

DATED 27th October 2017



**TRANSMISSION, DISTRIBUTION AND RETAIL
LICENCE**

granted to

**BERMUDA ELECTRIC LIGHT COMPANY LIMITED
("BELCO")**

Licensee: BERMUDA ELECTRIC LIGHT COMPANY LIMITED

Address: 27 SERPENTINE ROAD, PEMBROKE HM 07, BERMUDA

License Number: TDR2017102701

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PART I DEFINITIONS, INTERPRETATION, SCOPE AND TERMS OF THE LICENCE

The Regulatory Authority of Bermuda ("**Authority**"), in exercise of the authority conferred by the Electricity Act 2016 ("**EA**"), and Bermuda Electric Light Company Limited ("**BELCO**") having fulfilled the criteria set out in Section 23 of the EA, hereby grants to BELCO ("**Licensee**"), a licence ("**this Licence**") to transmit, distribute and retail electricity within the territorial limits of Bermuda subject to the terms of this Licence, the EA, the Regulatory Authority Act 2011 ("**RAA**") and any Regulations, General Determinations, Adjudicative Decisions, Orders and Directions made or issued in accordance with these Acts.

1 DEFINITIONS

In this Licence, unless the context otherwise requires:

"**Affiliate**" in relation to the Licensee means any holding company of the Licensee, any subsidiary of the Licensee or a subsidiary of a holding company of the Licensee.

"**Auditors**" means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies Act 1981.

"**Authority**" means the Regulatory Authority of Bermuda.

"**Bulk Generation**" means as defined in the EA.

"**Bulk Generation Licence**" means a licence granted by the Authority under the EA in respect of Bulk Generation.

"**Bulk Generation Licensee**" means any person who is granted a Bulk Generation Licence by the Authority.

"**Central Dispatch**" means the process of scheduling and issuing direct instructions for the dispatch of available Generation Units by the Licensee for the Grid System and which shall comply with the requirements of Section 20(3)(c) of the EA.

"**Commencement Date**" means the date on which this Licence is issued by the Authority.

"**Condition**" a condition of this Licence including any Transitional Conditions set forth in the Annex to this Licence.

"**Control**" means:

- (a) the power, whether held directly or indirectly, to exercise decisive influence over the Licensee, including by directing its management and policies, whether through ownership of shares, stocks or other securities or voting rights, or through an agreement or arrangement of any type, or otherwise; and
- (b) shall, in any event, be deemed to exist in any case involving the ownership of 25 per cent or more of the shares, stock or other securities or voting rights, including through an agreement or arrangement of any type,

and "**Controlled**" shall be construed accordingly.

"Controlling Interest Holder" means a company or individual that is in Control of the Licensee.

"Dispatch Instructions" means the operating instructions of the Licensee to Bulk Generation Licensees in respect of their Generation Units and which shall comply with the requirements of Section 20(3)(c) of the EA.

"Disposal" includes any sale, gift, lease, licence, mortgage, charge or the grant of any encumbrance or any other disposition to a third party and **"Dispose"** shall be construed accordingly.

"Distributed Generator" means as defined in the EA.

"Distribution Business" means the business of the Licensee in or ancillary to the transport of electricity through the Licensee's Distribution System and shall include (i) any business in providing connections to the Licensee's Distribution System; (ii) operations; (iii) management; and (iv) investment, but shall not include any other business of the Licensee.

"Distribution System" means the system of medium and low voltage electric lines and electrical plant and meters owned by the Licensee and used for conveying electricity without the use of the Transmission System.

"End-User(s)" means as defined in the EA.

"Feed-in Tariff" means as defined in the EA.

"Financial year" means the period from 1 January to 31 December in any calendar year during the term of this Licence and the first financial year shall be the period from the Commencement Date until the succeeding 31 December and the last financial year shall be the period from 1 January until the date on which this Licence is revoked or terminated in accordance with its terms.

"Generation Business" means the authorised business of the Bulk Generation Licensee relating to the Bulk Generation of electricity in Bermuda pursuant to its Bulk Generation Licence.

"Generation Unit" means any plant or apparatus for the generation of electricity including a facility comprising one or more generation units. For the avoidance of doubt, a Generation Unit shall not include any distributed generation systems.

"Government Authorisation Fees" means the fees established pursuant to Section 52 of the RAA and required to be paid by the Licensee under Sections 25 and 26 of the EA.

"Grid Code" means a code developed by the Licensee with the approval of the Authority as more particularly described in the EA and pursuant to the terms of this Licence.

"Grid Connection Policy" means the policy referred to in Condition 20.

"Grid System" means (i) the Transmission System; and (ii) the Distribution System of the Licensee.

"Information" means any documents, records, accounts, estimates, returns, or reports (whether or not prepared specifically at the request of the Authority) of any description and in any format specified by the Authority.

"Insolvency Event" means the occurrence of any of the following events, unless such event is capable of being set aside and proper proceedings to have such event set aside are filed with the appropriate court within thirty (30) days of such event:

- a) there is entered against the Licensee a decree or order by a court adjudging the Licensee bankrupt or insolvent or approving as properly filed by or on behalf of the Licensee a petition seeking reorganization, arrangement or reconstruction or appointing a receiver, liquidator, trustee, sequestrator (or other similar official) of the Licensee over a substantial part of its property or assets or ordering the winding up or liquidation of its affairs; or
- b) the institution by the Licensee of proceedings to be adjudicated bankrupt or insolvent; or
- c) the consent by the Licensee to the institution of bankruptcy or insolvency proceedings against it; or
- d) the filing by the Licensee of a petition or consent seeking relief from creditors generally under any applicable Law;
- e) the consent by the Licensee of the filing of any petition or for the appointment of a receiver, liquidator, trustee, sequestrator (or other similar official) of the Licensee or any substantial part of its property; or
- f) any other event shall have occurred with respect to the Licensee which under applicable Law would have an effect analogous to any of the events referred to in this definition.

"Integrated Resource Plan" or "IRP" means the document to be developed and provided by the Licensee and approved by the Authority in accordance with Sections 40 to 45 of the EA.

"Interim Grid Code" means the grid code referred to in Condition 22.2 of this Licence which contains existing codes, standards and practices governing the Grid System.

"Law" means the laws of Bermuda.

"Large Scale Self Supply Licence" means a licence granted under Sections 20 and 25 of the EA.

"Large Scale Self Supply Licensee" means any person that is granted a Large Scale Self Supply Licence by the Authority.

"Licence" means this Transmission, Distribution and Retail Licence granted to the Licensee by the Authority pursuant to the provisions of the EA and any Schedules and Annexures hereto.

"Licensee" means BELCO, a company established in 1904, the governing acts of which were most recently consolidated in the Bermuda Electric Light Company Act 1951 and whose registered office is at 27 Serpentine Road, Pembroke HM 07, Bermuda.

