



# **Use of System Agreement**

**between**

**AURORA ENERGY LIMITED**  
**as Distributor**

**and**

**XYZ LIMITED**  
**as Retailer**

**1 July 2005**

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**PARTIES**

<p><b>Distributor: Aurora Energy Limited</b></p>	<p><b>Retailer: [Insert full legal name of Retailer]</b></p>
<p>Distributor's Details:</p> <p>Street Address:</p> <p>10 Halsey St, Dunedin</p> <p>Postal Address: P O Box 1404, Dunedin</p> <p>Address for Notices:</p> <p>10 Halsey Street, Dunedin</p> <p>Contact Person's Details:</p> <p>Network Services Manager</p> <p>Phone: +64 3 474 0322</p> <p>Fax: +64 3 477 5771</p> <p>Website: www.electricity.co.nz</p> <p>Email Address:</p> <p>lindsay.mclennan@4delta.co.nz</p>	<p>Retailer's Details:</p> <p>Street Address:</p> <p>Wellington</p> <p>Postal Address: P</p> <p>Address for Notices:</p> <p>P O</p> <p>Contact Person's Details:</p> <p>Manager</p> <p>Phone: 09</p> <p>Fax: 09</p> <p>Website: www.</p> <p>Email Address:</p>

**COMMENCEMENT DATE:** 1 July 2005

**SIGNATURES:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of authorised person signing for Distributor

\_\_\_\_\_  
Name of authorised person signing for Retailer

\_\_\_\_\_  
Position

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **INTRODUCTION**

- A. The Distributor and the Retailer agree to provide the Services to one another on the terms and conditions set out in this agreement.
- B. The Distributor and the Retailer agree to purchase the Services from one another on the terms and conditions set out in this agreement.
- C. The Distributor and the Retailer 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 shall continue until it is terminated pursuant to clause 23.

#### **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 delivery of electricity but does not guarantee delivery 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) make provision for Load Management on its Network to the extent required by clause 6;
- (f) use its best endeavours to operate its Network in order to optimise Grid charges and Transmission Services faced by it and those using its Network;

- (g) use its best endeavours to optimise the level of technical losses on its Network where economically efficient to do so;
- (h) work with the Retailer to identify and rectify the cause of abnormally high Losses in accordance with clause 7;
- (i) where it proposes to make changes to the Network Supply Points supplying the Network, follow the process set out in clause 10;
- (j) allow Consumer's Installations that comply with Network Connection Standards, to be connected, remain connected and be disconnected from its Network in accordance with clause 20 and schedule 7 of this agreement;
- (k) operate a policy that permits parties other than the Distributor to Energise and De-energise Points of Connection in accordance with this agreement, including clause 20 and schedule 7;
- (l) become a member of, and maintain its status as, a member of the relevant Rules and Electricity and Gas Complaints Commission Scheme; and
- (m) provide any Additional Services as agreed and as set out in schedule 3 to this agreement.

2.2 **Transmission Services:** The Distributor will provide the Transmission Services as set out in schedule 2.

2.3 **Retailer's services and obligations:** The Retailer 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) subject to clause 30, have a Retailer's Agreement with each Consumer for the supply of electricity which contains terms that have substantially the same effect as schedule 5;
- (d) use its best endeavours to provide consumption information in accordance with clauses 7 and 13;
- (e) work with the Distributor to identify and rectify the cause of abnormally high Losses in accordance with clause 7;

- (f) respond to reasonable requests from the Distributor for Consumer details in accordance with clause 32;
- (g) become a member of, and maintain its status as, a member of the relevant Rules and Electricity and Gas Complaints Commission Scheme; and
- (h) provide any Additional Services as agreed and as set out in schedule 3 to this agreement.

### **3. CONVEYANCE ONLY**

**3.1 Distributor may enter into Distributor's Agreement with a Consumer:** The Distributor shall be entitled to enter into a Distributor's Agreement with a Consumer at the Consumer's written request, provided it:

- (a) is in relation to an ICP or group of ICPs with an aggregate connection capacity of not less than 1000 kVA; and
- (b) does not interfere with an existing Retailer's Agreement with that Consumer.

**3.2 Conveyance Only basis:** If a Consumer has, or enters into, a Distributor's Agreement, the Distributor agrees with the Retailer to convey electricity through the Network on a Conveyance Only basis to allow the Retailer to supply electricity to that Consumer on the applicable terms of this agreement.

**3.3 Valid Distributor's Agreement:** The Retailer will not knowingly supply electricity on a Conveyance Only basis in relation to any ICP unless there is a valid Distributor's Agreement in force in relation to that ICP.

**3.4 The Retailer:** The Retailer:

- (a) will not knowingly do or omit to do anything or cause any person to do or omit to do anything that is inconsistent with the obligations of the Consumer or the Distributor under or in relation to any Distributor's Agreement provided that where there are technical requirements in a Distributor's Agreement that differ from the technical requirements in relation to Distribution Services set out in this agreement, the Distributor has given the Retailer reasonable notice of those requirements; and
- (b) acknowledges that the Distributor will be entitled to terminate any Distributor's Agreement in accordance with its terms.

3.5 **Co-operate to resolve issues:** If:

- (a) in relation to the supply of electricity to any Consumer that is a party to a Distributor's Agreement, the Retailer does anything that is inconsistent with this agreement and which may have an impact on the Network or the provision of distribution services by the Distributor to that or any other Consumer; or
- (b) either the Retailer or the Distributor becomes aware that any provisions of a Distributor's Agreement and any Electricity Supply Agreement would conflict to the extent that a party would be in breach of contract;

the Distributor and the Retailer will co-operate with each other to resolve the issue in a manner which delivers the best outcome for all affected parties (including the Consumer) but which does not adversely impact on the integrity of the Network.

3.6 **Consumer not party to a valid Distributor's Agreement:** If at any time it is found that a Consumer is not being supplied on an Interposed basis in relation to particular ICPs and is not a party to a valid Distributor's Agreement in relation to those ICPs, or if any Distributor's Agreement in relation to particular ICPs expires or is terminated or is about to expire or be terminated, then, without limiting any other right of the Distributor under this agreement or otherwise:

- (a) the Distributor may notify the Retailer and suggest the Retailer take up the opportunity to supply the relevant Consumer on an Interposed basis in relation to those ICPs; and
- (b) if the Distributor gives notice under clause 3.6(a), the Distributor may disconnect the ICPs if within 10 Working Days of giving that notice the Distributor has not received notice that the Retailer will immediately commence supplying the Consumer on an Interposed basis in relation to those ICPs.

**4. EQUAL ACCESS AND EVEN-HANDED TREATMENT**

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

4.2 **The Distributor will notify the Retailer of alternative contracts:** Within 20 Working Days after agreeing a contract relating to the supply of Distribution Services ("**Alternative Contract**") with any retailer other than the Retailer, the Distributor will

notify the Retailer in writing of the existence and details of that Alternative Contract, make the Alternative Contract available on its website and invite the Retailer to adopt the Alternative Contract.

4.3 **The Retailer has sole discretion to adopt alternative contracts:** Within 12 months of the Distributor commencing an Alternative Contract with any retailer other than the Retailer, the Retailer may, at its sole discretion, choose to adopt the Alternative Contract in substitution for this agreement provided that:

- (a) **The Retailer gives notice to the Distributor:** the Retailer gives not less than 20 Working Days notice to the Distributor of its intention to sign the Alternative Contract; and
- (b) **The Retailer adopts the contract in its entirety:** the Retailer adopts the Alternative Contract in its entirety.

If an Alternative Contract is adopted in accordance with this clause 4.3, this agreement will terminate from the date of such adoption. The provisions of clauses 23.5 to 23.8 shall also apply to a termination of this agreement under this clause 4.3.

## 5. SERVICE INTERRUPTIONS

### General

5.1 **Communications policies:** The Distributor, in consultation with the Retailer, shall develop and maintain communication policies to give effect to this clause 5. The communications policies are set out in schedule 6.

5.2 **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.

### Unplanned Service Interruption

5.3 **Load Shedding:** Load Shedding that has not been planned and communicated in accordance with the policies contained in schedule 6 may only be effected in the following circumstances:

- (a) **Compliance with instructions from the Grid Operator:** to comply with any reasonable request or instruction received from the Grid Operator;
- (b) **Maintain security and safety:** to maintain the security and safety of the Network in order to:

- (i) **Public safety:** maintain a safe environment, consistent with the Distributor's health and safety policies.
  - (ii) **Overloading:** prevent unexpected short term overloading of the Network.
  - (iii) **Abnormal voltage levels:** prevent voltage levels rising or falling outside statutory requirements.
  - (iv) **Preserve security or avoid damage:** preserve the security of the Network or avoid or mitigate damage to the equipment of any person connected to the Network.
- (c) **Electricity deficit:** where called upon by a relevant authority through a regionally or nationally co-ordinated process to ration electricity in response to an anticipated shortage of electricity.
- (d) **Compliance with the Rules:** to comply with the Rules.

5.4 **Certain Unplanned Service Interruptions exempt from Service Standard failure:** The Distributor shall be relieved of its obligations to meet the Service Standards when:

- (a) **Load Shedding:** it effects Load Shedding in order to comply with any request or instruction received from the Grid Operator in accordance with clause 5.3(a), or, where communication with the Grid Operator has been lost, it effects Load Shedding in a situation where, had communication with the Grid Operator been maintained, the Distributor would have reasonably expected to have received an instruction in accordance with clause 5.3(a), but in no other circumstances; or
- (b) **Network Supply Point interruption:** it fails to deliver electricity to or from an ICP due to a Transmission Interruption and the Distributor does not have a service commitment in a Transmission Provider agreement for such failure.

5.5 **Notification of Unplanned Service Interruptions:** After the occurrence of an Unplanned Service Interruption, the Distributor and Retailer will comply with the relevant service interruption communication policy as set out in schedule 6.

5.6 **Consumer requests for restoration of Distribution Services:** During any Unplanned Service Interruption, unless the Distributor requests otherwise, the Retailer will forward to the Distributor any requests it receives from Consumers for the restoration of the

Distribution Services as soon as practicable, and the Distributor shall acknowledge such receipt unless the Retailer requests otherwise.

### **Planned Service Interruptions**

- 5.7 **Distributor to schedule Planned Service Interruptions to minimise disruption:** The Distributor shall, as far as is reasonably practicable, schedule Planned Service Interruptions to minimise disruption to Consumers.
- 5.8 **Distributor to comply with communications policies:** The Distributor will comply with the Service Interruption communications policy set out in schedule 6 in relation to the notification of Planned Service Interruptions, including any changes to the planned date and time for restoration of Distribution Services.
- 5.9 **Costs of communication:** Where the Distributor asks the Retailer to notify Consumers in accordance with schedule 6, the Retailer shall meet the costs incurred by the Retailer in complying with such requests unless the Distributor agrees otherwise.

### **Restoration of Distribution Services**

- 5.10 **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.

## **6. LOAD MANAGEMENT SERVICES**

- 6.1 **Distributor entitled to effect Load Management:** The Distributor will be entitled to effect Load Management at any time for any of the following purposes:
- (a) Load Shedding in accordance with clause 5.3;
  - (b) optimising Grid charges levied to the Distributor in relation to the Network; and
  - (c) optimising Network asset utilisation; or
  - (d) any other purpose that complies with schedule 9.

6.2 **Distributor to maintain its Load Management Services:** Where the Distributor currently provides the Retailer with a Load Management Service for the purpose of:

- (a) optimising energy costs of the Retailer; or
- (b) providing the Retailer with signals to switch meters or loads; or
- (c) providing a price signal,

then the Distributor will continue to provide that service until the service is changed in accordance with clause 10.

6.3 **Distributor to operate the Load Management Service:** Except in the case of emergency, or where it has been previously agreed with the Retailer, the Distributor shall not operate the Load Management Service to activate any Channels for more time in the day than that which is specified for the relevant Price Category.

6.4 **Ensure that Load Control Equipment to be maintained:** The party providing Load Control Equipment shall use reasonable endeavours to ensure that the required Load Control Equipment will respond to the appropriate signals for the Price Category.

6.5 **Ensure that Load Signalling Equipment to be maintained:** The party providing the Load Signalling Equipment shall use reasonable endeavours to ensure that the required Load Signalling Equipment will send the appropriate signals for the Price Category.

6.6 **Load Management policy:** The Distributor shall operate its Load Management policy in accordance with schedule 9 and schedule 10, as applicable.

## 7. LOSSES AND LOSS FACTORS

7.1 **Retailer to provide consumption information:** Within 20 Working Days of the end of each quarter, the Retailer shall provide to the Distributor, or cause a third party to provide to the Distributor:

- (a) its monthly reconciled purchases and/or data submitted to the NRM, and
- (b) monthly summary ICP consumption information,

for each Network Supply Point relevant to the Network using the appropriate Information Exchange Protocol.

7.2 **Distributor to report on Losses:** Within 40 Working Days of the end of each quarter, the Distributor shall provide to the Retailer, or cause a third party to provide to the

Retailer, moving annual Loss Ratio information relating to each Network Supply Point (or aggregated group of Network Supply Points where these fall within the same pricing/Loss Factor region) relevant to the Network for each of the previous 12 months. This information shall also identify the average Loss Ratio implicit in the current Loss Factors.

