

**TERMS AND CONDITIONS RELATING TO THE PROCESS TO BE FOLLOWED WHERE A CONNECTION IS TO BE PROVIDED SO AS TO CONNECT AN ELECTRICITY NETWORK OF AN INDEPENDENT DISTRIBUTION NETWORK OPERATOR TO THE ELECTRICITY DISTRIBUTION NETWORK OF [NORTHERN POWERGRID (NORTHEAST) LIMITED][NORTHERN POWERGRID (YORKSHIRE) PLC]**

## **1. Background**

1.1 The IDNO is in the business of constructing, owning, operating and maintaining IDNO Networks. In certain cases, due to the geographical location of its IDNO Network, in order to provide Customer Connections the IDNO Network will require a Connection.

1.2 The Agreement details the process to be followed where an electrical connection is to be provided so as to enable an IDNO Network to be connected to the Distribution Network owned and operated by Northern Powergrid .

1.3 The Agreement applies only in relation to connections to the Distribution Network up to and including [20kV] [Northeast][11kV] [Yorkshire] and applies only where the Electric Lines are laid or are to be laid underground.

## **2. Definitions and interpretation**

2.1 The following definitions will apply:-

“Act” means the Electricity Act 1989 as amended modified or re-enacted from time to time

“Agreement” means an agreement in writing entered into between Northern Powergrid and the IDNO incorporating these terms and conditions. Any reference to the Agreement is deemed to be a reference to the Agreement incorporating these terms and conditions

“Agreed Clauses” means the parts of the Transfer and Lease that are highlighted in grey

“Bilateral Connection Agreement” means a bilateral connection agreement (or such other agreement replacing that agreement as may be reasonably required from time to time by Northern Powergrid) made or to be made between Northern Powergrid and the IDNO to govern the terms and conditions upon and subject to which Northern Powergrid may provide a Connection and allow electrical energy to flow through the Distribution Network to that IDNO Network

“Business Day” means any day that is not a Saturday a Sunday or a day that is either a public holiday or bank holiday in England and Wales

Connection” means an electrical connection using Electric Lines and/or Electrical Plant (as shall be deemed appropriate by Northern Powergrid or, in circumstances where the electrical connection is to be provided by an ICP appointed by the IDNO, as shall be approved by Northern Powergrid) between the Distribution Network and an IDNO Network by which (subject to the terms and conditions contained within the Bilateral Connection Agreement and such other document or documents as are referred to in sub-condition 3.3 below) the IDNO Network may be connected to and receive electricity from the Distribution Network

“Customer Connections” means electrical connections to be made by the IDNO at premises owned or occupied by end users of electricity within a Development, by which such end users are able to receive and use electricity at their premises from the IDNO Network at that Development

“Development” means an area of property development in relation to which the IDNO is to construct, own and operate an IDNO Network and within which it will provide Customer Connections

“Distribution Licence” means a licence authorising a person to distribute electricity granted pursuant to section 6(1)(c) of the Act

“Distribution Network” means the electricity distribution network owned and operated by Northern Powergrid and which Northern Powergrid is licensed to operate pursuant to section 6(1)(c) of the Act

“Electric Lines” means electric line (in the plural) as that term is defined in section 64 of the Act

“Electrical Plant” means electrical plant as that term is defined in section 64 of the Act

“ICP” means an independent connections provider

“IDNO” means the licensed independent electricity distribution network operator who is identified in the Agreement and who intends to construct, own, operate and maintain an IDNO Network or IDNO Networks and who in order to do so requires a Connection or Connections

“IDNO Network” means an electricity distribution network to be constructed, owned and operated by the IDNO and (subject to the terms and conditions contained within the Bilateral Connection Agreement and such other document or documents as are referred to in sub-condition 3.3 below) connected to the Distribution Network

“Lease” means a lease with a term of not less than 60 years from its date of commencement by which the IDNO, for that term, leases land (including the site of a Substation Building) and, for that term, acquires easements in connection with the IDNO Network and by which, for that term, easements required by Northern Powergrid for the Distribution Network are granted to Northern Powergrid, such lease being in the form set out in Appendix 2

“Maintainable Highway” has the definition given to that expression by section 86(1) of the New Roads and Street Works Act 1991 as amended from time to time

“Northern Powergrid” means [Northern Powergrid (Northeast) Limited][Northern Powergrid (Yorkshire) PLC]

“Substation Building” means a building to be constructed by the IDNO to house its Electrical Plant and Electric Lines and those of Northern Powergrid on land within a Development for which the IDNO owns either the freehold interest or, by virtue of a Lease, a leasehold interest

