



USE-OF-SYSTEM AGREEMENT

between

AURORA ENERGY LIMITED

(AS DISTRIBUTOR)

and

XXX

(AS GENERATOR)

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AGREEMENT dated:

PARTIES

Distributor: Aurora Energy Limited	Generator:
Distributor's Details: Street Address: 10 Halsey St, Dunedin Postal Address: P O Box 1404, Dunedin Address for Notices: 10 Halsey Street, Dunedin Contact Person's Details: Position: Network Services Manager Phone: +64 3 474 0322 Fax: +64 3 477 5771 Website: www.electricity.co.nz Email: lindsay.mclennan@4delta.co.nz	Generator's Details: Street Address: Postal Address: Address for Notices: Contact Person's Details: Position: Phone: Fax: Website: www. Email Address:

COMMENCEMENT DATE: **XXX**

SIGNATURES:

Signature

Signature

Name of authorised person signing for Distributor

Name of authorised person signing for Generator

Position

Position

Date

Date

INTRODUCTION

- A. The Distributor and the Generator agree to provide the Services to one another on the terms and conditions set out in this agreement.
- B. The Distributor and the Generator agree to purchase the Services from one another on the terms and conditions set out in this agreement.
- C. The Distributor and the Generator acknowledge that in addition to this agreement they are separately bound by the Rules.

AGREEMENT

PART I - SERVICE COMMITMENTS

1. TERM OF AGREEMENT

- 1.1 **Term:** This agreement shall commence on the Commencement Date and, subject to clause 19, terminate on **XXX**.

2. SERVICES

- 2.1 **Distributor's services and obligations:** The Distributor will:
 - (a) use its best endeavours to maintain and operate its Network so as to provide the Distribution Services in a manner that conforms with the Service Levels as specified in schedule 1, relevant statutory requirements and in the absence of provisions in this agreement, Good Industry Practice;
 - (b) comply with the Service Standards as specified in schedule 1;
 - (c) use its best endeavours to provide continuous conveyance of electricity but does not guarantee conveyance of electricity that is free from defects and interruptions;
 - (d) provide a 24 hour, seven day a week, Unplanned Service Interruption diagnosis, Network repair and information service;
 - (e) use its best endeavours to optimise the level of technical losses on its Network where economically efficient to do so;
 - (f) provide any Additional Services as agreed and as set out in schedule 3 to this agreement.
 - (g) allow the Generator to convey Electricity generated by the Generator at the Generating Stations over the Network from the Injection Point to the Grid Exit Point, on the terms and conditions contained in this Agreement.

- (h) provide the Distribution Services on the terms and conditions contained in this Agreement.
- (i) declare Loss Factors from time to time.
- (j) ensure that the Distributor's equipment and facilities adequately protect the Generator's equipment, personnel, and other persons and their property, from damage and injury.
- (k) if there is a capacity shortage caused by a difficulty in the availability of the Network for the conveyance of Electricity over the Network to the Grid Exit Point or the ability of the Grid to accept the Electricity at the Grid Exit Point, the Distributor shall use all reasonable endeavours to ensure that the Generator may resume to convey all Electricity generated by it over the Network and into the Grid as soon as possible on a pro rata basis. In the meantime the Distributor will advise the Generator of the quantity of Electricity (if any) that may be conveyed over the Network and into the Grid pending resumption of the conveyance of all Electricity generated by the Generator
- (l) enter into and to comply with the terms and conditions of any agreement entered into between itself and Transpower required by Transpower for the injection of Electricity into the Grid provided that the terms of such agreement are acceptable to the Distributor.
- (m) where the Distributor proposes to enter into any agreement with Transpower or to amend the terms of any existing agreement with Transpower after the Commencement Date, then, to the extent that the new agreement or amended terms will impose or vary obligations in relation to the distributed generation, the Distributor will:
 - (i) give the Generator 10 Working Days Notice of the proposed terms;
 - (ii) liaise with the Generator in relation to the proposed terms and allow the Generator 10 Working Days in which to make submissions in relation to the proposed terms
 - (iii) when negotiating and finalising the agreement or amended terms, consider in good faith any written submissions made by the Generator (provided they are received within the 10 Working Days referred to above); and
 - (iv) give the Generator Notice of the terms of any new or amended agreement.

2.2 **Transmission Services:** The Distributor will provide the Transmission Services as set out in schedule 8.

2.3 **Generator's services and obligations:** The Generator will:

- (a) use its best endeavours to provide services that conform with the Service Levels specified in schedule 1;

- (b) comply with the Service Guarantees and reporting obligations as specified in schedule 1;
- (c) use its best endeavours to provide injection information in accordance with clauses 6 and 11;
- (d) work with the Distributor to identify and rectify the cause of abnormally high Losses in accordance with clause 6;
- (e) provide any Additional Services as agreed and as set out in schedule 3 to this agreement.
- (f) comply with the conditions of connection specified by the Distributor.
- (g) construct, interconnect, operate, test and maintain generating equipment in accordance with reasonable and prudent operating practice, connection and operation standards (where applicable), applicable manufacturer's instructions and recommendations, and the laws of New Zealand.
- (h) ensure that the Generator's equipment and facilities adequately protect the Distributor's equipment, personnel, and other persons and their property, from damage and injury.
- (i) not do any act or omit to do any act with the effect of damaging or destroying the Network, or operate the Generator's Equipment in such a manner as to cause Network Instability.
- (j) not convey or receive or attempt to convey or receive any signals or other forms of communication over the Network without the prior consent in writing of the Distributor.
- (k) Give the Distributor reasonable Notice of its intention to increase the Generator's capacity to generate Electricity when:
 - (i) the generator intends to commission new generation plant, or
 - (ii) the generator intends to increase the generating capacity of one or more of the Generating Station.

Such notice shall be in the form of a completed Distributed Generation Connection Application (Generation Capacity Greater Than 10kW) form, available from the Distributor's website www.electricity.co.nz.
- (l) give the Distributor reasonable Notice of the intention to permanently decrease or decommission any generating plant, except when the Generator suffers the catastrophic failure of generating plant which is subsequently found to be uneconomic to repair in which case the period of Notice will be waived. Provision of notice by the Generator will not preclude recovery of connection charges by the Distributor.
- (m) be bound by the Network Connection Standards.

- (n) provide for immediate disconnection of the Generator's Equipment at the Injection Point in co-ordination with Network protection equipment at the on set of a period of Network instability.
- (o) ensure that the Generator's Equipment is programmed to disconnect at the Injection Point at loss of Grid Supply Reference.
- (p) where the Generator owns High Voltage Lines or Equipment, the Generator must comply with the requirements of the Electricity Act 1992 relating to High Voltage Lines and Equipment.
- (q) not operate new equipment at the Injection Point without the prior consent in writing of the Distributor.
- (r) ensure that the Generator's Equipment shall not cause the Power Factor to be leading or less than 0.95 lagging.
- (s) ensure that none of the Generator's Equipment produces harmonic currents or voltages, which exceed the harmonic limitations of NZECP 36 at the Point of Injection.
- (t) upon request of the Distributor to operate the Generator's Equipment islanded the Generator shall operate Voltage and Frequency Control Equipment which maintains the Islanded system voltage and frequency within the prescribed limits of the Electricity Act and Regulations. Where a Retailer or incumbent Retailer has an Electricity purchase arrangement with the Islanded Generator and a use of System Agreement with the Distributor, the priorities for Electricity conveyance by the Retailer or incumbent Retailer to islanded customers will be discussed with the Distributor.
- (u) ensure that the Metering Equipment continues to comply with Rules.
- (v) to provide to Transpower such information as and when Transpower requires in order for Transpower to either comply with its obligations as the System Operator or operate the Grid in accordance with the System Operator Security Policy.
- (w) comply with the Rules.
- (x) comply with all provisions relating to the distributed generation contained in any contract between Transpower and the Distributor, as if those provisions were incorporated into this Agreement, including but not limited to all provisions contained in the default transmission agreement in force as at the date of this Agreement.

3. DISTRIBUTION SERVICES

3.1 Distribution Services: In providing the Distribution Services the Distributor shall:

- (a) design, construct, operate and maintain the Distribution Network in accordance with all statutory requirements, and take into consideration the reasonable requirements of the Generator

- (b) use its best endeavours to procure from Transpower all reasonable safeguards to enable the Distributor to provide the Distribution Services to the degree specified by this Agreement
 - (c) use all reasonable endeavours to enable a continuous conveyance of electricity and to maintain the Distribution Service Standards as defined in Schedule 1
- 3.2 **Quality of Distribution Services:** The quality of the Distribution Services provided by the Distributor shall be determined at the Generator's Point of Injection.
- 3.3 **Distributor may accept or decline:** The Distributor reserves the right to accept or decline any request from the Generator:
- (a) to upgrade its Distribution Services beyond the standards required by this Agreement
 - (b) to extend its Distribution Network for the purpose of enabling the injection of electricity by the Generator.

Unless otherwise agreed the Distributor shall convey its decision in writing to the Generator on any such request and any additional considerations within 30 business days of receipt of the Generator's written request.

- 3.4 **Charges in the event of network extension:** In the event the Distributor agrees to extend the Distribution Network to enable injection of electricity by the Generator the Distributor shall notify the Generator of any additional charges and their payment terms in respect of such extension.

4. EQUAL ACCESS AND EVEN-HANDED TREATMENT

- 4.1 **Equal access and even-handed treatment:** Having regard to the relevant circumstances and differences between generators, the Distributor will give all generators equal access to the Services it offers in relation to its Network under this agreement, other than Additional Services, and will treat all generators even-handedly.

5. SERVICE INTERRUPTIONS

- 5.1 **General:** The Distributor will make reasonable endeavours to ensure generation is not interrupted.
- 5.2 **Communications policies:** The Distributor, in consultation with the Generator, shall develop and maintain communication policies to give effect to this clause 5. The communications policies are set out in schedule 4.
- 5.3 **The Distributor may Publish Service Interruption information:** The Distributor may Publish or disclose to the media or any other person any information relating to any Service Interruption.

