

**METERING AGREEMENTS MODIFICATION PROVISIONS**

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## **METERING AGREEMENTS MODIFICATION PROVISIONS**

### **1. STATUS OF THESE PROVISIONS**

#### **1.1 Origin of these Provisions**

National Grid provides Metering Services under and in accordance with the following agreements:-

- (a) the agreement entitled "Agreement and General Conditions of Contract for the Provision and Maintenance of Metering Equipment";
- (b) the agreement entitled "Network Metering Equipment Agreement and General Conditions of Contract for the Provision and Maintenance of Metering Equipment not connected to the National Grid System";
- (c) the agreement entitled "Agreement and General Conditions of Contract for Transactional Meter Works Not Exceeding 7 Bar";
- (d) the agreement entitled "Agreement and General Conditions of Contract for Above 7 Bar Transactional Meter Works";
- (e) the agreement entitled "Agreement and General Conditions of Contract for Adversarial Meter Works"; and
- (f) the agreement entitled "Rainbow System User Agreement",

and also the Rainbow MAM Manual (together the "**Metering Agreements**").

#### **1.2 Purpose of these Provisions**

These Provisions constitute the only means by which the Metering Agreements (including these Provisions to the extent comprising a part thereof) may be modified, except that the Metering Agreements (but not these Provisions to the extent comprising a part thereof) may also be modified in such manner as may be expressly provided therein.

#### **1.3 National Grid's Metering Charges**

These Provisions do not apply to the prices charged by National Grid for the provision of Metering Services, which are currently set out in National Grid's Metering Charges Statement published in accordance with the National Grid Licence.

#### **1.4 Part of Metering Agreements**

These Provisions constitute a part of the Metering Agreements and are the "Metering Agreements Modification Provisions" referred to therein.

## 2. DEFINITIONS AND INTERPRETATION

### 2.1 Defined terms

For the purposes of these Provisions, except as is otherwise expressly provided herein or unless the context otherwise requires, the terms and expressions defined in the Metering Agreements have the same meanings, interpretations or construction when used in these Provisions. In addition, the following terms shall have the meanings given to each (and derivative expressions shall be construed accordingly):-

**“Additional Extra Votes”**: shall have the meaning ascribed to that term in paragraph 8 of the Annex;

**“Agenda”**: shall mean an Agenda detailing (amongst other things) the nature of the matters and materials to be discussed at the meeting of the Contract Review Group to which the Agenda relates;

**“Annex”**: shall mean the Annex to these Provisions;

**“Annual Meeting Timetable”**: shall mean the provisional schedule of meetings of the Contract Review Group to be held in each calendar year, to be circulated by the Secretary to all Representatives on or prior to the commencement of that calendar year (or, in the case of 2004, as soon as reasonably practicable following the coming into effect of these Provisions);

**“Commercial Change”**: shall mean a Modification Proposal made by either National Grid or a Customer which is not a Mandatory Change or an RGMA Change;

**“Consultation Phase”**: shall mean those provisions of the Modification Procedures set out in Clause 7 and, as the context may require, any of those provisions;

**“Contract Review Group”**: shall mean the Contract Review Group established and constituted from time to time pursuant to and in accordance with these Provisions;

**“Customer”**: shall mean a Supplier and a signatory to one or more Metering Agreements;

**“Customer Consensus”**: shall have the meaning ascribed to that term in paragraph 1 of the Annex;

**“Customer Proposal”**: shall mean any Modification Proposal made by a Customer pursuant to Clause 6.1.2;

**“Customer Representative”**: shall mean the individual for the time being appointed by a Customer as a representative of the Customer pursuant to Clause 4.1, and **“Customer Representatives”** shall be construed accordingly;

**“Domestic Customer”**: shall mean, for the purposes of the Annex, a Customer who is designated as a Domestic Customer pursuant to Clause 8.3.3, and **“Domestic Customers”** shall be construed accordingly;

**“Elective Schedule”**: shall have the meaning ascribed to that term in the Supply Point Administration Agreement;

**“Extra Votes”**: shall have the meaning ascribed to that term in paragraph 6 of the Annex;

**“Group Chairman”**: shall mean the National Grid Representative for the time nominated, pursuant to Clause 5.5, by National Grid and, as the context may require, shall include the deputy chairman;

**“Group of Customers”**: shall mean a group of Customers and their Affiliates who are also Customers provided that any Affiliates who are not Customers shall be excluded;

**“I&C Customer”**: shall mean, for the purposes of the Annex, a Customer who is designated as an I&C Customer pursuant to Clause 8.3.3, and **“I&C Customers”** shall be construed accordingly;

**“Legal Requirement”**: shall mean any Act of Parliament, regulation, licence or Directive of a Competent Authority provided always that the RGMA Baseline Processes and Data from time to time applicable and any Legal Requirement to comply therewith shall not constitute a Legal Requirement for the purposes of these Provisions;

**“Mandatory Change”**: shall mean a Modification Proposal which is required by the Proposer in order to facilitate its compliance with a Legal Requirement, which for the purposes of these Provisions shall include a Modification Proposal which is required by National Grid in order to facilitate its compliance with special condition 23 of the National Grid Licence;

**“Mandatory RGMA Baseline Change”**: shall mean a change to the RGMA Baseline Processes and Data comprising either (1) a change of a Voluntary Schedule and/or Elective Schedule to a Mandatory Schedule or (2) a change to an existing Mandatory Schedule or (3) the introduction of a new Mandatory Schedule;

**“Mandatory Schedule”**: shall have the meaning ascribed to that term in the Supply Point Administration Agreement;

**“Metering Agreements”**: shall mean the documents referred to in Clause 1.1;

**“Modification”**: shall mean any modification to the Metering Agreements or any of them made pursuant to these Provisions, and **“Modifications”** shall be construed accordingly;

**“Modification Procedures”**: shall mean the Provisions relating to Modifications and Modification Proposals and, as the context may require, any of those Provisions;

**“Modification Proposal”**: shall mean a Modification proposed by National Grid or, as the case may be, a Customer;

**“National Grid Proposal”**: shall mean any Modification Proposal made by National Grid pursuant to Clause 6.1.1;

**“National Grid Representative”**: shall mean any individual for the time being appointed by National Grid as a representative of National Grid pursuant to Clause 4.1 and **“National Grid Representatives”** shall be construed accordingly;