“Transfer” means a transfer by which the IDNO acquires the freehold interest in land (including the site of a Substation Building) and acquires, in perpetuity, easements in connection with the IDNO Network and by which easements, in perpetuity, required by Northern Powergrid for the Distribution Network are granted to Northern Powergrid, such transfer being in the form set out in Appendix 1

“WTM” means the Wayleaves Team Manager, Network Connections, Northern Powergrid or such other officer of Northern Powergrid as may be notified by Northern Powergrid to the IDNO from time to time

2.2 Words importing the singular include the plural and vice versa and words importing the masculine include the feminine and neuter

2.3 Words importing natural persons include corporations bodies and firms and all such words shall be construed interchangeably in that manner

2.4 References to a clause condition sub-condition or appendix are to a clause condition sub-condition or appendix of the Agreement or these terms and conditions and the appendices to these terms and conditions are deemed to be incorporated as part of the Agreement and these terms and conditions

2.5 The headings in these terms and conditions and the appendices are for the convenience of the parties only and do not affect construction or interpretation of the Agreement or these terms and conditions

2.6 The obligations to be performed and observed by the IDNO pursuant to Condition 3 apply individually and separately to each and every Connection

### **3. Obligations of the IDNO**

3.1 Unless an ICP appointed by the IDNO for the purposes of providing a Connection to a Development has applied to Northern Powergrid for non-contestable connection services pursuant to condition 15 of the Distribution Licence held by Northern Powergrid in relation to that Development, the IDNO will make an application for a Connection to Northern Powergrid pursuant to section 16 of the Act, and Northern Powergrid will reply to such application in the manner required by the Act, by regulations made pursuant to the Act or by the terms of its Distribution Licence (as appropriate)

3.2 If not already completed by the date of the Agreement the IDNO will complete with Northern Powergrid a Bilateral Connection Agreement within 14 days of that document being provided to the IDNO

3.3 The IDNO will from time to time enter into such document or documents as is or are reasonably required by Northern Powergrid so as to ensure that the Bilateral Connection Agreement referred to in sub-condition 3.2 above applies in all respects to a Connection and the IDNO acknowledges and agrees that such Connection will not be provided and energised unless and until a Bilateral Connection Agreement and such document or documents as are referred to in this sub-condition 3.3 have been completed and the conditions detailed in sub-condition 5.2.8 have been satisfied

3.4 The IDNO will require the owner of a Development to complete either (a) a Transfer to the IDNO of the freehold interest in the required electricity substation site that will

accommodate the Substation Building and grant easements for access to the substation site and for Electric Lines within the Development in the form of the Transfer contained in Appendix 1 or (b) a Lease to the IDNO of the required electricity substation site that will accommodate the Substation Building and grant easements for access to the substation site and for Electric Lines within the Development in the form of the Lease contained in Appendix 2

3.5 The IDNO will ensure that the Transfer or Lease completed pursuant to sub-condition 3.4 above will comply with and be in the form of Transfer contained in Appendix 1 or the form of Lease contained in Appendix 2 (as the case may be) and in respect of the Agreed Clauses without modification

3.6 The IDNO will ensure that upon completion of the Transfer or Lease the easements contained therein are separately noted in the Charges Register of the relevant registered title or titles and that a note appears in that Register that the Transfer or Lease contains restrictive covenants

3.7 In order to ensure that Northern Powergrid is satisfied that all easements it requires in connection with a Connection will be secured by the Transfer or Lease, the IDNO will instruct a pre-agreed law firm to act for both the IDNO and Northern Powergrid to complete the Transfer or Lease using a plan or drawing that Northern Powergrid has confirmed in writing indicates the correct route and width of all required easements and such plan or drawing shall not be altered or modified in any way by the IDNO without the prior written approval of Northern Powergrid

3.8 If the transferor's or lessor's lawyer requires any modification or amendment to the Agreed Clauses within the Transfer or Lease and refuses to proceed to grant and complete the Transfer or Lease without such modification or amendment, then, and in any such case, the IDNO will promptly notify the WTM

3.9 The IDNO will be responsible for paying and will pay all legal fees, costs, expenses and disbursements incurred by the pre-agreed law firm referred to in sub-condition 3.7 above, and the IDNO undertakes to Northern Powergrid to pay all such fees, costs, expenses and disbursements