"Merit Order" means an order for ranking available Generation Units as shall be prescribed in the Grid Code and which order shall have as its aim the promotion of Renewable Energy and the optimising of the economy, security, stability and reliability of the Grid System of Bermuda and shall take fully into account cost considerations, and such order shall comply with the requirements of section 20(3) of the EA.

"Minister" means the Minister responsible for energy in Bermuda.

"Modification" includes any addition, omission, amendment and substitution of this Licence.

"Natural Disaster Contingency Fund" means a sinking fund collected from End-Users, of an amount to be determined by the Authority to be used by the Licensee to effect repairs to the Grid System following the occurrence of any natural disaster in Bermuda.

"Net Benefit Test" means a test to uniformly evaluate (i) proposed third party investments; and (ii) investments by the Licensee's Generation Business in new generation in Bermuda.

"Notice" means (unless otherwise specified) notice given in accordance with Condition 37 of this Licence.

"Output" means the electricity generated at the generation facilities of any Bulk Generation Licensee and delivered to the Grid System.

"Power Purchase Agreement" means an agreement between the Licensee and a Bulk Generation Licensee in accordance with Section 48 of the EA for the sale and purchase of the whole or any part of the available capacity of the generation facilities of such Bulk Generation Licensee and/or the sale and purchase of the whole or any part of the Output by the Licensee from such Bulk Generation Licensee.

"Protected Information" means any personal data identified in accordance with Section 39 of the EA, any other applicable Law and any General Determinations made pursuant to Section 39 of the EA.

"Prudent Operating Practice" means the practice of a Reasonable and Prudent Operator.

"Regulatory Authority Fees" means the fees established to fund the operation of the Authority under Section 44 of the RAA and payable by the Licensee to the Authority under Condition 5 of this Licence.

"Relevant Asset" means, subject to any Administrative Determination made by the Authority in respect of such definition or related methodology, any asset which is necessary to enable the Licensee to comply with its obligations under the EA, RAA

and this Licence and including those assets which form part of the Licensee's Grid System.

"Renewable Energy" means energy that comes from resources that are constantly replenished, and includes energy produced by solar, wind, biomass, landfill gas, municipal solid waste, ocean (including tidal, wave, current, and thermal), geothermal, or hydro resources.

"Representation" includes any objection or other proposal made in writing.

"Retail Business" means the business of the Licensee as electricity supplier in Bermuda but excluding any activities forming part of (i) the Transmission and Distribution Business and (ii) the Bulk Generation Business and, for the avoidance of doubt, shall include, amongst other things, the following activities (i) invoicing End-Users; (ii) protecting the rights of End-Users; and (iii) safeguarding Protected Information.

"Retail Tariff" means the tariff at which the Licensee sells electricity to its End-Users, as determined by the Authority in accordance with the methodology set by General Determination made by the Authority under Section 35 of EA and in accordance with the principles set out in Section 35 of the EA.

"Scheduling System" means a system prepared by the Licensee for, amongst other things, identifying the economic cost of electricity from Generation Units which are connected to the Grid System and which are available for the purposes of establishing a Merit Order and which shall comply with the requirements of Section 20(3)(c) of the EA.

"Sectoral Participants" has the meaning set out in the RAA.

"Sectoral Providers" has the meaning set out in the RAA.

"Service Agreement" means an agreement between the Licensee and the End-User as more particularly described in Condition 29.

"Separate Business" means each of the Generation Business, and the TD&R Business of the Licensee taken separately from one another and from any other business of the Licensee or any Affiliate or related undertaking of the Licensee (including the Controlling Interest Holder of the Licensee) and **"Separate Businesses"** shall be construed accordingly.

"Standard Contract" means as defined in the EA.

"Transmission and Distribution Business" means the Transmission Business and the Distribution Business of the Licensee taken together.

"TD&R Business" means the Transmission and Distribution Business of the Licensee and the Retail Business of the Licensee all taken together.

"Transmission Business" means the business of the Licensee in or ancillary to the planning and development, and the construction and maintenance, of the Licensee's Transmission System, including providing connections to the Licensee's Transmission System but shall not include any other business of the Licensee.

"Transmission System" means the system of high voltage electric lines and electrical plant and meters owned by the Licensee and used for conveying electricity from a generating station to a sub-station, from one sub-station to another and from one generating station to another.

"Year" means a period of 12 months commencing on 1 January.

2 INTERPRETATION

For the purposes of interpreting this Licence:

- (a) unless a different definition is provided in this Licence, words or expressions shall have the meaning assigned to them in the EA, the RAA and the Interpretation Act 1951;
- (b) where there is any conflict between the provisions of this Licence and the EA or RAA, the provisions of the EA or RAA (as the case may be) shall prevail. For the avoidance of doubt the provisions of the EA take precedence over the provisions of the RAA pursuant to Section 3(3) of the EA;
- (c) references to Conditions and Annexes are to Conditions and Annexes of this Licence, as modified from time to time in accordance with this Licence and the EA;
- (d) headings and titles used in this Licence are for reference only and shall not affect its interpretation or construction;
- (e) references to any Law or statutory instrument include any modification, re-enactment or legislative provisions substituted for the same;
- (f) expressions cognate with those used in this Licence shall be construed accordingly;
- (g) words importing the singular shall include the plural and vice versa, and words importing the whole shall be treated as including a reference to any part unless explicitly limited;
- (h) reference to a person includes an individual, firm, partnership, joint venture, company, corporation, body corporate, unincorporated body of persons or any state or any agency of a state or any other legal entity; and
- (i) unless the contrary intention appears, words importing the masculine gender include the feminine.

3 SCOPE OF THE LICENCE

- 3.1 This Licence grants the Licensee the right to transmit, distribute and retail electricity within Bermuda and to purchase or acquire electricity from Bulk Generation Licensees and Distributed Generators, including the right to engage in any other activities which directly support, and which are necessary as regards, its right to transmit, distribute and retail electricity within Bermuda.

- 3.2 This Licence does not grant the Licensee the right to engage in any other activities in the electricity sector in Bermuda without first obtaining the approval of the Authority in writing in respect of any such additional activities.
- 3.3 Nothing in this Licence shall relieve the Licensee of the obligations to comply with any other requirement imposed by Law or Prudent Operating Practice to obtain any additional consents, permissions, authorisations, licences or permits as may be necessary to exercise the Licensee's right to discharge its obligations under the Licence.
- 3.4 Following a written request by the Licensee, the Authority shall be entitled to issue instructions relieving the Licensee of its obligations to comply with any provisions of this Licence to such extent as may be specified in the Authority's instructions.

4 TERM OF THE LICENCE

- 4.1 This Licence shall be valid from the Commencement Date and shall continue in full force and effect until 27th October 2047 unless revoked in accordance with Condition 9 of this Licence or surrendered in accordance with Condition 10 of this Licence. In the event of revocation by the Authority, this may apply with immediate effect (subject to rights of appeal), or, on any notice period the Authority may specify. In the event of surrender, the Authority may require a period of up to 5 years' notice of the surrender taking effect.
- 4.2 A decision by the Authority to revoke this Licence shall be appealable pursuant to Section 33 of the EA.