**“National Grid Website”**: shall mean the site established by National Grid on the world-wide web for the exchange of information among Suppliers in accordance with such restrictions on access as may be determined from time to time by National Grid;

**“New Customer”**: shall have the meaning ascribed to that term in Clause 8.3.3(b)(i);

**“Proposer”**: shall mean the person who shall have made the relevant Modification Proposal pursuant to Clause 6.2.1;

**“Provisions”**: shall mean the provisions contained herein, as the same may, from time to time, be modified, and **“Provision”** shall be construed accordingly;

**“Rented Meter Date”**: shall mean the Implementation Date, and thereafter 1st January 2005 and each anniversary thereof, and such other date or dates as may be designated from time to time by National Grid under and in accordance with Clause 11.2;

**“Report Phase”**: shall mean those provisions of the Modification Procedures set out in Clause 9 and, as the context may require, any of those provisions;

**“Representative”**: shall mean a National Grid Representative or a Customer Representative, and **“Representatives”** shall be construed accordingly;

**“RGMA Baseline Processes and Data”**: shall mean the document of that name which is or is to be governed by the Supply Point Administration Agreement, as the same may, from time to time, be amended or replaced

**“RGMA Change”**: shall mean a Modification Proposal which relates to a Mandatory RGMA Baseline Change and which is required in order to maintain consistency between any or all

of the Metering Agreements and the RGMA Baseline Processes and Data as amended by that Mandatory RGMA Baseline Change;

**“Secretary”** shall mean:

- (a) the individual for the time being appointed as Secretary; or
- (b) as the case may be, any individual for the time being appointed as a deputy Secretary

of the Contract Review Group pursuant to Clause 3.6;

**“Standard Votes”** shall have the meaning ascribed to that term in paragraph 3 of the Annex;

**“Standard Voting Mechanism”**: shall mean the procedure described in paragraph 2 of the Annex;

**“Submission Date”**: shall mean, in respect of any Modification Proposal, the date by which the Secretary shall have submitted to all Representatives a copy of that Modification Proposal and accompanying papers pursuant to Clause 7.1.3;

**“Supply Point Administration Agreement”**: shall mean the agreement so entitled entered or to be entered into between the parties named therein and SPAA Limited as amended or novated from time to time;

**“System Implications”**: shall mean development implications or other implications for the Rainbow Network and/or the Rainbow System involving an amendment or amendments to the Rainbow MAM Manual;

**“Voluntary Schedule”**: shall have the meaning ascribed to that term in the Supply Point Administration Agreement;

**“Voting Phase”**: shall mean those provisions of the Modification Procedures set out in Clause 8 and, as the context may require, any of those provisions;

**“Weighted Votes”**: shall have the meaning ascribed to that term in paragraph 5 of the Annex;

**“Weighted Voting Mechanism”**: shall mean the procedure described in paragraphs 4 to 8 inclusive of the Annex.

## 2.2 Use of headings

The headings in these Provisions are used for ease of reference only and shall not be taken into account in construing these Provisions.



2.3 **Gender**

In these Provisions, words importing the masculine gender include the feminine and vice versa.

2.4 **Statutory provisions**

In these Provisions all references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends or consolidates or replaces the same and shall include any orders, regulations, codes of practices, instruments or other sub-ordinate legislation or any conditions attaching thereto.

2.5 **References to Clauses and paragraphs**

Unless the context otherwise requires, reference in these Provisions to a Clause is to a Clause in these Provisions, and references in the Annex to a paragraph is to a paragraph in the Annex.

3. **CONTRACT REVIEW GROUP**

3.1 **Establishment**

The Contract Review Group was established with effect from the Implementation Date.

3.2 **Composition**

The Contract Review Group shall be composed of:

- (a) the Group Chairman, being a National Grid Representative;
- (b) one (1) other National Grid Representative; and
- (c) where appointed, one (1) Customer Representative for each Customer.

3.3 **National Grid Representatives**

National Grid shall appoint (and as may be the case re-appoint) up to two (2) representatives to the Contract Review Group.

3.4 **Customer Representatives**

Each Customer shall have the right to appoint (and as may be the case re-appoint) one (1) representative to the Contract Review Group.

### 3.5 **Authorisation**

The National Grid Representative (not being the Group Chairman) and each Customer Representative shall be duly authorised by respectively National Grid and the relevant Customer to represent and inform the Contract Review Group of the views of respectively National Grid and that Customer in relation to Modification Proposals, including in respect of the National Grid Representative of National Grid's initial view of RGMA Changes.

### 3.6 **Secretary**

National Grid shall, from time to time, appoint an individual as the Secretary (and may remove and replace any individual so appointed). National Grid may, from time to time, appoint (and may revoke the appointment of) any individual as deputy Secretary. The Secretary or, as the case may be, deputy Secretary (if any), will attend meetings of the Contract Review Group, and any deputy Secretary may attend any meeting of the Contract Review Group at which the Secretary is also in attendance. For the avoidance of doubt the Secretary or, as the case may be, deputy Secretary will not act be entitled to act as a Representative or an alternate.

### 3.7 **Notice of appointments**

National Grid will notify all Customer Representatives of the identity of the Secretary and any deputy Secretary appointed from time to time.

## 4. **REPRESENTATIVES**

### 4.1 **Appointment**

A Representative shall be appointed (including as a replacement of a Representative who is de-appointed or who has resigned) by way of designation from time to time by National Grid or a Customer by notice in writing to the Secretary, and the Secretary shall notify all Representatives of each such appointment.

### 4.2 **De-appointment**

A Representative may be de-appointed from time to time by National Grid or a Customer by notice in writing to the Secretary, and the Secretary shall notify all Representatives of each such de-appointment.

### 4.3 **Resignation of Representatives**

If any individual being a Representative shall for whatever reason notify the Secretary that he wishes to resign as a Representative, he shall cease to be a Representative in accordance with the notice of resignation, and the Secretary shall send a copy of such

notice to the relevant Customer or to National Grid, whoever is that Representative's appointor, and to all other Representatives.

#### 4.4 **Alternates**

4.4.1 Each Representative may, from time to time, by notice to the Secretary appoint (or revoke the appointment of) an individual to be such Representative's alternate. The appointment (and revocation of the appointment) of any individual as an alternate shall be conditional upon and shall only be effective upon receipt of notice by the Secretary.

4.4.2 In addition to notices sent to Representatives, each alternate for the time being shall be entitled to be sent notices.