3.10 If sub-condition 3.8 applies, and pursuant to sub-condition 7.1 the WTM considers that Northern Powergrid requires advice from one of the law firms used by Northern Powergrid (being a law firm other than the pre-agreed law firm referred to in sub-condition 3.7 above), then and in any such event the IDNO undertakes to repay to Northern Powergrid all legal fees, costs, expenses and disbursement incurred by Northern Powergrid in connection with such advice (including any incurred in relation to any negotiations with the transferor's or lessor's law firm) or, if required by Northern Powergrid, will provide an undertaking to such effect to such law firm within 3 days of a request and will when required by such law firm pay to it all such legal fees, costs, expenses and disbursements incurred pursuant to such undertaking

3.11 If the pre-agreed law firm referred to in sub-condition 3.7 above considers that due to a conflict of interests it cannot lawfully or properly act for both the IDNO and Northern Powergrid, then and in any such event Northern Powergrid will obtain its own advice from one of the law firms used by Northern Powergrid and the IDNO undertakes to repay to Northern Powergrid all legal fees, costs, expenses and disbursement incurred by Northern

Powergrid in connection with such advice or, if required by Northern Powergrid, will provide an undertaking to such effect to such law firm within 3 days of a request and will when required by such law firm pay to it all such legal fees, costs, expenses and disbursements incurred pursuant to such undertaking

3.12 If the circumstances described in sub-condition 5.1.4 apply to a Connection and Northern Powergrid requires easements to be granted outside the Development then the IDNO undertakes to repay to Northern Powergrid all legal fees, costs, expenses and disbursements incurred by Northern Powergrid in connection with such easements including (without limitation) all negotiations and completion of legal easements and any consideration and grantor's legal costs paid or to be paid for any such easements or, if required by Northern Powergrid, will provide undertakings to such effect as reasonably required by Northern Powergrid within 3 days of a request and will when required by the beneficiary of any such undertaking pay to it all legal fees, costs, expenses and disbursements and consideration incurred pursuant to such undertaking

#### **4. Indemnity, limitation of liability and IDNO to have no right of action**

##### **4.1 Indemnity**

4.1.1 The IDNO agrees to indemnify Northern Powergrid from and against any and all losses, costs and expenses it suffers or incurs that result from any failure by the IDNO to comply with the Agreement

4.1.2 Subject to sub-condition 4.1.3, the IDNO agrees to indemnify and hold harmless Northern Powergrid from and against all losses, costs, actions, claims, demands or expenses suffered by or brought made or threatened against Northern Powergrid which arise as a result of or in connection with:-

4.1.2.1 any matters affecting or relating to the required electricity substation site that will or does accommodate the Substation Building or the property in which Electric Lines will be or have been laid by Northern Powergrid or the property over and along which easements for access to the substation site will be or are being exercised that would have been disclosed had the following conveyancing searches and enquiries been carried out, namely

(a) coal mining search; or

(b) enquiries of utility companies, statutory undertakers and others having underground apparatus;

4.1.2.2 any failure by the IDNO or its employees agents or contractors to have complied with all requirements of the local planning authority (and any other authority or body whose permission is required or who must be notified or consulted before any building or development is commenced or during or after completion of any such building or development) including conditions of any planning permission approval or consent in relation to the Substation Building; and

4.1.2.3 compliance with any Court order or judgment requiring Northern Powergrid to either remove or cease use of any or all of its Electrical Plant and/or Electric Lines from or within the Substation Building and/or remove or cease use of its Electric Lines from or

within land outside the Substation Building including land in which rights have been granted to Northern Powergrid (or have been purported to have been so granted) in the Transfer or Lease relating to the Connection

**4.1.3 Northern Powergrid shall:**

4.1.3.1 as soon as reasonably practicable after any third party makes a claim against Northern Powergrid which may reasonably be considered likely to give rise to a liability under the indemnity set out in sub-condition 4.1.2 (a Claim) give written notice of the Claim to the IDNO, specifying the nature of the Claim in reasonable detail. The IDNO agrees that any failure by Northern Powergrid to give any such written notice shall not affect the enforceability of this indemnity in relation to either that or any other Claim;

4.1.3.2 not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the IDNO (such consent not to be unreasonably withheld or delayed); and

4.1.3.3 give the IDNO and its professional advisers such information relating directly to the Claim as the IDNO or its professional advisers shall reasonably require save that Northern Powergrid shall not be required to give or disclose any information that it considers acting reasonably (i) to be confidential in nature and/or (ii) does not relate directly to the Claim. The provision of any information by Northern Powergrid shall be at the entire cost and expense of the IDNO and the IDNO agrees to pay such costs and expenses to Northern Powergrid on demand

