

**AGREEMENT FOR
USE OF THE TRANSMISSION NETWORK
SYSTEM**

Between

.....

(The Transmission Service Provider)

and

User of the Transmission Network System

AGREEMENT FOR USE OF THE TRANSMISSION NETWORK SYSTEM

Dated 200[]

Between

[] (Transmission Service Provider)

-and-

[] (User of the Transmission Network)

AGREEMENT FOR USE OF THE TRANSMISSION NETWORK SYSTEM

Relating to directly connected Power Station or Load or Equipment to a Transmission Network of the Nigerian Electricity Supply Industry for the purpose of export or importing of electrical energy.

At

[] (Location of Connection)

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1. SCOPE AND INTERPRETATION

This Agreement applies to the Use of Transmission Network System of the TSP in the Nigerian Electricity Supply Industry by a User for the purpose of exporting, importing and provision of Ancillary Services to the Network and other Users connected to the Network.

1.1 Purpose

- i. This Agreement shall govern the Use of Transmission Network System, its operations and safety across the network system of the TSP by the power station or load or equipment facilities belonging to the User. This Agreement is in addition to, and does not replace, the Electric Power Sector Reform (ESPR) Act, 2005, Operating Licence Conditions, the Grid Code, Distribution Code, Metering Code, Health and Safety Code, Interface Agreement and any other Regulation or Order made by the Nigerian Electricity Regulatory Commission in relation to the safe, reliable and adequate operation of the Nigerian Electricity Supply Industry.
- ii. This Agreement applies to Users connected to the Transmission Network System of the TSP, whose Equipment or Apparatus has a direct connection to at least 11kV network supply or an export or import capacity of at least 50 kVA.
- iii. The Grid Code shall apply to all such use of Transmission Network System between the TSP and Users of the Transmission Network.
- iv. Compliance with the Grid Code is mandatory both for the TSP and Users of the Transmission Network.
- v. The Distribution Code shall apply to all such Use of Transmission Network System between the Distribution Companies in Nigeria and Users of the Distribution Networks.
- vi. Compliance with the Distribution Code is mandatory both for Distribution Companies and Users of the Distribution Networks.

1.2 In this Agreement:

- i. Unless the context otherwise requires, all references to a particular clause, sub-clause, paragraph or Schedule shall be a reference to that clause, sub-clause, paragraph or Schedule in or to this Agreement;
- ii. The table of contents and headings are inserted for convenience only and shall be ignored in constructing this Agreement;
- iii. References to the words “include” or “including” are to be construed without limitation to the generality of the preceding words;
- iv. Unless there is something in the subject matter or the content which is inconsistent therewith, any reference to the Electric Power Sector Reform EPSR Act, 2005 (its subsequent amendments), or any instrument, Order or Regulation made by the Nigerian Electricity Regulatory Commission shall be construed at the particular time as including a reference to any modification, extension, replacement or re-enactment thereof then in force;

- v. References to the masculine shall include the feminine and references in the singular shall include the plural and vice versa and words denoting natural persons shall include companies, corporations and any other legal entity and vice versa;
- vi. Unless otherwise provided to the contrary herein, defined terms used in this Agreement and not defined herein shall have the meaning set forth in other Agreements, Codes and Manuals relating to the safe, reliable and adequate operation of the Nigerian Electricity Supply Industry.
- vii. Each of the clauses or sub-clauses of this Agreement shall:
 - a. be construed as a separate and severable contract term, and if one or more of such clauses or sub-clauses is held to be invalid, unlawful or otherwise unenforceable, the other or others of the clauses or sub-clauses shall remain in full force and effect and shall continue to be binding on the Parties; and
 - b. survive termination of this Agreement.

2. DEFINITIONS

In this Agreement, the following words and expressions shall, unless the subject-matter or context otherwise requires or is inconsistent therewith, have the following meanings:

"Active Power" the product of voltage and the in-phase component of alternating current measured in units of watts and standard multiples thereof i.e.:

1000 watts	=	1kW
1000 kW	=	1MW
1000 MW	=	1GW
1000 GW	=	1TW

"Agreement" means this Agreement including the Schedules and any Supplemental Agreements and the Appendices thereto as the same may be amended, extended, supplemented, novated or modified in accordance with the terms hereof from time to time provided that each Supplemental Agreement shall constitute an agreement separate from each other Supplemental Agreement.

"Apparatus" means all equipment in which electrical conductors are used, supported or of which they may form a part.

"Asset" means property, equipment or apparatus owned or use by Parties to this Agreement listed in Schedules A, C, D, E, F, H of this Agreement, for the purpose of producing or

transmitting or distributing or consuming or storing electricity in an adequate, safe and reliable manner.

"Business Day"

means any week-day other than Saturdays, Sundays and Public Holidays either in Nigeria or the country of business of any Non-Nigerian Party.

"Calendar Year"

the numbering of days of the year based on the Gregorian 12 month cycle, beginning on January 1 and ends on December 31.

"Competent Authority"

means any relevant government or regulatory department, body, ministry, agency or other authority.

"Commission"

means the activation of electrical Equipment or Apparatus connected at a Connection Site, to the Transmission Network.

"Commissioned"

means Plant and/or Apparatus certified by NERC as having been setup, tested and certified in accordance with the relevant Commissioning Programme.

"Confidential Information"

all data and other information by either party under the provisions of this Agreement.

"Connection Site"

each location more particularly described in Schedule A to this Agreement at which the User's Equipment or Apparatus and the TSP Assets are connected. Where two or more Users own or operate Plant and Apparatus which is connected at any particular location, that location shall constitute two (or the appropriate number of) Connection Sites.

"Decommission"

cessation of use by a User of that User's Equipment or Apparatus at any given Connection Site for a continuous period exceeding 12 months pursuant to the relevant provisions of this Agreement.

"Deenergisation" or
"Deenergise(d)"

the movement of any isolator, breaker or switch or the removal of any fuse whereby no Electricity can flow to or from the relevant System through the User's Equipment.

"Demand"	the rate at which electrical energy is provided to or by the System comprising of both Active Power and Reactive Power unless otherwise stated.
"Derogation"	a direction issued by NERC granting temporary relief to either Party from an obligation under its Licence to comply with such parts of the Grid or Distribution Code as may be specified in such direction and "Derogated" shall be construed accordingly.
"Despatch"	the issue by the TSP of instructions to Generating Plant to achieve specific Active Power and Reactive Power Levels or target voltage levels within Generation Scheduling and Despatch Parameters and by stated times.
"Disconnection"	permanent physical disconnection of the User's Equipment or Apparatus at any given Connection Site which permits removal thereof from the Connection Site or removal of all the TSP's Assets there from (as the case may be).
"Disputes Resolution Panel"	means arbitration panel setup in accordance to the Market Rules in force from time to time.
"Distribution Code"	the document containing instructions, rules, procedures, guidelines, etc for the operation and planning of the Distribution network agreed upon by Licensees and approved by NERC.
"Distribution System"	Any system consisting (wholly or mainly) of cables, electric lines, service lines, overhead lines, meters electrical apparatus and equipment and having a design voltage of 33kv and below plus related system use in the safe operation of an Electricity Network but shall not include any part of the Transmission System except the terminal equipment use for the supply of electricity to high voltage (66Kv and above) consumers.
"Electricity"	An Active and /or Reactive Energy produced from the existence of charged particles, either statically as a build-up of charged or dynamically as a current.