4.4.3 An alternate may attend any meeting of the Contract Review Group which is not also attended by the Representative (in his capacity as Representative) who appointed him and generally at any such meeting shall have and shall be able to exercise and discharge any and all of the functions, powers and duties of the Representative who shall have appointed that alternate.

4.4.4 If a Representative ceases, for whatever reason, to be a Representative the appointment of any alternate of the Representative shall cease.

### 5. **MEETINGS OF CONTRACT REVIEW GROUP**

#### 5.1 **Purpose**

Meetings of the Contract Review Group will provide a forum in which Modification Proposals can be discussed pursuant to and in accordance with the Modification Procedures, as well as providing a forum at which National Grid's initial view of potential changes to the RGMA Baseline Processes and Data can be canvassed. Those functions of the Contract Review Group expressly provided in these Provisions relating to Modification Procedures will be discharged in accordance with these Provisions. Other than as may be expressly provided in these Provisions, the Contract Review Group shall have no ability to determine any matter and no competence to discharge any function or to exercise any power.

#### 5.2 **Timing of meetings**

Meetings of the Contract Review Group will ordinarily be held not less frequently than once every six (6) weeks, in accordance with the Annual Meeting Timetable, save that:-

- (a) on not less than fifteen (15) Working Days notice the Secretary may convene a meeting on an earlier or later date or, if required may convene any additional meeting;

- (b) no meeting will be held if there is no agenda item to discuss; and
- (c) for the first six (6) months after the Implementation Date, a meeting of the Contract Review Group shall be convened on notice not less frequently than once every calendar month.

### 5.3 Notice of meetings

- 5.3.1 Meetings of the Contract Review Group will be convened by the Secretary on not less than seven (7) Working Days prior notice to each Representative, each such notice to specify the place, day and time of the meeting and to enclose an Agenda and any supporting materials.
- 5.3.2 Subject to Clause 12.4.6, the Agenda shall be accompanied by a copy of all and any Modification Proposals to be considered at the meeting received by the Secretary and not rejected by him under and in accordance with Clause 6.2.4.
- 5.3.3 All notices convening meetings, together with Agendas and all supporting materials, shall be submitted by the Secretary by electronic mail.

### 5.4 Quorum

- 5.4.1 Three Representatives (one only of whom shall be a National Grid Representative) present at a meeting of the Contract Review Group shall be a quorum.
- 5.4.2 If a quorum is not present at the time for the holding of a meeting (specified in the notice convening the meeting) or at any time during the hour following that time, and the meeting was to have considered a Modification Proposal in respect of which the Proposer is the sole or one of the Representatives present, then by notice in writing to the Secretary in accordance with Clause 6.4 the Proposer may notify the Secretary that it wishes the Modification Proposal to progress to the Consultation Phase.
- 5.4.3 Any meeting of the Contract Review Group at which a quorum is present shall be competent to discharge any and all of the functions within the competence of the Contract Review Group.

### 5.5 Group Chairman

National Grid will nominate by notice to the Secretary one (1) of the Representatives from time to time appointed by National Grid as the Group Chairman. The other National Grid Representative shall be the deputy Group Chairman. The Group Chairman or, in the absence of the Group Chairman, the deputy Group Chairman, shall preside at meetings of the Contract Review Group.

**5.6 Form of meetings**

Meetings of the Contract Review Group may take place by means of telephone, conference telephone, video link or any other audio, audio-visual or interactive communication notwithstanding that the Representatives treated as being present by any such means of communication may not all be meeting in the same place, provided that each Representative shall be able to communicate to each of the other Representatives and be heard by each of the other Representatives simultaneously. For the avoidance of doubt, Representatives participating in this manner shall count towards a quorum.

**5.7 Invitees**

5.7.1 The Secretary may, from time to time, invite any individual or individuals to attend and speak at all or part of a meeting of the Contract Review Group, and the Secretary shall notify all Representatives of each such invitee (where reasonably practicable prior to the relevant meeting) including the name of each individual invited, the organisation that the individual represents, the date of the relevant meeting(s) and the reason(s) for the invitation.

5.7.2 Without limiting the generality of Clause 5.7.1, where requested to do so by National Grid or a Customer pursuant to Clause 6.2.1 the Secretary shall invite any individual or individuals to attend and speak at that part of the meeting of the Contract Review Group at which a Modification Proposal is to be discussed, unless the Secretary determines (acting reasonably) that such a request is inappropriate.

5.7.3 The Authority shall be entitled to send a representative to any meeting of the Contract Review Group.

5.7.4 Subject to Clause 12.4.6, any invitee to a meeting of the Contract Review Group pursuant to the foregoing provisions of this Clause 5.7 shall be entitled to receive copies of the notice convening the relevant meeting, together with the Agenda for the meeting and all supporting materials.

**5.8 Minutes**

5.8.1 The Secretary shall ensure that the proceedings of meetings of the Contract Review Group are minuted.

5.8.2 The Secretary shall, where reasonably practicable, ensure that all Representatives are sent, within ten (10) Working Days immediately following the date of the relevant meeting, a copy of any minute of that meeting made pursuant to Clause 5.8.1.

5.8.3 The Secretary will, in respect of each meeting of the Contract Review Group, invite the Representatives and alternates who attend that meeting to record their attendance.

6. **MODIFICATION PROPOSALS**

6.1 **Relevant persons**

6.1.1 National Grid may, from time to time, make a Modification Proposal.

6.1.2 Any Customer may, from time to time, make a Modification Proposal.

6.2 **Form of Modification Proposals**

6.2.1 Each Modification Proposal shall:

- (a) be submitted by electronic mail;
- (b) set out in reasonable, but not excessive, detail the nature and purpose of the Modification Proposal;
- (c) detail the sections and conditions of the relevant Metering Agreement(s) which are to be amended or otherwise affected by the Modification Proposal;
- (d) state the Proposer's designation of the Modification Proposal as either a Mandatory Change, an RGMA Change or a Commercial Change;
- (e) where the Modification Proposal is designated by the Proposer as a Mandatory Change, set out in reasonable, but not excessive, detail an explanation of the Legal Requirement concerned, and the date when it came or comes into effect;
- (f) where the Modification Proposal is designated as an RGMA Change, set out in reasonable, but not excessive, detail the Mandatory RGMA Baseline Change concerned and an explanation of the actual or potential inconsistency between the relevant Metering Agreement(s) and the RGMA Baseline Processes and Data as amended by that Mandatory RGMA Baseline Change;
- (g) set out in reasonable, but not excessive, detail an assessment of the impact of the Modification Proposal on National Grid and Customers (including but not limited to financial impact and impacts in respect of systems and operations);
- (h) set out a proposed timetable for implementation of the Modification Proposal;
- (i) state the name of the Proposer and the Proposer's Representative, together with contact details; and
- (j) indicate whether the Proposer requests the Secretary to invite an individual or individuals to attend and speak at that part of the meeting at which the Modification Proposal is to be discussed, and if so specify the name and contact details of the individual(s) and brief reasons as to the purpose of the invitation.

