

**SCHEDULE 11**

**Community Energy Operation Requirements**

**SCHEDULE 11 - COMMUNITY ENERGY OPERATION REQUIREMENTS**

This is Schedule 11 (Community Energy Operation Requirements) of the

Concession Agreement

Between

Stratford City Developments Limited

and

Olympic Delivery Authority

and

Cofely East London Energy Limited

**For identification purposes:**

**Signed for Stratford City Developments Limited:**

.....

**Signed for Olympic Delivery Authority:**

.....

**Signed for Cofely East London Energy Limited:**

.....

**Dated:**

## SCHEDULE 11

### COMMUNITY ENERGY OPERATION REQUIREMENTS

For the purposes of this Schedule 11:

**"Abortive Calls"** has the meaning given in a Residential Supply Agreement;

**"Abortive Costs"** means the costs directly, properly and actually incurred by the Concessionaire and payable by the Developer to the Concessionaire in the event that Connection is not completed because the Concessionaire is impeded from fulfilling its obligations under the Connection Agreement due to a breach of the Connection Agreement by the Developer;

**"Active Website"** shall have the meaning given to it in Section 17.2 of Part D of this Schedule 11;

**"Additional Residential Floor Space"** means all residential floorspace at Stratford City Cherry Park additional to that residential floorspace originally consented to under the relevant planning consents and permission;

**"Agreed Form Residential/Mixed Use Master Supply Agreement"** has the meaning given in Section 1.4 of Part D of this Schedule 11.

**"Annual Report"** shall have the meaning given to it in Section 12.1 of Part D of this Schedule 11;

**"Annual Schedule of Planned Maintenance"** shall have the meaning given to it in Section 6.14 of Part A of this Schedule 11;

**"Availability Fee"** means the standing charge for keeping the Connection available levied by the Concessionaire and billed to a Community Energy Customer in accordance with the provisions of Part D, Part E or Part F of this Schedule 11;

**"Avoided Cost"** means the cost of a comparable heating and/or cooling system (as applicable);

**"Bad Debt"** means the Community Energy Customers' debt that is deemed to be irrecoverable;

**"Bad Debt Review"** shall have the meaning given to it in Section 12.3 of Part D of this Schedule 11;

**"Base Case Connection"** means those Connections to the H&C Network which incorporate a substation in accordance with the Concessionaire's standard specification as described in Section 3 of Part H of this Schedule 11;

**"Base Case Connection Agreement"** means an agreement between the Concessionaire and the Developer for a Base Case Connection in accordance with Part H of this Schedule 11 and **"Base Case Connection Agreements"** means more than one Base Case Connection Agreement;

**"Base Case Connection Charge"** means the charge levied by the Concessionaire on a Developer in accordance with the provisions of Section 4 of Part H for a Base Case Connection;

**"Base Employer KPIs"** shall have the meaning given to it in Appendix 1 of Part A of this Schedule 11;

**"Basic Connection"** means those Connections to the H&C Network which incorporate a substation and that can be effected without an extension of the H&C Network of more than 100 metres;

**"Basic Connection Charge"** means the charge levied by the Concessionaire on a Developer in accordance with the provisions of Section 5 of Part G1 and Section 5 of Part G2 both of this Schedule 11 for a Basic Connection;

**"BEAMA Indices"** means the BEAMA electrical engineering labour cost index, the BEAMA basic electrical materials cost index, the BEAMA mechanical engineering labour cost index, and the BEAMA mechanical engineering materials cost index, as the context requires;

**"CHP Plant"** means equipment at an Energy Centre that is designed for the simultaneous generation of heating and/or cooling and electrical power;

**"CHPQA"** means the Government initiative administered on behalf of DEFRA to monitor, assess and improve the quality of United Kingdom combined heat and power schemes;

**"CHPQA Quality Index"** means the parameters (referred to therein as the Quality Index) used in the assessment of the energy efficiency of a combined heat and power scheme for the purposes of the CHPQA;

**"Commercial Connection Agreement"** means an agreement between the Concessionaire and Developer for a Connection to a Commercial Development in accordance with Part G1 of this Schedule 11 and **"Commercial Connection Agreements"** shall mean more than one Commercial Connection Agreement.

**"Commercial Cooling Charges"** means Energy Services Charges payable by Commercial Development Customers for the supply of Cooling Services;

**"Commercial Development Customer"** means the counterparty to the Concessionaire under a Commercial Development Supply Agreement;

**"Commercial Development Supply Agreement"** means an agreement for the supply of Community Energy Services in respect of Commercial Developments as referred to in Part E of this Schedule 11 and **"Commercial Development Supply Agreements"** shall mean more than one Commercial Development Supply Agreement;

**"Commercial Developments"** means those Developments consisting only of Commercial Units;

**"Commercial Unit"** means a part of the Development which is primarily used for business or commercial purposes and **"Commercial Units"** means more than one such Commercial Unit;

**"Commercial Unit Point of Connection"** has the meaning given in the Residential/Mixed Use Master Supply Agreement;

**"Common Heat Availability Charge"** shall have the meaning given to it in the Residential/Mixed Use Master Supply Agreement and relevant Subsidiary Supply Agreements;

**"Common Parts"** means any part of the Development or the premises at the Connection Address which is neither a Commercial Unit nor a Dwelling;

**"Common Parts Customer"** shall have the meaning given to it in Section 15 of Part D of this Schedule 11 as appropriate;

**"Common Parts Supply Agreement"** means an agreement to be entered into between the Concessionaire and the Common Parts Customer for the supply of Energy Services to the Common Parts that have been connected to the Community Energy Network;

**"Connection Address"** means the Development plot connection address as detailed in the Connection Agreement;

**"Connection Area"** means:

- (a) if there is only one Connection serving the entire Development, the Development; or
- (b) if there is more than one Connection serving the Development, that part of the Development which is served by any individual Connection;

**"Connection Charge"** means any of the Basic Connection Charge, Base Case Connection Charge or Incremental Connection Charge as applicable and calculated in accordance with the provisions of Part G1 or Part G2 or Part H of this Schedule 11;

**"Connection Request"** means a written request by a Developer for Connection to the H&C Network in accordance with Section 3 of Part G1 or Section 3 of Part G2 or Section 3 of Part H of this Schedule 11;

**"Connection Variation"** shall have the meaning given to it in the Connection Agreement;

**"Consumables (IM)"** means all consumable supplies required for the provision of the ODA IM Services;

**"Consumer Meter Services"** means the services set out in Part 3 of Schedule 7 of the Agreed Form Residential/Mixed Use Master Supply Agreement;

**"Consumer Services"** means the (i) Metering and Billing Services, (ii) Consumer Meter Services and (ii) HIU Services;

**"Consumption Fee"** means the charge per unit of heat and/or cooling supplied by the Concessionaire by means of the H&C Network;

**"Contingency Plan"** shall have the meaning given to it in section 6.9 of Part A of this Schedule 11;

**"Cooling Services"** means the provision of cooling to Developments connected to the H&C Network;

**"Customer Meter"** means (a) during any Consumer Services Period the metering equipment used for the measurement of Heating Services and/or Cooling Services beyond the Point of Connection for the purpose of billing under Subsidiary Supply Agreements or (b) the Network Meter;

**"Deed of Settlement"** means the deed of settlement and variation dated 21 December 2012 made between the Parties as amended and restated on or around the Second Effective Date pursuant to, and the form of which is contained within Schedule 2 of, the Wrap Agreement;

**"DMP"** means the debt management process set out at Clause 10 of a Residential Supply Agreement;

**"DNO"** means the distribution network operator, the licensed operator of the Host Network for the Site;

**"DNO Network"** means the 132kV electricity network serving the Site, operated under a distribution licence granted under Section 6(1)(c) of the Electricity Act 1989 (as amended by the Utilities Act 2000 and Energy Act 2004) and not being the Host Network;

**"Distribution Code"** means the code prepared by the DNO pursuant to condition 9 (Distribution Code) of its licence and approved by Ofgem as revised from time to time with the approval of, or by the direction of, Ofgem;

**"Dwelling"** means a residential unit and **"Dwellings"** shall mean more than one such residential unit;

**"Edwardian Warehouse Building"** means a retained warehouse building between the Lea Navigation and the LLDC Energy Centre shown in orange and marked 'CCHP' on drawing number 2DD-BUR-UZ-ZZZ-OLP-ZZZ-Z-001 Rev00 as set out in Appendix B2 of Schedule 4;

**"Edwardian Warehouse Building Works"** means that part of the Initial Works which the Concessionaire is required to carry out pursuant to this Agreement in respect of the Edwardian Warehouse Building;

**"Electricity Network"** means the 11kV electricity distribution and supply network within the Site, including any plant substations, transformers and the Inter-connectors but excluding any part of the DNO Network;

**"Electricity Services"** means the production of electricity at the Energy Centres;

**"Employer KPI"** shall have the meaning given to it in Section 10.1 of Part A of this Schedule 11;

**"Energy Centres"** means the combined cooling heat and power stations described in Schedule 4 and as modified and/or extended from time to time by the Phase 2 Works;

**"Energy Service Charges"** means all the charges payable by a Community Energy Customer and/or Subsidiary Community Energy Customer for Energy Services as specified in this Schedule 11 and including but not limited to, the Availability Fee, the Consumption Charge, the Customer Meter Charges and the Metering and Billing Charges (to the extent applicable) but excluding the Connection Charge (where provided for under a relevant Connection Agreement in accordance with the provisions of Part G1 or Part G2 or Part H of this Schedule 11);

**"Estate Management Company"** means East Village Management Limited (company number 06917185) and its successors;

**"Exemplar Building"** means a building designed to have 10% of the building's predicted heat and power needs resourced from locally resourced renewable energy either on or off Site;

**"Existing Connection"** has the meaning given in Section 5.2A of Part G1, Section 5.3A of Part G2 and Section 4.6A of Part H of Schedule 11;

**"Existing Developments"** means each and all of Plots numbered N01, N02, N03, N04, N07, N09, N10, N13, N14, N15, N26 north and N26 south as shown for identification only edged

green on the drawing number 1033\_20110727\_ 03 revision 00 prepared by Fletcher Priest Architects a copy of which is attached in Appendix 4 of Part D of this Schedule 11 and also identified on such drawing by the relevant plot number;

**"Floor Area"** means the Floor Space (in m<sup>2</sup>) including the internal space occupied by partitions, columns, chimney breasts and internal structural walls but excluding stair wells and lift wells unless heated;

**"Floor Space"** means the total heated and/or cooled surface area of all premises Connected to the H&C Network expressed in square metres;

**"Future Developments"** means Mixed Use Developments or Residential Developments on the Site other than (i) an Existing Development or (ii) Developments that are a Base Case Connection or an Existing Connection, and **"Future Development"** shall mean any one such development as the context requires;

**"Gas"** means natural gas supplied through the United Kingdom NBP;

**"Generation Connection Agreement"** means an agreement for the connection of a distributed generation installation to the Host Network;

**"Gross Cooled Floor Area"** means the total (in m<sup>2</sup>) of all enclosed spaces within the Development to which Cooling Services are to be supplied measured to the internal structural face of the enclosing walls and including for the avoidance of doubt, the internal space occupied by partitions, columns, chimney breasts, internal structural or party walls, stair wells, lift wells and the like;

**"Gross Heated Floor Area"** means the total (in m<sup>2</sup>) of all enclosed spaces within the Development to which Heating Services are to be supplied measured to the internal structural face of the enclosing walls and including for the avoidance of doubt, the internal space occupied by partitions, columns, chimney breasts, internal structural or party walls, stair wells, lift wells and the like;

**"Gross Serviced Floor Area"** means the Gross Cooled Floor Area and/or the Gross Heated Floor Area, as applicable;

**"Guidance"** means the Danish MDIR document titled "Guidance on Thermal Energy Meters / District Heating Meters - Guidance on Control System for Meters in Service and for Re-Verification of Meters" as updated from time to time, or such other reference standard as the Employer may agree with the Concessionaire to use for the purposes of this Agreement;

**"Heating Services"** means heating services provided (a) to a Commercial Development Customer or to a Residential/Mixed Use Customer (but in the case of a Residential/Mixed Use Customer only outside of a Consumer Services Period) in each case in the form of heat transferred at the Point of Connection or (b) during a Consumer Services Period, to a Residential Customer in the form of heat transferred at the green line shown on the HIU Drawing or to a Mixed Use Commercial Customer in the form of heat transferred at the Commercial Unit Point of Connection (as the case may be);

**"HIU"** shall have the meaning given to it in a Residential/Mixed Use Connection Agreement;

**"HIU Drawing"** means the drawing in Part 1 of Schedule 1 of the Agreed Form Residential/Mixed Use Master Supply Agreement;

**"HIU Services"** means the services described in Part 4 of Schedule 7 of the Residential/Mixed Use Master Supply Agreement;

**"Host Network"** means the electricity distribution network within the Site operated by the relevant DNO to which the Energy Centres are connected by way of the Inter-connectors;

**"Incremental Connection"** means any Connection that is not a Basic Connection, Base Case Connection or a Connection to Stratford City Cherry Park and in relation to which the Concessionaire is required to undertake works in relation to the Connection which are not covered by a Basic Connection;

**"Incremental Connection Charge"** means the charge levied by the Concessionaire on a Developer for an Incremental Connection comprising a Basic Connection Charge together with an additional charge to take account of the enhanced Connection characteristics of an Incremental Connection;

**"Initial Build Cost"** means s.43(2) ;

**"Initial Schedule of Planned Maintenance"** shall have the meaning given to it in Section 6.13 of Part A of this Schedule 11;

**"Initial Period"** shall have the meaning given to it in Section 12.3 of Part D of this Schedule 11;

**"Initial Service Period"** means the period commencing on 30 June 2013 and ending on the 31<sup>st</sup> March following the first anniversary of the Actual Completion Date;

**"Inter-connectors"** means the installed apparatus and plant connecting the electrical network within the Energy Centres to the Host Network;

**"Island Mode"** means the operation of the LLDC Energy Centre independently of the Host Network so as to allow the relevant Energy Centres to provide the ODA IM Services to the Community Energy Network (as applicable);

**"Kings Yard Primary Substation"** means the main electricity substation located at Kings Yard operated by the DNO;

**"Long Lease"** means a lease with a term of 40 years or more;

**"Major Overhaul"** means significant or material works to the Community Energy Network that are materially beyond the requirements of Planned Maintenance, including in relation to the duration of any disruption to the provision of Community Energy Services;

**"Meter Replacement Fund Account"** shall have the meaning given to it in Section 4.7 of Part D of this Schedule 11;

**"Meter and Billing Services"** means the services set out in Part 2 of Schedule 7 of the Residential/Mixed Use Master Supply Agreement;

**"Mixed Use Commercial Customer"** means the counterparty to the Concessionaire under a Mixed Use Commercial Supply Agreement;

**"Mixed Use Commercial Supply Agreement"** means, for Mixed Use Developments, a Commercial Supply Agreement as defined in the Residential/Mixed Use Master Supply Agreement referred to in Part D of this Schedule 11 and **"Mixed Use Commercial Supply Agreements"** shall mean more than one Mixed Use Commercial Supply Agreement;

**"Mixed Use Development"** means a Development consisting of both Dwellings and Commercial Units but not, for the avoidance of doubt, solely Commercial Units;



**"NBP"** means National Balancing Point;

**"NBP Offer"** means the latest Offer Price per MWh for Gas for the year ahead published on 1 March (or where 1 March is not a Business Day, the next Business Day) by ICIS Heren;

**"Network Meters"** means the real time metering and smart time displays for the measurement of the Heating Services and Cooling Services that is installed at the Point of Connection within any Development and forming part of the Community Energy Network;

**"O&M Services"** shall have the meaning given to it in Section 2.1 (d) (iii) of Part G1 and Section 3.1(b)(iii) of Part H, both of this Schedule 11;

**"ODA Host Network Failure"** shall have the meaning given to it in Section 4.1 of Part B of this Schedule 11;

**"ODA IM Services"** shall have the meaning given to it in Section 4.1 of Part B of this Schedule 11;

**"Offer Price"** means the lowest price for Gas offered by sellers at the close of business on the relevant trading day;

**"Olympic Park Venues"** means the following venues:

- Aquatics Venue
- Olympic Stadium
- Handball Arena
- IBC Office forming part of the IBC
- MPC
- Velodrome (being the cycle circuit forming part of the Velopark)
- Eton Manor

all as detailed on the drawing number 2DD-BUR-UZ-ZZZ-OLP-ZZZ-Z-001 Rev00 as set out in Appendix B2 of Schedule 4;

**"Olympic Park Venue Community Energy Customers"** means the Commercial Development Customers located in Olympic Park Venues;

**"Olympic Park Venue Customer Supply Agreement"** means the supply agreement between the Concessionaire and the Olympic Park Venue Community Energy Customers as referred to in Part F of this Schedule 11 and **"Olympic Park Venue Customer Supply Agreements"** means more than one Olympic Park Venue Customer Supply Agreement;

**"Planned Maintenance"** means scheduled maintenance or repair of the Community Energy Network to be carried out pursuant to an Annual Schedule of Planned Maintenance in accordance with Section 6.13 to Section 6.18 (inclusive) of Part A to this Schedule 11, which will cause disruption to Community Energy Services or will have an effect upon the manner in which the Concessionaire will perform the Community Energy Services, that are necessary to ensure the continued operation of the Community Energy Network and provision of Community Energy Services in accordance with the requirements of this Agreement, including without limitation the repair, renewal, servicing or replacement of any plant or equipment throughout the Operational Term;

**"Plot N06"** means the plot identified as such on the drawing number 1033\_20110727\_03 revision 00 prepared by Fletcher Priest Architects a copy of which is attached in Appendix 4 of Part D of this Schedule 11;

**"Point of Connection"** means within any Development, the point at which the isolation valve on the Secondary Network side of the plate heat exchanger substation connects to the H&C Network;

**"Primary Network"** means the H&C Network running from an Energy Centre to the Point of Connection;

**"Required Service Level"** shall have the meaning given to it in column 2 of the table in Appendix 1 of Part A of this Schedule 11;

**"Residential Development"** means a Development consisting only of Dwellings;

**"Residential Customer"** means the counterparty to the Concessionaire under a Residential Supply Agreement;

**"Residential Supply Agreement"** means, for a Residential Development or a Mixed Use Development, a Residential Supply Agreement as defined in the Residential/Mixed Use Master Supply Agreement and referred to in Part D of this Schedule 11 and **"Residential Supply Agreements"** means more than one Residential Supply Agreement;

**"Residential/Mixed Use Connection Agreement"** means an agreement between the Concessionaire and the Residential/Mixed Use Customer or Developer for a Connection to a Residential Development and/or Mixed Use Development in accordance with Part G2 of this Schedule 11 and **"Residential/Mixed Use Connection Agreements"** means more than one Residential/Mixed Use Connection Agreement;

**"Residential/Mixed Use Customer"** means the counterparty to the Concessionaire under a Residential/Mixed Use Master Supply Agreement;

**"Residential/Mixed Use Master Supply Agreement"** means an agreement for the supply of Community Energy Services in respect of Residential Developments and Mixed Use Developments and referred to in Part D of this Schedule 11 and **"Residential/Mixed Use Master Supply Agreements"** means more than one Residential/Mixed Use Master Supply Agreement;

**"Second Effective Date"** means ..... 2014;

**"Secondary Network"** shall have the meaning given to it in (i) a Residential/Mixed Use Connection Agreement in respect of Residential Developments and Mixed Use Developments and (ii) a Commercial Connection Agreement in respect of Commercial Developments (as applicable);

**"Secondary Network Services"** means the services set out in Schedule 13 of the Residential/Mixed Use Connection Agreement;

**"Service Period"** means a continuous period of twelve (12) months or part thereof ending on 31<sup>st</sup> March, during which the Energy Services Charges notified to Community Energy Customers shall apply;

**"Service Request"** means a request pursuant to Section 2.2 of Part D or Section 2.1 of Part E both of this Schedule 11 from respectively a prospective Residential/Mixed Use Customer or a Commercial Development Customer for Community Energy Services;

**"Service Failure Points"** shall have the meaning given to it in column 4 of the table in Appendix 1 of Part A of this Schedule 11;

**"Settlement Works"** means the modification of existing CCHP engines and associated plant and the specification and installation of future CCHP engines and associated plant, such that they are capable of operating continuously within return temperatures at the Energy Centres up to 75 degrees Celsius while continuing to meet the carbon saving requirements in Section 5.1(a) and Section 5.1(d) of Part A of this Schedule 11;

**"Shut-Down"** means, in respect of the LLDC Energy Centre, the situation whereby all generation of electricity has ceased and there is no electricity supplied from the LLDC Energy Centre;

**"Start-Up"** means the action of bringing the LLDC Energy Centre from Shut-Down to Synchronous Speed;

**"Stratford City Cherry Park"** means the area of land identified on the plan number SC-WDE-Z1-60-DR-A-07019 as set out in Appendix 4 of Part G2 of this Schedule 11;

**"Subsidiary Community Energy Customer"** means a counterparty to the Concessionaire under a Subsidiary Supply Agreement as the context requires;

**"Subsidiary Supply Agreement"** means: a Residential Supply Agreement; and/or a Mixed Use Commercial Supply Agreement; and/or a Void Supply Agreement and/or a Common Parts Supply Agreement in entered into or to be entered into on Residential Developments or Mixed Use Developments pursuant to Part D of this Schedule 11 and **"Subsidiary Supply Agreements"** means any combination of the foregoing as the context requires;

**"Summer Period"** means the period starting 1<sup>st</sup> May and ending 30<sup>th</sup> September;

**"Synchronised"** means the condition whereby the LLDC Energy Centre is connected to the busbars of the Host Network so that the frequencies and phase relationships of the LLDC Energy Centre and the Host Network are identical;

**"Synchronous Speed"** means the speed required by the generating units of the LLDC Energy Centre to enable the LLDC Energy Centre to be Synchronised to the Host Network;

**"Technical Specification"** means (a) the technical specification set out in Schedule 10 of a Residential/Mixed Use Connection Agreement and Schedule 3 of a Residential/Mixed Use Master Supply Agreement or (b) the technical specification set out in Schedule 1 of a Commercial Connection Agreement and Schedule 3 of a Commercial Development Supply Agreement (as applicable);

**"Total Turnover"** means the total billed charges for Heating Services supplied to all Residential Customers during the Service Period and in respect of which Bad Debt is reported on by the Concessionaire;

**"Unplanned Maintenance"** shall have the meaning given to it in Section 6.19 of Part A of this Schedule 11;

**"Void Supply Agreement"** shall have the meaning given in the Agreed Form Residential/Mixed Use Master Supply Agreement;

**"Winter Period"** means the period starting 1<sup>st</sup> October and ending 30<sup>th</sup> April;

**"Wrap Agreement"** means the agreement entered into between the Parties on the Second Effective Date for the amendment and restatement of this Agreement.

**Part A - General Operating Requirements for the Community Energy Network, Secondary Network Services and Consumer Services****1 General Obligations of the Concessionaire in respect of the Community Energy Network, Secondary Network Services and Consumer Services**

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- 1.1 Subject to and in accordance with the terms of this Agreement, the Concessionaire shall expand, extend, upgrade and replace the plant, equipment and infrastructure forming part of the Community Energy Network as necessary to meet the demand from Community Energy Customers and Subsidiary Community Energy Customers for the Community Energy Services throughout the Operational Term.
- 1.2 The Concessionaire shall operate and maintain the Community Energy Network to the standards set out in this Schedule 11.
- 1.3 The Concessionaire shall throughout the Operational Term maintain the capability to generate electricity by means of CHP Plant at the Energy Centres, as far as is reasonably practicable prioritise the use of such CHP Plant and provide all such generated electricity that is available for export at the Inter-connectors. For the avoidance of doubt: (i) the Concessionaire shall have no responsibility for or obligation in relation to the maintenance of the Host Network; and (ii) except as provided for in Section 8 of Part D of this Schedule 11 and the provisions of Schedule 12, the Concessionaire's right to sell electricity generated at the Energy Centres shall not be restricted.
- 1.4 The Concessionaire has agreed to provide the:
- (a) Secondary Network Services subject to and in accordance with the provisions of each Connection Agreement entered into pursuant to Part G2 of this Schedule 11; and
  - (b) Consumer Services in accordance with the provisions of the Residential/Mixed Use Master Supply Agreement and subject to satisfaction of the conditions in the Residential/Mixed Use Master Supply Agreement, the relevant Subsidiary Supply Agreements.

**2 Connection Agreements**

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- 2.1 Upon receipt of a Connection Request from any Developer containing the information specified or referred to in Section 3 of Part G1 or Section 3 of Part G2 or Section 3 of Part H of this Schedule 11, the Concessionaire shall, in accordance with the requirements of this Schedule 11, enter into a Connection Agreement with the Developer.
- 2.2 The Concessionaire shall not enter into an agreement for Connection other than on the terms of a Connection Agreement which is in accordance with the requirements of Part G1, Part G2 or Part H of this Schedule 11.

**3 Residential Mixed Use Master Supply Agreements and Commercial Development Supply Agreements**

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- 3.1 Upon receipt of a written request from any Community Energy Customer, the Concessionaire shall be required in accordance with the requirements set out in Parts D, Part E and/or Part F of this Schedule 11 (as the case may be), to enter

into a Residential/Mixed Use Master Supply Agreement or a Commercial Development Supply Agreement (as the case may be) with the Community Energy Customer for the provision of Community Energy Services.

- 3.2 The Concessionaire shall not enter into an agreement for the provision of Community Energy Services other than on the terms of the Residential Mixed Use Master Supply Agreements or the Commercial Development Supply Agreement which is in accordance with the requirements of Part D, Part E or Part F of this Schedule 11 (as the case may be).

#### **4 Agreements Outside the Exclusivity Zones**

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- 4.1 Where the Concessionaire wishes to enter into a connection or supply agreement outside the Exclusivity Zones it shall issue to the proposed Developer (i) the Agreed Form Residential/Mixed Use Master Supply Agreement or the Agreed Form Commercial Supply Agreement (as the case may be) and (ii) the Agreed Form Residential/Mixed Use Connection Agreement or the Agreed Form Commercial Connection Agreement (as the case may be) (the "**Relevant Templates**"). The supply agreements and connection agreements shall be in the form of the Relevant Templates unless:

- (a) the Developer and Concessionaire agree amendments to the Relevant Templates; and if so,
- (b) the Concessionaire shall give reasonable notice to the Employer in writing of the proposed amendments to the Relevant Templates before any such agreement with the Developer is completed (such notice, without prejudicing the development timetable, to (i) be of sufficient duration to enable the Employer to meaningfully discuss the proposed changes with the relevant Developer and statutory authorities and (ii) contain sufficient detail of the proposed amendments the Concessionaire and the Developer intend to make).

ODA shall use reasonable endeavours to assist the Concessionaire to satisfy Developers as to the benefits of connecting to an off-Site extension of the H&C Network using the Relevant Templates with the exception that payment of an Incremental Connection Charge shall be a matter for Concessionaire and the Developer to agree between themselves alone.

- 4.2 The Concessionaire and the Developer may negotiate and agree changes to the executed connection and supply agreements outside of the Exclusivity Zones as the Developer may require provided that the Concessionaire gives the Employer reasonable notice prior to any such agreement (such notice, without prejudicing the development timetable, (i) to be of sufficient duration to enable the Employer to meaningfully discuss the proposed changes with the relevant Developer and statutory authorities and (ii) setting out in sufficient detail the proposed amendments the Concessionaire and the Developer intend to make).

#### **5 Carbon Emission Requirements**

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- 5.1 Subject to Section 5.1A below the Concessionaire shall ensure that net carbon emissions from the Community Energy Network meet the following standards:
- a) in respect of the ODA Site from the start of 2012 and for the remainder of the Operational Term, carbon emissions resulting from the provision of the Heating Services and Cooling Services by means of CHP Plant are at least 20% less than if equivalent services were provided by means of a

connection to public electrical and gas distribution networks to buildings of equal Floor Space;

- b) in respect of the ODA Site for the calendar years 2013 and 2014, the Concessionaire shall use all reasonable endeavours to ensure that carbon emissions resulting from the provision of the Heating Services and Cooling Services by means of CHP Plant are at least 30% less than if equivalent services were provided by means of a connection to public electrical and gas distribution networks to buildings of equal Floor Space;
- c) in respect of the ODA Site, from the start of 2012 and for the remainder of the Operational Term, via the operation of the biomass boilers the carbon dioxide emissions are at least 1000 tonnes per annum less than if the Heating Services were provided via gas boilers. This requirement will increase in correlation with the growth in demand for Community Energy Services (although the Employer acknowledges that the Concessionaire may meet this increased reduction in carbon dioxide by reasonable "stepping up" in the use of biomass as demand for Community Energy Services increases across the Site), to ensure that the proportion of heat provided by biomass during the Operational Period remains equivalent to that proportion of heat provided by biomass during the period immediately following the Games; and
- d) in respect of the Stratford City Site the Concessionaire shall comply with all the carbon reduction, renewable energy and electricity generation requirements as set out in the Stratford City Deed of Planning Obligations pursuant to sections 106 and 299A of the Town and Country Planning Act 1990 and other powers relating to regeneration of Stratford City, London as sub-appendix DB to Schedule 4 (Construction Matters) of this Agreement and summarised below:
  - (i) use all reasonable endeavours to ensure a minimum of 75% of the electrical power requirements are met by the CHP Plant;
  - (ii) use all reasonable endeavours to resource a minimum of 2% of the energy requirements of the Developments from locally generated renewable energy either on or off Site (including any Exemplar Buildings);
  - (iii) use all reasonable endeavours to procure a 15% reduction in carbon emissions as a result of the district energy system, renewable energy and energy efficiency of the plant; and
  - (iv) resource a minimum of 10% of the energy requirement of the Additional Residential Floor Space from locally resourced renewable energy either on or off Site in accordance with Clause 1.8.2 of the Arup Lot 6&7 Output Specification dated March 2008.

5.1A From 1 January 2013, the Concessionaire's obligation to meet the standards set out in Section 5.1 above for the CHP plant shall apply subject to a common return temperature at each Energy Centre being below 75 degrees Celsius.

5.1B Upon completion of the Settlement Works, the Parties shall work together to agree a carbon intensity factor for all Heating Services whether provided from the CHP plant or biomass boilers which, at the sole discretion of the Employer, if the figure is agreed shall replace the standards in Section 5.1 above. However, both Parties recognise that it will need to be agreed with the relevant planning authority.

- 5.2 The Concessionaire shall notify the Employer of any event, fact or circumstance that prevents, or is likely to prevent the Concessionaire from complying with the carbon emission requirements specified in Section 5.1 above. Following any notification pursuant to this Section 5.2, the Parties shall meet to discuss the measures the Concessionaire intends to take in order to ensure that its obligations under Section 5.1 are met.
- 5.3 The Concessionaire shall at all times during the Operational Term operate the Energy Centres so as to achieve the maximum benefit from the EU Emissions Trading Scheme Phase 2 ("**EUETS**") and not incur carbon allocation plan cost penalties. As soon as it is appropriate but in any event before the Actual Completion Date, the Concessionaire shall enter the Energy Centres into the EUETS or successor scheme.
- 5.4 The Concessionaire shall ensure that all liquid biofuel and biomass that is supplied to the Energy Centres' combustion plant meets the highest quality standards and characteristics appropriate to the approved design for combustion plant. Without limitation to the foregoing:
- a) the biomass boilers shall be specified to burn fuel classified according to technical specification CEN/TS14961:2005 or equivalent (excluding post consumer wood waste); and
  - b) the biofuels procured by the Concessionaire shall meet the requirements of ISO/TC 28 as these standards are developed and adopted from time to time during the Operational Term. In advance of the adoption of ISO/TC 28, the source of the biofuel shall be proposed by the Concessionaire for approval by the Employer prior to the Actual Completion Date.
- 5.5 The Concessionaire shall report annually to the Employer in a form to be agreed with the Employer prior to the Actual Completion Date on the level of net Community Energy Network carbon emissions achieved during the relevant year.
- 5.6 Reviews of Carbon Reduction pursuant to this Section 5 shall be calculated by:
- a) metering the energy (heating, cooling and electricity) output from the Energy Centres, the fuel input into the Energy Centres, and the electrical energy input to the King's Yard Primary Substation from the Host Network. The Concessionaire shall be responsible for this metering with the exception of the electrical energy input to the King's Yard Primary Substation from the Host Network which shall be obtained from the DNO. The Employer shall assist in ensuring that the DNO is required to provide the Concessionaire with this information;
  - b) using carbon factors as defined within the Building Regulations 2006, which for the avoidance of doubt, common values shall be:
    - i) 0.422 Te/MWhr for input electrical energy to the King's Yard Primary Substation from the Host Network;
    - ii) 0.568 Te/MWhr for electrical energy exported from the Energy Centres to the King's Yard Primary Substation; and
    - iii) 0.194 Te/MWhr for input gas to the Energy Centres.

## 6 Operations and maintenance

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- 6.1 In relation to the Primary Network, the Concessionaire's responsibility for operation and maintenance shall, as a minimum and otherwise as provided for in this Agreement, include:
- a) the operation and maintenance of all plant and equipment contained within the Energy Centres;
  - b) the operation and maintenance of the H&C Networks (including, for the avoidance of doubt, the Primary Network), from the Energy Centres up to and including the Point of Connection serving each Secondary Network for each building in a Development;
  - c) the operation and maintenance of all Network Meters; and
  - d) the purchase of all primary energy required by the Concessionaire for the performance of the Community Energy Services whether fossil fuel, electricity or renewable fuel as appropriate.
- 6.1A The operation and maintenance of Customer Meters in relation to Residential Developments and Mixed Use Developments is provided for in accordance with the provisions of Section 4 of Part D of this Schedule 11.
- 6.1B The operation and maintenance of Customer Meters in relation to Commercial Developments is provided for in accordance with the provisions of Section 4 of Part E of this Schedule 11.
- 6.1C The operation and maintenance of Customer Meters in relation to Olympic Park Venues is provided for in accordance with the provisions of Section 4 of Part D or Section 4 of Part E, both of this Schedule 11 (as the case may be).
- 6.2 The Concessionaire shall operate the Energy Centres so as to ensure that at all times during the Operational Term:
- a) maximum efficiency is made of the use of resources and materials;
  - b) that ISO14001 management systems are implemented, certified and maintained, including but not limited to a minimum recycling level of 30% by volume; and
  - c) the requirements of the Stratford City Site-Wide Strategies as contained in Appendix D sub-appendix DE of Schedule 4 (Construction Matters) to this Agreement are met.
- 6.3 To the extent reasonably practicable, the Concessionaire shall operate the Energy Centres in a manner which ensures that the CHPQA Quality Index is maximised such that in any twelve (12) month period the CHPQA Quality Index does not drop below an average classification of "good" for the relevant Energy Centre plant type in order to, as a minimum, gain 100% Climate Change Levy ("**CCL**") exemption.
- 6.4 A reliability, availability and maintainability ("**RAM**") assessment shall be carried out by the Concessionaire on each anniversary of the Actual Completion Date taking into account mean times between failures ("**MTBF**") and mean times to repair ("**MTTR**") of all Energy Centre equipment.



- 6.5 Consumables, spares (both routinely required and critical), tools and other equipment including lifting devices required to provide the Community Energy Services shall be stored by the Concessionaire locally at the Energy Centres to minimise planned and unplanned outage (including outage caused by Planned Maintenance and Major Overhaul) of critical Energy Centre plant and components.
- 6.6 The Concessionaire shall ensure that manufacturers and suppliers of, as well as maintenance contractors for, critical Energy Centre plant and components provide the Concessionaire with appropriate replacement warranties (that include response time constraints).
- 6.7 The Concessionaire shall identify all critical and non-critical components of the Energy Centres as determined in the RAM assessment prior to the Actual Completion Date. Response times for repair of the Energy Centre plant and components shall then be established by the Concessionaire depending on component criticality. The Concessionaire shall ensure that critical Energy Centre plant and components include detectors with the express purpose of monitoring progressive deterioration to pre-empt failure and thereby reduce response times to a minimum.
- 6.8 Not used.
- 6.9 No later than three (3) months prior to the Actual Completion Date, the Concessionaire shall submit to the Employer's Representative (in accordance with Schedule 6 (Review Procedure)), a contingency plan setting out the manner in which it proposes to deal with any unplanned disruption in the provision of each of the Community Energy Services (the "**Contingency Plan**"). The Contingency Plan shall:
- a) specify the procedure for responding to Community Energy Service disruptions including target response times;
  - b) ensure adequate provision of spares, tools and equipment likely to be required for the operation of the Community Energy Network; and
  - c) prescribe the conditions under and the means by which temporary facilities for the provision of the Community Energy Services will be deployed.
- 6.10 Modification to, or maintenance of, the Community Energy Network that may cause an interruption to the delivery of any of the Community Energy Services (including for the avoidance of doubt, Major Overhaul and Planned Maintenance), shall be scheduled by the Concessionaire during anticipated periods of low demand for the relevant Energy Service.
- 6.11 The Concessionaire shall ensure that all maintenance and modification of the Community Energy Network which may disrupt the delivery of the Community Energy Services is carried out:
- a) in accordance with the Annual Schedule of Planned Maintenance;
  - b) in accordance with the procedures set out in Section 6.19 for Unplanned Maintenance; or
  - c) in an Emergency, in accordance with this Agreement.
- 6.12 During the Operational Term the Concessionaire shall establish, maintain and make available for inspection by the Employer during the Operational Term a schedule of

all planned Major Overhauls of Energy Centre plant and components. Not less than twelve (12) months prior to the scheduled date of any Major Overhaul, the Concessionaire shall prepare and submit to the Employer for review in accordance with Schedule 6 (Review Procedure) a report which proposes appropriate, alternative renewal and replacement options and whether and for what period any temporary equipment will be used by the Concessionaire in the provision of Community Energy Services during Major Overhaul.

- 6.13 Not later than three (3) months prior to the Actual Completion Date the Concessionaire shall submit to the Employer's Representative for review in accordance with Schedule 6 (Review Procedure) a proposed schedule of Planned Maintenance for the Initial Service Period (the "**Initial Schedule of Planned Maintenance**").
- 6.14 Not later than six (6) weeks prior to: (a) the end of the Initial Service Period; and (b) each subsequent anniversary of the Service Period thereafter, the Concessionaire shall submit to the Employer's Representative in accordance with Schedule 6 (Review Procedure) a revised schedule of Planned Maintenance for the following Service Period (the "**Annual Schedule of Planned Maintenance**") which shall contain as a minimum, the following details:
- a) the nature and scope of the Planned Maintenance;
  - b) proposed start and end dates and proposed hours of work;
  - c) any effect on the performance or provision of the Community Energy Services, including whether and for what period any temporary equipment will be used by the Concessionaire to provide Community Energy Services during the period of any Planned Maintenance; and
  - d) any effect or impact on the activities of the Employer and/or any Employer Party.
- 6.15 Not later than twenty (20) Business Days prior to the commencement of any Planned Maintenance contained within the Initial Schedule of Planned Maintenance or any Annual Schedule of Planned Maintenance, the Concessionaire may submit to the Employer's Representative for review in accordance with the Fast Track Review Procedure set out in Schedule 6 (Review Procedure), a revision to the Annual Schedule of Planned Maintenance showing for each case, the effect of the proposed revision to the Annual Schedule of Planned Maintenance.
- 6.16 Subject to Sections 6.17 and 6.18 below, the Employer's Representative may, at any time, require the Concessionaire to bring forward or defer any Planned Maintenance to be carried out in accordance with the Initial Schedule of Planned Maintenance or the Annual Schedule of Planned Maintenance (as the case may be), by giving written notice to the Concessionaire, not less than twenty (20) Business Days prior to the scheduled date for carrying out an item of Planned Maintenance. Such notice shall contain the time and/or periods at or during which the Employer requires the Planned Maintenance to be performed.
- 6.17 Where Planned Maintenance has been deferred by the Employer's Representative under Section 6.16 above, the Concessionaire shall not be treated as having failed to perform its obligation to maintain the Community Energy Network during the period of deferral, provided always, that the Concessionaire shall not be relieved from the consequences of any failure to maintain the Community Energy Network in respect of any period prior to the deferral of the particular Planned Maintenance according to the relevant Schedule of Planned Maintenance.

- 6.18 Save in relation to the costs of the Planned Maintenance for which the Concessionaire would have been liable had Planned Maintenance not been deferred, the Employer shall indemnify the Concessionaire for all costs and losses (including Indirect Losses) incurred by the Concessionaire arising out of the deferral of Planned Maintenance by the Employer's Representative in accordance with Section 6.16 above.
- 6.19 If, in circumstances other than an Emergency and excluding any maintenance to the Community Energy Network of a de minimis nature which would not impact on the provision of Community Energy Services and in respect of which the Parties have agreed this Section 6 shall not apply, the need arises for the Concessionaire to carry out maintenance to the Community Energy Network which is not scheduled to be carried out in the Initial Schedule of Planned Maintenance and/or any Annual Schedule of Planned Maintenance, but which maintenance will cause the disruption of such Community Energy Services ("**Unplanned Maintenance**"), the Concessionaire shall promptly inform the Employer's Representative by written notice of the proposed commencement date, the proposed hours of work and estimated duration of the Unplanned Maintenance and details of any likely effect on the Employer, the Employer Parties or any Community Energy Customer. The Concessionaire may proceed with Unplanned Maintenance unless within two (2) Business Days of receipt by the Employers Representative of such notification of the details of Unplanned Maintenance the Employer's Representative objects to the proposed commencement date, the proposed hours of work, estimated duration of the requisite Unplanned Maintenance or any likely effect on the Employer, the Employer Parties or any Community Energy Customer and the Parties shall agree (acting reasonably) a mutually convenient commencement date for the Unplanned Maintenance.
- 6.20 The Employer shall throughout the Operational Term have the right to inspect the Community Energy Network to ensure that it is being maintained in accordance with the requirements of this Agreement, including but not limited to this Schedule 11. The Employer may, by notice to the Concessionaire, appoint an independent third party for the purposes of carrying out any such inspection. The Employer shall provide the Concessionaire with a report of the findings of any inspection carried out pursuant to this Section 6.20. The Parties shall then meet to discuss the report and any recommendations, steps or measures required to remedy any failure by the Concessionaire to maintain the Community Energy Network in accordance with the requirements of this Agreement. The Concessionaire shall take into account such recommendations, steps or measures in the next Annual Schedule of Planned Maintenance.
- 6.21 Either Party may notify the other of the need for a Change which is necessary in order to enable the Concessionaire to comply with a Change in Law of which it has become aware, and in which event:
- a) the Parties shall meet as soon as reasonably practicable to discuss the effect of the Change in Law and any Change required as a consequence; and
  - b) if a Change is required in order to comply with the Change in Law, the relevant provisions of Schedule 3 (Variations) shall apply except that:
    - i) the Concessionaire may give notice to the Employer that it objects to such an Employer Notice of Variation only on the grounds that the implementation of the Change would not implement the Change in Law,

- ii) the Employer shall issue an Employer Variation Order in respect of the Change in accordance with the relevant provisions of Schedule 3 (Variations) provided that the Concessionaire shall not be entitled to any payment or other compensation or relief from performance of its obligations under this Agreement in respect of such Change in Law or associated Change (or the consequences of either) other than as expressly provided for in Section 7.4 of Part D and Sections 8.6 and 9.6 of Part E and as applicable by reference in Part F, all of this Schedule 11.

## **7 DNO interface**

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- 7.1 The Concessionaire shall as necessary, liaise, cooperate and coordinate with the DNO to design, construct, operate and maintain an electricity distribution network for the purposes of delivering electricity generated by the Energy Centres to the Inter-connectors to maximise the take up of such electricity by the DNO.
- 7.2 The Concessionaire shall use all reasonable endeavours to cooperate with the DNO and provide all relevant information required by the DNO to assist in the development of a generation study.
- 7.3 The Concessionaire shall as necessary design, construct, operate and maintain all apparatus and plant within the Energy Centres so that the fault level contribution by such apparatus and plant does not exceed the level of fault break current or peak asymmetric closing currents identified within the EDF Energy study (Generation Study for the Olympic Park and Stratford City V1.1) issued on 19<sup>th</sup> February 2007, the supplementary study (Supplement to the Generation Study for the Olympic Park and Stratford City V1.0) issued on 20<sup>th</sup> February 2007 and any subsequent updates to these studies conducted during 2008.
- 7.4 The Concessionaire shall agree the design, selection, installation and commissioning of 11kV generators and feeder protection and control equipment with the DNO.
- 7.5 The Concessionaire shall include appropriate 11kV protection and control systems in accordance with, as a minimum Engineering Recommendation G75/1.
- 7.6 A separate scheme for operational constraint purposes shall be provided which will include inter-tripping between the Energy Centres and the main transformers at the Kings Yard Primary Substation.
- 7.7 The Concessionaire shall negotiate and agree a Generation Connection Agreement with the DNO.
- 7.8 The Employer will enter into contractual arrangements with the DNO such that the Host Network is a public network to which the Distribution Code is applicable.
- 7.9 The Employer will make all reasonable endeavours to ensure the maximum electrical generation at each Energy Centre can continue under all reasonable conditions. Where restrictions cannot be avoided the Employer is to ensure that the maximum flexibility of operation is retained such that any generator, up to a maximum allowable from time to time, can generate regardless of its normal connection arrangements (but subject to acceptable EDFEN fault levels per transformer not being exceeded). For the avoidance of doubt this may include placing a requirement on the DNO (as operator of the primary substation 11kV switchboards) to cooperate with the Concessionaire in setting up the switching

protocols to ensure any two generators can continue to operate under transformer maintenance conditions.

- 7.10 Subject to the Concessionaire demonstrating to the Employer the reasonable need to export electricity to the 132kV DNO Network, the following provisions of this Section 7.10 shall apply. The Employer shall ensure that the local 11kV Host Network and the Kings Yard Primary Substation have the technical capability to allow the export to the DNO Network of surplus electricity generated by the Energy Centres (from time to time) to the demand requirement within the local 11kV Host Network. Any modification necessary to the DNO Network beyond the Kings Yard Primary Substation boundary shall not be the responsibility of the Employer. The Employer shall use all reasonable endeavours to assist the Concessionaire in liaising with the DNO to establish the implications of export of surplus electricity generated by the Energy Centres (from time to time) to the 132kV DNO Network. The Employer shall not be required to make any modification to the Kings Yard Primary Substation if such modification would, in the reasonable opinion of the Parties, result in a delay to the connection and commissioning of the Kings Yard Primary Substation. Modifications to plant items that are not considered to be major plant items, such as transformers, may, following the assessment of the Employer, the Concessionaire and the DNO (each acting reasonably), be undertaken only during suitable maintenance periods once the LLDC Energy Centre is operational. The Concessionaire shall ensure that the Energy Centres have the capability to export electricity to the local 11kV Host Network and shall enter into a Generation Connection Agreement with the DNO.

## **8 Attendance levels**

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- 8.1 The Concessionaire shall ensure that management personnel are available to attend the Community Energy Network during normal working hours on any Business Day. Emergency call-out management attendance at the Community Energy Network shall be provided by the Concessionaire at all other times.
- 8.2 The Concessionaire shall ensure that the operator/controller levels provided by the Concessionaire are appropriate for the Energy Centre plant requirements and are provided twenty four (24) hours per day and seven (7) days per week.
- 8.3 The Concessionaire shall ensure that maintenance personnel with appropriate skills and qualifications relating to the Energy Centre plant requirements shall be provided on an eight (8) hours per day basis with maintenance shift cover provided as required under the RAM assessment.

## **9 Community Energy Network Quality Standards**

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- 9.1 In relation to Heating Services provided by the heat distribution system, except for periods of no longer than ninety (90) consecutive minutes when demand exceeds Community Energy Network capacity and an upper flow limit of 120°C and lower return limit of 50°C may be required in the Primary Network to ensure optimum performance of the Community Energy Network, the Concessionaire shall operate the Community Energy Network to ensure 95°C flow and 55°C return in the Primary Network. The system volume flow rate and flow temperature within the Primary Network shall be controlled by the Concessionaire in order to deliver 85°C flow in the Secondary Network or as specified in the Customer Supply Agreement and the Concessionaire shall ensure that the Community Energy Network is designed to receive return temperatures of 50°C from the Secondary Network.
- 9.2 In relation to Cooling Services provided by the cooling distribution system, except for periods of no longer than ninety (90) consecutive minutes when demand

exceeds Community Energy Network capacity and a lower flow limit of 4°C and upper return limit of 14°C is required to ensure optimum performance of the Community Energy Network, the Concessionaire shall operate the Community Energy Network to ensure 6°C flow and 12°C return in the Primary Network. Notwithstanding whether cooling is provided by building integrated cooling or decentralised grouped cooling systems, the system volume flow rate and flow temperature within the Primary Network shall be controlled by the Concessionaire in order to deliver the Secondary Network 7°C flow temperature or the temperature specified in the Customer Supply Agreement and the Concessionaire shall ensure that the Community Energy Network is designed to receive return temperatures of 13°C from the Secondary Network.

