respect of the month;
- B = the applicable daily rate in respect of the Capacity Transfer;
- C = the amount of the Transferred Capacity; and
- D = the number of Capacity Transfer Days in that month.

- 3.1.2 If in respect of any Capacity Transfer Day in a month the Trade Transferor ceases to be liable to pay to National Grid NTS or National Grid LNG Storage the relevant Capacity Charges or Storage Capacity Charges in respect of an amount of Transferred Capacity in accordance with the Code, the sum which would but for this paragraph 3.1.2 be payable by the Trade Transferee pursuant to paragraph 3.1.1 in respect of that month shall be reduced by a sum equal to the aggregate of the sums for each such Capacity Transfer Day, each such sum being calculated in accordance with the following formula:

$$E = F * G$$

where:

- E = is the sum by which the Trade Transferee's liability is reduced in respect of such Day;
- F = is the applicable daily rate; and
- G = is the amount of Transferred Capacity in respect of which the Trade Transferor ceased to be liable to pay Capacity Charges or Storage Capacity Charges in respect of such Day.

#### 3.2 Storage Gas Transfer

- 3.2.1 In respect of a Storage Gas Transfer the Trade Transferee shall pay to the Trade Transferor a sum determined in accordance with the following formula:

$$H = I * J$$

where:

- H = is the sum payable by the Trade Transferee in respect of the Storage Gas Transfer;
- I = the Operating Margins WACOG (in pence per kWh) for the Transfer Storage Facility on the date the Operating Margins WACOG was last calculated before the transfer date; and
- J = is the Transferred Gas-in-Storage (in kWh).

#### 4 VAT

The sums payable pursuant to a User Trade Contract are exclusive of Value Added Tax.

#### 5 Payment

5.1 Sums payable by the Trade Transferee to the Trade Transferor under a User Trade Contract shall be paid on or before whichever is the later of:

- (a) the 5th Day after the Day on which the Trade Transferee receives an invoice in respect of such sum from the Trade Transferor; and
- (b) the 15th Day of the month following the relevant month (in accordance with paragraph 5.2)

5.2 For the purposes of paragraph 5.1 the relevant month is:

- (a) for a Capacity Transfer, the month to which the invoice relates; and
- (b) for a Storage Gas Transfer, the month in which the User Trade Communication under Annex D-1 paragraph 1.2(c) was made.

#### 6 Interest

6.1 Where any sum payable pursuant to a User Trade Contract is not paid on or before the due date for payment in accordance with paragraph 5.1 (the "**Due Date**"), the paying User shall pay interest, after as well as before judgment, at the rate for the time being of Barclays Bank plc plus 3 percentage points per annum on the unpaid amount from the Due Date until the day on which payment is made.

6.2 Interest payable pursuant to paragraph 6.1 shall accrue on a daily basis and on the basis of a 365 day year.

#### 7 Governing law and jurisdiction

7.1 Each User Trade Contract shall be governed by, and construed in all respects in accordance with, English law.

7.2 The parties to a User Trade Contract irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with that User Trade Contract.





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