6.2.2 Each Modification Proposal shall be given to the Secretary not less than ten (10) Working Days prior to the Contract Review Group meeting at which the Proposer wishes the Modification Proposal to be discussed, and any Modification Proposal received by the Secretary after this date shall be included in the Agenda for discussion at the next following meeting of the Contract Review Group.

6.2.3 Upon receipt of a Modification Proposal, the Secretary shall ensure that the Modification Proposal complies with Clause 6.2.1 before accepting such Modification Proposal, giving that Modification Proposal a unique reference number and submitting that Modification Proposal to each Representative with the Agenda for the relevant meeting of the Contract Review Group under and in accordance with Clause 5.3.2.

6.2.4 Where a Modification Proposal does not comply with Clause 6.2.1, the Secretary shall reject such Modification Proposal by notice to the relevant Representative stating the reason(s) for the rejection, and may recommend to such Representative any amendment to, and/or additional information to accompany, that Modification Proposal to render it compliant.

### **6.3 Initial discussion at Contract Review Group**

6.3.1 Each Proposer shall ensure the attendance of its Representative (or its alternate) at the meeting of the Contract Review Group at which the Modification Proposal is to be discussed initially, and at such meeting the Proposer's Representative (or its alternate) will be invited by the Group Chairman to give a presentation in respect of the Modification Proposal and endeavour to answer any questions which the Contract Review Group may have with respect to the Modification Proposal or the presentation.

6.3.2 If the Representative of the Proposer (or its alternate) does not (for whatever reason) attend the meeting of the Contract Review Group at which the relevant Modification Proposal is to be discussed initially, then the Secretary shall include the Modification Proposal in the Agenda for discussion at the next following meeting of the Contract Review Group.

6.3.3 If any Customer or National Grid objects to the designation by the Proposer of any Modification Proposal as a Mandatory Change, an RGMA Change or a Commercial Change, then that objection shall be raised for discussion at the meeting of the Contract Review Group.

6.3.4 At the meeting of the Contract Review Group, National Grid shall indicate whether it is minded to designate any Modification Proposal as having System Implications.

### **6.4 Progression to Consultation Phase**

At the meeting or no later than five (5) Working Days after the meeting of the Contract Review Group at which a Modification Proposal is discussed initially (or would have been discussed but for the absence of a quorum in the circumstances specified in Clause 5.4.2),

the Proposer may notify the Secretary in writing that it wishes the Modification Proposal to progress to the Consultation Phase.

## **6.5 Amendments to Modification Proposals**

6.5.1 Having regard to discussions at the meeting of the Contract Review Group, the Proposer may amend a Modification Proposal and re-submit it in amended form to the Secretary, provided that the Modification Proposal as so amended:-

- (a) is re-submitted no later than the date specified in Clause 6.4;
- (b) is not materially different in nature or purpose to the original Modification Proposal discussed initially;
- (c) complies with Clause 6.2.1;
- (d) sets out in reasonable, but not excessive, detail the rationale for the amendment(s) to the original Modification Proposal; and
- (e) specifies the reference number of the original Modification Proposal.

6.5.2 Without limitation, a Modification Proposal may be amended and re-submitted pursuant to Clause 6.5.1 in the same form as the original Modification Proposal but with a change in the designation as a Mandatory Change, an RGMA Change or a Commercial Change.

## **6.6 Withdrawal of Modification Proposals**

6.6.1 At any time before a Modification Proposal (where applicable, as amended and re-submitted pursuant to Clause 6.5.1) progresses to the Consultation Phase pursuant to Clause 7.1.3, the Proposer may by notice to the Secretary withdraw that Modification Proposal. Any Modification Proposal so withdrawn shall immediately lapse.

6.6.2 In respect of any Modification Proposal, a failure by the Proposer to either notify the Secretary that it wishes to progress the Modification Proposal to the Consultation Phase pursuant to Clause 6.4 or amend and re-submit that Modification Proposal pursuant to Clause 6.5.1, in each case in accordance with and by the date specified in Clause 6.4, shall be deemed to be a withdrawal by that Proposer of the relevant Modification Proposal pursuant to Clause 6.6.1. Any Modification Proposal so deemed to have been withdrawn shall immediately lapse.

6.6.3 The Secretary will, within a reasonable period of time following any withdrawal or deemed withdrawal pursuant to this Clause 6.6, notify each Representative of each such withdrawal or deemed withdrawal.



**7. CONSULTATION PHASE**

**7.1 Circulation of Modification Proposals**

7.1.1 Upon receipt of each notice pursuant to Clause 6.4 or each amended and re-submitted Modification Proposal pursuant to Clause 6.5.1, the Secretary shall consult with National Grid to obtain National Grid's view as to:

- (a) whether, in respect of any Customer Proposal, that Modification Proposal is correctly designated as a Mandatory Change, an RGMA Change or a Commercial Change (as the case may be), and that Modification Proposal shall (where applicable) be re-designated by National Grid accordingly; and
- (b) whether or not that Modification Proposal has System Implications.

7.1.2 At the same time as the Secretary consults with National Grid pursuant to Clause 7.1.1, the Secretary shall also seek an indication from National Grid as to whether or not National Grid is minded to support each or any such Modification Proposal.

7.1.3 The Secretary shall send to each Representative, not more than eight (8) Working Days after the relevant meeting of the Contract Review Group, a copy of the relevant Modification Proposal (where applicable, as amended and re-submitted pursuant to Clause 6.5.1) accompanied by:-

- (a) a brief summary of the discussion and points raised in respect of that Modification Proposal at the relevant meeting of the Contract Review Group (where applicable);
- (b) details of any re-designation of the Modification Proposal by National Grid pursuant to Clause 7.1.1(a);
- (c) National Grid's view as to whether or not the Modification Proposal has System Implications pursuant to Clause 7.1.1(b); and
- (d) details of any view expressed by National Grid pursuant to Clause 7.1.2.