PART II - CONDITIONS

5 FEES AND PENALTIES

- 5.1 The Licensee shall pay to the Authority such Government Authorisation Fees as may be prescribed pursuant to Sections 25, 26, and 66(3) of the EA; Section 52 of the RAA; and the Government Fees Act 1965.
- 5.2 The Licensee shall pay to the Authority such Regulatory Authority Fees as may be prescribed pursuant to Section 44 of the RAA.
- 5.3 The Licensee shall pay to the Authority any penalties that may be imposed on the Licensee by the Authority in accordance with Section 26(1)(a) of EA and Section 94 of the RAA.
- 5.4 The Licensee shall be liable in accordance with Section 57 of the EA for failure to pay the fees set out in paragraphs 5.1 and 5.2 of this Condition 5.
- 5.5 The Licensee shall be liable in accordance with Section 60 of the EA for failure to comply with this Licence.

6 COMPLIANCE

- 6.1 The Licensee shall comply with:

- (a) the Conditions of this Licence, including any Schedules and Annexures to this Licence;
- (b) the terms of any associated licences, authorisations and permits issued to the Licensee;
- (c) any regulations issued by the Minister in accordance with Section 54 of the EA;
- (d) any Ministerial directions issued by the Minister pursuant to the EA;
- (e) any General Determinations made by the Authority pursuant to the EA and the RAA;
- (f) any Administrative Determinations made by the Authority pursuant to the EA and the RAA;
- (g) the EA;
- (h) the RAA; and
- (i) any other applicable Law, enactment, determination, regulation or order in effect in Bermuda to which the Licensee is subject.

6.2 Where there is an irreconcilable conflict between any applicable Laws, regulation, determination or order, the following order of precedence shall apply: Acts of Parliament, Regulations and Orders made by the Minister, international agreements that apply to Bermuda, General or other Administrative Determinations made by the Authority, and this Licence.

7 INFORMATION, AUDITS AND INSPECTION

7.1 The Licensee shall, in accordance with Section 26(1)(f), the provisions of Part 8 of the RAA and any General Determination by the Authority, furnish to the Authority, in such manner and at such reasonable times as the Authority may reasonably require, such Information relating to the electricity sector including any Information reasonably required by the Authority in order for it to comply with its obligations under Section 52 of the EA.

7.2 Subject to the provisions of Part 8 of the RAA and any applicable General Determination by the Authority, the Licensee shall permit the Authority or persons designated by the Authority, to examine, investigate or audit, or procure such assistance as the Authority may reasonably require to conduct an examination, investigation or audit of, any aspect of the Licensee's TD&R Business.

7.3 Subject to the provisions of Section 92 of the RAA and any applicable General Determination by the Authority, the Licensee shall permit the Authority or persons designated by the Authority to enter the Licensee's premises, and shall facilitate reasonable access by the Authority or such persons to the premises used by the Licensee, to conduct an inspection, examination, investigation or audit of the Licensee.

- 7.4 The Licensee shall notify the Authority as soon as possible upon becoming aware that it is in a position in which it may potentially breach any Condition set out in this Licence.
- 7.5 The Licensee shall place a complete copy of this Licence on the Licensee's website or, if no such website exists, in a conspicuous place in the Licensee's principal place of business such that it is readily available for inspection free of charge by members of the general public during normal office hours.

8 MODIFICATION OF THE LICENCE

- 8.1 This Licence may be modified:
- (a) by the Authority of its own motion pursuant to Section 29 of the EA and Section 51 of the RAA;
 - (b) with the mutual consent of the Licensee and the Authority pursuant to Section 29 of the EA and Section 51 of the RAA;
 - (c) by the Authority following an enforcement proceeding, pursuant to the provisions of Section 93 of the RAA; or
 - (d) by the Authority following any change of Control of the Licensee's Generation Business and/or its TD&R Business pursuant to the operation of Sections 30(3), 21 and 22 of the EA.

9 ENFORCEMENT, SUSPENSION AND REVOCATION

- 9.1 The Authority may initiate enforcement proceedings pursuant to Section 53 of the EA and Section 93 of the RAA.
- 9.2 The Authority may revoke this Licence:
- (a) in accordance with the provisions of Section 31 of the EA and Section 51 of the RAA; and
 - (b) in the event of any Insolvency Event affecting the Licensee.
- 9.3 The Authority shall be entitled to suspend this Licence in accordance with Sections 31 and 53 of the EA and Section 51 of the RAA. The Authority may, in its sole discretion, lift an on-going suspension and re-instate the Licence.
- 9.4 In the event of any revocation of this Licence in accordance with Condition 9 of this Licence and/or any surrender of this Licence by the Licensee pursuant to Condition 10 of this Licence, the Licensee shall without delay provide all reasonable assistance and take all reasonable steps and co-operate fully with any new provider of transmission, distribution and retail electricity services in Bermuda to transfer its assets to such new provider as notified to the Licensee by the Authority so that there is the minimum of disruption and so as to prevent or mitigate any inconvenience or risk to the health or safety of End-Users, Sectoral Providers, Sectoral Participants and all members of the public.

10 DISCONTINUANCE OF SERVICE, SURRENDER OF LICENCE

Unless the Authority agrees otherwise, the Licensee shall not be entitled to surrender this Licence.

11 ACCOUNTING REQUIREMENTS

- 11.1 The purpose of this Condition is to ensure that the Licensee (and any Affiliate or related undertaking of the Licensee including the Controlling Interest Holder) maintains accounting and reporting arrangements which enable separate accounts to be prepared for each Separate Business and which show the financial affairs of each such Separate Business.
- 11.2 The Licensee shall in respect of each of its Generation Business and TD&R Business maintain appropriate management accounts and/or operating accounts that will enable the Authority to assess the Licensee's financial standing, performance and transparency across its business units.
- 11.3 Annually, the Licensee shall in respect of each of its Generation Business and TD&R Business, prepare from such accounting records:
- (a) accounting statements comprising a profit and loss and other comprehensive income statement, a statement of financial position, a statement of changes in equity and a cash flow statement, together with notes thereto, and showing separately in respect of each of the Generation Business and the TD&R Business details of the amounts of any revenue, cost, asset, liability, reserve or provision, which has been either:
 - (i) received by each of the Generation Business and TD&R Business from any other business (whether or not a Separate Business and including from the Controlling Interest Holder) together with a description of the basis of such revenue, cost or liability received;
 - (ii) charged from each of the Generation Business and TD&R Business to any other business (whether or not a Separate Business and including to the Controlling Interest Holder) together with a description of the basis of that charge; or
 - (iii) determined by apportionment or allocation between each of the Generation Business and the TD&R Business and any other business (whether or not a Separate Business and including the Controlling Interest Holder) together with a description of the basis of the apportionment or allocation; and
 - (b) each financial year, sufficient accounting information in respect of each of the Licensee's Generation Business and TD&R Business to allow for reconciliation against the licensee's consolidated financial statements.
- 11.4 The Licensee shall procure, in respect of the accounting statements prepared in accordance with this Condition, a report by the Auditors addressed to the Authority stating whether in their opinion those statements have been properly prepared in accordance with this Condition and give a true and fair view of the revenues, costs,

assets, liabilities, reserves and provisions of, or reasonably attributable to, the Separate Business to which the statements relate.