"Embedded"	a direct connection to a Distribution System or the System of any other User to which Customers and/or Power Stations are connected.
"Energisation" or "Energise(d)"	the movement of any isolator, breaker or switch or the insertion of any fuse so as to enable Energy to flow from and to the relevant System through the User's Equipment.
"Energy"	the electrical energy produced, flowing or supplied by an electric circuit during a time interval, being the integral with respect to time of the power, measured in units of watt-hours or standard multiples thereof ie: 1000 Wh = 1kWh 1000 kWh = 1MWh 1000 MWh = 1GWh 1000 GWh = 1TWh
"Energy Metering Equipment"	has the meaning given to the phrase "Metering Equipment" in the Market Rules and Metering Code.
"Energy Metering System"	has the meaning given to the phrase "Metering System" in the Market Rules and Metering Code.
"Engineering Works"	means all services performed by either Party relating to the Connection of Assets, Equipment or Apparatus belonging to the Parties at a Connection Site which also includes the replacement of Assets
"Force Majeure"	in relation to any Party any event or circumstance which is beyond the reasonable control of such Party and which results in or causes the failure of that Party to perform any of its obligations under this Agreement including Acts of God, strikes, lockouts or other industrial disturbance, act of the public enemy, war declared or undeclared, threat of war, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, lightning, fire, storm, flood, earthquake, lack of water arising from weather or environmental problems, explosion, fault or failure of Plant and Apparatus (which

could not have been prevented by Good Industry Practice), governmental restraint, Laws passed by National Assembly, other legislation, bye laws and Directives, Provided that lack of funds shall not be interpreted as a cause beyond the reasonable control of a defaulting Party.

"Forced Outage"	means an outage caused by unforeseen circumstances necessitated by safety or security reasons.
"Generating Plant"	means a Power Station subject to Despatch by the TSP.
"Generating Unit"	means any Apparatus which produces electricity unless otherwise provided in the Grid or Distribution Code.
"Generator"	means a person who generates electricity under licence or exemption under the Act.
"Good Industry Practice"	in relation to any undertaking and any circumstances, 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 the same type of undertaking under the same or similar circumstances.
"Grid Code"	the document containing instructions, rules, procedures, guidelines etc. for the operation and planning of an interconnected power transmission system and accounting requirements relating thereto, agreed upon by licensees and approved by NERC.
"High Voltage"	voltage exceeding 1000 volts.
"Intellectual Property"	patents, trade marks, service marks, rights in designs, trade names, copyrights and topography rights (whether or not any of the same are registered and including applications for registration of any of the same) and rights under licences and consents in relation to any of the same and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of the same which may subsist anywhere in the world.
"Isolation"	as defined in the Grid Code.
"Licence"	any licence granted pursuant to the ESRP Act, 2005.

"Local Safety Instructions"	means Safety Instructions applicable to either Party's equipment at either Party's Connection point at each Connection Site.
"Material Effect"	an effect causing either Party to effect any works or to alter the manner of operation of its Plant and/or Apparatus at the Connection Site which in either case involves an expenditure in excess of N500,000 (Five Hundred Thousand Naira).
"Meter"	means a device that measures and registers active energy or reactive power over a dispatch period and may include a data recorder but excludes instrument transformers.
"Metering Code"	means the document containing instructions, rules, procedures, guidelines, for the metering of participants correction points on the transmission or distribution network.
"Modification"	any actual or proposed replacement, renovation, modification, alteration, or construction by or on behalf of a User or the TSP to either Party's Plant or Apparatus or the manner of its operation which has or may have a Material Effect on the other Party at a particular Connection Site.
"Modification Application"	means an application in the form or substantially in the form set out in Exhibit A.
"NERC"	means the Nigerian Electricity Regulatory Commission as defined in the EPSR Act, 2005..
"New Connection Site"	a proposed Connection Site in relation to which there is no Agreement in force between the Parties.
"Operation Diagrams"	as defined in the Grid Code.
"Operational"	in relation to a Connection Site means that the same has been Commissioned (which for the avoidance of doubt does not necessarily include commissioning of Generating Units connected at the Connection Site) and that the User can use such User's Equipment to undertake those acts and things capable of being undertaken by industry operators.
"Operational Effect"	any effect on the operation of any System which causes that System to operate (or be at a materially increased risk of

operating) differently to the way in which it would have normally operated in the absence of that effect.

"Operational Intertripping"	the automatic tripping of circuit-breakers to prevent abnormal system conditions occurring, such as over voltage, overload, system instability etc. after the tripping of other circuit breakers following power system fault(s) which includes System to Generating Plant and System to Demand intertripping schemes.
"Operational Metering Equipment"	means meters, instrument transformers (both voltage and current), transducers, metering protection equipment including alarms circuitry and their associated outstations as may be necessary for the purpose of the Metering Code.
"Party"	means each person for the time being and from time to time party to the Connection Agreement and any successor(s) in title to, or permitted assign(s) of, such person.
"Plant"	means fixed and moveable items used in the generation and/or supply and/or transmission of electricity other than Apparatus.
"Power Station"	an installation comprising one or more Generating Units (even where sited separately) owned and/or controlled by the same owner, which may reasonably be considered as being managed as one Power Station.
"Registered Capacity"	means the normal full load capacity of a Generating Unit as declared by the Generator, less the MW consumed by the Generating Unit through the Generating Units unit transformer when producing the same.
"Remote Transmission Assets"	any Plant and Apparatus or meters owned by the TSP which are (a) embedded in a Distribution System or a User System and which are not directly connected by Plant and/or Apparatus to a sub-station owned by the TSP and (b) are by agreement between the TSP and such User under the direction and control of the TSP or User.

"Safety Rules"	the rules of the TSP or the User that seek to ensure that persons working on Plant and/or Apparatus to which the rules apply are safeguarded from hazards arising from the System.
"Site Common Drawings"	means drawings prepared for each connection point which incorporates layout drawings, electrical layout drawings, common protection/control drawings and common service drawings.
"Station Demand"	<p>in respect of any generating station and User, means that consumption of electricity (excluding any supply to any Customer of the relevant User who is neither such User nor a member of a qualifying group of which such User is a part) from the Transmission System or a Distribution System on the premises of the same site as such generating station, with premises being treated as on the same site as each other if they are:</p> <ul style="list-style-type: none"> (i) the same premises; (ii) immediately adjoining each other; or (iii) separated from each other only by road, railway or watercourse or by other premises (other than a pipe-line, electric line or similar structure) occupied by the User in question or by any other person who together with that User forms a qualifying group;
"System"	User or TSP apparatus or Equipment either stand alone or connected to other equipment or apparatus employed in the production, supply and consumption of electricity.
Tarriff Methodology	The basis for regulating tariffs for generation, trading, transmission and system operation as adopted by NERC for a particular period provided in Section 76 of the EPSR Act and the Multi Year Tariff Order
"Total System"	means the Transmission Network System and all Users Systems in Nigeria.
"TSP"	An Operator and/or owner of equipment, apparatus and systems licensed to setup, run, maintain and expand Distribution or Transmission Plants, Equipment or Apparatus for the purpose of transportation of electricity over a network

Comment [d1]: It is not defined in the Grid Code but we have provided a definition. Please see if it is appropriate

of infrastructure from one point to another on the infrastructure.

"TSP's Assets"

means the Plant and Apparatus owned by the TSP necessary to connect the User's Equipment or Apparatus to the Transmission Network at any particular Connection Site or Interconnection and includes any Plant and Apparatus and meters owned or operated by the TSP in connection with the transmission of electricity but does not include any Remote Transmission Assets.

"TSP's Transmission Network System"

the system consisting (wholly or mainly) of high voltage electric lines owned or operated by the TSP and used for the transmission of electricity from one Power Station to a sub-station or to another Power Station or between sub-stations or to or from any External source

"Transmission Network System Charges"

charges made or levied or to be made or levied by the TSP for the provision of services to transport energy as part of the transmission or distribution business to any Authorised Electricity Operator.

"Transmission Network System Charging Report Methodology"

an annual report prepared by the TSP and approved by NERC for the purpose of determining the appropriate charges to be paid by Users for use of the Transmission network

"User"

means a person or party using the Transmission Network or Distribution Network as agreed and permitted by the TSP.

"Use of Transmission Network System"

means the use of TSP's System for the transport of electricity by an Authorised Electricity Operator.

"User's Equipment"

the Plant and Apparatus owned by a User which either is connected to the TSP's Transmission Assets forming part of the TSP's Transmission System at any particular Connection Site or which that User wishes so to connect or is connected to a TSP Distribution System or which that User wishes so to connect.