7.1.4 Copies of all Modification Proposals and accompanying papers shall be submitted by the Secretary by electronic mail.

**7.2 Representations on Modification Proposals**

7.2.1 No later than ten (10) Working Days after the Submission Date, Customers may make representations to the Secretary in respect of the relevant Modification Proposal, and upon receipt the Secretary shall forward all such representations to National Grid.

## 7.2.2 Representations shall:

- (a) be submitted by electronic mail;
- (b) set out in reasonable, but not excessive, detail the comments which the Customer wishes to make in respect of such Modification Proposal (which may include without limitation comments in respect of the rationale and purpose of the Modification Proposal;
- (c) where the Modification Proposal has been amended pursuant to Clause 6.5.1, state if the Customer wishes to object to the Modification Proposal pursuant to Clause 7.2.3 and if so set out in reasonable, but not excessive, detail the reason(s) for such objection;
- (d) state whether the Customer wishes to object to the designation of the Modification Proposal as a Mandatory Change, an RGMA Change or a Commercial Change (as the case may be), and if so set out in reasonable, but not excessive, detail the reason(s) for such objection;
- (e) state whether the Customer wishes to object to the designation of the Modification Proposal by National Grid as having (or, as the case may be, not having) System Implications, and if so set out in reasonable, but not excessive, detail the reason(s) for such objection.

7.2.3 Where a Modification Proposal has been amended and re-submitted pursuant to Clause 6.5.1, a Customer may object to that amended Modification Proposal and request that it be referred back to the Contract Review Group for further discussion if it considers that the Modification Proposal as so amended is materially different in nature or purpose to the original Modification Proposal discussed initially at the relevant meeting of the Contract Review Group.

7.2.4 National Grid shall have due regard to any objections raised by any Customer under Clauses 7.2.2 (c) and (d) and National Grid may (but shall not be obliged to):-

- (a) in respect of Clause 7.2.2 (c), refer the Modification Proposal back to the Contract Review Group for further discussion by requesting the Secretary to include the Modification Proposal in the Agenda for the next following meeting of the Contract Review Group and the Secretary shall comply with such request; and/or
- (b) in respect of Clause 7.2.2 (d), re-designate the Modification Proposal accordingly; and/or
- (c) in respect of Clause 7.2.2(e), change its view as to whether or not the Modification Proposal has System Implications,

but National Grid's determination in respect thereof shall be final and binding.

- 7.2.5 No later than three (3) Working Days after the deadline for receipt of representations from Customers specified in Clause 7.2.1, the Secretary shall forward to all Representatives all and any representations received, and at the same time the Secretary shall notify Representatives of any determination by National Grid pursuant to Clause 7.2.4 (including an explanation of such determination in reasonable, but not excessive, detail).

## 8. **VOTING PHASE**

### 8.1 **Progression to Voting Phase**

- 8.1.1 Unless the Secretary shall have notified Representatives pursuant to Clause 7.2.5 of National Grid's determination to refer a Modification Proposal back to the Contract Review Group pursuant to Clause 7.2.4(a), each Modification Proposal (except an RGMA Change and a Mandatory Change) shall automatically progress to the Voting Phase.

- 8.1.2 All RGMA Changes and Mandatory Changes shall automatically progress to the Report Phase.

### 8.2 **Registration of Votes**

- 8.2.1 In respect of Commercial Changes, no later than eighteen (18) Working Days after the Submission Date, Customers may register their Standard Votes or Weighted Votes (as applicable) in respect of the relevant Modification Proposal in accordance with Clause 8.2.2 or Clause 8.2.3.

- 8.2.2 In order to register its Standard Votes or Weighted Votes (as applicable), a Customer shall submit a notification to the Secretary:-

- (a) by electronic mail; and
- (b) stating whether the Customer wishes to register its Standard Votes or Weighted Votes (as applicable) for or against the Modification Proposal.

- 8.2.3 Notwithstanding Clause 8.2.2, a Customer may alternatively register its Standard Votes or Weighted Votes (as applicable) at a meeting of the Contract Review Group by way of a verbal submission by its Representative (or its alternate) to the Group Chairman (or deputy Group Chairman) indicating whether the Customer wishes to register its Standard Votes or Weighted Votes (as applicable) for or against the Modification Proposal (but for the avoidance of doubt only where such Contract Review Group meeting is taking place prior to the deadline for registration of Standard Votes and Weighted Votes specified in Clause 8.2.1). Any verbal submissions for Standard Votes or Weighted Votes (as applicable) will be recorded in the minutes of the relevant Contract Review Group meeting.

**8.3 Customer Consensus**

- 8.3.1 Following registration of Standard Votes and/or Weighted Votes (as the case may be) in accordance with Clause 8.2, the Secretary shall forward all notifications from Customers received by such date to National Grid for determination of the Customer Consensus in accordance with Clause 8.3.2
- 8.3.2 In determining the Customer Consensus, National Grid shall apply the Weighted Voting Mechanism in respect of any Modification Proposal having System Implications, and otherwise shall apply the Standard Voting Mechanism.
- 8.3.3 For the purposes of the Annex, a Customer shall be designated as either a Domestic Customer or an I&C Customer in accordance with the following provisions:-
- (a) in respect of Customers who have a Representative appointed under these Provisions at such time as this Clause 8.3.3(a) comes into force and effect:
    - (i) National Grid shall circulate to all Customers, as part of the Agenda for the next practicable Contract Review Group meeting pursuant to Clause 5.3.2, National Grid's preliminary designation of each such Customer as either a Domestic Customer or an I&C Customer;
    - (ii) Customers attending that Contract Review Group meeting may make representations in respect of their preliminary designation and/or the preliminary designation of other Customers;
    - (iii) within ten (10) Working Days immediately following the date of that Contract Review Group meeting, National Grid shall circulate, as part of the minutes of such meeting pursuant to Clause 5.8.2, a note of representations (if any) made by Customers in respect of such preliminary designations and shall invite Representatives of Customers who did not attend such meeting to make representations within ten (10) Working Days thereafter;
    - (iv) as soon as reasonably practicable following the deadline for receipt of representations specified in (iii) above, the Group Chairman shall, by notification to each such Customer, at his sole discretion (but taking account of any representations received from Customers pursuant to (ii) and (iii) above and the Customer's designation (if any) in either Part 2 under the heading of "Domestic Suppliers" or Part 3 under the heading of "Industrial and Commercial Suppliers" of Schedule 1 in each case to the

