

Dated day of 200

NORTHERN IRELAND ELECTRICITY plc

and

THE CUSTOMER NAMED IN SCHEDULE 1

**USE OF SYSTEM
WHEELING AGREEMENT**

Legal Department
Northern Ireland Electricity plc
120 Malone Road
BELFAST BT9 5HT

THIS WHEELING AGREEMENT IS MADE BETWEEN:

- (1) **NORTHERN IRELAND ELECTRICITY plc** whose registered office is at 120 Malone Road, Belfast, BT9 5HT (hereinafter called “NIE” which expression shall include its permitted successors and assigns); and
- (2) **THE CUSTOMER** identified in Schedule 1 having its registered address at the place identified in Schedule 1 (hereinafter called “the Customer” which expression shall include its permitted successors and assigns),

each a “Party” and together the “Parties”.

1. Scope of Agreement

The Customer wishes to sell its excess electricity to Exit Point(s) in the capacity of Wheeling Supplier and NIE agrees to transport electricity through the NIE System to these Exit Points in accordance with the terms and conditions of this Wheeling Agreement.

2. Definitions, Interpretation and Construction

- 2.1 Unless the subject matter or context otherwise requires, terms and expressions defined in the General Conditions have the same meanings in this Wheeling Agreement and the following words and phrases have the meanings set out below:

“Entry Point” means the Point of Supply at which the Customer’s Plant and Apparatus is connected to the NIE System.

“Exemption Order” means the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1999.

“Exit Point(s)” means the Point(s) of Supply nominated by the Customer and to which NIE is to nominally deliver the electricity transported through the NIE System, pursuant to this Wheeling Agreement.

“General Conditions” means the Conditions Applicable to Electricity Agreements entered into with Northern Ireland Electricity plc, as amended from time to time.

“Industry Arrangements” means:

- (a) the Order, and the Exemption Order, and any direction or instruction issued, and any deemed agreement made, under either the Order or the Exemption Order; and
- (b) any standard, code, code of practice or associated instrument or agreement or other instrument or document established

pursuant to the Licence or the Order with which NIE and/or the Customer, as applicable, is required to comply or enter into insofar as it relates to obligations under this Agreement and (for the avoidance of doubt) includes those instruments or documents referred to by name elsewhere in this Wheeling Agreement.

- “Wheeling”** means the nominal transmission of electricity through the NIE System from the Entry Point to Exit Points.
- “Wheeling Charges”** means the charges for the Wheeling of electricity calculated in accordance with the Statement of Charges for Use of the Northern Ireland Electricity plc Electricity Transmission and Distribution System by Authorised Persons as in effect from time to time.
- “Wheeling Supplier”** means a supplier who is entitled to Wheel, and who is exempt from the requirement to hold an electricity supply licence under Schedule 1 or Schedule 2 of the Exemption Order.

2.2 The General Conditions apply to and are incorporated into this Wheeling Agreement except where varied by this Wheeling Agreement. If there is any inconsistency between this Wheeling Agreement and the General Conditions, this Wheeling Agreement shall prevail to the extent of any inconsistency.

3. Wheeling

3.1 In consideration of the payment of the Wheeling Charges by the Customer, NIE shall Wheel electricity through the NIE System from the Entry Point to the Exit Point(s) pursuant to the terms and conditions of this Agreement.

3.2 The Customer may nominate at any time up to a maximum of ten (10) Point(s) of Supply as proposed Exit Points. On receipt of written notice from NIE accepting such nomination(s), the Customer shall be entitled to Wheel to the nominated Exit Points.

3.3 The Customer shall comply with the Industry Arrangements and such procedures in relation to Wheeling as NIE may notify to the Customer from time to time.

3.4 NIE reserves the right to deny, curtail or discontinue Wheeling: (i) if the provision of such service would adversely affect the adequacy or reliability of the NIE System; (ii) in order to manage restrictions or limitations to transmission capacities due to equipment failure or necessary maintenance; (iii) in the event of Force Majeure; and/or (iv) at any time that the Customer is in breach of this Wheeling Agreement.

4. Calculation and Payment of Charges

- 4.1 During the term of this Wheeling Agreement, the Customer shall pay to NIE the Wheeling Charges.
- 4.2 NIE shall submit to the Customer invoices in respect of the amounts due from the Customer. The Customer shall pay such invoices to NIE within ten (10) Business Days of receipt of the invoice.
- 4.3 If any sum due under this Wheeling Agreement is not paid by the due date, NIE may charge daily interest on the outstanding balance of such invoice from the due date until the date payment in full is received at the rate of three per cent (3%) above the base lending rate of the Bank of Ireland.
- 4.4 If the Customer disputes any portion of the amount shown as due on the invoice, the Customer will pay the undisputed portion and provide with its payment a detailed statement of the basis for any dispute. The Parties will meet within twenty (20) Business Days of the date of receipt by NIE of the Customer's statement of disputed amounts and will negotiate in good faith to resolve such dispute, failing which either Party may refer the dispute to the dispute resolution procedures as provided in the General Conditions.