4.1.4 If a payment due from the IDNO under sub-condition 4.1 is subject to tax (whether by way of direct assessment or withholding at its source), Northern Powergrid shall be entitled to receive from the IDNO such amounts as shall ensure that the net receipt, after tax, to Northern Powergrid in respect of the payment is the same as it would have been were the payment not subject to tax

4.1.5 Nothing in this condition 4 shall restrict or limit Northern Powergrid's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under the indemnity contained in sub-condition 4.1.2

**4.2 Limitation of liability**

4.2.1 Subject to sub-condition 4.2.2 Northern Powergrid shall not have any liability to the IDNO for any losses, costs, actions, claims, demands or expenses suffered by or brought made or threatened against the IDNO, whether direct or indirect, consequential, economic or of any other nature

4.2.2 Nothing in this Agreement shall operate so as to exclude or limit the liability of a party (the "Party Liable") to the other party for (a) losses, costs, actions, claims, demands or expenses arising as a result of the fraudulent act or omission of the Party Liable or (b) death or personal injury resulting from the negligent act or default of the Party Liable

**4.3 IDNO to have no right of action or claim against Northern Powergrid**

The IDNO acknowledges and agrees that in carrying out work to install Electrical Plant and Electric Lines in the Substation Building and to install Electric Lines in land outside the

Substation Building (including but not limited to land in which rights have been granted to Northern Powergrid (or have been purported to have been so granted) in or by a Transfer or Lease relating to the Connection) Northern Powergrid has relied wholly upon searches, enquiries and investigations made by the IDNO or the pre-agreed law firm referred to in condition 3 above and upon the professional skill and expertise of the said pre-agreed law firm. In the event that, in accordance with paragraph 4.1.2.3 above, Northern Powergrid is required to either remove or cease use of any or all of its Electrical Plant and Electric Lines from or within the Substation Building and/or remove or cease use of its Electric Lines from or within land outside the Substation Building including land in which rights have been granted to Northern Powergrid (or have been purported to have been so granted) in or by the Transfer or Lease relating to the Connection, then the IDNO acknowledges and agrees that Northern Powergrid will comply with any such order or judgment and that in so doing the relevant Connection will cease to be a Connection and no electricity will from that time forward flow from the Distribution Network into the IDNO Network. At any time after the date on which the Connection ceases to be an energised Connection and/or electricity ceases to flow from the Distribution Network into the IDNO Network the IDNO will be entitled to make application for a connection pursuant to the provisions of the Act. In the circumstances described in sub-condition 4.1.2.3 and this condition 4.3 the IDNO acknowledges that it has no right of action or claim of any kind or nature against Northern Powergrid with regard to such Connection or the fact that electricity has ceased to flow from the Distribution Network into the IDNO Network and the sole and exclusive right of the IDNO against Northern Powergrid is to make application for a connection pursuant to the provisions of the Act

#### **4.4 Continuing obligation owed by IDNO to Northern Powergrid**

This condition 4 shall be a continuing legal obligation owed by the IDNO to Northern Powergrid and shall continue in full force and effect notwithstanding any termination or suspension of the Agreement

### **5. Agreements and acknowledgements**

5.1 The IDNO acknowledges and agrees as follows:-

5.1.1 That the Agreement is not intended to, and will not, interfere with, alter, modify or amend any of the terms and conditions of the Bilateral Connection Agreement or any other agreement to which Northern Powergrid and the IDNO are parties and that if any part of the Agreement (or these terms and conditions) would, or could, have that effect, then the part of the Agreement (or these terms and conditions) that has, or could have, that effect shall be disregarded and will not apply to the extent it has, or could have, that effect

5.1.2 That in the case of all Connections Northern Powergrid requires appropriate legal security for its Distribution Network, including Electrical Plant and Electric Lines to be provided in order to facilitate a Connection, where any part of the Distribution Network falls, or will fall, within private land, that is to say within any land that is:-

(a) not a Maintainable Highway and

(b) is owned by any person, company or other entity other than Northern Powergrid and/or the IDNO

and that it is for Northern Powergrid to determine, from time to time, what constitutes an appropriate level of legal security, and Northern Powergrid is entitled to alter this determination or requirement at any time as it sees fit

5.1.3 That in the case of all Connections, Northern Powergrid requires property interests that grant to it the legal right to lay, maintain, use, inspect, repair, replace etc. Electric Lines and to construct, maintain, use, inspect, repair, replace etc. Electrical Plant, for Electric Lines and Electrical Plant required in relation to the provision and maintenance of such Connections