"User's System"

any system owned or operated by a User comprising Generating Units and/or Distribution Systems and/or other

systems consisting (wholly or mainly) of electric lines which are owned or operated by a person or Non-Embedded Customers to the Transmission System or (except in the case of Non-Embedded Customers) to any other relevant User System, as the case may be, including any Remote Transmission Assets operated by such User or other person and any Plant and/or Apparatus and meters owned or operated by such User or other person in connection with the transmission of electricity but does not include any part of the TSP's System.

3. CONDITIONS FOR RIGHT TO USE THE TRANSMISSION NETWORK SYSTEM

- 3.1 Subject to the provisions of the ESPR Act, 2005 (and its subsequent amendment) the Grid Code, Distribution Code and there continuing to be a Connection Agreement and an Agreement for Use of Transmission Network System between a User and the TSP, a User may export or import electric power from the Transmission Network of the Nigerian Electricity Supply Industry subject to the following conditions:
- 3.2 To use the Assets of the TSP for the purpose of export or import of electric power, a User shall first have a Connection Agreement with the TSP.
- 3.3 A User wishing to export or import electric power from the Transmission Network System shall apply to the TSP complete and submit an Application for Use of Transmission Network System to the TSP and comply with the terms thereof.
- 3.4 As soon as practicable, the TSP shall make a Use of Transmission Network System Offer to the User (unless NERC consents to a longer period), in any event not more than 60 days after receipt of the Application by the TSP.
- 3.5 The Use of Transmission Network System Offer shall remain open for acceptance for not more than 4 months from its receipt by the User unless either the User or the TSP refers the Application to NERC, in which case the Use of Transmission Network System Offer shall remain open for acceptance 21 days after any determination by NERC as regards to such Application
- 3.6 If the condition of sub-clause 3.1 is not fulfilled within 6 months of the commencement of this Agreement or its amendment, the TSP shall rescind this Agreement by giving to the User notice to that effect, and all rights and liabilities of the parties under this Agreement shall cease.

4. COMMISSIONING

Subject to the provisions of the Grid and Distribution Code, either Party shall ensure that the Commissioning and on-load testing of its equipment or Apparatus is done according to the Schedule agreed on by both Parties. Provided that the Party responsible for the commissioning must ensure the commissioning programme is developed and made available to the other Party at least 14 days before the commencement of the commissioning programme.

5. OPERATIONAL NOTIFICATION

- 5.1 Upon compliance by the User with the provisions of sub-clauses 3.1, 3.2 and Clause 4, the TSP shall notify the User in writing within 5 Business Days that the User's Equipment or Apparatus on the Connection Site can be connected to the Asset of the TSP for the purpose of export or import of electric power. It is an express condition of the Grid Code, Distribution Code that in no circumstances will the User's Equipment or Apparatus connected to the Transmission Network be utilised for the purpose of export or import of electric power without receiving this Operational Notification.

6. CONNECTION AND ENERGISATION

6.1 Right to Remain Connected

- 6.1.1 Subject to the provisions of the EPSR Act, 2005, the Grid Code, Distribution Code, Metering Code and the Market Rules ("Relevant Rules") the User shall have the right for its Equipment or Apparatus, at each of its Connection Site to be and/or to remain connected to the Transmission System at the Connection Site once Commissioned and then for the duration of the Connection Agreement and this Agreement in relation to the affected Connection Site.

6.2 Rights to remain Energized and Operational

- 6.2.1 Subject to the provisions of the Relevant Rules, the User of the Transmission Network shall have the right for its Equipment or Apparatus at each of its Connection Sites to remain Energised and Operational once commissioned for the duration of the Connection Agreement and this Agreement in relation to the affected Connection Site.

- 6.2.2 Subject to the provisions of the Relevant Rules, the TSP shall keep the User's Equipment or Apparatus at each of its Connection Sites connected to the Transmission Network System until Disconnection is permitted pursuant to the Clause 15 of this Agreement or as otherwise agreed between the Parties.

6.3 Export of Power from Connection Site

6.3.1 Subject to other provisions of the Relevant Rules, the TSP shall accept on to its network at a User's Connection Site power generated by such User's Power Station which is directly connected to the Transmission Network up to the Power Station with a registered Capacity as set out in Schedule D of this Agreement; or as expressly permitted or instructed pursuant to an Emergency Instruction under the Grid Code or Distribution Code; or as permitted and instructed by a competent Authority; or as may be necessary or expedient in accordance with Good Industry Practice.

6.4 Import of Power from Connection Site

6.4.1 Subject to other provisions of the Relevant Rules, The TSP shall transport a supply of power to the Connection Site of a User through the Transmission Network up to the Connection Site Demand Capacity except to the extent the TSP is prevented from doing so by network constraints or by insufficiency of power generation which could not have been avoided by the TSP by exercise of Good Industry Practice.

7. REGISTERED CAPACITY

7.1 The User shall not use its Equipment or Apparatus connected to the Asset of the TSP to export or import electric power beyond its Registered Capacity for the agreed period as set out in Schedules D and E of this Agreement, save as expressly instructed and permitted by the TSP pursuant to an Emergency Condition or as may be necessary or expedient in accordance with Good Industry Practice.

7.2 Where the Maximum Export or Import capacity is exceeded, the TSP shall give notice to the User setting out the details and requesting the User to remedy the situation within 14 Business Days of receipt of the notice failing which the TSP reserves the right to De-Energise the User until the User is able to satisfy the TSP that the Maximum Export or Import Capacity shall not be exceeded or that arrangements have been made for an alteration or modification of the Connection Agreement.

8. CHARGES

8.1 Transmission Network System Charges:

8.1.1 The right to use the Transmission Network System of the Nigerian Transmission System by a User shall commence on the payment of relevant Transmission Network System Charge to the TSP.

8.1.2 Subject to the provisions of the Market Rules, this Agreement, together with the relevant Transmission Network System Charging Report Methodology and the appropriate Tarriff Methodology, the User shall with effect from the relevant date set out under this Agreement be liable to pay to the TSP the Transmission Network System Charge.

- 8.1.3 Transmission Network System Charge paid by the User shall be an annual payment prorated on a monthly basis, calculated on the maximum power export or import from the Transmission Network by the User, determined in the relevant Tariff Methodology as approved by the NERC.
- 8.1.4 Transmission Network System Charges may also include One-off Charges to be paid by the relevant Users of the Transmission Network based on circumstances as determined and agreed between the TSP and the affected User.
- 8.1.5 In case of default that might occur within a year, the User shall provide the TSP with a Security Cover in respect of the Annual Transmission Network System Charges incurred in the relevant year, as determined and approved by NERC in the relevant Tariff Methodology.
- 8.2 Data Requirements for Use of Transmission Network System Charges:
- 8.2.1 On or before the first week of November of every calendar year, the User shall supply the TSP its forecast maximum export and import power from the Transmission Network System for the following year.
- 8.2.2. The User's forecast maximum export and import power from the Transmission Network System for the following year, supplied to the TSP shall be used to calculate the appropriate estimated Transmission Network System Charges for the relevant year to be paid.
- 8.2.3 In the event that the User fails to provide the TSP, relevant data required to calculate the appropriate Transmission Network System Charges for the relevant year within the stipulated timescale, the TSP shall have the right to use the most recent User's data available.
- 8.2.4 The User shall notify the TSP as soon as possible of any revision to its forecast data for the relevant year.
- 8.2.5 The TSP shall revise the Transmission Network System Charges payable by the User to take account of any revised data, and shall commence charging the revised Transmission Network System Charges from the succeeding month after receipt of the revised data.
- 8.2.6 Any dispute regarding data submission or charges payable by the User or the TSP as regards the Transmission Network System Charges not resolved within 40 days shall be resolved in accordance with the dispute resolution mechanism established by NERC from time to time.
- 8.3 Reconciliation
- 8.3.1 On or before 31st of March of every year, the TSP shall promptly calculate in accordance with the relevant Transmission Network System Charging Report Methodology, using

the actual User's maximum power export and import from the Transmission Network System in the preceding year, the actual User's Transmission Network System Charges for the preceding year.