- 7.3 **Distributor to investigate adverse trends in Losses:** If over time the actual Loss Ratio moves abnormally away from the average Loss Ratio implicit in the current Loss Factors, the Distributor will use reasonable endeavours to identify the cause of the abnormal movement. If the abnormal movement is clearly due to substandard data provision by the Retailer or any other retailer, the Distributor shall address the matter with the retailer(s) concerned in order to remedy the situation. If the Distributor is unable to identify the cause of the abnormal movement, or its inquiries fail to remedy the situation, then the Distributor shall provide relevant information to all affected retailers and will, if requested by the Retailer, facilitate a meeting of all affected retailers to attempt to resolve the matter.
- 7.4 **Retailer to provide information to enable calculation of Loss Factors by the Distributor:** The Retailer shall provide the Distributor with any additional information the Distributor may reasonably require to enable it to calculate Loss Factors.
- 7.5 **Calculation and notification of Loss Factors:** Subject to clause 7.7, the Distributor shall review Loss Factors annually. The Distributor may change Loss Factors in conjunction with a price review. If any change of Loss Factors is proposed, the Distributor will notify the Retailer of the new Loss Factors by giving the Retailer no less than 40 Working Days written notice of the change (including the reasons for the change).
- 7.6 **Transparent Loss Factors methodology:** Any notice provided to the Retailer in accordance with clause 7.5 will contain details of the methodology and information used by the Distributor to determine the Loss Factors, including an explanation of the relationship between the Loss Ratio reported under clause 7.2 and the Loss Factors notified under clause 7.5.
- 7.7 **Disputes over Loss Factors:** If, at any time, the Retailer 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 Retailer 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 Retailer may refer the matter

to the dispute resolution process set out in clause 27. 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.

## **8. SERVICE PERFORMANCE REPORTING**

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

**8.2 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 25, 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.

**8.3 The Retailer may request additional reports:** The Retailer may request the Distributor to provide additional performance reports, including reports containing information in addition to that specified in clause 8.2 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 Retailer 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 8.2, and the additional report demonstrates that such failure existed, no charge may be levied.

## 9. ASSET MANAGEMENT PLAN

- 9.1 **Asset management plan to include:** An asset management plan ("**Asset Management Plan**") is prepared and published in accordance with Schedule 2 of the Electricity Information Disclosure Requirements 2004.
- 9.2 **Distributor to engage with the Retailer:** The Distributor will engage with the Retailer during the preparation of the Asset Management Plan.

## 10. PROCESS FOR MATERIAL CHANGES TO DISTRIBUTION SERVICES

- 10.1 **Process not required:** The process set out in clause 10 shall not apply for changes to Distribution Services where:
- (a) the service change will have an immaterial affect on the Retailer or Consumers; or
  - (b) where the Distributor has agreed the proposed service change directly with the Retailer and has engaged with affected parties in accordance with clause 10.5.

A change of this nature will be made in accordance with clause 26.2.

- 10.2 **Proposal for service change:** The Distributor or Retailer may propose a change to the Distribution Services in writing ("**Proposer**").
- 10.3 **Consumers may be involved:** Nothing in this clause 10 excludes the Distributor from conferring directly with Consumers, the Retailer consulting with Consumers, or receiving service change proposals directly from a Consumer.
- 10.4 **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 Retailer:
- (a) **The Distributor will confirm which ICPs, or groups of ICPs, are affected by the proposal for service change:** the Distributor will confirm in writing which ICPs, groups of ICPs or geographic area(s) will be affected by the proposed service change;
  - (b) **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

- (c) **The Distributor will notify pricing information:** the Distributor will identify the implications of the proposal on the charges payable by the Retailer for the Services, and confirm that the pricing information is consistent with the pricing methodology the Distributor uses for setting current charges.
- 10.5 **Informing parties affected by the service change proposal:** Where the evaluation under 10.4(b) indicates the proposal is viable, then the Distributor will engage with the Retailer 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.
- 10.6 **Publication of submissions on service change proposal:** The Distributor will Publish:
- (a) all submissions or feedback received under clause 10.5; and
- (b) sufficient information to demonstrate the degree and distribution of support for the proposal.
- 10.7 **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 10.4, 10.5 and 10.6 from the Proposer subject to informing the Proposer of the likely costs in advance.
- 10.8 **Decision to change Distribution Services:** After receiving submissions in accordance with clause 10.5, 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.
- 10.9 **Publish the decision:** Upon reaching its decision as to whether to implement a service change proposal, the Distributor shall:

- (a) notify the Retailer and any Consumer that has made a submission or a proposal in accordance with clause 10.3 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**

### **11. PROCESS FOR SETTING AND APPLYING PRICES**

11.1 **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 10 has been complied with; or
- (d) a legal requirement.

Nothing in this clause 11.1 prevents a price decrease or a price change if agreed by the Retailer.

11.2 **Process to change pricing methodology:** When the Distributor contemplates a change to its pricing methodology which may result in a change to pricing structure or a material change in the allocation of charges between Price Categories, the following process shall be followed:

- (a) **Advise the proposal:** the Distributor will Publish its proposed changes and rationale and invite the Retailer 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 in schedule 8 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.

11.3 **Notice of price adjustment:** The Distributor will give the Retailer written notice of any price adjustment as specified below:

- (a) **Existing pricing methodology:** in the case of new prices calculated using an existing pricing methodology, 40 Working Days written notice;
- (b) **New pricing methodology:** in the case of new prices calculated using a new pricing methodology, 60 Working Days written notice.

11.4 **Pricing methodology and prices cannot be disputed:** Once the price methodology and prices are finalised and notified in accordance with clauses 11.2 and 11.3, 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 Retailer will continue to pay invoices until the dispute is resolved.

## 12. PRICE CATEGORY AND TARIFF OPTIONS

12.1 **Distributor determines Price Category:** Where different Price Categories exist within the charges (as opposed to the Tariff Options within a Price Category where such a Price Category provides for Retailer choice amongst two or more alternatives), the Distributor will be entitled to determine which Price Category will apply to an ICP. In determining which Price Category should reasonably apply to an ICP, the Distributor will have regard to the Consumer's Installation, the Consumer's demand profile and capacity requirements and any other relevant factors.

12.2 **Retailer request for correction of Price Category:** If the Retailer reasonably considers that a Price Category has been inappropriately allocated to an ICP, the

Retailer will notify the Distributor and the Distributor will advise the Retailer, within 10 Working Days, as to whether or not it agrees to allocate a different Price Category to that ICP. The Retailer will provide the Distributor with the reasons why it considers the Price Category has been inappropriately allocated to the ICP, and the Distributor will provide to the Retailer information relevant to its decision.

12.3 **Credit following correction:** If the Distributor allocates a different Price Category to an ICP following notice from the Retailer pursuant to clause 12.2, the Distributor will:

- (a) commence charging the Retailer in accordance with that Price Category with immediate effect; and
- (b) subject to clause 12.4, credit the Retailer with the difference (if any) between:
  - (i) the charges paid by the Retailer in respect of that ICP in the period from the later of:
    - (1) the Commencement Date;
    - (2) the date the Distributor incorrectly allocated the Price Category to that ICP;
    - (3) the Switch Event Date for that ICP recorded for the Retailer;up to the date on which the Distributor allocates a different Price Category to that ICP; and
  - (ii) the charges that would have applied if the new Price Category had been allocated to that ICP during the period referred to in paragraph (i),

provided that the maximum period for which credit will be required under any circumstances pursuant to this clause is 15 months.

12.4 **Limitations on credits for Price Category corrections:** Paragraph (b) of clause 12.3 will not apply in respect of an ICP where:

- (a) clause 12.5 applies to that ICP; or
- (b) within 20 Working Days of the Switch Event Date recorded for the Retailer, the Retailer has failed to provide the Distributor with correct or complete information in relation to the Consumer's Installation, the Consumer's demand profile and capacity requirements and any other factors in respect of that ICP

relevant to the allocation of a Price Category (provided that information was not already known by the Distributor); or

- (c) the Retailer has, at any time, provided the Distributor with incorrect or incomplete information in relation to the Consumer's Installation, the Consumer's demand profile and capacity requirements or any other factors in respect of that ICP relevant to the allocation of a Price Category.

12.5 **Distributor's right to correct Price Category:** Where the Distributor reasonably considers that a Price Category has been inappropriately allocated to a particular ICP:

- (a) the Distributor will notify the Retailer accordingly including the reasons why it considers the Price Category has been inappropriately allocated to the ICP; and
- (b) unless the Retailer is able to provide evidence to the Distributor's reasonable satisfaction within 10 Working Days of the Distributor's notice that the current Price Category is appropriate, the Distributor will be entitled to allocate the Price Category that it considers appropriate to that ICP and to commence charging the Retailer for Distribution Services in accordance with that Price Category with immediate (but not retrospective) effect; and
- (c) the Distributor will provide to the Retailer information relevant to its decision.

12.6 **Price Category changes where available as a Consumer elected alternative:** If the Retailer seeks an alternative Price Category, then the Distributor will change the Price Category to that requested, provided that the ICP meets the requirements for that Price Category. Price Category changes notified under this clause shall apply from the later of the effective date in the notification or 10 Working Days after the date of notification.

12.7 **Tariff Options within a Price Category:** Within 10 Working Days of a change to the Tariff Option applicable to any Distribution Services in respect of an ICP, where the change to that Tariff Option results from a change in Metering Equipment (and/or Load Control Equipment where applicable), the Retailer shall notify the Distributor of the change using the appropriate Information Exchange Protocol.

## 13. BILLING AND PAYMENT

13.1 **Retailer to provide consumption information:** The Retailer 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

consumption information is used in the calculation of charges, the information shall be provided using the appropriate Information Exchange Protocol.

- 13.2 **Late, incomplete, or incorrect provision of information:** If the Retailer fails to provide consumption information by the 7<sup>th</sup> Working Day or the information is incomplete or materially incorrect, the Distributor may estimate the Retailer's invoice for Services using Good Industry Practice.
- 13.3 **Charges, invoices and due date for payment:** The Distributor's invoice for Services shall be based on the schedule of prices set out in schedule 10, and shall be sent to the Retailer within 10 Working Days of the end of the month to which the invoice relates. At the same time the Distributor shall provide sufficient detail information, using the appropriate Information Exchange Protocol, to enable the Retailer to verify the accuracy of the invoice. The settlement date for the invoice shall be the 20<sup>th</sup> day of the month in which the invoice is received. However if the Distributor fails to send an invoice to the Retailer by the 10<sup>th</sup> Working Day then the due date for payment will be extended by 1 Working Day for each Working Day that the invoice is late.
- 13.4 **Wash-ups:** Where complete and accurate consumption information, or adjusted reconciliation information (where applicable to the pricing methodology) is provided after the 7<sup>th</sup> Working Day or corrected consumption information and/or reconciliation information to replace the earlier information used for invoicing is provided, the Distributor 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.
- 13.5 **Interest on late payment:** Subject to clause 13.6, the Retailer or the Distributor, as appropriate, will pay any invoice issued under clauses 13.3 or 13.4. 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.
- 13.6 **Disputed invoices:** If the Retailer disputes an invoice issued under clauses 13.3 or 13.4, the Retailer shall notify the Distributor in writing and provide details as to the reasons why the Retailer disputes that invoice within 12 months of the date of supply of the Services ("**Invoice Dispute**"). On receiving the Invoice Dispute notice, the Distributor shall:
- (a) where the Distributor agrees with the matters set out in the Invoice Dispute notice and:

- (i) the Retailer 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 13.3 or 13.4; or
  - (ii) the Retailer 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 Retailer 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 Distributor's 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 13.3 or 13.4 and ending when payment is made, but the amount need not be settled prior to the time set out in clauses 13.3 or 13.4; or
- (b) where the Distributor disagrees with the matters set out in the Invoice Dispute notice, the matter will be referred to dispute resolution in accordance with clause 27 and if the Retailer 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 13.3 or 13.4; and
- (c) upon the resolution of any Invoice Dispute under clause 13.6(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 13.3 or 13.4, and ending when payment is made.

13.7 **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 27, 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.

13.8 **Service Guarantees:** Either party will pay Service Guarantees to the other party in accordance with schedule 1.

13.9 **No set off:** Both parties will make the payments required to be made to the other pursuant to this agreement in full without deduction of any nature whether by way of set off, counterclaim or otherwise except as otherwise set out in clause 13.6.

#### 14. PRUDENTIAL REQUIREMENTS

14.1 **Retailer must satisfy prudential requirements:** The Retailer will comply at its election with one of the following prudential requirements when required by the Distributor:

- (a) **Hold an acceptable credit rating:** hold an acceptable credit rating in accordance with clause 14.2; or
- (b) **Pay a cash deposit:** pay a cash deposit (or transfer or grant security over equivalent assets as agreed by the parties) of the amount required in accordance with this clause 14 ("**Cash Deposit**"). The Distributor will deal with such funds in accordance with the Trust Account Rules specified in clause 14.17; or
- (c) **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 14, provided the party providing the security maintains an acceptable credit rating in accordance with clause 14.3;
  - (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;or
- (d) **Provide a mixture of security:** provide any combination of the securities listed in clauses 14.1(b) and 14.1(c) (or any similar securities approved by the Distributor).