5.1.4 That where, in relation to a Connection, legal easements for Electric Lines are required by Northern Powergrid beyond those easements to be granted to Northern Powergrid by the Transfer or Lease, it shall be reserved exclusively to Northern Powergrid to deal with all aspects of that requirement including (without limitation) all negotiations and completion of legal easements

5.2 The IDNO and Northern Powergrid agree as follows:-

5.2.1 That Appendix 1 contains the form of Transfer, and Appendix 2 contains the form of Lease, to be used in order to grant the required easements to Northern Powergrid and that Northern Powergrid will be a non-executing third party to such deeds and that the forms of Transfer and Lease contain the required easements as at the date of the Agreement

5.2.2 That either party may propose changes to the Transfer and Lease at any time but that no changes are agreed until accepted in writing by the other party and that if a party is not prepared to continue with operation of the Agreement until changes have been agreed, then either party may either suspend the operation of the Agreement for such period and/or in relation to such Connection or Connections as it shall state in a notice, or terminate the Agreement immediately on notice provided that any such suspension or termination is subject to the provisions of condition 8 and sub-condition 5.2.3 below.

5.2.3 That no such notice as is referred to in sub-condition 8.3 or sub-condition 5.2.2 shall affect the continued operation of the Agreement in relation to a Connection where, in relation to that Connection, all of the following requirements have been satisfied namely:

(a) the offer to provide the Connection or non-contestable connection services (as the case may be) in question has been made by Northern Powergrid;

(b) such offer has been unconditionally accepted by the IDNO or by the ICP (as the case may be);

(c) the sum quoted in such offer has been paid in full by the IDNO or the ICP (as the case may be) and received in full in cleared funds by Northern Powergrid;

(d) the detailed electrical design, design plans and any other relevant plans or documents prepared by the IDNO and/or the ICP (as the case may be) have been unconditionally approved by Northern Powergrid; and

(e) any conditions detailed in the connection or non-contestable connection services offer (as the case may be) made by Northern Powergrid (referred to in sub-condition (a) above) have been satisfied in full



5.2.4 That (to avoid any doubt) the pre-agreed law firm referred to in the Agreement and these terms and conditions is not approved or authorised to act for or on behalf of Northern Powergrid unless and until such approval and authority is confirmed in writing by a director, the General Counsel or the Company Secretary of Northern Powergrid

5.2.5 That a pre-agreed law firm will be used to carry out the conveyancing services in relation to the Transfer or Lease and that the law firm will be instructed by the IDNO (on behalf of the IDNO and Northern Powergrid) and such instruction shall be strictly on the basis of the Protocol and Undertaking detailed in Appendix 3 (as may be amended by agreement between the IDNO and Northern Powergrid)

5.2.6 That the scope of the Agreement and these terms and conditions is limited to the Electrical Plant and Electric Lines required to provide the Connection between the Distribution Network and the location of the Connection and does not affect or relate to any part of the Distribution Network existing at the time immediately before physical works commence in relation to the Connection, nor does it apply to any off-site upstream reinforcement to the Distribution Network that may be required

5.2.7 That circumstances may arise from time to time where existing Electric Lines forming part of the Distribution Network that are not directly related to a Connection may be in, on, over or under the Development and which in some cases will require to be diverted or replaced along an alternative route in order for the Development to be developed. All negotiations in relation to such diversion, replacement and/or retention of such exiting Electric Lines will be between Northern Powergrid and the owner of the Development. In circumstances where both (a) it is practicable so to do and (b) Northern Powergrid has requested the IDNO so to do, the IDNO will include within the Transfer or Lease legal easements for the retention of such existing Electric Lines in its or their existing positions within the Development (where and to the extent that retention has been agreed between Northern Powergrid and the owner of the Development) and/or legal easements for the diverted or replacement route along which Electric Lines are to be laid and placed in replacement for such existing Electric Lines in, on, over or under the Development (where and to the extent that a diversion or replacement along a different route has been so agreed)

5.2.8 Regardless of whether a Connection is to be provided by Northern Powergrid or by an ICP, no work to electrically energise that Connection will be carried out until Northern Powergrid has:-

- (a) received a certified copy of the completed Transfer or Lease;
- (b) completed any deed of grant and/or other required legal document (as referred to in sub-condition 5.1.4 above);
- (c) carried out completed and commissioned all works to the Distribution Network necessary to enable the Connection to be energised;
- (d) received unconditional planning and all other required consents approvals and permissions in relation to the Connection and/or any works to the Distribution Network necessary in connection with the Connection; and