## 10 **Employer KPIs - Monitoring of Performance**

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- 10.1 The Concessionaire shall comply with the key performance indicators set out in the table in Appendix 1 of this Part A of Schedule 11 (the "**Employer KPIs**").
- 10.2 Without prejudice to the provisions of this Section 10, the Concessionaire agrees that the Employer KPIs will be used for the purpose of monitoring the Concessionaire's performance of the Concessionaire Operations under Clause 30 (Monitoring of Performance) of this Agreement. The Concessionaire shall provide a distributed control system ("**DCS**") and supervisory, condition and data acquisition system ("**SCADA**") with appropriate capabilities for monitoring the Employer KPIs, and the condition of and operational performance of all components, sub-systems and overall systems of the Community Energy Network. The SCADA system shall be utilised for maintenance and shall identify as a minimum the status of each Community Energy Network component including failure thereof. The Energy Centre control room shall contain DCS and SCADA man-machine interface terminals. A SCADA monitoring terminal with reporting capability shall be provided by the Concessionaire to the Employer.
- 10.3 For every month during the Initial Service Period and for each quarter (on 1<sup>st</sup> July, 1<sup>st</sup> October, 1<sup>st</sup> January, 1<sup>st</sup> April) thereafter, the Concessionaire shall within five (5) Business Days of such date, produce to the Employer's Representative a written report demonstrating the performance of the Community Energy Network against the Employer KPIs for the relevant period.
- 10.4 Following the Initial Service Period, failure by the Concessionaire to comply with a Required Service Level of any of the Employer KPIs shall result in the number of Service Failure Points being accrued cumulatively by the Concessionaire in accordance with the Employer KPI table at Appendix 1 to this Part A of Schedule 11.
- 10.5 In accordance with Clause 30 (Monitoring of Performance), in respect of any one (1) month rolling period other than during the Initial Service Period, in which the total number of Service Failure Points accrued by the Concessionaire exceeds twenty (20), the Concessionaire shall agree with the Employer a programme of activities intended to ensure the Required Service Levels are restored and thereafter maintained (the "**Rectification Programme**").

## 11 **Record Keeping and Reporting**

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- 11.1 During the Operational Term, within five (5) Business Days of the end of each month following the Actual Completion Date, the Concessionaire shall provide a report to the Employer on the operating performance of the Community Energy Network during the previous month. The reports shall be based on records

maintained by the Concessionaire which shall include (but not be limited to) details of:

- a) maintenance and repair work carried out on the Community Energy Network;
- b) operating efficiencies of key components of the Energy Centres;
- c) any interruption to the supply of Community Energy Services, both planned and unplanned (including in relation to any Emergency);
- d) net carbon emissions from the Community Energy Network; and
- e) any incident required to be recorded or reported under applicable health and safety regulations.

11.2 The Concessionaire shall maintain a record of any complaint made with respect to:

- a) the operation of the Community Energy Network;
- b) any Connection; and
- c) the provision of Community Energy Services.

The record shall contain reasonable details of the complaint, the response made by the Concessionaire to each complaint and any action taken. The records shall be made available for inspection by the Employer on request.

11.3 In relation to Residential Developments and Mixed Use Developments, the Concessionaire shall report to the Employer on an annual basis, for the previous Service Period, such report to be provided within twenty (20) Business Days of the expiry of each such Service Period, the following operational parameters in relation to the Consumer Services provided at each Connection Address during that period:

- (a) the total number of Residential Customers and Mixed Use Commercial Customers at the start and end of the period;
- (b) the number of Residential Customers and Mixed Use Commercial Customers who have left and joined during the period;
- (c) the percentage of debts written off by the Concessionaire as a proportion of the total number of bills and the total amount billed for the period;
- (d) a summary of all complaints received and the subject matter and means of resolution of each complaint, and such further information as the ODA may reasonably request in respect of any specific complaint;
- (e) the total number of Dwellings and Commercial Units;
- (f) percentage of invoices raised and issued to Residential Customers within one (1) Business Day from the end of each billing period;
- (g) level of Residential Customers' and Mixed Use Commercial Customers' debt overdue by more than one (1) day;
- (h) level of Residential Customers' and Mixed Use Commercial Customers' debt – overdue by more than eight (8) days;

- (i) level of Residential Customers' and Mixed Use Commercial Customers' debt – overdue by more than fifteen (15) days;
- (j) level of Residential Customers' and Mixed Use Commercial Customers' debt – overdue by more than twenty five (25) days;
- (k) level of Residential Customers' and Mixed Use Commercial Customers' debt – overdue by more than thirty five (35) days;
- (l) level of Residential Customers' and Mixed Use Commercial Customers' debt – overdue by more than sixty five (65) days;
- (m) number of reminder notices issued;
- (n) number of second reminder notices issued;
- (o) number of final demand notices issued;
- (p) number of telephone calls made in accordance with the debt recovery process;
- (q) number of suspension notices issued;
- (r) number of final warning notices issued;
- (s) number of termination notices issued;
- (t) number of pre-termination visits;
- (u) number of Residential Customer and Mixed Use Commercial Customer disconnections of heat supply implemented;
- (v) number of post-disconnection notices issued;
- (w) the value of unpaid invoices and the ratio of such unpaid invoices to Total Turnover;
- (x) the value of Bad Debt, and the ratio of such Bad Debt to Total Turnover. Debt shall be deemed irrecoverable if the Concessionaire has been unable to recover such debt through the operation of the DMP;
- (y) total number of Customer Meters checked;
- (z) total number of Abortive Calls;
- (aa) average time to resolve a failure notification in relation to Customer Meters;
- (bb) number of failure notifications in respect of Customer Meters not resolved within 28 days;
- (cc) total number of Customer Meters replaced;
- (dd) number of Customer Meters replaced at the Residential Customer's or Mixed Use Commercial Customers' cost;
- (ee) accuracy of any sampled meter batches relative to limits; and



(ff) complaints received regarding Customer Meters and means of resolution.

12 **Disputes with Community Energy Customers, Subsidiary Community Energy Customers and Developers**

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- 12.1 In relation to any Residential Development or Mixed Use Development any dispute between the Concessionaire and any counterparty to a Connection Agreement, Residential/Mixed Use Master Supply Agreement and/or any Subsidiary Supply Agreement shall be resolved pursuant to the dispute resolution procedure stipulated in, respectively, the Residential/Mixed Use Connection Agreement, Residential/Mixed Use Master Supply Agreement and/or Subsidiary Supply Agreement (as the case may be).
- 12.2 In relation to any Commercial Development or Olympic Park Venue any dispute between the Concessionaire and any counterparty to a Commercial Development Connection Agreement and/or a Commercial Development Supply Agreement shall be resolved pursuant to the dispute resolution procedure stipulated in, respectively the Commercial Development Connection Agreement and/or Commercial Development Supply Agreement and/or Olympic Park Venue Customer Supply Agreement (as the case may be).
- 12.3 In relation to any Base Case Connection any dispute between the Concessionaire and any counterparty to a Connection Agreement shall be resolved pursuant to the dispute resolution procedure stipulated in the relevant Connection Agreement entered into pursuant to Part H of this Schedule 11.

Part A, Appendix 1 — Base Employer KPIs

S.43(2)

**S.43(2)**

**S.43(2)**

## Part B - Requirements specific to the ODA Site

### 1 Commencement of Services

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- 1.1 Subject to the provisions of this Agreement, the Concessionaire shall ensure that the Community Energy Network is capable of delivering Community Energy Services in accordance with the requirements of this Agreement to the Developments on the ODA Site (including, where permitted under the terms of this Agreement, by means of temporary heating and cooling services).

### 2 Not used

### 3 Not used

### 4 Island Mode Capability

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- 4.1 If for any reason insufficient electrical power can be imported onto the Site through the Inter-connectors to allow the Concessionaire to perform its obligations under the Agreement in respect of Olympic Park Venues located on the ODA Site (an "**ODA Host Network Failure**"), the Concessionaire shall ensure that the LLDC Energy Centre will operate in Island Mode (which for the avoidance of doubt includes the ability to Start-Up from Shut-Down), such that the Concessionaire will provide the Community Energy Services to Community Energy Customers in accordance with the requirements of this Agreement (the "**ODA IM Services**").

#### 4.2 If:

- (a) an ODA Host Network Failure results in insufficient electrical power being imported through the Inter-connectors to allow the Concessionaire to perform its obligations under the Agreement; and
- (b) a failure or Shut-Down of either or both of the Energy Centres results in the Concessionaire being unable to perform its obligations under this Agreement

then:

- (c) without prejudice to any rights or remedies available to the Employer under this Agreement, the relevant Energy Centre(s) shall be disconnected from the Host Network until such time as the ODA Host Network Failure has subsided; and
- (d) the Concessionaire shall ensure that as soon as possible after the ODA Host Network Failure has subsided, the LLDC Energy Centre:
  - (A) may be reconnected to the Host Network;
  - (B) is able to Start-Up from Shut-Down; and
  - (C) may be Synchronised to the Host Network.

- 4.3 Without prejudice to any rights or remedies of the Employer under this Agreement in respect of a failure by the Concessionaire to provide the Community Energy Services, the Concessionaire shall not be obliged to provide the ODA IM Services pursuant to this Section 4 of this Part B of Schedule 11, to the extent that to do so would:

- (a) cause or require the Concessionaire to act or refrain from acting in a manner consistent with Good Industry Practice; or
  - (b) cause a danger to the health or safety of the Concessionaire's personnel.
- 4.4 The Concessionaire shall procure that adequate Spare Parts (IM) and Consumables (IM) are stocked and maintained to allow it to provide the ODA IM Services in accordance with this Section 4 of this Part B of Schedule 11.
- 4.5 The Concessionaire shall ensure that adequate supplies of fuel are available to the ODA Energy Centre to allow it to provide the ODA IM Services in accordance with this Section 4 of this Part B of Schedule 11.

**Part C - Not used**

## **Part D – Residential/Mixed Use Customers on Residential Developments and Mixed Use Developments**

### **1 Residential/Mixed Use Master Supply Agreements**

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- 1.1 The Parties have agreed template Residential/Mixed Use Master Supply Agreements annexed in Part 1 of Appendix 1 and Part 2 of Appendix 1 of this Part D of Schedule 11 (incorporating agreed form Subsidiary Supply Agreements), for the supply of Community Energy Services to Residential/Mixed Use Customers on Residential Developments and Mixed Use Developments.
- 1.2 The template Residential/Mixed Use Master Supply Agreement annexed in Part 1 of Appendix 1 to this Part D of Schedule 11 is for use on Existing Developments (the "**Agreed Form of Existing Residential/Mixed Use Master Supply Agreement**").
- 1.3 The template Customer Supply Agreement annexed in Part 2 of Appendix 1 to this Part D of Schedule 11 is for use on Future Developments (the "**Agreed Form of Future Residential/Mixed Use Master Supply Agreement**").
- 1.4 For the purposes of this Part D the Agreed Form of Existing Residential/Mixed Use Development Supply Agreement and the Agreed Form of Future Residential/Mixed Use Development Supply Agreement shall collectively be referred to as the "**Agreed Form Residential/Mixed Use Master Supply Agreements**".
- 1.5 Without prejudice to the provisions of Section 4.1 of Part A of this Schedule 11, the Concessionaire shall be entitled to submit proposed amendments to the Agreed Form Residential/Mixed Use Master Supply Agreements to the Employer for review together with a notice setting out in reasonable detail the Concessionaire's reasons for the requested amendments. No changes shall be made to the Agreed Form Residential/Mixed Use Master Supply Agreements without the prior written consent of the Employer. The Employer shall act reasonably in considering the proposed amendments.
- 1.6 Without prejudice to the provisions of Section 4.2 of Part A of this Schedule 11, the Concessionaire shall be entitled to submit proposed amendments to executed Residential/Mixed Use Master Supply Agreements and/or executed Subsidiary Supply Agreements to the Employer for review together with a notice setting out in reasonable detail the Concessionaire's reasons for the requested amendments. No changes shall be made to the executed Residential/Mixed Use Master Supply Agreements and/or executed Subsidiary Supply Agreements without the prior written consent of the Employer. The Employer shall act reasonably in considering the proposed amendments.

### **2 Obligation to provide Community Energy Services to Residential Developments and Mixed Use Developments**

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- 2.1 In respect of Existing Developments the Concessionaire and each relevant Developer has entered into on or before the Second Effective Date, variations to those supply agreements applicable to the relevant Existing Developments specified in Appendix 2 to this Part D of Schedule 11, such that each Residential/Mixed Use Master Supply Agreement for Existing Developments is in the Agreed Form of Existing Residential/Mixed Use Master Supply Agreement.
- 2.2 Subject to (i) a Residential/Mixed Use Connection Agreement having been entered into by the Developer for the relevant Residential Development or Mixed Use



Development, (ii) the incorporation of a suitable Secondary Network within the relevant Residential Development or Mixed Use Development, and (iii) following the Concessionaire's receipt of a Service Request, the Concessionaire shall, in respect of Future Developments, enter into a Residential/Mixed Use Master Supply Agreement in the Agreed Form of Future Residential/Mixed Use Master Supply Agreement with each Community Energy Customer.

- 2.3 Not used.
- 2.4 Following the Concessionaire's receipt of a Residential/Mixed Use Master Supply Agreement signed by a Residential/Mixed Use Customer the Concessionaire shall provide the Residential/Mixed Use Customer with Community Energy Services in accordance with the Residential/Mixed Use Master Supply Agreement and the terms of this Agreement.

### **3 Standards of service and service quality**

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- 3.1 Not used.
- 3.2 Not used.
- 3.3 The Concessionaire shall provide the Community Energy Services to the Developer on a Residential Development or Mixed Use Development in accordance with the provisions and standards of each Residential/Mixed Use Connection Agreement.
- 3.4 The Concessionaire shall provide the Community Energy Services on a Residential Development or a Mixed Use Development to the Residential/Mixed Use Customer in accordance with each Residential/Mixed Use Master Supply Agreement and to the extent applicable, to each Subsidiary Community Energy Customer pursuant to the relevant Subsidiary Supply Agreements.

### **4 Customer Meters and Network Meters in Residential Developments or Mixed Use Developments**

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- 4.1 Customer Meters on Residential Developments or Mixed Use Developments shall be provided in accordance with the terms of the Technical Specification and replaced and maintained in accordance with, the provisions of each Residential/Mixed Use Master Supply Agreement and to the extent applicable the Subsidiary Supply Agreements.
- 4.2 Network Meters in Residential Developments or Mixed Use Developments will be installed by the Concessionaire in accordance with the requirements of Part G2 of this Schedule 11 and under the terms of a Residential/Mixed Use Connection Agreement with a Developer.
- 4.3 Disputes regarding meter readings on Customer Meters on Residential Developments or Mixed Use Developments shall be resolved in accordance with the provisions of the relevant Subsidiary Supply Agreement and disputes regarding meter readings on Network Meters in Residential Developments or Mixed Use Developments shall be resolved in accordance with the provisions of the Residential/Mixed Use Master Supply Agreement.
- 4.4 The Concessionaire shall carry out:
- (a) Consumer Meter Services in accordance with the provisions of the Residential/Mixed Use Master Supply Agreement and the Subsidiary Supply Agreements for the fees stipulated therein; and

(b) services in relation to Network Meters in accordance with the provisions of the Residential/Mixed Use Master Supply Agreement and the obligations set out in Appendix 5 of this Part D of Schedule 11.

4.5 The Concessionaire shall carry out Metering and Billing Services in accordance with the provisions of the Residential/Mixed Use Master Supply Agreement and the Subsidiary Supply Agreements and for the fees stipulated therein.

4.6 Not used.

4.7

s.43(2)

4.8

s.43(2)

4.9

s.43(2)

4.10

s.43(2)

4.11

s.43(2)

4.12

s.43(2)

4.13

s.43(2)

5

**HIUs**

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5.1

s.43(2)

5.2

s.43(2)

6

**Access to Residential Development premises and Mixed Use Development premises**

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6.1

s.43(2)

6.2

s.43(2)

7

**Energy Services Charges**

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7.1

s.43(2)

7.1A

s.43(2)

7.2

s.43(2)

s.43(2)

S.43(2)

**S.43(2)**

**S.43(2)**

7.2A

**S.43(2)**

S.43(2)

7.2B

S.43(2)

7.3

S.43(2)

**S.43(2)**

7.4

**S.43(2)**



7.5

**S.43(2)**

7.6

**s.43(2)**

8

**General prohibition on the requirement for supply of additional services by the Concessionaire**

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8.1

**S.43(2)**

9

**Payment for services**

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9.1

**s.43(2)**

10

**Residential/Mixed Use Customer and Subsidiary Community Energy Customer liaison**

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- 10.1 The Concessionaire will liaise with and provide information to Residential/Mixed Use Customers and Subsidiary Community Energy Customers in accordance with the Residential/Mixed Use Master Supply Agreement and the relevant Subsidiary Supply Agreements (as the case may be).

## **11 Energy efficiency advice to Residential Customers**

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- 11.1 The Concessionaire shall provide free and reasonably detailed energy efficiency advice to all Residential Customers at all times on the Passive Website, by telephone, and in person at its customer services centre.
- 11.2 Such information shall be made available in large print on request.
- 11.3 Information provided on the Passive Website and the Active Website shall be clearly laid out, reasonably detailed, intuitive to navigate and use graphics to create interest.
- 11.4 As a minimum, and without limitation, energy efficiency advice required to be provided under this Section 11 shall cover each of the following topics in reasonable detail:
- (a) windows and doors;
  - (b) heating efficiency;
  - (c) heating controls;
  - (d) water heating;
  - (e) low flow hot water devices;
  - (f) insulation of heating and hot water services; and
  - (g) energy saving devices.
- 11.5 The following are examples of the type of energy efficiency advice that the Concessionaire shall provide to Residential Customers under this Section 11. This information is included for illustrative purposes only and is not intended to limit or otherwise alter the foregoing requirements of this Section 11 in any way:
- (a) "Set your heating to 19°C – costs increase by around 10% for every 1°C increase."
  - (b) "Keep furniture and curtains clear of radiators as it increases their efficiency."
  - (c) "Close your curtains in the evening to help keep the heat inside your rooms."

## **12 Residential Customers' Bad Debt**

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- 12.1 The Concessionaire shall operate the DMP in respect of each Residential Supply Agreement it enters into with Residential Customers. Compliance by the Concessionaire with the DMP shall be demonstrated to the ODA through the information provided under Section 11.3(f) – Section 11.3(x) of Part A of this Schedule 11 of each annual report provided to the ODA by the Concessionaire pursuant to Section 11.3 of Part A of this Schedule 11 (the "**Annual Report**").

12.2 For the first year following the commencement by the Concessionaire of the Consumer Services pursuant to a Residential/Mixed Use Master Supply Agreement, any Bad Debt incurred shall be borne by the Concessionaire without recovery of such sums from any other party (such Bad Debt being reported by the Concessionaire at Section 11.3(x) of Part A of this Schedule 11 of each Annual Report).

12.3 At the end of the first year from the commencement of the Consumer Services pursuant to a Residential/Mixed Use Master Supply Agreement (the "Initial Period"), the Parties shall review the prevailing Bad Debt ("Bad Debt Review")

S.43(2)

12.3A s.43(2)

12.4 s.43(2)

S.43(2)

12.6 s.43(2)

13 **KPIs**

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- 13.1 If the Concessionaire fails to achieve the applicable key performance indicators, set out in the Residential/Mixed Use Master Supply Agreement and relevant Subsidiary Supply Agreements, then the Concessionaire shall compensate each Residential/Mixed Use Customer and each Subsidiary Community Energy Customer in accordance with the terms of the Residential/Mixed Use Master Supply Agreement and/or the relevant Subsidiary Supply Agreement (as the case may be).
- 13.2 The payments to be made by the Concessionaire for breach of key performance indicators in the Residential/Mixed Use Master Supply Agreement and relevant Subsidiary Supply Agreements as at 1 April 2013 are set out in the table below for information purposes only.

<b>KPI</b>	<b>Residential/Mixed Use Master Supply Agreement and Subsidiary Supply Agreement References</b>	<b>Payments applicable as at 1 April 2013</b>
Flow Temperature Planned Supply Interruption Persistent Supply Interruptions Response Times Temporary Heating (4hrs) Temporary Heating (7 days) Temporary Cooling (4hrs) Temporary Cooling (7 days) Network Meter Repair/Replace	Residential/Mixed Use Master Supply Agreement, Schedule 2 (Performance Indicators), Part 1	£50 (winter) £25 (summer) £20 £200 (capped at £1,000) £20 (winter) £10 (summer) £40 (winter) £20 (summer) £10 (winter) £5 (summer) £20 (winter) £40 (summer) £5 (winter) £10 (summer) £50
GS1  GS2  (each as defined in the Performance Indicators)	Residential/Mixed Use Master Supply Agreement, Schedule 2 (Performance Indicators), Part 2	£20.00 (Residential Dwelling) £50.00 (Commercial Unit) £30.00 (Residential, capped at £300.00) £50.00 (Commercial, capped at £600.00)
GS1 GS2 GS3	Schedule 8 (Void Supply Agreement), Schedule 2 (Service Standards), Table 1	£20.00 £30.00 (capped at £300.00) £25.00

<b>KPI</b>	<b>Residential/Mixed Use Master Supply Agreement and Subsidiary Supply Agreement References</b>	<b>Payments applicable as at 1 April 2013</b>
GS4 GS5 (each as defined in the Service Standards)		£20.00 £20.00 (capped at £100.00)
GS1 GS2 GS3 GS4 GS5 (each as defined in the Service Standards)	Schedule 8 (Void Supply Agreement), Schedule 2 (Service Standards), Table 3	£50.00 £50.00 (capped at £600.00) £25.00 £20.00 £20.00 (capped at £100.00)
GS1 GS2 GS3 GS4 GS5 (each as defined in the Service Standards)	Schedule 11 (Residential Supply Agreement), Schedule 2 (Service Standards)	£20.00 £30.00 (capped at £300.00) £25.00 £20.00 £20.00 (capped at £100.00)
GS1 GS2 GS3 GS4 GS5 (each as defined in the Performance Indicators)	Schedule 12 (Mixed Use Commercial Supply Agreement), Schedule 1 (Performance Indicators)	£50.00 £50.00 (capped at £600.00) £25.00 £20.00 £20.00 (capped at £100.00)

14 **Commencement, duration and termination of Customer Supply Agreements and Subsidiary Supply Agreements**

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14.1 The supply of Community Energy Services to each Residential/Mixed Use Customer and each Subsidiary Community Energy Customer shall commence in accordance with the provisions of the Residential/Mixed Use Master Supply Agreement and the relevant Subsidiary Supply Agreements (as the case may be).

14.2 The Residential/Mixed Use Master Supply Agreement and the Subsidiary Supply Agreements may only be terminated or suspended (as the case may be) in accordance with the provisions therein.

## 15 **Community Energy Services to Common Parts**

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15.1 The Concessionaire is to enter into a Common Parts Supply Agreement with a Developer, landlord or managing agent as the case may be (referred to for the purposes of this Section 15 as the "**Common Parts Customer**") in accordance with the provisions of the Residential/Mixed Use Master Supply Agreement.

15.2 The Energy Service Charges payable by the Common Parts Customer will be as those calculated for the Mixed Use Commercial Customer under a Mixed Use Commercial Supply Agreement but excluding the Availability Fee in accordance with the provisions of the Common Parts Supply Agreement.

## 16 **Void Supply Agreement**

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16.1 Energy Services shall be supplied to Dwellings or Commercial Units not covered by Residential Supply Agreements or Mixed Use Commercial Supply Agreements.

16.2 The Concessionaire, pursuant to the provisions of the Residential/Mixed Use Master Supply Agreement, is to enter into a Void Supply Agreement which will govern the supply of Energy Services to, and payment of Energy Service Charges in respect of, all Dwellings or Commercial Units which have not been disposed of by the Developer on a Long Lease basis for any period where such Dwelling or Commercial Unit is not supplied with Energy Services pursuant to a Residential Supply Agreement or a Mixed Use Commercial Supply Agreement.

## 17 **Website**

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17.1 The Concessionaire shall maintain the passive website in place on the Second Effective Date for use by all Residential Customers on Existing Developments (the "**Passive Website**").

17.2 Within a period of six (6) months from 1st October 2013 the Concessionaire shall at its own cost develop a proposal for the ODA setting out how the Passive Website shall be modified to contain the following requirements of the ODA to turn it from a passive to an active website which will be available to all existing and future Residential Customers on Existing Developments and Future Developments either by replication for a Development or Developments or by creation of intranet links to one or more such websites (the "**Active Website(s)**").

### 17.2.1 Minimum Requirements

Each Residential Customer shall be provided with a secure log-in to the Active Website(s) to:

- (a) review their consumption history;
- (b) review payments made;

- (c) change personal data;
- (d) access previous bills; and
- (e) advise the Concessionaire that they are moving.

17.2.2 Payment Module

Additionally, each Residential Customer shall be able to be provided with a secure log-in to the Active Website(s) to:

- (a) make payments; and
- (b) change their method of payment.

17.3 Once the Concessionaire's proposals have been submitted to the ODA, the Parties shall meet and (both acting reasonably) agree such modifications as are required to meet the ODA's requirements including, in the case of Section 17.2.2 above, whether the payment module is required by the ODA.

17.4 Once agreement has been reached (and the ODA may decide that it does not require the payment module) then the Concessionaire shall implement such modifications as soon as reasonably practical, such that the first Active Website is in place not later than 1st October 2014, and thereafter shall maintain the Active Website(s) and all links thereto. The set-up costs and all operating and maintenance costs of the Active Website(s) shall be borne by the Concessionaire. The set-up costs and any on-going operating and maintenance costs for the additional payment module (if required by the ODA) shall be borne by the Concessionaire, with the exception of the operating costs of each financial transaction which shall be borne by each Residential Customer for that transaction.

**Part D, Appendix 1 Part 1 - Agreed Form of Existing Residential/Mixed Use Master Supply Agreement**



DATED [•]

**COFELY EAST LONDON ENERGY LIMITED**  
as Energy Company

[•]  
as Customer

**MASTER SUPPLY AGREEMENT**

for the supply of Energy Services to the East Village – Plot N[•]



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**DATED [•]**

**PARTIES**

- (1) **COFELY EAST LONDON ENERGY LIMITED** (company no 06307742) whose registered office is at Stuart House, Coronation Road, Cressex Business Park, High Wycombe, HP12 3TA ("**Energy Company**")
- (2) [•] (the "**Customer**")

**BACKGROUND**

- (A) The Energy Company has rights to build, own and operate the Community Energy Network.
- (B) The Customer and the Energy Company have agreed that the Energy Company shall supply the Customer with Energy Services at the Supply Address and Consumer Services to Consumers on the terms set out in this Agreement.

**OPERATIVE PROVISIONS**

**1 DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement:

"**Affiliate**" means, in relation to any person, any subsidiary, any holding company or any subsidiary of such holding company, and holding company and subsidiary shall have the meaning given to them in section 1159 of the Companies Act 2006.

"**Agreement**" means this agreement, including the schedules hereto.

"**AMR System**" means the system (including any relevant wiring, data collecting and/or processing equipment, other equipment, telephone line and telephone line connection) for remote reading of Customer Meters at the Development.

"**Annual Schedule of Planned Maintenance**" means a schedule of Planned Maintenance for a Service Period which contains the following:

- (a) the nature and scope of the Planned Maintenance;
- (b) the proposed start and end dates and proposed hours of work;
- (c) any effect on the performance or provision of the Energy Services including whether and for what period any temporary equipment will be used by the Energy Company to provide the Energy Services during the period of any Planned Maintenance; and
- (d) any effect or impact upon the activities of the Customer.

"**Authorisation**" means an authorisation, consent, permission, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Availability Fee**" means the charge billed to the Customer in accordance with Schedule 4 (*Charges*) for keeping the Energy Services available to the Customer and levied by the Energy Company with effect from the Date of Supply until termination of this Agreement but not during any Consumer Services Period.

**"Billing Period"** means a period of one month.

**"Business Days"** means a day other than a Saturday, Sunday or a bank holiday in England.

**"Charges"** means the charges levied by the Energy Company pursuant to Clause 5 (*Charges and Payment*) and the charges set out in Schedule 4 (*Charges*).

**"Combined Services Equipment"** means the Secondary Network, the Customer Meters, the AMR System, the HIUs and their connections to the Secondary Network.

**"Commercial Supply Agreement"** means an agreement in the form set out in Schedule 12 (*Commercial Supply Agreement*) to be entered into between the Energy Company and an occupier of a Commercial Unit for the supply of Energy Services to a Commercial Unit.

**"Commercial Unit"** means a part of the Development which is primarily used for business or commercial purposes.

**"Commercial Unit Point of Connection"** means the point at which a Commercial Unit is connected to the Secondary Network at the demarcation point set out in the CUPC Drawing.

**"Common Parts"** means any part of the Development or the premises at the Supply Address which is neither a Commercial Unit nor a Dwelling.

**"Common Parts Supply Agreement"** means an agreement to be entered into by the Energy Company with the Customer for the supply of Energy Services to the Common Parts which shall be in the form of a Commercial Supply Agreement but with no Availability Fee.

**"Community Energy Network"** means:

- (a) the Energy Centres; and
- (b) the H&C Network.

**"Conduits"** means those parts of the H&C Network between the boundary of the Supply Address and the Point of Connection and any associated cables and ducts.

**"Confidential Information"** means all information marked as confidential or which should reasonably be regarded as confidential in whatever form and of whatever nature received or obtained as a result of entering into or performing this Agreement, including any information regarding the business, customers, know-how or financial or other affairs, commercially sensitive information, trade secrets, intellectual property and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998 of the other Party and which arises out of or relates to:

- (a) the negotiations concerning this Agreement;
- (b) the provisions of this Agreement; or
- (c) the subject matter of this Agreement.

**"Connection"** means the physical connection of the premises at the Supply Address to the Community Energy Network to enable the Energy Company to provide and the Customer to receive the Energy Services.

**"Connection Agreement"** means an agreement between the Energy Company and [•] to connect the Development to the Community Energy Network dated [•], as amended.

**"Consumer"** means an end user of Energy Services in a Dwelling, Commercial Unit or Common Part, which services shall be provided by the Energy Company pursuant to a Subsidiary Supply Agreement during any Consumer Services Period or by the Customer during any other period during the term of this Agreement.

**"Consumer Services"** means the services set out in Schedule 7 (*Consumer Services*).

**"Consumer Services Period"** means any period of time during which the Energy Company is required to provide the Consumer Services pursuant to Clause 3 (*Consumer Services*).

**"Consumption Charge"** has the meaning given to it in Schedule 4 (*Charges*).

**"Controls Demarcation Drawing"** means the drawing as set out in Schedule 13, Part 2 (*Controls Demarcation Drawings*).

**"Contract Particulars"** means the particulars of this Agreement as set out in Schedule 1 (*Contract Particulars*).

**"Cooling Services"** means cooling services provided in the form of cooling transferred at the Point of Connection or, in respect of any Subsidiary Supply Agreement, at the relevant point of connection under such agreement.

**"CUPC Drawing"** means the drawing set out in Schedule 13, Part 3 (*CUPC Drawing*).

**"Customer Insurance"** means public liability insurance with a level of cover of £1,000,000 in the aggregate each year, indexed annually in accordance with RPI with effect from 31 March 2013.

**"Customer Meter"** means the Customer Metering Equipment used to meter the Energy Services provided to any Commercial Unit, Dwelling or Common Parts.

**"Customer Metering Equipment"** means real time metering equipment for the measurement of the Energy Services as described in the Technical Specification.

**"Customer Property Damage"** means any damage to or destruction of the Supply Address or any neighbouring property of the Customer, or any third party property on the Supply Address or on any neighbouring property of the Customer, caused by or arising out of the Energy Company (or the Energy Company's employees, agents or sub-contractors) performing any of the Energy Company's obligations, or exercising any of the Energy Company's access rights, under this Agreement, the Connection Agreement or any Void Supply Agreement, but excluding any Indirect Loss.

**"Date of Supply"** means the later to occur of:

- (a) the date set out in the Offer of Supply; and

(b) the date of successful completion of the Part B Service Readiness Test under the Connection Agreement.

**"Deed of Variation"** means the deed of variation between the Energy Company and the Customer dated ..... to vary the terms of this Agreement.

**"Developer"** means the person identified as such in the Contract Particulars.

**"Development"** means the development as detailed in the Contract Particulars.

**"Disconnection Charge"** has the meaning given to it in Schedule 4 (*Charges*) to this Agreement.

**"Dwelling"** means a unit within the Development which is primarily used for residential purposes.

**"Emergency"** means any event where the Energy Company reasonably considers it necessary to take urgent steps to remedy any matter for reasons of health and safety or events requiring the intervention of the police or emergency services whether or not this is as a result of the Energy Company's failure to comply with any of its obligations under this Agreement.

**"Employer"** means the Olympic Delivery Authority and Stratford City Developments Limited together and/or any other entity or entities to which their rights and/or obligations under their agreement with the Energy Company in respect of the Community Energy Network are transferred.

**"Energy Centre"** means any combined cooling, heating and power station for which the Energy Company has responsibility and which is used in the supply of the Energy Services.

**"Energy Company Equipment"** means all equipment installed or used by the Energy Company in the Plant Room and forming part of the Community Energy Network including (without limitation) the Network Meter, automatic meter reading equipment, heat exchangers, pipework and ancillaries, wiring and control panels.

**"Energy Company Help-desk"** means the Energy Company's help desk for dealing with customer enquiries and complaints, contact details for which appear on the invoices sent to the Customer.

**"Energy Company Party"** means any of the Energy Company's sub-contractors of any tier but excluding the Energy Company and **"Energy Company Parties"** shall be construed accordingly.

**"Energy Company Property Damage"** means any damage to or destruction of the Energy Company's property or any third party property at the Development caused by the Customer or any other party to the Connection Agreement or any Void Supply Agreement (or such entities' employees, agents or sub-contractors) whilst carrying out works at the Development, but excluding any Indirect Loss.

**"Energy Company's Final Staff List"** means a list prepared and updated by the Energy Company of all Relevant Employees who are engaged in or wholly or mainly assigned to the provision of the Consumer Services or any part of the Consumer Services at the time the list is produced. The Energy Company's Final Staff List shall identify which of the Relevant Employees named are Transferring Employees.

**"Energy Company's Provisional Staff List"** means a list prepared and updated by the Energy Company of all Relevant Employees who are engaged in or wholly or mainly assigned to the provision of the Consumer Services or any part of the Consumer Services as at the commencement of the Restriction Period.

**"Energy Services"** means the Heating Services and (where applicable) the Cooling Services.

**"Estate Management Company"** means the entity specified as such in the Contract Particulars or such replacement entity as the Customer may appoint in accordance with the terms of this Agreement.

**"EVMC"** means East Village Management Company (company no. 06917185) whose registered office is at One Churchill Place, Canary Wharf, London E14 5LN.

**"Financial Standing Test"** means the test set out in Clause 17.6.

**"Force Majeure Event"** means:

- (a) war, civil war, armed conflict or terrorism; or
- (b) nuclear contamination unless in any case the Energy Company or Customer is the source or cause of the contamination; or
- (c) chemical or biological contamination of the Community Energy Network and/or the communal energy supply and/or the Supply Address from any of the events referred to in paragraph (a) above; or
- (d) pressure waves caused by devices travelling at supersonic speeds,

which directly causes either Party to be unable to comply with all or a material part of its obligations under this Agreement.

**"Good Industry Practice"** means using the standards, practices, methods and procedures which comply with the Law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances.

**"Guidance"** means the Danish MDIR document titled "Guidance on Thermal Energy Meters / District Heating Meters - Guidance on Control System for Meters in Service and for Re-Verification of Meters" as updated from time to time, or such other reference standard as the Employer may agree with the Energy Company to use for the purposes of this Agreement (and the Parties hereby acknowledge that they will be bound for the purposes of this Agreement by any such agreement by the Employer).

**"H&C Network"** means the heating and (where applicable) cooling supply network, consisting of distribution and return pipework, the Conduits and the Energy Company Equipment, provided by the Energy Company in order to provide the Energy Services to the Point of Connection.

**"Heat Interface Unit"** or **"HIU"** means the heat interface unit that transfers heat from the Secondary Network to a tertiary heat network, including heat exchanger, pumps, controls, motorised valves and ancillary equipment shown within the green boundary on the HIU Drawing.



**"HIU Drawing"** means the drawing set out in Schedule 13, Part 1 (*HIU Drawings*).

**"HIU Services"** means:

- (a) the planned inspection services described in paragraph 1 of Part 4 of Schedule 7 of this Agreement; and
- (b) the labour component of the activities referred to in paragraph 3.1(b) of Part 4 of Schedule 7 of this Agreement,

each in relation to the obligations of the Energy Company under paragraph 2.1 of Part 4 of Schedule 7 of this Agreement.

**"Heating Services"** means the provision of heating services in the form of heat transferred at the Point of Connection or, in respect of any Subsidiary Supply Agreement, at the relevant point of connection under such agreement.

**"Indirect Loss"** means loss of profit or revenue, loss of opportunity, loss of contract or loss of goodwill, the cost of obtaining any new financing or maintaining any existing financing (including the making of any scheduled or other repayment or prepayment of debt and the payment of any other costs, fees or expenses incurred in connection with the obtaining or maintaining of financing) but for the avoidance of doubt shall not include any amounts expressly payable under this Agreement.

**"Invoice Date"** means the date falling on or after the last Business Day of the Billing Period.

**"Law"** means:

- (a) any applicable statute or proclamation or any delegated or subordinate legislation;
- (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;
- (c) any applicable guidance, direction or determination with which the Customer and/or the Energy Company is bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Energy Company; and
- (d) any applicable judgment of a relevant court of law which is binding in England.

**"Landlord's Site Rules"** means the Landlord's reasonable and relevant site rules and health and safety policies and procedures as set out in Schedule 10, Part 2 (*Landlord's Site Rules*) and as amended from time to time and notified to the Energy Company in accordance with Clause 10.1(i).

**"Network Meter"** means the meter measuring the total supply of Energy Services from the H&C Network to the Secondary Network, installed in the Plant Room as part of the Energy Company Equipment.

**"Offer of Supply"** means the offer made by the Energy Company to the Customer in respect of a supply of Energy Services, as set out in Schedule 5 (*Offer of Supply*).

"**Party**" means either the Energy Company or the Customer and "Parties" means both the Energy Company and the Customer.

"**Penalty Points**" has the meaning given to it in Schedule 9 (*Consumer Service KPIs*).

"**Performance Indicators**" means the performance indicators as detailed in the first column of the tables in Part 1 and Part 2 of Schedule 2 (*Performance Indicators*) to this Agreement.

"**Planned Maintenance**" means scheduled maintenance or repair of the Community Energy Network by the Energy Company.

"**Plant Room**" has the meaning given to it in the Connection Agreement.

"**Point of Connection**" means the point at which the isolation valve on the Secondary Network side of the Network Meter plate heat exchanger substation connects to the H&C Network.

"**Recognised Investment Exchange**" has the meaning given to it in section 285 of the Financial Services and Markets Act 2000.

"**Reconnection Charge**" has the meaning given to it in Schedule 4 (*Charges*) to this Agreement.

"**Relevant Authority**" means any court with the relevant jurisdiction and any local, national or supranational agency, inspectorate, minister, ministry, official or public or statutory person of the government of the United Kingdom or of the European Union which has jurisdiction arising out of or in connection with the Development and/or the Energy System, including the Department of Energy and Climate Change, the Greater London Authority and the Energy Ombudsman.

"**Relevant Employees**" means the employees who are engaged in or wholly or mainly assigned to the provision of the Consumer Services at any time between the Effective Date and the Termination Date.

"**Relief Event**" means:

- (a) failure by any statutory undertaker to carry out works or provide services;  
or
- (b) exceptionally adverse weather conditions; or
- (c) accidental loss or damage caused by an event in respect of which the Customer is entitled to receive insurance proceeds to cover any loss caused by delay to the Date of Supply or where insurance covered by the Energy Company would cover such loss of the Customer; or
- (d) any delay in achieving the provision of Energy Services to the Supply Address by the Date of Supply caused by a breach of contract by the Customer or a breach by the Developer of its obligations under the Connection Agreement in respect of the Secondary Network (save for any delay arising out of or in connection with an act, omission or default of the Energy Company).

**"Replacement Service Provider"** means any supplier of Replacement Services which is not the Energy Company, and may be either the Customer or a third party appointed by the Customer.

**"Replacement Services"** means any services which are identical or similar to any of the Consumer Services and which the Customer receives in substitution for any of the Consumer Services following the termination or expiry of the Consumer Services, whether those services are provided by the Customer or by any other Replacement Service Provider.

**"Required Insurance"** means:

- (a) public liability insurance with a level of cover of £10,000,000 in the aggregate each year;
- (b) employer's liability insurance with a level of cover of £10,000,000 in the aggregate each year; and
- (c) professional indemnity and product liability insurance with a level of cover of £10,000,000 in the aggregate each year,

in each case indexed annually in accordance with RPI with effect from 31 March 2013.

**"Residential Consumer"** means a customer who receives Energy Services at a Dwelling pursuant to the terms of a Residential Supply Agreement.

**"Residential Supply Agreement"** means an agreement between the Energy Company and an occupier of a Dwelling for the supply of Energy Services in substantially the form set out at Schedule 11 (*Residential Supply Agreement*).

**"Restriction Period"** means the period beginning on the date on which either Party gives notice to the other to terminate this Agreement or terminate the Consumer Services and ending on the Termination Date or the final twelve months of this Agreement if it terminates by expiry.

**"RPI"** means the Retail Prices Index (All Items) as published by the Office for National Statistics from time to time, or, failing such publication or in the event of a fundamental change to the Index, such other index as the Parties may agree.

**"Secondary Network"** means the network, associated services and assets between the secondary side of the primary network heat exchanger and each Dwelling's HIU and Common Parts' HIU (in each case up to the green line boundary on the HIU Drawing) and each Commercial Unit Point of Connection, including but not limited to pumps, speed controllers, acoustic enclosures to plant, pressurisation units, pressure vessels, pipes (including insulation), pipeline ancillaries (including insulation), electrical supplies to components of the Secondary Network from the first distribution board upstream and controls relating the Secondary Network (including but not limited to; control panels, control devices, and associated control wiring, as shown on the Controls Demarcation Drawing), but not including the Customer Meters or the Network Meter.

**"Secondary Network Services"** means the maintenance of the Secondary Network and associated services that the Energy Company has agreed to provide to the Developer under the Connection Agreement.

**"Secondary Network Services Commencement Date"** means the date on which the Secondary Network Services commence under the Connection Agreement.

**"Service Period"** means a continuous period of twelve (12) months or part thereof ending on 31 March.

**"Staffing Information"** means in relation to all persons detailed on the Energy Company's Provisional Staff List and Energy Company's Final Staff List full details of the Relevant Employees, including details of their material terms and conditions of employment, age, length of continuous service, current remuneration benefits and any other information relevant to their employment, including the information required to be given to a transferee under regulation 11 of the Transfer Regulations.

**"Subsidiary Supply Agreement"** means a Common Parts Supply Agreement, a Commercial Supply Agreement, a Residential Supply Agreement or a Void Supply Agreement.

**"Summer Period"** means a period commencing on 1 May and ending on 30 September.

**"Supply Address"** means address to which the supply of Energy Services will be made as set out in Schedule 6 (*Supply Request*) of this Agreement.

**"Supply Request"** means the request, as set out in Schedule 6 (*Supply Request*), made by the Customer to the Energy Company for information in respect of a supply of Energy Services.

**"Tax Authority"** means HMRC and any other governmental, state, federal or other fiscal, revenue, customs or excise authority, department, agency, body or office whether in the United Kingdom or elsewhere in the world having authority or jurisdiction for any tax purpose.

**"Technical Specification"** means the specification set out in Schedule 3 (*Technical Specification*).

**"Temporary Boiler Space"** has the meaning given to it in Schedule 10, Part 1 (*Service Delivery Terms*).

**"Termination Date"** means the date of termination of the Consumer Services Period, or this Agreement.

**"Transfer Regulations"** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**"Transferring Employees"** means the Relevant Employees whose contracts of employment will transfer to the Customer or any Replacement Service Provider under the Transfer Regulations on the date of termination or expiry of Consumer Services Period.

**"VAT"** means value added tax prevailing at the time of the provision of Energy Services as provided for in the Value Added Tax Act 1994 or any re-enactment thereof.

**"Void Supply Agreement"** means an agreement in substantially the form set out in Schedule 8 (*Void Supply Agreement*) to be entered into between the Energy

Company and the Developer, the Estate Management Company or such other party as the Parties may agree acting reasonably, for the supply of Energy Services to Dwellings, and/or Commercial Units in respect of which no Residential Supply Agreement or Commercial Supply Agreement has been entered into.

**"Vulnerable Customers"** means those residential Consumers categorised as vulnerable by the Customer in accordance with Schedule 7 (*Consumer Services*) and recorded in the Customer's list of vulnerable customers for the Development as supplied to the Energy Company from time to time.

**"Welcome Pack"** means the Energy Company's welcome pack as set out in Schedule 7, Part 8 (Welcome Pack ).

**"Winter Period"** means a period commencing on 1 October and ending on 30 April.

1.2 In this Agreement any reference to:

- (a) a statute or statutory provision includes a reference to:
  - (i) any statutory amendment, consolidation or re-enactment of it to the extent in force from time to time;
  - (ii) all orders, regulations, instruments or other subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978) made under it to the extent in force from time to time; and
  - (iii) any statute or statutory provision of which it is an amendment, consolidation or re-enactment;
- (b) a Clause or Schedule is to a clause of or schedule to this Agreement and any reference to this Agreement includes its Schedules;
- (c) a Paragraph is to a paragraph in a Schedule and, where no specific Schedule is mentioned, to the Schedule in which the reference is located;
- (d) any agreement (including this Agreement) or other document or the provisions of them is a reference to that agreement, document or provision as amended, novated, supplemented, extended, restated or replaced from time to time;
- (e) a "person" includes a legal or natural person, partnership, association, trust, company, corporation, joint venture, government, state or agency of the state or other body; and
- (f) a governmental, local governmental, regulatory or administrative authority or agency includes its successors.

1.3 In this Agreement the interpretation of general words shall not be restricted by words indicating a particular class or particular examples.

1.4 The headings in this Agreement are for ease of reference only and are to be ignored when interpreting this Agreement.

## 2 **PROVISION OF ENERGY SERVICES**

2.1 The Energy Company shall provide the Energy Services to:

- (a) the Point of Connection at all times outside the Consumer Services Period; and
- (b) the Dwellings, Commercial Units and/or Common Parts in accordance with the relevant Subsidiary Supply Agreement at all times during the Consumer Services Period,

in each case from the Date of Supply until the date this Agreement terminates, subject to and in accordance with the terms of this Agreement.

2.2 Without prejudice to Clause 2.1(a), outside the Consumer Services Period the Energy Company shall provide the Energy Services to the Customer:

- (a) in accordance with Good Industry Practice;
- (b) in accordance with all relevant Laws and other statutory requirements; and
- (c) so as to avoid any interruption to the supply of Energy Services to the Customer.

2.3 If the supply of Energy Services to the Development is interrupted or suspended, the Energy Company shall continue to provide the Energy Services to the Customer as required under this Agreement and shall procure and utilise appropriate temporary facilities to enable it to do so if necessary, provided that:

- (a) the Energy Company's obligation to procure and utilise appropriate temporary facilities shall be suspended during any period that the Customer is unable to provide access to the Temporary Boiler Space pursuant to paragraph 2.3.3 of Schedule 10, Part 1 (*Service Delivery Terms*);
- (b) to the extent that the suspension or interruption in the supply of the Energy Services is due to:
  - (i) the negligence, act, omission or default of the Customer or any of its employees, agents or contractors, or any breach of this Agreement by the Customer;
  - (ii) any breach by the Developer of its obligations under the Connection Agreement in respect of the Secondary Network which has an adverse impact on the Community Energy Network;
  - (iii) the Energy Company's suspension of the Energy Services pursuant to Clause 9 (*Suspension of Energy Services for Non-Payment*) of this Agreement;
  - (iv) any failure of a statutory undertaker or the Developer to carry out works or provide services on the Development which results in the Energy Company being unable to provide the Energy Services;
  - (v) the Energy Company's belief on reasonable grounds that it is necessary to suspend or interrupt the Energy Services to avoid (i) endangering the life of any person, (ii) endangering any physical property, provided that both the relevant damage to such property and its economic impact are likely to be material, or (iii) any failure of or material interference with the Energy Services to any other

development, in each case arising as a result of the actions, default or omissions of the Customer; or

- (vi) any Planned Maintenance about which the Energy Company has notified the Customer at least fourteen days in advance and which lasts four hours or less and which has been carried out in accordance the provisions of this Agreement,

the Customer's obligation to pay the Availability Fee shall remain in full force and effect and the Customer shall be liable to the Energy Company for the Energy Company's reasonable costs in providing the temporary facilities, including any differential in fuel costs in supplying the Energy Services using the temporary facilities; and

- (c) in all other circumstances, the Energy Company shall procure and utilise the relevant temporary facilities at its own cost and shall still be entitled to charge the Availability Fee (provided that the Energy Services are being made available, unless the Energy Company has not been provided with access to the Temporary Boiler Space pursuant to paragraph 2.3.3 of Schedule 10, Part 1 (*Service Delivery Terms*) in which case the Availability Fee will still be payable during such period that the Temporary Boiler Space is not available).