14.2 **Acceptable credit rating:** For the purposes of clause 14.1(a), an acceptable credit rating means that the Retailer 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 Retailer has the minimum acceptable credit rating, this rating is not subject to negative credit watch.
- 14.3 **Acceptable credit rating:** For the purposes of clause 14.1(c), 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.
- 14.4 **Evidence of acceptable credit rating:** The Retailer, or third party security provider (as the case may be) will provide such evidence of the acceptable credit rating (as set out in clause 14.2 or 14.3), as the Distributor or its agent may from time to time reasonably require.
- 14.5 **Maintenance of acceptable credit rating:** Where the Distributor has not required any particular form of security due to the Retailer having an acceptable credit rating as defined in clause 14.2 on the Commencement Date, the Retailer must at all times maintain an acceptable credit rating.
- 14.6 **Level of security:** Where the Retailer is required to provide a Cash Deposit or have a third party provide a guarantee, letter of credit or bond to satisfy the prudential requirements in clause 14.1, the maximum amount of the Cash Deposit, or 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 Retailer to the Distributor under this agreement.
- 14.7 **Distributor to calculate new Retailer's level of security:** If the Retailer 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 14.6 for the first 6 months, subject to any reassessment of the security level pursuant to this agreement having regard to:
  - (a) **Historical records:** the Distributor's historical records of the consumption of relevant consumers; and/or

(b) **Retailer's business plan:** in the absence of records satisfying the requirements of clause 14.7(a), a bona fide business plan prepared in good faith to permit a realistic estimate of the Retailer's level of security as defined in clause 14.6.

14.8 **Distributor may review security level:** At any time, the Distributor may review or the Retailer may require the Distributor to review and if appropriate change, the level of security required to be held by the Retailer in accordance with clause 14.6, or if no security has been provided by the Retailer due to the Retailer having an acceptable credit rating in accordance with clause 14.2 and the Retailer has failed to maintain an acceptable credit rating under clause 14.2, the Distributor may require the Retailer to provide additional security in accordance with this clause 14. 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.

14.9 **Retailer to notify Distributor of changes affecting security:** The Retailer is to immediately notify the Distributor should any of the following occur:

(a) the Retailer 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 Retailer 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 Retailer learns that a third party security provider (upon which its current satisfaction of the prudential requirements in this clause 14 is dependent) no longer holds an acceptable credit rating in terms of clause 14.3.

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

14.10 **Distributor may make enquiries:** Where the Distributor has reason to believe that the Retailer should have given notice under clauses 14.9(a) to (c) and the Distributor has not received a copy of any such notice, the Distributor may enquire of the Retailer 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 Retailer. If such notice should have been given, the Retailer shall give notice immediately, or if no notice is required, the Retailer must respond to the Distributor in writing within 2 Working Days of receipt of the Distributor's

notice under this clause 14.10. Correspondence sent or received by either party under this clause shall be Confidential Information.

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

- (a) following a review of the Retailer's security level pursuant to clause 14.8; or
- (b) on receipt of information contemplated by clauses 14.9 or 14.10; or
- (c) as the result of a failure by the Retailer to respond to a request in terms of clause 14.10 within the timeframe set out above,

considers on reasonable grounds that the level of security should, subject to clause 14.6, be increased or decreased or that reliance on an acceptable credit rating is no longer sufficient security, the Distributor will immediately notify the Retailer of its decision and the grounds for that decision. For the avoidance of doubt, failure by a Retailer to respond to a request made under clause 14.10 within the required timeframe shall constitute reasonable grounds for a Distributor to, subject to clause 14.6, alter the security required to be provided by the Retailer.

**14.12 Distributor or Retailer to effect changes in level or type of security:** The Distributor or the Retailer, 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 14.11. Refunds of Cash Deposits and reductions of guarantees, letters of credit and bonds will be made in accordance with clauses 14.13 or 14.14.

**14.13 Refund of Cash Deposits:** If the Distributor refunds a Cash Deposit in accordance with this clause 14, it will refund all or part of the Cash Deposit, as the case may be, into a bank account nominated by the Retailer on the Working Day following the day on which the Distributor made the decision to refund the Cash Deposit, or is required to refund the Cash Deposit in accordance with the Trust Account Rules.

**14.14 Reduction of guarantees etc:** If the Distributor decreases the level of a guarantee, letter of credit or bond in accordance with this agreement, the Retailer 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 14.1(c) which will replace the earlier guarantee, letter of credit or bond.

**14.15 Change of security by Retailer:** If the Retailer elects to substitute a form of security or a combination of securities (which, in either case, would satisfy the requirements of clause 14.1) for the existing form of security or combination of securities, provided in

accordance with this clause 14, then the Retailer 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 Retailer 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 14.1. Any refund of a Cash Deposit, or any release or replacement of a guarantee, letter of credit or bond provided in accordance with clause 14.1, that results from such a change will take place in accordance with clauses 14.13 or 14.14.

14.16 **Calls on security and deemed change of security:** If the Retailer 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 Retailer 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. Where the provider of a guarantee or letter of credit or bond makes a payment to the Distributor in order to be released from its obligations pursuant to a guarantee or letter of credit or bond, such payment will be deemed to constitute a Cash Deposit provided in substitution for the letter of credit or guarantee or bond (as the case may be) and clause 14.1 will apply accordingly.

14.17 **Trust Account Rules:** The Distributor will comply with the following rules in relation to the establishment and operation of the trust account set up in accordance with clause 14.1(b):

- (a) the Distributor will establish a trust account with a New Zealand registered bank ("**the Bank**") for the purpose of holding Cash Deposits received from retailers in accordance with the relevant prudential requirements agreed with any retailer ("**Trust Account**");
- (b) the Retailer's Cash Deposit will be credited to a sub-account, separate from all other amounts deposited into the Trust Account and clearly identified as relating to the Retailer's funds;
- (c) the Trust Account will bear interest at the best rate reasonably obtainable from time to time from the Bank. Interest will be paid out to the Retailer on a quarterly basis net of account fees, unless agreed otherwise;
- (d) the Distributor will refund any Cash Deposit (less any amount owed to the Distributor plus interest) to the Retailer in accordance with clause 14.13 in the event that this agreement is terminated, provided that the Retailer:
  - (i) is not otherwise in default of this agreement; and

- (ii) has ceased to be bound by this agreement; and
  - (iii) has discharged all such obligations to the Distributor, including payment of all outstanding amounts under this agreement;
- (e) in the event that the Retailer 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 (provided that this notice requirement shall not apply to deemed Cash Deposits under clause 14.16) draw down that amount, plus Default Interest from the Cash Deposit and the Distributor will immediately notify the Retailer of the amount drawn down.

14.18 **Release of guarantees, letters of credit and bonds:** If this agreement is terminated, the Distributor will release any guarantee, letter of credit or bond subject to clause 14.17(d).

### **PART III - OPERATIONAL REQUIREMENTS**

#### **15. ACCESS TO THE CONSUMER'S PREMISES**

15.1 **Rights of entry onto Consumer's Premises:** The Retailer will ensure that every agreement it enters into with a Consumer in relation to the supply and transportation of electricity provides for access onto the Consumer's Premises by the Distributor or its agent for the following purposes:

- (a) to inspect, maintain, or operate the Distributor's Equipment; or
- (b) to install, read or maintain Metering Equipment for measuring the use being made of the Network; or
- (c) to disconnect and reconnect in accordance with this agreement; or
- (d) to access any of the Retailer's Equipment for the purpose of verification of metering information, including, in the event of termination of this agreement, access to any Retailer's Equipment to determine any charges outstanding at the time of termination; or
- (e) for safety of persons and property; or
- (f) to trim trees in accordance with clause 18; or
- (g) to ensure that obligations under clause 16.3 are carried out; or

- (h) to enable the Distributor to gain access to and remove any of the Distributor's Equipment for up to 6 months following the termination of the agreement with the Consumer.

15.2 **Exercise of access rights:** In exercising the access rights under clause 15.1, the Distributor shall, except to the extent that the Distributor has any other binding agreement setting out the access rights directly with the Consumer:

- (a) comply with sections 23A to 23D, section 57 and section 159 of the Electricity Act 1992 as though these sections relate to the Distributor's access rights as contemplated under clause 15.1;
- (b) cause as little disturbance or inconvenience as practicable to the Retailer and the Consumer and ensure its personnel behave in a courteous and considerate manner at all times while on the Consumer's Premises; and
- (c) comply with the Consumer's reasonable practices and procedures as disclosed by the Consumer or as generally practised for health and safety, and security requirements.

15.3 **Distributor may disconnect:** If the Consumer fails to reasonably grant to the Distributor access rights to the Distributor's Equipment on the Consumer's Premises after the Distributor has given the Retailer 5 Working Days written notice of access being required, the Distributor may disconnect the Consumer's Point of Connection from the Network. The Distributor shall not be liable for any loss the Retailer may suffer or incur as a result of such disconnection. The Retailer shall reimburse the Distributor for all costs relating to the disconnection and reconnection.

15.4 **Existing agreement will prevail:** In the event of a conflict between the provisions of clause 15 and any provision of any existing agreement between the Consumer and Distributor with respect to the Distributor's access rights to the Consumer's Premises, then the provisions of the existing agreement between the Distributor and Consumer will prevail to the extent of such conflict.

## 16. INTERFERENCE TO EQUIPMENT AND THEFT OF ELECTRICITY

16.1 **Interference or damage to Distributor's Equipment:** The Retailer will, and will provide in its agreements with its Consumers that the Consumer will, ensure that its employees, agents and invitees do not interfere with or damage the Distributor's Equipment (including, without limitation, after termination of this agreement) without the prior written consent of the Distributor (except to the extent that emergency action has to

be taken to protect the health and safety of persons or to prevent damage to property) and shall take all reasonable precautions necessary to protect the Distributor's Equipment from damage. If any of the Distributor's Equipment is damaged by the negligence or wilful act or omission of the Retailer or the Retailer's employees, agents or invitees, then the Retailer shall pay the cost of making good the damage to the Distributor.

16.2 **Interference or damage to Retailer's Equipment or Consumer's Installation:** The Distributor will ensure that its employees, agents and invitees do not interfere with or damage the Retailer's Equipment or the Consumer's Installation (including, without limitation, after termination of this agreement) without the prior written consent of the Retailer or the Consumer (except to the extent that emergency action has to be taken to protect the health and safety of persons or to prevent damage to property) and shall take all reasonable precautions necessary to protect that equipment from damage. If the Retailer's Equipment or the Consumer's Installation 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 Retailer or the Consumer (as the case may be). This clause is for the benefit of the Consumer and may be enforced by the Consumer pursuant to the Contracts (Privity) Act 1982.

16.3 **Interference with the Network:** The Retailer will use all reasonable endeavours to procure in its agreements with its Consumers that they will not without the prior agreement of the Distributor:

- (a) inject or attempt to inject any energy into the Network; or
- (b) convey or receive or attempt to convey or receive any signal or other form of communication or any other thing (other than energy pursuant to this agreement and load control signals transmitted by or with the written consent of the Distributor) over the Network or cause or permit any other person to do so.

16.4 **Notification of interference, damage or theft:** If the Distributor or Retailer discover any interference or damage to the other party's equipment, or to the Consumer's Installation, discover evidence of theft of electricity or loss of electricity, or interference with the Network, the discovering party will notify the affected party as soon as it is practicable to do so.

16.5 **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.

## **17. NETWORK CONNECTION STANDARDS**

- 17.1 The Retailer will, and will, subject to clause 30.1, procure in its agreements with its Consumers that the Consumer will comply with the Distributor's Network Connection Standards.

## **18. TREE TRIMMING**

- 18.1 The Distributor will follow the requirements of the Electricity (Hazards From Trees) Regulations 2003, as amended from time to time, when dealing with Consumers or landowners in respect of the trimming or removal of trees located on Consumers' Premises.

## **19. CUSTOMER SWITCHING PROCESSES**

- 19.1 **Application of customer switching rules:** The Distributor and the Retailer agree to abide by the customer switching rules contained in the Rules, and this agreement.

## **20. CONNECTIONS AND DISCONNECTIONS**

- 20.1 **Policies:** The Distributor and the Retailer will comply with the policies for establishing new ICPs, Decommissioning existing ICPs and for De-energising or Energising existing ICPs set out in schedule 7.

- 20.2 **All of the Consumer's Installations to be compliant:** The Retailer shall ensure that every agreement in relation to the supply and transportation of electricity between the Retailer and a Consumer contains provisions requiring that all of the Consumer's Installations are compliant, and are operated in compliance with, the policies set out in schedule 7.

- 20.3 **Warranted Persons:** In the interests of safety, only a Warranted Person may carry out any activity related to Energising, De-energising, and Decommissioning ICPs or performing any other works on the Network.

## **21. APPLICATION OF METERING RULES**

- 21.1 **Application of metering rules:** The Distributor and the Retailer agree to abide by the metering rules contained in the Rules.

## PART IV: OTHER RIGHTS

### 22. RETAILER DEFAULT PROCESS

22.1 **Retailer in breach of agreement:** If the Retailer fails to comply with any of its obligations under this agreement the Distributor may notify the Retailer that it is in breach of this agreement. The Retailer 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.