5.4 **The Distributor may interrupt Distribution Services:** The Distributor may interrupt the Distribution Service, or curtail either the operation or output of the generation, or both, and may temporarily disconnect the distributed generation:

- (a) in accordance with the Distributors congestion management policies, if part of the network is or may be congested; and
- (b) if reasonably necessary for planned maintenance, construction, and repairs on the distribution network; and
- (c) if reasonably necessary in the event of emergency or hazardous situation; and
- (d) if the Generator fails to allow the Distributor access as required by clause 13; and
- (e) To mitigate adverse operating effects including; an adverse affect on the services provided to other distribution network customers, damage to the distribution network or other facilities, or hazard to persons.
- (f) to preserve and protect the proper working of the Distribution Network, Transpower's Network or any other network through which the Distributor directly or indirectly takes a supply of electricity; or
- (g) in the event of an occurrence of Force Majeure.

5.5 **Distributor to minimise inconvenience:** Where the Distributor interrupts or proposes to interrupt the connection service pursuant to clause 5.4, the Distributor shall make reasonable endeavours to:

- (a) give the Generator prior written notice of its intention to interrupt the conveyance of electricity and seek agreement of the timing of the interruption to minimise inconvenience to the Generator unless, in the reasonable opinion of the Distributor, the interruption must be effected immediately for operational or safety reasons. The notice will state the date, time, area affected and reasons for the interruption, and the expected duration of the interruption
- (b) if no prior notice is given, as soon as is practicable give to the Generator notice of the area affected by and reasons for the interruption and its expected duration
- (c) coordinate with the Generator to minimise the impact of the interruption
- (d) to use all reasonable endeavours to minimise the period of interruption and resume the conveyance of electricity as soon as reasonably practicable; and
- (e) act in accordance reasonable and prudent operating practice.

5.6 **Generator and Distributor to cooperate to affect restoration:** The Generator and Distributor must co-operate to restore the distribution network and the distributed generation to a normal operating state as soon as is reasonably practicable following temporary disconnection.

- 5.7 **Certain Unplanned Service Interruptions exempt from Service Standard failure:** The Distributor shall be relieved of its obligations to meet the Service Standards when it effects Load Shedding in order to comply with any request or instruction received from the System Operator or, where communication with the System Operator has been lost, it effects Load Shedding in a situation where, had communication with the System Operator been maintained, the Distributor would have reasonably expected to have received an instruction to shed load.
- 5.8 **Notification of Unplanned Service Interruptions:** After the occurrence of an Unplanned Service Interruption, the Distributor and Generator will comply with the relevant service interruption communication policy as set out in schedule 4.
- 5.9 **Distributor to restore Distribution Services as soon as practicable:** For all Service Interruptions, the Distributor shall use its best endeavours to restore the Distribution Services as soon as practicable and:
- (a) for Unplanned Service Interruptions, within the timeframes set out in schedule 1; and
 - (b) for Planned Service Interruptions, within the timeframe set out in the notice for Planned Service Interruptions.
- 5.10 **Generator must advise planned outages:** The Generator must notify the Distributor of any planned outages and must make reasonable endeavours to advise the Distributor of any event that affects network operations.
- 5.11 **Generator to minimise outage impact:** The Generator must make reasonable endeavours to notify the Distributor of the interruption and co-ordinate with the Distributor to minimise the impact of the interruption.

6. LOSSES AND LOSS FACTORS

- 6.1 **Distributor to declare loss factors:** The Distributor will declare Loss Factors no less than 7 days prior to their implementation.
- 6.2 **Generator to provide information to enable calculation of Loss Factors by the Distributor:** The Generator shall provide the Distributor with any additional information the Distributor may reasonably require to enable it to calculate Loss Factors.
- 6.3 **Calculation and notification of Loss Factors:** Subject to clause 6.5, the Distributor shall review Loss Factors in accordance with the Rules. If any change of Loss Factors is proposed, the Distributor will notify the Generator of the new Loss Factors.
- 6.4 **Transparent Loss Factors methodology:** Any notice provided to the Generator in accordance with clause 6.3 will contain details of the methodology and information used by the Distributor to determine the Loss Factors.
- 6.5 **Disputes over Loss Factors:** If, at any time, the Generator considers that the Loss Factors notified by the Distributor are not appropriate, or considers the methodology or information used to calculate those Loss Factors is incorrect, the Generator may make a written complaint

to the Distributor. The Distributor will consider the complaint in good faith within 20 Working Days and may change the Loss Factors declared in its notice accordingly. If the Distributor fails to change its notice, the Generator may refer the matter to the dispute resolution process set out in clause 23. In the event that the outcome of dispute resolution is to change the Loss Factors declared in the Distributor's notice, and such change leads to a change in the level of revenue received by the Distributor, the Distributor reserves the right to determine the time from which that change is to apply, provided that the time of application does not exceed 40 Working Days from the date on which the Dispute is finally resolved.

7. SERVICE PERFORMANCE REPORTING

7.1 Distributor to report on performance relative to Service Levels: The Distributor will report annually to the Generator on its performance relative to Service Levels in accordance with the reporting measures and frequency of reporting as set out in schedule 1.

7.2 Contents of performance report: Each year the Distributor will prepare an annual performance report (“**Annual Performance Report**”). This will:

- (a) compare actual service performance to the target Service Levels and the service performance reporting measures for each applicable Service Standard;
- (b) explain the reasons for any significant under-performance, and explain what actions the Distributor will undertake to rectify that under-performance; and
- (c) in the event that the Distributor claims it was unable to meet the Service Standards due to a Force Majeure Event as provided for in clause 21, give a full account of the nature of the Force Majeure Event(s) and the impact of such event(s) on the Distributor's performance in relation to the Service Standards.

7.3 The Generator may request additional reports: The Generator may request the Distributor to provide additional performance reports, including reports containing information in addition to that specified in clause 7.2 or more frequent reports containing the same information. The Distributor shall comply with such requests if it is reasonably able to do so. The Distributor may charge the Generator for the costs reasonably incurred in preparing and supplying such additional reports, provided that, if an additional report is requested due to a suspected failure by the Distributor to meet a Service Standard which has not been reported in accordance with clause 7.2, and the additional report demonstrates that such failure existed, no charge may be levied.

8. ASSET MANAGEMENT PLAN

8.1 Asset management plan to include: An asset management plan (“**Asset Management Plan**”) is prepared and published in accordance with Clause 7 of the Electricity Information Disclosure Requirements 2008.

8.2 Distributor to engage with the Generator: The Distributor will engage with the Generator during the preparation of the Asset Management Plan.

9. PROCESS FOR MATERIAL CHANGES TO DISTRIBUTION SERVICES

- 9.1 **Process not required:** The process set out in clause 9 shall not apply for changes to Distribution Services where:
- (a) the service change will have an immaterial affect on the Generator; or
 - (b) where the Distributor has agreed the proposed service change directly with the Generator and has engaged with affected parties in accordance with clause 9.4.
- 9.2 **Proposal for service change:** The Distributor or Generator may propose a change to the Distribution Services in writing ("**Proposer**").
- 9.3 **The Distributor will provide information relevant to the proposal:** Upon receiving or initiating a service change proposal, the Distributor will provide the following information in writing to the Generator:
- (a) **The Distributor will evaluate the proposal:** the Distributor will provide an estimate of the overall costs of the proposed service change, confirm any effects on other Distribution Services and an estimation of any benefits; and
 - (b) **The Distributor will notify pricing information:** the Distributor will identify the implications of the proposal on the charges payable by the Generator for the Services, and confirm that the pricing information is consistent with the pricing methodology the Distributor uses for setting current charges.
- 9.4 **Informing parties affected by the service change proposal:** Where the evaluation under 9.3(a) indicates the proposal is viable, then the Distributor will engage with the Generator and affected parties in a manner that is meaningful to them and is likely to reveal the actual degree and distribution of support for the proposed service change, and invite submissions on the proposal.
- 9.5 **Publication of submissions on service change proposal:** The Distributor will Publish:
- (a) all submissions or feedback received under clause 9.4; and
 - (b) sufficient information to demonstrate the degree and distribution of support for the proposal.
- 9.6 **Recovery of Distributor's costs where Distributor is not the Proposer:** When the Distributor is not the Proposer, the Distributor may recover all reasonable costs incurred complying with clauses 9.3, 9.4 and 9.5 from the Proposer subject to informing the Proposer of the likely costs in advance.
- 9.7 **Decision to change Distribution Services:** After receiving submissions in accordance with clause 9.4, the Distributor will, at its sole discretion, reach a decision as to whether to implement the proposed service change. In reaching its decision, the Distributor will consider:

- (a) whether the service change would provide net public benefits to the economy as a whole;
 - (b) the potential for other approaches to provide greater net public benefits; and
 - (c) any other matters that it considers relevant to assessing whether to implement the service change proposal.
- 9.8 **Publish the decision:** Upon reaching its decision as to whether to implement a service change proposal, the Distributor shall:
- (a) notify the Generator and any affected party that has made a submission or a proposal in accordance with clause 9.4 in writing of its decision and explain the reasons for the decision; and
 - (b) Publish the decision reached and the reasons for that decision.

PART II - PAYMENT OBLIGATIONS

10. PROCESS FOR SETTING AND APPLYING PRICES

10.1 **Price Adjustment:** The Distributor may alter a price for Distribution Services no more than once in any period of 12 consecutive months except where the proposed change is a material increase and results from a change in:

- (a) local authority rates; or
- (b) charges for Transmission Services, and the increase occurs other than in accordance with any scheduled price review previously notified by the Transmission Provider; or
- (c) a change in Distribution Services, and the process set out in clause 9 has been complied with; or
- (d) a legal requirement.

Nothing in this clause 10.1 prevents a price decrease or a price change if agreed by the Generator.