2.4 Prior to the Secondary Network Services Commencement Date, the Customer acknowledges and agrees that the Energy Company shall have no responsibility for or liability arising out of failure to provide the Energy Services arising out of or in connection with any failure of the Secondary Network, with effect from the time of such failure until the time such failure of the Secondary Network is remedied such that the Secondary Network accords with the Technical Specification, save to the extent that any failure of the Secondary Network arises out of or in connection with the negligence, breach of contract or act, omission or default of the Energy Company or any of its employees, agents or contractors.

2.5 Except during any Consumer Services Period:

- (a) the Customer's obligations under this Agreement shall not be altered or reduced in any way as a result of the Energy Services being used by someone else at the Supply Address; and
- (b) the Customer shall remain liable to the Energy Company in respect of all Charges and any breach of its obligations under this Agreement notwithstanding that any leasehold interests have been created in the Supply Address or the fact that any such breach may have been caused by any person or persons who has a leasehold interest in the Supply Address.

### 3 **CONSUMER SERVICES**

#### 3.1 **Commencement of the Consumer Services Period**

3.1.1 The Customer shall, on not less than twenty (20) Business Days' notice from the Energy Company or such other period agreed between the Parties, enter into (or shall procure that another entity enters into) a Void Supply Agreement, or a number of Void Supply Agreements, with the Energy Company for all Dwellings and Commercial Units in the Development (subject to the terms of the Void Supply Agreement) to take effect on the commencement of the Consumer Services Period.

- 3.1.2 Notwithstanding any other provision of this Agreement, the Consumer Services Period shall not commence until:
- (a) the first occupation of a Dwelling or Commercial Unit within the Development; and
  - (b) Subsidiary Supply Agreements have been entered into covering all of the Commercial Units, Dwellings and Common Parts in the Development.
- 3.1.3 Commencement and termination of any Consumer Services shall in all cases apply to all of the Consumer Services. The Energy Company shall not be required or entitled to provide some but not all of the Consumer Services (unless otherwise agreed between the Parties in writing).
- 3.1.4 Each Party shall use reasonable endeavours to procure that, at all times during any Consumer Services Period, all Common Parts, Dwellings and Commercial Units within the Development are subject to the relevant Subsidiary Supply Agreements.
- 3.1.5 The Energy Company shall enter into a Subsidiary Supply Agreement with any owner or occupier of a Dwelling or Commercial Unit who requests such an agreement with the Energy Company provided that:
- (a) the Energy Company shall not be obliged to enter into any Subsidiary Supply Agreement (other than a Void Supply Agreement) until a Void Supply Agreement has been entered into pursuant to Clause 3.1.1 above; and
  - (b) if any charges payable to the Energy Company in respect of a particular Unit or Dwelling pursuant to the terms of a Void Supply Agreement are outstanding, the Energy Company shall not be obliged to enter into a Subsidiary Supply Agreement in respect of that Unit or Dwelling until all such outstanding charges are paid by the Consumer under the Void Supply Agreement or, at the Customer's option and absolute discretion, by the Customer.
- 3.1.6 The Parties acknowledge that the Consumer Services Period may commence while one or more of the Customer Meters in the Development remain subject to rectification works required to be performed by the Olympic Delivery Authority pursuant to an agreement between that entity and the Energy Company (the "**Relevant Agreement**"). In such event, the Customer shall be liable to pay the Energy Company the difference between:
- (a) the Network Meter reading for the relevant Billing Period less 15%; and
  - (b) the sum of the readings for that Billing Period from all finally commissioned Customer Meters at the Development,
- calculated on the basis of the respective unit charges per kWh set out in Schedule 4, Part 2 (*Charges during any Consumer Services Period*), until such time as the relevant rectification works are completed in accordance with the Relevant Agreement.
- 3.1.7 The Parties acknowledge that the Consumer Services Period may commence while one or more of the HIUs in the Development remain subject to rectification works required to be performed by the Olympic Delivery Authority pursuant to the Relevant Agreement referred to in Clause 3.1.6. In such event, the Energy Company shall:



- (a) not be obliged to perform the services set out in Part 4 of Schedule 7 (Consumer Services) in respect of such HIUs if doing so poses (on reasonable grounds) a health and safety risk; and
- (b) be relieved from performing the services set out in Part 4 of Schedule 7 (Consumer Services) in respect of any HIUs not accepted or accepted subject to works to be undertaken by or on behalf of the Developer,

but only to the extent the Energy Company is prevented from carrying out such services and only until such time as the relevant rectification works are completed in accordance with the Relevant Agreement referred to in Clause 3.1.6.

3.1.8 Notwithstanding any other provision of this Agreement, the Energy Company's obligation to provide the Energy Services to the Customer under this Agreement and, subject to Clause 3.1.6 above, the Customer's obligation to pay for the same shall be suspended during a Consumer Services Period and shall each recommence immediately and automatically upon termination of the Consumer Services Period.

### 3.2 **Provision of Consumer Services**

3.2.1 The Energy Company shall provide the Consumer Services to Consumers at all times during the Consumer Services Period in accordance with the Subsidiary Supply Agreements and all relevant provisions of this Agreement including, particularly but without limitation, Schedule 7 (*Consumer Services*).

3.2.2 Subject to Clause 10.1, the terms and conditions set out in Schedule 10 (*Site Rules*) shall apply in respect of all works or activities carried out by the Energy Company as part of or in connection with the Consumer Services, to the extent relevant to such particular works or activities and both Parties shall be bound by the requirements of Schedule 10 (*Site Rules*).

### 3.3 **Termination of the Consumer Services Period**

3.3.1 Subject to the remaining provisions of this Clause 3.3 (*Termination of the Consumer Services Period*), once the Consumer Services Period has commenced it shall continue until the earlier of:

- (a) the date of termination of this Agreement;
- (b) the date of termination of the Connection Agreement; or
- (c) the date on which the Energy Company's contractual rights to operate the Community Energy Network are terminated or otherwise permanently cease.

3.3.2 Notwithstanding Clause 3.3.1, the Customer may elect to terminate the Consumer Services Period in accordance with Clause 3.3.3 if the Energy Company:

- (a) is in material breach of its obligation to provide the Consumer Services (which for the avoidance of doubt includes, without limitation, failure to meet the standards of performance referred to in Schedule 7 (*Consumer Services*)) which, if capable of being remedied, has not been remedied within thirty (30) days of the issue by the Customer of a notice requiring remedy;

- (b) has accumulated sufficient Penalty Points under Schedule 9 (*Consumer Service KPIs*) to give the Customer a right to terminate the Consumer Services Period pursuant to Schedule 9 (*Consumer Service KPIs*); or
- (c) has otherwise committed persistent breaches of any of its obligations to provide the Consumer Services.

3.3.3 Where the Customer elects to terminate the Consumer Services Period pursuant to Clause 3.3.2 it shall, following the expiry of the remedy period applicable pursuant to Clause 3.3.2 (if any), serve notice (a "**Default Pre-Termination Notice**") to that effect on the Energy Company (and send a copy to the Employer). Service of a Default Pre-Termination Notice shall not affect either Party's obligations with respect to the Consumer Services, and the Consumer Services Period shall continue unaffected. Within six (6) months of serving a Default Pre-Termination Notice the Customer shall either:

- (a) serve a further notice (a "**Default Termination Notice**") on the Energy Company (and send a copy to the Employer) confirming the Customer's intention to terminate the Consumer Services Period and specifying the date (which shall be no more than three (3) months from the date of the Default Termination Notice) on which the Consumer Services Period shall terminate; or
- (b) serve a further notice (a "**Retraction Notice**") on the Energy Company (and send a copy to the Employer) stating that it does not wish to proceed with termination of the Consumer Services Period and waives its right to terminate in respect of the relevant breaches, in which case the Consumer Services Period shall continue unaffected.

If the Customer fails to serve either a Default Termination Notice or a Retraction Notice within the period specified under this Clause 3.3.3 following the service of a Default Pre-Termination Notice the Customer shall be deemed for the purposes of this Clause 3.3.3 to have served a Retraction Notice. For the avoidance of doubt, nothing in this Clause 3.3 shall affect the operation of Clause 11.5 in circumstances where that clause applies.

3.3.4 Termination of the Consumer Services Period shall not affect:

- (a) any accrued rights and liabilities in respect of the Consumer Services;
- (b) the continuation of any provision of this Agreement which is expressly stated to survive termination of either this Agreement or the Consumer Services Period; or
- (c) the Energy Company's other obligations under this Agreement, including to continue providing the Energy Services to the Point of Connection.

3.3.5 On and from the issue of a Default Pre-Termination Notice and until the expiry of a period of three (3) months after any consequent termination takes effect, the Energy Company shall cooperate generally with any prospective Replacement Service Provider and shall use reasonable endeavours to assist such Replacement Service Provider in taking over and providing the Consumer Services. Without limitation to the generality of the foregoing, the Energy Company shall:

- (a) provide the Replacement Service Provider with an accurate and up-to-date schedule of Consumer names and addresses, and the status of each Consumer's account;

- (b) provide the Replacement Service Provider with an accurate and up to date version of all maintenance manuals and log books and maintenance records relating to the Consumer Services Equipment, including any specialist sub contracts, in each case covering the complete duration of the Consumer Services Period;
- (c) take such other action and execute such documents as may be reasonably necessary to enable responsibility for provision of the Consumer Services to be transferred to the Replacement Service Provider without disruption to the provision of such services or the Energy Services to Consumers; and
- (d) to the extent required by the Replacement Service Provider, provide any spare parts and equipment relating exclusively to the Consumer Services at the Development to the Replacement Service Provider at no more than the actual cost of such parts and equipment to the Energy Company.

### 3.4 **TUPE Consequences of Consumer Services Termination**

3.4.1 The Customer and the Energy Company acknowledge that the Transfer Regulations may apply on the termination of the Consumer Services Period pursuant to this Agreement and the contracts of employment of the Transferring Employees shall have effect from the Termination Date as if they were originally made between the Customer or the Replacement Service Provider or its contractors and the Transferring Employees, save in so far as such contracts relate to benefits for old age, invalidity or survivors under an occupational pension scheme.

3.4.2 The Energy Company agrees that:

- (a) within twenty one (21) days of the commencement of the Restriction Period it shall provide to the Customer (and/or at the request of the Customer, to a Replacement Service Provider) the Energy Company's Provisional Staff List and the Staffing Information together with such information as the Customer may reasonably request in relation to the Relevant Employees. The Energy Company shall warrant that the Energy Company's Provisional Staff List and Staffing Information shall be complete and accurate in all material respects as at the date on which it is provided to the Customer and/or Replacement Service Provider;
- (b) at least fourteen (14) days prior to the Termination Date, the Energy Company shall prepare and provide to the Customer (and/or at the request of the Customer, to the Replacement Service Provider) the Energy Company's Final Staff List which shall be complete and accurate in all material respects. The Energy Company's Final Staff List shall identify which of the Relevant Employees shall be Transferring Employees; and
- (c) upon request by the Customer, the Energy Company shall provide the Customer (and/or at the request of the Customer, the Replacement Service Provider) with access during normal working hours to such employment records as the Customer or the Replacement Service Provider may reasonably require.

3.4.3 The Energy Company agrees that during the Restriction Period it shall not, and shall procure that its contractors shall not, without the prior written consent of the Customer (such consent not to be unreasonably withheld or delayed):

- (a) assign any additional person to the Consumer Services who is not listed in the Energy Company's Provisional Staff List;

- (b) increase the total number of employees listed on the Energy Company's Provisional Staff List;
- (c) make, propose or permit any changes to the terms and conditions of employment of any individuals listed on the Energy Company's Provisional Staff List;
- (d) increase the proportion of working time spent on the Consumer Services by any individuals listed on the Energy Company's Provisional Staff List save in respect of assignments previously agreed with the Customer;
- (e) introduce any new contractual or customary practice (including, for the avoidance of doubt, making or proposing to make any payments on termination of employment of any employee listed on the Energy Company's Provisional Staff List);
- (f) redeploy or replace any person listed on the Energy Company's Provisional Staff List; or
- (g) terminate or give notice to terminate the employment of any person on the Energy Company's Provisional Staff List, save in circumstances where such person is dismissed on the grounds of misconduct.

3.4.4 The Energy Company shall procure that all its obligations and any obligations owed by any Energy Company Party towards any Transferring Employees are fully performed and discharged. Subject to Clause 3.4.7, the Energy Company shall on demand indemnify the Customer or any Replacement Service Provider from and against all losses, liabilities, costs (including reasonable legal costs), claims and demands arising out of or in connection with:

- (a) the employment or the termination of employment of any Relevant Employee by the Energy Company or any Energy Company Party on or before the Termination Date;
- (b) any act or omission by any Energy Company Party occurring after the Effective Date but on or before the Termination Date in relation to any Transferring Employee;
- (c) any claim by or on behalf of the Transferring Employees or any of them that the Energy Company or any Energy Company Party has failed to comply with its obligations under regulations 11, 13 and 14 of the Transfer Regulations (except to the extent that any such claim in connection with regulations 13 or 14 of the Transfer Regulations arises from a failure (or alleged failure) by the Customer or any Replacement Service Provider to comply with regulation 13(4) of the Transfer Regulations); and
- (d) the employment and termination of employment of any person other than a Transferring Employee who claims that his or her contract of employment has transferred to the Customer or any Replacement Service Provider by operation of the Transfer Regulations on or about the Termination Date, provided that any such termination of employment by the Customer or any Replacement Service Provider is carried out within seven days of the Customer or any Replacement Service Provider becoming aware that such person has claimed to transfer to it.

This indemnity shall not apply to the employment costs of any relevant person to the extent that the Customer or any Replacement Service Provider or its contractor obtains the benefit of the provision of services by the person concerned.

3.4.5 Subject to Clause 3.4.7, the Energy Company shall, and shall procure that any Energy Company Party shall, be responsible for and shall on demand indemnify the Customer or any Replacement Service Provider from and against all salary payments and other emoluments, including holiday pay, tax and national insurance payments (both employer's and employee's outgoings) (including contributions to retirement benefit schemes) relating to the Transferring Employees up to and including the Termination Date.

3.4.6 Subject to Clause 3.4.7, the Customer shall on demand indemnify, or shall procure that any Replacement Service Provider so indemnifies, the Energy Company from and against all losses, liabilities, costs (including reasonable legal costs), claims and demands arising out of or in connection with:

- (a) the employment of any Transferring Employee by the Customer or Replacement Service Provider or its contractors after the Termination Date; and
- (b) any claim by or on behalf of the Transferring Employees or any of them that the Customer or Replacement Service Provider or its contractors has failed to comply with its obligations under regulation 13(4) of the Transfer Regulations.

3.4.7 The Energy Company and the Developer shall at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party may be entitled to bring a claim against the other Party pursuant to this Clause 3.4. The indemnities within Clauses 3.4.4 to 3.4.6 shall only apply to the extent that the beneficiary of the relevant indemnity has complied with its obligations pursuant to this Clause 3.4.7 in respect of the relevant losses.

### 3.5 **Consumer Services Breaches and Liability**

Notwithstanding any other provision of this Agreement, no breach by either Party of its obligations in respect of the Consumer Services nor any termination of the Consumer Services Period shall in any circumstances give rise to any right for either Party to terminate this Agreement pursuant to Clause 11 (*Termination*).

### 3.6 **Payment for Consumer Services**

The Energy Company shall be entitled to charge Consumers for Consumer Services provided during the Consumer Services Period in accordance with the Subsidiary Supply Agreements and the limitations set out in this Agreement. The Energy Company shall not charge or attempt to charge the Customer or the Estate Management Company in respect of the Consumer Services other than in accordance with the Subsidiary Supply Agreements and this Agreement.

## 4 **RELIEF EVENTS**

4.1 If and to the extent a Relief Event:

- (a) is the cause of a delay in achieving the provision of Energy Services by the Date of Supply; and/or

- (b) adversely affects the ability of the Energy Company to perform any of its obligations under this Agreement,

then the Energy Company is (at its sole discretion) entitled to apply for relief pursuant to Clause 4.2.

4.2 To obtain relief from a Relief Event, the Energy Company shall:

- (a) use reasonable endeavours to give the Developer a notice of its claim for relief from the relevant obligations under this Agreement including full details of the nature of the Relief Event, the date of its occurrence and its likely duration within five (5) Business Days after it becomes aware that the Relief Event has caused or is likely to cause delay or adversely affect the ability of the Energy Company to perform any of its obligations under this Agreement, and in any event give such notice within ten (10) Business Day after it becomes so aware;
- (b) within ten (10) Business Days of receipt by the Customer of the notice referred to in Clause 4.2(a), give full details of the relief claimed; and
- (c) demonstrate to the reasonable satisfaction of the Customer that:
  - (i) the Energy Company could not reasonably have avoided the Relief Event or its consequences by steps which it might reasonably be expected to have taken, without incurring material expenditure;
  - (ii) the Relief Event caused the delay to the Date of Supply or the need for relief from other obligations under this Agreement;
  - (iii) the time lost and/or relief from obligations under this Agreement claimed could not reasonably be expected to be mitigated or recovered by the Energy Company acting in accordance with Good Industry Practice, without incurring material expenditure; and
  - (iv) the Energy Company is using reasonable endeavours to perform its obligations under this Agreement.

4.3 If the Energy Company has complied with its obligations under Clause 4.2, then:

- (a) the Date of Supply shall be extended by such time as shall be reasonable for such a Relief Event and for the avoidance of doubt, its consequences;
- (b) the Customer shall not be entitled to exercise its right to terminate this Agreement in accordance with Clause 11.2.1(a), or terminate the Consumer Services Period in accordance with Clause 3.3.2, as a result of such Relief Event; and
- (c) the Energy Company shall be entitled to such other relief from its obligations under this Agreement as may be necessary having regard to the Relief Event provided that the Energy Company shall remain liable to the Customer for any concurrent or other breach of its obligations under this Agreement to the extent not attributable to the Relief Event. The Energy Company shall be deemed not to be in breach of this Agreement to the extent that any such breach is attributable to a Relief Event.

4.4 The Energy Company shall use all reasonable endeavours to mitigate the consequence of any Relief Event and the Energy Company shall not be entitled to

any relief under this Clause 4 (*Relief Events*) if and to the extent that the consequences of the Relief Event have arisen as a result of any failure by the Energy Company to mitigate such consequences.

- 4.5 If the information required by this Clause 4 (*Relief Events*) is provided after the specified dates, then the Energy Company shall not be entitled to any relief to the extent that the requirement for relief is increased as a result of the delay in providing such information.
- 4.6 The Energy Company shall promptly notify the Customer if at any time it becomes aware of any further information relating to the Relief Event, giving details of that information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.
- 4.7 If for any reason the Energy Company is not able to provide the Energy Services or alternative heating services (including by way of temporary plant) the Customer shall (at its own cost) be entitled to procure alternative heating services for so long as the Energy Company is unable to provide such services. For the avoidance of doubt, nothing in this Clause 4.7 shall in any way affect or detract from the Energy Company's obligations to provide the Energy Services or alternative heating services (including by way of temporary plant) under the remaining provisions of this Agreement.

## 5 **CHARGES AND PAYMENT**

- 5.1 The Customer shall pay all Charges due to the Energy Company as detailed in Schedule 4 (*Charges*) to this Agreement.
- 5.2 The Energy Company shall issue an invoice to the Customer in respect of each Billing Period on or after the Invoice Date which will contain details of:
- (a) the Supply Address;
  - (b) details of the Charges;
  - (c) any applicable VAT;
  - (d) any amount the Energy Company properly adds to recover underpayments;
  - (e) the contact details of the Energy Company Help-desk;
  - (f) details of the Energy Services consumed in kWh (or estimated to be consumed in kWh);
  - (g) opening and closing readings or (where otherwise permitted under this Agreement) estimated readings of the Network Meter in respect of the Billing Period in question, and the date of each reading;
  - (h) a breakdown of the invoice including details of any changes or adjustments made to previous invoices;
  - (i) an indication of whether the Charges are based on an estimated or actual reading of the Network Meter;
  - (j) any amount that the Energy Company is entitled to demand immediate payment of from the Customer;

- (k) the balance of the Customer's account;
  - (l) the amount of any compensation payable to the Customer (if any) for the Billing Period in question; and
  - (m) the Billing Period to which the invoice relates.
- 5.3 The Customer must pay the Energy Company the amount shown on the invoice within ten (10) Business Days of the date of receipt of the invoice (the "due date for payment"). The invoice shall be paid by monthly variable direct debit or BACS transfer to the Energy Company's nominated account, unless the Energy Company agrees to a different method of payment.
- 5.4 The Charges included in the invoice may be based on a reasonable estimate made by the Energy Company of the Energy Services supplied to the Customer during the Billing Period in circumstances where the Network Meter has failed to accurately record the Energy Services or where the Energy Company has not been able to obtain all the information it requires for the purpose of calculating the Charges. The Charges will, in such circumstances, be properly estimated using:
- (a) historical consumption data in relation to the consumption of the Energy Services by the Customer (where available); and
  - (b) energy consumption profiles for the relevant period to which the invoice relates for similar customers of the Energy Company.
- 5.5 In the event that the Customer disagrees with an estimated invoice, the Customer shall notify the Energy Company of such disagreement as soon as reasonably practicable and in any event within five (5) Business Days from receipt of the invoice. If the Customer does not notify the Energy Company in accordance with this Clause 5.5 that it disagrees with the Energy Company's estimation, the Customer (other than in the case of manifest error) shall pay the amount stated in the original invoice by the original due date for payment and any error in such estimation by the Energy Company shall be corrected by the Energy Company in the subsequent invoice.
- 5.6 If the Customer does not pay the Charges by the due date for payment, the Energy Company reserves the right to charge interest on the unpaid amount. The applicable rate of interest shall be calculated at a daily rate which, when compounded, shall be equivalent to the Bank of England Base Lending Rate in force at the time plus a margin of four per cent (4%) per annum for the first sixty (60) days following the due date for payment and a rate of eight per cent (8%) per annum for each day thereafter. Interest charges are in addition to any other rights the Energy Company may have due to the Customer's failure to pay or to make payments on time.
- 5.7 Where the Customer does not pay the amount set out in the Energy Company's invoices by the due date for payment on more than one occasion, the Energy Company may require the Customer to maintain its account in credit by giving the Customer no less than fifteen (15) Business Days' written notice of such requirement. Such credit shall not exceed an amount reasonably forecast as due to the Energy Company in the next Billing Period. This amount shall be calculated on the basis of previous invoices that the Energy Company has sent to the Customer or, where the non-payment relates to the Customer's first invoice, on the basis of invoices that the Energy Company has sent to similar customers.



- 5.8 Except where Clause 3.1.6 applies, until this Agreement is terminated, the Customer will continue to be responsible for all Charges (or part thereof) even if:
- (a) the Energy Services are used by someone else at the Supply Address (or otherwise via the Connection) in which case the Customer will continue to be responsible for both the Availability Fee and the Consumption Charge; or
  - (b) the Customer does not use the Energy Services for any period, in which case the Customer shall remain liable to pay the Availability Fee in respect of such period; or
  - (c) the Energy Services are not available at the Point of Connection as a result of the failure of the Secondary Network (unless the failure of the Secondary Network arises out of or in connection with the negligence, breach of contract or act, omission or default of the Energy Company or any of its employees, agents or contractors) or any failure by the Energy Company to provide the Secondary Network Services in accordance with the Connection Agreement).

## 6 METERS & ENERGY COMPANY EQUIPMENT

- 6.1 The Energy Company undertakes to accurately meter the consumption of the Energy Services at the Point of Connection.
- 6.2 The Energy Company shall carry out periodic testing of the Network Meter to ensure continued accuracy. Such testing shall be carried out in accordance with Good Industry Practice and, without limitation to the generality of the foregoing, in accordance with the Guidance.
- 6.3 The Network Meter remains the property of the Energy Company. The Customer shall not interfere with, damage or attempt to remove the Network Meter or any part of the Energy Company Equipment or any other equipment belonging to the Energy Company whether upstream or downstream of the Point of Connection.
- 6.4 The Customer will accept as accurate all Network Meter readings taken or estimated by the Energy Company pursuant to Clause 5.4 unless it reasonably considers there to be a material error in such readings or estimation or that the Network Meter is defective.
- 6.5 In the event that, in the reasonable opinion of the Customer, there is a material error in a Network Meter reading or estimation and the Energy Company disputes such opinion, then Clause 5.5 shall apply in respect of the relevant invoice.
- 6.6 If the Customer does not accept a Network Meter reading taken pursuant to Clause 5.4 or estimated by the Energy Company as accurate then, if the Customer so requests, the Energy Company shall appoint an accredited independent third party to verify the accuracy of the Network Meter. The Customer shall be responsible for the costs connected with the third party verifying the accuracy of the Network Meter unless the Network Meter is found to be below the level of accuracy recommended in the Guidance, in which case the Energy Company shall be responsible for the costs connected with the third party verifying the accuracy of the Network Meter.
- 6.7 Notwithstanding Clause 6.6, if the periodic testing of the Network Meter pursuant to Clause 6.2 identifies measurement errors which are outside the tolerances set out in the Guidance then it shall be deemed to be faulty. If the Network Meter is

faulty, it shall promptly be repaired or replaced at the cost of the Energy Company unless the fault is due to the deliberate or negligent act or omission of the Customer and/or the Customer's representatives and/or agents in which case, the Energy Company shall be entitled to recover its direct and reasonable costs properly incurred in the repair and replacement of such Network Meter from the Customer.

6.8 If the Network Meter is defective the Energy Company shall adjust the Charges to take into account any error or inaccuracy in the Network Meter reading. Where this inaccuracy cannot be calculated, the Energy Company may adjust an incorrect Network Meter reading based on the Energy Company's reasonable estimate of the amount of Energy Services consumed by the Customer properly estimated from:

- (a) historical consumption data for the Customer (where available); and
- (b) energy consumption profiles for similar customers of the Energy Company for the relevant period affected by the defective Network Meter or inaccurate Network Meter reading.

6.9 The Customer shall notify the Energy Company as soon as possible if it believes that the Network Meter has been damaged or destroyed or if anyone other than the Energy Company or the Energy Company's agents interferes with or removes the Network Meter. The Customer is responsible for any damage to the Energy Company Equipment and/or any other equipment belonging to the Energy Company whether upstream or downstream of the Point of Connection (provided always that such equipment belonging to the Energy Company is located within the Plant Room), and the cost of any associated repair or replacement except to the extent that the relevant damage is caused by:

- (a) the Energy Company or its agents; or
- (b) a problem with the Energy Services; or
- (c) a third party (and such third party damage does not arise out of or is in connection with an act, omission or default of the Customer).

## 7 **FAULTS, ENERGY SERVICES INTERRUPTIONS AND MAINTENANCE**

7.1 The Energy Company shall provide the Energy Services at all times during the whole of the term of this Agreement, however the Customer acknowledges that the Energy Company may need to suspend the Energy Services in certain circumstances and that the Energy Services may be otherwise interrupted. Outside of the Consumer Services Period the Energy Company shall compensate the Customer for suspensions of or interruptions to the Energy Services in accordance with Clause 14.

7.2 If the supply of Energy Services to the Development is interrupted or suspended, the Energy Company shall provide the Energy Services to the Development in accordance with Clause 2.3.

7.3 If, during any period that is not part of a Consumer Services Period, the supply of heating to any Dwelling is interrupted or suspended and such interruption or suspension is not due to any failure by the Energy Company to provide the Energy Services to the Customer in accordance with this Agreement, the Energy Company shall, if requested by the Customer and at the Customer's cost, promptly provide alternative temporary, local heating services to Vulnerable Customers. For the avoidance of doubt, if the supply of heating is interrupted or suspended due to any

breach of this Agreement by the Energy Company, failure to provide the Secondary Network Services in accordance with the terms of the Connection Agreement, or negligent act or omission of the Energy Company, the provision of alternative temporary, local heating services to Vulnerable Customers shall be at the Energy Company's sole cost.

- 7.4 If there is a fault or interruption to the Energy Services (other than a fault or interruption that the Energy Company has previously notified the Customer of in accordance with this Agreement):
- (a) the Customer shall notify the Energy Company as soon as reasonably practicable by calling the Energy Company Help-desk; and
  - (b) the Energy Company shall:
    - (i) log the Customer's call;
    - (ii) inform the Customer of what the Energy Company will do in response to the reported fault or interruption, either immediately or within a maximum of two (2) hours from the time when the failure is notified by the Customer to the Energy Company;
    - (iii) take appropriate action to remedy the fault or interruption within eight (8) hours of logging by the Energy Company of the Customer's call;
    - (iv) where necessary, arrange for the Energy Company's agent to visit the Supply Address; and
    - (v) keep accurate records of all Customer calls, response times and Performance Indicator failures, such records (as applicable to the Customer) to be made available to the Customer for inspection on reasonable notice.
- 7.5 So far as is reasonably practicable, any maintenance of a *de minimis* nature or unplanned maintenance carried out upon the Community Energy Network shall be completed in time to enable the restoration of the Energy Services within four (4) hours from the notification of the interruption.
- 7.6 Except in the case of Emergency maintenance works, any modification to, or maintenance of, the Community Energy Network (including Planned Maintenance) that may cause an interruption to the delivery of any of the Energy Services shall be scheduled by the Energy Company during anticipated periods of low demand for the Energy Services and the Energy Company shall endeavour to minimise such periods of disruption. If the planned modification or maintenance will affect the Development then the Energy Company shall give the Customer not less than fourteen (14) days' written notice in advance of any modification or maintenance that will, or is likely to, require any interruption of the Energy Services.
- 7.7 The Energy Company undertakes to ensure that as far as reasonably practicable, any Planned Maintenance to the Community Energy Network shall occur during anticipated periods of low demand for the Energy Services and in accordance with the relevant Annual Schedule of Planned Maintenance for the Service Period in question, which shall be provided, to the extent applicable for the Development, by the Energy Company to the Customer at the commencement of each Service Period.

7.8 To the extent that the Energy Company requires access to any part of the premises at the Supply Address for the purposes of any Planned Maintenance the Energy Company shall consult with the Customer on the extent and timing of such access prior to finalising the relevant Annual Schedule of Planned Maintenance and shall, acting reasonably, take account of the Customer's representations in respect thereof.

## 8 **FORCE MAJEURE**

8.1 If a Party is or will be prevented from performing its obligations under this Agreement by a Force Majeure Event, then it shall as soon as reasonably practicable (and in any event within two (2) Business Days after the occurrence of a Force Majeure Event):

- (a) notify the other Party of the occurrence of a Force Majeure Event giving details thereof, the reasons for its occurrence, the obligations which will be affected, the reasons why such obligations under this Agreement were affected and an estimate of the period of time the Force Majeure Event is likely to subsist; and
- (b) use reasonable endeavours to:
  - (i) resume the performance of its obligations suspended as a result of the Force Majeure Event; and
  - (ii) minimise the damage caused by such suspension.

8.2 The affected Party shall, provided that notice has been given in accordance with Clause 8.1, be excused from the performance of such obligations affected by the Force Majeure Event for so long as such Force Majeure Event prevents it from performing them.

8.3 The Customer shall not (whilst the Energy Services are suspended as a result of a Force Majeure Event) be obliged to pay the Charges incurred during the period of such suspension.

## 9 **SUSPENSION OF ENERGY SERVICES FOR NON-PAYMENT**

9.1 To the extent permissible by law, the Energy Company may suspend the Energy Services during any period that does not form part of a Consumer Services Period:

- (a) if the Customer has failed to pay the Charges within two (2) months of the due date for payment and:
  - (i) such failure is not remedied within fourteen (14) days of a written notice from the Energy Company requiring the Customer to pay such amounts as are outstanding or maintain its account in credit in accordance with Clause 5.7; and
  - (ii) such failure to pay, or the amount of payment required, is not the subject of a current dispute carried out in accordance with Clause 15 (*Dispute Resolution*);
- (b) on not less than fourteen (14) days written notice by the Energy Company where the Customer has used (or attempted to use) the Energy Services without authorisation, steal or unlawfully extract the Energy Services

provided that the Energy Company has provided the Customer with reasonable evidence that such circumstances exist; or

- (c) for any period during which the Customer does not keep its account in credit in accordance with Clause 5.7 provided that the Energy Company has given the Customer not less than ten (10) Business Days' notice to keep its account in credit in accordance with Clause 5.7.

9.2 Subject to Clause 9.3, the Energy Company shall resume the supply of Energy Services to the Customer as soon as reasonably practicable, and in any event within forty eight (48) hours, after an event of suspension set out in Clause 9.1 ceases to exist.

9.3 Where the Energy Company has suspended the Energy Services in accordance with Clause 9.1 it may require the Customer to pay the Disconnection Charge and Reconnection Charge before it re-establishes the Energy Services to the Customer. Following such a suspension, subject to the Customer:

- (a) agreeing to maintain its account for the Energy Services in credit in accordance with Clause 5.7; and
- (b) paying in full all outstanding Charges payable to the Energy Company, including:
  - (i) the Availability Fee relating to the period between suspension of the Energy Services and the date of settlement of all outstanding Charges (including any accumulated interest outstanding calculated in accordance with Clause 5.6 of this Agreement); and
  - (ii) the Disconnection Charge and Reconnection Charge, if the Energy Company elects to impose such charges,

as soon as is reasonably practicable, and in any event within forty eight (48) hours of the Customer fulfilling its obligations under this Clause 9.3(a) and Clause 9.3(b) above, the Energy Company shall re-establish the Energy Services to the Customer.

## 10 **ACCESS**

10.1 The Customer shall grant and shall, where necessary, procure the grant to, the Energy Company, its employees, servants, agents and/or its sub-contractors, such access to the Energy Company Equipment:

- (a) as may be reasonably necessary to enable the Energy Company to perform its obligations under this Agreement including for the purposes of reading, inspecting, repairing, exchanging, installing, isolating or removing any part of the Network Meter;
- (b) at all reasonable times after this Agreement terminates to the extent necessary for the Energy Company to recover any part of the Energy Company Equipment or other equipment belonging to the Energy Company;
- (c) at any time where an Emergency exists in connection with the provision of the Energy Services; and
- (d) at any time for any purpose required by any relevant legislation,

provided that, the Energy Company shall at all times comply with:

- (i) the Landlord's Site Rules (and the Parties acknowledge that in the event that the Landlord's Site Rules are varied from time to time, the Customer shall be responsible for the Energy Company's demonstrable and reasonable costs incurred as a direct result of such variation); and
- (ii) the terms set out in Schedule 10, Part 1 (*Service Delivery Terms*), unless there is a conflict between the terms set out in Schedule 10, Part 1(*Service Delivery Terms*), and the Landlord's Site Rules, in which case the Landlord's Site Rules shall in all cases take precedence.

10.2 In an Emergency the Energy Company, may, with immediate effect and without prior notice to the Customer and/or any entity with an interest in the Development, suspend the provision of Energy Services to the Development by isolating the Development from the H&C Network via the external valve pits located adjacent the Development, provided that the Energy Company:

- (a) has, prior to such suspension of the Energy Services, used reasonable endeavours to contact the Customer and/or any entity with an interest in the Development; and
- (b) the Energy Company gives notice to the Customer of any action taken pursuant to this Clause 10.2, together with reasonably detailed reasons for taking such action, as soon as reasonably practicable after such action is taken.

10.3 Where the Energy Company has suspended the Energy Services in accordance with Clause 10.2, the Energy Company shall resume the supply of Energy Services as soon as reasonably practicable when such Emergency ceases to exist and the Customer shall not be liable for any Disconnection Charge or Reconnection Charge as a result of the occurrence of an Emergency, save to the extent that such Emergency is caused by the acts, omissions or defaults of the Customer.

## 11 **TERMINATION**

### 11.1 **Termination by the Energy Company**

To the extent permitted by Law, the Energy Company may terminate this Agreement outside a Consumer Services Period:

- (a) if the Customer is in material breach of this Agreement and, if capable of being remedied, the breach is not remedied within sixty (60) days of a written notice from the Energy Company requiring such breach to be remedied;
- (b) if the Customer ceases, or threatens to cease trading, becomes subject to an administration order, sequestration proceedings, winding-up proceedings (except for the purposes of re-construction or amalgamation), becomes subject to the appointment of an administrator or administrative receiver, a receiver is appointed over the whole or any part of its assets or becomes insolvent, following not less than sixty (60) Business Days' written notice to the Customer during which period the Customer may novate this Agreement to a third party in accordance with Clause 17 (*Novation*). For the avoidance of doubt, if the Customer so novates this

Agreement within such sixty (60) Business Day period and any amounts then payable to the Energy Company pursuant to this Agreement are paid to the Energy Company (whether by the Customer, the transferee or any other entity) on or prior to such novation taking effect then any right the Energy Company may have to terminate this Agreement pursuant to this Clause 11.1(b) shall automatically cease;

- (c) in the event the Energy Services are suspended in accordance with Clause 9.1(a) and the Customer has not paid such outstanding amounts within sixty (60) days of written notice by the Energy Company requiring the Customer to do so;
- (d) on not less than thirty (30) days' written notice where the Energy Services have been suspended in accordance with Clause 9.1 (other than Clause 9.1(a)); or
- (e) on not less than thirty (30) days' written notice where the obligations of either Party are suspended in accordance with Clause 8.2, such suspension lasts for a continuous period of more than six (6) months and the Parties have not agreed a revised basis for continuance.

## 11.2 Termination by the Customer

11.2.1 To the extent permitted by Law, the Customer may terminate this Agreement outside a Consumer Services Period:

- (a) if the Energy Company is in material or persistent breach of this Agreement, in which case termination shall take effect:
  - (i) if the breach is not capable of remedy, fourteen (14) days after the date of the Customer's written notice of the breach to the Energy Company; and
  - (ii) if the breach is capable of remedy, sixty (60) days after the date of the Customer's written notice of the breach requiring such breach to be remedied (provided such breach is not remedied within that period);
- (b) with immediate effect if the Energy Company becomes subject to an administration order, sequestration proceedings, winding-up proceedings (except for the purposes of re-construction or amalgamation), becomes subject to the appointment of an administrator or administrative receiver, or a receiver is appointed over the whole or part of its assets;
- (c) with immediate effect, if the Energy Company ceases, or threatens to cease trading or becomes insolvent; and
- (d) on not less than thirty (30) days' written notice where the obligations of either Party are suspended in accordance with Clause 8.2, such suspension lasts for a continuous period of more than six (6) months and the Parties have not agreed a revised basis for continuance.

11.2.2 In the event that the Customer terminates this Agreement, it shall either:

- (a) provide the Energy Company with a final Network Meter reading on the date of termination; or

- (b) allow the Energy Company to enter the premises to take a final Network Meter reading on the date of termination.

### 11.3 **Automatic Termination**

This Agreement shall terminate automatically on termination of the Connection Agreement for any reason, whether or not during a Consumer Services Period.

### 11.4 **General termination provisions**

11.4.1 Termination of this Agreement for any reason shall be without prejudice to any rights and remedies either Party may have against the other Party accrued prior to the date termination takes effect.

11.4.2 Without prejudice to the generality of the foregoing, in the event of termination of this Agreement the Customer shall continue to be responsible for paying any Charges incurred prior to such termination taking effect.

### 11.5 **Termination of Concession**

11.5.1 The Energy Company shall notify the Customer as soon as practicable prior to the date of any termination (or the expiry) of the Energy Company's rights and obligations to operate the Community Energy Network under any agreement between the Energy Company and the Employer (the "**Concession Termination Date**") and the Energy Company's rights and obligations under this Agreement shall be novated to the Employer (or such other entity as the Employer may direct) on or prior to the Concession Termination Date.

11.5.2 The Parties shall take all steps within their power (including the execution of such other agreements and documents as may be reasonably required) to procure and give effect to such novation of this Agreement (and in doing so shall not be constrained by any limitation, approval process or time restriction on such novation which may otherwise be applicable pursuant to this Agreement, including without limitation under Clause 17 (*Novation*)) and any other agreements to which either is a party which relate to the provision of the Energy Services, including the Subsidiary Supply Agreements, and to ensure so far as possible the continuance of the supply of the Energy Services after the Concession Termination Date.

11.5.3 If the rights and obligations of the Parties under this Agreement have not been novated to the Employer (or its nominee) on or before the Concession Termination Date, this Agreement will terminate on the Concession Termination Date.

## 12 **CUSTOMER SERVICE**

12.1 The Energy Company shall procure that a twenty four (24) hour telephone service is available seven (7) days a week for the purpose of contact with the Customer in respect of Heat Supply faults or interruptions.

12.2 If the Customer has any other complaints or observations regarding the Energy Services or service levels, or if the Customer believes that its complaint regarding a fault or interruption under Clause 12.1 was not properly dealt with by the Energy Company, the Customer shall address the matter to the Energy Company Help-desk.



13        **VARIATION**

- 13.1      Either Party may request an amendment, change, revision or variation to this Agreement.
- 13.2      Following a request by either Party to the other of a request for an amendment, change, revision or variation to this Agreement, the Parties shall meet as soon as reasonably practicable and agree such amendment change, revision or variation.
- 13.3      Save for a variation in the Charges pursuant to Schedule 4 (*Charges*) no amendment, change, revision, variation or discharge of this Agreement in whole or in part shall be binding upon either of the Parties unless the same is in writing and duly signed by the duly authorised representatives of both Parties.

14        **COMPENSATION FOR POOR PERFORMANCE**

- 14.1      Subject to Clause 14.5, if the Energy Company:
- (a)        before the commencement of the Consumer Services Period, fails to meet the Performance Indicators set out in Schedule 2, Part 1 (*Performance Indicators prior to a Consumer Services Period*), then the Energy Company shall compensate the Customer in accordance with the provisions of this Clause 14 (*Compensation for Poor Performance*) and Schedule 2, Part 1 (*Performance Indicators prior to a Consumer Services Period*);
  - (b)        after termination of the Consumer Services Period, fails to meet the Performance Indicators set out in Schedule 2, Part 2 (*Performance Indicators after a Consumer Services Period*), then the Energy Company shall compensate the Customer in accordance with the provisions of this Clause 14 (*Compensation for Poor Performance*) and Schedule 2, Part 2 (*Performance Indicators after a Consumer Services Period*).
- 14.2      During a Consumer Services Period, the Energy Company shall not be subject to any Performance Indicators nor liable to the Customer for compensation arising out of any such Performance Indicators. For the avoidance of doubt, this shall not in any way affect or detract from any obligations or liabilities the Energy Company may have under any Subsidiary Supply Agreement.
- 14.3      The compensation shall be paid to the Customer by way of reducing the sums charged to the Customer for the Energy Services in the invoice relating to the next Billing Period. In the event that compensation due to the Customer exceeds the amount of the sum due to the Energy Company in that invoice, the excess compensation shall be paid by reducing the sums in subsequent invoices. Where the amount of compensation payable to the Customer exceeds the amount due to the Energy Company in respect of a final invoice, the invoice shall be reduced to nil and the Energy Company shall pay to the Customer the excess (if any).
- 14.4      Other than in relation to any compensation payable by the Energy Company to the Customer after a Consumer Services Period in accordance with Schedule 2, Part 2 (*Performance Indicators after a Consumer Services Period*), which shall be subject to the limits set out in that schedule, the amount of compensation payable to the Customer by the Energy Company will be capped in relation to:
- (a)        Heating Services: to ten per cent (10%) of the Charges actually paid (or estimated) by the Customer for Heating Services during that Service Period; and

- (b) Cooling Services: to ten per cent (10%) of the Charges actually paid (or estimated) by the Customer for Cooling Services during that Service Period.

14.5 The Energy Company shall compensate the Customer for any failure to achieve the Performance Indicators in accordance with Clause 14.1 unless:

- (a) such suspension or interruption is due to any Planned Maintenance:
  - (i) about which the Energy Company has notified the Customer at least fourteen (14) days in advance;
  - (ii) which lasts four (4) hours or less; and
  - (iii) which has been carried out in accordance the provisions of this Agreement;
- (b) such suspension or interruption is due to a breach of this Agreement by the Customer;
- (c) in respect of any suspension or interruption under Clause 14.5(b) only, the event which causes such suspension or interruption also causes a suspension or interruption to the Heating Services to more than 2,000 of the Energy Company's customers at the same time;
- (d) any statutory undertaker or the Developer fails to carry out works or provide services on the Development which results in the Energy Company being unable to provide the Energy Services;
- (e) the Energy Company believes on reasonable grounds that it is necessary to suspend the Energy Services to avoid:
  - (i) endangering the life of any person;
  - (ii) endangering any physical property, provided that both the relevant damage to such property and its economic impact are likely to be material; or
  - (iii) any failure of or material interference with the Energy Services to any other development;
- (f) the Energy Company has suspended the Energy Services pursuant to Clause 9 (*Suspension of Energy Services for Non-Payment*) of this Agreement;
- (g) the Energy Company is required by Law to shut down any part of the Community Energy Network;
- (h) the Energy Company is prevented from providing the Energy Services due to an event of Force Majeure, and the Energy Company has complied with Clause 8 (*Force Majeure*) in respect of such event;
- (i) the Energy Company has shut down any part of the Community Energy Network to facilitate the Connection of any development (other than the Development) provided that the Energy Company has restored the Energy Services as soon as reasonably practicable and in any event within two (2) Business Days; or

- (j) such suspension or interruption results from:
  - (i) a Relief Event;
  - (ii) a failure in the Secondary Network (save to the extent that such failure arises out of or is in connection with an act, omission or default of the Energy Company); or
  - (iii) termination of this Agreement or suspension of the Energy Services (with effect from the date of such termination or suspension) in accordance with the provisions of this Agreement.

In each case the Energy Company shall use reasonable endeavours to mitigate the consequences of any such event, remedy any relevant fault and resume provision of the Energy Services as soon as possible.

## 15 **DISPUTE RESOLUTION**

15.1 The Customer shall address any complaints regarding operational or service related matters to the Energy Company Help-desk in the first instance.

15.2 The Parties shall attempt in good faith to resolve any complaints not resolved pursuant to Clause 15.1, and any other disputes arising out of this Agreement, promptly through negotiations between nominated representatives of each Party who shall have authority to settle the same. If it is not possible to settle the matter within seven (7) calendar days the matter will be referred to the Operations Director of the Energy Company and an appropriate person of similar seniority of the Customer, who shall meet to try to resolve the matter. If the matter remains unresolved for a further period of seven (7) calendar days then the matter shall be referred to mediation in accordance with the provisions of Clause 15.3 of this Agreement.

15.3 The procedure for mediation pursuant to Clause 15.2 and consequential provisions relating to mediation shall be as follows:

- (a) the Employer shall act as the "**Facilitator**" for the purposes of this Clause 15.3;
- (b) the Parties shall initially inform the Facilitator of the nature and existence of the dispute in writing. The Party informing the Facilitator shall ensure that a copy of the relevant notice and any attachments is delivered to the other Party on the same day as those documents are delivered to the Facilitator;
- (c) if clause 15.3(d) does not apply, the Energy Company and the Customer (each represented by, at least, the nominated representatives referred to in Clause 15.2) and the Facilitator shall, within fifteen (15) Business Days of the initial notice to the Facilitator of the dispute, meet and attempt in good faith to resolve the dispute. Each Party may, prior to such meeting, provide the Facilitator with such written information regarding the dispute as it considers appropriate;
- (d) if at any time the Facilitator notifies the Parties that it is unable or unwilling to act as facilitator in respect of the dispute, or fails to respond to a notice of a dispute within ten (10) Business Days, or the Parties fail to resolve the dispute at any meeting with the Facilitator, the Parties shall within ten (10) Business Days of such notice or failure event apply to the Centre for

Effective Dispute Resolution ("**CEDR**") to appoint a neutral advisor or mediator (the "**Mediator**");

- (e) the Energy Company and the Customer shall, within ten (10) Business Days of the appointment of the Mediator, meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. The Parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure;
- (f) unless otherwise agreed by the Energy Company and the Customer, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (g) in the event that the Energy Company and the Customer reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on both Parties once it is signed by the authorised representatives of each Party;
- (h) failing agreement, either the Energy Company or the Customer may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a "without prejudice" basis and shall not be used in evidence in any proceedings relating to this Agreement without the prior written consent of both Parties;
- (i) the Energy Company and the Customer shall each bear their own costs in relation to any reference made to the Mediator and the fees and all other costs of the Mediator shall be borne jointly in equal proportions by both Parties unless otherwise directed by the Mediator;
- (j) the respective obligations of the Parties under this Agreement shall not cease or be delayed during the mediation process.