22.2 **Failure to remedy breach:** If the Retailer fails to remedy a breach within the relevant timeframe set out in clause 22.1, then:

(a) the Distributor will speak with the Chief Executive or another senior executive of the Retailer 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 22.1:

(i) where the breach is a Serious Financial Breach, the Distributor will notify the Rulings Panel in writing that the Retailer 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 23.3; or

(ii) where the breach is not a Serious Financial Breach, the Distributor may refer the matter to dispute resolution in accordance with clause 27;

and

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

### 23. TERMINATION OF AGREEMENT

23.1 **Either party may terminate this agreement:** In addition to any other termination right in this agreement, either party may terminate this agreement:

(a) **At will:** by giving not less than 120 Working Days notice in writing of termination and the date on which this agreement will terminate. The notice of termination may not be given under this clause 23.1 before 4 years and 6

months from the first Commencement Date of this agreement between the Distributor and any retailer; or

- (b) **Dispute resolution:** in accordance with any agreement reached or determination made as a result of the dispute resolution process set out in clause 27 where the Retailer has committed a breach that is not a Serious Financial Breach; or
- (c) **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
- (d) **No consumers:** 5 Working Days after notice is given by either party to the other party terminating this agreement following any continuous period of 180 Working Days or more during which the Retailer has not supplied any Consumers with electricity using the Network; or
- (e) **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 25.2 and 25.3.

23.2 **If the Retailer wishes to continue supply after notice of termination:** If the Retailer wishes to continue to supply Consumers on the Network after the date of termination fixed pursuant to clause 23.1, the following procedure shall be followed:

- (a) the Retailer must advise the Distributor within 30 Working Days of any notice given under clause 23.1 that it wishes to continue to supply Consumers on 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 Retailer will be able to continue to supply Consumers on 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 27.3 to 27.6.

23.3 **Distributor's termination of agreement for Serious Financial Breach:** In addition to any other termination right in this agreement, where the Retailer has breached this agreement and the breach is a Serious Financial Breach, the Distributor may issue a notice of termination to the Retailer, effective either:

- (a) no less than 5 Working Days after the date of such notice; or
- (b) immediately if the Retailer has ceased to supply electricity to all Consumers.

Such notice for termination will lapse if the Retailer 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.

23.4 **Retailer's termination of agreement:** In addition to any other termination right in this agreement, the Retailer may terminate this agreement provided that:

- (a) it is not supplying electricity to any Consumer through the Network; or
- (b) the Distributor is in material breach of this agreement, the Retailer 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.

23.5 **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.

23.6 **Retailer remains liable for charges for remaining Consumers:** Where this agreement is terminated by the Distributor for any reason, the Retailer remains liable for any charges for Services that arise in relation to connected Consumers that have not been switched to another retailer, and for which the Distributor has not received a notice requesting disconnection of the relevant ICP(s).

23.7 **Obligations to continue until termination:** The parties will continue to meet their responsibilities under this agreement up to the effective date of termination.

23.8 **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.

23.9 **Survival of terms:** Any terms of this agreement which by their nature extend beyond its expiration or termination remain in effect until fulfilled.

## 24. CONFIDENTIALITY

24.1 **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 24.2; and
- (b) only use Confidential Information for the purposes expressly permitted by this agreement.

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

- (a) **By agreement in writing:** where the Retailer 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 24 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 employees, directors, agents or advisors:** where the Confidential Information is released to the 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 Retailer, subject to that bona fide potential purchaser having signed a confidentiality agreement approved by the other party, such approval not to be unreasonably withheld.

24.3 **Limit for breach:** A party's liability for breach of this clause 24 shall not be limited by clause 29.

24.4 **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.

## 25. **FORCE MAJEURE**

25.1 **Force Majeure Event:** If either party fails to comply with or observe any provision of this agreement (other than payment of any amount due) and such failure is caused by:

- (a) **Specific events or circumstances:** any event or circumstance occasioned by, or in consequence of, any act of God, being an event or circumstance:
- (i) due to natural causes, directly or indirectly and exclusively without human intervention, and
  - (ii) which could not have reasonably been foreseen or, if foreseen, could not reasonably have been resisted; or

- (b) **Strikes, lockouts etc:** strikes, lockouts, other industrial disturbances, acts of public enemy, wars, blockades, insurrections, riots, epidemics, aircraft, or civil disturbances; or
- (c) **Orders or requirements:** the binding order or requirement of any court, government or a local authority; or
- (d) **Other event or circumstance:** any other event or circumstance beyond the control of the party invoking this clause 25.1 and being such that, 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 retailer engaged in the same type of undertaking under the same or similar circumstances in New Zealand at the time, such party could not have prevented such failure,

that failure shall be deemed to be a "**Force Majeure Event**" and shall not give rise to any cause of action or liability based on default of the provision.

25.2 **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 25.1, it must as soon as reasonably practical notify the other party that is invoking clause 25.1 and the full particulars of the Force Majeure Event relied upon.

25.3 **Avoidance and mitigation of effect of Force Majeure Event:** The party invoking clause 25.1 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.

25.4 **No obligation to settle:** Nothing in clause 25.3 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.

## 26. AMENDMENTS TO AGREEMENT

26.1 **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 10; and
- (b) **Price changes:** where the change is a change to schedule 10 and the change is made in accordance with clause 11; and
- (c) **Change to Operational Schedule:** where the change is to an Operational Schedule and the change is made in accordance with clause 26.2; and
- (d) **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
- (e) **Change in Loss Factor:** where the change is a change to schedule 11, and the change is made in accordance with clause 7; and
- (f) **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 26.3.

26.2 **Process to change any Operational Schedule:** Subject to clause 26.3, if the Distributor wishes to make a change of the type contemplated by clause 26.1(c), it may do so if it is a non-material change, or may do so if it is a material change provided that it has:

- (a) consulted with the Retailer over the proposed change for a period of not less than 60 Working Days before giving the notice in accordance with clause 26.2(c) setting out the change and considered in good faith any submissions the Retailer has made regarding the proposed change; and
- (b) provided to the Retailer a summary of submissions received and responses to the submissions which clearly indicates the majority of retailers by number of ICPs trading on the Network support or do not oppose the change proposed; and
- (c) given the Retailer a notice setting out the change not less than 40 Working Days prior to the date on which the Distributor wishes the change to take effect.

26.3 **Procedures for other changes:** The following procedures will apply to changes contemplated by clause 26.1(f):

- (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.

## 27. DISPUTE RESOLUTION PROCEDURE

27.1 **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.

27.2 **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.

27.3 **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.

27.4 **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.

27.5 **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.

27.6 **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.

27.7 **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 27.1 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.

27.8 **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 27.7 above, the arbitrator shall be appointed by the President for the time being of the New Zealand Law Society.

27.9 **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.

27.10 **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.

## 28. HANDLING OF CONSUMER COMPLAINTS

28.1 Any complaint by a Consumer relating to the Services is to be resolved in accordance with the procedures set out in the constitution of the Electricity and Gas Complaints Commission.

## 29. LIABILITY

29.1 **Payments of charges:** Nothing in this clause 29 shall operate to limit the liability of either party to pay all charges and other sums due under this agreement.

29.2 **Direct Damage:** Except as expressly provided in clauses 24.3, 29.9, 29.11 and 29.12 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.

29.3 **Consequential loss:** Except as expressly provided in clauses 24.4, 29.9, 29.11 and 29.12, 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 29.2); or
- (d) any loss resulting from loss or corruption of, or damage to, any electronically-stored or electronically-transmitted data or software.

29.4 **Distributor not liable:** The Distributor will not be liable for:

- (a) any momentary fluctuations in the voltage or frequency of electricity conveyed or nonconformity with harmonic voltage and current levels; or
- (b) any failure to convey electricity arising from any act or omission of any Consumer or other person; or
- (c) any failure to convey electricity arising from:
  - (i) a failure to convey or reduction of injection or supply of electricity into the Network; or
  - (ii) an interruption in the conveyance of electricity in the Network,  
  
at the request of the Grid Operator or under a nationally or regionally coordinated response to a shortage of electricity; or
- (d) any failure to convey electricity arising from any defect or abnormal conditions in or about any Consumer's Premises; or
- (e) any failure to convey electricity as a result of action by the Distributor in accordance with this agreement; or
- (f) any act or omission of the Grid Operator or a Generator,

except to the extent caused or contributed by the Distributor in circumstances where the Distributor was not acting in accordance with this agreement.

29.5 **Retailer not liable:** The Retailer 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 Retailer in circumstances where the Retailer was not acting in accordance with this agreement.

29.6 **Other liabilities:** Except as expressly provided in clauses 24.3, 29.9, 29.11 and 29.12, 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.

29.7 **Limitation of liability:** Subject to clauses 29.1 and 29.8 but otherwise notwithstanding any other provision of this agreement, the maximum total liability of each party, whether as a result of a breach of this agreement or on any other ground or basis whatsoever, shall not in any circumstances exceed,

(a) in respect of a single event or series of events arising from the same event or circumstance, the lesser of :

(i) the Direct Damage suffered; or

(ii) an amount which is equal to the aggregate amount per Consumer determined under the Electricity and Gas Complaints Commission in respect of the event (or series of events) giving rise to the determination, up to a maximum of \$500,000; or

(b) in respect of all events or circumstances occurring in any consecutive period of 365 days, under all use of system agreements between the Distributor and retailers including the Retailer, the lesser of:

(i) the Direct Damage suffered; or

(ii) an amount which is equal to the aggregate amount per Consumer determined under the Electricity and Gas Complaints Commission in respect of all events or circumstances occurring during the period giving rise to determinations by the Commission, up to a maximum of \$2,000,000.

29.8 **Exclusion:** Clause 29.7 will not apply to clauses 24.3, 29.9, 29.11 or 29.12 and is subject to any contrary requirements of the constitution of the Electricity and Gas Complaints Commission.

29.9 **Distributor warranties and Consumer agreements:** Subject to clause 30, the Retailer agrees that, to the fullest extent permitted by law, the Retailer will ensure in all contracts between it and a Consumer or 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**”). The Distributor indemnifies the Retailer and holds harmless the Retailer and will keep the Retailer 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 Retailer which the Retailer would not have suffered or incurred but for a breach by the Distributor of any of the Distributor Warranties. For the avoidance of doubt, nothing in this clause affects the rights of any Consumer under the Consumer Guarantees Act 1993, nor does it preclude the Retailer from offering in its contracts with Consumers its own warranties, guarantees or obligations pertaining to distribution services.

29.10 **Distributor liabilities and Consumer agreements:** The Retailer will ensure that every agreement between it and a Consumer for the supply and/or transportation of electricity contains clear and unambiguous clauses that:

- (a) the Consumer will be liable to the Distributor (including liable in tort (including negligence)) for any direct loss or damage which is caused or contributed to by the fraud, dishonesty or wilful misconduct of the Consumer or its officers, employees, agents or invitees arising out of, or in connection with, the Services provided under this agreement; and
- (b) without limiting the rights of Consumers under the Consumer Guarantees Act 1993, all claims by Consumers relating to the supply and/or transportation of electricity to the Consumer’s Premises will be handled in accordance with the constitution for the Electricity and Gas Complaints Commission, where applicable, and will be subject to the limitations of liability set out in clause 29.7.

29.11 **The Distributor will be indemnified:** The Retailer 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 Retailer 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 Retailer of any of its obligations under this agreement; or

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

29.12 **The Retailer will be indemnified:** The Distributor hereby indemnifies and holds harmless the Retailer and will keep the Retailer 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 Retailer 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 disconnection by the Distributor of any Consumer's Premises in accordance with this agreement; or
  - (iii) the termination of this agreement pursuant to a notice by the Distributor, except when the notice is the result of a breach by the Retailer; or
  - (iv) 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
  - (v) any action undertaken by the Retailer 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.

29.13 **Rights of indemnity:** The indemnities in clauses 29.11 and 29.12 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.

29.14 **Benefits to extend:** Each party acknowledges that its obligations under this clause 29 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 29.

### 30. CONSUMER AGREEMENTS

30.1 **Retailer to include required provisions in Consumer agreements:** The Retailer shall, with respect to agreements between the Retailer and a Consumer in relation to the supply and transportation of electricity:

- (a) that have been entered into prior to the Commencement Date either:
  - (i) within 6 months after the Commencement Date, issue a unilateral variation to those agreements to include the provisions required to be included in such agreements by this agreement, as summarised in schedule 5, and those provisions shall be expressed to be for the benefit of the Distributor and enforceable by the Distributor pursuant to section 4 of the Contracts (Privity) Act 1982; or
  - (ii) where the Retailer is unable to unilaterally vary the agreements, use its best endeavours to obtain at the next review date of the agreement between the Retailer and the Consumer, the agreement of the Consumer to enter into a variation of that agreement with the Retailer to include the provisions required to be included in such agreements by this agreement, as summarised in schedule 5, and those provisions shall be expressed to be for the benefit of the Distributor and enforceable by the Distributor pursuant to section 4 of the Contracts (Privity) Act 1982; or
- (b) where the agreements have been entered into after the Commencement Date, include the provisions required to be included in such agreements by this agreement, as summarised in schedule 5, and those provisions shall be

expressed to be for the benefit of the Distributor and enforceable by the Distributor pursuant to section 4 of the Contracts (Privity) Act 1982.

30.2 **Changes to Consumer agreements during term:** In the event that this agreement is changed in accordance with clause 26 and such change results in the addition of a new provision to this agreement that requires the Retailer to include a new provision in its agreements with Consumers, the Retailer will take such steps as are necessary to comply with that provision, and if the Retailer is required by the Distributor to change its agreements with Consumers more than once in any 2 year period, the Retailer may recover all reasonable costs and expenses associated with such compliance from the Distributor.