- 11.5 The Licensee shall deliver to the Authority a copy of the Auditors' report referred to in paragraph 11.4 and the accounting statements referred to in paragraph 11.3(a) as soon as reasonably practicable.
- 11.6 The Licensee shall not in relation to the accounting statements in respect of a financial year change the bases of charge, apportionment or allocation referred to in paragraph 11.3(a) from those applied in respect of the previous financial year, unless the Authority has previously issued instructions for the purposes of this Condition instructing the Licensee to change such bases in a manner set out in the instructions or the Authority gives its prior written approval to the change in such bases. The Licensee shall comply with any instructions issued for the purposes of this Condition. If the Licensee changes the bases of charge, apportionment or allocation from those adopted for the immediately preceding financial year, it shall show a reconciliation of the revised and prior-year methodologies.
- 11.7 Accounting statements in respect of a financial year prepared under paragraph 11.3(a) shall, so far as reasonably practicable, and unless otherwise approved by the Authority having regard to the purposes of this Condition:
- (a) have the same content and format (in relation to each of the Generation Business and the TD&R Business of the Licensee) as the annual accounts of the Licensee (and the Controlling Interest Holder) prepared under the Law and conform to the best commercial accounting practices and to the accounting standards or such other standards as may be notified to the Licensee by the Authority from time to time; and
 - (b) be published with the Licensee's consolidated financial statements.
- 11.8 References in this Condition to costs or liabilities of, or reasonably attributable to, any Separate Business shall be construed as excluding taxation, capital liabilities which do not relate principally to a particular Separate Business and interest thereon; and references to any accounting statement shall be construed accordingly.
- 11.9 Without prejudice to any other paragraph of this Condition, and subject to the Authority giving reasonable notice to the Licensee, the Licensee shall, on request by the Authority, give to the Authority with a reasonable time of such request by the Authority access to the Licensee's accounting records, policies and statements referred to in this Condition.

12 AVAILABILITY OF RESOURCES

- 12.1 The Licensee shall at all times act in a manner calculated to secure that it has sufficient management resources and financial resources and financial facilities to enable it to:
- (a) carry on its TD&R Business; and
 - (b) comply with its obligations under this Licence and the EA.

- 12.2 The Licensee shall submit a certificate addressed to the Authority, approved by a resolution of the Board of Directors of the Licensee and signed by a director of the Licensee pursuant to that resolution. Such certificate shall be submitted on 30th April each year and shall be in one of the following forms:
- (a) "After making enquiries, the directors of the Licensee have a reasonable expectation that the Licensee will have available to it, after taking into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid, sufficient financial resources and financial facilities to enable the Licensee to carry on the Separate Businesses for a period of 12 months from the date of this certificate.";
 - (b) "After making enquiries, the directors of the Licensee have a reasonable expectation, subject to the terms of this certificate, that the Licensee will have available to it, after taking into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid, sufficient financial resources and financial facilities to enable the Licensee to carry on the TD&R Business for a period of 12 months from the date of this certificate. However, the directors would like to draw attention to the following factors which may cast doubt on the ability of the Licensee to carry on the TD&R Business."; or
 - (c) "In the opinion of the directors of the Licensee, the Licensee will not have available to it sufficient financial resources and financial facilities to enable the Licensee to carry on the TD&R Business for a period of 12 months from the date of this certificate."
- 12.3 The Licensee shall submit to the Authority together with the certificate referred to in paragraph 12.2 of this Condition a statement of the main factors which the directors of the Licensee have taken into account in giving that certificate.
- 12.4 The Licensee shall inform the Authority in writing immediately if the directors of the Licensee become aware of any circumstances which cause them no longer to have the reasonable expectation expressed in the most recent certificate given under paragraph 12.2.
- 12.5 The Licensee shall use its best endeavours to obtain and submit to the Authority with each certificate provided for in paragraph 12.2 a report prepared by its Auditors and addressed to the Authority stating whether or not the Auditors are aware of any inconsistencies between, on the one hand, that certificate and the statement submitted with it and, on the other hand, any information which they obtained during their audit work.
- 12.6 The Licensee shall procure from the Controlling Interest Holder a legally enforceable undertaking in favour of the Licensee (in a form specified by the Authority) that the Controlling Interest Holder will refrain from any action, and will procure that every subsidiary of the Controlling Interest Holder (other than the Licensee) will refrain from any action, which would then be likely to cause the Licensee to breach any of its obligations under this Licence or the EA.
- 12.7 The Licensee shall:

- (a) deliver to the Authority evidence (including a copy of such undertaking) that the Licensee has complied with the obligation to procure an undertaking pursuant to paragraph 12.6; and
- (b) inform the Authority immediately in writing if the directors of the Licensee become aware that the undertaking has ceased to be legally enforceable or that its terms have been breached.

13 PROHIBITION OF CROSS-SUBSIDIES

13.1 The Licensee shall procure that no Separate Businesses of the Licensee:

- (a) gives any direct or indirect cross-subsidy to the Licensee; and
- (b) receives any direct or indirect cross-subsidy from the Licensee.

13.2 The Licensee shall procure that it shall not give any cross-subsidy to or receive any cross subsidy from the Controlling Interest Holder.

14 SERVICE STANDARDS & PERFORMANCE STANDARDS

14.1 The Licensee shall comply with any applicable service standards including standards relating to power reliability, power quality and customer service standards set out in any General Determinations made pursuant to Section 34 of the EA.

14.2 The Licensee shall report to the Authority in accordance with the provisions of any General Determination regarding the same but in any event provide:

- (a) details on an annual basis as to which service standards and performance standards it has complied with and which standards it has failed to meet; and
- (b) where service and performance standards have not been met, details regarding any interventions made to rectify such service and performance deficiencies during the last year.

14.3 In addition, within 60 days of the end of each financial year, the Licensee shall submit to the Authority a report setting out those matters referred to in paragraph 14.2 above in respect of the previous financial year. The Licensee shall, if required by the Authority, publish a summary of the report in a manner approved by the Authority.

14.4 The Licensee shall operate the Grid System in accordance with the provisions of Section 20(3) of the EA and applicable standards as set forth in the Grid Code, relevant codes of practice and General Determinations.

14.5 If the Licensee fails to meet its required service standards as set forth in this Licence, the Grid Code, codes of practice or General Determinations, the Licensee shall forthwith discuss with the Authority the reasons for any non-compliance and the steps that the Licensee intends to take in order to remedy such non-compliance.