15.4 In the event that the Energy Company and the Customer fail to reach agreement in the structured negotiations within forty (40) Business Days of the Mediator being appointed, or such longer period as may be agreed, then any dispute or difference between them may be referred to the courts.

15.5 None of the dispute resolution procedures provided for in this Clause 15 (*Dispute Resolution*) shall impose any precondition on any party or otherwise prevent or delay any party from commencing proceedings in any court of competent jurisdiction to obtain either:

- (a) an order (whether interlocutory, interim or final) restraining the other party from doing any act or compelling any other party to do any act; or
- (b) summary judgment pursuant to Part 24 of the Civil Procedure Rules for a liquidated sum.

## 16 **NOTICES**

16.1 All notices under this Agreement shall be in writing and all certificates, notices or written instructions to be given under this Agreement shall be served by sending the same by first-class post or by hand, leaving the same at:

<b>Energy Company</b>	
Marked for the attention of the Company Secretary	Address: Garrett House Manor Royal Crawley West Sussex RH10 9UT
<b>Customer</b>	
Marked for the attention of the Company Secretary or General Counsel	Address: 23rd Floor 1 Churchill Place Canary Wharf London E14 5LN

16.2 Either Party to this Agreement may change its nominated address or by prior written notice to the other Party.

16.3 Notices given by post shall be effective upon the earlier of:

- (a) actual receipt; and
- (b) five (5) Business Days after mailing. Notices delivered by hand shall be effective upon delivery.

## 17 **NOVATION**

17.1 The Energy Company may novate its rights, benefits, obligations or liabilities under this Agreement to any other party (an "**Energy Company Transferee**") such that the Energy Company Transferee shall enjoy all the rights and benefits of the Energy Company under this Agreement and shall observe and perform all the obligations and fulfil all the liabilities of the Energy Company under this Agreement (whether actual, accrued, contingent or otherwise and whether arising on, before or after the date of the novation between the Energy Company and the Energy Company Transferee), only with the prior written consent of the Customer, provided always that such consent shall not be withheld unless in the Customer's reasonable opinion the potential Energy Company Transferee cannot meet all of the financial and technical obligations of the Energy Company under this Agreement, taking into account matters including but not limited to:

- (a) the financial resources of the potential Energy Company Transferee and the related group companies of the potential Energy Company Transferee;

- (b) insurance held either by the Energy Company Transferee or its related group companies;
- (c) whether the maintenance of the H&C Network will be carried out by a separate entity which has the ability to fulfil those maintenance obligations;
- (d) whether the Consumer Services, where applicable, will be carried out by a separate entity which has the ability to fulfil those obligations;
- (e) the standing of any proposed guarantor of the potential Energy Company Transferee; and
- (f) any other matters submitted by the Energy Company as being relevant to the suitability of the potential Energy Company Transferee to enable it to perform the obligations and fulfil the liabilities of the Energy Company under this Agreement.
- (g) and in any case shall not be withheld where the proposed Energy Company Transferee is also taking a novation of the Connection Agreement.

17.2 The Energy Company may sub-contract any of its rights, benefits, obligations or liabilities under this Agreement and may freely assign any of its rights or benefits under this Agreement but, other than as permitted under this Clause 17.1 and this Clause 17.2, may not otherwise novate or transfer in any way any of its rights, benefits, obligations or liabilities under this Agreement. For the avoidance of doubt the Energy Company shall not be in any way relieved of any of its obligations or liabilities by any such sub-contracting or assignment and shall remain liable to the Developer for any acts or omissions of any subcontractor.

17.3 In the event that the Customer refers the question of whether any Energy Company Transferee meets the requirements of Clause 17.1 for resolution pursuant to Clause 15.2 the Parties agree that:

- (a) the provisions of Clause 15.3 relating to the Facilitator shall not apply and the Parties may instead proceed directly to appoint a Mediator in accordance with Clause 15.3(d); and
- (b) the Mediator may take into account the last published annual report and audited accounts of the proposed Energy Company Transferee or any proposed guarantor and any relevant report of any credit or rating agency in reaching his determination.

17.4 Subject to Clause 17.5 below, the Customer may novate its rights, benefits, obligations and liabilities under this Agreement to any associated or successor company or to a purchaser of the Development or any other party, (a "**Customer Transferee**") such that the Customer Transferee shall enjoy all the rights and benefits of the Customer under this Agreement and shall observe and perform all the obligations and fulfil all the liabilities of the Customer under this Agreement (whether actual, accrued, contingent or otherwise and whether arising on, before or after the date of the novation between the Customer and the Customer Transferee) only with the prior written consent of the Energy Company, provided always that such consent shall not be withheld if the proposed Customer Transferee meets the requirements set out in Clause 17.5. The Customer may not otherwise novate or transfer in any way any of its rights, benefits, obligations or liabilities under this Agreement.

17.5 The Energy Company shall be required to consent to a novation of this Agreement if:

- (a) any amounts which are due and payable under this Agreement prior to the proposed date of novation have been paid in full, save where any such amounts are the subject of a bona fide dispute; and
- (b) the proposed Customer Transferee is:
  - (i) a new Developer taking over the construction of the Development from the original Developer; or
  - (ii) a purchaser of the Development that passes the Financial Standing Test in Clause 17.6 below; or
  - (iii) an Estate Management Company that passes the Financial Standing Test in Clause 17.6 below; or
  - (iv) EVMC.

17.6 A Customer Transferee will pass the Financial Standing Test if:

- (a) the Customer Transferee has:
  - (i) a demonstrable annual turnover at least equal to 400% of an amount equal to the Charges under this Agreement and (where the Connection Agreement is also being novated to the Customer Transferee) the charges paid or payable under the Connection Agreement; and
  - (ii) a Dun and Bradstreet Financial Strength Indicator rating of 2A or higher; and
  - (iii) a Dun and Bradstreet Risk Indicator rating of 2 or lower; or
- (b) the Customer Transferee provides either a guarantee in a form reasonably acceptable to the Energy Company from a party that meets the test set out in Clause 17.6(a) above or other security which is acceptable to the Energy Company (acting reasonably); or
- (c) the Customer Transferee establishes a bank account in the name of the Customer Transferee (the "**Trust Account**") to be held in trust for the Energy Company for a period of three years from the date of the novation (or such extended period as may be applicable in accordance with this Clause 17.6) (the "**Security Period**") in an amount equal to £20 per KW of total KW capacity for the Development as determined in accordance with the terms of the Connection Agreement (indexed from 31 March 2013 to the date of the request for novation in accordance with CPI) (the "**Required Amount**") and subject to the following conditions:
  - (i) Where this Agreement and the Connection Agreement are novated to the same party, only one Trust Account shall be established in respect of the Customer Transferee's liabilities under both this Agreement and the Connection Agreement.
  - (ii) The Energy Company shall be entitled to payment from the Trust Account if the Customer Transferee fails to pay any sum due to

the Energy Company under this Agreement within fifteen (15) days of the due date for payment or, if the payment is the subject of a bona fide dispute, within fifteen (15) days of settlement of the dispute. Any such payment received shall be in settlement of the amount due under this Agreement.

- (iii) If the Energy Company makes any valid withdrawal from the Trust Account at any time within the period of three (3) years from the date of novation (or such extended period as may be applicable) the Customer Transferee shall be required to pay an amount equal to the sum withdrawn into the Trust Account within six (6) weeks of the date of withdrawal.
- (iv) If the Trust Account is drawn upon (as permitted above) at any time during the second year of the Security Period and the amount standing to the credit of the Trust Account is not paid up to the Required Amount by the Customer Transferee within six (6) weeks of such draw down, the duration of the Security Period shall be extended for a further year beyond the original three year period.
- (v) If the Trust Account is drawn upon (as permitted above) at any time during the third year of the Security Period and the amount standing to the credit of the Trust Account is not paid up to the Required Amount by the Customer Transferee within six (6) weeks of such draw down, the duration of the Security Period shall be extended for a further two (2) years beyond the original three year period.
- (vi) If the Customer Transferee breaches any obligation to pay an amount into the Trust Account pursuant to Clauses 17.6(c)(iii), 17.6(c)(iv) or 17.6(c)(v) at a time when the balance of the Trust Account is:
  - (A) 30% or less of the Required Amount; or
  - (B) less than the average monthly Charges under this Agreement during the preceding three (3) months,

the Customer Transferee shall be deemed to be in material breach of this Agreement.

17.7 In the event that the Energy Company refers the question of whether any Customer Transferee meets the Financial Standing Test for resolution pursuant to Clause 15.2 the Parties agree that:

- (a) the provisions of Clause 15.2 relating to the Facilitator shall not apply and the Parties may instead proceed directly to appoint a Mediator in accordance with Clause 15.3(d)); and
- (b) the Mediator may take into account the last published annual report and audited accounts of the proposed Customer Transferee or any proposed guarantor and any relevant report of any credit or rating agency in reaching his determination.

17.8 For the avoidance of doubt, nothing in this Clause 17 (*Novation*) shall in any way restrict either Party exercising its rights or complying with its obligations in respect of the appointment of a Replacement Service Provider or any transfer of



responsibility for the provision of the Consumer Services to a Replacement Service Provider pursuant to Clause 3 (*Consumer Services*).

**18 LIABILITY**

**18.1 Energy Company Liability**

18.1.1 The Energy Company does not exclude or restrict its liability for death or personal injury caused by its negligence or the negligence of its employees, agents or sub-contractors.

18.1.2 Subject to Clause 18.1.1, neither the Energy Company nor any of its employees, agents or sub-contractors will ever be liable under or in connection with this Agreement to the Customer howsoever arising for:

- (a) Indirect Loss; or
- (b) loss caused by strikes or industrial disputes involving employees of any third party or natural disaster.

18.1.3 Subject to Clause 18.1.1 and Clause 18.1.2, save in respect of Customer Property Damage, in no circumstances will the aggregate liability of the Energy Company to the Customer and any other party to the Connection Agreement or any Void Supply Agreement arising in connection with this Agreement, the Connection Agreement and any Void Supply Agreement **s.43(2)**

**s.43(2)**

18.1.4 Subject to Clause 18.1.1 and Clause 18.1.2, the aggregate liability of the Energy Company to the Customer and any other party to the Connection Agreement and any Void Supply Agreement in respect of Customer Property Damage (whether in contract or tort or otherwise) shall in no circumstances exceed **s.43(2)**

**s.43(2)**

18.1.5 The Customer acknowledges that the limitations on the Energy Company's liability set out in this Agreement are reasonable given the balance of risk and reward set out in this Agreement.

**18.2 Customer Liability**

18.2.1 The Customer does not exclude or restrict its liability for death or personal injury caused by its negligence or that of its employees, agents or sub-contractors.

18.2.2 Subject to Clause 18.2.1, neither the Customer nor any of its employees, agents or sub-contractors will ever be liable under or in connection with this Agreement to the Energy Company howsoever arising for:

- (a) Indirect Loss;
- (b) loss caused by strikes or industrial disputes involving the employees of any third party or natural disaster.

18.2.3 Subject to Clause 18.2.1 and Clause 18.2.2, save in respect of Energy Company Property Damage, in no circumstances will the aggregate liability of the Customer and any other party to the Connection Agreement or any Void Supply Agreement to the Energy Company arising in connection with this Agreement, the Connection

s.43(2)

- 18.2.4 Subject to Clause 18.2.1 and Clause 18.2.2, the aggregate liability of the Customer and any other party to the Connection Agreement and any Void Supply Agreement in respect of Energy Company Property Damage (whether in contract or tort or otherwise) s.43(2)

s.43(2)

- 18.2.5 The Energy Company acknowledges that the limitations on the Customer's liability set out in this Agreement are reasonable given the balance of risk and reward set out in this Agreement.

### 18.3 Insurance

- 18.3.1 The Energy Company shall take out and maintain in effect throughout the term of this Agreement the Required Insurance, provided that insurance against each such risk is available in the London market at commercially reasonable rates, and shall:

- (a) pay all relevant premiums and other charges relating to such insurance in a timely manner and otherwise ensure that such insurance is maintained in effect throughout the term of this Agreement;
- (b) promptly on request provide the Customer with evidence that such insurance is in place;
- (c) not take any action nor fail to take any reasonable action or (in so far as it is reasonably within its power) permit or allow others to take or fail to take any action (including failure to disclose any fact or circumstances) as a result of which the insurance may be rendered void, voidable, unenforceable or suspended or impaired in whole or in part or which may otherwise render any sum paid out under any relevant policy repayable in whole or in part;
- (d) not allow such insurance to expire (to the extent within its reasonable control); and
- (e) in the event such insurance expires and is unable to be renewed, procure that an equivalent replacement policy is in place prior to such expiry.

- 18.3.2 The Customer shall take out and maintain in effect throughout the term of this Agreement the Customer Insurance, provided that insurance against each such risk is available in the London market at commercially reasonable rates, and shall:

- (a) pay all relevant premiums and other charges relating to such insurance in a timely manner and otherwise ensure that such insurance is maintained in effect throughout the term of this Agreement;
- (b) promptly on request provide the Energy Company with evidence that such insurance is in place;
- (c) not take any action nor fail to take any reasonable action or (in so far as it is reasonably within its power) permit or allow others to take or fail to take any action (including failure to disclose any fact or circumstances) as a result of which the insurance may be rendered void, voidable,

unenforceable or suspended or impaired in whole or in part or which may otherwise render any sum paid out under any relevant policy repayable in whole or in part;

- (d) not allow such insurance to expire (to the extent within its reasonable control); and
- (e) in the event such insurance expires and is unable to be renewed, procure that an equivalent replacement policy is in place prior to such expiry.

## 19 **COMMON PARTS AND SECONDARY NETWORK OBLIGATIONS**

- 19.1 Prior to the Secondary Network Services Commencement Date in respect of the Secondary Network the Customer shall ensure that at all times the Secondary Network is properly maintained in accordance with the Technical Specification.
- 19.2 The Energy Company shall ensure that the Community Energy Network is operated and maintained so as not to cause damage to the Development or the Secondary Network. Subject to Clause 18.1, if the Community Energy Network is not so operated or maintained the Energy Company shall be liable to the Customer for all consequences thereof including without limitation, the cost of all damage to the Development and/or the Secondary Network and all other costs and losses suffered by the Customer.

## 20 **GOVERNING LAW AND JURISDICTION**

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

## 21 **INFORMATION AND CONFIDENTIALITY**

### 21.1 **Duty of confidentiality**

Save as provided by Clause 21.2 (*Permitted Disclosure*) each Party shall:

- (a) keep confidential all Confidential Information it receives or obtains; and
- (b) exercise in respect of the Confidential Information the same controls as that Party employs to protect its own confidential information.

### 21.2 **Permitted Disclosure**

A Party (the "**Disclosing Party**") may disclose or permit the disclosure of Confidential Information:

- (a) to its employees to the extent that it is reasonably necessary and to any person (including insurance, legal, technical and financial advisers, auditors and accountants) engaged in providing any goods, works or services to the Disclosing Party in connection with and for the purposes of this Agreement;
- (b) to any person in connection with a proposed transfer pursuant to Clause 17 (*Novation*);
- (c) in the case of the Customer, to any Replacement Service Provider or any entity engaged or which may be engaged on or following the termination

of this Agreement to perform any of the obligations of the Energy Company under this Agreement;

- (d) to bona fide prospective purchasers and lessees of the Development;
- (e) to the Estate Management Company;
- (f) to the extent that the Confidential Information:
  - (i) has become publicly available or generally known to the public at the time of such disclosure otherwise than as a result of a breach of this Clause;
  - (ii) was already in the unrestricted possession of the Disclosing Party prior to receiving or obtaining such Confidential Information as a result of entering into or performing this Agreement; and
  - (iii) was lawfully received or obtained by the Disclosing Party from any person without restriction on its use or disclosure;
- (g) to enable a determination or adjudication to be made under Clause 15 (*Dispute Resolution*);
- (h) when required to do so in any jurisdiction:
  - (i) by Law;
  - (ii) by or pursuant to the rules or any order of any court, tribunal or agency of competent jurisdiction; or
  - (iii) by any securities exchange, Recognised Investment Exchange or regulatory or governmental body:
    - (A) having jurisdiction over it or any of its Affiliates; or
    - (B) to which it or its Affiliates normally submit,wherever situated;
- (i) to any regulatory or governmental body (including any Relevant Authority) in any jurisdiction and having jurisdiction over:
  - (i) the Disclosing Party or any of its Affiliates; or
  - (ii) the obtaining, monitoring and/or enforcement of any Authorisation;
- (j) to enable any registration or recording of any Authorisation;
- (k) to a relevant Tax Authority in any jurisdiction to the extent required for the proper management of the taxation affairs of the Disclosing Party or any of its Affiliates;
- (l) to insurers for the purpose of obtaining any insurances;
- (m) to any funder for the purpose of obtaining funding in relation to the Development;

- (n) to the Employer pursuant to any reasonable request from the Employer; or
- (o) if such disclosure is expressly permitted by some other provision of this Agreement or if the other Party has given prior written approval to the disclosure (such approval not to be unreasonably withheld or delayed).

### 21.3 **Obligations preserved**

21.3.1 Subject to Clause 21.3.2 and Clause 21.4 (*Consultation*), if a Party is required to disclose Confidential Information in a manner permitted by Clause 21.2(a), Clause 21.2(b), Clause 21.2(c), Clause 21.2(l), Clause 21.2(e), Clause 21.2(l) or Clause 21.2(m) then it shall:

- (a) inform the person to whom Confidential Information is to be disclosed of the restrictions contained in this Agreement; and
- (b) ensure that such person shall observe such restrictions notwithstanding that such person is not Party to this Agreement.

21.3.2 For the avoidance of doubt, a Party is deemed to have satisfied its obligation in Clause 21.3.1(b) if, prior to the disclosure of the Confidential Information, it enters into a contract with the person referred to in Clause 21.3.1(b) which contains an equivalent confidentiality arrangement to this Clause 21 (*Information and Confidentiality*).

### 21.4 **Consultation**

If a Party is required to disclose Confidential Information in a manner permitted by Clause 21.2(h), Clause 21.2(i), Clause 21.2(j), Clause 21.2(k) or Clause 21.2(n) it shall insofar as reasonably practicable:

- (a) provide the other Party with advance notice of the requirement and a copy of the information to be disclosed; and
- (b) permit the other Party to make representations or objections in relation to it and take into account such reasonable representations and objections that the other Party shall make.

### 21.5 **Exploitation of information**

No Party shall make use of this Agreement or any information (including Confidential Information) issued or provided by or on behalf of either Party in connection with this Agreement otherwise than for the purposes of this Agreement, except with the written consent of the other Party.

### 21.6 **Continuance of obligations**

The obligations in this Clause 21 (*Information and Confidentiality*) shall continue to apply after termination or expiration of this Agreement.

### 21.7 **Return or destruction of Confidential Information**

Subject to the Customer's need to have all information necessary to enable the ongoing operation and provision of the Consumer Services and the Energy Company's need to have all information necessary to enable the ongoing operation and maintenance of the H&C Network and the supply of Energy Services, on termination or expiration of this Agreement for any reason each Party shall, to the

extent requested by the other Party who provided them and without retaining copies, destroy all documents or other records containing Confidential Information or return them to the other Party.

## 21.8 **Enforcement rights of Parties regarding Confidential Information**

Each Party accepts and agrees that any Confidential Information received or obtained by that Party as a result of entering into or performing this Agreement is, by its nature, valuable proprietary commercial information, the misuse of or unauthorised disclosure of which would be likely to cause considerable and uncompensatable damage to the Party from whom that information was received or obtained and accordingly the Parties agree that, without prejudice to any other rights or remedies which may be available in respect of any breach of this Agreement that are expressly provided for in this Agreement, each Party will be entitled to relief by way of injunction, including any interim injunction available from any competent court having jurisdiction over its terms.

## 21.9 **Data Protection**

21.9.1 The Energy Company shall at all times handle and use all personal data (as defined in the Data Protection Act 1998) it acquires under or in connection with this Agreement or any Subsidiary Supply Agreement which relates to any individual in accordance with all applicable Law relating to privacy and data protection including, without limitation, the Data Protection Act 1998.

21.9.2 The Energy Company may use any personal data (as defined in the Data Protection Act 1998) it may have about the Customer and the Customer's account and any other individuals at the Supply Address only in accordance with Clause 21.9.1 and only in such manner as is reasonably necessary for the performance of its contractual obligations under this Agreement or any Subsidiary Supply Agreements, including without limitation for the purposes of:

- (a) setting up the Customer's account and making any changes to the terms of providing the Energy Services;
- (b) identifying the Customer when the Customer makes enquiries;
- (c) market research and providing to the Customer with up-to-date information on the services the Energy Company provides;
- (d) providing information to the Customer about other services the Energy Company and any Affiliate of the Energy Company provided that if the Customer does not wish to receive this information the Customer can notify the Energy Company at any time by email to the Energy Company Help-desk;
- (e) billing and debt recovery;
- (f) prevention of fraud or loss;
- (g) quality assurance (including recording communications with the Customer);  
or
- (h) checks with credit reference agencies (who will keep a record of the search).

- 21.9.3 In connection with the Customer's account, the Energy Company may share information about the Customer with others, including Energy Company group companies and credit reference and fraud prevention agencies or where the Energy Company is required to provide information to any Relevant Authority for regulatory purposes, or is otherwise required by Law to disclose information.
- 21.9.4 The Customer shall obtain all of the necessary permission to disclose any personal data (as defined in the Data Protection Act 1998) it discloses to the Energy Company in accordance with the Customer's obligations under the Data Protection Act 1998.
- 21.9.5 The Customer may contact the Energy Company if they require details of the credit reference and fraud prevention agencies to whom the Energy Company discloses information and following such notification the Energy Company shall promptly provide such details.

## 22 **GENERAL**

- 22.1 Save with respect to other written agreements between the Parties which are referred to in this Agreement, this Agreement includes everything agreed between the Parties with respect to its subject matter. Anything that happened or was written before about such subject matter is superseded. Neither the Customer nor the Energy Company has relied upon any representation or warranty that is not written in this Agreement.
- 22.2 No third party can obtain any rights under this Agreement, including enforcement. The Contracts (Rights of Third Parties) Act 1999 is excluded.
- 22.3 The relationship between the Parties established by this Agreement is that of independent contractors. Nothing herein shall be construed to create or give rise to any partnership, joint venture or agency relationship between the Parties.
- 22.4 At no time during the performance of this Agreement shall the Energy Company or its employees or other representatives be considered to be employees or agents of the Customer, nor shall the Customer or its employees or other representatives be considered to be employees or agents of the Energy Company even when designated to receive training from the Energy Company or to assist the Energy Company in the performance of its obligations under this Agreement.
- 22.5 If any provision of this Agreement is found to be invalid or unenforceable under any applicable law, then such provision shall be inoperative to the extent necessary to achieve compliance with such law. Such provision to the extent that it is not invalid or unenforceable and the remaining provisions of this Agreement shall continue to be valid and binding upon the Parties and of like effect as though the inoperative portion of such provision were not included therein.
- 22.6 Any failure by the Energy Company or the Customer at any time to enforce their respective rights hereunder or require the strict keeping and performance of any of the terms of this Agreement shall not constitute a waiver of the relevant Party's rights under this Agreement in any way nor of the rights of the relevant Party at any time to claim or enforce such remedies as either Party may have for any breach of this Agreement.
- 22.7 In the case of any inconsistency between the Schedules and the main body of this Agreement, the main body of this Agreement shall prevail.

**This Agreement has been entered into on the date stated at the beginning of this Agreement.**



**Schedule 1  
Contract Particulars**

<b>Supply Agreement reference</b>	
<b>Customer</b>	
<b>Customer company registration number</b>	
<b>Customer registered office address</b>	
<b>Supply Address</b>	
<b>Billing Address (if different to the Supply Address)</b>	
<b>Contact telephone number</b>	Daytime Evening
<b>Developer</b>	
<b>Development</b>	
<b>Development postal address</b>	
<b>Details of counterparty to the relevant Connection Agreement</b>	
<b>Details of Management Company</b>	
<b>Energy Services to be supplied</b>	Heating Services
<b>Heating Services Capacity (kW)*</b>	
<b>Cooling Services Capacity (kW)*</b>	N/A
<b>Type of Energy Services to be provided</b>	
<b>Energy Services Date of Supply</b>	
<b>Point at which the Energy Services are measured</b>	
Heating Services Meter Ref No*	
Cooling Services Meter Ref No*	

<b>Billing Period</b>	Monthly
<b>Method of payment</b>	

**Schedule 2  
Performance Indicators**

**Part 1  
Performance Indicators prior to a Consumer Services Period**

<b>Performance Indicator</b>	<b>Required Service Level</b>	<b>Performance Indicator failure</b>	<b>Compensation to Customer</b>
<b>Flow temperature</b>	Water for Heating Services or Cooling Services to be supplied at the Point of Connection in accordance with this Agreement	Water temperature is outside the agreed range for more than ninety (90) minutes	If failure occurs in relation to each of Heating Services or Cooling Services on three (3) or more occasions:  (a) During Winter Period: £50 per three (3) occasions  (b) During Summer Period: £25 per three (3) occasions
<b>Planned supply interruption</b>	Prior notice to the Customer of scheduled maintenance or works to the Community Energy Network that interrupt Heating Services	Less than two (2) days' notice of supply interruption caused by failure within the Community Energy Network	£20 per instance
<b>Persistent supply interruptions</b>	Heating Services to be continuously available at the Point of Connection during agreed business hours.	More than one (1) supply interruption caused by a service failure in the Community Energy Network lasting more than four (4) hours during agreed business hours in any Service Period	£200 for the second instance of supply interruption. Penalty doubled for each subsequent supply interruption, to a maximum of £1000 per Service Period

<b>Performance Indicator</b>	<b>Required Service Level</b>	<b>Performance Indicator failure</b>	<b>Compensation to Customer</b>
<b>Response times</b>	<p>Prompt response to reported service failure where "response" means the Energy Company to take the following action:</p> <p>(a) if the fault is in the Community Energy Network, that the fault is under investigation; or</p> <p>(b) if the fault is within the Secondary Network, that the party with responsibility for maintenance of the building and Secondary Network has been notified of the fault</p>	No response to report of service failure within one hundred and twenty (120) minutes between the time of first report and a "response"	<p>Winter Period: £20 per Service Period</p> <p>Summer Period : £10 per Service Period</p>
<b>Temporary heating provision</b>	Temporary heat provision to be made available at the Point of Connection in the event of service failure lasting more than four (4) hours (subject to Clause 2.3(a) of this Agreement)	Temporary heat provision not provided after service failure has persisted by more than four (4) hours (subject to Clause 2.3(a) of this Agreement)	<p>Where temporary heat provision is not provided:</p> <p>(a) £40 per instance during the Winter Period; and</p> <p>(b) £20 per instance during the Summer Period</p>
		Temporary heat provision required for more than seven (7) days	<p>Where temporary heat provision is required for more than seven (7) days:</p> <p>(a) £10 per day during the Winter Period; and</p> <p>(b) £5 per day during the Summer Period.</p>

<b>Performance Indicator</b>	<b>Required Service Level</b>	<b>Performance Indicator failure</b>	<b>Compensation to Customer</b>
<b>Temporary cooling provision</b>	Temporary cooling provision to be made available at the Point of Connection in the event of service failure lasting more than four (4) hours (subject to Clause 2.3(a) of this Agreement)	Temporary cooling provision not provided after service failure has persisted by more than four (4) hours (subject to Clause 2.3(a) of this Agreement)	Where temporary cooling provision is not provided: (a) £20 per instance during the Winter Period; and (b) £40 per instance during the Summer Period.
		Temporary cooling provision required for more than seven (7) days	Where temporary cooling provision is required for more than seven (7) days: (a) £5 per day during the Winter Period; and (b) £10 per day during the Summer Period.
<b>Network Meter repair or replacement</b>	Customer Network Meter accuracy must be maintained with an initial accuracy of + 3% and then in accordance with the Guidance	Faulty meter not replaced twenty eight (28) days after fault reported	£50 per instance

**Part 2**  
**Performance Indicators after a Consumer Services Period**

<b>Item</b>	<b>Standard</b>	<b>Required Service Level</b>	<b>Service Failure</b>	<b>Service Payment</b>
GS1	Planned supply interruption	Prior notice to the Customer by the Energy Company of scheduled maintenance works to the Community Energy Network or the Secondary Network that interrupt the supply of Heating Services	Less than 5 working days' notice of supply interruption	£20 per Dwelling per instance  £50 per Commercial Unit per instance  If claimed within 3 months
GS2	Unplanned supply interruption	The Heating Services will be available to the Point of Connection within 24 hours of the start of any unplanned interruption	On failure to achieve this, a fixed compensation payment will be paid by the Energy Company to the Customer, and a further payment will be made for each additional period of 24 hours until the Heating Services are restored	£30 per Dwelling per instance  Capped at £300 per Dwelling per Service Period  £50 per Commercial Unit per instance  Capped at £600 per Unit per Service Period

The Service Payments and each related cap shall be increased annually on 31 March in accordance with the respective annual increase in CPI.

**Schedule 3  
Technical Specification**



**Cofely East London Energy Ltd**

**Olympic Park and Stratford City**

**District Energy Network Schemes**

**Technical Specification for Connection to the  
District Heating and Cooling Systems**

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## METERING

Primary Metering

Secondary Metering

## PLANT ROOM



## A INTRODUCTION

Cofely East London Energy Limited (“the **Energy Company**”) has the exclusive rights in relation to the provision of heating and cooling services to the Olympic Park and Stratford City developments under a concession agreement executed on April 11<sup>th</sup> 2008 between Cofely, The Olympic Delivery Authority and Stratford City Developments Limited, (the “**Concession Agreement**”). The Concession Agreement places an obligation on the Energy Company to expand, extend, upgrade and replace the plant, equipment and infrastructure that comprises the Community Energy Network as defined below, throughout the 40 year period of the Concession Agreement, to always ensure that the Community Energy Network can meet the energy needs of the customers connected to it.

Any developments within the Olympic Park and Stratford City zones are duly obliged by the Concession Agreement to connect to the Community Energy Network and receive their heating and, where applicable, cooling supplies from the Energy Company. To facilitate the connection of a development to the Community Energy Network, the Energy Company will install a Substation in an agreed location within each Development to transfer heating and/or cooling from the Community Energy Network to the Secondary Networks installed within the Development.

In order to ensure the correct operation of the Community Energy Network, it is essential to ensure that the Secondary Networks installed in the developments are fully compatible, with respect to their design and operating parameters, with the interface Substations installed within the developments. This Technical Specification details certain requirements for the Secondary Network system design and configuration to allow a Development to connect and receive heating and cooling services from the Community Energy Network.

The following terminology is used in the Technical Specification to describe the various sub-systems that comprise the Community Energy Network and the interface with the development:

- The “**Community Energy Network**” comprises the Energy Centres and the Primary Network
- The “**Energy Centre**” is the centralised building containing the plant (boilers, chillers, etc) that generates the heating and cooling services.
- The “**Plant Room**” is the room, located either within or external to the developer’s building, in which the substation is installed.
- The “**Primary Network**” refers to the distribution system that connects the energy centre to each individual building development. It is the source of the heating and cooling supplies to the building.
- The “**Secondary Networks**” are the local networks within the development that supply heating and cooling to the end-users.
- The “**Substation**” is the interface between the primary network and the secondary networks. The substation provides an indirect connection to the primary network, whereby a heat exchanger is used to transfer heat/cool from the primary network to the heating or cooling secondary networks installed within the development

## **B PRIMARY NETWORK**

### **Operating Flows and Temperatures**

#### **a) Heating**

The primary district heat network operated by the Energy Company is a variable volume, medium temperature hot water distribution system, operating with a constant temperature differential, nominally with a flow temperature of 95°C and a return temperature of 55°C. The primary flow temperature may increase to 120°C for short periods (no longer than 90 minutes) when demand exceeds the capacity of the Community Energy Network.

The primary district heating network is hydraulically separate from the developer's secondary system, with a plate heat exchanger(s) providing the heat transfer. Heat transfer across the heat exchanger(s) is achieved by means of a 2-port control valve, controlled by the Energy Company, which modulates to maintain a constant secondary flow temperature under all load conditions.

The maximum volumetric flow rate that the Energy Company will provide to the primary side of the heat exchanger(s) is limited to the nominal maximum flow rate, based on the heat demand and secondary operating temperatures described in Table 1.

#### **Primary Network Connection**

The Energy Company will design and install a Primary Network connection to connect the Substation to the buried Primary Network. The route of connection between the external network and the Substation for each Development will be agreed between the relevant Developer and the Energy Company.

The Primary Network has been designed to withstand a nominal pressure of 16 bar g (PN 16), although the typical operating pressure will be between 1 bar – 6 bar dependent upon the location on the network. The nominal dimensions of the pipes connecting the Development are provided in Table 1 below:

The connection includes thermal insulation, valves, vent points and draining points according to the operational requirements of the system.

The Energy Company requires permanent access to the Primary Network and all connections into developments to facilitate safe operation, system integrity and maintenance issues. Access to buried or hidden sections of the Primary Network within a Development will be through mutual agreement between the Energy Company and the Developer.

## c PRIMARY AND SECONDARY NETWORK INTERFACE (SUBSTATION)

The interface between the Primary Network and the Secondary Network is achieved via a heat exchanger substation located in a Plant Room within the Development. Separate Substations are required if both heating and cooling services are being supplied.

Each Substation includes the following equipment:

- isolating valves
- filter
- heat exchanger(s)
- motorised regulation valve(s)
- energy meter
- temperature sensors
- control panel
- hydraulic connections
- power and instrumentation connections

The capacity of the Substation dictates the number of heat exchangers required. The schedule below details the number of exchangers provided per substation for a given range of stated heating and/or cooling capacities, unless agreed otherwise by the Developer and Energy Company.

Heating:

Single units on small heat loads <800kW with 120% capacity.

Double units on larger heat loads >800kW consisting of 2No. 60% capacity.

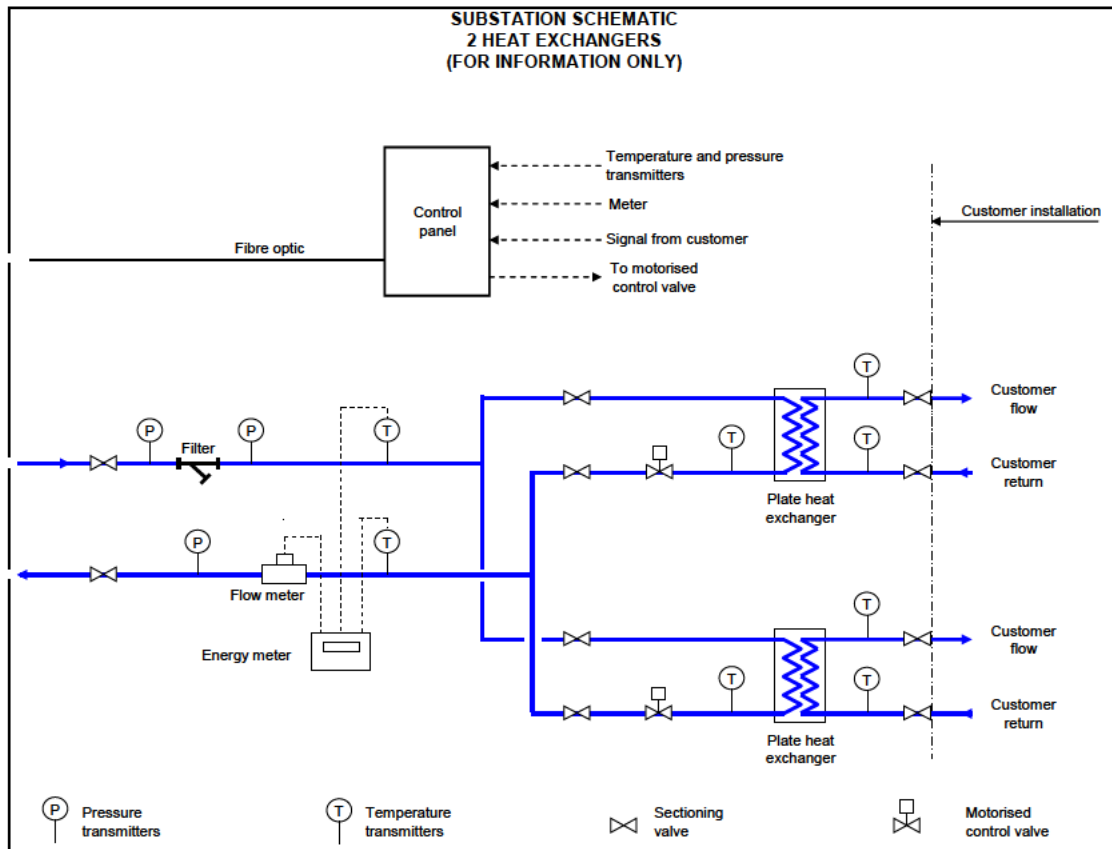
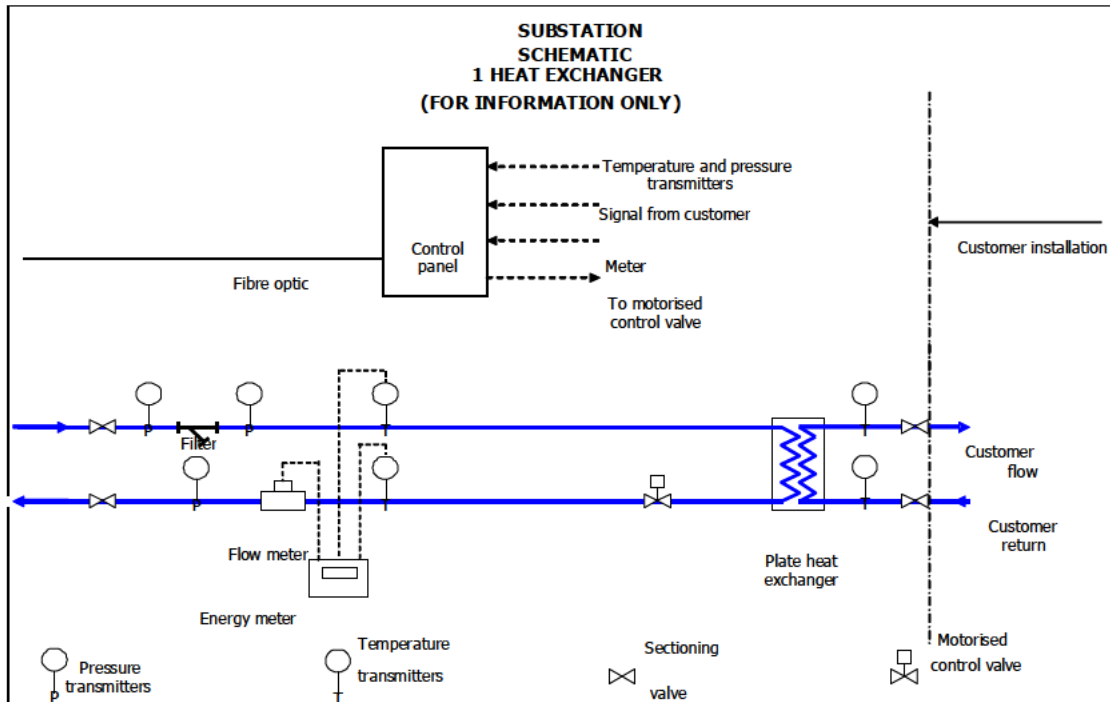
Table 1 below provides details of the number of heat exchangers required to provide the stated heating and/or cooling capacities for this development and the secondary flow and return temperatures that are agreed by the parties;

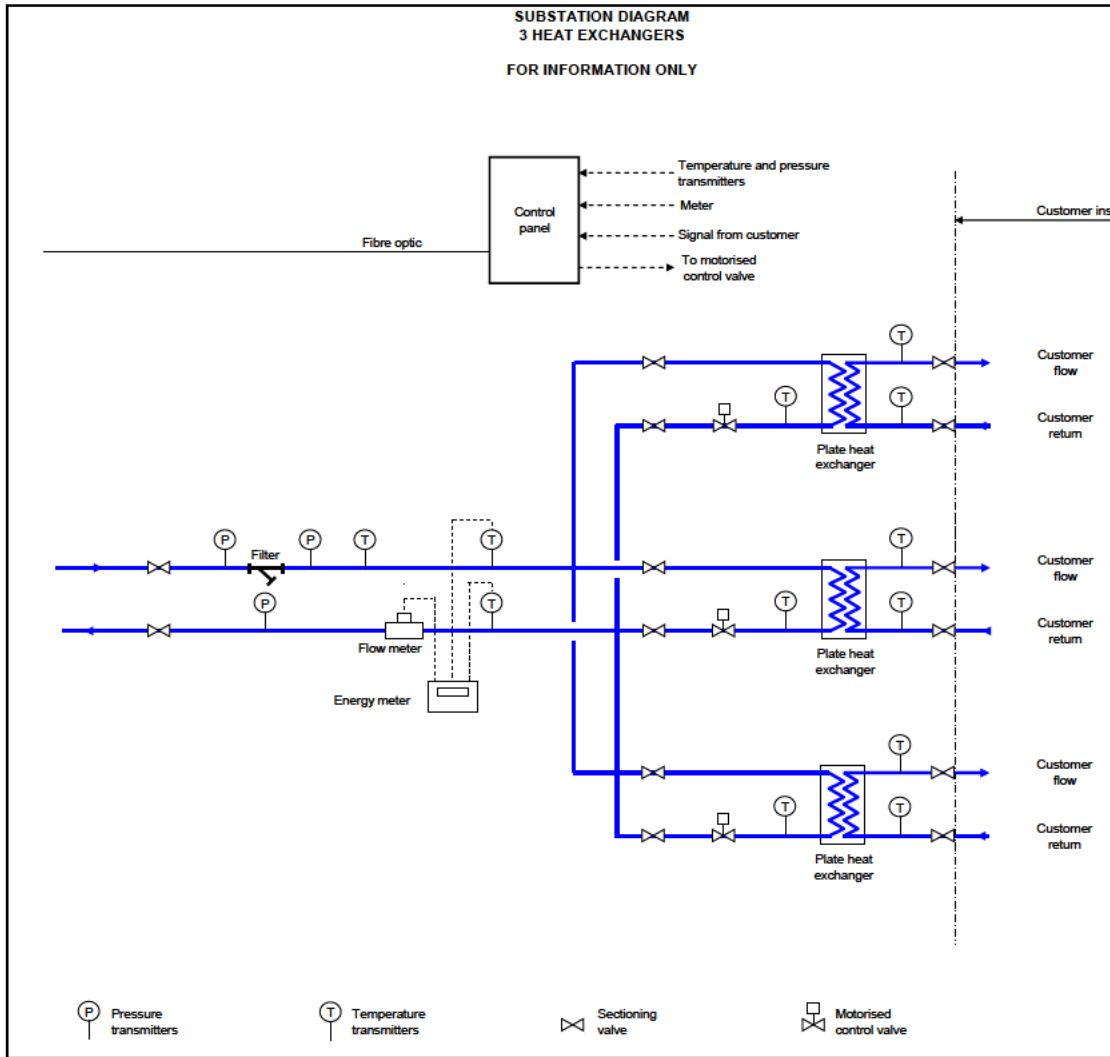
	Heat Exchanger Capacity (kW)	Number of Heat Exchangers	Secondary Flow Temp (°C)	Secondary Return Temp (°C)	Nominal Diameter Primary Connection (mm)
<b>Heating</b>					
Resi/Commercial Split					
Residential Heating					
Commercial Heating					

**Table 1 – Heat Exchanger Capacity and Secondary Temperatures**

Other equipment, such as pressure sensors, differential pressure control valves, etc., may be added by the Energy Company for operational requirements.

The Substation schematics for a 1, 2 and 3 heat exchanger installation are shown below:





The Energy Company will design the heat exchanger(s) to minimise the pressure drop across the secondary side. The pressure loss on the secondary side of the heat exchanger at the Point of Connection with the Secondary Network shall be a maximum of 0.8 bar (for the nominal load and temperatures).

The Developer is required to provide a signal showing the operational status of the Secondary Network (e.g. from pumps or from the position of motorised control valves) at the secondary side of the heat exchanger (if installed) for use in the control systems associated with the primary side of the substation.

## D SECONDARY NETWORK

### Overview

One of the key design principles of the district heating system is that it operates as a variable volume system and with a constant temperature differential between flow and return pipes. In order to maintain the constant return temperature in the primary network, it is important for developers to design their secondary networks to operate with a constant return temperature under all load conditions so far as is practicable.

### Temperature

#### a) Heating

The temperature at the secondary outlet of the substation will be maintained by the Energy Company at the flow temperature shown in Table 1 (max 85°C) under all load conditions (except zero load) by the regulation system of the Substation, subject always to the heat demand being less than or equal to the values provided in Table 1

The nominal return temperature from the secondary network at the substation shall be as detailed in Table 1. This should nominally be 50°C but can be changed by agreement.

The Developer is responsible for the design, and installation of the Secondary Network in order to achieve the nominal secondary flow and return temperatures.

### Pressure

The pressure on the secondary network side of the Substation should not exceed 10 bar g.

### Water Quality

Following completion of water treatment procedures on newly cleaned closed systems and acceptable water quality being achieved at P.C. in accordance with BSRIA BG29/2012, the following maintenance procedures must be carried out to maintain water quality to ensure the integrity of the closed system.

The number and locations of samples are to be in accordance with BS8552:2011 and must include one sample from each Plate Heat Exchanger in addition to the British Standard requirements.

All samples must be analysed by a UKAS accredited laboratory.

The minimum parameters for sampling are as follow at the Plate Heat Exchangers.

#### BACTERIA

TVC's @ 22oC <100,000 cfu/ml and no upward trend.

Pseudomonas <10,000 cfu/100ml and no upward trend.

SRB's Absent

NRB's For information only dependant on the inhibitor employed.

## CHEMICAL

pH	Between 7.5 and 10 dependant on the inhibitor employed.
Suspended Solids	<30 mg/l
Chloride	<250 mg/l
Soluable Iron	<5 mg/l
Total Iron	<15 mg/l
Total Copper	<1 mg/l
Inhibitor	As recommended by the water treatment specialist.
Hardness	A downward trend until levels plateau.

Samples from the Plate Heat Exchangers shall be taken from the inlet to PHE.

Parameters for all other analysis from across the system are to be in accordance with BS8552:2011 and BSRIA BG29/2012 at P.C.

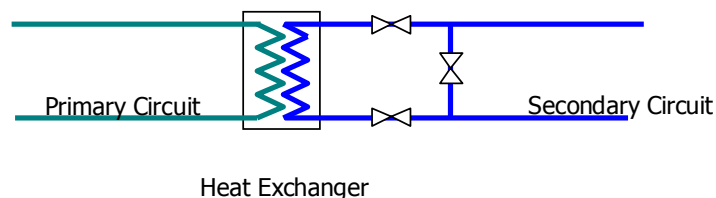
The sampling period shall quarterly testing.

Should remedial actions be required, then a further complete set of samples should be taken 7 days after completion of the remedial works, and, if acceptable, the normal sampling pattern resumed.

All records of action, results and planned sampling dates must be kept in an on site log book and must include a graphic trend pattern on results, details of which can be found in BS8552:2011 and BSRIA BG29/2012.

This log book must be made available for inspection and audit on request by CELE and any other management party.

Under no circumstances must flushing of the Secondary Network be undertaken though the Substation. It is recommended that a flushing bypass is installed in the Secondary Network, bypassing the heat exchanger, according to the following schematic.



## **E METERING**

### **Primary Metering**

The Energy Company will install a Network Meter on the primary side of the Substation to record flow volumes and energy delivered by the Primary Network. The meter will comply with the European Standard EN 1434.

The meter comprises:

- an electromagnetic flow meter (measuring tube)
- temperature sensors
- a heat calculator

The meter is connected to the Energy Centre via the control panel of the Substation to allow remote reading of the meter.

Should there be no requirement to bill more than one customer on the secondary side of the heat exchanger substation within commercial and residential developments, then this meter will also act as the billing meter. This requires a commercial arrangement to be agreed with the Energy Company such that they provide billing services to that development.

With respect to all Olympic Venues, the Network Meter shall be the billing meter, and the Energy Company will provide all billing services.

### **Secondary Metering**

Customer Meters are required in instances whereby the individual energy consumption of end-users is to be recorded for the purposes of providing separate energy bills to each end-user. It is therefore necessary to install separate meters on the supplies into each end-users commercial unit or residential dwelling to accommodate the individual billing. Under the terms of the Concession Agreement, the Developer of the development has the responsibility to incorporate the meters into the secondary system, as well as procure, install and commission the meters if there is the requirement for end-user billing (otherwise the development would receive a single bill based solely on the Network Meter installed by the Energy Company as part of the substation).