30.3 **Retailer to indemnify Distributor:** The Retailer will indemnify the Distributor against any loss or damage incurred by the Distributor as a result of its failure to meet its obligations in accordance with clause 30.1.

## 31. NOTICES

31.1 **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 4 of this agreement or to such other address as that party may notify from time to time.

31.2 **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 2<sup>nd</sup> 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.

31.3 **Deemed receipt after 5pm or on a day that is not a Working Day:** Any notice in accordance with clause 31.2 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.

## 32. INFORMATION EXCHANGE

- 32.1 **Protocols for exchanging information:** Where the Industry has agreed that certain information should be exchanged according to Information Exchange Protocols, the Distributor and the Retailer 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 Retailer will agree on the protocol to be used to exchange such information.
- 32.2 **Consumer information:** The Retailer will upon request, and in a reasonable timeframe, provide the Distributor with Consumer information to fulfil its obligations in accordance with this agreement. The information is to be treated by the Distributor as Confidential Information and will be provided in using the appropriate Information Exchange Protocol. In the event the Distributor uses the information under this clause for reasons other than fulfilling its obligations under this agreement, the Retailer is no longer obliged to comply with this clause.
- 32.3 **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 Retailer is the Provider metering or consumption 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.
- 32.4 **Limitations on the Verifier:** In relation to its review of the Records pursuant to clause 32.3, 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 32.4(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.

32.5 **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 Retailer or that the information is commercially sensitive; or
- (b) Retailer 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 Retailer, 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 Retailer, as appropriate, will not unreasonably object to the Auditor appointed by the other party. In the event that the Distributor or the Retailer, 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 32.5 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.

32.6 **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 32.3 and will ensure that the Records are readily accessible and readable.

### 33. MISCELLANEOUS

33.1 **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.

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

33.3 **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.

33.4 **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.

#### **34. INTERPRETATION:**

34.1 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.

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

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

"**Annual Performance Report**" has the meaning set out in clause 8.2;

"**CAIDI**" means the electricity consumer average interruption duration index and is measured for each feeder and is otherwise calculated in the same manner as in the Electricity Information Disclosure Requirements 2004;

"**Channel**" means a code that operates the Load Control Equipment;

"**Commencement Date**" means the date specified on page 4 of this agreement;

"**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 8;
- (d) the existence and terms of this agreement, except schedule 3.

"**Consumer**" means a purchaser of electricity from the Retailer where the electricity is delivered via the Network;

"**Consumer's Installation**" means any items which are used or designed or intended for use in, or in connection with the conversion, transformation, transportation or use of electricity and which are owned or used by a Consumer and that form part of a system for transporting electricity to and from the ICP, and excludes Distributor's Equipment;

"**Consumer's Premises**" means the land and buildings owned or occupied by a Consumer, and any land over which the Consumer has an easement or right to pass electricity, including:

- (a) the land within the boundary where the electricity is consumed;

- (b) the whole of the property, if the property is occupied wholly or partially by tenants or licensees of the owner or occupier; and
- (c) the whole of the property that has been subdivided under the Unit Titles Act 1972.

**"Conveyance Only"** means a situation where the Retailer contracts with the Consumer for the supply of electricity only in relation to an ICP and the Distributor does not provide Distribution Services to the Retailer in respect of that ICP;

**"Decommissioned"** means a disconnection where the Distributor decides to physically remove the service mains after a Permanent Disconnection, and where the Distributor is required to change the status in the Registry to "decommissioned";

**"De-energise"** means the process of removing a fuse or link or the opening of a switch to prevent further transportation of electricity to or from an ICP;

**"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 29.2;

**"Dispute"** has the meaning given to it in clause 27.1;

**"Distributor"** means the party identified as such on page 4 of this agreement;

**"Distributor's Agreement"** means an agreement between the Distributor and a Consumer for the provision of distribution services and unless otherwise agreed with the Retailer, includes the direct billing of lines charges to the Consumer and responsibility for associated debt;

**"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(l) provided by the Distributor to the Retailer under this agreement;

"**Energise**" means the process of adding a fuse or link or the closing of a switch to allow transportation of electricity to or from an ICP;

"**Electricity Supply Agreement**" means an agreement between the Retailer and a Consumer for the supply of electricity only;

"**FAIDI**" means the feeder average interruption duration index and is measured for each feeder and is otherwise calculated in the same manner as SAIDI is calculated in the Electricity Information Disclosure Requirements 2004;

"**FAIFI**" means the feeder average interruption frequency index and is measured for each feeder and is otherwise calculated in the same manner as SAIFI is calculated in the Electricity Information Disclosure Requirements 2004;

"**Feeder**" means a high voltage circuit served by automatic switchgear at 3.3kV and above, and for which the Distributor can reasonably aggregate network interruption statistics to monitor average feeder performance;

"**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 25.1;

"**Generator**" means any person that has assets that have the capability to generate electricity;

"**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;

"**Grid Operator**" means the grid operator appointed pursuant to the Rules;

"**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](http://www.electricitycommission.govt.nz)) and as otherwise agreed by the parties including those recorded in schedule 4;

**"Installation Control Point" ("ICP")** means a Point of Connection on a Distributor's Network, which the Distributor nominates as the point at which a Retailer is deemed to supply electricity to a Consumer, and has the attributes set out in schedule 8 of the Rules;

**"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;

**"Interposed"** means in relation to a Consumer, that the Distributor provides Distribution Services to the Retailer and the Retailer contracts with the Consumer for the supply of those services;

**"Load Control Equipment"** means the equipment (which may include, but is not limited to, ripple receivers and relays) which is from time to time installed in, over, or upon a Consumer's Premises for the purpose of receiving Load Management signals;

**"Load Management"** means the stopping or constraining of the flow of electricity into or out of an ICP;

**"Load Management Service"** means providing a signal for the purpose of reducing or interrupting delivery to all or part of a Consumer's Premises, including as an example, but without limitation, delivery to a water heater, on a basis agreed between the Distributor and the Retailer;

**"Load Signalling Equipment"** means the equipment (which may include, but is not limited to, ripple injection plant) for the purpose of providing a Load Management Service;

**"Load Shedding"** means Load Management in any of the circumstances listed in clause 5.3;

**"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 factors which need to be applied to the electricity measured or calculated as having been delivered to ICPs, in order to apportion Losses and determine the electricity for which the Retailer is responsible for purchasing at the Network Supply Points;

**"Loss Ratio"** means the Losses expressed as a percentage of the electricity injected into the Network;

**"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 Retailer;
- (c) the Retailer being charged in respect of a Point of Connection where the Registry records indicate the Retailer 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 any apparatus for the purpose of measuring the quantity of electricity transported through an ICP along with associated communication facilities to enable transfer of metering information;

**"Network"** means lines, equipment and plant owned by the Distributor that are used to transport electricity between Network Supply Points and ICPs;

**"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;

**"Operational Schedule"** means any or all of schedule 6 and schedule 7;

**"Permanent Disconnection"** means the De-energisation of an ICP where the Consumer no longer requires a supply of electricity to the site at any future time, and where the Retailer is required to change the status in the Registry to "inactive";

**"Planned Service Interruption"** means a Service Interruption that has been scheduled to occur in accordance with clauses 5.7 to 5.10;

**"Point of Connection"** means the point at which electricity may flow between the Network and the Consumer's Installation as defined by the Distributor in the Network Connection Standards;

**"Price Category"** means the relevant price category selected by the Distributor from schedule 10 to unambiguously define the line charges applicable to a particular ICP;

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

**"Re-energise"** means to Energise an ICP after it has been De-energised;

**"Registry"** means the central database of ICP information maintained in accordance with the Rules to assist switching and reconciliation;

**"Retailer"** means the party identified as such on page 4 of this agreement;

**"Retailer's Agreement"** means an agreement between the Retailer and the Consumer for the supply of electricity and distribution services;

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

**"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 Retailer to pay an amount due and owing that exceeds the greater of \$100,000 or 20% of the actual charges payable by the Retailer for the previous month, and such amount is not genuinely disputed by the Retailer in accordance with clause 13.6; or
- (b) a material breach of clause 14.

**"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 Interruption"** means in relation to the supply of electricity to an ICP the cessation of supply to that ICP for a period of 1 minute or longer, other than in accordance with this agreement;

**"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 Retailer in accordance with this agreement;

**"Switch Event Date"** means in respect of an ICP, the date recorded in the Registry as being the date on which a retailer assumes reconciliation responsibility for that ICP;

**"Tariff Option"** means the price option within a Price Category where such a Price Category provides for Retailer choice amongst two or more options, subject to a particular configuration of Metering and Load Control Equipment;

**"Temporary Disconnection"** means the De-energisation of an ICP for credit or safety reasons, and where there is no change to the status in the Registry;

**"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;

**"Trust Account Rules"** means the rules relating to the establishment and operation of a trust account set up by the Distributor in accordance with clause 14.1(b) as specified in clause 14.17;

**"Unmetered Supply"** means a supply of electricity to an ICP with a predictable energy usage and in respect of which the Distributor's pricing option for Distribution Services does not require metering data;

**"Unplanned Service Interruption"** means any Service Interruption other than a Planned Service Interruption in accordance with clause 5.3;

**"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%;

**"Vacant Site Disconnection"** means the De-energisation of an ICP where the property has become vacant, and where the Retailer is required to change the status in the Registry to "inactive";

**"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 4 of this agreement.

## **SCHEDULE 1**

### **Service Standards**

#### **Introduction**

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

Each party will provide the other with information demonstrating a breach of Service Standards, or the reasonable grounds for suspecting that there has been a breach of Service Standards.

Where either party has breached a Service Level that is subject to a Service Guarantee it will proactively notify the other party, at the earliest possible occasion within 10 Working Days, of the breach and the notification will include:

- the identity of the ICPs affected; and
- the Service Guarantee amount that the other party should invoice.

Where the Distributor makes payment for Service Guarantees in respect of an ICP, the Retailer will make an equal payment to the Consumer.

The Service Guarantee amounts are stated as GST inclusive.

Service Measure	Service Level	Policy	Service Guarantee \$ GST inclusive	Service Performance Reporting Measure	Frequency of Reporting
<b>RELIABILITY</b>					
Restoration of supply: Unplanned Service Interruptions.	The Distributor will:  <u>Urban</u> - restore supply within 4 hours of notification of an Urban Unplanned Service Interruption;  <u>Rural</u> - restore supply within 6 hours of notification of a Rural Unplanned Service Interruption; and	<u>Service area:</u>  <u>Urban</u> – All Dunedin plus Queenstown, Wanaka, Cromwell and Alexandra generally within the 50 km/h speed zones;  <u>Rural</u> – all areas other than Urban.  .	\$50 in respect of each ICP on Standard Domestic pricing directly affected by the Unplanned Service Interruption to the extent the Service Level is not met, subject to the general limit of liability.  One months line charges in respect of each ICP not on Standard Domestic pricing directly affected by the Unplanned Service Interruption to the extent the Service Level is not met, subject to the general limit of liability.  In the following situations or conditions the Distributor will be exempted from paying the Service Guarantee being:  <ul style="list-style-type: none"> <li>• substantial third-party damage to the Network (e.g. affecting 3 or more poles on a line);</li> <li>• an Unplanned Service Interruption caused by the Transmission Provider, unless the Distributor has obtained</li> </ul>	The number of ICPs by service area where the Service Level has not been met.	Included in the Annual Performance Report which may be presented as part of the Asset Management Plan.

Service Measure	Service Level	Policy	Service Guarantee \$ GST inclusive	Service Performance Reporting Measure	Frequency of Reporting
			an appropriate Service Guarantee from the Transmission Provider; <ul style="list-style-type: none"> <li>• A natural disaster (such as but not limited to snow storms, high winds, lightning, floods and earthquakes);</li> <li>• prevented from making repairs (e.g. by police at accident scene).</li> </ul>		
Frequency of Service Interruptions and short interruptions at ICPs.	<p><u>Urban:</u> No more than 4 per annum recorded by the Distributor or reported by the Consumer;</p> <p><u>Rural:</u> No more than 10 per annum recorded by the Distributor or reported by the Consumer; and</p> <p><u>Remote Rural:</u> No more than 20 per annum recorded by the Distributor or reported by the Consumer.</p>	<p>Includes cessation of supply to a Consumer of less than 1 minute to the extent advised by that Consumer, but excludes subsequent interruptions that relate to an intermittent system fault.</p> <p>Includes Transmission Interruptions.</p>	Will investigate where the Service Level has not been met and put appropriate measures in place to mitigate the problem, and advise the Retailer and Consumer (where appropriate).	Report to the Retailer the number of ICPs that have exceeded the Service Level annually.	Include in the Annual Performance Report which may be presented as part of the Asset Management Plan.