14.6 The Authority shall give the Licensee reasonable time to implement the remedial measures notified by the Licensee to the Authority pursuant to paragraph 14.5 of this Condition 14.

- 14.7 If after the Licensee has been given a reasonable opportunity by the Authority to implement the steps it has outlined to the Authority under paragraphs 14.5 and 14.6, the Licensee still fails to meet its required service standards, the Authority shall be entitled to:
- (a) impose a financial penalty as determined by the Authority on the Licensee in respect of its failure to comply with its required service standards; and/or
 - (b) require that the Licensee pay compensation as determined by the Authority to its End-Users in respect of its failure to comply with its required service standards pursuant to the terms of this Licence.
- 14.8 The Authority shall review the service standards referred to in this Condition 14 which the Licensee is required to comply with when conducting any tariff review pursuant to Section 37 of the EA.
- 14.9 The Licensee shall be liable in accordance with the provisions of Section 58 of the EA if it fails to comply with those safety standards set out in Section 58 of the EA.

15 DISPOSAL OF RELEVANT ASSETS

- 15.1 Subject to Condition 15.4, the Licensee shall obtain the prior written consent of the Authority in order to Dispose of any Relevant Asset and/or to create security over any Relevant Asset and/or to relinquish control over any Relevant Asset, such consent shall not be unreasonably withheld.
- 15.2 Subject to the provisions of any applicable General Determination, the Licensee shall give to the Authority not less than 2 months' prior written notice of its intention to create any security or effect a Disposal of or relinquish control over any Relevant Asset, together with such reasonable further information as the Authority may request relating to such asset or the circumstances of such intended Disposal or relinquishment of control or to the intentions.
- 15.3 Notwithstanding paragraphs 15.1 and 15.2, the Licensee may effect a Disposal of or relinquish operational control over any Relevant Asset where:
- (a) the Authority has issued instructions for the purposes of this Condition containing a general consent (whether or not subject to conditions) to:
 - (i) transactions of a specified description; and/or
 - (ii) the Disposal of or relinquishment of operational control over Relevant Asset(s) of a specified description; and
 - (b) the Disposal or relinquishment of operational control in question is effected pursuant to a transaction of a description specified in the instructions or the Relevant Asset in question is of a description so specified and the Disposal or relinquishment of operational control is in accordance with any conditions to which the consent is subject.
- 15.4 Notwithstanding paragraph 15.1, the Licensee may Dispose of or relinquish operational control over any Relevant Asset specified in any notice given under paragraph 15.2 in circumstances where:

- (a) the Authority confirms in writing that it consents to such Disposal or relinquishment (which consent may be made subject to the acceptance by the Licensee or any third party in favour of whom the Relevant Asset is proposed to be Disposed or operational control is proposed to be relinquished of such conditions as the Authority may specify); or
- (b) the Authority does not inform the Licensee in writing of any objection to such Disposal or relinquishment of control within the notice period referred to in paragraph 15.1 (subject to the provisions of any General Determination).

16 RESTRICTION ON USE OF CERTAIN INFORMATION

- 16.1 The Licensee shall procure that the Licensee shall not obtain any unfair competitive advantage from the Licensee's possession of Protected Information.
- 16.2 The Licensee shall implement such measures and procedures and take all such other steps as required by Law and any General Determination in accordance with Section 39 of the EA.
- 16.3 The Licensee shall:
 - (a) procure and furnish to the Authority, in such manner and at such times as the Authority may require, such Information as the Authority may consider necessary concerning the performance by the Licensee of its obligations under paragraphs 16.1 and 16.2; and
 - (b) procure that access to any premises of the Licensee shall be given at any time and from time to time to any nominated person(s) for the purpose of investigating whether the Licensee has performed its obligations under paragraphs 16.1 and 16.2.
- 16.4 This Condition is without prejudice to the duties at Law of the Licensee towards outside persons.
- 16.5 Where the Licensee receives Protected Information in its capacity as the Licensee it shall take all reasonable precautions against the risk of failure to restrict the use of that information to the sole purpose it was originally provided. For the avoidance of doubt the Licensee shall procure that any person, who works for both the Licensee's TD&R Business and the Licensee's Generation Business, shall not disclose any Protected Information it receives in its capacity as employee, agent, and consultant of the Licensee's TD&R Business to any other person in the Licensee's Generation Business and vice versa.

17 NATIONAL DISASTER CONTINGENCY FUND

The Licensee shall, from the revenues paid to it pursuant to Condition 26 of this Licence set up a Natural Disaster Contingency Fund in an amount to be determined by the Authority and which must be available at any time during the term of this Licence such fund to be provided for as part of the design of the tariff methodology set by General Determination pursuant to Section 35(1) of the EA.

18 BASIS OF CHARGES FOR CONNECTION TO GRID SYSTEM

Preparation of statements on basis of charging for connection to Licensee's Grid System

- 18.1 The Licensee shall within six months from the Commencement Date prepare a statement, approved by the Authority, setting out the basis upon which charges will be made for connection to the Licensee's Grid System. Such statement shall be in such form and will contain such detail as shall be necessary to enable any person to make a reasonable estimate of the charges, to which it would become liable, for connection to the Licensee's Grid System and shall include the information set out in Condition 18.2 below.
- 18.2 Except to the extent that the Authority shall otherwise specify, the statement referred to in paragraph 18.1 shall include:
- (a) a schedule listing those items (including the carrying out of works and the provision and installation of electric lines or electrical plant or meters) of significant cost liable to be required for the purpose of connection (at entry or exit points) to the Licensee's Grid System for which connection charges may be made or levied and including (where practicable) indicative charges for each such item and (in other cases) an explanation of the methods by which and the principles on which such charges will be calculated;
 - (b) the methods by which and the principles on which any charges will be made in respect of extension or reinforcement of the Licensee's Grid System rendered necessary or appropriate by virtue of providing connection to any person seeking connection;
 - (c) the methods by which and the principles on which connection charges will be made in circumstances where the electric lines or electrical plant to be installed are of greater size or capacity than that required by the person seeking connection;
 - (d) the methods by which and the principles on which any charges (including any capitalised charge) will be made for maintenance and repair required of electric lines, electrical plant or meters provided and installed for making a connection to the Licensee's Grid System;
 - (e) the methods by which and the principles on which any charges will be made for the provision of special metering or telemetry or data processing equipment by the Licensee for the purposes of enabling any person which is bound to comply with the Grid Code to comply with its obligations in respect of metering thereunder, or for the performance by the Licensee of any service in relation thereto;
 - (f) the methods by which and principles on which any charges will be made for disconnection from the Licensee's Grid System and the removal of electrical plant, electric lines and ancillary meters following disconnection.; and
 - (g) such other matters as shall be specified in instructions issued by the Authority from time to time for the purposes of this Condition.