8.3.2 Upon calculation of the actual Transmission Network System Charges for the relevant year using the actual User's data, the TSP shall compare the actual Transmission Network System Charges with the estimated Transmission Network System Charges paid by the User in the preceding year.

8.3.3 As soon as possible and in any event by 30 April of every year, the TSP shall prepare a charging reconciliation statement in respect of monthly estimated and actual Transmission Network System Charges of a User for the preceding year.

8.3.4 The TSP shall send the charging reconciliation statement including relevant information about its determination and calculation, together with a credit note in relation to any sums due to the User or an invoice of sums due to the TSP as soon as possible to the User for verification.

8.3.5 Upon receipt of the reconciliation statement, and a credit note or invoice of the preceding year's Transmission Network System Charges, the User has 5 Business days to accept or reject the reconciliation statement from the TSP.

8.4 Payment:

8.4.1 Upon acceptance of a reconciliation statement, a credit note or invoice notice issued from sub-clause 8.3.5, the relevant Party (i.e. the User or the TSP) shall make necessary payment within 30 days of the date of receipt of such notice.

8.4.2 Interest on all amounts due shall be payable by the affected Party to the relevant Party on such amounts from the date of payment applicable to the month concerned until the date of actual payment of such amounts, such interests shall be calculated on a daily basis at a rate stipulated in the Transmission Network System Charging Report Methodology.

9. TSP's OBLIGATIONS

9.1 The TSP agrees with the User to make available, plan, develop, operate and maintain the Transmission Network System in accordance with the TSP Licence and the Grid or Distribution Code subject to any Derogations from time to time.

10. OPERATIONS

10.1 Maintenance of Assets

- 10.1.1 Subject to other provisions of the Relevant Rules, the Parties shall endeavour to maintain their respective Network Connection Assets at each Connection Site to conditions necessary to make the Network Connection Assets fit for the purpose of passing power to or from the Transmission Network up to the value of the Power Station's Registered Capacity or Connection Site Demand Capacity.
- 10.1.2 The TSP shall prepare a schedule for the maintenance of Connection Assets, Equipment or Apparatus. Except where otherwise agreed by the Parties, the work programme, specification, regularity of work and cost of such maintenance programme shall be specified ahead of time before commencement of the maintenance work by the Party with responsibility for such Connection Assets, Equipment or Apparatus
- 10.2 Engineering Works and Services
- 10.2.1 Where either Party agrees that the other Party or its Agents should carry out Engineering Works or Services relating to Connection of Assets, Equipment or Apparatus at a Connection Site including replacement of Assets, the Party initiating the Engineering Work or Service ("Initiator") shall be liable to pay the Party or its Agents executing the Engineering Works or Services ("Executor") for the costs incurred.
- 10.2.2 Upon completion of the Engineering Works or Services by the Executor to the requirements of the relevant Industry Regulation or Code, and receipt of payment invoice by the Initiator for the Engineering Works or Services, the Initiator shall make all necessary efforts to pay for the Engineering Works or Services as agreed.
- 10.2.3 Where in the course of such Engineering Work as specified in 10.2.1 and 10.2.2 above, the Initiator disconnects its Power Station or Generating Unit on the site for which the Engineering Works or Services is being executed on its behalf before the completion of the Engineering Works or Services, the said Initiator shall still be liable to pay the full costs of the Engineering Works or Services to the Executor.
- 10.2.4 Without prejudice to Clauses 10.2.1 - 10.2.3 above, the Parties shall agree on the:
- a. work programme to execute the Engineering Works or Services;
 - b. estimated completion date;
 - c. estimated cost statement;
 - d. payment schedule;
 - e. reconciliation arrangement between the actual cost and the estimated cost statement;
- 10.2.5 Any Dispute(s) relating arising from any provisions of this Clause shall be resolved according to Clause 20 of this Agreement.
- 10.3 Outages
- 10.3.1 Subject to the provision of the Grid or Distribution Code, any Party shall from time to time be entitled to plan and execute outages of Equipment or Apparatus at the Connection Site or on any of the Network Assets, Equipment or Apparatus, unless in the event of

unforeseen circumstance which necessitate for safety or security reasons that the relevant Connection or Network Assets, to be taken out on forced outage.

10.3.2 Subject to the provision of the Grid or Distribution Code, the User shall submit to the TSP as soon as it is known, outage information of their equipment and apparatus exporting or importing power from the Transmission Network system for the purpose of planning and co-coordinating the safe and reliable operation of the Transmission Network System at any given timescale.

10.3.3 Subject to the provision of the Grid or Distribution Code, the TSP shall from time to time publish and notify Users of its Transmission Network of outage programmes of its transmission network and that of other generating and consuming load connected to its network.

10.4 Site Specific Technical Conditions

10.4.1 The Parties shall operate the Transmission Network System in accordance with laid down conditions in the Relevant Rules, the TSP's Licence, and other bilateral schemes agreed to by the Parties in exercise of Good Industry Practice.

10.4.2 The User shall ensure its Equipment and Apparatus connected to the Transmission Network System complies and continues to comply with the site specific technical conditions set out by the TSP in Schedules F, G, H, I of this Agreement, until such Equipment or Apparatus is disconnected from the Transmission Network System.

10.4.3 The User shall ensure its Equipment and Apparatus connected to the Transmission Network System complies and continues to comply with the relevant site specific technical conditions set out below and any other conditions agreed to by the Parties:

- i. Circuit breaker fail protection,
- ii. Pole slipping protection,
- iii. Fault disconnection facilities,
- iv. Automatic switching equipment,
- v. Control arrangements,
- vi. Voltage and current signals for the system monitoring,
- vii. Operational metering,
- viii. Control telephony,

10.4.4 The Parties shall agree and record the respective protection and control relay settings and fault clearance times to be operated by each of the Parties' Equipment involved in the production, evacuation and consumption of power as set out in Schedule G of this Agreement.

10.4.5 If either Party wishes to modify, alter or change the site specific conditions under Schedules G, H and I relating to a Connection Site or the manner of their operation, it

may do so upon obtaining the agreement of the other Party, such agreement not to be unreasonably withheld;

10.5 Decommissioning

10.5.1 Decommissioning of Plant and/or Apparatus at the Connection Site will be undertaken in accordance with the procedures of the Safety Rules of the TSP and that of the User applied when the Plant and/or Apparatus concerned was in commission.

10.6 Emergency De-energisation

10.6.1 Subject to the provisions of the Grid Code, if, in the reasonable opinion of the TSP, the condition or manner of operation of the Transmission Network System or the User's System poses an immediate threat of injury or material damage to any person or to any User's System or to the Transmission Network System, the TSP shall have the right to De-energise the User's Equipment or Apparatus if it is necessary or expedient to do so to avoid the occurrence of such injury or damage.

10.6.2 Subject to the provisions of the Grid Code, if, in the reasonable opinion of the User, the condition or manner of operation of the Transmission Network System or any User's System, poses an immediate threat of injury or material damage to any person or to the User's System, the User shall report such a condition or manner of operation to the TSP who shall De-energise the User's Equipment if it is necessary or expedient to do so to avoid the occurrence of such injury or damage.

10.7 Re-energisation

10.7.1 The TSP shall Re-energise the User's Equipment at the Connection Site as quickly as practicable after the circumstances leading to any De-energisation under sub-clause 10.6.2 have ceased to exist.

10.7.2 If, following any De-energisation pursuant to sub-clause 10.6.2, the User applies to the TSP for the User's Equipment to be Re-energised and is refused or is offered terms which the User does not accept, this shall be recognised as a dispute over the terms for connection and use of system which the User may refer to NERC for determination. If the User accepts any terms offered by the TSP or settled by NERC pursuant to any such reference, the TSP shall Re-Energise the User's Equipment forthwith after any request from the User to do so.