10.2 **Process to change pricing methodology:** When the Distributor contemplates a change to its pricing methodology which may result in a change to pricing structure and charges, the following process shall be followed:

- (a) **Advise the proposal:** the Distributor will publish its proposed changes and rationale and invite the Generator to provide written comments within 20 Working Days of such publication;

- (b) **Publish submissions and responses:** At any time following the last day on which submissions may be made, the Distributor will publish a summary of any submissions received and its response to them;
 - (c) **Consider certain matters:** The Distributor will develop its final pricing methodology and prices, and in doing so it shall:
 - (i) ensure its decisions are consistent with the pricing principles of the Electricity Governance (Connection of Distributed Generation) Regulations 1997 and with clause 4.1; and
 - (ii) consider in good faith all matters relevant and available to it in developing its views, including the submissions and information made available during the process set out in this clause;
 - (d) **Disclose pricing methodology:** upon developing the final methodology, the Distributor will publish its final pricing methodology and prices and reasons for its decisions.
 - (e) **Notice of price adjustment:** The Distributor will give the Generator written notice of any price adjustment at least 60 days prior to the adjustment taking effect.
- 10.3 **Pricing methodology and prices cannot be disputed:** Once the price methodology and prices are finalised and notified in accordance with clauses 10.2 the pricing methodology and prices can not be challenged except on the grounds of clause 4.1. Where a dispute is raised under clause 4.1, the Generator will continue to pay invoices until the dispute is resolved.

11. BILLING AND PAYMENT

- 11.1 **Generator to provide injection information:** The Generator will provide to the Distributor within 7 Working Days of the end of the month all information the Distributor may reasonably require to enable it to calculate its invoice for Services. Where injection information is used in the calculation of charges, the information shall be provided using the appropriate Information Exchange Protocol.
- 11.2 **Charges, invoices and due date for payment:** Invoices for Services shall be based on the schedule of prices set out in schedules 5 and 6, and shall be sent to the respective Parties within 10 Working Days of the end of the month to which the invoice relates. At the same time each Party shall provide sufficient detail information, using the appropriate Information Exchange Protocol, to enable the other Party to verify the accuracy of the invoice. The settlement date for the invoice shall be the 20th day of the month in which the invoice is received. However if any Party fails to send an invoice to the other Party by the 10th Working Day then the due date for payment will be extended by 1 Working Day for each Working Day that the invoice is late.
- 11.3 **Wash-ups:** Where complete and accurate injection information, or adjusted reconciliation information (where applicable to the pricing methodology) is provided after the 7th Working Day or corrected injection information and/or reconciliation information to replace the earlier

information used for invoicing is provided, the appropriate Party will provide an invoice for the wash-up amount for settlement plus a Use of Money Adjustment in the next monthly billing cycle. The settlement date for the wash-up amount will be 6 Working Days from the wash-up invoice date. Unless the charging methodology states otherwise or it is agreed otherwise, no wash-up will occur more than 24 months after the original invoice date.

11.4 **Interest on late payment:** Subject to clause 11.5, the Generator or the Distributor, as appropriate, will pay any invoice issued under clauses 11.1 or 11.3. Where any part of an invoice that is not the subject of a Manifest Error is not paid by the due date, Default Interest may be charged.

11.5 **Disputed invoices:** If any party disputes an invoice issued under clauses 11.1 or 11.3, the disputing party shall notify the receiving party in writing and provide details as to the reasons why the disputing party disputes that invoice within 12 months of the date of supply of the Services ("**Invoice Dispute**"). On receiving the Invoice Dispute notice, the receiving party shall:

(a) where the receiving party agrees with the matters set out in the Invoice Dispute notice and:

(i) the Generator or the Distributor, as appropriate, has not paid the disputed invoice, promptly issue a new invoice and the relevant party will pay the new invoice within 6 Working Days of receiving it, but need not pay prior to the time set out in clause 11.1 or 11.3; or

(ii) the Generator or the Distributor, as appropriate, has paid the disputed invoice, calculate the amount that the relevant party has over or under paid and promptly issue an invoice to the disputing party for the over or under paid amount, as appropriate, and that invoice plus any Default Interest is to be settled within 6 Working Days of the invoice for the over or under paid amount. The Default Interest will apply for the period commencing on the date the original invoice was due for settlement under clauses 11.1 or 11.3 and ending when payment is made, but the amount need not be settled prior to the time set out in clauses 11.1 or 11.3; or

(b) where the receiving party disagrees with the matters set out in the Invoice Dispute notice, the matter will be referred to dispute resolution in accordance with clause 23 and if the Generator or the Distributor, as appropriate, has not paid the disputed invoice, it will pay the undisputed amount of the disputed invoice issued in accordance with clauses 11.1 or 11.3; and

(c) upon the resolution of any Invoice Dispute under clause 11.5(b), the party which is found to have an outstanding amount will pay that amount within 6 Working Days, plus Default Interest to the other party. The Default Interest will apply for the period commencing on the date the disputed amount would have been due for payment under clauses 11.1 or 11.3, and ending when payment is made.

11.6 **Incorrect invoices:** If it shall be found at any time that a party has been overcharged or undercharged and a party shall actually have paid the invoices containing such overcharge or

undercharge, then within 20 Working Days after such error has been discovered and the amount has been agreed to between the parties or determined pursuant to clause 23, the party which has been overpaid shall refund to the other party the amount of any such overcharge or the party which has been underpaid shall pay to the other party the amount of any such undercharge in both cases together with a Use of Money Adjustment on the overcharged or undercharged amount, provided that there shall be no right to re-open invoices if more than 18 months has elapsed since the date of the invoice.

12. PRUDENTIAL REQUIREMENTS

12.1 **Generator must satisfy prudential requirements:** The Distributor may, as a condition of entering into this Agreement or otherwise at any time on giving 14 days written notice to the Generator, require the Generator to comply at its election with one of the following prudential requirements to secure payment of the Charges by the Generator. Such prudential requirements shall not be required during any period that the Avoided Transmission Charges are not less than the Charges.

- (a) **Hold an acceptable credit rating:** hold an acceptable credit rating in accordance with clause 12.2; or
- (b) **Third party security:** arrange for a third party to provide one or a combination of the following securities, for the amount required in accordance with this clause 12, provided the party providing the security maintains an acceptable credit rating in accordance with clause 12.3;
 - (i) **Guarantee or letter of credit:** an unconditional guarantee or letter of credit in favour of the Distributor; or
 - (ii) **Third party guarantee:** an unconditional third party guarantee in favour of the Distributor; or
 - (iii) **Bond:** a security bond in favour of the Distributor;

12.2 **Acceptable credit rating:** For the purposes of clause 12.1(a), an acceptable credit rating means that the Generator must carry a long-term credit rating:

- (a) of at least Baa2 (Moody's Investor Services Inc.), BBB (Standard & Poors Ratings Group), B (AM Best), or an equivalent rating from any other reputable rating agency which is acceptable to the Distributor; and
- (b) if the Generator has the minimum acceptable credit rating, this rating is not subject to negative credit watch.

12.3 **Acceptable credit rating:** For the purposes of clause 12.1(b), an acceptable credit rating means that the third party security provider must carry a long-term credit rating:

- (a) of at least A2 (Moody's Investor Services Inc.), A (Standard & Poors Ratings Group), B++ (AM Best), or an equivalent rating from any other reputable rating agency which is acceptable to the Distributor; and

- (b) if the third party security provider has the minimum acceptable credit rating, this rating is not subject to negative credit watch.
- 12.4 **Evidence of acceptable credit rating:** The Generator, or third party security provider (as the case may be) will provide such evidence of the acceptable credit rating (as set out in clause 12.2 or 12.3), as the Distributor or its agent may from time to time reasonably require.
- 12.5 **Maintenance of acceptable credit rating:** Where the Distributor has not required any particular form of security due to the Generator having an acceptable credit rating as defined in clause 12.2 on the Commencement Date, the Generator must at all times maintain an acceptable credit rating.
- 12.6 **Level of security:** Where the Generator elects to have a third party provide a guarantee, letter of credit or bond to satisfy the prudential requirements in clause 12.1, the maximum amount which may be payable pursuant to the guarantee, letter of credit or bond is the Distributor's reasonable estimate of the charges for 2 months (GST inclusive) payable by the Generator to the Distributor under this agreement.
- 12.7 **Distributor to calculate new Generator's level of security:** If the Generator has not previously entered into a contract with the Distributor for access to the Network, the Distributor will calculate the requisite level of security required pursuant to clause 12.6 for the first 6 months, subject to any reassessment of the security level pursuant to this agreement having regard to a bona fide business plan prepared in good faith to permit a realistic estimate of the Generator's level of security as defined in clause 12.6:
- 12.8 **Distributor may review security level:** At any time, the Distributor may review or the Generator may require the Distributor to review and if appropriate change, the level of security required to be held by the Generator in accordance with clause 12.6, or if no security has been provided by the Generator due to the Generator having an acceptable credit rating in accordance with clause 12.2 and the Generator has failed to maintain an acceptable credit rating under clause 12.2, the Distributor may require the Generator to provide additional security in accordance with this clause 12. Where either party has by written notice required the other to review the level of security, the other party must make any appropriate changes to that level within 20 Working Days of receiving the notice.
- 12.9 **Generator to notify Distributor of changes affecting security:** The Generator is to immediately notify the Distributor should any of the following occur:
- (a) the Generator gives a notice (in accordance with rules 4.2 or 4.4 of Part H of the Rules) of a change to its security status; or
 - (b) the Generator reasonably believes that its financial position is likely to be materially adversely impaired such that its ability to purchase Services will be consequently affected; or
 - (c) the Generator learns that a third party security provider (upon which its current satisfaction of the prudential requirements in this clause 12 is dependent) no longer holds an acceptable credit rating in terms of clause 12.3.

Any information provided by the Generator to the Distributor under this clause shall be Confidential Information.

12.10 **Distributor may make enquiries:** Where the Distributor has reason to believe that the Generator should have given notice under clauses 12.9(a) to (c) and the Distributor has not received a copy of any such notice, the Distributor may enquire of the Generator as to whether it should have given such notice. Any such enquiry shall be in writing and be addressed to the Chief Executive of the Generator. If such notice should have been given, the Generator shall give notice immediately, or if no notice is required, the Generator must respond to the Distributor in writing within 2 Working Days of receipt of the Distributor's notice under this clause 12.10. Correspondence sent or received by either party under this clause shall be Confidential Information.