18.3 Connection charges for those items referred to in paragraph 18.2 shall be set at a level which will enable the Licensee to recover:

- (a) the appropriate proportion of the costs directly or indirectly incurred in carrying out any works, the extension or reinforcement of the Licensee's system and the provision and installation, maintenance and repair and, following disconnection, removal of any electric lines, electrical plant, meters, special metering, telemetry, data processing equipment or other items; and
- (b) a reasonable rate of return on the capital represented by such costs.

19 NON-DISCRIMINATION REGARDING CONNECTION TO THE GRID SYSTEM

In the carrying out of works for the purpose of connection to the Grid System, the Licensee shall not unduly discriminate, as between:

- (a) any persons or class or classes of persons; or
- (b) the Licensee (in the provision of connections by the Licensee as part of the TD&R Business) and any person or any class or classes of persons; or
- (c) the Licensee's TD&R Business and the Licensee's Generation Business,

except insofar as any difference in the amounts charged, or any other terms or conditions of such provision or carrying out of works, reflects to the satisfaction of the Authority, the difference between the costs of such provision to one person or class of persons or other circumstances of carrying out such connection to one person or class of persons.

20 REQUIREMENT TO OFFER TERMS

Offer of terms for Connection

20.1 The Licensee shall, within twelve months from the grant of this Licence, prepare and submit its Grid Connection Policy in accordance with the requirements of this Condition **Error! Reference source not found.** to the Authority for approval by the Authority. Upon approval by the Authority of such Grid Connection Policy, the Licensee shall implement and comply with such policy.

20.2 The Grid Connection policy to be submitted by the Licensee pursuant to paragraph **Error! Reference source not found.**1 shall:

- (a) include conditions in accordance with Section 47(3)(a) of the EA;
- (b) take account of Section 47(3)(b) and (c) of the EA;
- (c) comply with the Grid Code;
- (d) comply with any code of practice issued by the Authority;
- (e) set out in detail the terms on which access to the Grid System will be provided to Distributed Generators;

- (f) set out in detail the basis on which the Licensee shall offer to enter into agreements for connection to its Grid System with any person requesting connection; and
 - (g) set out (in detail) the information to be provided by the Licensee by those persons seeking connection.
- 20.3 For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works under an agreement for making a connection or modification to an existing connection in accordance with Condition 18.3 of this Licence, the Licensee shall have regard to:
- (a) the benefit (if any) to be obtained or likely in the future to be obtained by the Licensee or any other person as a result of the carrying out of such works (or of such other matters) whether by reason of the reinforcement or extension of the Licensee's Grid System or the provision of additional entry or exit points on such system or otherwise; and
 - (b) the ability or likely future ability of the Licensee to recoup a proportion of such costs from third parties.
- 20.4 The Licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any connection agreement if to do so would involve the Licensee breaching Condition 6.1 of this Licence.

21 FUNCTIONS OF THE AUTHORITY

- 21.1 If, after a period which appears to the Authority to be reasonable for the purpose, the Licensee has failed to enter into an agreement with any person entitled or claiming to be entitled thereto pursuant to a request for connection to the Licensee's Grid System, the Authority may, on the application of that person or the Licensee, and in accordance with the provisions of Sections 57 and 58 of the RAA, settle any terms of the agreement in dispute between the Licensee and that person in such manner as appears to the Authority to be reasonable having (insofar as relevant) regard in particular that such person should pay to the Licensee, the whole or an appropriate proportion (as determined in accordance with Conditions 18.3 and 20.3).
- 21.2 If either party to an agreement for connection to the Licensee's Grid System proposes to vary the contractual terms of such agreement in any manner provided for under such agreement, the Authority may, at the request of the Licensee or other party to such agreement, settle any dispute relating to such variation in accordance with the provisions of Sections 57 and 58 of the RAA.

22 GRID CODE

- 22.1 The Licensee shall within twelve months of the grant of this Licence, in consultation with Sectoral Participants and Sectoral Providers liable to be materially affected thereby, prepare and submit to the Authority for its approval a Grid Code.
- 22.2 Upon approval by the Authority of the Grid Code, the Licensee shall implement and comply with such Grid Code.
- 22.3 The Grid Code shall:

- (a) cover all material technical aspects relating to connections to and the operation and use of the Grid System or (insofar as relevant to the operation and use of the Grid System) the operation of electric lines and electrical plant connected to the Grid System;
- (b) contain rules and procedures governing generation dispatch and maintenance scheduling, taking into consideration various operating considerations, including but not limited to least cost, planned generator maintenance, operating reserves (both on-peak and off-peak) and subject to the terms and conditions of executed Power Purchase Agreements; and
- (c) contain rules and procedures that provide for the safe and reliable operation of the Grid System including the conditions under which the Licensee shall operate the Grid System and under which Bulk Generation Licensees shall operate their licensed generating plant under both normal and abnormal operating conditions; and
- (d) be designed so as:
 - (i) in relation to the Licensee's Grid System:
 - (A) to ensure that all Bermuda residents are provided with access to a supply of electricity pursuant to Section 20(3) of the EA;
 - (B) to give effect to the purposes of the EA as set out in Section 6 of the EA; and
 - (C) comply with any Administrative Determination by the Authority pursuant to Section 14 of the EA.

22.4 Within two years from the grant of this Licence and thereafter, every five years or less as determined by the Authority, (including upon the request of the Authority), the Licensee shall (in consultation with Sectoral Participants and Sectoral Providers liable to be materially affected thereby) periodically review the Grid Code and its implementation. Following any such review, the Licensee shall send to the Authority:

- (a) a report on the outcome of such review;
- (b) any proposed revisions to the Grid Code from time to time as the Licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives referred to in paragraph 22.4(d); and
- (c) any written representations or objections from any Sectoral Participants and Sectoral Providers (including any proposals by such persons for revisions to the Grid Code not accepted by the Licensee in the course of the review) arising during the consultation process and subsequently maintained.

22.5 Revisions to the Grid Code proposed by the Licensee and sent to the Authority pursuant to paragraph 22.4 shall require to be approved by the Authority. Any revisions to the Grid Code proposed by the Licensee shall be filed by the Licensee with the Authority and the Authority shall respond within 90 days of the date of filing by the Licensee.