If requested by the Developer, and subject to a commercial arrangement between the parties, the Energy Company will undertake metering and billing services. In such cases, the Energy Company and the individual customers will enter into supply agreements.

Where the Developer requests the Energy Company to provide customer metering and billing, the metering system shall be to the Energy Company's specification. In this instance, the Energy Company will provide the Developer with a detailed specification to allow the Developer to procure and install compatible meters. In summary, the meters must:

- include a flow meter, two temperature sensors and a stand alone integrator unit complete with battery back up.
- comply with the EN 1434.



- be installed according to the specifications of the supplier and always in accordance with EN 1434. This is especially important when considering the straight lengths of pipe before and after the flow meter. Isolating valves must be installed on either side of the flow meters to enable meter removable for maintenance and repair.

In the event that the Energy Company provides customer metering and billing, the meters will be connected through a communication cable according to the EN 1434 standard and accepting the MBus protocol to an Automatic Reading System (AMR) which shall in turn be connected to a telephone line to allow remote reading of the meter.

## F PLANT ROOM

The developer is responsible for the provision of the Plant Room within the development in which the Substation will be installed, (although it can be located external to a building).

The Plant Room location shall be agreed between the Developer and Cofely, and on the ground floor or basement of the development in question. Cofely requires permanent access to the Plant Room and the Primary Network located within the Plant Room.

The following table describes the minimum requirements of the Plant Room where the Substation is to be located.

ITEM	SPECIFICATION REQUIREMENT
<b>ROOM ILLUMINATION</b>	Minimum light level: 150 lux.
<b>ELECTRICAL CONNECTION (Wall Socket) for maintenance</b>	III 400 V to earth / 32 A
<b>ELECTRICAL SUPPLY</b> The Developer is responsible for the provision and payment of the mains electricity supply	220 V AC (+/- 5%)50 Hz (+/- 3%) MCB rated at 16A Type C
<b>WATER SUPPLY.</b> The Developer is responsible for the provision and payment of the water mains supply	DN 25, with quick coupling
<b>WATER DRAINAGE</b> The developer is responsible for the provision and payment of the drainage provision Cofely will provide to the Developer COSHH sheets and a risk assessment prior to discharging any treated water to drain	Provide wastewater drainage line in the plant room and a sump to collect condensation from chilled water heat exchangers
<b>CONCRETE STANDS</b>	Provide concrete stands for heat exchangers or agree with Cofely some other form of raised plinth arrangement
<b>VENTILATION</b>	Via natural or mechanical means to provide a minimum of three air changes per hour continuously to the area of the plantroom allocated to Cofely and their equipment
<b>HEALTH &amp; SAFETY</b>	Plan showing evacuation route in case of fire, located in a visible place. The plant room should not have elements that introduce risk to health and safety (sharp metallic objects, holes in roof or floor without protection, etc.)

## **Schedule 4 Charges**

### **Part 1 Charges Outside of the Consumer Service Period**

#### **1 DEFINITIONS**

For the purposes of this Schedule 4 (*Charges*), in addition to the definitions set out in Clause 1.1 (*Definitions and Interpretation*) of this Agreement, the following definitions shall apply:

**"Capacity"** means the capacity of the Energy Services in kW as set out in the Offer of Supply and which may be varied by the Developer as a Connection Variation in accordance with the terms of the Connection Agreement.

**"Consumption Charge"** means a charge billed by the Energy Company to the Customer in respect of the amount of kilowatt Hours (kWh) of Energy Services used at the Supply Address (which may be based on an estimate or on a Network Meter reading), such charge determined in accordance with Schedule 4, Part 1 (*Charges Outside of the Consumer Service Period*) paragraph 4 (*Calculation of Charges*).

**"Disconnection Charge"** means the charge levied by the Energy Company and billed to the Customer pursuant to Clause 9.3 of this Agreement, such charge determined in accordance with the table set out in Schedule 4, Part 1 (*Charges Outside of the Consumer Service Period*) paragraph 4.1.

**"Reconnection Charge"** means a charge, levied by the Energy Company and billed to the Customer pursuant to Clause 9.3 of this Agreement, such charge to be determined in accordance with the table set out in Schedule 4, Part 1 (*Charges Outside of the Consumer Service Period*) paragraph 4.1.

#### **2 APPLICATION**

This Schedule 4, Part 1 (*Charges Outside of the Consumer Service Period*) shall apply at all times outside of any Consumer Services Period.

#### **3 THE CHARGES**

3.1 The Charges for the Energy Services shall be:

- (a) the Availability Fee; and
- (b) the Consumption Charge.

3.2 The following additional charges may be levied by the Energy Company in accordance with the terms of this Agreement:

- (a) the Disconnection Charge; and
- (b) the Reconnection Charge.

3.3 For the avoidance of doubt, this paragraph 3 (*The Charges*) shall not prejudice any right the Energy Company may have to claim any other costs, charges or expenses under any express provision of this Agreement.

#### 4 **CALCULATION OF CHARGES**

4.1 The Charges applicable as at the date of this Agreement (and subject to variation in accordance with terms of this Agreement) are as follows:

<b>Heating Charges</b>	<b>Availability Fee (£/kW/year)</b>	<b>Consumption Charge (p/kWh)</b>	<b>Disconnection Charge (£)</b>	<b>Reconnection Charge (£)</b>
Residential Use	[•]	[•]	[•]	[•]
Commercial Use	[•]	[•]	[•]	[•]

<b>Cooling Charges</b>	<b>Availability Fee (£/kW/year)</b>	<b>Consumption Charge (p/kWh)</b>	<b>Disconnection Charge (£)</b>	<b>Reconnection Charge (£)</b>
Commercial Use	N/A	N/A	N/A	N/A

4.2 To the extent that the Development contains both Dwellings and Commercial Units, the Consumption Charge for Heat Services under this Agreement shall be determined as follows (the "**Consumption Calculation**"):

- (a) the rate per kWh of consumption specified in the table at paragraph 4.1 for Residential Use shall be applied to the percentage of total consumption in kWh for the relevant period which is equal to the percentage of the total residential floor area within the Development in m<sup>2</sup> (excluding any Common Parts or Commercial Unit areas);
- (b) the rate per kWh of consumption specified in the table at paragraph 4.1 as applying to Commercial Use shall be applied to the balance of the total consumption in kWh for the relevant period; and
- (c) the figures determined under paragraph 4.2(a) and paragraph 4.2(b) shall be added together.

4.3 To the extent that the Development contains both Dwellings and Commercial Units, the Availability Charge for Heat Services under this Agreement shall be determined as follows (the "**Availability Calculation**"):

- (a) the Availability Fee for Residential Use as set out in the table at paragraph 4.1 shall be applied to the Capacity for the Development allocated for residential use in the Offer of Supply; and

(b) the Availability Fee for Commercial Use as set out in the table at paragraph 4.1 shall be applied to the Capacity for the Development allocated for non-residential use in the Offer of Supply.

4.4 The Parties acknowledge that the proportion of residential to commercial use within the Development may change during the term of this Agreement in accordance with the terms of the Connection Agreement and agree that the Consumption Calculation and the Availability Calculation shall, each time it is performed, be based on the then-current proportions.

## 5 **CHANGES TO THE ENERGY COMPANY'S CHARGES**

5.1 The Energy Company may adjust the relevant parts of the Charges at any time if any taxes, levies or duties on the Energy Services (other than corporation tax or any other similar tax on the Energy Company's profits or gains) in effect at the Date of Supply are increased or there is a change of Law relating to the production or provision of the Energy Services which results in any new tax, levy, duty or impost (not in force at the Date of Supply) being charged, levied or imposed on the Energy Company. If there is a reduction or discontinuance of taxes, levies or duties in effect as at the Date of Supply, the Energy Company shall reduce the Charges according to the amount of relief to the extent that the Charges apply such taxes, levies or duties. Any increase or decrease in the Charges under this paragraph 5.1 will apply from the date that relevant change in relation to any tax, levy, duty or impost takes effect.

5.2 The Energy Company shall be entitled to adjust the Charges in accordance with its agreement with the Employer provided that the Energy Company gives the Customer not less than twenty (20) Business Days' notice prior to any such change taking effect.

## 6 **PAYMENT**

6.1 Subject to paragraph 6.2 of this Schedule 4, Part 1 (*Charges Outside of the Consumer Service Period*), the Customer shall pay the Charges monthly in arrears in accordance with Clause 5.3 of this Agreement.

6.2 The Customer shall pay the Availability Fee quarterly in advance in accordance with Clause 5.3 of this Agreement.

**Part 2**  
**Charges during any Consumer Services Period**

**1 APPLICATION**

This Schedule 4, Part 2 (*Charges during any Consumer Services Period*) shall apply at all times during a Consumer Services Period.

**2 THE CHARGES**

2.1 The Energy Company may charge Consumers subject to and in accordance with:

- (a) this Agreement;
- (b) the terms of the Subsidiary Supply Agreements; and
- (c) any relevant price limitation and/or price review provisions the Energy Company has agreed with the Employer.

2.2 The charges the Energy Company may charge Consumers during a Consumer Services Period under the Subsidiary Supply Agreements are as follows:

- (a) **“Standing Charge”**: meaning the charge calculated in accordance with Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 3.
- (b) **“Unit Charge”**: means the kWh unit charge as set out in the table below for each kWh of Energy Services consumed by a Consumer.
- (c) **“Common Heat Availability Charge”**: means the charge calculated in accordance with Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 7.
- (d) Any other charge specifically chargeable under a Subsidiary Supply Agreement, such as an abortive call-out charge, debt processing charge, or a reconnection charge.

2.3 The charges applicable as at the date of this Agreement are as follows:

<b>Heating Charges</b>	<b>Availability Fee (£/kW/year)</b>	<b>Unit Charge (p/kWh)</b>
Residential Use	[•]	[•]
Commercial Use	[•]	[•]

<b>Cooling Charges</b>	<b>Availability Fee (£/kW/year)</b>	<b>Unit Charge (p/kWh)</b>

Cooling	N/A	N/A

2.4 The Energy Company may adjust the charges in accordance with the terms of the relevant Subsidiary Supply Agreement.

### 3 **STANDING CHARGE**

3.1 The Standing Charge levied under the Subsidiary Supply Agreements by the Energy Company shall comprise:

- (a) an Availability Fee in accordance with Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 4;
- (b) a charge in respect of the Metering and Billing Services calculated in accordance with Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 5; and
- (c) a charge in respect of Customer Meter Services calculated in accordance with Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 6.

3.2 The Energy Company shall include the Standing Charge as an individual line item on each invoice issued to each Consumer in accordance with the relevant Subsidiary Supply Agreement.

### 4 **AVAILABILITY FEE**

4.1 The Energy Company will charge the Availability Fee, as set out in the table at Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 2.3, in accordance with this paragraph 4 and the Subsidiary Supply Agreements.

4.2 The Availability Fee to be charged under the Subsidiary Supply Agreements relating to each individual Dwelling shall be determined as follows:

- (a) the Energy Company shall calculate the proportion of the total Capacity for the Development which applies to residential use (the "Residential Proportion");
- (b) the Residential Proportion shall be divided by the total number of Dwellings at the Development (the "**Per Dwelling Demand**"); and
- (c) the Per Dwelling Demand shall be multiplied by the Availability Fee unit cost per kW of heating capacity for Residential Use as set out at the table in Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 2.3 to arrive at the Availability Fee for each Dwelling.

4.3 The Availability Fee to be charged under the Subsidiary Supply Agreements relating to each individual Commercial Unit shall be determined as follows:

- (a) The Energy Company shall calculate the proportion of the total Capacity for the Development which applies to commercial use (the "**Commercial Proportion**");

- (b) The Commercial Proportion shall be multiplied by the gross internal floor area of each Commercial Unit as a proportion of the total floor area of all of the Commercial Units at the Development (the "**Per Unit Demand**"); and
- (c) The Per Unit Demand shall be multiplied by the Availability Fee unit cost per kW of heating capacity for Commercial Use as set out at the table in Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 2.3 to arrive at the Availability Fee for each Commercial Unit.

## 5 **METERING AND BILLING CHARGES**

- 5.1 The charge for Metering and Billing Services for each Dwelling, Commercial Unit or Common Part (the "Metering and Billing Charge") for the year commencing 1 April 2013 shall be £54.
- 5.2 The Metering and Billing Charge shall be indexed annually in accordance with the then latest annual index of basic electrical material costs and electrical engineering labour costs weighted in the ratio 10:90 respectively, provided by the BEAMA Contract Price Adjustment Advisory Service, such indexation to occur annually on 31 March.
- 5.3 The Metering and Billing Charge shall be allocated in equal instalments in the relevant year in accordance with the billing frequency under the relevant Subsidiary Supply Agreement.

## 6 **CUSTOMER METER SERVICE CHARGES**

- 6.1 The charge for Customer Meter Services for each Dwelling, Commercial Unit or Common Part (the "Customer Meter Charge") for the year commencing 1 April 2013 shall be £45.
- 6.2 The Customer Meter Charge shall be indexed annually in accordance with the then latest annual index of basic electrical material costs and electrical engineering labour costs weighted in the ratio 40:60 respectively, provided by the BEAMA Contract Price Adjustment Advisory Service, such indexation to occur annually on the 31 March.
- 6.3 The Customer Meter Charge shall be allocated in equal instalments in the relevant year in accordance with the billing frequency under the relevant Subsidiary Supply Agreement.

## 7 **SYSTEM LOSSES**

- 7.1 The Energy Company is entitled to recover the kWh cost relating to any heat losses in the Secondary Network in excess of 15% through the "Common Heat Availability Charge" as set out in the Subsidiary Supply Agreements, charged on the kWh Unit Charge as set out at the table in Schedule 4, Part 2 (*Charges during any Consumer Services Period*) paragraph 2.3.
- 7.2 The Common Heat Availability Charge shall be calculated in accordance with the formula set out in the Subsidiary Supply Agreement, and the amount of the Common Heat Availability Charge shall vary in accordance with the actual heat loss.
- 7.3 The unit charge per kWh used to calculate the Common Heat Availability Charge may vary in accordance with the terms of each Subsidiary Supply Agreement.



8

**HIU SERVICES**

The Customer acknowledges that:

- (a) the Developer has, pursuant to the terms of the Connection Agreement, provided the Energy Company with consideration (as part of the charges under the Connection Agreement) for the Energy Company providing the HIU Services under this Agreement;
- (b) the charges payable by Residential Consumers pursuant to Schedule 4, Part 2, paragraph 2.2 do not include any charges in respect of the HIU Services; and
- (c) no reduction in the charges payable by Residential Consumers pursuant to Schedule 4, Part 2, paragraph 2.2 shall be made at the conclusion of the HIU Repair Period under any Residential Supply Agreement.

9

**PAYMENT**

During the Consumer Services Period, the Energy Company will bill Consumers in accordance with the terms of the relevant Subsidiary Supply Agreement.

**Schedule 5  
Offer of Supply**

[Original documents to be included as appropriate for each plot]

**Schedule 6  
Supply Request**

[Original documents to be included as appropriate for each plot]

**Schedule 7  
Consumer Services**

**Part 1  
General**

**1 INTERPRETATION**

In addition to the definitions set out at the front of this Agreement, the following terms shall have the following meanings when used in this Schedule 7 (*Consumer Services*):

**"Debt Recovery Letters"** means letters sent to Residential Consumers in accordance with the terms of the Residential Supply Agreement, the material form of such letters are set out in this Schedule 7, Part 7 (*Debt Recovery Letters*).

**"Existing Developments"** means each and all of plots numbered N01, N02, N03, N04, N07, N09, N10, N13, N14, N15, N26 north and N26 south as shown for identification only edged green on the drawing attached at Annex 1 of this Schedule 7 and also identified on such drawing by the relevant plot number.

**"HIU Start Date"** means [•]<sup>1</sup>

**"In-Situ Check"** has the meaning given in this Schedule 7, Part 3 (*Consumer Services*)

**"Insured Risks"** means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes (other than any such equipment which forms part of the Secondary Network), escape of water or oil, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion, terrorism, malicious damage, theft or attempted theft, falling trees and branches and aerials, subsidence, heave, landslip, collision, accidental damage to underground services, public liability to anyone else and any other risks which the Developer or Energy Company (as applicable) decides to insure against from time to time. Insured Risks, when used in relation to one Party, shall not include any such event to the extent that it occurs as a result of the negligence, default or breach of the other Party. For the avoidance of doubt, failure of or damage to the Secondary Network shall be an Insured Risk only to the extent that such failure or damage results from any of the foregoing risks.

**"Welcome Pack"** means the resident welcome pack produced by the Energy Company to provide Residential Consumers with information relating to the supply of Energy Services from the H&C Network. The current version of the Welcome Pack is set out at Schedule 7, Part 8 (*Welcome Pack*), which may be updated from time to time in agreement with the Employer.

**2 PROVISION OF CONSUMER SERVICES**

2.1 The Energy Company shall provide the Consumer Services at all times during the Consumer Service Period:

(a) in accordance with Good Industry Practice;

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<sup>1</sup> Insert the date of practical completion of the Existing Developments works (or if practical completion has not yet occurred, the predicted date, inserting "as agreed in writing from time to time between the Parties").

- (b) in accordance with all of the provisions of this Agreement including, without limitation, this Schedule 7 (*Consumer Services*); and
  - (c) in accordance with the Subsidiary Supply Agreements.
- 2.2 The Energy Company shall comply with the terms of the relevant Subsidiary Supply Agreements and shall not be entitled to make any variation to the terms of the Subsidiary Supply Agreements other than:
- (a) to the extent necessary in order to comply with the Law;
  - (b) in order to improve the terms of the Subsidiary Supply Agreements in favour of Consumers; and
  - (c) in accordance with the terms of the relevant Subsidiary Supply Agreements,

and in any case the Energy Company shall not make any variation to the terms of the Subsidiary Supply Agreement without, in relation to (b) and (c) above, the prior written agreement of the Employer, and in relation to (a) above, prior written notice to the Employer.

- 2.3 The Customer shall ensure that those parts of the Development where the Customer Meters and AMR System are situated (other than any such part of the Development which is located inside a Dwelling or Commercial Unit) are at all times kept in a state of repair reasonably appropriate for the purposes of housing the Customer Meters and AMR System.
- 2.4 The Energy Company shall not be entitled to charge any Consumer, the Developer, the Customer or the Estate Management Company for the provision of the Consumer Services other than as expressly contemplated in this Agreement or the relevant Subsidiary Supply Agreement.

### 3 **INFORMATION**

- 3.1 The Customer shall assist the Energy Company, without charge, to obtain the following information regarding each Consumer in order to set up, monitor and manage the Consumer Services:
- (a) the name, address and contact telephone number of any new Consumer; and
  - (b) the name, address and contact telephone number of any departing Consumer and their date of departure.
- 3.2 The Customer shall additionally, on request by the Energy Company, use reasonable endeavours to provide the Energy Company promptly, without charge, with any other information that the Energy Company may reasonably request in order to set up, monitor and manage the Consumer Service.
- 3.3 The Customer shall use reasonable endeavours to assist the Energy Company in obtaining the opening Customer Meter reading and the closing Customer Meter reading for each Dwelling, Commercial Unit and Common Part.
- 3.4 For the avoidance of doubt, Clause 21 of this Agreement shall apply to any personal data (as defined in the Data Protection Act 1998) obtained by the Energy Company regarding Consumers under this Schedule 7 (*Consumer Services*) or

otherwise in connection with the Consumer Services pursuant to this Agreement, and shall continue to apply to such personal data (as defined in the Data Protection Act 1998) notwithstanding the end of any Consumer Service Period or the termination of this Agreement.

4 **DAMAGE**

The Energy Company shall not be liable for any damage caused to any Customer Meter or HIU which is caused by the Customer (or its employees, agents, contractors or other third parties), or by an Insured Risk. The Customer shall reimburse the Energy Company for the full costs of repairing or replacing any Customer Meter or HIU caused by such damage to the extent that the Energy Company is unable to recover such costs, after using reasonable endeavours, under the terms of any relevant contract with a third party agent or contractor or under any Subsidiary Supply Agreement.

## **Part 2 The Metering and Billing Services**

### **1 AMR SYSTEM**

1.1 The Energy Company shall at its own expense, and subject to the Developer complying with its obligations under the Technical Specification in respect of the AMR System, operate and maintain the AMR System in good working order in accordance with all relevant guidance, manuals and manufacturer's instructions (provided the same are provided to the Energy Company by the Developer or the Customer) and, without prejudice to the foregoing, Good Industry Practice.

1.2 The Energy Company shall at its own cost repair and, if necessary, replace the AMR System as necessary to enable it to comply with its other obligations under this Schedule 7 (*Consumer Services*) and otherwise in accordance with Good Industry Practice, provided that the Customer shall be liable for the costs of any such repair or replacement to the extent that the need for the same results from any negligence or breach of this Agreement by the Customer.

### **2 METERING AND BILLING**

The Energy Company shall read the Customer Meters and bill Consumers in accordance with the Subsidiary Supply Agreements.

### **3 RESIDENTIAL CONSUMER SERVICES**

#### **3.1 Welcome Pack**

The Customer shall provide each new Residential Consumer with a copy of the Welcome Pack at or around the time that the relevant Residential Supply Agreement is entered into. Additional copies of the Welcome Pack shall be made available by the Energy Company to each Residential Consumer on request.

#### **3.2 Website**

3.2.1 The Energy Company shall set up a website for use by Residential Consumers which shall be expanded and developed as agreed with the Employer from time to time.

3.2.2 There shall be no charge to a Residential Consumer for using the website, save for any financial transaction charges imposed on the Energy Company by a financial institution in association with the use of any active billing facility which may be added to the website in future through agreement between the Energy Company and the Employer.

#### **3.3 Customer Services and Complaints**

3.3.1 The Energy Company shall maintain its registration with the Energy Ombudsman (or, if the Energy Ombudsman ceases to operate, a replacement or otherwise reasonably equivalent independent dispute resolution service) for the duration of the Consumer Services Period to deal with Residential Consumer disputes.

3.3.2 The Energy Company shall inform the Estate Management Company of any complaints it receives from Residential Consumers in accordance with the terms of the Residential Supply Agreement.

### 3.4 **Debt Management**

3.4.1 To reduce the risk of bad debt in relation to Residential Consumers the Energy Company shall use reasonable endeavours to:

- (a) minimise billing errors by ensuring billing is based on actual meter readings as opposed to estimates;
- (b) identify Residential Consumers in difficulty by incoming call management. The Energy Company shall train frontline staff to identify typical characteristics of Residential Consumer in financial difficulty;
- (c) use Residential Consumer records to target energy efficiency improvements. An increase in consumption beyond a certain threshold or a Residential Consumer being in arrears over a certain amount of money or period of time will prompt the Energy Company to contact the Residential Consumer and offer advice on such improvements;
- (d) demonstrate flexibility in debt recovery. Residential Consumers with a known history of difficulty will be contacted at an appropriate stage early in the debt recovery process in order to allow adequate time for difficulties to be resolved prior to suspension or termination, including by applying appropriate alternative techniques for debt recovery based on the Residential Consumer's payment history and current circumstances; and
- (e) offer sustainable solutions to Residential Consumers in extreme hardship. The Energy Company shall provide details of organisations that can help such Residential Consumers.

3.4.2 In order to manage bad debt and the payment of bills, the Energy Company shall comply with the debt recovery process and timeframes set out in the Residential Supply Agreements. Letters required to be sent by the Energy Company pursuant to those agreements shall be in the form of the relevant Debt Recovery Letter as attached to this Schedule 7 (*Consumer Services*).

3.4.3 The Energy Company shall not in any circumstances be entitled to recover payment or any form of compensation from the Customer in respect of any non-payment of any bill by a Consumer.

### 3.5 **Monthly Billing**

3.5.1 If at any time the Energy Company operates monthly billing, all costs incurred in implementing the necessary modifications and operating the modified software shall be borne by the Energy Company excluding any financial transaction charges imposed on the Energy Company by a financial institution, which shall be borne by the Residential Consumers.



## **Part 3 Consumer Meter Services**

### **1 SCOPE OF SERVICES**

#### **1.1 General**

The Energy Company shall maintain the Customer Meters in accordance with this Schedule 7 (*Consumer Services*) and the provisions of the Subsidiary Supply Agreements.

#### **1.2 In-Situ Check**

1.2.1 The Energy Company shall carry out pre-arranged annual checks ("**In-Situ Checks**") to such proportion of all installed Customer Meters as is required in order to comply with the Guidance.

1.2.2 Each In-Situ Check shall include the following works:

- (a) recording all serial numbers and meter readings;
- (b) conducting a visual check to establish that all Customer Meter parts are present and correctly located and are in sound condition;
- (c) conducting termination checks on all wiring;
- (d) conducting electronics checks on both the flow meter and the energy calculator;
- (e) testing to ensure that temperature sensors are reading correctly, including confirming that resistance readings on the calculator and the cable resistance are equal;
- (f) carrying out any necessary or desirable minor repairs including, without limitation, wiring repairs;
- (g) confirming that the meter "zeroes" on flow and energy calculations including, without limitation, by manually shutting down valves if possible;
- (h) re-sealing all heat meter components and confirming that the meter is left in good working condition;
- (i) replacing all batteries prior to the end of their predicted life.

1.2.3 The Energy Company shall schedule its In-Situ Checks to ensure that as far as is reasonably practicable no individual Customer Meter which has previously been the subject of an In-Situ Check shall be the subject of a second In-Situ check unless and until all installed Customer Meters have been subjected to at least one In-Situ Check.

#### **1.3 Replacement of Customer Meters**

1.3.1 Where the Energy Company is required to remove a Customer Meter, whether in order to carry out appropriate testing or verification, for the purposes of repair or because it requires replacement, it will at the same time as removal, install a replacement Customer Meter in accordance with this Schedule 7 (*Consumer Services*) and Good Industry Practice.

1.3.2 Where the Energy Company wishes to remove a Customer Meter due to non-payment by the relevant Consumer under a Supply Agreement, the Energy Company shall not do so without the prior written consent of the Customer, such consent not to be unreasonably withheld or delayed (which the Parties acknowledge the Customer may not be able to give without first obtaining the consent of the owner of the Development).

1.3.3 The Energy Company shall at all times maintain appropriate levels of stock of spare Customer Meters to enable it to comply with its obligations set out in Schedule 7, Part 3 (*Consumer Meter Services*) paragraph 1.3.1.

#### 1.4 **Verification in accordance with Guidance**

1.4.1 The Energy Company will verify the accuracy of the Customer Meters on an on-going basis over the life of the Consumer Service Period in accordance with the Guidance.

1.4.2 Without limiting the generality of the foregoing, the Parties acknowledge that compliance with the Guidance will require the Energy Company at its own cost to:

- (a) put into effect a batch sampling procedure and to remove and test Customer Meters;
- (b) procure a reserve stock of Customer Meters to enable the initial batch of Customer Meters removed for sampling to be replaced, the size of such reserve stock to be established in accordance with the Guidance. The Energy Company may use Customer Meters that have been removed, tested and verified to replace Customer Meters that form part of any subsequent batch of Customer Meters removed for testing; and
- (c) where Customer Meters are outside of a specified tolerance level, replace all meters within the batch that has been represented by the sample.

1.4.3 The sizes of batches and the tolerance levels are set out in the Guidance.

#### 1.5 **Payment for Consumer Meter Services**

The Energy Company shall not be entitled to any payment from Consumers, the Estate Management Company, the Customer or the Developer in respect of the replacement of Customer Meters save as specifically provided for in this Agreement, the Connection Agreement, or a Subsidiary Supply Agreement.

**Part 4**  
**Residential Consumer HIU Services**

**1 INSPECTIONS**

The Energy Company shall carry out planned servicing inspections on all HIUs in Dwellings during the Consumer Services Period, commencing three (3) years from the date of first occupation of each Dwelling and subsequently every third anniversary of that date for the life of the respective HIU.

**2 REPAIR OR REPLACEMENT OF HIUS**

2.1 From the date of the Deed of Variation or the HIU Start Date (whichever is the later) to the day immediately prior to the eighth anniversary of the HIU Start Date, the Energy Company shall maintain and repair Residential Consumers' HIUs in accordance with the terms of the Residential Supply Agreement.

2.2 The Energy Company shall at all times maintain appropriate levels of stock of spare parts for HIUs to enable it to comply with its obligations set out the Residential Supply Agreement.

**3 REPAIR OR REPLACEMENT COSTS**

3.1 Subject to paragraph 3.2 below, the cost of labour and parts for any repairs to or replacements of any HIUs (whether following planned maintenance or on a call-out basis) shall be borne as follows:

- (a) from the HIU Start Date to the day immediately prior to the third anniversary of the HIU Start Date, all parts in respect of the HIU in that Dwelling shall be issued by, and at the sole cost of, the Customer;
- (b) from the third anniversary of the HIU Start Date, to the day immediately prior to the eighth anniversary of the HIU Start Date, all parts in respect of a HIU shall be issued by, and at the sole cost of, the Energy Company subject to an aggregate cap of £450,000 across all of the Existing Developments, after which further costs shall be borne by the Customer;
- (c) from the HIU Start Date to the day immediately prior to the eighth anniversary of the HIU Start Date, all labour in relation to the obligations of the Energy Company under of this Schedule 7 (*Consumer Services*) shall be provided by, and at the sole cost of, the Energy Company; and
- (d) from the eighth anniversary of the HIU Start Date, all labour and parts in respect of the HIUs shall be provided by, and at the sole cost of, the Residential Consumer.

3.2 The Energy Company's obligation to maintain, repair or replace HIUs shall be subject to the HIU Exclusions set out in the Residential Supply Agreement.

**Part 5**  
**Residential Consumer Reporting**

1 The Energy Company shall report to the Employer on an annual basis, for the previous Service Period, such report to be provided within twenty (20) Business

Days of the expiry of each such Service Period, the following operational parameters (the "**Report**") in relation to the Consumer Services provided at the Development during that period:

- (a) the total number of Consumers at the start and end of the period;
- (b) the number of Consumers who have left and joined during the period;
- (c) the percentage of debts written off by the Energy Company as a proportion of the total number of bills and the total amount billed for the period;
- (d) a summary of all complaints received and the subject matter and means of resolution of each complaint, and such further information as the Employer may reasonably request in respect of any specific complaint;
- (e) the total number of Dwellings, Commercial Units and Common Parts connected to the H&C Network;
- (f) percentage of invoices raised and issued to Residential Consumers within one (1) Business Day from the end of each billing period;
- (g) number of telephone calls made in accordance with the debt recovery process;
- (h) level of Consumer debt – overdue by more than one (1) day;
- (i) level of Consumer debt – overdue by more than eight (8) days;
- (j) level of Consumer debt – overdue by more than fifteen (15) days;
- (k) level of Consumer debt – overdue by more than twenty-five (25) days;
- (l) level of Consumer debt – overdue by more than thirty-five (35) days;
- (m) level of Consumer debt – overdue by more than sixty-five (65) days;
- (n) number of reminder notices issued;
- (o) number of second reminder notices issued;
- (p) number of third reminder notices issued;
- (q) number of Consumer disconnections of heat supply implemented;
- (r) number of post-disconnection notices issued;
- (s) number of notices of termination issued;
- (t) number of pre-termination visits;
- (u) the value of unpaid invoices and the ratio of such unpaid invoices to total turnover;
- (v) the value of Consumer debt deemed to be irrecoverable ("**Bad Debt**"), and the ratio of such Bad Debt to total turnover. Debt shall be deemed uncollectable if the Energy Company has been unable to recover such debt

through the operation of the Debt Management Process set out at clause 10 of the Residential Supply Agreement.

- (w) total number of Customer Meters checked;
- (x) total number of Abortive Calls (as defined in the Residential Supply Agreement);
- (y) average time to resolve a failure notification in relation to Customer Meters;
- (z) number of failure notifications in respect of Customer Meters not resolved within 28 days;
- (aa) total number of Customer Meters replaced;
- (bb) number of Customer Meters replaced at Customer's cost;
- (cc) accuracy of any sampled meter batches relative to limits; and
- (dd) complaints received regarding Customer Meters and means of resolution.

2 The Energy Company shall provide a copy of the Report to the Customer on request.

**Part 6**  
**Vulnerable Customers**

**1 VULNERABLE CUSTOMERS**

- 1.1 The Customer shall (or shall procure that the Estate Management Company shall) maintain a list of vulnerable residents that occupy Dwellings on the Development ("**Vulnerable Customer List**") and shall provide the Energy Company with a copy of the Vulnerable Customer List on commencement or shortly after commencement of the Consumer Services. Persons included in such a list shall be deemed to be Vulnerable Customers for the purposes of this Agreement.
- 1.2 The Customer (or the Estate Management Company) shall provide the Energy Company with an updated Vulnerable Customer List on 1 September and 1 March each year or at such other time as the Customer may consider appropriate.
- 1.3 The Vulnerable Customer List shall include residents that fall into the following categories:
- (a) Elderly – residents who are 65 years and over.
  - (b) Mentally or Physically Disabled – residents who have a physical or mental disability, have difficulty walking or with their eyesight, are deaf or who have learning difficulties.
  - (c) Families with Young Children – residents with a child or children aged under 5 years.
  - (d) Ill – residents who have a chronic or severe illness.

**2 SUPPLY TO VULNERABLE CUSTOMERS**

- 2.1 The Energy Company agrees that it shall not disconnect Energy Service supplies to any Vulnerable Customer in accordance with the provisions of the Residential Supply Agreement during a Winter Period.
- 2.2 The Energy Company agrees that it shall provide the temporary space heating equipment to Vulnerable Customers if the Energy Service is discontinued because of a planned or unplanned interruption within four (4) hours, or eight (8) hours if more than two hundred and fifty (250) Vulnerable Customers are affected. For the purposes of determining whether the Energy Company has complied with the four (4) hour or eight (8) hour time period referred to above, any period of time between the hours of 8.00pm and 8.00am shall be disregarded.

**Part 7**  
**Debt Recovery Letters**

**Letter 1 – Payment outstanding for 1 day**

FIRST REMINDER LETTER - OVERDUE ACCOUNT

Dear \_\_\_\_\_

Re: Outstanding Balance at \_\_\_\_\_ in respect of your Heat Supply

According to our records we have not received payment for our invoice \_\_\_\_\_ relating to Your Home referenced above which was sent to you on \_\_\_\_\_. You are therefore notified that your account is now in arrears and £\_\_\_\_\_ is now overdue for payment.

Please make arrangements to pay this amount in full immediately to avoid us taking any further action.

We understand that payment due dates can be difficult to remember and recommend that a variable monthly direct debit is set up to prevent your account becoming overdue in future. You can also make a payment using a debit card or a credit card (but this may incur an additional transaction fee). A direct debit application form is included in this letter.

If you have a query on this account, or wish to make a payment or set up a direct debit, please contact us on \_\_\_\_\_.

If you have already paid the amount due, please accept our apologies and disregard the contents of this letter.

Yours sincerely

**Letter 2 – Sent 7 days after first letter**

SECOND REMINDER LETTER - OVERDUE ACCOUNT

Dear \_\_\_\_\_

Re: Outstanding Balance at \_\_\_\_\_ in respect of your Heat Supply

Further to our letter dated \_\_\_\_\_ advising you of the arrears on your account, the balance of £\_\_\_\_\_ remains outstanding.

Failure to pay this amount in full immediately may result in the Heat Supply being suspended and legal action being taken to recover the outstanding amount and all associated costs. If you are having difficulties paying this bill please contact us on \_\_\_\_\_ as soon as possible to prevent any further action being taken.

If you have already paid the amount due, please accept our apologies and disregard the contents of this letter.

Yours sincerely

### **Letter 3 – Sent 7 days after letter 2**

FINAL DEMAND

Dear \_\_\_\_\_

Re: Outstanding Balance at \_\_\_\_\_ in respect of your Heat Supply

Further to our letters dated \_\_\_\_\_ and \_\_\_\_\_ advising you of the arrears on your account, the balance of £\_\_\_\_\_ remains outstanding.

This is the Final Reminder for payment of the above amount and you are notified that we intend to instigate legal proceedings to recover the outstanding amount and all associated costs. If you do not make payment within 3 days from the date of this letter, we will charge you a Debt Processing Charge (as set out in your Residential Supply Agreement) to cover our costs of processing each Reminder Letter sent to you and managing the collection of your outstanding Charges.

If you do not make payment within 10 days from the date of this letter then we will suspend the Heat Supply Your Home without further notice to you.

Please contact us on \_\_\_\_\_ as a matter of urgency to prevent any further action being taken.

If your services are suspended and you request a reconnection, you will have to pay a Reconnection Charge (as set out in your Residential Supply Agreement). This fee will be added to the amounts you owe under your account. Before we reinstate the Heat Supply all amounts owing in respect of your account must be paid in full and we may require a reasonable cash deposit from you in respect of any Charges (as detailed in your Residential Supply Agreement) that may become due to us.

If you have already paid the amount due, please accept our apologies and disregard the contents of this letter.

Yours sincerely

### **Letter 4 - further letter sent after the 10 day payment period**

SUSPENSION LETTER

Dear \_\_\_\_\_

Re: Outstanding Balance at \_\_\_\_\_ in respect of your Heat Supply.

Further to our letters dated \_\_\_\_\_ advising you of the arrears on your account, the balance of £\_\_\_\_\_ remains outstanding and the Heat Supply to Your Home has been suspended.

If you want to have the Heat Supply to Your Home reconnected you must pay us the following:



- (1) all outstanding Charges in full (as detailed in your Residential Supply Agreement) due to us, or we agree with you (at our discretion) a plan under which you will pay back such outstanding Charges over an extended period of time, while also being provided with (and paying for) the Heat Supply;
- (2) a deposit equivalent to our reasonable estimate of our likely charges to you under your Residential Supply Agreement for a period of one calendar quarter; and
- (3) the Reconnection Charge (as set out in your Residential Supply Agreement).

Once we receive the above, we will within 48 hours, reconnect the Heat Supply to Your Home.

If you pay us a deposit pursuant to point (2) above we will return that deposit to you, in accordance with Clause 10 of your Residential Supply Agreement.

Please contact us on \_\_\_\_\_ as a matter of urgency to make payment, failure to do so may result in your Residential Supply Agreement being terminated.

If you have already paid the amount due, please accept our apologies and disregard the contents of this letter.

Yours sincerely

**Letter 5 - final warning letter to be sent 10 days after the suspension letter before Agreement is terminated (with 30 days to make payment)**

FINAL WARNING LETTER

Dear \_\_\_\_\_

Re: Outstanding Balance at \_\_\_\_\_ in respect of your Heat Supply

Further to our letter dated \_\_\_\_\_ advising you of the arrears on your account and the possibility of your Residential Supply Agreement being terminated, following the suspension of the Heat Supply to Your Home, the balance of £\_\_\_\_\_ remains outstanding.

This is the Final Warning Letter for payment of the above amount and you are notified that we intend to instigate legal proceedings to recover the outstanding amount and all associated costs. If you do not make payment within 30 days from the date of this letter, then we shall terminate your Residential Supply Agreement.

You can still have the Heat Supply to Your Home reconnected and avoid your Residential Supply Agreement being terminated, if you pay us the following:

- (1) in full all outstanding Charges (as detailed in your Residential Supply Agreement) due to us, or we agree with you (at our discretion) a plan under which you will pay back such outstanding Charges over an extended period of time, while also being provided with (and paying for) the Heat Supply;
- (2) a deposit equivalent to our reasonable estimate of our likely charges to you under your Residential Supply Agreement for a period of one calendar quarter; and

(3) the Reconnection Charge (as set out in your Residential Supply Agreement).

Once we receive the above, we will within 48 hours, reconnect the Heat Supply to Your Home.

If you pay us a deposit pursuant to point (2) above we will return that deposit to you, in accordance with Clause 10 of your Residential Supply Agreement.

Please contact us on \_\_\_\_\_ as a matter of urgency to make payment, failure to do so may result in your Residential Supply Agreement being terminated.

If you have already paid the amount due, please accept our apologies and disregard the contents of this letter.

Yours sincerely

### **Letter 6- termination of the Residential Supply Agreement after the 30 day payment period**

#### TERMINATION LETTER

Dear \_\_\_\_\_

Re. Outstanding balance at \_\_\_\_\_ in respect of your Heat Supply.

Further to our letter dated \_\_\_\_\_ advising you of the arrears on your account and the possibility of your Residential Supply Agreement being terminated if you do not make payment within 30 days from the date of the letter, the balance of £\_\_\_\_\_ still remains outstanding and therefore your Residential Supply Agreement has been terminated.

If You want to reconnect Your Home to the Heat Supply you will need to enter into a new Residential Supply Agreement with us and pay us the following:

- (1) in full all outstanding Charges (as detailed in your Residential Supply Agreement) due to us, or we agree with you (at our discretion) a plan under which you will pay back such outstanding Charges over an extended period of time, while also being provided with (and paying for) the Heat Supply;
- (2) a deposit equivalent to our reasonable estimate of our likely charges to you under your new Residential Supply Agreement for a period of one calendar quarter; and
- (3) the Reconnection Charge (as set out in your Residential Supply Agreement).

If you pay us a deposit pursuant to point (2) above we will return that deposit to you, in accordance with Clause 10 of your Residential Supply Agreement.

If you have already paid the amount due, including the Reconnection Charge, please accept our apologies and disregard the contents of this letter.

Yours sincerely

**Part 8**  
**Welcome Pack**

**Schedule 8  
Void Supply Agreement**

DATED [•]

**COFELY EAST LONDON ENERGY LIMITED**

[•]

**Void Supply Agreement**

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### **Execution**

**DATED** [●]

**PARTIES**

- (1) **COFELY EAST LONDON ENERGY LIMITED** (Company No. 6307742) whose registered office is at Stuart House, Coronation Road, Cressex Business Park, High Wycombe, Buckinghamshire, HP12 3TA (the "**Energy Company**")
- (2) [●] the ("**Customer**")

**BACKGROUND**

- (A) The Energy Company has rights to build, own and operate the Community Energy Network.
- (B) The Developer is building the Development and has agreed with the Energy Company to connect the Development to the Community Energy Network under the Connection Agreement.
- (C) The Developer has requested that pursuant to the Master Supply Agreement the Energy Company enter into an agreement with the Customer in respect of the provision of the Energy Services to the Units until such time as each individual Unit has become subject to a Supply Agreement between the Energy Company and a third party.
- (D) The Customer and the Energy Company have agreed that the Energy Company will provide the Energy Services to the Units on the terms set out in this Agreement.

**OPERATIVE PROVISIONS**

1 **DEFINITIONS**

The following terms shall have the following meanings when used in this Agreement:

**"Affiliate"** means, in relation to any person, any subsidiary, any holding company or any subsidiary of any holding company, and holding company and subsidiary shall have the meanings given to them in section 1159 of the Companies Act 2006.

**"Agreement"** means this agreement, including any schedules and annexures hereto.

**"Bill"** means a statement or invoice issued by the Energy Company to the Customer in accordance with this Agreement.

**"Charges"** means:

- (a) charges for the Energy Services and related services as set out in Schedule 1 (*Charges*);
- (b) the Common Heat Availability Charge;
- (c) any Disconnection Charge; and
- (d) any Reconnection Charge.

**"Commercial HIU"** means the heat interface unit that transfers heat or cooling from the Development Energy System to each Commercial Unit which is a Relevant Unit.

**"Commercial Supply Agreement"** means an agreement to be entered into by the Energy Company with an occupier of a Commercial Unit for the supply of Energy Services to a Commercial Unit.

**"Commercial Unit"** means a part of the Development which is primarily used for business or commercial purposes, as is identified in Schedule 5 (*Units*).

**"Common Heat Availability Charge"** has the meaning given in Schedule 1 (*Charges*).

**"Confidential Information"** means all information marked as confidential, or which should reasonably be regarded as confidential, in whatever form and of whatever nature received or obtained as a result of entering into or performing this Agreement, including any information regarding the business, customers, know-how or financial or other affairs, commercially sensitive information, trade secrets, intellectual property and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998 of the other Party and which arises out of or relates to:

- (a) the negotiations concerning this Agreement;
- (b) the provisions of this Agreement; or
- (c) the subject matter of this Agreement.

**"Connection Agreement"** means the agreement of that name between the Energy Company and the Developer in respect of the Development dated [●insert date].

**"Cooling Services"** means cooling services provided in the form of cooling transferred at the point of connection between the Development Cooling System and any Relevant Unit Cooling System.

**"CPI"** means the Consumer Price Index issued by the Office of National Statistics from time to time, or, failing such publication or in the event of a fundamental change to the Index, such other index as the Parties may agree.

**"Customer Insurance"** means public liability insurance with a level of cover of £1,000,000 in the aggregate each year, indexed annually in accordance with RPI with effect from 31 March 2013.

**"Customer Property Damage"** means any damage to or destruction of the Development or any neighbouring property of the Customer, or any third party property at the Development or on any neighbouring property of the Customer, caused by or arising out of the Energy Company (or the Energy Company's employees, agents or sub-contractors) performing any of the Energy Company's obligations, or exercising any of the Energy Company's access rights, under this Agreement, the Connection Agreement or the Master Supply Agreement, but excluding any Indirect Loss.

**"Developer"** means Stratford Village Development (GP) Limited.

**"Development"** means [● insert details].

**“Development Cooling System”** means the space cooling system which is inside the Development between the point of connection with the System and each Relevant Unit Cooling System, but not including any Relevant Unit Cooling System.

**“Development Energy System”** means the Development Heating System and/or the Development Cooling System, as the context requires.

**“Development Heating System”** means the space heating and hot water system which is inside the Development between the point of connection with the System and each Relevant Unit Heating System, but not including any Relevant Unit Heating System.

**“Disconnection Charge”** means the charge for disconnecting a Relevant Unit from receiving Energy Services.

**“Effective Date”** means the date of the first occupation of a dwelling or commercial unit in the Development.

**“Employer”** means the entities which have granted the Energy Company rights to build, own and operate the System and to whom the Energy Company owes obligations in respect of how it provides the Energy Services to the Development and to each Relevant Unit.

**“Energy Company Help-desk”** means the Energy Company’s help desk for dealing with customer enquiries and complaints, contact details for which appear on the Bill sent to the Customer.

**“Energy Company Property Damage”** means any damage to or destruction of the Energy Company’s property or any third party property at the Development caused by the Customer or any other party to the Connection Agreement or the Master Supply Agreement (or such entities’ employees, agents or sub-contractors) whilst carrying out works at the Development, but excluding any Indirect Loss.

**“Energy Services”** means the Heating Services and, where applicable, the Cooling Services.

**“Estate Management Company”** means East Village Management Limited (company number 06917185), or such replacement entity as the counterparty to the Master Supply Agreement may appoint in accordance with the terms of the Master Supply Agreement.

**“Force Majeure Event”** means any of the following events or circumstances:

- (a) war, civil war, armed conflict or terrorism; or
- (b) nuclear contamination unless in any case the Party claiming the relief from force majeure and/or any of its Affiliates is the source or cause of the contamination; or
- (c) chemical or biological contamination of the System and/or the communal energy supply and/or the Development from any of the events referred to in paragraph (a) above; or
- (d) pressure waves caused by devices travelling at supersonic speeds,

which directly causes either Party to be unable to comply with all or a material part of its obligations under this Agreement.



**“Good Industry Practice”** means using standards, practices, methods and procedures which comply with Law and exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances.

**“Heating Services”** means heating services provided in the form of heat transferred at the point of connection between the Development Heating System and any Relevant Unit Heating System.

**“HIU”** means a Residential HIU and/or a Commercial HIU.

**“Indirect Loss”** means loss of profit or revenue, loss of opportunity, loss of contract or loss of goodwill, the cost of obtaining any new financing or maintaining any existing financing (including the making of any scheduled or other repayment or prepayment of debt and the payment of any other costs, fees or expenses incurred in connection with the obtaining or maintaining of financing) but for the avoidance of doubt shall not include any amounts expressly payable under this Agreement.

**“Law”** means:

- (a) any applicable statute or proclamation or any delegated or subordinate legislation;
- (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;
- (c) any applicable guidance, direction or determination with which the Energy Company and/or the Customer is bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to them; and
- (d) any applicable judgement of a relevant court of law which is binding in England.

**“Lease”** means a lease of a Unit for a term of not less than forty (40) years, or a Shared Ownership Lease.

**“Leased”** means, in respect of a Unit, that Unit having become subject to a Lease.

**“Master Supply Agreement”** means the agreement of that name between the Energy Company, Stratford Village Property Holdings 1 Limited and Stratford Village Property Holdings 2 Limited dated [●], as amended.

**“Meter”** means the heat meter and/or cooling meter used to measure the amount of Energy Services used by each Relevant Unit Energy System.

**“Network Meter”** means the meter which measures the Energy Services to the whole plot at the Development.

**“Reconnection Charge”** means a charge for recommencing the Energy Services to a Relevant Unit as set out in Schedule 1 (*Charges*).

**“Relevant Unit”** means a Unit to which this Agreement applies from time to time pursuant to Clause 2 (*Application*).

**"Relevant Unit Cooling System"** means the cooling system inside each Relevant Unit including all pipes and other apparatus (but not including the Meter).