11. METERING

11.1 The User consents to the TSP having access to copies of all meter readings taken from Energy Metering Equipment pursuant to the Market Rules and Metering Code in any particular year for the purposes of calculating payment due for energy export or import and Use of System Charges due from Users or for the purpose of operating the

Transmission Network System. Such access and copies shall be obtained from time to time from direct meter reading and the Market Operator for energy Settlement processes. Where it is impossible to obtain these readings, the TSP shall request the User to supply any such meter readings in the possession of the User for direct submission to the TSP.

- 11.2 The relationship between the Parties hereto with respect to Energy Metering Equipment shall be regulated by the Market Rules and the Metering Code.
- 11.3 Where Operational Metering Equipment owned by one Party and in respect of which access and rights to deal with such Operational Metering Equipment are not specified in any other document the Parties shall grant each other such access and other rights as are reasonably necessary to enable them to perform their obligations under this Agreement and the Grid or Distribution Code upon presentation of a suitable indemnity and the Parties shall take such action as may be necessary to regularise the position forthwith thereafter.

12. RIGHT OF ACCESS

- 12.1 The Parties agree that upon reasonable notification (except in an emergency), each Party including nominated third parties or contractors shall have unhindered access to the other's equipment and apparatus wherever situated on the others premises or land, for the purpose of installation, testing, commissioning, maintenance, inspection, modification, replacement and removal.
- 12.2. The Parties shall use all reasonable steps to ensure:
- i. Adequate service and safe use of assets at all times;
 - ii.No damage to the property or equipment or apparatus of either Party to this Agreement;
 - iii.Minimal disturbance and inconvenience as possible to the property, equipment, apparatus, personnel of either Party signed to this Agreement.
 - iv.That prompt action is taken to remedy any damage caused to the other's equipment or apparatus, in the course of exercising their rights or obligations under this Agreement;
 - v. That Access Rights for the purpose of modifying any Equipment or Apparatus shall not be unreasonably delayed.
- 12.3 Right of access includes the right to bring on to the premises or land of the other party vehicles, plant, machinery, maintenance or construction materials as shall be reasonably necessary for the agreed purpose of work to be done.
- 12.4 In a situation where right of access is granted, the procedure and work method for executing any work on equipment or apparatus on the premises or land of the other party shall be agreed and revised from time to time by Parties to this Agreement.

- 12.5 Access shall be available at all times to personnel or nominated third parties to equipment or apparatus on the premises or land where such equipment or apparatus are located unless a safety issue prevents such access.
- 12.6 Access to the equipment or apparatus of either party or its nominated agent shall be with minimum disruption, disturbance or inconvenience to its equipment or apparatus. Arrangements and provisions which include the right to make directions or instruction from time to time shall be issued to the other party or its nominated agent. Matters to be covered by such arrangements and provisions shall include:
- i. The identification of any relevant equipment or apparatus belonging to parties involved in this Agreement;
 - ii. Identification and arrangements applicable to Emergency personnel.
 - iii. The particular access route on the premises or land applicable to the location of the affected equipment or apparatus;
 - iv. Any limitations on times of access to the equipment or apparatus;
 - v. Any requirements as to prior notification or authorisation or security clearance to individuals exercising such Access Rights;
 - vi. Safety requirements;
 - vii. Means of communication between all Parties and their employees or nominated third party (contractors, agents, consultants) from time to time shall be established and well known to all Parties.

13. SAFETY RULES

- 13.1 Subject to the Safety and Co-ordination Procedure set out in the Grid Code, the Parties shall from time to time supply to the other a copy of their Safety Rules, including any site-specific Safety Rules and also local safety instructions for all Equipment and Apparatus applicable at each Connection Site.
- 13.2 The Parties shall also each appoint a Safety Coordinator to coordinate safety precautions on the Network when work to be carried out on the network requires the use of safety precautions as specified in the Grid Code.

14. MODIFICATIONS

- 14.1 No Modification may be made to this Agreement by or on behalf of the User or the TSP otherwise than in accordance with the provisions of this Clause 14.
- 14.2 Modifications Proposed by Users
- 14.2.1 If the User wishes to make a Modification to the contents of this Agreement, it shall complete and submit a Modification Application to the TSP and comply with the terms thereof.

14.2.2 The TSP shall make a Modification Offer to the User as soon as practicable and (save where NERC consents to a longer period) in any event not more than 3 months after receipt by the TSP of the Modification Application. The Modification Offer shall include details of any variations the TSP proposes to make to the Agreement which applies to the use of the Transmission Network particularly the Connection Site. During such period the TSP and the User concerned shall discuss in good faith the implications of the proposed Modifications.

14.2.3 The Modification Offer shall remain open for acceptance for 3 months from the date of its receipt by the User unless either the User or the TSP makes an application to NERC under its Licence condition, in which event the Modification Offer shall remain open for acceptance by that User until 15 Business days after any determination by the NERC pursuant to such application.

14.2.4 If the Modification Offer is accepted by the User, the relevant clauses of this Agreement relating to the export or import of power from the Transmission Network in question shall be varied to reflect the terms of the Modification Offer and the Modification shall proceed according to the terms of the Agreement as so varied.

14.3 Modifications Proposed by the TSP

14.3.1 If the TSP wishes to make a Modification to the Transmission Network, it shall formally inform the User of such modification and shall advise the User of any works which it reasonably believes that the User may have to carry out as a result.

14.3.2 Where the User considers that it shall be required to make a modification to its equipment and apparatus as a result of the Modification proposed by the TSP the User may as soon as practicable after receipt of the Modification Notification and (save where NERC consents to a longer period) within the period stated therein (which shall be sufficient to enable the User to assess the implications of the proposed Modification and in any event shall not be less than 3 months) may make an application to NERC stating the impact of the modification to its operation.

14.3.3 As soon as practicable after the receipt of the Modification Notification or, where an application to NERC has been made, and a determination granted in any event within two months thereof, the Affected User shall complete and submit a Modification Application to the TSP and comply with the terms thereof.

14.3.4 Once a Modification Application has been made by a User pursuant to sub-clause 14.3.2 the provisions of sub-clauses 14.2.2, 14.2.3 and 14.2.4 shall apply.

14.3.5 Without Prejudice to the provisions of Clause 12.2 above, where the works necessitated by a Modification proposed by either Party would be of significant value to the User, the costs of such works shall be borne by the User otherwise, the costs shall be borne by the TSP.

14.3.6 The Parties for the purpose of assessing “Significant Value” shall make representations in their Modification Offer or Application and discuss in good faith, the value of such Modification to their business or operations. Provided that where the Parties are unable to agree on the value of the Modification, either party can make a representation to NERC.

14.3.7 The TSP by the provisions of this Clause 14, undertakes to provide all the assistance and advice requested by the User in relation to modifications to the User’s equipment and apparatus.

15. DE-ENERGISATION AND DISCONNECTION

15.1 Material Breach

Where the User is in breach of any of the provisions of this Agreement or of the provisions of the Grid or Distribution Code and such breach causes or can reasonably be expected to cause a material damage to the business or operation of the TSP or other Users or the Transmission Network System or other connected User Systems then the TSP may:

(i) where the breach is capable of remedy, give written notice to the User specifying in reasonable detail the nature of the breach and requiring the User to remedy the breach within 28 days after receipt of such notice or within any longer period agreed between the TSP and the User, the agreement with the TSP not to be unreasonably withheld or delayed; or

(ii) where the breach is incapable of remedy, give written notice to the User specifying in reasonable detail the nature of the breach and the reasons why the breach is incapable of remedy and requiring the User within 5 Business Days after receipt of such notice to undertake to the TSP not to repeat the breach.

15.2 Whenever the TSP serves a notice on the User pursuant to sub-clause 15.1, the TSP and the User shall discuss in good faith and without delay the nature of the breach and each shall use all appropriate procedures available to it under the Relevant Rules in an attempt to establish as quickly as reasonably practicable a mutually acceptable way of ensuring future compliance by the User with the Relevant Rules.