- 22.6 Having regard to any written representations or objections referred to in paragraph 22.4(c), and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue instructions requiring the Licensee to revise the Grid Code in such manner as may be specified in the instructions, and the Licensee shall forthwith comply with any such instructions.
- 22.7 The Authority shall be entitled, in order to implement the requisite arrangements referred to in Condition 22.3(d) to issue instructions to the Licensee requiring the Licensee to revise the Grid Code in such manner and with effect from such date as may be specified in the instructions, and the Licensee shall comply with any such instructions.
- 22.8 The Licensee shall give or send a copy of the Grid Code to the Authority and the Minister.
- 22.9 The Licensee shall give or send a copy of the Grid Code to any person requesting the same and shall be entitled to charge such persons a price not exceeding the reasonable cost of duplicating the Grid Code.
- 22.10 The Licensee shall publish a redacted version of the Grid Code on its website in order to provide sufficient information so as to allow Distributed Generators to connect to the Grid System.
- 22.11 In preparing, implementing and complying with the Grid Code (including in respect of the scheduling of maintenance of the Grid System and any generation set or associated power station equipment or combination of generation sets or associated power station equipment) the Licensee shall not :
- (a) unduly discriminate against or in favour of any person or class or classes of persons;
 - (b) unduly prefer the Licensee in the conduct of its Generation Business; or
 - (c) restrict or prevent competition in generation.
- 22.12 The Licensee shall keep and maintain such records concerning its implementation of and compliance with the Grid Code as are in accordance with such guidelines as the Authority shall from time to time have given to the Licensee and are, in the opinion of the Authority, sufficient to enable the Authority to assess whether the Licensee is complying with its obligations under this Condition.
- 22.13 The Authority may from time to time (following consultation with the Licensee and Sectoral Participants and Sectoral Providers) issue instructions relieving the Licensee of its obligations to implement or comply with, or to enforce against any other person any provision of, the Grid Code in respect of such parts of the Licensee's Grid System to such extent as may be specified in the instructions.

23 OBLIGATIONS REGARDING INTEGRATED RESOURCE PLAN AND PROCUREMENT OF NEW GENERATION

- 23.1 The Licensee shall comply with Sections 40 to 45 of the EA as regards the Integrated Resource Plan proposal and the Integrated Resource Plan.

- 23.2 The Authority shall be entitled to require the Licensee to clarify any matters set out in the Integrated Resource Plan proposal submitted by the Licensee to the Authority pursuant to Section 41 of the EA and the Licensee shall provide any such Information to the Authority within a reasonable timescale having regard to the complexity of the request.
- 23.3 Following approval of the final draft Integrated Resource Plan by the Authority in accordance with Section 44(2) of the EA, where the Licensee requires to procure new generation capacity in accordance with such approved Integrated Resource Plan, the Licensee shall:
- (a) notify the Authority of the size and timing of such future additional generation requirements;
 - (b) solicit bids from its Generation Business and other prospective generators and demand side resource providers in respect of such required additional generation capacity;
 - (c) following receipt of bids under (b) above, conduct a detailed evaluation and assessment of all bids received under (b) above in accordance with the Net Benefit Test; and
 - (d) following its assessment and evaluation under (c) above, submit a report to the Authority which contains (i) detailed information on what bids were received and the proposed costs submitted by each bidder; (ii) a detailed assessment of each bid as against the Net Benefit Test including with reasoned analysis and conclusions and (iii) the Licensee's recommendation on which bidder should be chosen as the successful bidder.
- 23.4 If at any time from the Commencement Date, the Authority becomes aware of any circumstances such that it reasonably believes that the Licensee has not procured sufficient future generation or that the Licensee's approach is not in the public interest, then the Authority shall be entitled to issue instructions obliging the Licensee to procure additional generation at the Licensee's cost (as specified in such instructions) and, if applicable, any IRP approved by the Authority pursuant to Section 44 of the EA shall be amended under Section 46 of the EA.

24 OBLIGATION TO ENTER INTO POWER PURCHASE AGREEMENTS

- 24.1 The Licensee shall enter into:
- (a) an Authority approved Power Purchase Agreement with a Bulk Generation Licensee for which the payments shall be passed through to End-Users pursuant to the Retail Tariff set in accordance with Section 35 of the EA; and
 - (b) power purchase arrangements with its Generation Business.
- 24.2 The Licensee shall ensure that the terms of any power purchase arrangements that will apply between its Generation Business and its TD&R Business are substantially similar to the terms of its Power Purchase Agreements that will be applied with other Bulk Generation Licensees.

25 OBLIGATION TO ENTER INTO STANDARD CONTRACTS WITH DISTRIBUTED GENERATORS

25.1 The Licensee shall enter into a Standard Contract with a Distributed Generator in accordance with Sections 49 and 50 of the EA. Any Standard Contract shall comply with the Standard Contract template set by Administrative Determination by the Authority pursuant to Section 49 of the EA.

26 RETAIL TARIFF & RESTRICTION ON LICENSEE'S REVENUE

26.1 The Licensee shall sell electricity to its End-Users at the Retail Tariff.

26.2 The Retail Tariff methodology shall include the establishment of a Natural Disaster Contingency Fund.

26.3 The Licensee shall be entitled to pass through the charges set out in Section 35(3) of the EA ("**the Pass-through Charges**").

26.4 These Pass-through Charges will be shown as separate items on consumer bills (as permitted in accordance with the EA and the RAA).

26.5 If the Licensee persistently fails to comply with the service standards required pursuant to this Licence and/or fails to procure required additional generation capacity in accordance with the Integrated Resources Plan and Condition 23 of this Licence, the Authority shall be entitled to require that the revenues payable to the Licensee pursuant to this Condition 26 of this Licence shall be retained by the Licensee.

26.6 The Authority shall conduct a review of the Retail Tariff in accordance with the provisions of Section 37 of the EA.

27 FEED-IN TARIFF

27.1 The Licensee shall pay Distributed Generators the Feed-In Tariff set by the Authority in accordance with a methodology determined by the Authority pursuant to a General Determination.

27.2 The methodology referred to in Condition 27.1 shall be determined in accordance with those principles set out in Section 36 of the EA.

27.3 The Authority shall conduct a review of the Feed-In Tariff in accordance with the provisions of Section 37 of the EA.

28 CENTRAL DISPATCH AND MERIT ORDER

28.1 Central Dispatch

The Licensee shall schedule and issue direct instructions for the dispatch of all available Generation Units of each Bulk Generation Licensee in accordance with the Grid Code.

28.2 Merit Order

The Licensee shall establish as part of the Grid Code, and shall operate, a merit order system for Generation Units in Bermuda subject to Central Dispatch. The Licensee's merit order system shall comply with the requirements of Section 20(3) of the EA.

- 28.3 The Licensee shall provide to the Authority such information as the Authority shall request concerning the Licensee's Dispatch Instructions, and/or Scheduling System and/or Merit Order system or any aspect of its operation.
- 28.4 For the purposes of this Condition, the reference to optimal in Section 20(3) of the EA, in the absence of any contrary provision set out in any Administrative Determination made by the Authority shall be construed as lowest cost.

29 DUTY TO OFFER AND SUPPLY UNDER SERVICE AGREEMENTS

- 29.1 When the Licensee supplies electricity to its End-Users, it must do so under a Service Agreement.
- 29.2 A Service Agreement must include terms and conditions that are appropriate for a business that is providing transmission, distribution and retail services to an international standard with appropriate service levels and including metering obligations by the Licensee.
- 29.3 Within two months from the Commencement Date, the Licensee shall submit to the Authority for approval the form of Service Agreement used by the Licensee.