**"Relevant Unit Energy System"** means a Relevant Unit Heating System and/or a Relevant Unit Cooling System, as the context requires. The Relevant Unit Energy System does not include the Meter or the HIU during the Residential HIU Repair Period, but does include the Residential HIU after the end of the Residential HIU Repair Period.

**"Relevant Unit Heating System"** means the heating system inside each Relevant Unit including all pipes, radiators, hot water cylinders and other apparatus.

**"Required Insurance"** means:

- (a) public liability insurance with a level of cover of £10,000,000 in the aggregate each year;
- (b) employer's liability insurance with a level of cover of £10,000,000 in the aggregate each year; and
- (c) professional indemnity and product liability insurance with a level of cover of £10,000,000 in the aggregate each year,

in each case indexed annually in accordance with RPI with effect from 31 March 2013.

**"Residential Dwelling"** means one of the units in the Development which is primarily used for residential purposes, as set out in Schedule 5 (*Units*).

**"Residential HIU"** means the heat interface unit that transfers heat or cooling from the Development Energy System to each Residential Dwelling which is a Relevant Unit as shown on the Residential HIU Drawing.

**"Residential HIU Drawing"** means the schematic drawing set out in Schedule 3 (*Residential HIU Drawing*).

**"Residential HIU Inspection Period"** means the period during which the Energy Company is liable for the periodic inspection of each Residential HIU only, which runs from the end of the Residential HIU Repair Period until 30 June 2053.

**"Residential HIU Repair Period"** means the period during which the Energy Company is liable for the maintenance and repair of each Residential HIU, which runs from the date on which this Agreement commences until [●]<sup>2</sup>.

**"Residential Supply Agreement"** means an agreement between an occupant of a Residential Dwelling and the Energy Company for the supply of Heating Services.

**"RPI"** means the Retail Prices Index (All Items) as published by the Office for National Statistics from time to time, or, failing such publication or in the event of a fundamental change to the Index, such other index as the Parties may agree.

**"Service Period"** means a continuous period of 12 months ending on 31 March. Where the Supply Start Date in the first calendar year during which the Customer

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<sup>2</sup> The date that is 7 years after "Practical Completion" of the relevant Development to be inserted here.

takes the Energy Services (to any Relevant Unit) is after 31 March, the first Service Period shall be the period from the Supply Start Date to the next 31 March.

**"Service Standards"** means the standards of service set out in Schedule 2 (*Service Standards*).

**"Shared Ownership Lease"** means a shared ownership lease of a Unit as defined in Section 622 of the Housing Act 1985 for a term of not less than 40 years.

**"Standing Charge"** has the meaning given in Schedule 1 (*Charges*).

**"Summer Period"** means the period starting 1st May and ending 30th September.

**"Supply Agreement"** means:

- (a) in respect of a Residential Dwelling, a Residential Supply Agreement; or
- (b) in respect of a Commercial Unit, a Commercial Supply Agreement.

**"Supply Start Date"** means the date of this Agreement or such other date as agreed in writing between the Parties from time to time.

**"System"** means the district heating and cooling network, equipment, plant and machinery which the Energy Company uses to provide the Energy Services up to the point of connection with the Development Energy System.

**"Unit"** means a Residential Dwelling or a Commercial Unit.

**"Unit Charge"** has the meaning given in Schedule 1 (*Charges*).

## 2 APPLICATION

2.1 This Agreement shall initially apply to all Units in the Development. Each individual Unit shall, however, cease to be subject to this Agreement once:

- (a) it has been Leased to a third party which is not an Affiliate of the Customer or the Developer and the Customer has notified the Energy Company of that fact in writing, providing details of the duration of the Lease;
- (b) such third party has entered into a Supply Agreement with the Energy Company in respect of the relevant Unit; and
- (c) such Supply Agreement has become effective in accordance with its terms.

2.2 Where the conditions set out in Clause 2.1 above apply to a Unit that Unit shall cease to be subject to this Agreement and:

- (a) that Unit shall no longer be considered a 'Relevant Unit' for the purposes of this Agreement;
- (b) the Energy Company shall have no obligations to the Customer under this Agreement in connection with that Unit, including (without limitation) with respect to the provision of the Energy Services and related services thereto; and

(c) the Customer shall have no obligations to the Energy Company under this Agreement in connection with that Unit, including (without limitation) with respect to any Charges (save any Charges which have accrued prior to the time when the relevant Unit ceases to be subject to this Agreement).

2.3 Where the Customer grants a leasehold interest other than a Lease in a Relevant Unit, or otherwise grants right of use or occupancy of a Relevant Unit other than by entering into a Lease, to a third party which is not an Affiliate of the Customer or the Developer, the Customer shall notify the Energy Company of that fact in writing, providing details of the duration of the leasehold interest and shall use reasonable endeavours to procure that such third party enters into a Supply Agreement with the Energy Company in respect of such Relevant Unit. Where such a Supply Agreement is entered into the Unit to which the Supply Agreement relates shall cease to be a Relevant Unit for the purposes of this Agreement throughout the period when such Supply Agreement is in force but (subject to Clause 2.1) shall become a Relevant Unit again immediately on termination of such Supply Agreement.

2.4 To the extent that Clause 2.3 ceases to apply then the Customer shall notify the Energy Company as soon as possible after becoming aware of the same and the Relevant Unit shall again be subject to this Agreement with effect from the date on which the circumstances in Clause 2.3 cease to apply. Until this Agreement is terminated in accordance with Clause 8 (*Termination and Disconnection*), there shall be no limit to the number of occasions on which any Unit may be subject to this Agreement nor the duration for which this Agreement may apply.

2.5 In order to manage their respective rights and obligations under this Agreement, the Parties agree that on a regular basis, as agreed between the Parties acting reasonably and no more frequently than monthly, they shall seek to reconcile their respective records of the Relevant Units and those Units that are not or have ceased to become Relevant Units in the previous month and shall provide the other Party with such reasonable evidence if requested to support their respective records.

2.6 For the avoidance of doubt, nothing in this Clause 2 (*Application*) shall affect any obligation either Party owes to the other under any other written agreement to which they are both Parties, including (without limitation) with respect to the payment of any amounts or the provision of any services.

### 3 ENERGY SERVICES

3.1 The Energy Company shall provide the Energy Services to each Relevant Unit Energy System and the Customer shall pay for such Energy Services on the terms of this Agreement. This Agreement is effective from the Supply Start Date until this Agreement is terminated in accordance with Clause 8 (*Termination and Disconnection*).

3.2 The Energy Company shall make the Energy Services available to each Relevant Unit at all times during the whole of the term of this Agreement in accordance with the Service Standards.

3.3 Except during a suspension or interruption of the Energy Services to a Relevant Unit, other than where the Energy Company has suspended the Energy Services pursuant to Clause 8.1 of this Agreement, the Customer shall not obtain a supply of hot water or space heating to any Relevant Unit (or, in respect of Commercial Units only, a supply of space cooling) except from the Energy Company at any time during the term of this Agreement.

3.4 As far as is reasonably practicable, and other than in respect of any maintenance of any Meter or Residential HIU, the Energy Company shall only schedule planned maintenance to occur during the Summer Period.

#### 4 **METERING**

4.1 The Energy Company undertakes to accurately meter consumption of the Energy Services at each Meter. The Customer shall accept as accurate all Meter readings taken or estimated by the Energy Company unless it reasonably considers there to be a material error in such readings or estimations or that the Meter is defective.

4.2 If the Energy Company has not been able to read any Meter at the time of billing the Energy Company may invoice the Customer, and the Customer shall pay the Energy Company, on the basis of the Energy Company's reasonable estimate of the consumption of the Energy Services at the applicable Relevant Unit.

4.3 If the Customer reasonably believes that a Meter is defective or any Meter reading is inaccurate the Customer may instruct the Energy Company in writing to arrange an inspection to see if the Meter is reading correctly, and may require that such inspection be carried out by an independent meter examiner. The Energy Company shall use reasonable endeavours to carry out such inspection, or procure that such inspection be carried out, within 3 days.

4.4 If the Energy Company believes that a Meter is defective or any Meter reading is inaccurate the Energy Company may arrange an inspection of the Meter, either by its own personnel or by an independent meter examiner on not less than 3 days' notice. The Parties will use reasonable endeavours to arrange for such check to take place at a mutually convenient time.

4.5 If a Meter is shown to be accurate and functioning correctly following an inspection requested by the Customer, the Customer shall pay to the Energy Company any reasonable costs incurred by the Energy Company in inspecting, or arranging inspection of, the Meter. The Customer shall not be required to pay any costs connected with an inspection of a Meter if the Meter is shown to be inaccurate or not functioning correctly, or if the inspection was requested by the Energy Company.

4.6 The Energy Company shall use reasonable endeavours to ensure that each Meter has an initial certified accuracy of +/-3%. In the event that a Meter records errors in excess of this amount it shall be deemed to be inaccurate and the Energy Company shall recalibrate, repair or replace the Meter promptly. The Energy Company shall be responsible for the cost of such replacement or repair unless:

- (a) the fault is due to the Customer's act or omission; or
- (b) the fault is due to the act or omission of any third party for whom the Customer is responsible,

in which event the Customer shall pay the reasonable costs of the replacement or repair of the Meter.

4.7 If, following an inspection under Clause 4.3 to Clause 4.5, a Meter is found to be defective or a Meter reading is shown to be inaccurate, the Energy Company shall adjust the subsequent Bill to account for any inaccurate Meter reading.

## 5 PAYMENT AND CHARGES

5.1 The Customer shall be responsible for payment of the Charges in respect of each Relevant Unit until this Agreement is terminated in the way referred to in Clause 8 (*Termination and Disconnection*), including where:

- (a) the Relevant Unit is vacant or is occupied by someone else;
- (b) the Energy Services provided to a Relevant Unit Energy System are used by a third party at or outside the Relevant Unit without the Customer's knowledge or permission;
- (c) the Customer does not use the Energy Services provided to a Relevant Unit Energy System; and
- (d) the Energy Services provided to a Relevant Unit Energy System are interrupted or unavailable for a period in circumstances expressly permitted elsewhere in this Agreement.

5.2 The Customer shall pay the Energy Company for the Energy Services provided to each Relevant Unit Energy System on the basis of the Charges plus VAT in full, as set out in the Bill. The Customer shall pay such amounts within twenty one (21) days of the date of receipt of each Bill. If the Customer wishes to dispute any part of a Bill in accordance with this Agreement then it shall do so within twenty eight (28) days of the date of the Bill and the Energy Company shall repay any overpayment to the Customer.

5.3 The Standing Charge the Unit Charge and the Common Heat Availability Charge shall be charged monthly. The Standing Charge shall be charged in advance and the Unit Charge and the Common Heat Availability Charge shall be charged in arrears. Each of those charges is listed in Schedule 1 (*Charges*).

5.4 The payments the Customer must make to the Energy Company each month shall be:

- (a) an amount in respect of the Charges (which may be based on a reasonable estimate of the Energy Services the consumed by each Relevant Unit Energy System where such estimation is expressly permitted under this Agreement);
- (b) any applicable VAT; and
- (c) any other costs or charges made in accordance with the terms of this Agreement;

less any amounts the Energy Company deduct for overpayments or to reconcile any Charges based on estimated use of Energy Services with actual use of Energy Services.

5.5 The Bill the Energy Company sends the Customer shall set out:

- (a) the period to which the Bill relates;
- (b) the amount of Energy Services consumed by each Relevant Unit Energy System measured in kWh based on any readings of the Meters (or a reasonable estimate when such estimation is expressly permitted under the terms of this Agreement), including opening and closing Meter readings;

- (c) the price per kWh payable for the Energy Services consumed and for the Common Heat Availability Charge;
  - (d) the total Standing Charge, Common Heat Availability Charge, and Unit Charge payable in respect of all Relevant Units;
  - (e) the amount of any credit that the Customer has available, carried forward from any previous Bill;
  - (f) details of any payment made by the Customer since the previous Bill; and
  - (g) the amount of VAT and any other costs or charges made in accordance with this Agreement.
- 5.6 Where the Energy Company has billed the Customer based on an estimate of the Energy Services consumed by a Relevant Unit Energy System under Clause 4.2, and subsequently takes a Meter reading, the Energy Company shall reconcile the Charges billed based on the estimate with actual consumption based on the Meter reading and apply a credit or debit to the Customer's account which will be shown on the next Bill.
- 5.7 If the Customer fails to pay the Energy Company in accordance with Clause 5.2 the Energy Company may charge interest on the unpaid balance on and from the due date for payment to the date of actual payment at the rate of 4% per year above the Bank of England's base rate from time to time for the first sixty (60) days following the due date for payment and at the rate of 8% per year above the Bank of England's base rate from time thereafter. This shall be without prejudice to any other rights available to the Energy Company under this Agreement if the Customer fails to make payments on time.
- 5.8 **Adjustment of Charges**
- 5.8.1 The Energy Company may adjust the Unit Charge and the Common Heat Availability Charge twice per year and the Standing Charge once per year in accordance with its agreement with the Employer to take account of increases and decreases in costs incurred by the Energy Company in providing the Energy Services. On each occasion that the Energy Company intends to adjust the Charges the Energy Company shall notify the Customer thirty days in advance of any adjustment of the Charges and confirm the basis on which on such adjustment has been calculated.
- 5.8.2 The Energy Company shall be entitled to adjust the Availability Fee in accordance with its agreement with the Employer provided that the Energy Company gives the Customer not less than twenty (20) Business Days' notice prior to any such change taking effect.
- 5.8.3 The Energy Company may also increase the Charges where any taxes, levies or duties on the production or provision of the Energy Services (other than corporation tax or any other similar tax on the Energy Company's profits or gains) in effect at the Supply Start Date are increased or there is a change of law relating to the production or provision of the Energy Services which results in any new tax, levy, duty or impost (not in force at the Supply Start Date) being charged, levied or imposed on the Energy Company. If there is a reduction or discontinuance of taxes, levies or duties in effect as at the Supply Start Date the Energy Company shall reduce the Charges according to the amount of relief to the extent that the Charges apply such taxes, levies or duties. Any increase or decrease in the Charges

under this Clause 5.8.3 shall apply from the date that the relevant change in any tax, levy, duty or impost takes effect.

5.8.4 The Energy Company shall act in accordance with any relevant provisions of the Master Supply Agreement and its agreement with the Employer in respect of any changes to the Charges.

5.8.5 To the extent that any change, increase in cost or other circumstance would, but for this Clause 5.8.5, entitle the Energy Company to adjust the Charges pursuant to both Clause 5.8.1 and 5.8.3 the Energy Company shall only be entitled to adjust the Charges pursuant to one of those provisions in respect of the relevant change, increase in cost or other circumstance.

## 6 METERS AND EQUIPMENT

### 6.1 The Energy Company

6.1.1 The Energy Company shall be responsible for and shall perform:

- (a) the routine inspection, maintenance, repair and/or replacement of the Residential HIU during the Residential HIU Repair Period;
- (b) the routine inspection of the Residential HIU during the Residential HIU Inspection Period. The Energy Company will provide the Customer with a copy of its inspection report following any routine inspection which will set out the Energy Company's findings in respect of the Residential HIU, including identifying any problems or issues effecting the Residential HIU and any maintenance or similar steps that the Energy Company recommends to be carried out; and
- (c) the maintenance, repair and/or replacement of the Meter at all times,

in accordance with Good Industry Practice, subject to the exclusions in Schedule 4 (*Residential HIU Exclusions*).

6.1.2 After the end of the Residential HIU Repair Period the Customer may request that the Energy Company repair or replace the Residential HIU, however if it performs such works the Energy Company shall be entitled to charge the Customer for such works at such rates as it agrees with the Employer from time to time.

6.1.3 During the Residential HIU Repair Period, if any Residential HIU requires maintenance, repair or replacement the Customer may request that the Energy Company inspect such Residential HIU and try to identify any problem and rectify it. The Energy Company may also ask the Customer for permission to visit any Relevant Unit to inspect and (if necessary) carry out maintenance or repair or replacement of any Residential HIU.

6.1.4 During the Residential HIU Inspection Period, the Energy Company may also request permission to visit any Relevant Unit to inspect and (if necessary) carry out maintenance of any Residential HIU. The Energy Company shall give the Customer at least 3 days' notice of any such visit (or 7 days' notice in respect of planned routine maintenance) and will use reasonable endeavours to arrange for such check to take place at a mutually convenient time.

### 6.2 The Customer



- 6.2.1 The Customer shall ensure that each Relevant Unit Energy System is maintained and repaired and, where necessary, replaced and the Energy Company shall not be liable for the cost of replacement or repairs of any part of any Relevant Unit Energy System. If the state of any Relevant Unit Energy System is causing problems, or the Energy Company believes on reasonable grounds that it is likely to cause problems, to the Development Energy System, any Meter or any HIU unless it is repaired or replaced, the Energy Company may suspend the Heat Supply to any Relevant Unit Energy System until the Relevant Unit Energy System has been repaired or replaced to the Energy Company's reasonable satisfaction.
- 6.2.2 The Customer shall be liable to the Energy Company for any damage or loss to the Development Energy System, the Meter or the HIU which in each case is caused by any work that the Customer does or have done (other than where carried out by the Energy Company) to any Relevant Unit Energy System.
- 6.2.3 The Customer shall not and (in respect of any Meter and HIU to the extent that such Meter or HIU is within a Relevant Unit) shall not allow any third party to:
- (a) tamper with or damage the Development Energy System, any Meter or any HIU; or
  - (b) misuse any Relevant Unit Energy System so that it causes any damage to the Development Energy System, any Meter or any HIU.
- 6.2.4 If any breach by the Customer of Clause 6.2.3 causes damage to:
- (a) the Development Energy System, the Customer will be liable for the damage caused, including the costs of repair or replacement, and the Energy Company may charge the Customer for the reasonable costs that the Energy Company incurs in repairing the Development Energy System and replacing any relevant parts; or
  - (b) any Meter or HIU, and the Energy Company is then unable to perform its obligations under this Agreement in respect of such Meter or HIU because of such damage, the Energy Company's obligations in respect of such Meter or HIU shall be suspended until such time as the damage has been repaired to the extent necessary to enable Energy Company to perform such obligations in accordance with this Agreement.
- 6.2.5 The Customer shall inform the Energy Company immediately if the Customer becomes aware that any of the Development Energy System, any Meter or any HIU is damaged or destroyed, or if the Customer becomes aware that anyone other than the Energy Company or its agents interferes with or removes any Meter and/or any HIU or if the Customer believes any Meter or any HIU has been damaged.
- 6.2.6 The Energy Company shall not be obliged to provide the services referred to in this Clause 6 (*Meters and Equipment*) where the Energy Company reasonably considers that there is a material health and safety risk, including due to the presence of dangerous materials, infestations, or likely harassment of its staff (including any verbal or physical abuse or threat of physical abuse).

## 7 **ACCESS**

- 7.1 The Customer shall allow the Energy Company, the Energy Company's duly authorised officers and agents and any other entity appointed by the Energy Company to perform any of the Energy Company's obligations under this Agreement from time to time safe and uninterrupted access to each Relevant Unit

(without charge) in any circumstances permitted under this Agreement or required by Law. Access shall be at a mutually convenient time and the Energy Company shall give the Customer reasonable notice (of not less than three days, or seven days in respect of planned routine maintenance) where such access is required, unless there is an emergency or the Energy Company reasonably believes there is a danger to people or property (which is likely to be material or to have a material economic impact) or the Energy Company is required by Law to obtain access sooner.

7.2 In addition to any other purpose expressly referred to in this Agreement, the Energy Company may require access for the purposes of:

- (a) inspecting, operating, repairing, exchanging, installing, removing, testing, maintaining, or carrying out other activities in relation to the Meter, the Residential HIU or the Development Energy System;
- (b) suspending the Energy Services to any Relevant Unit Energy System as permitted under the terms of this Agreement;
- (c) terminating this Agreement;
- (d) mitigating any danger the Energy Company reasonably believe exists to people or property; or
- (e) any purpose required by law.

## 8 **TERMINATION AND DISCONNECTION**

8.1 The Energy Company may suspend the Energy Services to the Relevant Units and/or terminate this Agreement without liability on written notice to the Customer if:

- (a) the Customer is in material breach of the terms of this Agreement and the breach is not remedied within sixty (60) days of a written notice from the Energy Company requiring such breach to be remedied;
- (b) the Customer has attempted to use the Energy Services without the Energy Company's consent or in a manner designed to enable the Customer or a third party to take any Energy Services from the System without paying the Energy Company for it;
- (c) the Connection Agreement or Master Supply Agreement ends or is terminated; or
- (d) if the Customer ceases, or threatens to cease trading, becomes subject to an administration order, sequestration proceedings, winding-up proceedings (except for the purposes of re-construction or amalgamation), becomes subject to the appointment of an administrator or administrative receiver, a receiver is appointed over the whole or any part of its assets or becomes insolvent, following not less than 60 Business Days' written notice to the Customer during which period the Customer may novate this Agreement to a third party in accordance with Clause 16. For the avoidance of doubt, if the Customer so novates this Agreement within such sixty (60) Business Day period and any amounts then payable to the Energy Company pursuant to this Agreement are paid to the Energy Company (whether by the Customer, the transferee or any other entity) on or prior to such novation taking effect then any right the Energy Company

may have to terminate this Agreement pursuant to this Clause 8.1(d) shall automatically cease.

8.2 The Customer may terminate this Agreement without liability on written notice to the Energy Company if:

- (a) the Energy Company ceases to provide the Energy Services, other than where it is entitled to suspend provision of the Energy Services pursuant to Clause 6.2.1 or Clause 8.1, and such cessation persists for a period of longer than twenty eight (28) days;
- (b) the Connection Agreement or Master Supply Agreement ends or is terminated; or
- (c) the Energy Company
  - (i) becomes subject to an administration order, sequestration proceedings, winding-up proceedings (except for the purposes of re-construction or amalgamation), becomes subject to the appointment of an administrator or administrative receiver, or a receiver is appointed over the whole or any part of the Energy Company's assets; or
  - (ii) ceases, or threatens to cease trading or becomes insolvent;

8.3 The Energy Company shall notify the Customer as soon as practicable prior to the date of any termination (or the expiry) of the Energy Company's rights and obligations to provide the Energy Services in the area of the Development pursuant to the Master Supply Agreement or under any agreement between the Energy Company and the Employer (the "**Termination Date**") and the Energy Company's rights and obligations under this Agreement shall be novated to the Employer or the Energy Company's counterparty under the Master Supply Agreement as applicable (or such other entity as the Employer or such counterparty, as applicable, may direct) on or prior to the Termination Date.

8.4 The Parties shall take all steps within their power (including the execution of such other agreements and documents as may be reasonably required) to procure and give effect to such novation of this Agreement (and in doing so shall not be constrained by any limitation, approval process or time restriction on such novation which may otherwise be applicable pursuant to this Agreement, including without limitation under Clause 16 (*Novation*)) and any other agreements to which either is a party which relate to the provision of the Energy Services and to ensure so far as possible the continuance of the supply of the Energy Services after the Termination Date.

8.5 If the rights and obligations of the Parties under this Agreement have not been novated to the Employer (or its nominee) on or before the Termination Date, this Agreement will terminate on the Termination Date.

## 9 **CONSEQUENCES OF TERMINATION**

9.1 The Customer must pay for the Energy Services provided to Relevant Units up to and including the date of termination. The Customer shall remain liable following termination for any other previous breach of this Agreement by the Customer, and the Energy Company shall remain liable for the consequences of any previous breach by the Energy Company.

9.2 Upon termination of this Agreement for any reason (other than pursuant to Clause 8.5), the Energy Company shall cease to supply Energy Services to all Relevant Units. Where termination has taken place pursuant to Clause 8.1(a), Clause 8.1(b) or Clause 8.1(d), the Energy Company may charge the Customer the Disconnection Charge in relation to each Unit to which this Agreement applies as at the date of termination.

9.3 If the Customer takes the Energy Services to any Relevant Unit after termination or suspension, or allows anyone else to do so, in each case other than:

- (a) pursuant to any other agreement with the Energy Company; or
- (b) in circumstances where the Energy Company has failed to isolate the applicable Relevant Unit from the supply of Energy Services for any reason other than any failure by the Customer to grant the Energy Company reasonable access to the applicable Relevant Unit to effect such isolation,

the Customer shall be liable to pay the Energy Company for such Energy Services and any associated Charges. In such circumstances the Charges shall be calculated in accordance with this Agreement other than the Standing Charge, which shall be calculated as 200% of the Standing Charge which would otherwise be applicable pursuant to Schedule 1 (*Charges*) at the relevant time.

## 10 **RECONNECTION**

Where the Energy Company has suspended this Agreement in accordance with its terms, provided that the Customer pays the Energy Company:

- (a) in full all outstanding Charges due to the Energy Company; and
- (b) the Reconnection Charge, provided that the Energy Company shall not charge the Customer any Reconnection Charge if this Agreement was suspended pursuant to Clause 8.1(c),

the Energy Company will, within 48 hours, recommence providing the Energy Services.

## 11 **FORCE MAJEURE**

11.1 If a Party is or will be prevented from performing any of its obligations under this Agreement by a Force Majeure Event, then it shall as soon as reasonably practicable (and in any event no later than two (2) Business Days) after the occurrence of a Force Majeure Event:

- (a) notify the other Party of the occurrence of the Force Majeure Event giving details thereof, the reasons for its occurrence, the obligations which will be affected, the reasons why such obligations under this Agreement were affected and an estimate of the period of time required to remedy the non-performance; and
- (b) use reasonable endeavours to:
  - (i) resume the performance of the contractual obligations suspended as a result of the Force Majeure Event; and
  - (ii) minimise the damage caused by such suspension.

11.2 The affected Party shall, provided that notice has been given in accordance with Clause 11.1, be excused from the performance of such obligations effected by the Force Majeure Event for so long as such Force Majeure Event prevents it from performing them and the obligations of each Party shall be suspended for the duration of the Force Majeure Event.

11.3 Neither the Energy Company nor the Customer shall be entitled to receive any compensation in relation to the occurrence of a Force Majeure Event.

## 12 **LIMITATION OF LIABILITY**

### 12.1 **Energy Company Liability**

12.1.1 The Energy Company does not exclude or restrict its liability for death or personal injury caused by its negligence or the negligence of its employees, agents or sub-contractors.

12.1.2 Subject to Clause 12.1.1 neither the Energy Company nor any of its employees, agents or sub-contractors will ever be liable under or in connection with this Agreement to the Customer howsoever arising for:

(a) Indirect Loss; or

(b) loss caused by strikes or industrial disputes involving employees of any third party or natural disaster.

12.1.3 Subject to Clause 12.1.1 and Clause 12.1.2, save in respect of Customer Property Damage, in no circumstances will the aggregate liability of the Energy Company to the Customer and any other party to the Connection Agreement or the Master Supply Agreement arising in connection with this Agreement, the Connection Agreement and the Master Supply Agreement s 43(2)

**s.43(2)**

12.1.4 Subject to Clause 12.1.1 and Clause 12.1.2, the aggregate liability of the Energy Company to the Customer and any other party to the Connection Agreement and the Master Supply Agreement in respect of Customer Property Damage (whether in contract or tort or otherwise) s.43(2)

**s.43(2)**

12.1.5 The Customer acknowledges that the limitations on the Energy Company's liability set out in this Agreement are reasonable given the balance of risk and reward set out in this Agreement.

### 12.2 **Customer Liability**

12.2.1 The Customer does not exclude or restrict its liability for death or personal injury caused by its negligence or that of its employees, agents or sub-contractors.

12.2.2 Subject to Clause 12.2.1, neither the Customer nor any of its employees, agents or sub-contractors will ever be liable under or in connection with this Agreement to the Energy Company howsoever arising for:

(a) Indirect Loss; or

- (b) loss caused by strikes or industrial disputes involving the employees of any third party or natural disaster.

12.2.3 Subject to Clause 12.2.1 and Clause 12.2.2, save in respect of Energy Company Property Damage, in no circumstances will the aggregate liability of the Customer and any other party to the Connection Agreement or the Master Supply Agreement to the Energy Company arising in connection with this Agreement, the Connection Agreement or the

s.43(2)

12.2.4 Subject to Clause 12.2.1 and Clause 12.2.2, the aggregate liability of the Customer and any other party to the Connection Agreement and the Master Supply Agreement in respect of Energy Company Property Damage (whether in contract or tort or otherwise) shall in no

s.43(2)

12.2.5 The Energy Company acknowledges that the limitations on the Developer's liability set out in this Agreement are reasonable given the balance of risk and reward set out in this Agreement.

### 12.3 Insurance

12.3.1 The Energy Company shall take out and maintain in effect throughout the term of this Agreement the Required Insurance, provided that insurance against each such risk is available in the London market at commercially reasonable rates, and shall:

- (a) pay all relevant premiums and other charges relating to such insurance in a timely manner and otherwise ensure that such insurance is maintained in effect throughout the term of this Agreement;
- (b) promptly on request provide the Customer with evidence that such insurance is in place;
- (c) not take any action nor fail to take any reasonable action or (in so far as it is reasonably within its power) permit or allow others to take or fail to take any action (including failure to disclose any fact or circumstances) as a result of which the insurance may be rendered void, voidable, unenforceable or suspended or impaired in whole or in part or which may otherwise render any sum paid out under any relevant policy repayable in whole or in part;
- (d) not allow such insurance to expire (to the extent within its reasonable control); and
- (e) in the event such insurance expires and is unable to be renewed, procure that an equivalent replacement policy is in place prior to such expiry.

12.3.2 The Customer shall take out and maintain in effect throughout the term of this Agreement the Customer Insurance, provided that insurance against each such risk is available in the London market at commercially reasonable rates, and shall:

- (a) pay all relevant premiums and other charges relating to such insurance in a timely manner and otherwise ensure that such insurance is maintained in effect throughout the term of this Agreement;

- (b) promptly on request provide the Energy Company with evidence that such insurance is in place;
- (c) not take any action nor fail to take any reasonable action or (in so far as it is reasonably within its power) permit or allow others to take or fail to take any action (including failure to disclose any fact or circumstances) as a result of which the insurance may be rendered void, voidable, unenforceable or suspended or impaired in whole or in part or which may otherwise render any sum paid out under any relevant policy repayable in whole or in part;
- (d) not allow such insurance to expire (to the extent within its reasonable control); and
- (e) in the event such insurance expires and is unable to be renewed, procure that an equivalent replacement policy is in place prior to such expiry.

### 13 **DISPUTE RESOLUTION**

13.1 The Parties will attempt in good faith to resolve any unresolved complaints or disputes arising out of this Agreement promptly through negotiations between nominated representatives of each Party who shall have authority to settle the same. In the event that the Parties fail to resolve such unresolved complaints, then the matter shall be referred to mediation in accordance with the provisions of Clause 13.2 of this Agreement.

13.2 The procedure for mediation pursuant to Clause 13.1 and consequential provisions relating to mediation shall be as follows:

- (a) the Employer shall act as the "**Facilitator**" for the purposes of this Clause 13.2;
- (b) the Parties shall initially inform the Facilitator of the nature and existence of the dispute in writing. The Party informing the Facilitator shall ensure that a copy of the relevant notice and any attachments is delivered to the other Party on the same day as those documents are delivered to the Facilitator;
- (c) if Clause 13.2(d) does not apply, the Energy Company and the Customer (each represented by, at least, the nominated representatives referred to in Clause 13.1) and the Facilitator shall, within fifteen (15) Business Days of the initial notice to the Facilitator of the dispute, meet and attempt in good faith to resolve the dispute. Each Party may, prior to such meeting, provide the Facilitator with such written information regarding the dispute as it considers appropriate;
- (d) if at any time the Facilitator notifies the Parties that it is unable or unwilling to act as facilitator in respect of the dispute, or fails to respond to a notice of a dispute within ten (10) Business Days, or the Parties fail to resolve the dispute at any meeting with the Facilitator, the Parties shall within ten (10) Business Days of such notice or failure event apply to the Centre for Effective Dispute Resolution ("**CEDR**") to appoint a neutral advisor or mediator (the "**Mediator**");
- (e) the Energy Company and the Customer shall, within ten (10) Business Days of the appointment of the Mediator, meet with him in order to agree a programme for the exchange of all relevant information and the structure

to be adopted for negotiations to be held. The Parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure;

- (f) unless otherwise agreed by the Energy Company and the Customer, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (g) in the event that the Energy Company and the Customer reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on both Parties once it is signed by the authorised representatives of each Party;
- (h) failing agreement, either the Energy Company or the Customer may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a "without prejudice" basis and shall not be used in evidence in any proceedings relating to this Agreement without the prior written consent of both Parties;
- (i) the Energy Company and the Customer shall each bear their own costs in relation to any reference made to the Mediator and the fees and all other costs of the Mediator shall be borne jointly in equal proportions by both Parties unless otherwise directed by the Mediator;
- (j) the respective obligations of the Parties under this Agreement shall not cease or be delayed during the mediation process.

13.3 In the event that the Energy Company and the Customer fail to reach agreement in the structured negotiations within forty (40) Business Days of a Mediator being appointed, or such longer period as may be agreed, then any dispute or difference between them may be referred to the courts.

13.4 None of the dispute resolution procedures provided for in this Clause 13 (*Dispute Resolution*) shall impose any precondition on any Party or otherwise prevent or delay any Party from commencing proceedings in any court of competent jurisdiction to obtain either:

- (a) an order (whether interlocutory, interim or final) restraining the other Party from doing any act or compelling any other Party to do any act; or
- (b) summary judgment pursuant to Part 24 of the Civil Procedure Rules for a liquidated sum.

## 14 **INFORMATION AND CONFIDENTIALITY**

### 14.1 **Duty of confidentiality**

Save as provided by Clause 14.2 (Permitted Disclosure) each Party shall:

- (a) keep confidential all Confidential Information it receives or obtains; and
- (b) exercise in respect of the Confidential Information the same controls as that Party employs to protect its own confidential information.



## 14.2 Permitted Disclosure

A Party (the "**Disclosing Party**") may disclose or permit the disclosure of Confidential Information:

- (a) to its employees to the extent that it is reasonably necessary and to any person (including insurance, legal, technical and financial advisers, auditors and accountants) engaged in providing any goods, works or services to the Disclosing Party in connection with and for the purposes of this Agreement;
- (b) to any person in connection with a proposed transfer pursuant to Clause 16 (*Novation*);
- (c) in the case of the Customer to any entity engaged or which may be engaged on or following the termination of this Agreement to perform any of the obligations of the Energy Company under this Agreement;
- (d) to the extent that the Confidential Information:
  - (i) has become publicly available or generally known to the public at the time of such disclosure otherwise than as a result of a breach of this Clause;
  - (ii) was already in the unrestricted possession of the Disclosing Party prior to receiving or obtaining such Confidential Information as a result of entering into or performing this Agreement; and
  - (iii) was lawfully received or obtained by the Disclosing Party from any person without restriction on its use or disclosure;
- (e) to enable a determination or adjudication to be made under Clause 13 (*Dispute Resolution*);
- (f) when required to do so in any jurisdiction:
  - (i) by Law;
  - (ii) by or pursuant to the rules or any order of any court, tribunal or agency of competent jurisdiction; or
  - (iii) by any securities exchange, investment exchange or regulatory or governmental body:
    - (A) having jurisdiction over it or any of its affiliated entities; or
    - (B) to which it or its affiliated entities normally submit,wherever situated;
- (g) to any regulatory or governmental body in any jurisdiction and having jurisdiction over the Disclosing Party or any of its affiliated entity;
- (h) to a tax authority in any jurisdiction to the extent required for the proper management of the taxation affairs of the Disclosing Party or any of its affiliated entity;

- (i) to insurers for the purpose of obtaining any insurances;
- (j) to any funder for the purpose of obtaining funding in relation to the Development;
- (k) to the Employer pursuant to any reasonable request from the Employer; or
- (l) if such disclosure is expressly permitted by some other provision of this Agreement or if the other Party has given prior written approval to the disclosure (such approval not to be unreasonably withheld or delayed).

### 14.3 **Obligations preserved**

14.3.1 Subject to Clause 14.3.2 and Clause 14.4 (Consultation) if a Party is required to disclose Confidential Information in a manner permitted by Clause 14.2(a), Clause 14.2(b), Clause 14.2(c), Clause 14.2(i) or Clause 14.2(j) then it shall:

- (a) inform the person to whom Confidential Information is to be disclosed of the restrictions contained in this Agreement; and
- (b) ensure that such person shall observe such restrictions notwithstanding that such person is not Party to this Agreement.

14.3.2 For the avoidance of doubt, a Party is deemed to have satisfied its obligation in Clause 14.3.1(b) if, prior to the disclosure of the Confidential Information, it enters into a contract with the person referred to in Clause 14.3.1(b) which contains an equivalent confidentiality arrangement to this Clause 14 (*Information and Confidentiality*).

### 14.4 **Consultation**

If a Party is required to disclose Confidential Information in a manner permitted by Clause 14.2(f), Clause 14.2(g), Clause 14.2(h) or Clause 14.2(k), it shall insofar as reasonably practicable:

- (a) provide the other Party with advance notice of the requirement and a copy of the information to be disclosed; and
- (b) permit the other Party to make representations or objections in relation to it and take into account such reasonable representations and objections that the other Party shall make.

### 14.5 **Exploitation of information**

No Party shall make use of this Agreement or any information (including Confidential Information) issued or provided by or on behalf of either Party in connection with this Agreement otherwise than for the purposes of this Agreement, except with the written consent of the other Party.

### 14.6 **Continuance of obligations**

The obligations in this Clause 14 (*Information and Confidentiality*) shall continue to apply after termination or expiration of this Agreement.

**14.7 Return or destruction of Confidential Information**

Subject to the Energy Company's need to have all information necessary to enable the ongoing operation and maintenance of the H&C Network and the ongoing provision of Energy Services, on termination or expiration of this Agreement for any reason each Party shall, to the extent requested by the other Party who provided them and without retaining copies, destroy all documents or other records containing Confidential Information or return them to the other Party.

**14.8 Enforcement rights of Parties regarding Confidential Information**

Each Party accepts and agrees that any Confidential Information received or obtained by that Party as a result of entering into or performing this Agreement is, by its nature, valuable proprietary commercial information, the misuse of or unauthorised disclosure of which would be likely to cause considerable and uncompensatable damage to the Party from whom that information was received or obtained and accordingly the Parties agree that, without prejudice to any other rights or remedies which may be available in respect of any breach of this Agreement that are expressly provided for in this Agreement, each Party will be entitled to relief by way of injunction, including any interim injunction available from any competent court having jurisdiction over its terms.

**14.9 Data Protection**

14.9.1 The Energy Company shall at all times handle and use all personal data (as defined in the Data Protection Act 1998) it acquires under or in connection with this Agreement or any Supply Agreement which relates to any individual in accordance with all applicable Law relating to privacy and data protection including, without limitation, the Data Protection Act 1998.

14.9.2 The Energy Company may use any personal data (as defined in the Data Protection Act 1998) it may have about the Customer and the Customer's account and any other individuals occupying any Unit from time to time only in accordance with Clause 14.9.1 and only in such manner as is reasonably necessary for the performance of its contractual obligations under this Agreement or any Supply Agreements, including without limitation to:

- (a) liaising with occupiers of Relevant Units as agreed with the Customer from time to time;
- (b) setting up the Customer's account and making any changes to the terms of providing the Energy Services;
- (c) identifying the Customer when the Customer makes enquiries;
- (d) market research and providing to the Customer with up-to-date information on the services the Energy Company provides;
- (e) providing information to the Customer about other services of the Energy Company, provided that if the Customer does not wish to receive this information the Customer can notify the Energy Company at any time by email to the Energy Company Help-desk;
- (f) billing and debt recovery;
- (g) prevention of fraud or loss;

- (h) quality assurance (including recording communications with the Customer);
- (i) checks with credit reference agencies (who will keep a record of the search).

14.9.3 In connection with the Customer's account the Energy Company may share information about the Customer with others, including Energy Company group companies and credit reference and fraud prevention agencies or where the Energy Company is required to provide information to any Relevant Authority for regulatory purposes, or is otherwise required by Law to disclose information.

14.9.4 The Customer shall obtain all of the necessary permission to disclose any personal data (as defined in the Data Protection Act 1998) it discloses to the Energy Company in accordance with the Customer's obligations under the Data Protection Act 1998.

14.9.5 The Customer may contact the Energy Company if it requires details of the credit reference and fraud prevention agencies to whom the Energy Company discloses information and following such notification the Energy Company shall promptly provide such details.

## 15 **NOTICES**

Any notices required to be given under this Agreement must be delivered personally or sent by pre-paid first class post to the address below or to any other address given in writing. A notice delivered by hand is served when delivered and a notice sent by first class post is served 48 hours after posting (as evidenced by a certificate of posting).

### **Customer**

FAO: [•]  
Address: [•]

### **Energy Company**

FAO: Company Secretary  
Address: Garrett House  
Manor Royal  
Crawley  
West Sussex  
RH10 9UT

## 16 **NOVATION**

16.1 The Energy Company may novate its rights, benefits, obligations or liabilities under this Agreement to any party to which it is also novating the Master Supply Agreement (in accordance with the relevant provisions of that agreement) on providing written notice of such novation to the Customer. The Energy Company may not otherwise novate any of its rights, benefits, obligations or liabilities under this Agreement without the Customer's prior written consent, provided that such consent shall not be unreasonably withheld or delayed.

16.2 The Energy Company may sub-contract any of its rights, benefits, obligations or liabilities under this Agreement and may freely assign any of its rights or benefits under this Agreement but, other than as permitted under this Clause 16 (*Novation*), may not otherwise novate or transfer in any way any of its rights,

benefits, obligations or liabilities under this Agreement. For the avoidance of doubt the Energy Company shall not be in any way relieved of any of its obligations or liabilities by any such sub-contracting or assignment and shall remain liable to the Customer for any acts or omissions of any subcontractor.

16.3 The Customer may novate any of its rights, benefits, obligations and liabilities under this Agreement to any associated or successor company, to a purchaser of the Development or to an estate management company for the Development (a "**Customer Transferee**") such that the Customer Transferee shall enjoy all the rights and benefits of the Customer under this Agreement and shall observe and perform all the obligations and fulfil all the liabilities of the Customer under this Agreement (whether actual, accrued, contingent or otherwise and whether arising on, before or after the date of the novation between the Customer and the Customer Transferee) only with the prior written consent of the Energy Company provided always that such consent shall not be withheld in the case of any proposed novation to the Developer, the counterparty to the Connection Agreement or the counterparty to the Master Supply Agreement or to the Estate Management Company (or, following any novation, a novation back to the Customer) and in all other cases shall not be withheld unless in the Energy Company's reasonable opinion, the potential Customer Transferee is materially less likely than the Customer to meet all of the financial obligations of the Customer under this Agreement taking into account matters including but not limited to:

- (a) the financial resources of the potential Customer Transferee and the related group companies of the potential Customer Transferee;
- (b) insurance held either by the Customer Transferee or its related group companies;
- (c) the standing of any proposed guarantor of the potential Customer Transferee; and
- (d) any other matters submitted by the Customer as being relevant to the suitability of the potential Customer Transferee to enable it to perform the obligations and fulfil the liabilities of the Customer under this Agreement,

and in any case shall not be withheld where the proposed Customer Transferee is also taking a novation of the Connection Agreement or the Master Supply Agreement.

16.4 The Customer may not otherwise novate or transfer in any way any of its rights, benefits, obligations or liabilities under this Agreement.

## 17 **GENERAL**

17.1 No failure or delay by either Party to exercise any right or remedy under this Agreement shall be construed as a waiver of that right or remedy nor shall any single or partial exercise of any right or remedy preclude the further exercise of that right or remedy. No waiver by either Party of any breach of this Agreement shall be considered as a waiver of a preceding or subsequent breach.

17.2 Without prejudice to the Connection Agreement, the Master Supply Agreement and any other express written agreement in force from time to time and which both Parties are also parties to, this Agreement includes everything agreed between the Energy Company and the Customer with respect to its subject matter. Anything that happened or was written before about the subjects dealt with in this

Agreement is superseded. Neither the Customer nor the Energy Company have relied on any representation or warranty that is not written in this Agreement.

- 17.3 The Parties do not intend any third party to have or obtain any rights under this Agreement, including the right to enforce and provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999.
- 17.4 If any term of this Agreement is found to be illegal, invalid or unenforceable under any applicable law, such term shall, to the extent it is severable from the remaining terms, be deemed omitted from this Agreement and shall not affect the legality, validity or enforceability of the remaining terms. The Customer and the Energy Company shall try to agree on a suitable clause to replace the one which is deemed omitted. The new clause should, as far as possible, have the same economic, legal and commercial effects of the omitted one.
- 17.5 This Agreement may be executed in any number of counterparts, which shall each constitute an original and together constitute one agreement. If this Agreement is executed in counterpart, it shall not be effective unless each Party has executed at least one counterpart.
- 17.6 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the courts of England and Wales.

**Schedule 1  
Charges**

**1 ENERGY SERVICES CHARGES**

**1.1 Heat Supply Charges**

1.1.1 Subject to paragraph 1.1.2 below, the Charges for the Energy Services for each Relevant Unit shall be:

**Residential Charges**

Charge	Heating Services - Excluding VAT
Standing Charge	£[•] per month
Unit Charge	[•] p per Kilowatt-hour
Common Heat Availability Charge	[•] p per Kilowatt-hour

**Commercial Charges**

Charge	Heating Services - Excluding Vat	Cooling Services - Excluding VAT
Standing Charge:		
i) Availability Charge per square metre	£[•]	N/A
ii) Charge per meter per year	£[•]	N/A
Unit Charge	[•] p per Kilowatt-hour	N/A
Common Heat Availability Charge	[•] p per Kilowatt-hour	N/A

1.1.2 The charges applicable to Relevant Units which are Commercial Units shall be:

- (a) to the extent any such Commercial Unit has an operating Meter, the Charges set out in paragraph 1.1.1 above; and
- (b) in respect of any other such Commercial Unit areas, that part of the total Availability Fee (as calculated in accordance with paragraph 5 below) payable in respect of commercial use areas which is not otherwise payable to the Energy Company under paragraph 1.1.2(a) above or any Supply Agreement.

**2 COMMON HEAT AVAILABILITY CHARGE**

The Common Heat Availability Charge is calculated using the following formula:

$$\text{Common Heat Availability Charge Kilowatt-hours} = \frac{(\text{NM (Kilowatt-hour)} - \text{CM (Kilowatt-hour)}) - (\text{NM (Kilowatt hour)} \times 0.15)}{\text{CM (Number)}}$$

CM (Number)

Where:

NM (Kilowatt hour) = the reading of the Network Meter

CM (Kilowatt hour) = the readings of all of the Meters

CM (Number) = the total number of Meters

3 **DISCONNECTION CHARGE**

The Disconnection Charge in respect of each Relevant Unit shall be £[•]. The Energy Company may change the amount of Disconnection Charge annually on 31 March in accordance with the respective annual increase in CPI.

4 **RECONNECTION CHARGE**

The Reconnection Charge in respect of each Relevant Unit shall be £[•]. The Energy Company may change the amount of Reconnection Charge annually on 31 March in accordance with the respective annual increase in CPI.

5 **AVAILABILITY FEE**

The Availability Fee for each Commercial Unit which does not have an operating Meter and is subject to charges pursuant to paragraph 1.1.2(a) above shall be determined as follows:

- (a) The Energy Company shall calculate the proportion of the total KW Capacity for the Development which applies to commercial use (the "**Commercial KW Proportion**");
- (b) The Commercial KW Proportion shall be divided by the total gross internal floor area which applies to commercial use at the Development and then multiplied by the total gross internal floor area of the Commercial Unit (the "**Unit KW Demand**"); and
- (c) The Unit KW Demand shall be multiplied by the Availability Fee unit cost per kW of heating capacity and/or cooling capacity as set out at the table below to arrive at the Availability Fee for the Commercial Unit.

Services	Availability Fee (£/kW/year) Excluding VAT
Commercial Heating Services	[•]
Commercial Cooling Services	N/A



**Schedule 2  
Service Standards**

- 1 The Energy Company's Service Standards in respect of Relevant Units which are Residential Dwellings are set out in Table 1 below. The Energy Company shall meet the Service Standards set out in Table 1 below in the performance of its obligations under this Agreement unless one of the circumstances referred to in Table 2 below apply in which case no Service Payment will be payable.
- 2 The Energy Company's Service Standards in respect of Relevant Units which are Commercial Units are set out in Table 3 below. The Energy Company shall meet the Service Standards set out in Table 3 below in the performance of its obligations under this Agreement unless one of the circumstances referred to in Table 4 below apply in which case no Service Payment will be payable.
- 3 The Energy Company may update or improve the Service Standards without the Customer's consent but not in any manner which would make the Service Standards less beneficial to the Customer or less demanding on the Energy Company.