Supply Point Administration Agreement) either confirm National Grid's preliminary designation or reject it;

- (v) where the Group Chairman confirms National Grid's preliminary designation, such designation shall take effect immediately and so as to enable determination of the Customer consensus in respect of any current Modification Proposal;
  - (vi) a copy of the Group Chairman's notification pursuant to (iv) above shall be forwarded by the Secretary to all other Customers for information.
- (b) in respect of all other Customers:
- (i) each such Customer (the "New Customer") shall, forthwith upon the Customer becoming bound by these Provisions, notify the Secretary that it wishes to be designated either as a Domestic Customer or as an I&C Customer;
  - (ii) as soon as reasonably practicable following receipt of such notification, the Secretary shall forward the notification to all other Customers and invite representations;
  - (iii) such other Customers may make representations to the Group Chairman, to be received by the Group Chairman no later than ten (10) Working Days after notification to such Customers pursuant to (ii) above;
  - (iv) as soon as reasonably practicable following the deadline for receipt of representations specified in (iii) above, the Group Chairman shall, by notification to the New Customers, at its sole discretion (but taking account of any representations received from Customers pursuant to (iii) above) either confirm the New Customer's desired designation or reject it;
  - (v) where the Group Chairman confirms the New Customer's desired designation, the Customer shall be so designated with immediate effect;
  - (vi) a copy of the Group Chairman's notification pursuant to (iv) above shall be forwarded by the Secretary to all other Customers for information.
- (c) where the Group Chairman rejects National Grid's preliminary designation or the New Customer's desired designation pursuant to respectively (a) or (b) above,

where such preliminary or desired designation (as the case may be) is as a Domestic Supplier the Customer shall be designated as an I&C Supplier, and where such preliminary or desired designation (as the case may be) is as an I&C Supplier the Customer shall be designated as a Domestic Supplier, in each case with immediate effect.

- (d) all notifications under this Clause 8.3.3 shall be by electronic mail.

## 9. **REPORT PHASE**

### 9.1 **Submission of National Grid's report**

No later than twenty-three (23) Working Days after the Submission Date, National Grid shall report to Representatives in the manner provided in Clause 9.2.

### 9.2 **Content of National Grid's report**

National Grid's report:

- (a) shall be submitted by electronic mail;
- (b) shall, where the Modification Proposal is designated as a Commercial Change, state:-
  - (i) whether or not the Customer Consensus is in support of the Modification Proposal; and
  - (ii) the name of each Customer who registered its Standard Votes or Weighted Votes (as the case may be) in the Voting Phase and whether or not those Standard Votes or Weighted Votes were registered in support of the Modification Proposal;
- (c) shall, where the Modification Proposal is designated as a Commercial Change or an RGMA Change, state whether or not National Grid supports the Modification Proposal;
- (d) shall, where the Modification Proposal is designated as a Commercial Change or an RGMA Change, state whether or not, in accordance with Clause 9.3, the Modification Proposal is to be implemented and, if so, may indicate an implementation date (being National Grid's determination (acting reasonably) of the earliest practicable date by which the Modification can be brought into effect taking into account, without limitation, any system or operational changes required in consequence of the Modification);

- (e) may, where the Modification Proposal is designated as a Mandatory Change, indicate an implementation date (being National Grid's determination (acting reasonably) of the earliest practicable date by which the Modification can be brought into effect taking into account, without limitation, any system or operational changes required in consequence of the Modification).

### 9.3 **Date of implementation**

9.3.1 Where in respect of a Commercial Change proposed by National Grid or a Customer both the Customer Consensus and the National Grid view is in support of the Modification Proposal, or where in respect of an RGMA Change the National Grid view is in support of the Modification Proposal, then the Modification Proposal shall be implemented with effect from such date:-

- (a) as may be notified in National Grid's report pursuant to Clause 9.2(d) (or, if later, the implementation date specified in the Modification Proposal); or
- (b) where no such date is notified by National Grid in National Grid's report, as National Grid shall subsequently notify Representatives by electronic mail (having consulted with Representatives as to such implementation date) being National Grid's determination (acting reasonably) of the earliest practicable date by which the Modification can be brought into effect, taking into account, without limitation, the outcome of such consultation and any system or operational changes required in consequence of the Modification.

9.3.2 Where in respect of a Commercial Change proposed by a Customer the Customer Consensus and/or the National Grid view is not to support the Modification Proposal, then the Modification Proposal shall not be implemented and shall immediately lapse

9.3.3 Where in respect of a Commercial Change proposed by National Grid, the Customer Consensus is not to support the Modification Proposal, then the Modification Proposal shall not be implemented and shall immediately lapse.

9.3.4 Where in respect of an RGMA Change the National Grid view is not to support the Modification Proposal, then the Modification Proposal shall not be implemented and shall immediately lapse.

9.3.5 A Mandatory Change proposed by National Grid or a Customer shall be implemented with effect from the later of:-

- (a) the coming into effect of the relevant Legal Requirement; and
- (b) such date:-

- (i) as may be notified by National Grid in National Grid's report pursuant to Clause 9.2(e); or
- (ii) where no such date is notified by National Grid in National Grid's report, as National Grid shall subsequently notify Representatives by electronic mail (having consulted with Representatives as to such implementation date) being National Grid's determination (acting reasonably) of the earliest practicable date by which the Modification Proposal can be brought into effect taking into account, without limitation, the outcome of such consultation and any system or operational changes required in consequence of the Modification.