30 END-USER BILLS

- 30.1 In accordance with Section 14(2) (c) (ii) and Section 26 (1) (d) of the EA within 6 months from the grant of this Licence, the Licensee shall submit to the Authority for approval the form of End-User bill that is proposing to send to End-Users.
- 30.2 The Licensee shall comply with any Administrative Determination made by the Authority pursuant to Section 14(2) (c) (ii) in relation to the form and content of End-User bills.

31 CODES OF PRACTICE

The Licensee shall comply with any codes of practice issued by the Authority pursuant to any General Determination made by the Authority under Section 38 of the EA in relation to the commercial and marketing practices of the Licensee to protect the rights of End-Users.

32 ASSIGNMENT, OUTSOURCING AND MORTGAGES

- 32.1 This Licence shall not be transferred or assigned without the prior consent of the Authority and Section 30 of the EA shall apply accordingly.
- 32.2 The Licensee may utilize the services of third parties on an ongoing basis in the provision of TD&R services (i.e., the Licensee may "outsource" certain of its TD&R functions), without relieving the Licensee of its obligations under the Licence. The procurement of such outsourced services shall be subject to the Authority's approval. Any such approval shall be based on the cost-effectiveness of the outsourced

services, how it was procured and with whom, and the fitness and propriety of the relevant third parties and shall not be unreasonably withheld.

32.3 The Licensee shall not sub-licence, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other person including an Affiliate of the Licensee without the written authorisation of the Authority.

32.4 The Licensee shall be liable in accordance with Section 56 of the EA if it contravenes this Condition.

33 CHANGE OF CONTROL

33.1 The Licensee shall not complete any proposed change in Control of the Licensee without first obtaining the prior written authorisation of the Authority in accordance with Section 30 of the EA and Section 87 of the RAA, which consent shall not be unreasonably withheld.

33.2 The Licensee shall be liable in accordance with Section 56 of the EA if it contravenes this Condition.

34 INDEMNIFICATION

The Licensee shall indemnify the Authority against all actions, claims and demands which may be brought or made by any person in respect of any injury or death of any Person or damage to any property arising from any act of the Licensee permitted or authorized by the Licence. The Authority shall provide the Licensee with notice of any such actions, claims and demands, but the Authority's failure to do so shall not relieve the Licensee of any obligations imposed on the Licensee by this Condition.

35 FORCE MAJEURE; OTHER EVENTS

35.1 If the Licensee is prevented from complying with the Licence by acts of God, war, warlike operations, civil commotion, major strikes or any other significant or protracted industrial action, fire, tempest or any other causes beyond the Licensee's reasonable control;

(a) the Licensee shall notify the Authority, as promptly as reasonably practicable, of the obligations of the Licence with which the Licensee cannot comply, the expected duration of the event of force majeure, and the measures the Licensee is taking to overcome the consequences of the event of force majeure; and

(b) the Authority shall suspend such obligations of the Licence as the Authority concludes the Licensee cannot comply with for as long as the event of force majeure continues.

35.2 In addition to events of force majeure, the Licensee shall notify the Authority of any fact or event likely to affect materially the Licensee's ability to comply with any Condition of this Licence, or an insolvency-related fact or Insolvency Event in respect of the Licensee or any Affiliate, or any preparatory steps being taken that might lead to an Insolvency Event, immediately upon becoming aware of such fact or event.

36 NO ABUSE OF DOMINANT POSITION

- 36.1 The Licensee occupies a dominant position in accordance with the RAA and Section 51 of the EA.
- 36.2 If the Licensee abuses its dominant position the Authority shall, pursuant to Section 26(1) (e) of the EA be entitled to require the Licensee to comply with any remedy imposed by the Authority and the Authority shall also be entitled to take those actions set out in Section 85(7) of the RAA.

37 NOTICES

Unless the Authority determines otherwise, notices to the Licensee under the Licence shall be in writing and sent by electronic mail to the Chief Executive Officer of the Licensee at the address communicated to the Authority from time to time.

Unless the Authority determines otherwise, notices from the Licensee to the Authority under the Licence shall be in writing and sent by electronic mail to the Chief Executive of the Authority to electricity@RAB.bm.

38 INSURANCE REQUIREMENTS

- 38.1 The Licensee shall:
- (a) at its own cost and expense take out and maintain in full force and effect with reputable insurance companies such policies of insurance, as it, acting in accordance with Prudent Operating Practice, considers appropriate so as to effect cover against the categories of risk set about below:
 - (i) fixed assets (buildings and their contents, machinery, stock, fixtures, fittings and all other personal property forming part of the Transmission System and Distribution System against risks of physical loss or damage including substations but not including cabling, lines and poles for their full replacement value;
 - (ii) machinery breakdown; and
 - (iii) public liability.
 - (b) on request, provide the Authority with copies of all policies effected by it, the amount of any premiums payable under such policies and evidence that the premiums payable thereunder have been paid;
 - (c) provide access to the Authority or its representatives to the Licensee's offices to inspect the original policies; and
 - (d) apply the proceeds of claims against such policies relating to damage to the Transmission System and Distribution System.

ANNEX

TRANSITIONAL CONDITIONS

The Licensee shall comply with each of the Transitional Conditions set forth below until such time as the Authority makes an Administrative Determination in respect of the subject matter of each such Transitional Condition, or as otherwise provided for in such Transitional Condition.

A1 ACCOUNTING SEPARATION REQUIREMENTS AND PROHIBITION OF CROSS-SUBSIDIES

- A1.1 Notwithstanding the provisions of Condition 11 and Condition 13, the Licensee shall not be obliged to comply with the provisions of Condition 11 until such time as:
- (i) the Authority determines the methodologies, mechanisms and other actions to be taken to enable the Licensee to comply with Conditions 11 and 13;
 - (ii) any such methodologies, mechanisms and other actions are approved by the Authority by Administrative Determination; and.
 - (iii) the Authority determines a practical timeframe for the implementation of the methodologies, mechanisms and other actions that will enable the Licensee to comply with Conditions 11 and 13.

A2. SERVICE STANDARDS

- A2.1 Notwithstanding the provisions of Condition 14, the service and performance standards in force immediately before the Commencement Date shall continue to apply after the Commencement Date until such time as the Authority makes a General Determination pursuant to Section 34 of the EA.

A4 GRID CONNECTION POLICY

- A4.1 During the period from the Commencement Date until such time as the Authority approves the Grid Connection Policy pursuant to paragraph 20.1 of Condition 20, the Licensee shall adhere to the standards set forth in the Bermuda Electric Light Company Limited Service Rules (the “**Service Rules**”) which existed and which the Licensee maintained immediately prior to the Commencement Date. Within 30 days from the Commencement Date, the Licensee shall submit such Services Rules to the Authority.

A5 GRID CODE

- A5.1 During the period from the Commencement Date until such time as the Authority approves the Grid Code pursuant to paragraph 22.1 of Condition 22, the Licensee shall adhere to the standards set forth in the Service Rules which existed and which the Licensee maintained immediately prior to the Commencement Date. Within 30 days from the Commencement Date, the Licensee shall submit such Services Rules to the Authority.