15.3 Involuntary De-Energisation

15.3.1 If:

(a) the User fails to comply with the terms of any valid notice served on it by the TSP in accordance with sub-clause 15.1(i) or is in breach of any undertaking given in accordance with sub-clause 15.1(ii) and such breach causes or can be reasonably expected to cause a material damage on the business or condition of the TSP or other Users or the Transmission Network System or User Systems; or

(b) 5 Business Days have elapsed since the date of any valid notice served on the User in accordance with sub-clause 15.2(ii) and no undertaking is given by the User in accordance with sub-clause 15.2(ii);

The TSP may, provided the TSP has first complied with the Grid or Distribution Code, if appropriate De-Energise the User's Equipment upon the expiry of at least 48 hours prior written notice to the User, provided that at the time of expiry of such notice the breach concerned remains un-remedied and that neither Party has referred the matter to the Dispute Resolution Procedure set out in the Grid Code or by NERC. In such event the TSP may only De-Energise following completion of the Dispute Resolution Procedure and final determination of the dispute.

15.3.2 If the User fails to comply with the Relevant Rules and NERC makes a final Order or a confirmed Provisional Order against the User in respect of such non-compliance which order the User breaches, the TSP may De-energise the User's Equipment upon the expiry of at least 48 hours prior written notice to the User provided that at the time of expiry of the notice the User continues to fail to comply with the order.

15.4 Event of Default:

If the breach which led to any De-Energisation pursuant to this Clause 15 remains un-remedied at the expiry of at least 6 months after the date of such De-Energisation, the TSP may declare by notice in writing to the User that such breach has become an event of default provided that:

- (a) all disputes arising out of the subject matter of this Clause 15 which were referred to NERC have then been finally determined in favour of the TSP or
- (b) any terms settled by NERC pursuant to such application have not been accepted by the User.

15.5 Involuntary Termination and Disconnection

15.5.1. Once the TSP has given a valid notice of an event of default pursuant to sub-clause 15.4 the TSP may give notice of termination to the User whereupon this Agreement shall terminate

15.5.2 On providing a notice of termination as described in sub-clause 15.5.1, the TSP shall Disconnect all the User's Equipment or Apparatus at the Connection Site and the TSP and the User concerned shall by arrangement between them remove any of the User's Equipment or Apparatus and the TSP's Assets on the other Party's land within 6 months of the date of termination or such longer period as may be agreed between the Parties;

15.5.3 Where notice to Disconnect is given by the TSP to the User as described above, the TSP may upon expiry of the period specified in such notice, disconnect the User's Equipment

or Apparatus. At the expiry of such period this Agreement shall terminate and the Parties shall by arrangement with each other remove any of the User's Equipment or Apparatus and the TSP Assets on the other Party's land.

15.5.4 Without prejudice to the whole of sub-clause 14.5. above, the User shall give to the TSP not less than 6 months written notice of any intention of the User either to Disconnect or Decommission the User's Equipment or Apparatus.

15.6 Where the User is disconnected as specified in sub-clause 15.5.2 and 15.5.3, the User shall pay all money due to the TSP at the Connection Site within the following timelines:

- i) 28 days after termination of this Agreement or
- ii) 6 months of the date of such termination or
- iii) such longer period as may be agreed between the Parties

16. NOTICE TO DECOMMISSION OR DISCONNECT

16.1 Without prejudice to sub-clause 12.5, the User or TSP shall give not less than 6 months written notice to either Party of any intention to Decommission or Disconnect from the Transmission Network, interconnecting Equipment or Apparatus belong to it.

17. DISCONNECTION

17.1 If notice to Disconnect is given by the User under Clause 16 the User may upon expiry of the period specified in such notice, Disconnect the User's Equipment or Apparatus. At the expiry of such period this Agreement shall terminate. The User shall pay to the TSP all money due to the TSP at the Connection Site within 30 days after termination of this Agreement. Within 6 months of the date of such termination or such longer period as may be agreed between the Parties, the Parties shall by arrangement with each other remove any of the User's Equipment or Apparatus and the TSP's Assets on the other Party's land.

17.2 If notice to Disconnect is given by the TSP to the User, the TSP may upon expiry of the period specified in such notice, Disconnect its Equipment or Apparatus. At the expiry of such period this Agreement shall terminate. The TSP shall pay to the User all money due to the User at the Connection Site within 30 days after termination of this Agreement. Within 6 months of the date of such termination or such longer period as may be agreed between the Parties the Parties shall by arrangement with each other remove any of the User's Equipment or Apparatus and the TSP's Assets on the other Party's land.

18. DECOMMISSIONING

If a notice to Decommission is given by the User, the User may upon expiry of the period specified in such notice, Decommission the User's Equipment or Apparatus. Provided that:

- (i) This Agreement shall not terminate until the end of the Calendar Year in which the Decommissioning takes place.
- (ii) All amounts owed the TSP including Use of System Charges payable by the User under this Agreement shall continue to be payable in full until the end of the Calendar Year.
- (iii) Decommissioning of Plant and/or Apparatus at the Connection Site will be undertaken in accordance with the procedures of the Safety Rules of the Parties applied when the Plant and/or Apparatus concerned was in commission

19. DISPUTE RESOLUTION

- 19.1 Any dispute arising between Parties or their agents under this Agreement, if not amicably resolved within 30 days of first arising, either Party may by a Dispute Notice refer such a dispute to NERC for resolution.
- 19.2 NERC within 20 days of the receipt of a Dispute Notice shall refer such disputes either to an Independent Engineer or Arbitration. Provided that the Parties may of their own accord agree to appoint an Independent Engineer or resort to Arbitration.
- 19.3 Independent Engineer
- 19.3.1 The Parties agree that for disputes of a technical nature, the Parties shall within 14 days of such dispute or by a referral by NERC as specified in Clause 19.2 jointly appoint an Independent Engineer nominated by the President of the Nigerian Society of Engineers and shall be guided in accordance with the following rules
- 19.3.2 The Independent Engineer appointed shall act as an expert and not as an Arbitrator and shall decide those matters referred or reserved to him under this Agreement by reference to Good Industry Practice using his skill, experience and knowledge and with regard to such other matters as an Independent Engineer in his sole discretion considers appropriate.
- 19.3.3 The Parties shall endeavour to promptly supply the Independent Engineer with such documents and information as he may request when considering the dispute in question. The Independent Engineer shall use his best endeavours to give his decision upon the question before him as soon as possible following its referral to him. The parties shall share equally the fees and expenses of the Independent Engineer. The Parties expressly

acknowledge that submission of disputes for resolution by the Independent Engineer does not preclude subsequent submission of disputes for resolution by arbitration. Pending any such arbitration the Parties shall treat the Independent Engineer's decision as final and binding.

19.4 Arbitration

19.4.1 Subject to Clause 19.1-3 above where the Parties are still unable to resolve their dispute, the Parties shall of their own accord or by NERC's referral, refer their disputes to Arbitration.

19.4.2 The Parties shall jointly appoint a Sole Arbitrator either within themselves or nominated by the President of the Chartered Institute of Arbitrators UK (Nigerian Branch).

19.4.3 Pursuant to Clause 19.4.2, where the Parties are unable to agree on a Sole Arbitrator, the Parties shall appoint an Arbitration Tribunal consisting of Three Arbitrators; one Arbitrator appointed by each Party and the third Arbitrator appointed by NERC.

19.4.4 Failure to abide by the decision of the Sole Arbitrator or Arbitration Tribunal shall constitute a violation of this Agreement. Upon adequate presentation by the aggrieved Party to the NERC of such acts of violation, the aggrieved Party upon at least 30 days notification to the violating Party may suspend access to property, equipment or apparatus and/or service until such time as the violating Party complies or is served with notice of termination of this Agreement and disconnection of the violating Party property, equipment or apparatus and/or service.