**Table 1**

<b>Item</b>	<b>Standard</b>	<b>Required Service Level</b>	<b>Service Failure</b>	<b>Service Payment</b>
GS1	Planned supply interruption	Prior notice to the Customer by the Energy Company of scheduled maintenance works to the System or the Development Heating System that interrupts the Heating Services to the Residential Dwelling	Less than 5 working days' notice of supply interruption	£20 per instance per Residential Dwelling  If claimed by Customer within 3 months
GS2	Unplanned supply interruption	The Heating Services (with water within the temperature range required under the Energy Company's agreement with the Employer) will be available to the Relevant Unit Heating System within 24 hours of the start of any unplanned interruption	On failure to achieve this, a fixed compensation payment will be paid by the Energy Company to the Customer, and a further payment will be made for each additional period of 24 hours until the Heating Services are restored	£30 per instance per Residential Dwelling  Capped at £300 per Service Period
GS3	Meter repair or replacement	Meter accuracy to be maintained within the requirements of the Guidance and an initial accuracy of +/-3%	Faulty Meter not replaced twenty eight (28) days after a fault is shown to exist	£25 per instance per Residential Dwelling
GS4	Notifying the Customer that	The Energy Company shall write to the Customer	Where the Energy Company fails to	£20 per instance per

	a penalty payment is due & making payments owed	within 10 working days of the date the Energy Company becomes aware of any overpayment by the Customer or of any compensation falling due to the Customer and shall make the relevant payment to the Customer within a further 10 working days	achieve this level of service, a fixed compensation payment will be made	Residential Dwelling
GS5	Responding Substantially to a Complaint	Substantially respond to a complaint within 10 working days or 20 working days where a site visit or third party enquiries are required. However, if a substantive response is unable to be provided because a site visit is required, the Energy Company will provide an initial response indicating this within 10 working days.	Where the Energy Company fails to achieve this level of service, a fixed payment will be made in respect of the initial failure and each succeeding 5 working days during which the failure continues.	£20 Capped at £100 per Service Period

The Service Payments and each related cap shall be increased annually on 31 March in accordance with the respective annual increase in CPI.

**Table 2**

GS2 and GS3	The failure to achieve the Required Service Level was caused by a breach of this Agreement by the Customer.
GS2 only	The Energy Company is prevented from providing Energy Services to the Residential Dwelling by any of the circumstances set out in Clause 11 of this Agreement, although the Energy Company will use reasonable endeavours to mitigate the consequences of any such circumstances and resume provision of the Energy Services as soon as possible.
	The Energy Company is required by Law to shut down the System provided that the need to shut down the System does not relate to or arise out of any breach of this Agreement by the Energy Company or any negligent act or omission by the Energy Company
	The Energy Company have suspended the Energy Services because the Energy Company believes on reasonable grounds that it is necessary to do so to avoid: <ul style="list-style-type: none"> <li>(i) endangering the life of any person; or</li> <li>(ii) endangering any physical property, provided that both the relevant damage to such property and its economic impact are likely to be material,</li> </ul> provided, in each case, that the need to suspend the Energy Services does not relate to or arise out of any breach of this Agreement or any negligent act or

	omission by the Energy Company.
	The Energy Company have suspended the Energy Services to the Residential Dwelling pursuant to Clause 8.1 of this Agreement.
	Where the event which causes the interruption also causes an interruption to more than 2,000 of the Energy Company's customers.

**Table 3**

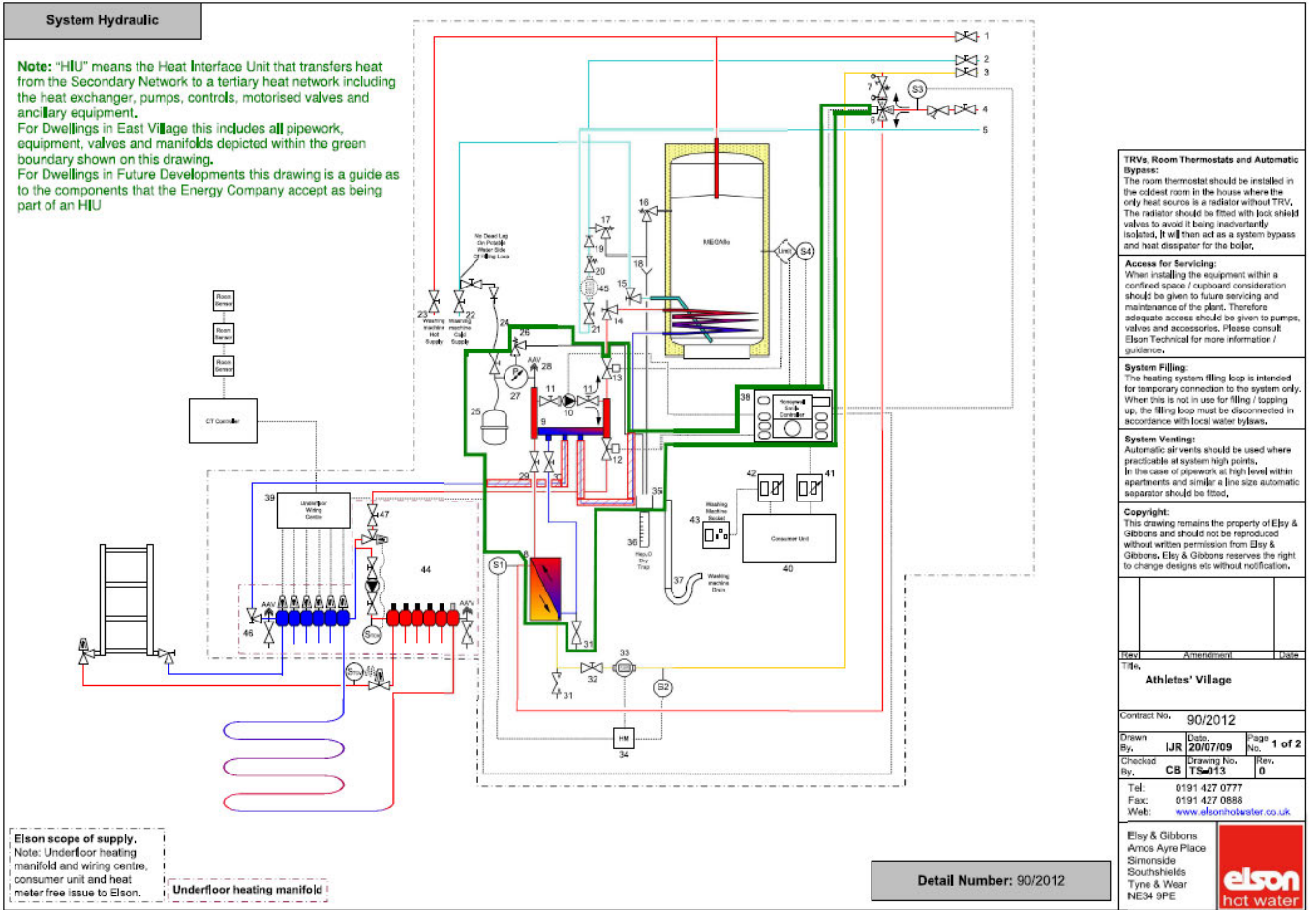
<b>Item</b>	<b>Standard</b>	<b>Required Service Level</b>	<b>Service Failure</b>	<b>Service Payment</b>
GS1	Planned supply interruption	Prior notice to the Customer by the Energy Company of scheduled maintenance works to the System or the Development Heating System that interrupts the Heating Services to the Commercial Unit	Less than 5 working days' notice of supply interruption	£50 per instance per Commercial Unit  If claimed by the Customer within 3 months
GS2	Unplanned supply interruption	The Heating Services (with water within the temperature range required under the Energy Company's agreement with the Employer) will be available to the Relevant Unit Heating System within 24 hours of the start of any unplanned interruption	On failure to achieve this, a fixed compensation payment will be paid by the Energy Company to the Customer, and a further payment will be made for each additional period of 24 hours until the Heating Services are restored	£50 per instance per Commercial Unit  Cap per Service Period of £600
GS3	Meter repair or replacement	Meter accuracy to be maintained within the requirements of the Guidance and an initial accuracy of +/-3%	Faulty Meter not replaced twenty eight (28) days after a fault is shown to exist	£25 per instance per Commercial Unit
GS4	Notifying the Customer that a penalty payment is due & making payments owed	The Energy Company shall write to the Customer within 10 working days of the date the Energy Company becomes aware of any overpayment by the Customer or of any compensation falling due to the Customer and shall make the relevant payment to the Customer within a further 10 working days.	Where the Energy Company fails to achieve this level of service, a fixed compensation payment will be made	£20 per instance per Commercial Unit
GS5	Responding	Substantially respond to a	Where the Energy	£20

	Substantially to a complaint	complaint within 10 working days or 20 working days where a site visit or third party enquiries are required. However, if a substantive response is unable to be provided because a site visit is required, the Energy Company will provide an initial response indicating this within 10 working days.	Company fails to achieve this level of service, a fixed payment will be made in respect of the initial failure and each succeeding 5 working days during which the failure continues.	Capped at £100 per Service Period
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**Table 4**

GS2 and GS3	The failure to achieve the Required Service Level was caused by a breach of this Agreement by the Customer.
GS2 only	The Energy Company is prevented from providing Energy Services to the Commercial Unit by any of the circumstances set out in Clause 11 of this Agreement, although the Energy Company will use reasonable endeavours to mitigate the consequences of any such circumstances and resume provision of the Energy Services as soon as possible.
	The Energy Company is required by Law to shut down the System provided that the need to shut down the System does not relate to or arise out of any breach of this Agreement by the Energy Company or any negligent act or omission by the Energy Company.
	The Energy Company have suspended the Energy Services because the Energy Company believes on reasonable grounds that it is necessary to do so to avoid: <ul style="list-style-type: none"> <li>(i) endangering the life of any person; or</li> <li>(ii) endangering any physical property, provided that both the relevant damage to such property and its economic impact are likely to be material,</li> </ul> <p>provided, in each case, that the need to suspend the Energy Services does not relate to or arise out of any breach of this Agreement or any negligent act or omission by the Energy Company.</p>
	The Energy Company have suspended the Energy Services to the Commercial Unit pursuant to Clause 8.1 of this Agreement.
	Where the event which causes the interruption also causes an interruption to more than 2,000 of the Energy Company's customers.

## Schedule 3 Residential HIU Drawing



Item No.	Description	Connection Size
1	DHW Flow (22mm compression 1/4 turn full bore isolation valve with tee handle)	22mm Compression (uncapped)
2	Balanced Cold Water (15mm compression 1/4 turn full bore isolation valve with tee handle)	15mm Compression (uncapped)
3	Landlord LTHW Return (22mm compression 1/4 turn full bore isolation valve with tee handle)	22mm Compression (uncapped)
4	Landlord LTHW Flow (22mm compression 1/4 turn full bore isolation valve with tee handle)	22mm Compression (uncapped)
5	Cold Water Services In (22mm copper pipe)	22mm Copper Pipe (uncapped)
6	Honeywell 3-port diverting valve (V4044C)	
7	Fresa Automatic Balancing Valve (S valve 53-2000)	
8	Insulated Plate Heat Exchanger Alfa Laval CBH18-40H	
9	Elson 4 port manifold	
10	Grundfos Alpha 2 25-60 circulating pump	
11	Pump isolation valves	
12	Honeywell 2 port central heating zone valve (V4043)	
13	Honeywell 2 port DHW primary zone valve (V4043)	
14	Angle pattern drain cock (DHW primary)	
15	Angle pattern drain cock (DHW cold feed)	
16	Temperature and pressure relief valve	
17	Expansion relief valve	
18	Tundish	
19	Check valve	
20	Pressure limiting valve	
21	Stop cock	
22	Washing machine cold water supply tap	
23	Washing machine hot water supply tap	
24	Filling loop incorporating 15mm compression fittings with ball valve and lever & double check valve	
25	10 litre flat expansion vessel (Tenant's primary)	
26	Pressure relief valve (Tenant's primary)	
27	Pressure gauge	
28	AAV	
29	Plate heat exchanger isolation valve (Tenant's primary flow)	
30	Plate heat exchanger isolation valve (Tenant's primary return)	
31	Plate heat exchanger drain cock	
32	Isolation valve (volume flow meter)	
33	Volume flow meter	
34	Heat meter	
35	Plastic tundish	
36	HepCO dry trap	PP 32mm uncapped
37	Washing machine waste pipe - (Marley extrusion - high temp PP BS5254: 1978-1)	PP 40mm uncapped
38	Honeywell Smile controller	
39	Underfloor heating wiring centre	
40	Consumer unit (Apex Wiring Solutions)	
41	Fused switch spur (heating system)	
42	Fused switch spur (washing machine)	
43	Washing machine socket	
44	Underfloor heating manifold	
45	Water meter (Where specified)	
46	Angle pattern isolation valve (underfloor heating return manifold)	
47	Isolation valve (underfloor heating flow manifold)	

**TRVs, Room Thermostats and Automatic Bypass:**  
The room thermostat should be installed in the coldest room in the house where the only heat source is a radiator without TRV. The radiator should be fitted with lock shield valves to avoid it being inadvertently isolated. If it then act as a system bypass and heat dissipator for the boiler.

**Access for Servicing:**  
When installing the equipment within a confined space / cupboard consideration should be given to future servicing and maintenance of the plant. Therefore adequate access should be given to pumps, valves and accessories. Please consult Elson Technical for more information / guidance.

**System Filling:**  
The heating system filling loop is intended for temporary connection to the system only. When this is not in use for filling / topping up, the filling loop must be disconnected in accordance with local water byelaws.

**System Venting:**  
Automatic air vents should be used where practicable at system high points. In the case of pipework at high level within apartments and similar a line size automatic separator should be fitted.

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Rev	Amendment	Date
1		

**Athletes' Village**

Contract No. 90/2012

Drawn By:	JJR	Date:	20/07/09	Page No.:	2 of 2
Checked By:	CB	Drawing No.:	13-013	Rev.:	0

Tel: 0191 427 0777  
Fax: 0191 427 0888  
Web: [www.elsonhotwater.co.uk](http://www.elsonhotwater.co.uk)

Eljay & Gibbons  
Annos Ayre Place  
Simonside  
South Shields  
Tyne & Wear  
NE34 9PE



#### **Schedule 4 Residential HIU Exclusions**

In relation to the Energy Company's obligation to maintain, repair or replace the Residential HIU, the Energy Company will not be liable for the following:

1. The costs of repair to any Residential HIU to the extent such repair is required due to damage to the Residential HIU caused by work undertaken on the Residential HIU by someone other than the Energy Company (other than at the Energy Company's direction);
2. Any loss or damage to property as a result of any Residential HIU or any Relevant Unit Energy System breaking or failing, including any cleaning needed, or any damage to the Customer's belongings, fixtures or furniture, unless such loss or damage is caused or contributed to by the Energy Company;
3. Making good any holes or surfaces beyond filling them in or making surfaces level;
4. Repairing faults or damage caused by subsidence, structural repairs, accident, fire, lightning, explosion, flood (unless in each such case caused or contributed to by Us) or storm or freezing weather conditions;
5. Any costs to gain access to the Residential HIU (such as removing fixtures and fittings or repairing and making them good); other than removing an access panel or opening cupboard doors or obtaining access through access points designed by the Developer;
6. Replacement of any appliances, bathroom fixtures, showers and sanitary ware unless such loss or damage is caused or contributed to by the Energy Company;
7. Upgrades that the Customer may want to have carried out to improve any Residential HIU or any Relevant Unit Energy System;
8. Replacing or repairing parts which do not affect how any Residential HIU or any Relevant Unit Energy System works or performs (for example any decorative parts);
9. Resetting any Residential HIU controls, such as thermostats or programmers following changes due to winter or summer months;
10. Providing cash alternatives instead of the Energy Company performing any of its maintenance, repair or replacement obligations;
11. The costs of repairing damage or breakdowns caused by changes to or problems with any utility services (except the provision of the Energy Services);
12. Loss or damage to any Residential HIU or any Relevant Unit Energy System if radio frequency allocations are subsequently altered and they interfere with any Residential HIU or any Relevant Unit Energy System or any controls;
13. Replacing (except during the Residential HIU Repair Period) any batteries in any controls that operate any Residential HIU or any Relevant Unit Energy System;
14. Removing sludge or hardwater scale from any Relevant Unit Energy System or any appliance, or repairing damage caused to any Residential HIU or any Relevant Unit Energy System by sludge or hardwater scale within any Relevant Unit Energy System unless caused by the Energy Company; or

15. The water treatment of any water circuits in any Relevant Unit Energy System except where such Relevant Unit Energy System is drained by the Energy Company to enable it to comply with its obligations under this Agreement.



## **Schedule 5 Units**

### **Part 1: Residential Units**

*[Insert list of Residential Dwellings subject to this Agreement]*

### **Part 2: Commercial Units**

Commercial Units that are not metered:

*[Identify Commercial Units that are not metered and are subject to this Agreement. Description to include location of Commercial Unit and square metre area of Commercial Unit, and any other details required by the Parties to identify the Commercial Unit for the purposes of this Agreement.]*

Commercial Units that are metered:

*[Insert list of Commercial Units that are metered and are subject to this Agreement]*

**EXECUTION PAGE**

**Schedule 9**  
**Consumer Service KPIs**

- 1 In this Schedule 9 (*Consumer Service KPIs*):
  - (a) "**KPIs Table**" means Table 1 below.
  - (b) "**Penalty Points**" means points accumulated for a service level failure
  - (c) "**Required Service Level**" means a service level specified in the column headed 'Required Service Level' in the KPI Table.
  - (d) "**Website**" means the website the Energy Company makes available pursuant to its agreement with the Employer.
- 2 The Energy Company shall provide the Consumer Services throughout each Consumer Services Period in such a way as to meet the Required Service Levels.
- 3 The Required Service Levels shall apply from the commencement of Consumer Services, but the accumulation of Penalty Points that can lead to termination of Consumer Services shall only commence from 1 September 2014.
- 4 Upon any occurrence of an event listed in the column headed 'KPI Failure' in the KPIs Table, the Energy Company shall be awarded the relevant number of Penalty Points listed in the column headed 'Penalty Points' in the KPIs Table, save to the extent that the relevant event occurred as a result of:
  - (a) an event of Force Majeure;
  - (b) any breach by:
    - (i) the Customer of any of its obligations under this Agreement;
    - (ii) the relevant Consumer of any of its obligations under the relevant Subsidiary Supply Agreement;
  - (c) the material negligence or wilful misconduct of the Customer, the Consumer or any of their respective employees, agents, contractors or similar entities; or
  - (d) any reason which is beyond the reasonable and direct control of the Energy Company
- 5 If the Energy Company accumulates thirty (30) Penalty Points or more in any rolling three (3) calendar month period the Customer shall be entitled to serve a notice on the Energy Company requiring the Energy Company to provide the Customer with a rectification programme within twenty (20) Business Days. The rectification program shall set out the Energy Company's plan to prevent any further Penalty Points being accrued in respect of those Required Service Levels in respect of which the notice was issued (the "**Relevant Service Levels**") and provide reasonable detail of the specific measures the Energy Company proposes to implement to ensure that no further Penalty Points are accrued in respect of the Relevant Service Levels (a "**Rectification Plan**"). If:
  - (a) the Energy Company fails to provide a Rectification Plan which meets the requirements of this paragraph 5;

- (b) materially fails to comply with such a plan; or
- (c) the circumstances referred to in paragraph 6 occur,

the Customer may serve a Default Pre-Termination Notice on the Energy Company in accordance with Clause 3.3.3 of this Agreement and subsequently, if it so elects, terminate the Consumer Services Period pursuant to that Clause.

- 6 If the Energy Company accumulates more than one hundred (100) further Penalty Points in respect of the Relevant Service Levels within twelve (12) months of providing a Rectification Plan the Customer may, at any time with ten (10) Business Days of the expiry of that twelve (12) month period, serve a written warning notice stating that it intends to serve a Default Pre-Termination Notice in accordance with paragraph 5 of this Schedule 9. If the Energy Company accumulates more than fifty (50) further Penalty Points in respect of the Relevant Service Levels in the six (6) months following any such warning notice, the Customer may serve a Default Pre-Termination Notice on the Energy Company pursuant to paragraph 5.
- 7 Each of the remedies specified in paragraph 4, paragraph 5 and paragraph 6 of this Schedule 9 shall be without prejudice to:
  - (a) the other remedies so specified; and
  - (b) any other remedy to which the Customer may be entitled under this Agreement.
- 8 The Energy Company shall, within fifteen (15) Business Days of the end of each six (6) month period during any Consumer Services Period, provide the Customer with a report setting out full details of its performance in respect of each of the Required Service Levels during the preceding six (6) month period including, without limitation, the number of KPI failures that occurred and the number of Penalty Points accrued in respect of each Required Service Level during that six (6) month period.

**Table 1**

**S.43(2)**

**S.43(2)**

**S.43(2)**

**s.43(2)**

**Schedule 10  
Site Rules**

**Part 1  
Service Delivery Terms**

**1 DEFINITIONS**

In addition to the definitions set out in Clause 1.1 of this Agreement, the following terms shall have the following meanings when used in this Schedule 10, Part 1 (*Service Delivery Terms*):

**"Landlord"** means any of East Village Management Limited, QDD Athletes Village UK Limited trading as Get Living London, or Triathlon Homes LLP, collectively referred to as "Landlords".

**"Site"** means the premises and the related land at the Development.

**"Temporary Boiler Space"** means the area shown on the plan set out in Annex 1 to this Schedule 10, Part 1 (*Service Delivery Terms*) of this Agreement, if applicable, or if no such plan exists, the plan to be provided by the Developer pursuant to the terms of the Connection Agreement.

**"Works"** means any works carried out or undertaken by the Energy Company at the Site at any time in connection with the performance of the Energy Company's obligations under this Agreement or any Subsidiary Supply Agreement.

**2 APPLICATION**

If there is a conflict between the terms of this Schedule 10, Part 1 (*Service Delivery Terms*) and the Landlord's Site Rules, the Landlord's Site Rules shall in all cases take precedence.

**3 THE WORKS**

**3.1 Conditions Affecting the Execution of the Works**

The Energy Company shall before the date of the commencement of the Works, and at such further times as may be reasonable to enable the Energy Company to perform the Works in accordance with this Agreement, carry out a full risk assessment of the Works.

**3.2 Access for the Works**

3.2.1 The Parties acknowledge that each Landlord is demised different areas of the Site under separate lease agreements. The Customer shall notify the Energy Company in writing which areas of the Site are demised to which Landlord. The Energy Company shall become familiar with the areas demised to each Landlord and shall request the consent of the relevant Landlord or Landlords for any access to the Site required for carrying out the Works. The Customer shall use reasonable endeavours to procure that the Landlord's do not unreasonably withhold or delay such consent.

3.2.2 The Energy Company shall ensure that vehicles and staff enter the Site as directed by the Landlord(s).



### 3.3 **Parking**

- 3.3.1 The Customer shall, to the extent that it is reasonably practicable to do so, provide the Energy Company with a parking permit, or access to a parking permit when required by the Energy Company, to enable the Energy Company's service personnel and engineers at the Site to park at the Site at such times and in such locations as may be reasonably required in connection with the performance of the Works.
- 3.3.2 If the Customer does not issue the Energy Company with a parking permit or access to a parking permit pursuant to paragraph 3.3.1 above, such parking is unavailable or the Customer does not operate a parking permit system, the Customer shall provide at least one (1) car park space for the Energy Company's service personnel and engineers at the Site at such times as may be reasonably required in connection with the performance of the Works:
- (a) where car parking is required in connection with any planned maintenance, provided that the Customer is given not less than three (3) days' notice; or
  - (b) in any other circumstances where the Customer is required to provide a car park space pursuant to this paragraph 3.3.2, provided that the Customer is given as much notice as is reasonably practicable in the circumstance.
- 3.3.3 In the event that the Energy Company is required to provide Energy Services through temporary facilities in accordance with the terms of this Agreement or the Connection Agreement, the Customer shall provide access to the Temporary Boiler Space for the Energy Company to locate its temporary facilities.
- 3.3.4 The Energy Company shall:
- (a) ascertain and comply with all police and traffic regulations and directions, particularly those relating to parking, loading and unloading of vehicles and skips at the Site and;
  - (b) ensure that the Energy Company's Staff are notified of, and comply with, such regulations and directions.
- 3.3.5 The Energy Company shall arrange deliveries of materials and plant, including the delivery and removal of rubbish skips, to take into account any reasonable restrictions on parking and the passage of vehicles at the Site. The Energy Company shall obtain approval from the Landlord for the times of deliveries and removal of rubbish, such approval not to be unreasonably withheld or delayed.

### 3.4 **Energy Company's Obligation**

3.4.1 The Energy Company shall obtain any necessary discharge consent or other permission required for the disposal of water, effluent or other any other waste arising out of the Works.

#### 3.4.2 Required Equipment

The Energy Company shall at its own expense provide all its own tools, access equipment and personal protection equipment necessary to perform the Works (including, without limitation, any works to be performed at height) in conformity with good working practice and the Energy Company shall use reasonable endeavours to ensure that the Energy Company's staff make full use of such personal protection equipment as the circumstances demand. Where it is part of

the Landlord's Site rules that such items of equipment are worn, the Landlord shall have the right to require removal from the Site of any person not complying with such rules in this respect.

### 3.4.3 Lifting Operations

- (a) Prior to the Energy Company carrying out any lifting operation by the use of a machine, it shall produce for inspection by the relevant Landlord and the Customer:
  - (i) the appropriate statutory inspection reports and/or certificates in respect of the machine;
  - (ii) evidence that the operator of any crane or lifting machine is trained and competent; and
  - (iii) detailed information on the manner in which the lifting operations are to be carried out and the equipment to be used.
- (b) The Energy Company shall consult with the relevant Landlord and the Customer before carrying out any lifting operations with a crane or lifting machine to ensure that:
  - (i) the ground or place where the crane or lifting machine is standing is suitable and will withstand the weight imposed on it; and
  - (ii) no part of the crane or lifting machine is likely to foul overhead gantries, pipelines, electric lines or adjacent electrical conductors.

3.4.4 The Energy Company shall not use the Site for any purpose other than that of carrying out the Works and those works contemplated under the Connection Agreement and any Subsidiary Supply Agreement.

3.4.5 The Energy Company shall not display advertisements on the Site nor permit advertisements to be displayed without the prior written consent of the relevant Landlord or the Customer.

3.4.6 The Energy Company shall arrange deliveries to ensure that there is no need to store excess materials on site.

3.4.7 The Energy Company shall provide reasonable details of its health and safety information and policies, quality information, contact information and such other matters as the Customer or any Landlord may from time to time reasonably request and shall, once such information has been provided, promptly inform the Customer or relevant Landlord (as applicable) of any material changes thereto.

## 3.5 **Trespass and Nuisance**

3.5.1 The Energy Company shall prevent the Energy Company's staff accessing:

- (a) any part of the Site beyond those areas the Energy Company is entitled to access pursuant to the terms of this Agreement or any Subsidiary Supply Agreements; or
- (b) any part of the Site to which access is not reasonably necessary in connection with the Works being performed, without the prior written

consent of the Customer. Only designated entrances and approaches to the area of working shall be used.

3.5.2 The Energy Company shall ensure that the Works are conducted in such a way as to, and shall take all necessary precautions to, prevent any disturbance, inconvenience or nuisance to the occupiers and users of the Site and adjoining buildings and to the public in general, consulting with and following the directions of the relevant Landlord in all cases where noisy or otherwise disruptive working may need to be performed. The obligations in this paragraph 3.5.2 shall not apply to the extent that it is necessary for the Energy Company to carry out emergency Works on Site, provided that the Energy Company shall nevertheless be required to take reasonable steps to minimise any disturbance which may be caused by such emergency Works.

3.5.3 The Energy Company shall ensure that all measures to control the emission of dust or fumes produced by its operations on Site required under or by virtue of any enactment or regulation, are strictly complied with.

### 3.6 **Noise Control**

3.6.1 In accordance with the Control of Noise at Work Regulations 2005 (the "**Regulations**"), the Energy Company shall not commence any operation that will result in any person on the Site being exposed to the lower exposure action value (as referred to in such Regulations) or above without first carrying out the risk assessment required by the said Regulations and identifying the measures which need to be taken to meet the requirements of the said Regulations and informing the relevant Landlord in writing accordingly.

3.6.2 The Energy Company and the Energy Company's employees shall not use radios, personal music devices or any similar apparatus at or in the vicinity of the Site when carrying out the Works.

### 3.7 **Pest Control**

The Energy Company shall ensure that the risk of infestation at the Site is minimised by adequate arrangements for disposal of food waste and other matters attractive to pests which are brought onto the Site by the Energy Company.

### 3.8 **Removal of Rubbish**

The Energy Company shall take all reasonable steps to ensure that the Site is free from all surplus materials, rubbish and debris arising from the execution of the Works.

### 3.9 **Facilities on Site**

3.9.1 The Energy Company shall be responsible for unloading, placing in, removing from store and hoisting all of its own materials including the provision of all necessary unloading and lifting facilities and equipment.

3.9.2 Where access to electric power is available at the Site the Energy Company shall be provided at no cost to the Energy Company with access to such electric power for use as necessary on Site, exclusively to enable the Energy Company to carry out the Works and comply with its obligations under this Agreement, including that for use in its own stores if such are provided. For the avoidance of doubt, neither the Customer nor any Landlord shall be required to procure such access in any part of the Site where it does not otherwise exist or ensure that any extended or additional

supply is available. The Energy Company shall ensure that it does not overload any electric power system or network at the Site where it accesses such power pursuant to this paragraph 3.9.2.

3.9.3 Where necessary for the carrying out of the Works, the Energy Company shall provide and be responsible for the maintenance of temporary electricity supplies from the point of connection to the electricity supply, including distribution around the Site and the provision and renewal of lamps where used with its own temporary supplies.

3.9.4 Where access to water is available at the Site the Energy Company shall be provided at no cost to the Energy Company with access to such water for use as necessary on Site, exclusively to enable the Energy Company to carry out the Works and comply with its obligations under this Agreement. For the avoidance of doubt, neither the Customer nor any Landlord shall be required to procure such access in any part of the Site where it does not otherwise exist or ensure that any extended or additional supply is available.

3.9.5 Where necessary for the carrying out of the Works, the Energy Company shall provide and be responsible for the maintenance of temporary water supplies together with necessary temporary receptacles and plumbing from a source to be agreed with the Landlord.

3.9.6 The Energy Company shall ensure that the Energy Company's staff at all times whilst employed or engaged on the Site wear a uniform which clearly identifies them as the Energy Company's staff and that such uniform (including footwear) is kept in a reasonably clean state so as not to introduce or help to spread dust or dirt within the Site.

#### 3.10 **Surveillance Equipment**

The Energy Company acknowledges and agrees that surveillance equipment is in operation at the Site and that its employees will be subject to monitoring via such equipment while at the Site.

### 4 **SUB-CONTRACTING**

The Energy Company shall procure that any subcontractor it engages in connection with the Works shall comply with the terms of this Schedule 10, Part 1 (*Service Delivery Terms*).

### 5 **INDUSTRIAL RELATIONS**

5.1 The Customer shall neither encourage nor discourage the participation by the Energy Company's staff in an appropriate trade union or staff association.

5.2 The Energy Company shall use reasonable endeavours to ensure, so far as is reasonably practicable and only to the extent that the Energy Company is able to do so in accordance with the Law, that if its employees wish to conduct or engage in any industrial relations activities or trade union meetings they do so elsewhere than on the Site and that no trade union or similar posters and/or notices are displayed by its employees anywhere on the Site.

### 6 **SAFETY, HEALTH AND WELFARE**

6.1 The Energy Company shall provide all necessary welfare facilities for the Energy Company's staff.

- 6.2 The Energy Company shall be responsible for the observance by itself and the Energy Company's staff of all safety precautions including those required by Law or any regulation working rules or bye-law of any local authority or body necessary or desirable for the protection of himself, the Energy Company's staff and any other person.
- 6.3 The Energy Company shall ensure that it and all of the Energy Company's staff are conversant with and abide by all of each Landlord's safety, fire and security policies and procedures including any requirement to operate permit to work procedures to the extent that these have been provided to the Energy Company by the Customer in writing.
- 6.4 The Energy Company shall ensure that petroleum products and other inflammable or vaporising liquids, gases or solids shall only be used in accordance with the manufacturer's recommendations and the regulations applicable to the storage and use of these products at the Site and where applicable to the Works, and shall ensure that when such products are not in use the Energy Company shall remove them from the area of the Works to a safe place of storage.
- 6.5 The Energy Company shall safeguard and take all necessary precautions against damage by fire or explosion when the execution of the Works may involve the presence of flame or sparks. Where the carrying out of the Works may involve the presence of heat (other than the Energy Services), flame or sparks, and any Landlord is operating such a system, the Energy Company must apply to the relevant Landlord for a 'Hot Works Permit' and such permit must be granted before the 'hot works' are carried out.
- 6.6 The Energy Company shall ensure that it and the Energy Company's staff are familiar with all fire precautions, fire alarms, means of escape, emergency evacuation procedures, security requirements and safety procedures in force at the Site, and that fire exits are kept clear at all times, to the extent that such procedures have been notified to the Energy Company by the relevant Landlord in writing. The Energy Company shall notify the relevant Landlord immediately of the occurrence of any incident at the Site requiring the help or attention of the police, fire brigade, ambulance or other emergency service and as soon as possible after such incident shall provide the relevant Landlord with full written details of the incident.
- 6.7 Before leaving the Site the Energy Company shall ensure on each occasion that naked lights and other ignition sources have been extinguished and electrical apparatus where practicable are switched off.
- 6.8 The Energy Company may submit a written request to the Customer for the provision of fire extinguishers reasonably required for use by the Energy Company in relation to the Works, stating the type and quantity of fire extinguishers so required. Provided that the need for such fire extinguishers is reasonable and arises directly in connection with the performance of the Works and not the ordinary operation of the Development, the Customer shall provide such fire extinguishers for use at the Development.
- 6.9 All prime movers, transmission machinery and dangerous parts of machinery shall be securely fenced by the Energy Company in accordance with statutory requirements. The Energy Company shall make arrangements for compliance with this requirement prior to bringing any such plant or machinery on to the Site.

## 7 **EXISTING SERVICE INSTALLATIONS**

- 7.1 In this paragraph, 'Service Installations' means gas mains, water mains, electricity and control cables and wires, sewers, drains, culverts and ditches and other forms of mains and/or services; anything associated therewith including lagging and protective covering, brackets, posts, fittings, foundations and supporting structures, but excluding the Combined Services Equipment.
- 7.2 The Energy Company shall:
- (a) not use or interfere with the existing Service Installations without the prior written consent of the Customer (such consent not to be unreasonably withheld or delayed) and, where applicable, of services and utility authorities and/or private owners; and
  - (b) inform the Energy Company's Staff of the details and locations of existing Service Installations as appropriate and draw their attention to the attendant risks and danger.
- 7.3 The Energy Company shall immediately notify the relevant Customer, and any other service provider or owners of any affected areas, in writing of any damage caused to public or private services by any action or failure to act of any of the Energy Company's staff or which otherwise comes to its attention.

## 8 **OTHER CONTRACTORS**

- 8.1 The Energy Company acknowledges that other contractors and/or any Landlord's own labour may be working on the Site and the Energy Company may in such cases be required to work in close co-operation therewith.
- 8.2 The Energy Company and the Customer shall where reasonably possible ensure that all of its and each Landlord's staff co-operate and liaise with and do not obstruct any other contractors from time to time carrying out duties on or in the vicinity of the Site.
- 8.3 The Customer shall take reasonable steps to procure that any other contractors from time to time carrying out duties on or in the vicinity of the Site liaise with and, where reasonably possible, attempt to minimise any disruption that the carrying out of their duties may cause to the Energy Company in performing its obligations under this Agreement on or in the vicinity of the Site.

## 9 **SUPERVISION AND REPORTING**

- 9.1 The Energy Company shall ensure that all Works are appropriately supervised.
- 9.2 The Energy Company shall attend quarterly meetings with the Customer and the Landlords and such other meetings as the Customer or any Landlord may reasonably request. At each quarterly meeting the Energy Company shall provide the Customer and the Landlords with:
- (a) a status report detailing any health and safety incidents associated with the Works;
  - (b) a status report of planned maintenance works actually performed compared with those required under the terms of this Agreement;

- (c) a status report of breakdown and fault works for both the previous quarter and the year to date; and
- (d) a status report of breakdown and fault works outstanding, with reasons why such works have not been performed.

**Annex 1**  
**Temporary Boiler Space**

[Insert plan for temporary boiler space]



**Part 2**  
**Landlord's Site Rules**

## Schedule 11 Residential Supply Agreement

Please fill out the form below so that we can set up your account.

<b>Property Details</b>	
Address:	
Post Code:	
Number of Bedrooms:    1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/>	
Property Type            Townhouse <input type="checkbox"/> Apartment <input type="checkbox"/>	
Date on which you will become the owner or tenant of the property:	
Date from which the property will be occupied (if different):	
<b>Landlord Details/Social Landlord Details (if applicable)</b>	
Title:	First Name:                                  Surname:
Correspondence Address and Post Code (if different to property address)	
Home Phone Number:	Mobile Number:
Email Address:	
<b>Customer Details</b>	
Title:	First Name:                                  Surname:
Correspondence Address and Post Code (if different to property address)	
Home Phone Number:	Mobile Number:
Email Address:	
<b>Security Questions</b>	
<i>Please provide answers to <b>two</b> of the following security questions so we can identify you if you call us</i>	
<b>Mother's maiden name</b>	Answer:
<b>Name of your first pet</b>	Answer:
<b>A memorable place</b>	Answer:
<b>Your favourite colour</b>	Answer:
<b>A memorable date</b>	Answer:
<b>Payment Notification</b>	
<i>Please let us know where to send your bill.</i>	
<b>Post</b>	Correspondence Address <input type="checkbox"/> Property Address <input type="checkbox"/>
<i>If you choose to pay your bills by Direct Debit, you can have your bill emailed to you instead of being sent through the post. If you would rather we emailed you your bill, please let us know by ticking the box below.</i>	
<b>Email</b>	Email Address above <input type="checkbox"/>
Alternative Email Address:	
<b><i>Please note that to set up your Direct Debit we will need proof of your current address, such as a copy of a recent utility bill or your driving licence.</i></b>	

**TO BE COMPLETED BY COFELY EAST LONDON ENERGY LIMITED:**

**HIU Repair Period:** For the purposes of this Agreement the HIU Repair Period shall run from the date on which this Agreement commences until \_\_\_\_\_, being the date that is seven (7) years after the date of practical completion of the Development.

**FOR OFFICE USE ONLY**

**Date Received:**

**Customer's Unique Reference Number:**

**Date Returned to Customer:**

By Email

By Post

This Agreement governs the supply by Cofely East London Energy Limited (Company Number 6307742) (**We, Us, Our**) of space heating and hot water to the Customer (**You, Your**) at Your Home.

- A. We own and operate the district heating scheme which supplies space heating and hot water to Your Home.
- B. Your Home is part of the East Village (**the Development**) which has been connected to the district heating scheme.
- C. You have requested that We make the Heat Supply available to You.
- D. By signing this Agreement:
  - i. You are making a legally binding contract to comply with its terms; and
  - ii. You confirm that You have read and understood the Agreement.

Please ensure that You read the terms of this Agreement carefully, and in particular the Clauses dealing with termination and disconnection of supply (Clause 8 (*Termination and Disconnection*)) and Clause 10 (*Suspension and Reconnection*)), those restricting Our liability to You in the event that We do not meet Our obligations under this Agreement (Clause 12 (*Limitation of Liability*)) and how We use Your personal information (Clause 14 (*Use of Personal Information*)). You have the right to terminate this Agreement at any time by providing Us with not less than seven (7) calendar days' notice in accordance with Clause 8.4.1 (*Termination and Disconnection*).

**Please fill out the form on the front page of this Agreement, and sign in the space below to accept the terms of this Agreement. Please then send this page and the front page to Us along with a copy of proof of Your current address to the following address:**

East London Energy  
PO Box 1222  
CRAWLEY  
RH10 0HR

**Alternatively, You can drop the completed front page, this page and proof of Your current address to Us in person at the Metering and Billing Office in the Kings Yard Visitors Centre:**

1 Waterden Road  
Queen Elizabeth Olympic Park  
London  
E15 2GP

**We will keep the front page and this signature page but we will send you back a copy for your records. You should keep a copy of the Agreement.**

Signed: .....

Name: .....

Date: .....

1 **DEFINITIONS**

**"Abortive Call-out Charge"** means the charge for the second and subsequent Abortive Visits as set out in Schedule 1 (*Our Charges*).

**"Abortive Visit"** has the meaning set out in Clause 7.3.

**"Agreement"** means these terms and conditions and any schedules referred to.

**"BEAMA Labour and Material Indices"** means the indices for labour costs and materials costs provided by BEAMA Contract Price Adjustment Advisory Service.

**"Bill"** means the statement or invoice We will send You periodically as contemplated in this Agreement.

**"Charges"** means:

- (a) the Standing Charge and the Unit Charge;
- (b) the Common Heat Availability Charge
- (c) any Reconnection Charge;
- (d) any Abortive Call-out Charge or Debt Processing Charge; and
- (e) any other charges We are entitled to levy under this Agreement.

**"Common Heat Availability Charge"** means the charge for the proportion of energy used to make the Heat Supply available to Your Home as set out in and calculated in accordance with Schedule 1 (*Our Charges*).

**"CPI"** means the Consumer Price Index issued by the Office of National Statistics.

**"Customer Meters"** means all of the meters (including the Meter) which measure the Heat Supply to each individual dwelling or commercial unit in the plot at the Development in which Your Home is located.

**"Debt Processing Charge"** means the charge to cover Our costs of processing and managing the collection of Your outstanding Charges as set out in Schedule 1 (*Our Charges*).

**"Developer"** means the entity with which We have an agreement to connect the Development Heating System to the System.

**"Development Heating System"** means the space heating and hot water system which is inside the Development between the point of connection with the System and Your Home's Heating System, but not including Your Home's Heating System.

**"Estate Management Company"** means East Village Management Limited (company number 06917185) and their successors and assigns.

**"Good Industry Practice"** means using the standards, practices, methods and procedures which comply with the Law and exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected of a skilled and experienced person engaged in providing similar tasks under similar circumstances.

**"Heat Supply"** means hot water produced by the System for the purposes of providing space heating and domestic hot water.

**"HIU"** means the heat interface unit that transfers heat from the Development Heating System to Your Home's Heating System as shown on the HIU Drawing.

**"HIU Drawing"** means the schematic drawing set out in Schedule 3 (*HIU Drawing*).

**"HIU Inspection Period"** means the period during which We are liable for the periodic inspection of the HIU only, which runs from the end of the HIU Repair Period until 30 June 2053.

**"HIU Repair Period"** means the period during which We are liable for the maintenance and repair of the HIU, which is stated at the head of this Agreement.

**"ICI Heren Offer Price for NBP Gas"** means the price indicator provided by ICIS Heren for natural gas.

**"Law"** means

- (a) any applicable statute or proclamation or any delegated or subordinate legislation;
- (b) any enforceable community right within the meaning of section 2(1) European Communities Act 1972;
- (c) any applicable guidance, direction or determination with which We and/or the Developer is bound to comply to the extent that the same are published and publicly available or the existence or contents of them have been notified to them; and
- (d) any applicable judgement of a relevant court of law which is binding in England.

**"Meter"** means the heat meter used to measure the amount of Heat Supply used by Your Home's Heating System. We are responsible for the operation, repair and replacement of the Meter, but the Meter is owned by the owner of the Development.

**"Network Meter"** means the meter which measures the Heat Supply to the whole plot at the Development in which Your Home is located.

"**Our Website**" means the website accessible at the web address specified in the Welcome Pack and also stated in each Bill We send to You.

"**Reconnection Charge**" means Our charge for recommencing the Heat Supply to Your Home as set out in Schedule 1 (*Our Charges*).

"**Reminder Letter**" means a letter notifying You that Charges are overdue for payment by You to Us and **Reminder Letters** shall mean more than one such letter.

"**Relevant Factors**" means the percentage increase in RPIX, the increases in the BEAMA Labour and Material Indices and the relevant primary fuel price indicator in use at the time under Our agreement with the Supervising Body (currently the ICIS Heren Offer Price for NPB Gas), together with various cost increases and decreases incurred by Us in providing the Heat Supply and running the System.

"**RPIX**" means the Retail Prices Index excluding mortgage interest payments, issued by the Office of National Statistics.

"**Service Failure**" means a failure by Us to meet a Service Standard.

"**Service Payments**" means any payments We are required to make to You in respect of a Service Failure.

"**Service Period**" means a continuous period of twelve (12) months ending on 31 March. Where the Supply Start Date in the first calendar year during which You take the Heat Supply is after 31 March, the Service Period shall be the period from the Supply Start Date to the next 31 March.

"**Service Standards**" means the standards of service We agree to provide in respect of the Heat Supply under this Agreement. A copy of the Service Standards is set out in Schedule 2 (*Service Standards and Service Failures*), and they are also available on Our Website.

"**Standing Charge**" has the meaning given in Schedule 1 (*Our Charges*).

"**Summer Period**" means the period starting 1 May and ending 30 September.

"**Supervising Body**" means the entities which have granted Us rights to operate the district heating scheme which supplies space heating and hot water to Your Home, and to whom We owe obligations in respect of how We provide the Heat Supply to Your Home.

"**Supply Start Date**" means the date specified in this Agreement or, where no date is specified, the date on which You first take the Heat Supply to Your Home.

"**System**" means the district heating network, equipment, plant and machinery which We own and use to provide the Heat Supply. The System is Our responsibility.

"**Unit Charge**" has the meaning given in Schedule 1 (*Our Charges*).

"**Welcome Pack**" means the documents provided to You relating to the System, the Heat Supply and this Agreement. If You have not yet received the Welcome Pack please request one from Us.

**"Your Home"** means the property to be provided with the Heat Supply under this Agreement as specified under 'Property Details' in the table at the front of this Agreement, being the flat or house occupied or owned by You at the Development.

**"Your Home's Heating System"** means the heating system inside Your Home including all pipes, radiators, hot water cylinders and other apparatus (but not including the Meter, or the HIU during the HIU Repair Period), which is Your or Your landlord's responsibility. After the end of the HIU Repair Period, the HIU will also become part of Your Home's Heating System.

## 2 **HEAT SUPPLY**

- 2.1 We shall provide the Heat Supply to Your Home's Heating System and You shall pay for such Heat Supply on the terms of this Agreement. This Agreement is effective from the Supply Start Date until the Agreement is terminated in accordance with Clause 8 (*Termination*).
- 2.2 We will make the Heat Supply available to You at all times during the whole of the term of this Agreement, however there are a number of circumstances in which We may need to suspend the Heat Supply to Your Home or it may be otherwise interrupted. We will compensate You for suspensions of or interruptions to the Heat Supply to Your Home if We are required to do so under Schedule 2 (*Service Standards and Service Failures*).
- 2.3 You acknowledge that the Development has been developed on the basis that We will be the sole provider of hot water and space heating to each unit within the Development including Your Home.
- 2.4 You agree that You will not obtain a supply of hot water or space heating to Your Home other than from Us at any time during the term of this Agreement, except during a suspension or interruption of the Heat Supply to Your Home (other than where We have suspended the Heat Supply to Your Home pursuant to Clause 8.2 or Clause 10.1 of this Agreement).
- 2.5 As far as is reasonably practicable, and other than in respect of any maintenance of any Meter or HIU, We will only schedule planned maintenance which is likely to require Us to interrupt or otherwise adversely affect the Heat Supply to Your Home to occur during the Summer Period.

## 3 **STANDARDS OF SERVICE**

- 3.1 We shall provide You with the Heat Supply to Your Home's Heating System in accordance with Our Service Standards.
- 3.2 If You are dissatisfied with the service We provide to You, You should follow Our complaints procedure set out in Clause 13 (*Dispute Resolution*) and which is also included in the Welcome Pack and is available on Our Website.

## 4 **METERING**

- 4.1 Your Bill will show Your consumption of the Heat Supply which We will find out by reading the Meter. You will accept as accurate all Meter Readings taken by Us unless there is an obvious error or the Meter is defective.
- 4.2 If We have not been able to read Your Meter at the time of billing due to a defect in Our automated meter reading system, because We have not been able to get access to the Meter, or We have reason to believe that the Meter is defective or not

reading correctly, We may bill You and You must pay Us on the basis of Our reasonable estimate of Your consumption of the Heat Supply.