## 10. IMPLEMENTATION OF MODIFICATION PROPOSALS

### 10.1 Text of Modifications

- 10.1.1 Where National Grid's report submitted pursuant to Clause 9 states that the Modification Proposal shall be implemented, as soon as reasonably practicable (having regard to the nature and extent of the Modification Proposal) after submission by National Grid of its report pursuant to Clause 7.4, National Grid shall prepare and submit to each Representative by electronic mail the draft text of the Modification together with a brief description of how the draft text gives effect to the Modification Proposal, and at the same time National Grid may specify a date by which all and any representations on the draft text must be made by Representatives (which shall be reasonable in all the circumstances having regard to the extent and/or complexity of the draft text, and which shall be, in any event, not earlier than ten (10) Working Days after the date of submission by National Grid of such draft text).
- 10.1.2 Representatives may make representations to National Grid on points of detail and clarification as to the draft text submitted by National Grid, provided that representations are submitted to National Grid by electronic mail by the date (if any) specified by National Grid pursuant to Clause 10.1.1 or, where no such date is specified, before the expiry of ten (10) Working Days from receipt of such draft text, provided always that Representatives may, by electronic mail, request that National Grid agree an extension to the date for submission of representations and National Grid shall consider any such request (acting reasonably).
- 10.1.3 National Grid shall have due regard to the representations (if any) received from Representatives pursuant to Clause 10.1.2, and as soon as reasonably practicable after receipt of all such representations (if any) National Grid shall prepare and submit to each Representative by electronic mail the final text of the Modification Proposal to give effect to the Modification Proposal.



**10.2 Implementation of Modifications**

- 10.2.1 In accordance with the terms thereof, each relevant Metering Agreement shall be amended in accordance with the final text submitted pursuant to Clause 10.1.3 upon and with effect from the implementation date specified pursuant to Clauses 9.3.1 or 9.3.5 (as applicable).
- 10.2.2 As soon as reasonably practicable after the date of implementation of a Modification, National Grid shall publish on the National Grid Website a revised version of the relevant Metering Agreement(s) as modified by the Modification, and in addition shall provide to each Customer by electronic mail a copy of the relevant Metering Agreement(s) as so modified.

**11. DESIGNATION OF ADDITIONAL RENTED METER DATES**

- 11.1 If at any time the aggregate number of Meters provided by National Grid to a Domestic Customer (for the avoidance of doubt whether provided by National Grid under the Provision and Maintenance Agreement or the Network Metering Equipment Agreement or under Alternative Contract Conditions) exceeds or falls short of the aggregate number of such Meters provided by National Grid as at the last Rented Meter Date in each case by more than 5%, then that Domestic Customer may, for so long as such conditions continue, by notice in writing to National Grid, request National Grid to designate the date of such notification as an additional Rented Meter Date.
- 11.2 Upon receipt of a notice from a Domestic Customer pursuant to Clause 11.1, National Grid shall verify the aggregate number of Meters provided to that Domestic Customer by National Grid both as at the date of the Customer's notification and as at the last Rented Meter Date as described in Clause 11.1, and if National Grid is satisfied that the former exceeds or falls short of the latter by more than 5% then National Grid shall designate the date of notification from that Domestic Customer pursuant to Clause 11.1 as an additional Rented Meter Date, which for the purpose of the Annex but subject always to Clause 11.3 shall supersede the immediately preceding Rented Meter Date.
- 11.3 In relation to any Modification Proposal, an additional Rented Meter Date designated by National Grid pursuant to Clause 11.2 shall only take effect if the relevant notification from the Domestic Customer pursuant to Clause 11.1 is received by National Grid prior to the Submission Date in respect of that Modification Proposal.

**12. GENERAL****12.1 Notices**

- 12.1.1 Unless otherwise expressly provided, any document, notice or other communication to be given to or made by any person pursuant to or in accordance with these Provisions shall be in writing.

12.1.2 Any document (including, but without limitation, any representation, objection or report), notice or other communication may be delivered to the relevant person or sent by first class pre-paid letter, facsimile transmission or electronic mail to the address, facsimile transmission number or electronic mail address of that person specified by that person for the time being as being that person's address or facsimile transmission number and shall be effectual notwithstanding any change of address or facsimile transmission number which is not notified by that person.

12.1.3 Each such document, notice or other communication shall be treated as having been given or made and delivered, if by letter two (2) Working Days immediately following posting, if by delivery when left at the relevant address, and if by facsimile transmission or electronic mail, upon receipt by the addressee of the complete text of the document, notice or other communication in a legible form.

## 12.2 **Non-receipt**

No accidental omission or neglect in sending any document or notice or other communication to, or non-receipt of any document or notice or other communication by, any person pursuant to Clauses 5.3, 6.6.3, 7.1.3, 7.1.4, 7.2.5, 9.1, 10.1.1, 10.1.3 and 10.2.2 shall be capable of invalidating any act or thing done pursuant thereto.

## 12.3 **Representations**

In submitting representations and registering Weighted Votes pursuant to any part of these Provisions, the person making such submission consents, subject to Clause 12.4.6, to the publication and circulation of such submissions by the Secretary and/or National Grid (as the case may be) for the purposes of these Provisions. Without limitation, each Customer consents to the publication and circulation of the content of National Grid's reports pursuant to Clause 9.

## 12.4 **Consequences of these Provisions and confidentiality**

12.4.1 These Provisions shall not give rise to or impose any duty, obligation or right (whether in contract, tort, trust or otherwise) and consequently shall not give rise to any action or claim or liability pursuant to, in relation to, in respect of or in connection with these Provisions.

12.4.2 Without prejudice to the generality of Clause 12.4.1, no Representative (or its alternate) shall be liable (in whatever capacity) and no employer of any such person shall be vicariously liable for any act or thing done or omitted to be done pursuant to, in relation to, in respect of or in connection with these Provisions.

12.4.3 Without prejudice to the generality of Clause 12.4.1, no act of thing done or omitted to be done by National Grid or any Customer (or any employee, director or agent of National Grid

or any Customer) pursuant to, in relation to, in respect of or in connection with these Provisions shall give rise to any action or claim or liability by any Customer against National Grid (or any such employee, director or agent of National Grid) or by any other Customer or National Grid against such Customer (or any such employee, director or agent of such Customer).

- 12.4.4 Nothing in or arising as a consequence of these Provisions is intended in any way to limit or negate the ability for the time being of any Customer or National Grid to seek to discuss any issue or matter with the Authority or to give rise to any consequence in respect of any contractual relationship (other than pursuant to a Modification) which may, from time to time, exist between any Customer and National Grid.
- 12.4.5 Nothing in these Provisions shall oblige or impose any duty (whether expressly or impliedly) on National Grid or on any Customer to provide or make available any information.
- 12.4.6 Any person who provides any information for the purposes of or pursuant to these Provisions may require that such information may only be made available subject to such confidentiality undertakings as such person may require.