19.4.5. During the Arbitration process, Parties shall use expert witnesses where the circumstances make it necessary.

19.4.6. The Parties shall bear the costs of Arbitration equally between them.

19.7 Notwithstanding the provisions of this Clause 19, the Parties undertake in good faith to continue to operate and perform their respective obligations under this Agreement and the Relevant Rules during the course of a dispute.

20. TERM AND TERMINATION

20.1 This Agreement shall automatically terminate upon:

- a. termination of the Grid Code if the User is connected to the Transmission Network; or
- b. termination of the Distribution Code if the User is Connected to the Distribution Network; or

- c. revocation or withdrawal of the User's Licence or the TSP's Licence.
- d. In respect of the User or the TSP:
 - i. an involuntary Disconnection and Termination as provided in Clause 15 above
 - ii. Termination resulting from an extended Force Majeure event as provided in Clause...
 - iii. an order of the High Court is made or an effective resolution passed for its insolvent winding up or dissolution; or
 - iv. the appointment of a receiver (which expression shall include an administrative receiver) of the whole or any material part of its Asset or undertaking; or
 - v. where an administration order under is made or if a voluntary arrangement is proposed for its dissolution; or
 - vi. where it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by its Directors); or
 - vii. where it is unable to pay its debts and its operations are declared bankrupt by the order of a High Court.

20.2 In instances of voluntary termination by either Party, the Initiating Party is required to provide at least twelve months notice to commence the process for termination of this Agreement.

20.3 This Agreement shall continue until there is no physical connection or interface and no sharing of services between the property, equipment or apparatus and/or land between the TSP and the User.

21. FORCE MAJEURE

21.1 If either Party is unable to carry out any of its obligations under this Agreement due to circumstances of Force Majeure i.e (Non Performing Party), this Agreement shall remain in effect but save as otherwise provided herein the Non-Performing Party's obligations hereunder shall be suspended without liability for the period during which the Force Majeure subsists provided that:

- i. The Non-Performing Party gives the other Party prompt notice describing the circumstance of Force Majeure, including the nature of the occurrence, its expected duration and the particular obligations affected by it, and continue to

furnish weekly reports with respect thereto during the period of Force Majeure;

- ii. The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- iii. No liabilities of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure;
- iv. The Non-Performing Party uses all reasonable efforts to remedy its inability to perform; and
- v. As soon as practicable after the event which constitutes Force Majeure the Parties shall discuss how best to continue that operations so far as possible in accordance with this Agreement.

21.2 Notwithstanding the provisions of Clause 21.1 above where a Force Majeure event continues to exist for a continuous period of 180 days then either Party shall be at liberty to terminate this Agreement in accordance with the procedure provided in Clause 15.5 above: Provided that, on termination the Parties shall reconcile their accounts, as provided by the Market Rules, and make outstanding payments according to the timelines provided in Clause 15.6 above.

22. CONFIDENTIALITY

22.1 The Parties (including their agents or nominated third parties) hereby undertake that they shall preserve the confidentiality and secrecy of, and not directly or indirectly reveal, report, publish, disclose or transfer or use for its own purposes Confidential Information except:

- i. Where the Confidential Information is in the public domain;
- ii. To the extent expressly permitted by this Agreement, either Party's License or the Relevant Rules;
- iii. With the consent in writing of the owner of the information.

22.2 With effect from the date of this Agreement, the Parties shall adopt procedures within their organisations for ensuring the confidentiality of all Confidential Information which it is obliged to preserve as confidential under this Clause 22. These procedures will include:

- i. The Confidential Information to be disseminated within the relevant party on a need to know basis;
- ii. Employees, directors, agents, lenders, consultants and professional advisers of the relevant party in respect of Confidential Information will be made fully aware of the party's obligations of confidence in relation thereto.

22.3 The provisions of sub-clauses 22.1 - 22.2 above shall survive any termination of this Agreement for a period of 5 years from such Termination Date.

23. LIMITATION OF LIABILITY

- 23.1 Neither Party, nor any of its officers, employees, agents or nominated third parties shall be liable for loss arising from any breach of this Agreement other than for loss directly arising from such breach and which at the date hereof was reasonably foreseeable as likely to occur in the ordinary course of events from such breach particularly:
- i. Physical damage to the property, equipment or apparatus of the other party(ies), its officers, employees or agents;
 - ii. The liability of the other Party to any such person or loss arising from physical damage to the property of any means.
- 23.2 Nothing in this Agreement shall exclude or limit the liability of the Party liable for death or personal injury resulting from negligence from the action of the Party liable or any of its officers, employees or agents. The Party liable shall indemnify and keep indemnified the other Party, its officers, employees or agents, from and against all such and any loss or liability which the other Party may suffer or incur by reason of any claim on account of death or personal injury resulting from the negligence of the Party liable or any of its officers, employees or agents.
- 23.3 Subject to any other provisions of this Agreement to the contrary, neither Party, nor any of its officers, employees or agents shall in any circumstances whatsoever be made liable to the other Party for:
- i. Any loss of profit, loss of revenue, loss of use, loss of contract or loss of goodwill;
or
 - ii. Any indirect or consequential loss; or
 - iii. Losses resulting from liability of the either Party to any other person howsoever and when so ever arising save as provided in Clause 23 of this Agreement.
- 23.4 The rights and remedies provided by this Agreement to the Parties are exclusive and not cumulative and are in place of all substantive (but not procedural) rights or remedies express or implied and provided by common law or statute in respect of the subject matter of this Agreement, including any rights either Party may possess in tort which shall include actions brought in negligence and/or nuisance. Accordingly, the Parties hereby waive in the fullest extent possible all such rights and remedies provided by common law or statute, and releases the Party liable, its officers, employees and agents to the same extent from all duties, liabilities, responsibilities or obligations provided by common law or statute in respect of matters dealt with in this Agreement and undertake not to enforce any of the same except as expressly provided herein.
- 23.5 Nothing in this Clause 23 shall exclude or restrict or otherwise prejudice or affect any of:

- i. The rights, powers, duties and obligations of either Party which are conferred or created by the EPSR Act, 2005, the Party's Operating Licences, orders and regulations made by NERC or any amendments or re-enactment thereof; or
- ii. The rights, powers, duties and obligations of NERC or relevant Government Authorities under the EPSR Act, 2005.

24. WAIVER

- 24.1 No delay or omission by either Party in exercising any right, power, privilege or remedy under this Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any change or partial exercise of any such right, power, privilege or remedy shall not preclude any other or future exercise thereof or the exercise of any other right, power, privilege or remedy.

25. NOTICES

- 25.1 Any notice or other communication to be given by either Party to other under, or in connection with the matters contemplated by, this Agreement shall be addressed to the recipient and sent to the address, or facsimile number of such other party given in Schedule J and marked for the attention of the person so given or to such other address, telex number and/or facsimile number marked for such other attention as the other Party may from time to time specify by notice.
- 25.2 Any notice or other communication to be given by either Party to the other party under, or in connection with the matters contemplated by, this Agreement shall be in writing and shall be given by letter delivered by hand or sent by courier or telex or facsimile, and shall be deemed to have been received:
- i. In the case of delivery by hand, when delivered; or
 - ii. In the case of courier, on the 4th working day following the day of posting (including overseas); or
 - iii. In the case of facsimile on the automatic answerback of the addressee (where such transmission occurs before 1700 hours on the day of transmission) and in any other case on the day following the day of transmission.

26. VARIATIONS TO SCHEDULES

- 26.1 The provisions of the Clauses to this Agreement may be varied from time to time by written memorandum signed by an authorised officer from both Parties. Subject thereto no variations to this Agreement shall be effective unless made in writing and signed by or on behalf of Parties involved.

26.2 The TSP or the User shall effect any amendment required to be made to this Agreement by NERC

27. ASSIGNMENT AND SUB-CONTRACTING

27.1 The rights and obligations of either Party shall not be assigned otherwise than to an Affiliate or by way of a change or an assignment or by way of security without the consent of the other party and NERC, such consent not to be unreasonably withheld. Provided that this does not preclude the TSP from the novation of its rights and obligations to an Independent System Operator when the Minister gives a directive for the opening of a more competitive market.