Service Measure	Service Level	Policy	Service Guarantee \$ GST inclusive	Service Performance Reporting Measure	Frequency of Reporting
<b>INVESTIGATIONS OF POWER QUALITY AND SERVICE INTERRUPTIONS</b>					
Power quality or Service Interruption investigations.	The Distributor will, within 7 Working Days of receiving notification from the Retailer of a problem on the Network, investigate the complaint and respond to the Retailer detailing the nature of the problem. If the investigation cannot be completed within 7 Working Days, the Distributor will provide within 7 Working Days an estimate of the time it will take to complete such an investigation. The Distributor will remedy any problems under its control in a timely manner, in accordance with Good Industry Practice.	Power quality investigations include, but are not limited to momentary voltage fluctuations, flicker, harmonics, voltage imbalance and sags.	\$50 for exceeding the timeframe.		
<b>COMMUNICATION</b>					
Unplanned Service Interruption	As defined in schedule 6.	For the purposes of this Service Standard an Unplanned	\$200 per missed communication	.	Nil

Service Measure	Service Level	Policy	Service Guarantee \$ GST inclusive	Service Performance Reporting Measure	Frequency of Reporting
communication.		Service Interruption applies to 20 or more Consumers.			
Notification of Planned Service Interruption.	As defined in schedule 6.		\$20 per ICP per missed communication.		Nil
Information Requests.	The Distributor or Retailer will consider all reasonable requests for information from the other party (where they are noted that they are requests under schedule 1 of this agreement) and within 5 Working Days meet that request. If the request cannot be met within 5 Working Days, within 5 Working Days the requested party must provide an explanation and/or a new timeframe.		\$50 for exceeding the timeframe.		

## SCHEDULE 2

### Transmission Services

1. The parties acknowledge that the Distributor is a party to certain agreements with Transmission Providers.
2. The Distributor will:
  - (a) resell Transmission Services to the Retailer;
  - (b) exercise its rights (if any) in relation to any failure by a Transmission Provider to comply with its Transmission Provider agreement with respect to the quality and/or delivery of the Transmission Services;
  - (c) use its best endeavours to negotiate terms and conditions for each Transmission Provider agreement that enables the Distributor to provide the Transmission Services to the Retailer in a manner that reflects the interests of the Retailer and meets the needs of the Consumer, as such interests are understood by the Distributor;
  - (d) provide the Retailer with a copy of the service definitions, service measures and service levels (or equivalent service level measures) contained in the Transmission Provider agreement for the Transmission Services, within 5 Working Days of receipt of this material or on request of the Retailer; and
  - (e) assess each Transmission Provider's performance against the service measures and service levels (if any) specified in the Transmission Provider agreement for the Transmission Services and include such information in the performance report provided to the Retailer in accordance with clause 8.
3. In consideration of receiving Transmission Services, the Retailer agrees to pay those amounts that relate to Transmission Services as specified in the Distributor's invoice ("**Transmission Services Charges**"). The parties agree that the setting or changing of Transmission Services Charges will be made in accordance with clause 11.
4. Both the Retailer and Distributor acknowledge that when further options for contracting for Transmission Services become available, the Retailer and the Distributor will meet and discuss in good faith any amendments needed to this agreement.

## **SCHEDULE 3**

### **Additional Services**

## SCHEDULE 4

### Information Exchange Protocols

This schedule 4 identifies the primary information exchange transactions between the parties, and references industry agreed protocols, or documents other protocols agreed between the parties to be used by the parties for the exchange of such information. The program of introduction of the protocols is to be agreed between the parties.

The following table below lists industry agreed protocols.

<b>Protocol Reference</b>	<b>Description</b>
EIEP1	Detail Consumption Information (HHR & NHH)
EIEP2	NHH Summary Consumption Information
EIEP3	HHR Metering Information
EIEP4	Customer Information
EIEP5	Service Interruption Information to the Retailer (Planned and Unplanned)
EIEP6	Fault and Service Requests
EIEP7	General Installation Status Change
EIEP8	Notification of Network Price Category and Tariff Change
EIEP9	Customer Location Address Change Notification
EIEP11	New Connections

## SCHEDULE 5

### Consumer Agreements

This schedule 5 summarises the obligations, which the Retailer must include in every agreement for the supply and transportation of electricity entered into between the Retailer and the Consumer.

Summary of contractual obligation required	Clause reference in this agreement
Consumer to provide Distributor with safe and unobstructed access at reasonable times.	Clause 15.1
Distributor may access Consumer's Premises without the Consumer's permission, and take all reasonable steps to gain such access, where it believes there is immediate danger to persons or property.	Clause 15.1
Consumer shall protect the Distributor's Equipment against interference and damage.	Clause 16.1
Consumer not to interfere with the Network.	Clause 16.1
Consumer will comply with the Distributor's Network Connection Standards.	Clause 17.1
Consumer's Installation to be compliant and to be operated in compliance with the policies set out in schedule 7.	Clause 20.2
Distributor's liability to Consumers excluded.	Clause 29.10
Consumer Guarantees Act 1993 to be excluded where Consumer acquires services from the Retailer for the purposes of a business.	Clause 29.9

## SCHEDULE 6

### Service Interruption Communication Policies

#### Unplanned Service Interruptions

1. The Distributor will, as soon as reasonably practicable but no later than the period below after first becoming aware of an Unplanned Service Interruption affecting 20 or more Consumers, communicate to the Retailer by electronic message:
  - Manned control room hours – 10 minutes
  - On call control room hours – 30 minutes
2. 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 Retailer with an update of the status of the Unplanned Service Interruption.
3. Where the expected restoration time is likely to be exceeded, the Distributor will inform the Retailer of the new expected restoration time. This will be done no less than 10 minutes before the expected restoration time elapses.
4. The Distributor will supply the Retailer, within 10 minutes of a full or partial restoration of supply, details of the areas restored.
5. Unless otherwise agreed, the Retailer will be responsible for receiving and managing Unplanned Service Interruption calls from Consumers. In such circumstances the Retailer will, within 10 minutes of receiving information relating to a possible Unplanned Service Interruption, forward the information to the Distributor using the agreed protocol.

The Distributor will include in its communications to the Retailer under clause 1 of this schedule 6 above whether to stop logging calls.

Where the Distributor is responsible for receiving and managing Unplanned Service Interruption calls from Consumers, the Retailer may provide the Distributor's contact details to the Consumer rather than taking details and logging the call with the Distributor.
6. The following situations will trigger the Distributor's media communication process:
  - a significant Unplanned Service Interruption that exceeds, or is expected to exceed, 30 minutes in duration, and that affects a large number of customers.

- a) a Civil Defence emergency has been initiated (in such situation communication may be via Civil Defence Headquarters); or
- b) any other major event that has a material adverse effect on the delivery of Distribution Services.

## **Planned Service Interruptions**

### **Retailer to notify Consumers**

1. The Distributor will provide the Retailer with a notice in accordance with the relevant Information Exchange Protocol at least 10 Working Days prior to the date on which the Planned Service Interruption is scheduled.
2. Upon receipt of the notice, the Retailer may within 2 Working Days notify the Distributor of any Consumers who would be adversely affected by the interruption and request an alternative date and/or time. Retailers should not send out notices to Consumers until after that 2 Working Day period has passed.
3. Where the Distributor receives a response from the Retailer requesting an alternative date and/or time for the Planned Service Interruption, the Distributor will consider in good faith the request and may, in its sole discretion, change the time and/or date of the Planned Service Interruption. In all circumstances where a change is contemplated, the Distributor will provide an updated notice at least 7 Working Days in advance of the original date of the Planned Service Interruption.
4. Where a Planned Service Interruption is necessary on a more urgent basis for reasons of emergency repairs, the Distributor will provide the Retailer with a notice in accordance with the relevant Information Exchange Protocol as soon as reasonably practicable.
5. Where the Planned Service Interruption will affect all Consumers supplied from a Network Supply Point, the Distributor will arrange for public notification through the local newspaper on behalf of all retailers.

## **SCHEDULE 7**

### **Connection Policies**

#### **Introduction**

The Distributor and the Retailer recognise that the process of managing connections to and disconnections from the Network requires significant co-ordination between them.

This schedule 7 sets out the broad processes to be followed in respect of:

- new connections;
- capacity changes;
- temporary disconnections and associated re-connections;
- vacant site disconnections and associated re-connections;
- permanent disconnections; and
- unmetered supplies.

#### **Information content and transmission media**

The policies set out below focus on the broad responsibilities of each party and do not deal with the particular content of the information transferred between the parties or the media by which the information is transferred. It is agreed that the information content and transmission media will be consistent with schedule 4, or in the absence of an appropriate Information Exchange Protocols or energy service transaction standards as agreed between the parties.

#### **PROCESS FOR NEW CONNECTIONS**

1. The Distributor will receive applications from the Consumer for a new connection. The application will be accepted or rejected based on the information supplied to the Distributor.
2. The Distributor will undertake an impact assessment to determine whether the capacity for the new connection is already available or whether Network expansion is required.

##### **If capacity is available:**

1. The requesting party will be advised that the application has been approved, and the Distributor will issue an ICP number to the Retailer, advise which NSP it is connected to, the applicable Price Category and advise whether or not the Point of Connection is ready to be livened.

2. The Distributor or the Retailer (if authorised to do so) will arrange for the Point of Connection to be livened once livening approval has been granted by the Distributor.
3. Both parties will update the Registry throughout this process in accordance with the Rules.

**If Network expansion is required:**

1. The Distributor will determine costs and contribution requirements, if any.
2. The applicant will be advised of the proposed costs and contribution requirements, if any.
3. The Distributor will await acceptance from the applicant of contribution requirements if any, and any other conditions that may apply.
4. The Distributor will approve construction of the network expansion upon receiving the applicant's acceptance.
5. When construction has been satisfactorily completed, the Distributor or the Retailer (if authorised to do so) will arrange for the Point of Connection to be livened once livening approval has been granted by the Distributor.
6. Both parties will update the Registry throughout this process in accordance with the Rules.

**PROCESS FOR CAPACITY CHANGES**

1. The Distributor will receive applications from the Retailer or Consumer for a capacity change. The application will be accepted or rejected based on the information supplied to the Distributor.
2. The Distributor will undertake an impact assessment to determine whether the requested capacity is already available or whether Network expansion is required.

**If capacity is available:**

3. The requesting party will be advised that the application has been approved.
4. If necessary, the Distributor (or the Retailer by agreement) will arrange to change the main fuse or in some cases the Consumers electrical contractor will make necessary adjustments to other equipment to match the new capacity required and re-liven the Point of Connection.

**If Network expansion is required:**

1. The Distributor or the Consumers selected electrical contractor will determine costs and contribution costs, if applicable.
2. The applicant will be advised the proposed costs and contribution requirements, if any.

3. The Distributor will await acceptance from the applicant of contribution requirements if any, and any other conditions that may apply.
4. The Distributor will approve the construction of the Network expansion upon receiving the applicant's acceptance.
5. When construction has been satisfactorily completed, the Distributor or Retailer (if authorised to do so) will arrange for the Point of Connection to be livened once livening approval has been granted by the Distributor.
6. Both parties will update the Registry throughout the process in accordance with the Rules.

### **TEMPORARY DISCONNECTIONS AND ASSOCIATED RE-CONNECTIONS**

1. A Temporary Disconnection may be carried out in the following circumstances:
  - by either party in the interests of public safety;
  - by the Retailer, or the Distributor if requested by the Retailer or Consumer (and the Distributor offers this service), for credit or safety reasons;
2. Either party may manage the field services work required to De-energise and Re-energise the Point of Connection provided that they use a Warranted Person for that purpose.
3. The party performing the disconnection will, unless otherwise agreed, notify the other party within 1 Working Day of the De-energisation or Re-energisation as the case may be in accordance with schedule 4. For the avoidance of doubt, the status in the Registry is not to be changed for Temporary Disconnections.

### **VACANT SITE DISCONNECTIONS AND ASSOCIATED RECONNECTIONS**

The Retailer initiates a Vacant Site Disconnection when it no longer requires Distribution Services for an ICP and wishes to stop paying line charges for that ICP. The most common situation is where the Consumer has moved out and the premises are vacant. Distribution Service provision for the ICP is expected to be required in the future but may be required by another retailer.

The Retailer initiates a Vacant Site Reconnection when it requires Distribution Services for an ICP that had previously been De-energised as a vacant site.

If the Point of Connection has not been Energised within the previous 6 months, the Retailer must either request an inspection from the Distributor (if the Distributor provides this service), or conduct its own safety inspection using a certified person. A copy of the certificate issued following such an inspection must either be provided to the Distributor, or be held by the Retailer

at the Retailer's offices for the later inspection by the Distributor, before the Point of Connection can be Re-energised.

1. Either party may manage the field services work required to De-energise and Re-energise the Point of Connection provided that they use personnel authorised by the Distributor for that purpose and, where the Retailer manages the work, that the work is carried out in full compliance with the Distributor's operational work practices for managing vacant sites.
2. The party performing the De-energisation or Re-energisation will notify the other party within 1 Working Day of the De-energisation or Re-energisation as the case may be in accordance with schedule 4.
3. The Retailer will update the Registry throughout this process in accordance with the Rules.
4. Line charges will cease for an ICP from the date that a vacant site De-energisation operation is completed, except that where the Retailer carries out the work and fails to give the Distributor notice of the De-energisation within 3 Working Days, one day will be added to the date on which line charges cease for each day that notice is not given.
5. Line charges will commence for an ICP from the date that a vacant site Re-energisation operation is completed, except that where the Distributor carries out the work and fails to give the Retailer notice of the Re-energisation within 3 Working Days, one day will be added to the date on which line charges commence for each day that notice is not given.