**ANNEX****CUSTOMER CONSENSUS (COMMERCIAL CHANGES)****Introduction**

1. **“Customer Consensus”** in support of a Commercial Change shall only be obtained where CC (as defined in paragraphs 2 and 4 below, as applicable) is greater than or equal to 0.65.

**Standard Voting Mechanism**

2. For the purpose of the Standard Voting Mechanism, CC shall be calculated as follows:

$$CC = \left[ \frac{ASVS_{d \& i}}{ASV_{d \& i}} \times 100 \right] * X$$

Where:

$ASVS_{d \& i}$  means the aggregate of the Standard Votes (determined in accordance with paragraph 3 below) registered by Customers (both Domestic Customers and I&C Customers) in support of the Modification Proposal;

$ASV_{d \& i}$  means the aggregate of all Standard Votes (determined in accordance with paragraph 3 below) registered by Customers (both Domestic Customers and I&C Customers) whether or not in support of the Modification Proposal;

$X$  is one where  $ASV_{d \& i}$  is 4 or more, otherwise  $X$  is zero.

3. **“Standard Votes”** shall be determined as follows:
  - (a) in the case of paragraph 2 above, each Customer (not being in a Group of Customers) and each Group of Customers shall be entitled to one Standard Vote in respect of any Modification Proposal; and
  - (b) in the case of paragraph 4 below, each I&C Customer (not being in a Group of Customers including at least one other I&C Customer), and each Group of Customers including two or more I&C Customers, shall be entitled to one Standard Vote in respect of any Modification Proposal.

**Weighted Voting Mechanism**

4. For the purpose of the Weighted Voting Mechanism, CC shall be calculated as follows:

$$CC = ( [CC1 * P] + [CC2 * Q] ) * Y$$

Where:

$$CC1 = \left[ \frac{AWVS_d}{AWV_d} \times 100 \right]$$

Where:

$AWVS_d$  means the aggregate of the Weighted Votes (determined in accordance with paragraph 5 below) registered by Domestic Customers in support of the Modification Proposal;

$AWV_d$  means the aggregate of all Weighted Votes (determined in accordance with paragraph 5 below) registered by Domestic Customers whether or not registered in support of the Modification Proposal;

provided always that where  $AWV_d$  is zero then CC1 shall be deemed to be zero.

And where:

P is 0.55 unless  $ASV_i$  is zero in which case P is 1.

And where:

$$CC2 = \left[ \frac{ASVS_i}{ASV_i} \times 100 \right]$$

Where:

$ASVS_i$  means the aggregate of the Standard Votes (determined in accordance with paragraph 3 above) registered by I&C Customers in support of the Modification Proposal;

$ASV_i$  means the aggregate of all Standard Votes (determined in accordance with paragraph 3 above) registered by I&C Customers whether or not in support of the Modification Proposal;

provided always that where  $ASV_i$  is zero then CC2 shall be deemed to be zero.

And where:

Q is 0.45 unless  $AWV_d$  is zero in which case Q is 1.

And where:

Y is one where Z is 4 or more, otherwise Y is zero

And where:

$$Z = \alpha + \beta$$

where:

$\alpha$  is the number of Domestic Customers (not being in a Group of Customers including at least one other Domestic Customer), and any Group of Customers including two or more Domestic Customers, registering Weighted Votes whether or not in support of the Modification Proposal;

$\beta$  means  $ASV_i$ .

5. Subject to paragraphs 6, 7 and 8 below, the percentage of the vote to which each Domestic Customer shall be entitled in respect of any Modification Proposal ("**Weighted Votes**") shall be calculated in accordance with the following formula:

$$V = \frac{N}{SN} \times 100$$

Where:

V means the percentage of the vote to which a Domestic Customer shall be entitled, calculated to two decimal places;

N means the number of Meters provided by National Grid (for the avoidance of doubt whether provided by National Grid under the Provision and Maintenance Agreement or the Network Metering Equipment Agreement or under Alternative Contract Conditions) to that Domestic Customer as at the last Rented Meter Date (as determined by National Grid);

SN means the total number of Meters provided by National Grid (for the avoidance of doubt whether provided by National Grid under the Provision and Maintenance Agreement or the Network Metering Equipment Agreement or under Alternative Contract Conditions) to all Domestic Customers as at the last Rented Meter Date (as determined by National Grid).

6. If, pursuant to the formula set out in paragraph 5, any Domestic Customer (not being in a Group of Customers including at least one other Domestic Customer), or any Group of Customers including two or more Domestic Customers, has Weighted Votes in excess of 35%, the percentage of the vote to which such Domestic Customer or such Group of Customers (as the case may be) is entitled shall be reduced by such percentage of the vote ("**Extra Votes**") as will give each such Domestic Customer or each such Group of Customers (as the case may be) Weighted Votes totalling 35%, such Extra Votes to be reallocated to the remaining Domestic Customers in accordance with paragraph 7 and added to each such Domestic Customers' Weighted Votes as calculated in accordance with

paragraph 5. For a Group of Customers, the remaining Weighted Votes shall be allocated equally between Domestic Customers in that Group of Customers.

7. Any Extra Votes shall be reallocated to each of the other Domestic Customers registering Weighted Votes (provided that they are not part of a Group of Customers including at least one other Domestic Customer which together holds Weighted Votes in excess of 35%) who have Weighted Votes less than 35% in accordance with the following formula:

$$EXV = EV \times \frac{N}{XN}$$

where:

EXV means the additional percentage of the vote which are to be added to the percentage of vote held by a Domestic Customer holding Weighted Votes less than 35%;

EV means the aggregate percentage of Extra Votes available for reallocation in accordance with paragraph 6;

N means the number of Meters provided by National Grid to that Domestic Customer as at the last Rented Meter Date (as determined by National Grid);

XN means the total number of Meters provided by National Grid to those Domestic Customers whose Weighted Votes have not been reduced in accordance with paragraph 6 above) as at the last Rented Meter Date (as determined by National Grid).

8. Where as a result of the reallocation of Extra Votes in accordance with paragraph 7, any Domestic Customer, or Group of Customers, has Weighted Votes in excess of 35% ("**Additional Extra Votes**"), the Additional Extra Votes shall be reallocated in accordance with paragraphs 5 to 7, *mutates mutandis* as if such Additional Extra Votes were Extra Votes. If more than one Domestic Customer, or Group of Customers, has Weighted Votes of more than 35%, this paragraph 8 shall be applied for each Domestic Customer or Group of Customers with Weighted Votes of more than 35%.