5. Security

NIE may, at its discretion and on reasonable terms, require the Customer to provide security for payment of any amount due under this Wheeling Agreement. The amount of security to be provided by the Customer (if any) shall be calculated in accordance with the relevant sections of the NIE payment security policy, as prevailing from time to time, in relation to Use of System Agreement.

6. Termination of Wheeling Agreement

- 6.1 This Wheeling Agreement shall commence on the date of its execution and shall continue in full force and effect unless terminated in accordance with this clause 6. Termination of this Wheeling Agreement shall not affect any rights or obligations already accrued.
- 6.2 NIE may terminate this Wheeling Agreement, termination to be with immediate effect or with effect from any later date specified in the notice, if any one of the following events occurs:
- 6.2.1 the Customer ceases to be authorised to supply electricity in the capacity of Wheeling Supplier by licence or exemption;
 - 6.2.2 the Customer has failed to pay any invoice under this Wheeling Agreement by the due date for payment and such non-payment continues unremedied and not contested in good faith twenty (20) Business Days following written notification by NIE of such non-payment;
 - 6.2.3 the Customer enters into a scheme of arrangement or a composition with or for the benefit of its creditors (other than a scheme of solvent reorganisation), or a receiver, liquidator, provisional liquidator, administrator or administrative receiver is appointed in relation to the Customer or any material part of the assets of the Customer, or a resolution is proposed or passed to wind up the Customer or the

Customer becomes unable to pay its debts as and when they fall due or any similar events to any of the foregoing occurs under the laws of any jurisdiction to which the Customer is subject;

6.2.4 material breach by the Customer of any obligations arising under this Wheeling Agreement, any Industry Arrangement and any other applicable law; and

6.2.5 following a change in the Industry Arrangements, an incompatibility arises between this Wheeling Agreement and any of the Industry Arrangements.

6.3 The Customer may terminate this Wheeling Agreement by giving not less than twenty-eight (28) days prior written notice. Upon termination of this Wheeling Agreement, the Customer shall pay to NIE all Wheeling Charges accrued as at the date of termination of this Wheeling Agreement.

7. Limitation of Liability

7.1 Neither Party nor its officers, employees or agents shall be liable to the other Party for loss arising under or in respect of this Wheeling Agreement other than for loss or physical damage to the other Party's property directly resulting from a breach of this Wheeling Agreement and which at the date of this Wheeling Agreement was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach provided that the liability of a Party in respect of all claims for loss under this Wheeling Agreement shall not exceed, per event or incident or series of related events or incidents, the amount of £10,000. For this purpose, a "series of related events or incidents" shall include any series of related events or incidents on the NIE System, whether affecting one or more Points of Supply and regardless of the proximity of such Points of Supply.

7.2 No liability shall arise under this contract for loss of profit, loss of revenue, loss of use, loss of contract (other than this Agreement), loss of goodwill, indirect or consequential loss or loss resulting from the liability of the other Party to any person however arising except as provided in Clause 7.3.

7.3 Nothing in this Wheeling Agreement shall exclude or limit the liability of NIE or the Customer for death or personal injury resulting from its negligence or the negligence of its officers, employees or agents.

8. Notices

8.1 All notices and other communications between the Parties under or in connection with this Wheeling Agreement shall be sent to the address and contact details for each Party as set out in Schedule 1 to this Wheeling Agreement.

8.2 Contact details of a Party can be amended from time to time by notice from that Party.

9. Third Party Rights

A person who is not a Party to this Wheeling Agreement has no right, and is not intended by NIE or the Customer to have any right, under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Wheeling Agreement.

Signed by the duly authorised representatives of the Parties as an agreement on the date written below.

Signed on behalf of NIE:.....

Name:

Position:

Date:

Signed on behalf of User :.....

Name:

Position:

Date:

**Schedule 1:
Contract details**

1. Details of the Customer

Name of Customer	
Registered Address of Customer	
NIE Number of Customer	

2. Address for notices to the Customer

Address for notices	
Attention	
Telephone number	
Facsimile number	

3. Address for notices to NIE

Address for notices	120 Malone Road Belfast BT9 5HT
Attention	Company Secretary
Telephone number	02890 661100
Facsimile number	02890 689269