12.11 **Change in the level or type of security:** If the Distributor:

- (a) following a review of the Generator's security level pursuant to clause 12.8; or
- (b) on receipt of information contemplated by clauses 12.9 or 12.10; or
- (c) as the result of a failure by the Generator to respond to a request in terms of clause 12.10 within the timeframe set out above,

considers on reasonable grounds that the level of security should, subject to clause 12.6, be increased or decreased or that reliance on an acceptable credit rating is no longer sufficient security, the Distributor will immediately notify the Generator of its decision and the grounds for that decision. For the avoidance of doubt, failure by a Generator to respond to a request made under clause 12.10 within the required timeframe shall constitute reasonable grounds for a Distributor to, subject to clause 12.6, alter the security required to be provided by the Generator.

12.12 **Distributor or Generator to effect changes in level or type of security:** The Distributor or the Generator, as appropriate, will take all actions necessary to satisfy the requirement for the increase or decrease in the level of security or change in type of security notified by the Distributor, within 5 Working Days of notification under clause 12.11. Reductions of guarantees, letters of credit and bonds will be made in accordance with clause 12.13.

12.13 **Reduction of guarantees etc:** If the Distributor decreases the level of a guarantee, letter of credit or bond in accordance with this agreement, the Generator may arrange for the issuing of a guarantee, letter of credit or bond as the case may be, for the lesser amount in satisfaction of clause 12.1(b) which will replace the earlier guarantee, letter of credit or bond.

12.14 **Change of security by Generator:** If the Generator elects to substitute a form of security or a combination of securities (which, in either case, would satisfy the requirements of clause 12.1) for the existing form of security or combination of securities, provided in accordance with this clause 12, then the Generator will notify the Distributor of its intention at least 2 Working Days prior to the change occurring and such change will come into effect on the intended date provided the Generator has complied with all its obligations under this agreement, and upon confirmation, satisfactory to the Distributor, that an alternative suitable form of security has been provided which satisfies the requirements of clause 12.1. Any release or replacement of a

guarantee, letter of credit or bond provided in accordance with clause 12.1, that results from such a change will take place in accordance with clause 12.13.

- 12.15 **Calls on security and deemed change of security:** If the Generator fails to pay an amount pursuant to this agreement which is not subject to a genuine dispute, the Distributor may on 2 Working Days notice to the Generator call on the provider of a guarantee, letter of credit or bond to make payment in accordance with the guarantee, letter of credit or bond.
- 12.16 **Release of guarantees, letters of credit and bonds:** If this agreement is terminated, the Distributor will release any guarantee, letter of credit or bond.

PART III - OPERATIONAL REQUIREMENTS

13. ACCESS TO THE GENERATOR'S PREMISES

13.1 **Generator to grant access:** The Generator shall give the Distributor's employees, agents, sub-contractors and invitees safe and unobstructed access at all reasonable times:

- (a) to any of the Distributor's Equipment which is located on the Generator's premises for the purpose of installing, testing, inspecting, maintaining, repairing, replacing, operating, reading or removing the same and for any other purpose related to this Agreement; and
- (b) to any of the Generator's Equipment, for the purpose only of verification of metering information; and
- (c) onto the Generator's premises to ascertain the cause of any interference to the quality of Distribution Services being provided by the Distributor to the Generator or any Retailer; and
- (d) onto the Generator's premises for the purposes of protecting, or preventing danger or damage to persons or property; and
- (e) for the purposes of reconnecting or disconnecting the Distributed Generation; and
- (f) for any other purpose relevant to-
 - (i) the Distributor connecting Distributed Generation in accordance with connection and operation standards;
 - (ii) maintaining the integrity of the Distribution Network

13.2 **Exercising rights of access:** The Distributor shall exercise its rights of access under clause 13.1 by:

- (a) wherever practicable, giving to the Generator reasonable notice of its intention to and the purpose for which it will exercise its right of access

- (b) causing as little inconvenience as practicable to the Generator in carrying out such work
 - (c) observing reasonable and prudent operating at all times and complying with the Generator's reasonable site or safety requirements that are made known to the Distributor by the Generator.
- 13.3 **Distributor may access in event of danger to person or property:** The requirements of clause 13.2 notwithstanding, the Distributor may take all reasonable steps to gain immediate access where it reasonably believes there is an immediate danger to persons or property.
- 13.4 **Rights of access are additional to statutory rights:** The rights of access conferred by this Agreement are in addition to any right of access the Distributor may have under any statute or regulation.
- 13.5 **Distributor may disconnect for prevention of access:** If the Generator fails to grant to the Distributor access as required under clause 13.1, the Distributor may disconnect the Generator's Installation from the Distribution Network, provided two Business Days' notice in writing has been given to the Generator and the Generator has failed to provide access within that period.
- 14. **INTERFERENCE TO EQUIPMENT AND THEFT OF ELECTRICITY**
 - 14.1 **Interference or damage to Distributor's Equipment:** The Generator will ensure that its employees, agents and invitees do not interfere with the Distributor's Equipment (including, without limitation, after termination of this agreement) without the prior written consent of the Distributor.
 - 14.2 **Generator may take action to protect persons or property:** If emergency action has to be taken to protect the health and safety of persons, or to prevent damage to property, the Generator:
 - (a) may interfere with the Distributor's equipment without prior written consent; and
 - (b) must, as soon as practicable, inform the Distributor of the occurrence and circumstances involved.
 - 14.3 **The Generator must protect the Distributor's equipment.** The Generator must protect the Distributor's equipment against interference and damage. If any of the Distributor's Equipment is damaged by the negligence or wilful act or omission of the Generator or the Generator's employees, agents or invitees, then the Generator shall pay the cost of making good the damage to the Distributor.
 - 14.4 **Interference or damage to Generator's Equipment:** The Distributor, its employees, agents and invitees shall not interfere with the Generator's Equipment without the prior written consent of the Generator, except to obtain electricity information from the Metering Equipment.
 - 14.5 **Distributor may take action to protect persons or property:** If emergency action has to be taken to protect the health and safety of persons, or to prevent damage to property, the Distributor:

- (a) may interfere with the Generator's equipment without prior written consent; and
 - (b) must, as soon as practicable, inform the Generator of the occurrence and circumstances involved.
- 14.6 **Distributor to make good:** If any of the Generator's Equipment is damaged by the negligence or wilful act or omission of the Distributor or the Distributor's employees, agents or invitees, then the Distributor shall pay the cost of making good the damage to the Generator.
- 14.7 **Notification of interference, damage or theft:** If the Distributor or Generator discover any interference or damage to the other party's equipment, or discover evidence of theft of electricity or loss of electricity, the discovering party will notify the affected party within 24 hours.
- 14.8 **Distributor may Require Investigation:** In the event of suspected interference with the Distributor's Equipment on the Generator's premises the Distributor may at its discretion
- (a) require the Generator to carry out a detailed investigation and present the findings, with supporting details, to the Distributor within a reasonable period; or
 - (b) carry out an investigation itself and present the findings, with supporting details, to the Distributor within a reasonable period.
- 14.9 **Investigation costs:** The cost of the investigation:
- (a) must be borne by the Generator if it is discovered that interference by the Generator, or by its subcontractors, agents, or invitees, has occurred, or if the interference has been by a third party, and the Generator has failed to provide reasonable protection against interference to the Distributor's equipment; and
 - (b) must be borne by the Distributor in any other case.
- 14.10 **Metering Equipment:** Either party may at its own cost, install and maintain additional Metering Equipment for metering data verification purposes or other purposes, provided that it does not interfere with any other Metering Equipment.

15. NETWORK CONNECTION AND OPERATION STANDARDS

- 15.1 **Generator will comply:** The Generator will comply with the Distributor's Network Connection and Operation Standards.

16. PERMANENT DISCONNECTION

- 16.1 **Termination of agreement will affect permanent disconnection.** Termination of this agreement under clause 19 will cause the Distributor to effect permanent disconnection of the distributed generation from the distribution network

- 16.2 **Point of connection remains a consuming point:** If the point of connection is to remain as a consumption point, where applicable the Generator must cancel any seller contracts and ensure the trader decommissions the distributed generation network service point with the reconciliation manager. The site must revert to a standard ICP.
- 16.3 **Point of connection to be disestablished:** If the point of connection is to be disestablished in its entirety, a permanent disconnection must be performed by means of isolation of generation by removal of all electric connections to the Distributor's lines. The Distributor must notify the Generator within 2 business days of the work having been completed. Where applicable, the Generator must cancel any seller contracts, ensure that the trader decommissions the distributed generation network service point with the reconciliation manager, and that the retailer arranges decommissioning of the ICP.
- 16.4 **ICP must not be re-used.** Once having the status of decommissioned on the registry, the ICP must not be used again. The process for new connections must be followed should generation again be connected at this point of connection.
- 16.5 **Registry to be updated in accordance with Rules.** Both the Distributor and the Generator (through notification to a retailer where selling to a retailer) must ensure that the registry is correctly updated throughout this process in accordance with the Rules.

17. METERING

- 17.1 **Generator to measure injection:** Subject to clause 17.5 the quantity of electricity injected into the Network shall be measured by Metering Equipment provided, installed, maintained, tested and operated by the Generator or the Generator's Agent.
- 17.2 **Bi-directional metering:** Metering equipment shall separately record any inflows of electricity from the Distributor's network and any electricity exported to the Distributor's network.
- 17.3 **Generator must supply metering data:** The Generator must provide to the Distributor, at the Distributor's request, the interval data and cumulative data recorded by the Generator's metering equipment.
- 17.4 **Distributor may require reactive metering:** The Distributor may require that reactive metering be installed for meters that are category 2 or above (as defined by the Rules).
- 17.5 **Application of metering rules:** Metering equipment provided by the Generator must comply, and the Distributor's requirements in respect of metering measurement and accuracy must be consistent, with the Rules.
- 17.6 **Metering equipment deemed to be accurate:** The Metering Equipment shall be deemed to be accurate and all measurements taken from the Metering Equipment shall be binding on the Parties unless either of the Parties disputes the accuracy of the Metering Equipment by giving written notice to the other Party. In the event such written notice is given:
- (a) each Party shall provide the other with any available information relevant to the checking of the Metering Equipment; and

- (b) the Metering Equipment shall be checked for defective or inaccurate functioning or calibration in accordance with Good Industry Practice.