(e) within its custody and control a signed and completed Bilateral Connection Agreement and such other signed and completed document or documents as is or are reasonably required by Northern Powergrid so as to ensure that the Bilateral Connection Agreement applies in all respects to the Connection

## **6. Licence to occupy part of Substation Building**

6.1 It is expected that the Bilateral Connection Agreement will contain terms and conditions by which Northern Powergrid has the right to keep its Electrical Plant and Electric Lines required for the Connection in the Substation Building for so long as the Connection is required

6.2 In order to avoid doubt the IDNO grants (and in the case of any further Connection arising after the date of the Agreement agrees to grant) to Northern Powergrid, as a separate licence in relation to each and every such Connection, full and free rights:-

(a) to construct, lay, place, retain, maintain, use, inspect, repair, replace and renew such Electrical Plant and Electric Lines within the Substation Building as are reasonably required for that Connection

(b) to have free and uninterrupted access from the nearest public highway to the Electrical Plant and Electric Lines within that Substation Building and

(c) to have the right to construct, lay, place, retain, maintain, use, inspect, repair, replace and renew Electric Lines in any land owned by or leased to the IDNO between that Substation Building and the Distribution Network

AND each and every licence granted or deemed to have been granted or to be granted by this sub-condition 6.2 will commence or will be deemed to have commenced on the date Northern Powergrid first commences or commenced physical work on site in connection with the Connection

6.3 This condition 6 shall be a continuing legal obligation owed by the IDNO to Northern Powergrid and shall continue in full force and effect notwithstanding any termination or suspension of the Agreement. The provisions of this condition 6 shall come to an end in relation to a particular Connection only when both of the following conditions are satisfied, that is to say:-

(a) the Connection in question is no longer required by the IDNO and the IDNO has notified Northern Powergrid in writing (i) that this is the case and (ii) of the date on and from which the Connection will no longer be required by the IDNO; and

(b) Northern Powergrid has removed all of its Electrical Plant and Electric Lines from the Substation Building and its Electric Lines have either been removed from, or rendered unusable in, land owned by or leased to the IDNO between that Substation Building and the Distribution Network

6.4 The IDNO shall ensure that if it shall transfer, lease or sub-lease its interest in property and easements acquired pursuant to a Transfer or Lease then each and every such transfer, lease or sub-lease shall be made expressly subject to the licence created by, and the terms of, this condition 6, and the transferee, lessee or sub-lessee shall enter into a covenant in

the transfer, lease or sub-lease by which it covenants with both the IDNO and Northern Powergrid to comply with all provisions of this condition 6. A certified copy of any such transfer, lease or sub-lease will be provided to Northern Powergrid within 10 working days from completion thereof

6.5 Each and every licence granted or deemed to have been granted or to be granted pursuant to this condition 6 will continue for the benefit of Northern Powergrid and for its successors in title being the person firm company or other entity who is the owner of the Distribution Network or (if the Distribution Network is owned in parts by different persons firms companies or other entities) the owner of the part of the Distribution Network to which the IDNO Network is connected

6.6 The IDNO shall forthwith upon request by Northern Powergrid whether made before or after the date upon which a Connection is energised with electricity from the Distribution Network confirm to Northern Powergrid in writing that it grants to Northern Powergrid a licence in relation to that Connection upon the terms contained in sub-conditions 6.2 to 6.5 (inclusive) of this condition 6 and the issuing of such confirmation by the IDNO shall constitute the granting of a licence upon such terms

## **7. Obligations of Northern Powergrid**

7.1 If the WTM has received notice from the IDNO pursuant to sub-condition 3.8 then the WTM will determine whether the modification or amendment is acceptable to Northern Powergrid or whether Northern Powergrid requires its own legal advice from one of the law firms used by Northern Powergrid (being a law firm other than the pre-agreed law firm referred to in sub-condition 3.7 above). If the latter, then the WTM will provide details of the matter to the relevant law firm and will request the advice. The WTM will subsequently inform the IDNO that (a) the modification or amendment is acceptable, or (b) an alternative acceptable modification or amendment has been agreed between the transferor or lessor and Northern Powergrid or (c) agreement cannot be reached between the transferor or lessor and Northern Powergrid

7.2 If sub-condition 5.1.4 applies to a Connection then Northern Powergrid will inform the IDNO in the event that the relevant landowner or landowners refuse to grant the required legal easement or refuse to grant it or them on terms considered by Northern Powergrid to be reasonable

## **8. Termination and/or suspension of the Agreement**

8.1 No notice terminating or suspending the Agreement will be effective to terminate or suspend condition 4 of these terms and conditions, which shall remain in full force and effect