- 4.3 If You reasonably believe the Meter is defective or readings are inaccurate, You can ask Us to arrange a check to see if the Meter is reading correctly. You may also ask for a check by an independent meter examiner. We may also ask for a check either by Us or by an independent meter examiner at any time if We believe that Your Meter is not reading correctly. We will give You at least three (3) days' notice of any such check (or seven (7) days' notice in respect of planned routine maintenance) and will use reasonable endeavours to arrange for such check to take place at a mutually convenient time.
- 4.4 If, following an inspection under Clause 4.3, the Meter is found to be defective or a Meter reading is shown to be inaccurate, We will adjust Your subsequent Bill to account for any inaccurate Meter readings.
- 4.5 If the Meter is correct after You have asked Us to check its accuracy You will pay for any reasonable costs We have incurred in checking the Meter. You will not be required to pay any costs if We request a check of the Meter.
- 4.6 We will use reasonable endeavours to ensure that the Meter has an initial certified accuracy of +/-3%. If the Meter records errors in excess of this amount it shall be deemed to be inaccurate and We shall recalibrate, repair or replace the Meter promptly. We shall be responsible for the cost of such replacement or repair unless:
- (a) the fault is due to Your act or omission; or
  - (b) the fault is due to the act or omission of any third party for whom You are responsible,

in which event You will pay the reasonable costs of the replacement or repair of the Meter.

## 5 **PAYMENT AND CHARGES**

- 5.1 You will be responsible for payment of the Charges in respect of the Heat Supply to Your Home's Heating System until this Agreement is terminated in the way referred to in Clause 8 (*Termination*) or suspended in accordance with Clause 15.1, including where:
- (a) Your Home is vacant or is occupied by someone else;
  - (b) the Heat Supply to Your Home's Heating System is used by a third party at Your Home without Your knowledge or permission;
  - (c) You do not use the Heat Supply to Your Home's Heating System; and
  - (d) the Heat Supply to Your Home's Heating System is interrupted or unavailable for a period in circumstances expressly permitted elsewhere in this Agreement.
- 5.2 You shall pay Us for the Heat Supply provided to Your Home's Heating System. You must pay Us the Charges plus VAT, as set out in Your Bill, within 14 days from the date of Your Bill.



5.3 The Standing Charge, the Unit Charge and the Common Heat Availability Charge will be charged monthly. The Standing Charge will be charged in advance and the Unit Charge and the Common Heat Availability Charge will be charged in arrears. Each of those charges is listed in Schedule 1 (*Our Charges*).

5.4 The payments You must make to Us in respect of each Bill will be:

- (a) an amount in respect of the Charges (which may be based on Our reasonable estimate of the Heat Supply Used by Your Home's Heating System where such estimation is expressly permitted under this Agreement);
- (b) any applicable VAT;
- (c) any amount We add to recover underpayments or overdue Charges in accordance with the terms of this Agreement;
- (d) any reasonable and proper costs or charges arising from loss or damage We suffer that was caused by You and for which You are responsible under the terms of this Agreement; and
- (e) any other costs or charges made in accordance with the terms of this Agreement;

less any amounts We deduct for overpayments or Service Payments.

5.5 The Bill We send You will set out:

- (a) the period to which the Bill relates;
- (b) the amount of the Heat Supply consumed by Your Home's Heating System measured in kWh based on any readings of Your Meter (or Our reasonable estimate when such estimation is expressly permitted under the terms of this Agreement), including opening and closing Meter readings;
- (c) the price per kWh payable for the Heat Supply consumed;
- (d) the amount of the Standing Charge;
- (e) the amount of the Common Heat Availability Charge;
- (f) a bar graph giving a trend view of Your Heat Supply usage in kWh per month since the commencement of this Agreement;
- (g) an estimate of the total amount We are likely to charge You under this Agreement over the twelve months following the month to which the Bill relates, assuming Your rate of consumption is maintained, and a summary of Our total charges over the previous twelve months;
- (h) the payment plan You have selected, if relevant;
- (i) any Service Payments deducted following a Service Failure;
- (j) the amount of any credit that You have available, carried forward from Your previous Bill;
- (k) details of any payment made by You since the previous Bill;

- (l) an offer to provide all the information We are required to provide with Your Bill under this Agreement in large print;
  - (m) a description of the possible methods of payment that are available to You, with relevant instructions;
  - (n) the total payments to be debited from Your bank account and of any change to that amount;
  - (o) the balance of Your account; and
  - (p) Our contact details in the event that You wish to make a complaint or request further information, or for reporting emergencies or requesting energy efficiency advice, and the details of Our Website.
- 5.6 Where We have billed You based on an estimate of the Heat Supply consumed by Your Home's Heating System under Clause 4.2 and subsequently take a Meter reading, We shall reconcile the Charges billed based on the estimate with Your actual consumption based on the Meter reading and apply a credit or debit to Your account which will be shown on Our next Bill.
- 5.7 If at any point the total amount of payments You have made is less than the Charges incurred to date:
- (a) We may require that You pay the difference to Us within 14 days of the date of Our Bill; or
  - (b) We may increase the amount debited from Your bank account so that We recover the difference over a period that is reasonably acceptable to Us.
- 5.8 We prefer You to pay by direct debit, and if You do pay Your Bill by direct debit, We will give You a 2% discount on Your Bill. Other methods of payment are available and are described on Our Website and will also be included with Your Bill. If You pay by any means other than by direct debit, or Your direct debit mandate is not honoured by Your bank for any reason, You must pay Us the amount due shown on Our Bill within fourteen (14) days of the date of the Bill. If You want to pay Your Bill using a credit card, We will charge You a processing fee, but Our processing fee will not be any more than We are charged by Our bank for processing the transaction by credit card. We will advise You of the amount of the processing fee at the time You make payment to Us. We will not charge You for using any other payment method.
- 5.9 If You chose to pay by direct debit You may elect to pay a set amount monthly in advance (a "**Monthly Payment**"). If You would like to pay in this way please notify Us and We will agree the initial level of Your Monthly Payments with You. Once You have started making Monthly Payments We will reconcile the amount You have paid with Your actual consumption based on the Meter reading every twelve (12) months and apply a credit or debit to Your account and/or vary the amount of Your Monthly Payment, as appropriate.
- 5.10 If We consider it necessary (including where You are unable to make payments by monthly direct debit or a reasonable alternative or You have not paid any of the Charges by the due date for payment) We may take any action We believe is appropriate, although We must act reasonably. This may involve:
- (a) agreeing with You a payment plan so You can pay the money You owe Us over a period of time at a rate that is affordable to You. Any payment plan

may include a requirement that You keep Your account with Us in credit;  
or

- (b) taking court action to recover outstanding Charges and other costs.

## 5.11 **Adjustment of Charges**

5.11.1 We may adjust the Unit Charge and the Common Heat Availability Charge twice per year and the Standing Charge once per year based on Our agreement with the Supervising Body to take account of the Relevant Factors. The Relevant Factors balance Your interests and those of other consumers, with Our commercial interests in providing Our services. On each occasion that We intend to adjust Our Charges We must tell You thirty (30) days in advance of any adjustment of Our Charges and confirm the basis on which such adjustment has been calculated. Any other Charges will be increased once annually in accordance with Schedule 1 (*Our Charges*). The amount that We may charge You is regulated by the Supervising Body and We will agree any adjustment of Our Charges with the Supervising Body prior to notifying you of any changes. If You have any queries in relation to any increase in Our Charges You can contact Us and We will provide You with additional details on the basis on which such adjustment has been calculated. If We haven't been able to resolve Your query You should contact the Supervising Body who will provide You with additional information on the Relevant Factors and how it regulates Our Charges.

5.11.2 We may also increase Our Charges where any taxes, levies or duties on the Heat Supply (other than corporation tax or any other similar tax on Our profits or gains) in effect at the Supply Start Date are increased or there is a change of Law relating to the production or provision of the Heat Supply which results in any new tax, levy, duty or impost (not in force at the Supply Start Date) being charged, levied or imposed on Us. If there is a reduction or discontinuance of taxes, levies or duties in effect as at the Supply Start Date We will reduce Our Charges according to the amount of relief to the extent that Our Charges apply such taxes, levies or duties. Any increase or decrease in Our Charges under this Clause 5.11.2 will apply from the date that the relevant change in relation to any tax, levy, duty or impost takes effect.

5.11.3 To the extent that any change, increase in cost or other circumstance would, but for this Clause 5.11.3, entitle the Energy Company to adjust the Charges pursuant to both Clause 5.11.1 and Clause 5.11.2, the Energy Company shall only be entitled to adjust the Charges pursuant to one of those provisions in respect of the relevant change, increase in cost or other circumstance.

## 6 **METERS, HIU AND EQUIPMENT**

### 6.1 **Our Responsibility**

6.1.1 We are responsible for:

- (a) the routine inspection, maintenance, repair and/or replacement of the HIU during the HIU Repair Period;
- (b) the routine inspection of the HIU during the HIU Inspection Period. We will provide You with a copy of Our inspection report following any routine inspection which will set out Our findings in respect of the HIU, including identifying any problems or issues affecting the HIU and any maintenance or similar steps that We recommend be carried out; and

(c) the maintenance, repair and/or replacement of the Meter at all times,

in accordance with Good Industry Practice. However, Our obligations are subject to the exclusions in Schedule 4 (*HIU Exclusions*).

6.1.2 During any HIU Inspection Period You or Your landlord may ask Us to repair or replace the HIU, or the Estate Management Company may ask You or Your landlord to use Us to repair or replace the HIU, however in each case We will charge You or Your landlord or the Estate Management Company as relevant for such works at such rates agreed with the Supervising Body and as are set out on Our Website as amended from time to time. If You do not ask Us to repair or replace the HIU, then You must ensure that any repair or replacement is carried out in accordance with Good Industry Practice, using parts and equipment which are of equivalent quality to the parts of the HIU being repaired or of equivalent quality to the HIU itself if it is being replaced.

6.1.3 During the HIU Repair Period, if the HIU requires maintenance, repair or replacement You can ask Us to arrange a visit to Your Home so that We can inspect the HIU and try to identify the problem and rectify it. We may also ask to be allowed to visit Your Home to inspect and (if necessary) carry out maintenance or repair or replacement of the HIU.

6.1.4 During the HIU Inspection Period, We may also ask to be allowed to visit Your Home to inspect the HIU. We will give You at least three (3) days' notice of any such visit (or seven (7) days' notice in respect of planned routine maintenance) and will use reasonable endeavours to arrange for such check to take place at a mutually convenient time.

6.1.5 Subject to Clause 6.1.7, if You report a problem with Your HIU to Us We will visit Your Home to address the problem within the following time periods from when You report the problem to Us:

- (a) in emergencies, including where there is a leak of any form from Your HIU – within four (4) hours;
- (b) in any circumstance not within paragraph (a) above where You are experiencing a full or partial loss of the Heat Supply – within eight (8) hours, however for the purposes of determining whether We have complied with that eight (8) hour time period any period of time between the hours of 8.00pm and 8.00am shall be disregarded; and
- (c) in respect of any other problem – within twenty four (24) hours, however for the purposes of determining whether We have complied with that twenty four (24) hour time period any period of time between the hours of 8.00pm and 8.00am on Mondays to Fridays, and all day on a Saturday and Sunday shall be disregarded.

When We visit Your Home We will endeavour to repair or correct the relevant problem or fault. If We require a part in order to do so which is not available to Us at the time We visit Your Home, We will agree a time with You for Us to visit Your Home again to repair or correct the problem or fault as soon as reasonably practicable after We are in possession of the required part.

6.1.6 Subject to Clause 6.1.7, if You report a problem with Your Meter to Us We will visit Your Home to address the problem within 24 hours from when You report the problem to Us, however for the purposes of determining whether We have complied with that twenty four (24) hour time period any period of time between

the hours of 8.00pm and 8.00am shall be disregarded. When We visit Your Home We will endeavour to repair or correct the relevant problem or fault. If We require a part in order to do so which is not available to Us at the time We visit Your Home, We will agree a time with You for Us to visit Your Home again to repair or correct the problem or fault as soon as reasonably practicable after We are in possession of the required part.

6.1.7 We will, when You report a problem with Your Meter or HIU to Us, agree a two (2) hour time period (within the relevant period of time permitted for Us to respond to the problem under Clause 6.1.5 or 6.1.6, unless You ask Us to visit at a later time) with You (the "**Attendance Time**") within which You must provide Us with such access to Your Home as we reasonably require to address the problem with Your HIU or Your Meter. We must visit Your Home within the Attendance Time in order to comply with Our obligations under Clause 6.1.5 and Clause 6.1.6 above. If We do so and You fail to provide Us with access to Your Home during the Attendance Time We will have been deemed to have complied with those obligations and, for the avoidance of doubt, Clause 7.3 will apply.

## 6.2 **Your Responsibility and Liability**

6.2.1 You or, if applicable, Your landlord must ensure that Your Home's Heating System is maintained and repaired and, where necessary, replaced and We shall not be liable for the cost of replacement or repairs of any part of Your Home's Heating System. If the state of Your Home's Heating System is causing problems, or We believe on reasonable grounds that it is likely to cause problems, to the Development Heating System, the Meter or the HIU unless it is repaired or replaced, We may suspend the Heat Supply to Your Home's Heating System until Your Home's Heating System has been repaired or replaced to Our reasonable satisfaction.

6.2.2 You agree that You are responsible to Us for any damage or loss to the Development Heating System, the Meter or the HIU which in each case is caused by any work that You do or have done (other than where carried out by Us) to Your Home's Heating System (for example, where such loss or damage is caused by You draining Your Home's Heating System or moving radiators), or where You fail to maintain or repair Your Home's Heating System (for example by failing to repair leaks).

6.2.3 You must not and (in respect of the Meter and HIU to the extent that such Meter or HIU is within Your Home) must not allow any third party to:

- (a) tamper with or damage the Development Heating System, the Meter or the HIU; or
- (b) misuse Your Home's Heating System so that it causes any damage to the Development Heating System, the Meter or the HIU.

6.2.4 If any breach by You of Clause 6.2.3 causes damage to:

- (a) the Development Heating System, You will be liable for the damage caused, including the costs of repair or replacement, and We may charge You for the reasonable costs that We incur in repairing the Development Heating System and replacing any relevant parts; or
- (b) the Meter or HIU, and We are then unable to perform its obligations under this Agreement in respect of the Meter or HIU because of such damage, Our obligations in respect of the Meter or HIU shall be suspended until

such time as the damage has been repaired to the extent necessary to enable Us to perform such obligations in accordance with this Agreement.

6.2.5 You must inform Us immediately if You discover that any of the Development Heating System, the Meter or the HIU is damaged or destroyed, or if You become aware that anyone other than Us or Our agents interferes with or removes the Meter and/ or the HIU or if You believe the Meter or the HIU has been damaged.

6.2.6 You agree that We shall not be responsible for providing Our services under this Clause 6 (*Meters, HIU and Equipment*) where We reasonably consider that there is a health and safety risk, including the presence of dangerous materials, infestations, or harassment to Our staff (including any verbal or physical abuse or threat of physical abuse).

## 7 **ACCESS**

7.1 You will allow Us and Our duly authorised officers and agents safe and uninterrupted access to Your Home (without charge) in any circumstances permitted under this Agreement or required by Law. Access will be at a mutually convenient time and We will give You reasonable notice (of not less than three (3) days' notice, or seven (7) days' notice in respect of planned routine maintenance) where such access is required, unless there is an emergency or unless We believe there is a danger to people or a danger to property (which is likely to be material or to have a material economic impact) or unless We are required by Law to obtain access sooner.

7.2 In addition to any other purpose expressly referred to in this Agreement, We may require access for the purposes of:

- (a) inspecting, operating, repairing, exchanging, installing, removing, testing, maintaining, or carrying out other activities in relation to the Meter, the HIU, the Development Heating System or the System;
- (b) suspending the Heat Supply to Your Home's Heating System as permitted under the terms of this Agreement;
- (c) terminating this Agreement;
- (d) mitigating any danger We reasonably believe exists to people or property; and
- (e) any purpose required by Law.

7.3 If We agree a time with You for Us to visit Your Home for any purpose relating to this Agreement and You do not allow Us access at the agreed time then an "**Abortive Visit**" will be deemed to have occurred. Where We make more than one Abortive Visit to Your Home in respect of the same issue or for the same purpose You will be liable to pay Us the Abortive Call-out Charge in respect of each such Abortive Visit other than first such Abortive Visit.

7.4 If You do not allow Us reasonable access to Your Home when expressly required under this Agreement, and in circumstances where We have complied with Our obligations under this Agreement in respect of such access, We will refer the matter to Your landlord or the Estate Management Company as relevant who may, if they are entitled to do so, grant Us access to Your Home. If We are unable to gain access to Your Home through Your landlord or the Estate Management Company as relevant in such circumstances You will be liable for the reasonable

additional costs incurred by Us in carrying out any work without access to Your Home (to the extent such work is necessary for the purpose for which access to Your Home has been sought).

## 8 **TERMINATION**

8.1 We may terminate this Agreement without liability on written notice to You in accordance with Clause 8.3 if:

- (a) You are in material or persistent breach of the terms of this Agreement (other than Your obligation to pay the Charges);
- (b) You have not paid the Charges and We have complied with the provisions of Clause 10 (*Suspension and Reconnection*);
- (c) You or any third party for whom You are responsible has attempted to use the Heat Supply to Your Home without Our consent or in a manner designed to enable You or that third party to take any Heat Supply from the System without paying Us for it;
- (d) Our contractual obligation to make available the Heat Supply to Your Home under Our Agreement with the Developer ends or is terminated;
- (e) You no longer own or rent Your Home;
- (f) if You are an individual, You are declared bankrupt, or an individual or organisation takes formal steps to have You declared bankrupt and either:
  - (i) We reasonably believe You will not be in a position to pay the Charges to Us; or
  - (ii) You are more than six (6) months in arrears on relation to any Bill;
- (g) if You are a company, You:
  - (i) become subject to an administration order, sequestration proceedings, winding-up proceedings (except for the purposes of re-construction or amalgamation), or You are subject to the appointment of an administrator or administrative receiver, or a receiver is appointed over the whole or any part of Your assets; or
  - (ii) cease, or threaten to cease trading or become insolvent;
- (h) there is a fault with Your Home's Heating System which is materially adversely affecting the Development Heating System and such fault has remained unresolved for a continuous period of three (3) months or more since You became aware of the fault; or
- (i) there are circumstances beyond Our reasonable control (as specified in and governed by Clause 11 (*Events Beyond Our Control*)) which mean We are not able to perform Our duties under this Agreement.

8.2 If We have the right to terminate this Agreement under Clause 8.1, We may instead elect to suspend this Agreement at Our discretion on seven (7) days' advance notice. If We suspend this Agreement in accordance with this Clause 8.2 We will reconnect the Heat Supply to Your Home and recommence performing Our obligations under this Agreement only if the circumstances of Clause 8.1 cease to

apply and You have paid Us in full for any outstanding Charges due to Us and the Reconnection Charge. Before reconnecting the Heat Supply to Your Home We may also ask You to pay Us a deposit equivalent to Our reasonable estimate of Our likely Charges to You under this Agreement for a period of three (3) calendar months as set out in Clause 10.4(b) (and We will comply with Clause 10.5 if You pay Us a deposit under this Clause). However, We may still elect to terminate this Agreement if We choose to suspend this Agreement and the circumstances in which We are required to reconnect the Heat Supply have not yet occurred.

8.3 In all cases, We shall provide You with seven (7) days' advance written notice of termination of this Agreement.

#### 8.4 **Your Right to Terminate**

8.4.1 You may terminate this Agreement at any point by providing Us with not less than seven (7) calendar days' notice. You must notify Us that You wish to terminate this Agreement in writing, by emailing Us or using the form provided on Our Website, which You can print, complete and send to Us by post or deliver to Our offices.

8.4.2 Following such notice You must provide Us with a forwarding address so that We may contact You in respect of any Charges that You may owe Us, or any amounts that We may owe to You by completing the Moving Out form published on Our Website, or available from Us on request. We will take a final Meter reading on the date this Agreement terminates, and may ask You to allow Us access to Your Home to take the final Meter reading.

**PLEASE BE AWARE that unless You terminate this Agreement in accordance with this Clause 8 (*Termination*), You will be liable for Our Charges, whether or not You occupy Your Home.**

#### 9 **CONSEQUENCES OF TERMINATION**

9.1 You must pay for the Heat Supply to Your Home up to and including the date of termination and You will remain liable following termination for any other previous breach of this Agreement by You, and We will remain liable for the consequences of any previous breach by Us.

9.2 Where We exercise Our right to suspend the Heat Supply to Your Home or where this Agreement is terminated by either party, You must allow Us access to Your Home to suspend the Heat Supply to Your Home if necessary, and/or to alter or reconfigure the Meter or remove the Meter (with the consent of the owner of the Development), or any of Our equipment or anything else owned by Us and You must not reconnect the Heat Supply to Your Home without Our consent.

9.3 If You remain in occupation of Your Home and You take the Heat Supply to Your Home after termination or suspension, or allow anyone else to do so, You will be liable to pay Us for such Heat Supply to Your Home, at a price which We will notify You and in determining that price We shall have regard to any additional costs which We have incurred as a consequence of the Heat Supply to Your Home being taken.

#### 10 **SUSPENSION AND RECONNECTION**

10.1 We may disconnect the Heat Supply to Your Home and suspend performance of Our obligations under this Agreement in respect of the Heat Supply if You have not paid the Charges and provided We have complied with the provisions of Clauses 10.2.



- 10.2 Where You have not paid the Charges, We shall issue You with:
- (a) a first Reminder Letter where payment of the Charges are at least one (1) day overdue;
  - (b) a second Reminder Letter no less than seven (7) days after the first Reminder Letter where payment of the Charges are still overdue; and
  - (c) a third Reminder Letter no less than seven (7) days after the second Reminder Letter where payment of the Charges are still overdue,

We shall not suspend the Heat Supply to Your Home's Heating System unless We have issued each Reminder Letter in accordance with the timeframes set out in this Clause 10.2 and tried to contact You at least twice by phone (once on a week day, and once on a Saturday morning) after the second Reminder Letter but before the third Reminder Letter to notify You of the outstanding Charges. The third Reminder Letter will provide You with ten (10) days' advance notice of suspension. We will also notify Your landlord and/or the Estate Management Company as relevant that the Charges are overdue and that We may suspend the Heat Supply to Your Home.

- 10.3 You acknowledge that if You do not pay the Charges to Us within three days after We send You a third Reminder Letter We can charge You a Debt Processing Charge to cover Our costs of processing each Reminder Letter sent to You and managing the collection of Your outstanding Charges.

- 10.4 Where We have suspended this Agreement pursuant to Clause 10.1, provided that You pay Us:

- (a) in full all outstanding Charges due to Us, or We agree (at Our discretion) with You a plan under which You will pay back such outstanding Charges over an extended period of time, while also being provided with (and paying for) the Heat Supply;
- (b) a deposit equivalent to Our reasonable estimate of Our likely Charges to You under this Agreement for a period of three (3) calendar months; and
- (c) the Reconnection Charge,

We will, within forty eight (48) hours, reconnect the Heat Supply to Your Home and recommence performing Our obligations under this Agreement.

- 10.5 If You pay Us a deposit pursuant to Clause 10.4(b) We will promptly return that deposit to You if, at any time after any subsequent reconnection, You have over any continuous twelve (12) month period paid all amounts You are required to pay Us under this Agreement in full within the times permitted under this Agreement for such payments.

- 10.6 Where the Heat Supply to Your Home has been suspended, We may terminate this Agreement pursuant to Clause 8.1 if:

- (a) the Heat Supply to Your Home has been suspended for more than forty (40) days;
- (b) We have sent You at least two (2) further Reminder Letters. Our final Reminder Letter will provide You with thirty (30) days' advance notice of termination of the Agreement; and

- (c) We have attempted to visit You at Your Home (not less than ten (10) days prior to termination) to notify You of the outstanding Charges and give you notice of potential termination of this Agreement.

## 11 **EVENTS BEYOND OUR CONTROL**

Neither You nor We will be liable for failure to comply with Our respective obligations under this Agreement where You or We are unable to comply with such obligations because of war, civil war, terrorism, civil conflict or nuclear, chemical or biological contamination or other reasonably analogous events or where We are prevented from performing Our obligations by events outside of Our reasonable control (except We will be liable where any such events are caused by Us or due to Our negligence) and provided that We have taken all reasonable steps to guard against and mitigate against such events. We undertake to inform You, and You undertake to inform Us in the event that We or You are encountering difficulties as a result such events within two days of the event arising. The obligations of both parties will be suspended until the event is resolved.

## 12 **LIMITATION OF LIABILITY**

12.1 We are not liable for any failure of or problems with Your Home's Heating System unless the relevant failure or problem is caused by any act or failure to act by Us or breach of this Agreement by Us including, without limitation, Our obligations in respect of the maintenance, repair and replacement of the Meter and the HIU as stipulated in this Agreement.

12.2 Nothing in this Agreement:

- (a) excludes Our liability for fraud or fraudulent misrepresentation;
- (b) excludes Our liability for death or personal injury resulting from Our or Our employees, authorised officers and agents negligence; or
- (c) affects Your statutory rights as a consumer.

12.3 If We or Our employees, authorised officers or agents do not comply with the terms of this Agreement We will not be liable to You for any loss or damage arising from any breach of this Agreement that could not have been reasonably expected when We entered this Agreement with You, nor will We be liable for any indirect loss, such as loss of profits, income, business or goodwill. We will be liable for direct loss or damage caused by Our negligence or breach of this Agreement provided that Our liability for such loss or damage in a twelve (12) month period shall be limited to ten thousand pounds (£10,000), increased annually by the annual increase in CPI, for any one event, or any series of connected events. The provisions of this Clause do not affect Our obligations to operate the Heat Supply in accordance with the Service Standards nor Your rights to receive a Service Payment pursuant to Schedule 2 (Service Standards and Service Failures).

12.4 If You do not comply with the terms of this Agreement You will not be liable to Us for any loss or damage arising from any breach by You of this Agreement that could not have been reasonably expected when We entered into this Agreement with You, nor will You be liable for any indirect loss, nor for any loss (whether direct or indirect) of profits, income, business or goodwill.

13 **DISPUTE RESOLUTION**

13.1 If You have a complaint about Our services, You should follow the procedure set out below:

- (a) In the first instance, please contact Our complaints management team who will attempt to resolve Your complaint. Their contact details are available on Our Website, or from Us on request.
- (b) If You are not happy with the way in which Your complaint has been dealt with, please contact Our Operations Director. His contact details are available on Our Website, or from Us on request.
- (c) We will always try and resolve Your complaint as quickly as possible and We will notify Your landlord and/or the Estate Management Company as relevant of any complaint You make to Us.
- (d) If Your complaint has not been resolved to Your satisfaction by any of the above measures within eight (8) weeks of the date on which You first contacted Us about that complaint then You may contact the Ombudsman for Energy who can deal with Your complaint on Your behalf. Contact details for the Ombudsman for Energy are available on Our Website, or from Us on request. Any direction or determination by the Ombudsman for Energy in respect of Your complaint shall be final and binding on both You and Us.

13.2 The cost for making any complaint to the Ombudsman for Energy shall be borne by Us, except that We may charge You for any costs charged to Us by the Ombudsman for Energy where the Ombudsman for Energy has dismissed any complaint brought by You on the grounds that it has no merit on two or more occasions in any twelve (12) month period.

14 **USE OF PERSONAL INFORMATION**

14.1 Information that You provide to Us, or that We hold about You or Your account or other people living at Your Home will be used and stored in accordance with all applicable laws relating to privacy and data protection, including (but not limited to) the Data Protection Act 1998 and will be used by Us to service Your account, including but not limited to:

- (a) identifying You when You make telephone enquiries;
- (b) helping administer any accounts and services provided by Us to You, including administering any complaint or dispute;
- (c) helping Us detect any fraud or loss;
- (d) providing information to Your landlord and/or the Estate Management Company as relevant about Our relationship with You, such as informing them of any complaint You make to Us or if We intend to suspend the Heat Supply to Your Home; and
- (e) providing information to the Developer or someone appointed by the Developer to allow the Developer or the person appointed by the Developer to provide the Heat Supply to Your Home. This will include transferring relevant information to the Developer or the person appointed by the Developer if Our contractual obligation and/or rights to provide the

Heat Supply to the Development are terminated or suspended for any reason.

- 14.2 In connection with this Agreement, We may carry out credit and fraud prevention checks with one or more licensed credit reference and fraud prevention agencies and the agencies may retain a record of the search. Unless You are in default of Your payment obligations under this Agreement, We may only carry out such checks once during the term of this Agreement. The records may be linked to records relating to other persons living at the same address and such may be taken into account in credit and fraud prevention checks. Information about the payment details of Your account may be recorded with one or more of credit reference and fraud prevention agencies and that information may be shared with other organisations to help make credit and insurance decisions about You and members of Your household and for debt collection and fraud prevention. If You provide false and inaccurate information and We suspect fraud, We may record this fact.
- 14.3 We may monitor or record any telephone calls You make to Us or We make to You to ensure Service Standards are being met and for the prevention and detection of fraud and unauthorised use.
- 14.4 You consent (and will obtain the consent of any persons whose personal information You provide to Us) to the processing of any personal information provided in accordance with Clause 14 (*Use of Personal Information*).

## 15 **GENERAL**

- 15.1 If You let Your Home We will on request enter into a direct supply agreement with Your tenant. Where this occurs:
- (a) We will provide a supply agreement in the same form as this Agreement to either You or Your tenant, as requested, for Your tenant to sign;
  - (b) this Agreement will be suspended from the date on which Our agreement with Your tenant commences. While this Agreement is suspended Our obligations and Your obligations under this Agreement shall not apply, including Your obligation to pay for any Charges incurred after the date of such suspension. This will not affect any liabilities incurred before the date of suspension;
  - (c) We will obtain a final pre-suspension Meter reading using our automatic reading system. If We are unable to do so We may ask You to give us the final pre-suspension Meter reading;
  - (d) this Agreement will cease to be suspended on the date Our agreement with Your tenant terminates, however We must give You at least fourteen (14) days' notice in writing of the end of the suspension period before You become liable for any Charges under this Agreement;
  - (e) You must give Us notice if the letting with Your tenant comes to an end; and
  - (f) at the end of Our agreement with Your tenant We will obtain a final Meter reading using our automatic reading system. If We are unable to do so We may ask Your tenant to give Us the final Meter reading or, if Your tenant does not provide such information, We may request the final Meter reading from You.

- 15.2 We will be entitled to assign or otherwise transfer Our rights and obligations under this Agreement at any time on written notice to You. We shall be able to subcontract any of Our obligations under this Agreement. You may not assign or otherwise transfer Your rights or obligations under this Agreement without Our prior written consent.
- 15.3 Any notices We are required or wish to give You under the Agreement will be accepted by You as properly given if delivered or sent to Your address for correspondence as stated in this Agreement or such other address as You may in future request Us to use. Any notices sent through the post shall be deemed to be delivered upon the earlier of actual receipt, or three (3) days from posting. Any notices delivered by hand shall be effective on delivery.
- 15.4 If We delay enforcement of or choose not to enforce Our rights under this agreement at any time this will not prevent Us from enforcing Our rights in future. For example, if We do not immediately take action to ask You for payment of Charges that You owe Us, this will not prevent Us from doing so in future.
- 15.5 If more than one person is named on Your account with Us, then each account holder is responsible for payment of the Charges, and We may claim any unpaid Charges due to Us from one or all of the account holders, provided that We may not recover more in total than We are owed under the terms of this Agreement.
- 15.6 This Agreement includes everything agreed between Us and You. Anything that happened or was written before about the subjects dealt with in this Agreement is superseded, including any provisions included in the Welcome Pack. Neither You nor We have relied on any representation or warranty that is not written in this Agreement.
- 15.7 No party can obtain any rights under this Agreement apart from You and Us. The Contracts (Rights of Third Parties) Act 1999 is excluded.
- 15.8 Each of the terms and conditions of this Agreement is separate. If We or You are told by a court or other authority that We or You cannot rely on a certain Clause, the other Clauses of this Agreement will still apply.
- 15.9 Termination of this Agreement shall not affect the continuance in force of any provision of this Agreement which is expressly or by implication intended to continue in force after termination, including Clause 5.2 and Clause 5.4 (each in respect of any Charges accrued prior to termination of this Agreement only), Clause 8.4.2, Clause 9.2, Clause 12 (*Limitation of Liability*), Clause 14 (*Use of Personal Information*), Clause 15.1 to Clause 15.9 (inclusive) and Clause 15.12.
- 15.10 If You contact Us, We can provide advice on how to reduce Your energy consumption and carbon emissions.
- 15.11 We may change the terms of this Agreement (except changes to the Charges which shall be governed solely by the provisions of Clause 5.11 and Schedule 1 (*Our Charges*) subject to Our agreement with the Developer and provided that We first obtain the written approval of the Supervising Body. For example We may need to amend the terms to comply with the Law or any regulation of Our services, or because the terms on which we are permitted to provide a Heat Supply to Your Home have changed. We will make details of any changes available on Our Website and will also give You at least thirty (30) days' notice in writing of any change to the terms of this Agreement.

15.12 This Agreement will be governed by and construed in accordance with the laws of England, and both You and Us agree to submit to the exclusive jurisdiction of the English Courts.

**Schedule 1  
Our Charges**

**1 HEAT SUPPLY CHARGES**

Our charges to You will be made up of a Standing Charge payable monthly irrespective of the consumption of the Heat Supply to Your Home, a Unit Charge representing the consumption of the Heat Supply to Your Home, and a Common Heat Availability Charge to make the Heat Supply available to Your Home as follows:

<b>Charge</b>	<b>Excluding VAT</b>	<b>Including VAT</b>
Standing Charge	£[•] per month	<b>£[•] per month</b>
Unit Charge	[•] p per Kilowatt-hour	<b>[•] p per Kilowatt-hour</b>
Common Heat Availability Charge	[•] p per Kilowatt-hour	<b>[•] p per Kilowatt-hour</b>

**2 COMMON HEAT AVAILABILITY CHARGE**

The Common Heat Availability Charge is calculated using the following formula:

$$\text{Common Heat Availability Charge Kilowatt-hours} = \frac{(\text{NM (Kilowatt-hour)} - \text{CM (Kilowatt-hour)}) - (\text{NM (Kilowatt hour)} \times 0.15)}{\text{CM (Number)}}$$

Where:

NM (Kilowatt hour) = the reading of the Network Meter

CM (Kilowatt hour) = the readings of all of the Customer Meters

CM (Number) = the total number of Customer Meters

**3 ABORTIVE CALL-OUT CHARGE**

The Abortive Call-out Charge is £30. We may increase the amount of the Abortive Call-out Charge annually on 31 March in accordance with the respective annual increase in CPI.

**4 DEBT PROCESSING CHARGE**

The Debt Processing Charge is £15. We may increase the amount of Debt Processing Charge annually on 31 March in accordance with the respective annual increase in CPI.

5        **RECONNECTION CHARGE**

The Reconnection Charge is £30. We may increase the amount of Reconnection Charge annually on 31 March in accordance with the respective annual increase in CPI.

6        **OTHER CHARGES**

Where We undertake any work in accordance with this Agreement that You are liable to pay Us for, We will charge You at the rates We have agreed with the Supervising Body and as are set out on Our Website as amended from time to time.



**Schedule 2**  
**Service Standards and Service Failures**

- 1 Our Service Standards are set out below. We aim to meet Your expectations in respect of the Heat Supply to Your Home. We may update or improve the Service Standards without Your consent but not in any manner which would make the Service Standards less beneficial to You or less demanding on Us. Any change or update to the Service Standards will be initially published on Our Website and a paper copy sent to You as soon as possible.
  
- 2 In the event of a Service Failure, You will be entitled to have the relevant Service Payment credited against Your account. We will apply the total amount of the Service Payments accrued during the period to which any Bill relates (the "**Total Service Payment**") to that Bill in accordance with this Agreement. To the extent that the Total Service Payment is greater than the amount which would otherwise be payable under the relevant Bill in accordance with this Agreement, any excess shall be applied to the following Bill.
  
- 3 Any Total Service Payment shall be calculated by Us, by adding up any Service Payments that have accrued to You as a result of Service Failures that have occurred over the period to which the relevant Bill relates. We may determine that a Total Service Payment be used to pay Your final Bill in the event that this Agreement is terminated.

<b>Item</b>	<b>Standard</b>	<b>Required Service Level</b>	<b>Service Failure</b>	<b>Service Payment</b>
GS1	Planned supply interruption	Prior notice to You by Us of scheduled maintenance works to the System or the Development Heating System that interrupt the supply of heat to Your Home	Less than five (5) working days' notice of supply interruption	£20 per instance  If claimed by You within 3 months
GS2	Unplanned supply interruption	The Heat Supply (with water within the temperature range required under Our agreement with the Supervising Body) will be available to the point of connection to Your Home's Heating System within 24 hours of the start of any unplanned interruption	On failure to achieve this, a fixed compensation payment will be paid by Us to You, and a further payment will be made for each additional period of 24 hours until Your supply is restored	£30 per instance  Capped at £300 per Service Period
GS3	Meter repair or replacement	Meter accuracy to be maintained within the requirements We have agreed with the Supervising Body and an initial accuracy of +/-3%	Faulty Meter not replaced twenty eight (28) days after a fault is shown to exist	£25 per instance
GS4	Notifying customers	We shall write to You within 10 working days of	Where We fail to achieve this level of	£20 per instance

	that a penalty payment is due & making payments owed	the date we become aware of any overpayment by You or of any compensation falling due to You and shall make the relevant payment to You within a further ten (10) working days.	service, a fixed compensation payment will be made	
GS5	Responding Substantially to a Complaint	Substantially respond to a complaint within ten (10) working days or twenty (20) working days where a site visit or third party enquiries are required. However, if a substantive response is unable to be provided because a site visit is required, we will provide an initial response indicating this within ten (10) working days.	Where we fail to achieve this level of service, a fixed payment will be made in respect of the initial failure and each succeeding five (5) working days during which the failure continues.	£20 Capped at £100 per Service Period

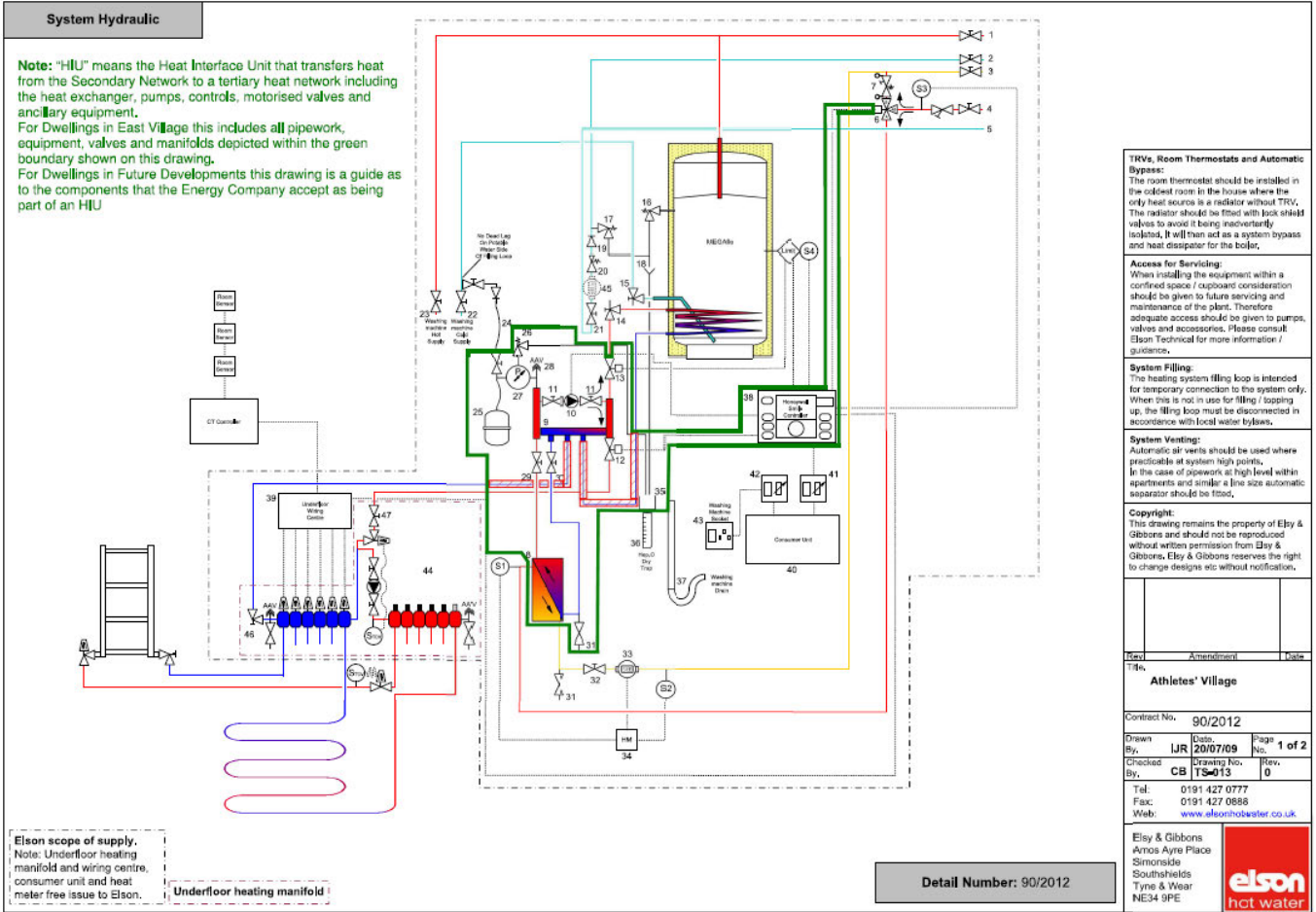
The Service Payments and each related cap shall be increased annually on 31 March in accordance with the respective annual increase in CPI.

Notwithstanding the above, no Service Payment will be payable to You if the relevant Service Failure is caused by one of the circumstances set out below.

GS2 and GS3	The Service Failure was caused by a breach of this Agreement by You
GS2 only	We are prevented from making the Heat Supply to Your Home by any of the circumstances set out in Clause 11 ( <i>Events Beyond Our Control</i> ), provided that We have used reasonable endeavours to mitigate the consequences of any such circumstances and resume provision of the Heat Supply as soon as possible
	We are required by Law to shut down the System or the Development Heating System provided that the need to shut down the System or the Development Heating System does not relate to or arise out of any breach of this Agreement by Us or any negligent act or omission by Us
	We have suspended the Heat Supply because We believe on reasonable grounds that it is necessary to do so to avoid: <ul style="list-style-type: none"> <li>(a) endangering the life of any person; or</li> <li>(b) endangering any physical property, provided that both the relevant damage to such property and its economic impact are likely to be material,</li> </ul> provided, in each case, that the need to suspend the Heat Supply does not relate to or arise out of any breach of this Agreement or any negligent act or omission by Us.

	We have suspended the Heat Supply to Your Home pursuant to Clause 8.2 or Clause 10.1 of this Agreement
	Any event which causes an interruption to Your Heat Supply and to the heat supply of more than 2,000 of Our customers at the same time

# Schedule 3 HIU Drawing



Item No.	Description	Connection Size
1	DHW Flow (22mm compression 1/4 turn full bore isolation valve with tee handle)	22mm Compression (uncapped)
2	Balanced Cold Water (15mm compression 1/4 turn full bore isolation valve with tee handle)	15mm Compression (uncapped)
3	Landlord LTHW Return (22mm compression 1/4 turn full bore isolation valve with tee handle)	22mm Compression (uncapped)
4	Landlord LTHW Flow (22mm compression 1/4 turn full bore isolation valve with tee handle)	22mm Compression (uncapped)
5	Cold Water Services In (22mm copper pipe)	22mm Copper Pipe (uncapped)
6	Honeywell 3-port diverting valve (V4044C)	
7	Fresa Automatic Balancing Valve (S valve 53-2000)	
8	Insulated Plate Heat Exchanger Alfa Laval CBH18-40H	
9	Elson 4 port manifold	
10	Grundfos Alpha 2 25-60 circulating pump	
11	Pump isolation valves	
12	Honeywell 2 port central heating zone valve (V4043)	
13	Honeywell 2 port DHW primary zone valve (V4043)	
14	Angle pattern drain cock (DHW primary)	
15	Angle pattern drain cock (DHW cold feed)	
16	Temperature and pressure relief valve	
17	Expansion relief valve	
18	Tundish	
19	Check valve	
20	Pressure limiting valve	
21	Stop cock	
22	Washing machine cold water supply tap	
23	Washing machine hot water supply tap	
24	Filling loop incorporating 15mm compression fittings with ball valve and lever & double check valve	
25	10 litre flat expansion vessel (Tenant's primary)	
26	Pressure relief valve (Tenant's primary)	
27	Pressure gauge	
28	AAV	
29	Plate heat exchanger isolation valve (Tenant's primary flow)	
30	Plate heat exchanger isolation valve (Tenant's primary return)	
31	Plate heat exchanger drain cock	
32	Isolation valve (volume flow meter)	
33	Volume flow meter	
34	Heat meter	
35	Plastic tundish	
36	HepCO dry trap	PP 32mm uncapped
37	Washing machine waste pipe - (Marley extrusion - high temp PP BS5254: 1978-1)	PP 40mm uncapped
38	Honeywell Smile controller	
39	Underfloor heating wiring centre	
40	Consumer unit (Apex Wiring Solutions)	
41	Fused switch spur (heating system)	
42	Fused switch spur (washing machine)	
43	Washing machine socket	
44	Underfloor heating manifold	
45	Water meter (Where specified)	
46	Angle pattern isolation valve (underfloor heating return manifold)	
47	Isolation valve (underfloor heating flow manifold)	

**TRVs, Room Thermostats and Automatic Bypass:**  
The room thermostat should be installed in the coldest room in the house where the only heat source is a radiator without TRV. The radiator should be fitted with lock shield valves to avoid it being inadvertently isolated. If it then act as a system bypass and heat dissipator for the boiler.

**Access for Servicing:**  
When installing the equipment within a confined space / cupboard consideration should be given to future servicing and maintenance of the plant. Therefore adequate access should be given to pumps, valves and accessories. Please consult Elson Technical for more information / guidance.

**System Filling:**  
The heating system filling loop is intended for temporary connection to the system only. When this is not in use for filling / topping up, the filling loop must be disconnected in accordance with local water bylaws.

**System Venting:**  
Automatic air vents should be used where practicable at system high points. In the case of pipework at high level within apartments and similar a line size automatic separator should be fitted.

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Rev	Amendment	Date

**Athletes' Village**


Contract No. 90/2012

Drawn By	Date	Page No.	Page 2 of 2
JJR	20/07/09		

Checked By	Drawing No.	Rev.
CB	13413	0

Tel: 0191 427 0777  
Fax: 0191 427 0888  
Web: [www.elsonhotwater.co.uk](http://www.elsonhotwater.co.uk)

Eljay & Gibbons  
Annos Ayre Place  
Simonside  
South Shields  
Tyne & Wear  
NE34 9PE



#### **Schedule 4 HIU Exclusions**

In relation to Our obligation to maintain, repair or replace your HIU We will not be liable for the following:

- 1 The costs of repair to the HIU where such repair is required due to damage to the HIU caused by You, or where work is undertaken on the HIU by someone other than Us;
- 2 Any loss or damage to property as a result of the HIU or Your Home's Heating System breaking or failing, including any cleaning needed, or any damage to Your belonging, fixtures or furniture, unless such loss or damage is caused by Us;
- 3 Making good any holes or surfaces beyond filling them in or making surfaces level;
- 4 Repairing faults or damage caused by subsidence, structural repairs, accident, fire, lightning, explosion, flood (unless in each such case caused or contributed to by Us) or storm or freezing weather conditions;
- 5 Any costs to gain access to the HIU (such as removing Your fixtures and fittings or repairing and making them good) other than removing an access panel or opening cupboard doors or obtaining access through access points designed by the Developer of Your Home;
- 6 Replacement of any appliances, bathroom fixtures, showers and sanitary ware unless such loss or damage is caused or contributed to by Us;
- 7 Upgrades that You may want to have carried out to improve the HIU or Your Home's Heating System;
- 8 Replacing or repairing parts which do not affect how the HIU or Your Home's Heating System works or performs (for example any decorative parts);
- 9 Resetting the HIU controls, such as thermostats or programmers following changes due to winter or summer months;
- 10 Providing cash alternatives instead of Us performing any of Our maintenance, repair or replacement obligations;
- 11 The costs of repairing damage or breakdowns caused by changes to or problems with any other utility services (except the provision of the Heat Supply);
- 12 Loss or damage to the HIU or Your Home's Heating System if radio frequency allocations are subsequently altered and they interfere with the HIU or Your Home's Heating System or any controls;
- 13 Replacing (except during the HIU Repair Period) any batteries in any controls that operate the HIU or Your Home's Heating System;
- 14 Removing sludge or hardwater scale from Your Home's Heating System or any appliance, or repairing damage caused to the HIU or Your Home's Heating System by sludge or hardwater scale within Your Home's Heating System unless caused by Us; or

- 15 The water treatment of any water circuits in Your Home's Heating System except where Your Home's Heating System is drained by Us to enable us to comply with Our obligations under this Agreement.