17.7 **Correction of metering inaccuracy:** If it is discovered that any Metering Equipment used in the determination of charges is not measuring accurately then the quantity of electricity conveyed or maximum demand during the Period of Inaccuracy shall be determined by the Parties:

- (a) by using the measurements of any check metering equipment, if installed pursuant to Good Industry Practice; or
- (b) by calculation of a corrected quantity of electricity conveyed during the Period of Inaccuracy if the percentage of inaccuracy is ascertainable by calibration, recalibration, tests or mathematical calculation; or
- (c) by estimating the quantity of electricity conveyed using as a basis the quantity of electricity conveyed during periods of similar conditions when the Metering Equipment was measuring accurately; or
- (d) by such other method as is agreed between Parties.

PART IV: OTHER RIGHTS

18. GENERATOR DEFAULT PROCESS

18.1 **Generator in breach of agreement:** If the Generator fails to comply with any of its obligations under this agreement the Distributor may notify the Generator that it is in breach of this agreement. The Generator must remedy any breach that is not a Serious Financial Breach within 5 Working Days of the date of receipt of such notice and any Serious Financial Breach within 2 Working Days of the date of receipt of such notice.

18.2 **Failure to remedy breach:** If the Generator fails to remedy a breach within the relevant timeframe set out in clause 18.1, then:

- (a) the Distributor will speak with the Chief Executive or another senior executive of the Generator in relation to the breach and to notify him or her of the Distributor's intention to exercise its rights under this clause; and
- (b) 1 Working Day after the end of the timeframe set out in clause 18.1:
 - (i) where the breach is a Serious Financial Breach, the Distributor will notify the Rulings Panel in writing that the Generator is in breach of this agreement and Part H of the Rules and the Distributor may commence termination of this agreement in accordance with clause 19.3; or
 - (ii) where the breach is not a Serious Financial Breach, the Distributor may refer the matter to dispute resolution in accordance with clause 23;

and

- (c) the Distributor may exercise any other legal rights available to it.

19. TERMINATION OF AGREEMENT

19.1 **Either party may terminate this agreement:** In addition to any other termination right in this agreement, and despite clause 5.1, the Distributer may terminate this agreement:

- (a) **On request:** On receipt of a request from the Generator; or
- (b) **Failure to comply with connection or safety requirements:** without notice, if the Generator has failed to comply with either the connection or safety requirements of the Distributor and there is an ongoing risk to persons or property.
- (c) **Dispute resolution:** in accordance with any agreement reached or determination made as a result of the dispute resolution process set out in clause 23 where the Generator has committed a breach that is not a Serious Financial Breach; or
- (d) **Illegality:** 1 Working Day after notice is given by either party to the other party terminating this agreement for the reason that performance of any material provision of this agreement by either party has to a material extent become illegal and the parties acting reasonably agree that it is not practicable for this agreement to continue; or
- (e) **No injection:** 10 Working Days after notice is given by the Distributor, if the Generator has not injected electricity into the network at any time in the preceding 12 months and the distributor has not been notified by the Generator of the reasons for the non-injection; or
- (f) **Force majeure:** 10 Working Days after notice is given by either party to the other terminating this agreement for the reason of a Force Majeure Event, which has resulted in the party's failure to perform a material obligation under this agreement, and which is of such magnitude or duration that it is impracticable or unreasonable for the party giving notice to remain bound by its obligations under this agreement, provided that the party seeking to rely on the Force Majeure Event has complied with clauses 21.2 and 21.3.

19.2 **If the Generator wishes to continue supply after notice of termination:** If the Generator wishes to continue to inject electricity into the Network after the date of termination fixed pursuant to clause 19.1, the following procedure shall be followed:

- (a) the Generator must advise the Distributor within 30 Working Days of any notice given under clause 19.1 that it wishes to continue to inject electricity into the Network.
- (b) as soon as practicable the parties will meet to discuss in good faith the terms of the new agreement under which the Generator will be able to continue to inject electricity into the Network after the date of termination.

- (c) either party may require that any particular matter be referred to mediation according to the process outlined in clauses 23.3 to 23.6.
- 19.3 **Distributor's termination of agreement for Serious Financial Breach:** In addition to any other termination right in this agreement, where the Generator has breached this agreement and the breach is a Serious Financial Breach, the Distributor may issue a notice of termination to the Generator, effective either:
- (a) no less than 5 Working Days after the date of such notice; or
 - (b) immediately if the Generator has ceased to inject electricity into the Network.
- Such notice for termination will lapse if the Generator remedies the Serious Financial Breach prior to the notice of termination becoming effective or the Distributor withdraws or extends the effective date of its notice.
- 19.4 **Generator's termination of agreement:** In addition to any other termination right in this agreement, the Generator may terminate this agreement provided that:
- (a) it is not injecting electricity into the Network; or
 - (b) the Distributor is in material breach of this agreement, the Generator has notified the Distributor in writing of the material breach, and the Distributor has not remedied the material breach within 5 Working Days of such notice.
- 19.5 **Termination not to prejudice rights:** Termination of this agreement by either party will be without prejudice to all other rights or remedies of either party, and all rights of that party accrued as at the date of termination.
- 19.6 **Obligations to continue until termination:** The parties will continue to meet their responsibilities under this agreement up to the effective date of termination.
- 19.7 **Events to occur on termination:** On the effective date of termination:
- (a) the parties must have returned or certified the destruction of the other party's Confidential Information; and
 - (b) the parties will cease to provide the Services to each other.
- 19.8 **Survival of terms:** Any terms of this agreement which by their nature extend beyond its expiration or termination remain in effect until fulfilled.
- 20. CONFIDENTIALITY**
- 20.1 **Commitment to preserve confidentiality:** Each party to this agreement undertakes that it shall:

- (a) preserve the confidentiality of, and shall not directly or indirectly reveal, report, publish, transfer or disclose the existence of any Confidential Information except as provided for in clause 20.2; and
- (b) only use Confidential Information for the purposes expressly permitted by this agreement.

20.2 **Disclosure of Confidential Information:** Either party may disclose Confidential Information in any of the following circumstances:

- (a) **By agreement in writing:** where the Generator and Distributor agree in writing to the disclosure of the information;
- (b) **Provided in this agreement:** where disclosure is expressly provided for under the terms of this agreement;
- (c) **Public domain:** where at the time of receipt by the party the Confidential Information is in the public domain or where, after the time of receipt by either party, the Confidential Information enters the public domain (except where it does so as a result of a breach by either party of its obligations under this clause 20 or a breach by any other person of that person's obligation of confidence);
- (d) **Required to disclose:** where either party is required to disclose Confidential Information by:
 - (i) any statutory or regulatory obligation, body or authority; or
 - (ii) any judicial or other arbitration process; or
 - (iii) the regulations of any stock exchange upon which the share capital of either party is from time to time listed or dealt in; or
 - (iv) the Rules;
- (e) **Released to officers, employees, directors, agents or advisors:** where the Confidential Information is released to the officers, employees, directors, agents or advisors of the party provided that:
 - (i) the information is disseminated only on a "need to know" basis; and
 - (ii) recipients of the Confidential Information shall be made fully aware of the party's obligations of confidence in relation thereto; and
 - (iii) any copies of the information clearly identify it as Confidential Information;or,
- (f) **Released to a bona fide potential purchaser:** where the Confidential Information is released to a bona fide potential purchaser of the business of the Distributor or the Generator, subject to that bona fide potential purchaser having signed a

confidentiality agreement approved by the other party, such approval not to be unreasonably withheld.

20.3 **Limit for breach:** A party's liability for breach of this clause 20 shall not be limited by clause 24.

20.4 **Unauthorised disclosure:** For the avoidance of doubt, a party will be responsible for any unauthorised disclosure of Confidential Information made by that party's employees, directors, agents for advisors.

21. FORCE MAJEURE

21.1 **Force Majeure Event:** A failure by either party to comply with or observe any provisions of this agreement (other than payment of any amount due) does not give rise to any cause of action or liability based on default of the provision if:

- (a) The failure is caused by:
 - (i) any event or circumstance occasioned by, or in consequence of, any act of God, being an event or circumstance:
 - (A) due to natural causes, directly or indirectly and exclusively without human intervention, and
 - (B) which could not have reasonably been foreseen or, if foreseen, could not reasonably have been resisted; or
 - (ii) strikes, lockouts, other industrial disturbances, acts of public enemy, wars, blockades, insurrections, riots, epidemics, aircraft, or civil disturbances; or
 - (iii) the binding order or requirement of any court, government, local authority, the Rulings Panel, or the Electricity Commission; or
 - (iv) the partial or entire failure of supply or availability of electricity to the distribution network and the failure is not within the reasonable control of the affected party; or
 - (v) any other event or circumstance beyond the control of the party invoking this clause 21.1
- (b) The party could not have prevented such failure by the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced Distributor or Generator engaged in the same type of undertaking under the same or similar circumstances in New Zealand at the time.

21.2 **Notice:** If a party becomes aware of a prospect of a forthcoming Force Majeure Event, it must notify the other party as soon as reasonably practicable of the particulars of which it is aware.

If a party invokes clause 21.1, it must as soon as reasonably practical notify the other party that is invoking clause 21.1 and the full particulars of the Force Majeure Event relied upon.

21.3 **Avoidance and mitigation of effect of Force Majeure Event:** The party invoking clause 21.1 must:

- (a) **Endeavour to avoid or overcome the Force Majeure Event:** use all reasonable endeavours to overcome or avoid the Force Majeure Event;
- (b) **Endeavour to mitigate the Force Majeure Event:** use all reasonable endeavours to mitigate the effects or the consequences of the Force Majeure Event; and
- (c) **Consult the other party:** consult with the other party on the performance of the obligations referred to in sub clauses (a) and (b) above.