8.2 No notice terminating or suspending the Agreement will be effective to terminate or suspend condition 6 of these terms and conditions, which shall remain in full force and effect. The provisions of condition 6 of these terms and conditions will only come to an end in relation to a particular Connection as provided for in sub-condition 6.3

8.3 With the exception of conditions 4 and 6, the Agreement may be suspended (whether in relation to a specific Connection or Connections or generally) or terminated immediately upon written notice by either party to the other

## **9. Notices**

9.1 All notices under the Agreement and these terms and conditions shall be in writing and shall be given or made to the recipient at its registered office

9.2 Every notice addressed in accordance with the provisions of this condition 9 shall be deemed to have been duly given or made, if delivered by hand, upon delivery at the address of the recipient party, if sent by first class post, two (2) Business Days after the date of posting, if transmitted by facsimile, at the time of transmission (provided a confirmatory letter is sent by first class post), provided always that, where, in accordance with the above provisions, any notice would otherwise be deemed to be given or made on a day which is not a Business Day or after 5.30pm on a Business Day, such notice shall be deemed to be given or made at 9.00am on the next Business Day

## **10. Rights of third parties**

A person who is not a party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any enforceable term or condition of the Agreement

## **11. Waiver**

No failure or delay by a party in the exercise of any right or remedy provided under the Agreement and these terms and conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. A waiver of any right or remedy under the Agreement and these terms and conditions is only effective if given in writing

## **12. Severance**

12.1 If any provision of the Agreement and these terms and conditions shall be found by any court or body or authority of competent jurisdiction to be invalid or unenforceable, such provision shall be severed from the remainder of the Agreement and these terms and conditions which shall remain in full force and effect to the extent permitted by law

12.2 If any provision of the Agreement and these terms and conditions is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted or modified, the provision in question shall apply with such modification as may be necessary to make it valid

12.3 In the circumstances referred to in sub-condition 12.1 and providing sub-condition 12.2 does not apply, the parties shall use all reasonable endeavours for a period of 30 days to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision. During such period, the obligations of the parties under any invalid or unenforceable provision of the Agreement shall be deemed suspended

### **13. Governing law and jurisdiction**

The Agreement and these terms and conditions and the obligations created under it shall be governed by and construed in accordance with English law and the parties irrevocably agree that the Courts of England shall have exclusive jurisdiction to settle any claims or disputes which may arise out of or in connection with the Agreement and these terms and conditions and each party irrevocably submits to the jurisdiction of the Courts of England for such purpose

## Appendix 1

### Form of Transfer

[FORM OF TRANSFER TO BE AGREED]

## Appendix 2

### Form of Lease

[FORM OF LEASE TO BE AGREED]

## Appendix 3

### Jointly appointed Law Firm Protocol and Undertaking

1. [insert name of instructed Law Firm] (the “Law Firm”) shall owe a duty of care to both [ ] (the “IDNO”) and [Northern Powergrid (Northeast) Limited] [or] [Northern Powergrid (Yorkshire) plc] (“Northern Powergrid”) and shall act in the best interests of both parties and shall issue a client care letter to both the IDNO and Northern Powergrid (a) on an annual basis, (b) when any of the Law Firm’s terms of business are amended and (c) when otherwise requested by the IDNO or Northern Powergrid.
2. Where any conflict arises between the interests of these two parties such that it is not possible for the Law Firm to act in the best interests of both, the Law Firm shall inform the parties of this fact and advise them that they should seek separate advice if appropriate.
3. The Law Firm shall investigate the title of [insert name of entity that is the legal owner of the property the subject of the Transfer or Lease] (the “Company”) to the [insert definition of property] (the “Property”) and shall make all appropriate and reasonable conveyancing (including, without limitation, Land Registry) searches and enquiries. Following completion of title investigation, searches and enquiries the Law Firm shall provide a report on title to the IDNO and Northern Powergrid and shall confirm to the IDNO and Northern Powergrid that either:-
  - (a) the Company has good unencumbered title and is solely legally entitled to the Property and legally entitled to enter into the proposed Transfer or Lease without consent or approval of any other person or
  - (b) the Property is subject to unacceptable encumbrances, the nature of such encumbrances and why they are unacceptable and present risk to either the IDNO, Northern Powergrid, or both of them. To avoid doubt, the expression “Property” shall include the full extent of all easements shown on the plan or drawing provided in connection with the Transfer or Lease.
4. It is the responsibility of the Law Firm to carry out, obtain, analyse and report to the IDNO and Northern Powergrid upon such title documents, searches and enquiries as it considers appropriate and reasonable having regard to the transaction being dealt with and the legal and professional obligations that the Law Firm owes to its clients. Without prejudice to that overriding obligation the Law Firm must always obtain and analyse:-
  - (a) Land Registry official copies of the registered title and title plan of each title from which the freehold or leasehold interest is to be granted, and from which any easements are to be granted (as well as any interest superior to that title) showing that the Company is the registered proprietor of the Property with title absolute and any necessary supporting title documentation
  - (b) standard pre-contract enquiries of the seller in an agreed form
  - (c) official copies of any documents registered or noted in the title to the Property and
  - (d) usual conveyancing searches including, without limitation, local land charges search, Land Registry index map search and Land Registry OS2 priority search.
5. The Law Firm shall not deviate from the standard form of Transfer or Lease, or agree any amendments to the Agreed Clauses (the “Agreed Clauses” being those highlighted in grey on the standard form of Transfer or Lease), without first having obtained the approval of both the IDNO and Northern Powergrid. If any amendments are requested to the Agreed Clauses by the seller’s or lessor’s lawyer, then the Law Firm will advise both the IDNO and Northern Powergrid on the impact of such amendments.