## **PERMANENT DISCONNECTIONS AND DECOMMISSIONING**

1. A Permanent Disconnection may be carried out either by the Distributor, or the Retailer using a Warranted Person, in the following circumstances:
  - on receipt of a request from a Consumer or land-owner when electricity is no longer required at a particular ICP; or
  - where the Distributor has not supplied Distribution Services to an ICP for a considerable period (usually over 6 months).
2. The Retailer responsible for the ICP in the Registry should, unless public safety is at risk, initiate the fieldwork to start the Permanent Disconnection. This involves De-energisation of the ICP and removal of the Metering Equipment. Advice of the removal of metering equipment is to be forwarded to the Distributor as per paragraph 6 below. When public safety is at risk the Distributor may initiate the fieldwork, but must inform the Retailer responsible for the ICP in the Registry as soon as practically possible.
3. Once a Permanent Disconnection has been carried out, the Distributor must be advised and will determine whether to Decommission the ICP by means of removal of all or part of the service main to an ICP.

4. When the Distributor receives a call from a Consumer or land-owner requesting a Permanent Disconnection, the Distributor must refer the Consumer or land-owner to the Retailer responsible for the ICP in the Registry or contact the Retailer directly unless public safety requires the Distributor to initiate a Permanent Disconnection before it is practicable for the Retailer to be contacted. Upon receipt of a request, the Retailer will initiate a service request to effect a Permanent Disconnection of the ICP.
5. Where a Distributor has not supplied Distribution Services to an ICP for a considerable period (as determined by the Distributor) it may initiate a Permanent Disconnection via the Retailer responsible for the ICP in the Registry. The Retailer will initiate a service request to effect a Permanent Disconnection of the ICP.
6. The party performing the Permanent Disconnection must notify the other party within 1 Working Day of the work having been completed.
7. The Distributor will determine whether to Decommission the ICP, and where appropriate this may be effected at the same time as the Permanent Disconnection. This involves physical removal of all or part of the service main such that insertion of a fuse or link or closing of the service main switch will not allow the ICP to be Re-energised.
8. The Distributor will notify the Retailer within 1 Working Day of when the ICP was Decommissioned in accordance with schedule 4.
9. Once Decommissioned, the ICP will not be used again, and the process for new connections must be followed should supply be again required at this Point of Connection.
10. Both parties will update the Registry throughout this process in accordance with the Rules.
11. Unless the ICP was previously subject to a Vacant Site Disconnection (in which case line charges have already ceased) line charges will cease from the date of Permanent Disconnection (unless where the Retailer was required to notify the Distributor in accordance with clause 6 above it failed to do so, in which case line charges will cease from the date that notification is received by the Distributor).

## **UNMETERED SUPPLIES**

Where the Retailer is responsible for an ICP that includes Unmetered Supply, the Retailer will manage the Registry functions required for the Unmetered Supply in accordance with the Rules.

The Distributor will maintain a database of ICPs that include Unmetered Supply and where it becomes aware of changes to any Unmetered Supply, the Distributor will update its database and notify the Retailer of those changes, and the Retailer will update the Registry in accordance with the Rules. The detail included in the database shall include at a minimum, information necessary to support the Registry.

Where the Retailer becomes aware of changes to an Unmetered Supply associated with an ICP, it will notify the Distributor of those changes and update the Registry in accordance with the Rules.

Where the Retailer notifies the Distributor that Unmetered Supply is shared between several Consumers, the Distributor will if requested allocate the Unmetered Supply to the appropriate ICP and advise the Retailer and all other affected retailers. The Retailer will update the Registry in accordance with the Rules.

## **SCHEDULE 8**

### **Pricing Principles**

1. Prices should encourage efficient investment and technology innovation in the provision of distribution services.
2. Prices should not create inefficient barriers to entry in the market for Distribution Services.
3. Prices should not unjustifiably discriminate between the customers of the Distributor.
4. Prices should encourage the efficient use of Distribution Services.
5. Prices should, so far as it is efficient to do so, relate to the level of service delivered and reflect the cost structures and risks of delivering the Services, and be easily understood.
6. Changes to pricing methodology (and the rationale for them) should follow consultation with interested parties, and be widely publicised, transparent, predictable and readily verifiable.
7. Prices should satisfy legal and regulatory requirements.

## SCHEDULE 9

### Load Management Policy

#### INTRODUCTION

Load Management is the process of reducing electricity demand on the Distributors network by controlling Consumer appliances. This is normally done during peak times when demand for electricity is at its highest. Examples of Load Management practices include the temporary interruption of supply for storage hot water and space heating. In addition to Load Management this policy also covers the shifting of load between Network Supply Points.

The value of Load Management ultimately lies in the ability to reduce the cost of electricity to Consumers. Those who benefit from Load Management capability include:

- The Distributor, by optimising Network investment and transmission costs. The Distributor passes these benefits directly to retailers;
- The Retailer, by optimising electricity purchase costs and by matching energy demand to supply in the event of a supply crisis;
- The Consumer, through lower costs

#### 1 ENTIRELY VOLUNTARY

The Distributor does not require Consumers to allow Load Management of their appliances. Instead, the Distributor incentivises Load Management, through lower line charges. Refer to the Distributor's Pricing Methodology document for full details.

#### 2 RIGHTS TO UNDERTAKE LOAD MANAGEMENT

Where a Consumer agrees with the Retailer to allow Load Management in exchange for lower line charges, Aurora has priority right to control that load for the network related purposes detailed below, and the Retailer has the right to request/instruct load management for other than these network related purposes.

#### 3 HIERARCHY FOR USE OF LOAD MANAGEMENT

The hierarchy of the uses of Load Management is:

1	Transmission Grid and Distribution Network security	<i>Distributor call</i>
2	Transmission charges	
3	Network investment optimisation	

4	Wholesale purchase cost containment (e.g. load shifting using limited hot water cuts within allowable parameters for the relevant Price Category, or shifting load between Network Supply Points).	<i>Retailer call</i>
5	Interruptible load (e.g. to bid the ability to interrupt load into the reserves market)	
6	Matching demand to supply in the event of a supply crisis (e.g. extended hot water cuts). Care is needed here so that long term value of load management is not undermined by excessive water heating cuts.	<i>Retailer call subject to agreement as to amount of hours by the distributor</i>

#### **4 LOAD MANAGEMENT EQUIPMENT**

- 4.1. The Retailer may own or procure the Load Control Equipment and the Distributor owns and manages the Load Signalling Equipment. Load Signalling Equipment includes both pilot wire (cascade) and ripple relays. The Distributor may stipulate the types and frequencies of the relays and receivers that must be installed at Points of Connection in order to benefit from lower line charges.
- 4.2. If the Distributor seeks to change the type or specification of its Load Signalling Equipment it will seek to negotiate with the Retailer for reasonable terms for the upgrade of the Retailer's Load Control Equipment. If agreement is not reached, the Distributor may at its discretion, choose to procure and install, at its own cost, suitable Load Control Equipment. An additional service charge may then be applicable should the Retailer wish to benefit from the Load Management Service.
- 4.3. If the Retailer wishes to install a type of Load Management system different to that used by the Distributor, it must seek agreement from the Distributor prior to installation to ensure the new system meets the Distributor's requirements.

#### **5 LINE CHARGES**

- 5.1. To obtain lower line charges, the Retailer must have Load Control Equipment that is both in working order and controlling the appropriate Consumer's appliances on which the lower line charge is based.
- 5.2. The Distributor may periodically undertake an audit of the Retailer's Load Control Equipment and their connections to Consumer's appliances. In addition the Distributor

may require the Retailer to supply details of the Load Control Equipment installed at a Point of Connection, including the channel setting.

- 5.3. Where a sample audit shows that Load Management is not functional for in excess of 2% of the Retailer's Consumers sampled, the Distributor and Retailer will, within 40 Working Days, meet and agree a programme including scope and timeframe within which non-functioning Load Control Equipment will be identified and made functional. The Retailer agrees that the cost of any inspection (including the initial audit) and repair work identified will be at its cost. Where the audit identifies non-functional Load Management due to low signal levels or faulty pilot wires which are the responsibility of the Distributor then these failures shall be excluded from the audit results. Where an audit does not find non-functional Load Management in excess of 2%, the cost of the audit will lie with the Distributor.

## **6 RETAILER MAY PURCHASE LOAD MANAGEMENT SERVICES**

- 6.1. Where the Retailer supplies the majority of ICPs which are under Load Management, the Distributor will accept Load Management instructions from the Retailer.
- 6.2. Where the Retailer either no longer supplies the majority or supplies the majority when it previously did not, the original retailer will retain the right to issue instructions to the Distributor until they notify the Distributor otherwise.
- 6.3. Where the right to issue instructions has been established the Distributor will provide specific Load Management Services to the Retailer during periods when the Distributor does not need to operate Load Management for Network related purposes.
- 6.4. To enable this service to be provided the Retailer shall provide a proposed Load Management schedule to the Distributor. The schedule will set out the proposed off/on times for each day for the period the additional Load Management Services are being sought, at least one Working Day prior to the period when the requested service is to commence.
- 6.5. Any deviations (by either party) from the off/on hours or days specified in the initial Load Management request will be established by mutual agreement between the Retailer and the Distributor.
- 6.6. Where the additional Load Management Service is requested by the Retailer for more time in any one day than that which is agreed for the relevant Price Category the Retailer shall advise all other retailers selling to consumers on the Network of its intentions and any changes thereto immediately or at least one Working Day prior to the control being implemented.

- 6.7. Both the Distributor and Retailer will act in accordance with any industry protocol for extended hot water cuts.
- 6.8. The Distributor shall comply with the additional Load Management Services request unless it otherwise notifies the Retailer at least 4 hours prior to commencement of the instruction.
- 6.9. The off/on times and days applicable to the additional Load Management Services is not Confidential Information and the Distributor is able to convey the information to other retailers.
- 6.10. Due to the nature and constraints of the existing Load Management equipment, the Distributor may not be able to offer the Retailer the Load Management Services it requires, but will seek, where possible (but without additional cost to the Distributor), to configure the equipment to accommodate the Retailer's requests.
- 6.11. Where the Distributor cannot accommodate a request using existing equipment, it will supply a price to install new Load Signalling Equipment that can meet the Retailer's requirements.
- 6.12. The Distributor may charge a reasonable administration fee for providing the additional Load Management services, such fee to be advised by the Distributor and agreed by the Retailer prior to providing the service.

## **7 RETAILER MAY PURCHASE SERVICES TO SHIFT LOAD BETWEEN NETWORK SUPPLY POINTS**

- 7.1. Where practical, and requested by the Retailer who has the majority right to instruct Load Management, the Distributor will shift load between Network Supply Points.
- 7.2. The Distributor may charge a reasonable operational and administration fee for doing so, such fee to be advised by the Distributor and agreed by the Retailer prior to providing the service.

## **8 CO-OPERATION**

- 8.1. Where either party becomes aware of any situation that may affect supply into the Network, the parties shall co-operate to identify the most appropriate Load Management or load shifting response and clauses 6 and 7 will apply, as appropriate.

## SCHEDULE 10

### Pricing Schedule and Policy

#### Pricing Methodology

The current pricing methodology is published on the Aurora Energy website [www.electricity.co.nz](http://www.electricity.co.nz). Prices effective at 1 May 05 are listed on the following schedules.

#### Contract Administration Charges

The following charges will apply per Retailer:

- |     |   |               |
|-----|---|---------------|
| (a) | Contract Establishment  | \$330.00      |
|     | This is a one off charge payable on the signing of the Agreement  |               |
| (b) | Contract Management   | \$20.00/month |
|     | This is a monthly charge to cover administration costs associated with the invoicing, receipting and debt collection costs. |               |

#### Power Factor Charge

A power factor charge is applied where the Connected Customers Power Factor is less than .95 and; \$7.00 per kVAr per month

Where the kVAr amount represents the largest difference between the kVAr amount recorded in any one ½ hour period and one third of the kW demand recorded in the same ½ hour period.