21.4 **No obligation to settle:** Nothing in clause 21.3 is to be construed as requiring a party to settle a strike, lockout or other industrial disturbance by acceding, against its judgement, to the demands of opposing parties.

22. AMENDMENTS TO AGREEMENT

22.1 **Amendments to agreement:** Change may be made to this agreement for:

- (a) **Service changes:** where the change is a change to the Services and the change is made in accordance with clause 9; and
- (b) **Price changes:** where the change is a change to schedules 5 and 6 and the change is made in accordance with clause 10; and
- (c) **Required by law or Rules:** where the change is required by law or the Rules, in which case this agreement will be deemed to have been changed on the date specified in and to the extent required by, the relevant legislation or Rule; and
- (d) **Change in Loss Factor:** where the change is a change to schedule 7, and the change is made in accordance with clause 6; and
- (e) **Other changes:** where the change does not fall into any of the categories set out above, and the change is made in accordance with clause 22.2.

22.2 **Procedures for other changes:** The following procedures will apply to changes contemplated by clause 22.1(e):

- (a) **Either party may suggest an agreement change:** either party may suggest a change by notice in writing to the other party; and
- (b) **The parties will negotiate in good faith:** the parties will negotiate the change in good faith; and

- (c) **Parties fail to agree change:** if the parties are unable to agree on the change within 40 Working Days of the date of the relevant notice, then the notice of change will lapse and no change will occur to this agreement; and
- (d) **Agreed changes to vary this agreement:** if the parties agree to the change, the parties will sign a written variation to this agreement documenting the change and this agreement will be deemed to have been changed on the date the variation is signed by the parties or on such other date as specified in the variation.

23. DISPUTE RESOLUTION PROCEDURE

- 23.1 **Internal dispute resolution processes:** The parties intend that, where possible, any differences between them concerning this agreement will be resolved amicably by good faith discussion. When a difference or dispute arises in relation to this agreement, including any question concerning its existence, validity, interpretation, performance, breach or termination ("**Dispute**"), the party claiming the existence of a Dispute may provide a written notice describing such Dispute to the other party. Where such notice is provided by a staff member of a party, a staff member of the other party will promptly meet with that person in order to attempt to resolve the Dispute. Where the Dispute is not resolved by discussion between such staff members within 15 Working Days of such notice being given, the matter is to be referred to the Chief Executives of the parties for resolution.
- 23.2 **Right to refer dispute to mediation:** If the Dispute cannot be resolved by the Chief Executives within 15 Working Days of the matter being referred to them, either party may give a notice to the other requiring that the Dispute be referred to mediation.
- 23.3 **Appointment of mediator:** Within 10 Working Days of receipt of the notice referring the Dispute to mediation, the parties shall agree on the identity of the mediator or, where they cannot so agree within that timeframe, the mediator shall be appointed by the President (or equivalent) of the New Zealand chapter of LEADR.
- 23.4 **Conduct of mediation:** In consultation with the mediator, the parties will determine a location, timetable and procedure for the mediation or, if the parties cannot agree on these matters within 7 Working Days of the appointment of the mediator these matters will be determined by the mediator.
- 23.5 **Appointment of representative:** Each party will appoint a representative for the purposes of the mediation who will have authority to reach an agreed solution and effect settlement.
- 23.6 **Conduct during mediation:** In all matters relating to the mediation:
 - (a) **Act in good faith:** the parties and their representatives will act in good faith and use their best endeavours to ensure the expeditious completion of the mediation procedure;
 - (b) **Without prejudice:** all proceedings and disclosures will be conducted and made without prejudice to the rights and positions of the parties in any subsequent arbitration or other legal proceedings;

- (c) **Mediator's decisions binding only on conduct of the mediation:** any decision or recommendation of the mediator will not be binding on the parties in respect of any matters whatsoever except with regard to the conduct of the mediation;
- (d) **Costs of mediation borne equally:** the costs of the mediation, other than the parties' legal costs, will be borne equally by the parties, who will be jointly and severally liable to the mediator in respect of the mediator's fees.

23.7 **Arbitration to resolve disputes:** If the Dispute:

- (a) is not resolved through mediation within 40 Working Days (or such longer period agreed by the parties) of the appointment of a mediator; or
- (b) is not resolved by negotiation of the Chief Executives in accordance with clause 23.1 within 15 Working Days of the matter being referred to them and, if neither party referred the Dispute to mediation,

the Dispute shall be referred to and finally resolved by arbitration before a sole arbitrator under the Arbitration Act 1996.

23.8 **Choice of arbitrator:** The sole arbitrator shall be appointed by the parties. If the parties cannot agree on the identity of the arbitrator within 10 Working Days of the referral in clause 23.7 above, the arbitrator shall be appointed by the President for the time being of the New Zealand Law Society.

23.9 **No connection to previous mediator or previous mediation:** Where the Dispute has previously been referred to mediation, the mediator shall not be called by either party as a witness, and no reference shall be made to any determination issued by the mediator in respect of the matter in Dispute during any subsequent arbitration on the matter in Dispute.

23.10 **Urgent Relief:** Notwithstanding any other provision of this agreement, each party reserves the right to take steps to seek urgent injunctive or equitable relief before an appropriate court.

24. LIABILITY

24.1 **Payments of charges:** Nothing in this clause 24 shall operate to limit the liability of either party to pay all charges and other sums due under this agreement.

24.2 **Direct Damage:** Except as expressly provided in clauses 19.3, 24.9, 24.10 and 24.11 neither party (nor any of their respective officers, employees or agents) will be liable to the other party for any direct loss, liability, cost, claim, charge, expense or damage (together "**Direct Damage**") arising from any breach of this agreement or otherwise arising from the relationship between them, other than for Direct Damage and which results from the negligence, wilful act or omission, fraud, dishonesty or wilful misconduct of the first party or any of its officers, employees, agents or invitees.

24.3 **Consequential loss:** Except as expressly provided in clauses 20.4, 24.9, 24.10 and 24.11, neither party (nor any of their respective officers, employees or agents) will be liable to the other party for:

- (a) any loss of profit, loss of revenue, loss of use, loss of opportunity, loss of contract, or loss of goodwill of any person; or
- (b) any indirect or consequential loss (including, but not limited to, incidental or special damages); or
- (c) any loss resulting from liability or a party to another person (except any liability under clause 24.2); or
- (d) any loss resulting from loss or corruption of, or damage to, any electronically-stored or electronically-transmitted data or software.

24.4 **Distributor not liable:** The Distributor will not be liable, except to the extent caused or contributed to by the Distributor in circumstances where the Distributor was not acting in accordance with regulations, for:

- (a) any momentary fluctuations in the voltage or frequency of electricity conveyed to or from the distributed generation point of connection or nonconformity with harmonic voltage and current levels; or
- (b) any failure to convey to the extent that:
 - (i) the failure arises from any act or omission of the Generator or other person, excluding the Distributor and its officers, employees, directors, agents, or advisors; or
 - (ii) the failure arises from:
 - (A) a failure to convey or a reduction of injection or supply of electricity into the distribution network; or
 - (B) An interruption in the conveyance of electricity in the network, at the request of the system operator under a nationally or regionally coordinated response to an electricity shortage; or
- (c) the failure arises from any defect or abnormal conditions in or about the Generator's premises; or
- (d) the Distributor was taking any action in accordance with the Regulations; or
- (e) any failure to convey electricity as a result of action by the Distributor in accordance with this agreement; or
- (f) the Distributor was prevented from making necessary repairs (for example, by Police at an accident scene).

24.5 **Generator not liable:** The Generator will not be liable for:

- (a) any failure to perform any obligation pursuant to this agreement caused by the Distributor's failure to comply with the same; or

- (b) any failure to perform any obligation to this agreement arising from any defect or abnormal conditions in the Network,
- except to the extent caused or contributed by the Generator in circumstances where the Generator was not acting in accordance with this agreement.
- 24.6 **Other liabilities:** Except as expressly provided in clauses 20.3, 24.9, 24.10 and 24.11, all other liability of each party, including any liability in tort (including negligence), contract, breach of statutory duty, equity or otherwise is excluded to the fullest extent permitted by law.
- 24.7 **Limitation of liability:** Subject to clauses 24.1 and 24.8 but otherwise notwithstanding any other provision of this agreement, the maximum total liability, whether as a result of a breach of this agreement or on any other ground or basis whatsoever, shall not in any circumstances exceed, in respect of a single event or series of events arising from the same event or circumstance, the lesser of:
- (a) the direct damage suffered or the maximum total liability that the party bringing the claim against the other party has at the time (or, in the case of a series of related events, the first of such events) giving rise to the liability occurred; and
- (b) \$1,000 per kW of installed capacity up to a maximum of \$5 million.
- 24.8 **Exclusion:** The exceptions in Clauses 20.3, 24.9, and 24.10, and the limits on liability in Clause 24.7 do not apply
- (a) if a Distributor or Generator, or any of its officers, employees, directors, agents, or advisors, has acted fraudulently or wilfully in breach of this agreement.
- (b) to a breach of confidentiality under Clause 20 by either party.
- (c) if increases in Transpower charges arise from an event of failure of the Generator's Equipment or business.
- 24.9 **Distributor warranties and Consumer agreements:** The Generator agrees that, to the fullest extent permitted by law, the Generator will ensure in all contracts between it and any third party for the supply and/or transportation of electricity, these contracts contain a clear and unambiguous clause excluding all warranties, guarantees and other obligations of the Distributor concerning the services to be provided by the Distributor pursuant to this agreement ("**Distributor Warranties**").
- 24.10 **The Distributor will be indemnified:** The Generator hereby indemnifies and holds harmless the Distributor and will keep the Distributor indemnified and held harmless from and against all reasonable Direct Damage (including legal costs on a solicitor/own client basis), suffered, or incurred by the Distributor arising out of or in connection with:
- (a) any claim by any person with whom the Generator has a contractual relationship in relation to the provision of Services or the conveyance of electricity to the extent that the claim arises out of or could not have been made but for:

- (i) any breach by the Generator of any of its obligations under this agreement; or
 - (ii) the termination of this agreement pursuant to a notice by the Generator, except when the notice is the result of a breach by the Distributor; or
 - (iii) any failure by the Generator to perform any obligation pursuant to any agreement between the Generator and any third party (or otherwise arising at law); or
 - (iv) any action undertaken by the Distributor under or in connection with this agreement at the request of the Generator; and
- (b) any recovery activity of the Distributor in respect of any unpaid charges or interest payable under this agreement.