27.2 Either Party shall not have the right to sub-contract or delegate the performance of any of its obligations or duties arising under this Agreement without the consent of the other and NERC. The sub-contracting by either party of this performance of any obligations or duties under this Agreement shall not relieve such party from the liability for performance of such obligation or duty.

28. SUPPLEMENTARY AGREEMENTS

28.1 The User and the TSP undertake to enter into the following Agreements supplementary to this Agreement:

- I. An Agreement for the Use of the Transmission System
- II. An Interface Agreement with each other as appropriate in relation to Connection Site(s) and New Connection Site(s).
- III. An Ancillary Services Agreement; and
- IV. A supplementary Distribution Network Agreement, where applicable.

29. GOVERNING LAW AND JURISDICTION

29.1 This Agreement shall be governed by and construed in all respects in accordance with Nigerian law.

29.2 Subject and without prejudice to Clause 19 Parties to this Agreement irrevocably agree that where the need arises, only the courts in Nigeria have jurisdiction to settle any dispute or proceedings which may arise out of or in connection to this Agreement.

29.3 Each Party irrevocably waives any objection which it may have now or later to the laying of the venue of any proceedings in any Nigerian court, and any claim that any such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgement from any proceedings brought in any Nigerian court shall be conclusive and binding upon such Party and be enforced by such court in Nigeria.

29.4 For the avoidance of doubt nothing contained in the provisions of this Clause 29 shall be taken as permitting a Party to commence proceedings in the courts where this Agreement otherwise provides for proceedings to be referred to Arbitration.

29.5 If any provision of this Agreement becomes or is declared invalid, unenforceable or illegal by the courts of any competent jurisdiction to which it is subject or by order of any other Competent Authority such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect notwithstanding such invalidity, unenforceability or illegality.

30. INTELLECTUAL PROPERTY

30.1. All Intellectual Property relating to the subject matter of this Agreement conceived, originated, devised, developed or created by either Party, its officers, employees, agents or consultants during the term of this Agreement or any Supplemental Agreement shall vest in such Party as sole beneficial owner thereof save where the Parties otherwise agree in writing.

IN WITNESS WHEREOF the duly authorised representatives of the Parties hereto have executed this Agreement in the manner hereinafter appearing the day, month and year first above written.

SIGNED BY

[*name of authorised representative*]

For and on behalf of

The Transmission Service Provider [*name*]

SIGNED BY

[*name*]

For and on behalf of

[*User*]

Schedule A

TSP's Connection Assets / Connection Site

Company []
Connection Site []
Type []

Connection Assets:

<u>Description</u>	<u>Age</u>	<u>Year of</u>
<u>Commission</u>		

Energy Metering Systems:

<u>Description</u>	<u>Age</u>	<u>Year of</u>
<u>Commission</u>		

All the above are inclusive of civil engineering works. At the double busbar type substations, ownership of main and reserve busbars follows ownership of clause switches.

Diagram Reference: [to be attached]

Schedule B

User of Transmission Network Assets / Connection Site

Company []

Connection Site []

Type []

SCHEDULE C

Transmission Network System Charges / Payment

Company paying: []

Company receiving: []

Connection Site: []

1. Monthly Charge

Per Unit Charge:

Payment Schedule:

2. One-Off Charge

Payment Schedule:

SCHEDULE F

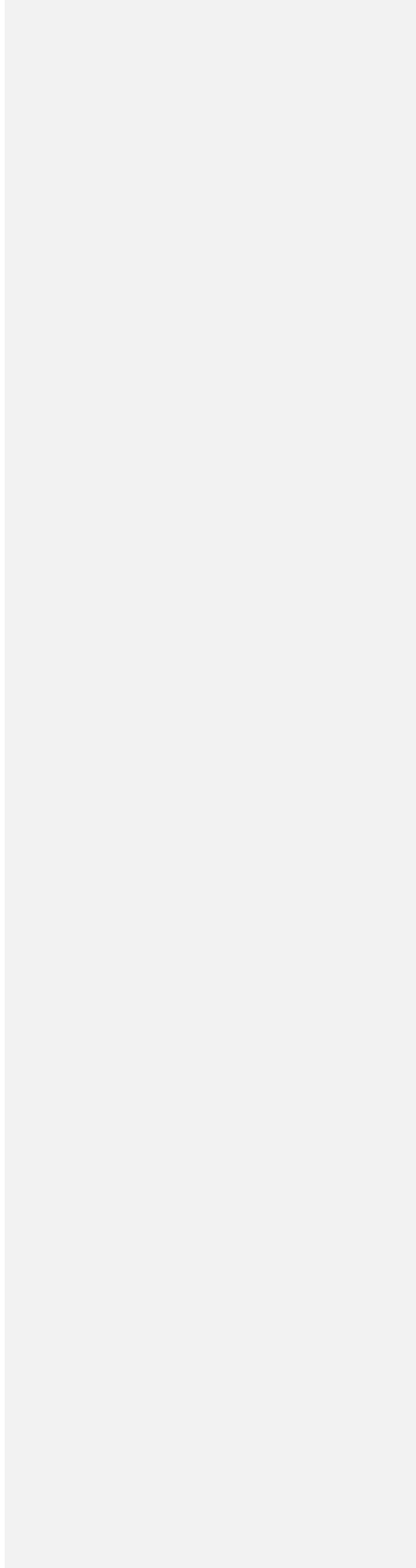
SITE SPECIFIC TECHNICAL CONDITIONS

Metering Facilities:

SCHEDULE H

SITE SPECIFIC TECHNICAL CONDITIONS

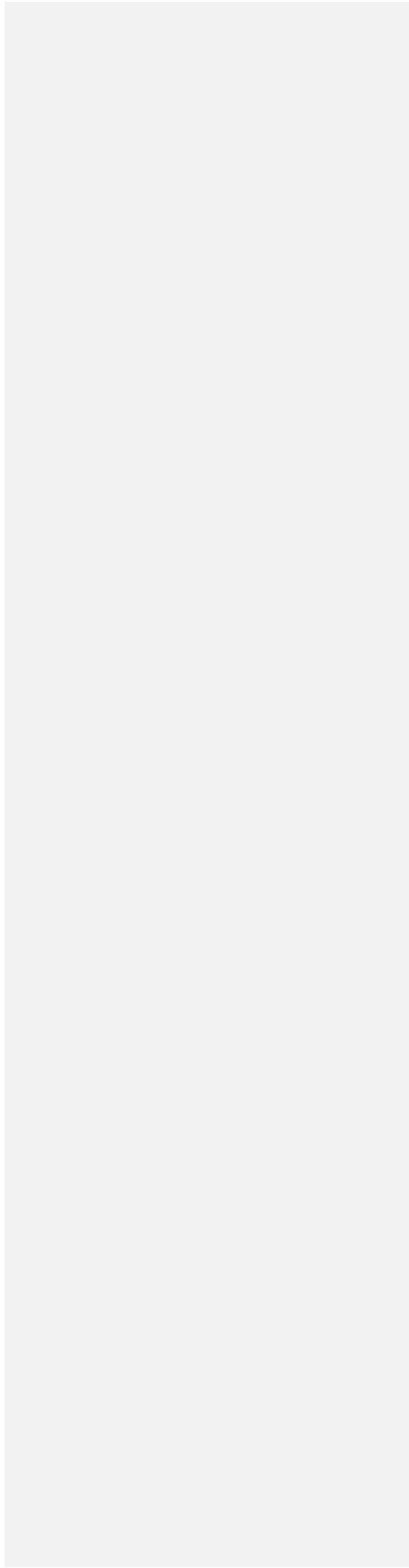
Special Automatic Facilities:



SCHEDULE I

SITE SPECIFIC TECHNICAL CONDITIONS

Demand Side Management Regime:



SCHEDULE J

Addresses