6. The Law Firm will use with the Transfer or Lease only the plan or drawing agreed by both the IDNO and Northern Powergrid. The Law Firm will not agree any amendments to the plan or drawing without first having obtained the approval of both the IDNO and Northern Powergrid to such amendment.

7. The Law Firm shall complete any Stamp Duty Land Tax (SDLT) return which is required in relation to the grant of the legal interest to the IDNO and/or Northern Powergrid (including easements granted), and submit it, together with a cheque for the appropriate amount, to HM Revenue & Customs and deal with any requisitions raised in respect of that SDLT return.

8. The Law Firm shall ensure that a Land Registry OS2 priority search is carried out against each registered title affected by the Transfer or Lease (including all easements) and that the Transfer or Lease is completed within the priority period afforded by such Land Registry OS2 priority searches.

9. The Law Firm shall scan and email to the IDNO and Northern Powergrid, within 24 hours of completion of the Transfer or Lease, a certified copy of the Transfer or Lease and shall send a hard copy certified copy of such document to the IDNO and Northern Powergrid within 20 working days of the date of completion.

10. Prior to the date upon which any of the Land Registry OS2 priority searches expire, the Law Firm shall submit completed applications to Land Registry to register each of the legal interests that have been granted to the IDNO and Northern Powergrid, together with all necessary supporting documentation and together also with, if necessary, a letter on behalf of the IDNO consenting to the registration of the interest granted to Northern Powergrid. The Law Firm shall ensure that the applications are received by Land Registry before expiry of the priority conferred by the OS2 search results.

11. The Law Firm shall deal with any requisition raised by Land Registry in connection with the Land Registry applications submitted in accordance with paragraph 10 above as soon as reasonably practicable but in any event within any time limit imposed by Land Registry.

12. The Law Firm shall promptly following completion of the Land Registry application submitted in accordance with paragraph 10 above deliver to the IDNO and Northern Powergrid official copies and title plans of each registered title affected by the registration of the IDNO's and Northern Powergrid's legal interests granted by the Transfer or Lease.

13. The Law Firm shall hold all deeds and documents in its possession relating to the Property strictly to the order of the IDNO and Northern Powergrid, and shall without charge provide certified copies of any such documents to either the IDNO or Northern Powergrid or both of them at any time upon request.

14. This protocol assumes that the Transfer or Lease is to be granted out of an estate already registered at Land Registry. If exceptional circumstances should arise such that the title out of which the interests to be granted is unregistered, then the relevant parts of this protocol shall be deemed to be amended to such an extent as to ensure that proper unregistered conveyance practice is fully complied with.

15. The Law Firm confirms that it understands and agrees that, notwithstanding the fact that it is acting jointly for the IDNO and Northern Powergrid, all legal fees, costs, expenses

and disbursements will be payable by the IDNO. Under no circumstances will Northern Powergrid have any liability for any such fees, costs, expenses and disbursements regardless of whether or not they are paid (in full or in part) by the IDNO.

16. The Law Firm will not, without having first obtained the written consent of the Company Secretary of Northern Powergrid, publicise or advertise the fact that it acts for Northern Powergrid either orally or in writing (otherwise than in normal and routine correspondence between lawyers in connection with a particular Transaction). The Law Firm will not, without such consent, include the name of Northern Powergrid on any client lists used for advertising purposes, or any general marketing or publicity material.