24.11 **The Generator will be indemnified:** The Distributor hereby indemnifies and holds harmless the Generator and will keep the Generator indemnified and held harmless from and against all reasonable Direct Damage (including legal costs on a solicitor/own client basis), suffered, or incurred by the Generator arising out of or in connection with:

- (a) any claim by any person with whom the Distributor has a contractual relationship in relation to the provision of services or conveyance of electricity to the extent that claim arises out of or could not have been made but for:
 - (i) any breach by the Distributor of its obligations under this agreement; or
 - (ii) the termination of this agreement pursuant to a notice by the Distributor, except when the notice is the result of a breach by the Generator; or
 - (iii) any failure by the Distributor to perform any obligation pursuant to any agreement between the Distributor and any Grid Operator or other third party or otherwise arising at law; or
 - (iv) any action undertaken by the Generator under or in connection with this agreement at the request of the Distributor; and
- (b) any recovery activity in respect of any unpaid charges or interest payable under this agreement.

24.12 **Rights of indemnity:** The indemnities in clauses 24.10 and 24.11 are in addition to and without prejudice to the rights and remedies of each party under this agreement or under statute, in law, equity or otherwise.

24.13 **Benefits to extend:** Each party acknowledges that its obligations under this clause 24 constitute promises conferring benefits on each party's officers, agents and employees which are intended to create, in respect of the benefit, an obligation enforceable by those officers, agents and employees and accordingly, the provisions of the Contracts (Privity) Act 1982 apply to its promises under this clause 24.

25. NOTICES

- 25.1 **Delivery of Notices:** Any notice given pursuant to this agreement will be deemed to be validly given if personally delivered, posted or forwarded by facsimile transmission to the address for notice set on page 3 of this agreement or to such other address as that party may notify from time to time.
- 25.2 **Deemed receipt:** Any notice given pursuant to this agreement will be deemed to have been received:
- (a) in the case of delivery, when delivered;
 - (b) in the case of facsimile transmission, when sent, provided the sender has a facsimile confirmation receipt recording successful transmission;
 - (c) in the case of posting, on the 2nd Working Day following the date of posting;
 - (d) in the case of email, the date of deemed receipt shall be at such time as the parties agree in writing. Notices may not be given pursuant to this agreement by email unless such agreement is reached and recorded in writing.
- 25.3 **Deemed receipt after 5pm or on a day that is not a Working Day:** Any notice in accordance with clause 25.2 that is personally delivered or sent by facsimile either after 5pm on a Working Day or on any day that is not a Working Day will be deemed to have been received on the next Working Day.

26. INFORMATION EXCHANGE

- 26.1 **Protocols for exchanging information:** Where the Industry has agreed that certain information should be exchanged according to Information Exchange Protocols, the Distributor and the Generator will, unless otherwise agreed, use Information Exchange Protocols as soon as reasonably practicable. Where the Industry amends or develops new Information Exchange Protocols, the parties will (unless agreed otherwise) adopt such protocols as soon as reasonably practicable after they are agreed by the Industry. Where certain information is exchanged on a regular basis and there is no appropriate Information Exchange Protocol the Distributor and the Generator will agree on the protocol to be used to exchange such information.
- 26.2 **Auditing information provided:** To enable either party to this agreement (being the "Verifier") to verify the accuracy of information provided to it by the other party to this agreement (being the "Provider"), the Provider will allow the Verifier and its agents reasonable access to the Provider's books and records (including where the Generator is the Provider metering or injection data) (collectively the "Records") to the extent that those Records relate to the obligations of the Provider under this agreement. Access to such Records will be given at all reasonable times providing the Verifier has given the Provider not less than 10 Working Days prior notice.

26.3 **Limitations on the Verifier:** In relation to its review of the Records pursuant to clause 26.2, the Verifier will not:

- (a) use the information obtained for any purpose other than verifying the accuracy of information provided by the Provider under this agreement; and
- (b) engage as its agent any person that is in competition with the Provider, any person who is related to a person in competition with the Provider or any employee, director, agent of such persons. For the purposes of this clause 26.3(b) a person is related to another person if it is a related company (as that term is defined in section 2(3) of the Companies Act 1993) of that other person.

26.4 **Independent Auditor:** Where the Provider is the:

- (a) Distributor and, acting reasonably, gives notice that the Records contain information about other industry participants that cannot reasonably be severed from the information relating to the Generator or that the information is commercially sensitive; or
- (b) Generator and, acting reasonably, gives notice that the Records contain information about other Industry participants that cannot reasonably be severed from information relating to the Distributor or that the information is commercially sensitive,

then the Distributor or the Generator, as appropriate, will permit an independent auditor (the “**Auditor**”) appointed by the other party to review the Records and the other party must not itself directly review any of the Records. The Distributor or the Generator, as appropriate, will not unreasonably object to the Auditor appointed by the other party. In the event that the Distributor or the Generator, as appropriate, reasonably objects to the identity of the Auditor, the parties will request the President of the Institute of Chartered Accountants (or a nominee) to appoint a person to act as the Auditor. The party which is permitted pursuant to this clause 26.4 to appoint an Auditor will pay the Auditor’s costs, except where the Auditor discovers a material inaccuracy in the records in which case the other party shall pay the Auditor’s costs.

26.5 **Provider must co-operate:** The Provider will co-operate with the Verifier or the Auditor (as the case may be) in its review of the Provider’s Records under clause 26.2 and will ensure that the Records are readily accessible and readable.

27. MISCELLANEOUS

27.1 **No Waiver:** Except where a party has signed an express written waiver of a right under this agreement, no delay or failure to exercise a right under this agreement prevents the exercise of that or any other right on that or any other occasion. A written waiver applies only to the right and to the occasion specified by it.

27.2 **Entire agreement:** This agreement records the entire agreement, and prevails over any earlier agreement, concerning its subject.

27.3 **No assignment:** Neither party may assign any benefit or burden under or in relation to this agreement without the prior written consent of the other party, such consent not to be unreasonably withheld. For the purposes of this clause, except where a party is listed on the New Zealand Stock Exchange, a change in control of a party will be deemed to be an assignment.

27.4 **Severance:** Any unlawful provision in this agreement will be severed, and the remaining provisions enforceable, but only if the severance does not materially affect the purpose of, or frustrate, this agreement.

28. INTERPRETATION:

28.1 Unless the context otherwise requires or specifically otherwise stated:

- (a) headings are to be ignored;
- (b) "including" and similar words do not imply any limitation;
- (c) references to any form of law is to New Zealand law, including as amended or re-enacted;
- (d) if a party comprises more than one person, each of those person's liabilities are joint and several;
- (e) references to a party or a person includes any form of entity and their respective successors, assigns and representatives;
- (f) every right, power and remedy of a party remains unrestricted and may be exercised without prejudice to each other at anytime;
- (g) amounts are in NZ\$ and exclude every tax and duty unless otherwise stated;
- (h) New Zealand time and dates apply;
- (i) any word or expression cognate with a definition in this agreement has a meaning corresponding or construed to the definition;
- (j) references to sections, clauses, schedules, annexes or other identifiers are to those in this agreement unless otherwise identified;
- (k) references to a document or agreement includes it as varied, notated or replaced; and
- (l) each schedule and any other attachment is part of this agreement.

28.2 **Interpretation:** In this agreement, unless the context otherwise requires:

"Additional Services" means those optional services that the Distributor or the Generator will provide to the other party as described in schedule 3;

"Annual Performance Report" has the meaning set out in clause 7.2;

“Avoided Transmission Charges” has the meaning set out in schedule 6;

“Capacity”, in relation to a distribution network, means the capability of the network to convey electricity under a range of load and generation conditions in accordance with reasonable and prudent operating practice.

“Charges”, means the schedule of prices set out in schedules 5 and 6

“Confidential Information” means all data and other information of a confidential nature provided by one party to the other under the terms of this agreement or otherwise, but excludes:

- (a) information known to the recipient prior to the date it was provided to it by the first party and not obtained directly or indirectly from the first party;
- (b) information obtained bona fide from another person who is in lawful possession of the information and did not acquire the information directly or indirectly from the first party under an obligation of confidence;
- (c) reports prepared in accordance with clause 7;
- (d) the existence and terms of this agreement, except schedule 3.

“Connect”, in relation to distributed generation, means to be connected to a distribution network or to a consumer installation that is connected to a distribution network.

“Connection and operation standards”, in relation to a distributor or distributed generation

- (a) means requirements that:
 - (i) are set out in written policies and standard of the Distributor; and
 - (ii) relate to the connection of distributed generation and the operation of the distribution network, including requirements relating to planning, design, construction, testing, inspection and operation of assets that are, or are proposed to be, connected to the distribution network; and
 - (iii) are made publicly; and
 - (iv) reflect, or are consistent with, reasonable and prudent operating practice; and
- (b) includes the Distributor’s:
 - (i) congestion management policy; and
 - (ii) emergency response policies; and
 - (iii) safety standards.

“Consumer installation” includes:

- (a) an electrical installation; and
- (b) any fittings that are used, or designed or intended for use, by any person in or in connection with the generation of electricity so that electricity can be exported into a distribution network

"**Default Interest**" means interest on the amount payable at the Default Interest Rate from the due date for payment until the date of payment of that amount to the relevant party accruing on a daily basis and compounded monthly;

"**Default Interest Rate**" means the Interest Rate plus 5%;

"**Direct Damage**" has the meaning given to it in clause 24.2;

"**Dispute**" has the meaning given to it in clause 23.1;

"**Distributed Generation**" means equipment used, or proposed to be used, for generating electricity that:

- (a) is connected, or proposed to be connected, to a distribution network, or to a consumer installation that is connected to a distribution network; and
- (b) is capable of exporting electricity into that distribution network.