## Schedule 10/1

### AURORA CHARGES FROM 1 MAY 2005

#### SOUTH DUNEDIN AND HALFWAY BUSH GRID EXIT POINTS

<b>B.1 - STANDARD DOMESTIC CONNECTIONS</b>		<b>Registry Code</b>	<b>Per Annum</b>	
			<b>Distribution</b>	<b>Transmission</b>
Fixed Annual Charge (15 kVA)		SHSD15 SHSD8	\$46.24	
Fixed Annual Charge (8 kVA) (note 6)			\$6.13	
<b>Uncontrolled Variable Charges</b>		<b>Tariff Code</b>	<b>(¢/kWh)</b>	
General Purpose	All day Summer	010S	4.46	0.70
General Purpose	All day Winter	010W	4.60	2.93
GP Seasonal (note 7)	Summer Day	011S	4.26	0.83
GP Seasonal (note 7)	Winter Day	011W	4.77	3.40
GP Seasonal (note 7)	Summer Night	012S	1.53	0.05
GP Seasonal (note 7)	Winter Night	012W	1.53	0.05
<b>Controlled Variable Charges</b>		<b>(¢/kWh)</b>		
General Purpose + 16 hour water heat	All day Summer	016S	2.66	1.01
General Purpose + 16 hour water heat	All day Winter	017W	3.89	1.59
Night + 3 hours	11 hour service	024	2.07	0.39
Night rate		028	1.53	0.05

<b>B.2 - OTHER CONNECTIONS</b>				<b>Per Annum</b>			
	<b>Registry Code</b>	<b>Load Group</b>	<b>Capacity kVA</b>	<b>Fixed \$</b>	<b>Capacity \$/kVA</b>	<b>kVA-km \$/kVA-km</b>	<b>Congestion Period \$/kW</b>
Distribution	SH0	L0	0 - 1	\$97.47			
	SH0A	L0A (note 5)	0 - 2	\$202.35			
	SH1A	L1A (note 6)	0 - 8	\$9.48	\$10.31		\$83.66
	SH1	L1	0 - 15	\$9.48	\$8.91		\$83.66
	SH2	L2	16 - 149	\$15.81	\$15.33		\$55.31
	SH3	L3	150 - 249	\$364.98	\$22.33	\$0.18	\$49.12
	SH3A	L3A	250 - 499	\$364.98	\$20.70	\$0.18	\$49.12
	SH4	L4 (note 8)	500 - 2499	\$974.40	\$12.43	\$0.18	\$37.39
	SH5	L5 (note 8)	2500+	\$974.40	\$8.32	\$0.18	\$22.97
Transmission	SH0	L0	0 - 1	\$42.96			
	SH0A	L0A (note 5)	0 - 2	\$92.91			
	SH1A	L1A (note 6)	0 - 8		\$2.33		\$52.13
	SH1	L1	0 - 15		\$1.49		\$52.13
	SH2	L2	16 - 149		\$2.07		\$52.76
	SH3	L3	150 - 249		\$4.06		\$51.67
	SH3A	L3A	250 - 499		\$4.06		\$51.67
	SH4	L4	500 - 2499		\$4.06		\$51.67
	SH5	L5	2500+		\$4.06		\$51.67

Notes - Refer to Schedule 10/4

## Schedule 10/2

### AURORA CHARGES FROM 1 MAY 2005

#### CLYDE AND CROMWELL GRID EXIT POINTS

<b>C.1 - STANDARD DOMESTIC CONNECTIONS</b>		<b>Registry Code</b>	<b>Per Annum</b>	
			<b>Distribution</b>	<b>Transmission</b>
Fixed Annual Charge (15 kVA)		CCSD15	\$54.73	
Fixed Annual Charge (8 kVA) (note 6)		CCSD8	\$15.00	
<b>Uncontrolled Variable Charges</b>		<b>Tariff Code</b>	<b>(¢/kWh)</b>	
General Purpose	All day Summer	101S	5.89	1.18
General Purpose	All day Winter	101W	6.86	3.48
<b>Controlled Variable Charges</b>		<b>(¢/kWh)</b>		
Peak Water Heating	20 hour service	109	4.19	1.53
Standard Water Heating	16 hour service	106	3.48	1.05
Night + 5 Hours	13 hour service	103	3.26	1.46
Night + 3 Hours	11 hour service	104	2.89	0.77
Night		108	2.53	0.05

<b>C.2.1 - OTHER CONNECTIONS</b>				<b>Per Annum</b>			
<b>Except Transition 2 Connections</b>							
	<b>Registry Code</b>	<b>Load Group</b>	<b>Capacity kVA</b>	<b>Fixed \$</b>	<b>Capacity \$/kVA</b>	<b>kVA-km \$/kVA-km</b>	<b>Congestion Period \$/kW</b>
<b>Distribution</b>	CC0	L0	0 - 1	\$122.34			
	CC0A	L0A (note 5)	0 - 2	\$232.54			
	CC1A	L1A (note 6)	0 - 8	\$10.89	\$18.50		\$104.84
	CC1	L1	0 - 15	\$10.89	\$16.89		\$104.84
	CC2	L2	16 - 149	\$18.17	\$24.34		\$79.70
	CC3	L3	150 - 249	\$423.93	\$31.73	\$0.18	\$71.46
	CC3A	L3A	250 - 499	\$423.93	\$29.25	\$0.18	\$71.46
	CC4	L4 (note 8)	500 - 2499	\$1120.00	\$19.98	\$0.18	\$71.46
	CC5	L5 (note 8)	2500+	\$1120.00	\$16.83	\$0.18	\$65.64
<b>Transmission</b>	CC0	L0	0 - 1	\$48.69			
	CC0A	L0A (note 5)	0 - 2	\$118.15			
	CC1A	L1A (note 6)	0 - 8		\$2.97		\$61.86
	CC1	L1	0 - 15		\$2.21		\$61.86
	CC2	L2	16 - 149		\$3.07		\$58.20
	CC3	L3	150 - 249		\$5.72		\$57.98
	CC3A	L3A	250 - 499		\$5.72		\$57.98
	CC4	L4	500 - 2499		\$5.72		\$57.98
	CC5	L5	2500+		\$5.72		\$57.98

**Schedule 10/2**

**AURORA CHARGES FROM 1 OCTOBER 2004**

CLYDE AND CROMWELL GRID EXIT POINTS

<b>C.2.2 - OTHER CONNECTIONS – Transition 2 connected prior to 1 May 2001      Note 11</b>				<b>Per Annum</b>				
	<b>Registry Code</b>	<b>Load Group</b>	<b>Capacity kVA</b>	<b>Fixed \$</b>	<b>Capacity \$/kVA</b>	<b>kVA-km \$/kVA- km</b>	<b>Congestion Period \$/kW</b>	<b>¢/kWh</b>
Distribution	CC1AT2	L1A	0 - 8	\$10.13	\$11.47		\$94.53	0.78
	CC1T2	L1	0 - 15	\$10.13	\$10.48		\$94.53	0.78
	CC2T2	L2	16 - 149	\$16.90	\$15.09		\$74.14	0.83
Transmission	CC1AT2	L1A	0 - 8		\$2.04		\$66.71	0.30
	CC1T2	L1	0 - 15		\$1.52		\$66.71	0.30
	CC2T2	L2	16 - 149		\$2.11		\$59.94	0.25

Notes - Refer to Schedule 4

## Schedule 10/3

### AURORA CHARGES FROM 1 MAY 2005

#### FRANKTON GRID EXIT POINT

<b>D.1 - STANDARD DOMESTIC CONNECTIONS</b>		<b>Registry Code</b>	<b>Per Annum</b>	
			<b>Distribution</b>	<b>Transmission</b>
Fixed Annual Charge (15 kVA)		FRSD15	\$54.73	
Fixed Annual Charge (8 kVA) (note 6)		FRSD8	\$15.00	
<b>Uncontrolled Variable Charges</b>		<b>Tariff Code</b>	<b>(¢/kWh)</b>	
General Purpose	All day Summer	201S	4.82	1.01
General Purpose	All day Winter	201W	5.57	2.99
<b>Controlled Variable Charges</b>		<b>(¢/kWh)</b>		
Peak Water Heating	20 hour service	209	3.45	1.32
Standard Water Heating	16 hour service	206	2.81	0.90
Night + 5 Hours	13 hour service	203	2.64	1.21
Night + 3 Hours	11 hour service	204	2.33	0.64
Night		208	2.04	0.05

<b>D.2.1 - OTHER CONNECTIONS</b>				<b>Per Annum</b>			
<b>Except Transition 2 Connections</b>				<b>Fixed \$</b>	<b>Capacity \$/kVA</b>	<b>kVA-km \$/kVA-km</b>	<b>Congestion Period \$/kW</b>
	<b>Registry Code</b>	<b>Load Group</b>	<b>Capacity kVA</b>				
<b>Distribution</b>	FR0	L0	0 - 1	\$102.67			
	FR0A	L0A (note 5)	0 - 2	\$195.18			
	FR1A	L1A (note 6)	0 - 8	\$9.15	\$15.53		\$88.42
	FR1	L1	0 - 15	\$9.15	\$14.18		\$88.42
	FR2	L2	16 - 149	\$15.25	\$20.85		\$66.89
	FR3	L3	150 - 249	\$356.00	\$26.63	\$0.18	\$59.98
	FR3A	L3A	250 - 499	\$356.00	\$24.55	\$0.18	\$59.98
	FR4	L4 (note 8)	500 - 2499	\$941.00	\$16.78	\$0.18	\$59.98
	FR5	L5 (note 8)	2500+	\$941.00	\$14.13	\$0.18	\$55.11
<b>Transmission</b>	FR0	L0	0 - 1	\$48.09			
	FR0A	L0A (note 5)	0 - 2	\$101.26			
	FR1A	L1A (note 6)	0 - 8		\$4.58		\$52.62
	FR1	L1	0 - 15		\$3.80		\$52.62
	FR2	L2	16 - 149		\$3.87		\$51.89
	FR3	L3	150 - 249		\$8.37		\$51.73
	FR3A	L3A	250 - 499		\$8.37		\$51.73
	FR4	L4	500 - 2499		\$8.37		\$51.73
	FR5	L5	2500+		\$8.37		\$51.73

**Schedule 10/3**

**AURORA CHARGES FROM 1 OCTOBER 2004**

FRANKTON GRID EXIT POINT

<b>D.2.2 - OTHER CONNECTIONS – Transition 2 connected prior to 1 May 2001 Note 11</b>				<b>Per Annum</b>				
	<b>Registry Code</b>	<b>Load Group</b>	<b>Capacity kVA</b>	<b>Fixed \$</b>	<b>Capacity \$/kVA</b>	<b>kVA-km \$/kVA- km</b>	<b>Congestion Period \$/kW</b>	<b>¢/kWh</b>
Distribution	FR1AT2	L1A	0 - 8	\$8.78	\$9.93		\$81.86	0.66
	FR1T2	L1	0 - 15	\$8.78	\$9.07		\$81.86	0.66
	FR2T2	L2	16- 149	\$14.64	\$13.08		\$64.19	0.98
Transmission	FR1AT2	L1A	0 - 8		\$3.25		\$59.18	0.10
	FR1T2	L1	0 - 15		\$2.70		\$59.18	0.10
	FR2T2	L2	16 - 149		\$3.27		\$53.18	0.22

Notes - Refer to Schedule 10/4

## Schedule 10/4

### AURORA CHARGES FROM 1 MAY 2005

HERITAGE ESTATE – TE ANAU area – NORTH MAKAREWA GRID EXIT POINT

<b>E.1 - STANDARD DOMESTIC CONNECTIONS</b>		<b>Registry Code</b>	<b>Per Annum</b>	
			<b>Distribution</b>	<b>Transmission</b>
Fixed Annual Charge (15 kVA)		HESD15	\$54.73	
Fixed Annual Charge (8 kVA) (note 6)		HESD8	\$15.00	
<b>Uncontrolled Variable Charges</b>		<b>Tariff Code</b>	<b>(c/kWh)</b>	
General Purpose	All day Summer	401S	5.01	1.00
General Purpose	All day Winter	401W	5.83	2.95
<b>Controlled Variable Charges</b>			<b>(c/kWh)</b>	
Standard Water Heating	16 hour service	406	2.96	0.89
Night + 3 Hours	11 hour service	404	2.66	0.71
Night		408	2.33	0.05

<b>E.2 - OTHER CONNECTIONS</b>				<b>Per Annum</b>			
	<b>Registry Code</b>	<b>Load Group</b>	<b>Capacity kVA</b>	<b>Fixed \$</b>	<b>Capacity \$/kVA</b>	<b>kVA-km \$/kVA-km</b>	<b>Congestion Period \$/kW</b>
<b>Distribution</b>	HE0	L0	0 - 1	\$112.55			
	HE0A	L0A (note 5)	0 - 2	\$213.94			
	HE1A	L1A (note 6)	0 - 8	\$10.02	\$17.02		\$96.45
	HE1	L1	0 - 15	\$10.02	\$15.54		\$96.45
	HE2	L2	16 - 149	\$16.72	\$22.39		\$73.32
<b>Transmission</b>	HE0	L0	0 - 1	\$44.79			
	HE0A	L0A (note 5)	0 - 2	\$96.45			
	HE1A	L1A (note 6)	0 - 8		\$2.73		\$56.91
	HE1	L1	0 - 15		\$2.03		\$56.91
	HE2	L2	16 - 149		\$2.82		\$53.54

## **SCHEDULE 10/5**

### **AURORA CHARGES FROM 1 MAY 2005**

#### **NOTES**

- (1) All charges are exclusive of GST.
- (2) Variable charges apply to kWh as metered at each ICP. The hours of service for water heating loads are target minimum levels of service. In unusual network circumstances it may be necessary for the target level to be less.
- (3) Capacity provided is on the basis of the smaller of mains size, LV fuses or transformer capacity.
- (4) Load group L0 is for approved unmetered supplies only.
- (5) Load group L0A is for approved unmetered builders temporary supply with maximum capacity of 15 kVA and subject to special conditions.
- (6) 8 kVA connections require a sealed 32 Amp MCB installed on the meter board.
- (7) The Summer period is 1 October to 30 April and Winter is 1 May to 30 September.
- (8) For L4 and L5 load groups an additional \$5.20 per kVA of capacity applies if Aurora owns the distribution transformer.
- (9) An additional \$84.00 per kVAr per annum of equivalent corrective capacitance applies if the installation power factor is required to be improved to 0.95.
- (10) Loss Rental Rebates are excluded from transmission charges and are credited separately.
- (11) The variable charges that apply to the Transition 2 tariff on both the Cromwell/Clyde and Frankton GXPs are billed monthly as for other variable kWh charges. ICPs on the Transition 2 tariff migrate to standard pricing for Other Connections on 1 October 2005.

## **SCHEDULE 11**

### **Loss Factors**

The Loss Factors applicable and the loss allocation methodology are published on Aurora Energy Ltd's website [www.electricity.co.nz](http://www.electricity.co.nz).