"**Distribution Network**" means the electricity lines, and associated equipment, owned and operated by a Distributor, but does not include:

- (a) the national grid; or
- (b) an embedded network that is used to convey less than 2.5 GWh per annum;

"**Distributor**" means the party identified as such on page 3 of this agreement and has the same meaning as electricity distributor in section 2 (1) of the Electricity Act 1992;

"**Distributor's Equipment**" means the Fittings and/or Metering Equipment owned by the Distributor, the Distributor's agent or any other third party with whom the Distributor has contracted with for the use by the Distributor of such third party's Fittings or Metering Equipment which are from time to time installed in, over or upon a Consumer's Premises;

"**Distribution Services**" means those services described in clauses 2.1(a) to 2.1(m) provided by the Distributor to the Retailer under this agreement;

"**Feeder**" means a high voltage circuit served by automatic switchgear at 3.3kV and above;

"**Fitting**" means everything used, designed or intended for use, in or in connection with the generation, conversion, transformation, conveyance, measurement, or use of electricity;

"**Force Majeure Event**" has the meaning set out in clause 21.1;

"**Generator**" means a person who owns or operates distributed generation;

"**Generator's Equipment**" means the Fittings and/or Metering Equipment owned by the Generator, the Generator's agent or any other third party with whom the Generator has contracted with for the use by the Generator of such third party's Fittings or Metering Equipment, which are from time to time installed in, over, or upon a Consumer's Premises;

"**Good Industry Practice**" means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in New Zealand in the same type of undertaking under the same or similar circumstances having regard to common Industry practice in New Zealand at the time, but subject to the terms of this agreement;

"**Grid**" means the nationwide system of transmission lines, substations and other works including the HVDC (High Voltage Direct Current) link owned by Transpower and used to connect all grid injection points and/or grid exit points to transport electricity throughout New Zealand;

"**Industry**" means those parties involved in the generation, transmission, distribution and retailing of electricity in New Zealand;

"**Information Exchange Protocol**" means an information exchange protocol agreed by the Industry for the exchange of certain information, as held on the Electricity Commission website (www.electricitycommission.govt.nz);

"**Interest Rate**" means, on any given day, the rate (expressed as a percentage per annum and rounded up to nearest fourth decimal place) displayed on the Reuter's screen page BKBM (or its successor page) at or about 10.45 a.m. on that day, as the bid rate for three month bank accepted bills of exchange or, if no such rate is displayed or that page is not available, the average (expressed as a percentage per annum and rounded up to the nearest fourth decimal place) of the bid rates for three-month bank accepted bills of exchange quoted at or about 10.45 a.m. on that day by each of the entities listed on that Reuter's screen page when the rate was last displayed or, as the case may be, that page was last available;

"**Load Shedding**" means Load Management in any of the circumstances listed below:

- In compliance with instructions of the System Operator.
- To maintain security and safety of the Network
- To maintain public safety
- To prevent unexpected short term overloading of the Network
- To prevent voltage levels rising or falling outside statutory requirements
- To preserve security of the Network and void or mitigate damage to the equipment of any person connected to the Network.

"**Losses**" means the difference between the sum of all electricity injected into the Network as measured at the Network Supply Points and the sum of the electricity measured or calculated

as taken off the Network at ICPs or any other distribution network, and for the avoidance of doubt includes both technical and non-technical losses unless specifically stated otherwise;

"Loss Factors" means the factor by which Electricity metered at each Injection Point is adjusted to determine the quantity of Electricity that has passed through the Grid Exit Point, with the Loss Factor determined from time to time by the Distributor in accordance with Common Industry Practice.;

"Manifest Error" means an error in the amount of an invoice arising from:

- (a) an obvious arithmetic error in calculating the charges;
- (b) the invoicing of charges where there is no doubt that those charges have already been paid by the Generator;
- (c) the Generator being charged in respect of a Point of Connection where the Registry records indicate the Generator has not supplied energy to that Point of Connection during the period to which the invoice relates; or
- (d) charges being allocated to a Point of Connection where there is no doubt that the incorrect charges have been applied to that Point of Connection;

"Metering Equipment" means metering and control equipment and other apparatus for the purpose of measuring and controlling the quantity of Electricity conveyed through the Network from the Injection Point;

"Network" means lines, equipment and plant owned by the Distributor that are used for the distribution and conveyance of electricity;

"Network Connection Standards" means the Distributor's written standards for connection to the Network as issued (and as may be amended from time to time) by the Distributor in accordance with Good Industry Practice;

"Network Supply Point" means the points of connection between the Network and the Grid or any Generator or any other distribution network where electricity is injected into the Network;

"Planned Service Interruption" means a Service Interruption that has been scheduled to occur in accordance with clauses 5.3 to 5.5;

"Publish" means to disclose information by making the information available on the Distributor's website, notifying the Generator that the information has been disclosed on the website and sending the information in hardcopy to the Generator;

"Reasonable and prudent operating practice" in relation to distributed generation, includes:

- (a) approved industry operating standards; and
- (b) measures to avoid the injection of electricity from distributed generation that:

- (i) exceeds the capacity of the distribution network at the point of injection; or
 - (ii) results in excessive power flow at feeder points or a significant adverse effect on voltage levels;
 - (iii) or results in a significant adverse effect on the quality and reliability of supply to other users of the distribution network; and
- (c) the use or proposed use of reasonable and prudent measures to enable the connection of distributed generation.

“Regulations” means any of the following:

- (a) Electricity Regulations 1997 and subsequent amendments;
- (b) Electricity Governance Regulations 2003 and subsequent amendments;
- (c) Electricity Governance (Connection of Distributed Generation) Regulations 2007 and subsequent amendments.

“Retailer” has the same meaning as electricity retailer in section 2 (1) of the Electricity Act 1992;

“Rules” means the Electricity Governance Rules 2003, as amended from time to time;

“Rulings Panel” has the same meaning as set out in the regulations made pursuant to subpart 2 of Part 14 of the Electricity Act 1992, as amended from time to time;

“Serious Financial Breach” means:

- (a) a failure by the Generator to pay an amount due and owing that exceeds the greater of \$50,000 or 20% of the actual charges payable by the Generator for the previous month, and such amount is not genuinely disputed by the Generator in accordance with clause 11.5; or
- (b) a material breach of clause 12.

“Service Guarantees” means any payments or other benefits which one party provides to the other party when it fails to meet certain Service Standards;

“Service Level” means the magnitude of a Service Measure set out in schedule 1;

“Service Measures” means the characteristics or features of the Service Standards as set out in schedule 1;

“Service Standards” means the set of Service Measures, Service Levels, Service Guarantees, service performance reporting measures and frequency of reporting as set out in schedule 1;

“Services” means the Distribution Services, Additional Services, Transmission Services and any other services provided by the Distributor to the Generator in accordance with this agreement;

“System Operator” means the system operator appointed pursuant to the Rules;

"Transmission Interruption" means a failure of a service provided by a Transmission Provider to meet the service standards agreed between the Distributor and the Transmission Provider;

"Transmission Provider" means a person who transports electricity across the Grid and provides the Distributor with services relating to the injection or off-take of electricity at Network Supply Points;

"Transmission Services" the services provided by the Transmission Provider(s) to the Distributor;

"Unplanned Service Interruption" means any Service Interruption other than a Planned Service Interruption;

"Use of Money Adjustment" means an amount payable at the Use of Money Rate from the due date of the original invoice to the date of settlement of the wash-up amount accruing on a daily basis and compounded at the end of every month;

"Use of Money Rate" means the Interest Rate plus 2%;

“Warranted Person” means an employee of a company pre-qualified to the Distributor’s reasonable standards and who has current written authorisation from the Distributor to carry out the particular work on or in relation to the Network, which authorisation shall not be unreasonably withheld; and

"Working Day" means every day except Saturdays, Sundays and days which are statutory holidays in the city specified for each party's street address on page 3 of this agreement.

SCHEDULE 1

Service Standards

Introduction

In accordance with clause 2 the Distributor and the Generator undertake to meet the Service Standards outlined in this schedule.

SCHEDULE 2

Generating Stations

Table 1 - Generating Station Statistics and Injection Points

GENERATING STATION STATISTICS AND INJECTION POINTS					
Station	Nameplate Capacity	Peak Injection	Injection Point	Grid Exit Point	ICP
<i>Injection Point Equipment Ownership:</i>					

SCHEDULE 3

Additional Services

SCHEDULE 4

Service Interruption Communication Policies

Unplanned Service Interruptions

1. The Distributor will, within 10 minutes of new information becoming available and at intervals of no longer than 30 minutes unless otherwise agreed or as reasonable in the circumstances, until a firm restoration time has been advised, provide the Generator with an update of the status of the Unplanned Service Interruption.
2. Where the expected restoration time is likely to be exceeded, the Distributor will inform the Generator of the new expected restoration time. This will be done no less than 10 minutes before the expected restoration time elapses.
3. The Distributor will supply the Generator, within 10 minutes of a full or partial restoration of supply, details of the areas restored.

SCHEDULE 5

Distributors Charges

Distribution Services Charges

Table 2 - Distributor's Equipment Dedicated to Conveying the Generator's Electricity

Sub-transmission Lines									
From Node	To Node	Conductor / Cable	km	Age	RL	Unit Value	RC	ODRC	
							Subtotal		
Switchgear and Zone Substation Equipment									
Location	System ID	Quantity	Description	Total Life	Age	RL	RC	ODRC	
							Total Switchgear and Zone Substation Equipment		
							Total Sub-transmission Line (brought forward)		
							Total Assets Supporting Pioneer Generation Limited		

SCHEDULE 6

Avoided Transmission Charges

SCHEDULE 7

Loss Factors

The Loss Factors applicable and the loss allocation methodology are published on Aurora Energy Ltd's website www.electricity.co.nz.

SCHEDULE 8

Transmission Services

The Distributor will maintain transmission services to the following Grid Exit Points: