This deed is dated [DATE]

**PARTIES**

(1) **ELECTRICITY NORTH WEST LIMITED** incorporated and registered in England and Wales with company number 02366949 and registered office address at 304 Bridgewater Place, Birchwood Park, Warrington, WA3 6XG (**ENWL**).

(2) [**FULL COMPANY NAME**] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Indemnifier**).

**BACKGROUND**

(A) ENWL are proposing, in reliance on this deed, to consent to the Indemnifier carrying out the Works.

(B) It is a condition of ENWL allowing the Indemnified to undertake the Works that the Indemnified indemnify ENWL on the terms of this deed.

**AGREED TERMS**

**1. INTERPRETATION**

The following definitions and rules of interpretation apply in this deed.

* 1. Definitions:

**Business Day:** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;

**Claim:** meansany claim, demand, action or proceeding of any kind, actual or contingent;

**ENWL Network:** means the electricity network and associated assets under ENWL’s operational control;

**ESQCR**: means The Electricity Safety, Quality and Continuity Regulations 2002 (as may be amended, replaced or supplemented from time to time);

**HSWA:** Health and Safety at Work Act 1974 (as may be amended, replaced or supplemented from time to time);

**Regulatory Incentive Losses:** means:

(a) the regulatory incentive as defined in Charge Restriction Condition 8 (Adjustment of licensee’s revenue to reflect quality of service performance) as defined in ENWL’s Special Conditions of its license; and/or

(b) any other compensation, fines, penalties and/or payments paid, or agreed to be paid, by ENWL to any of its customers or other third parties, and any regulatory performance penalties including in relation to Customer Interruptions (“CI”) and Customer Minutes List (“CML) as may be required or recommended by Ofgem (whether specifically or pursuant to general guidance applicable to ENWL) or any similar or successor organisation and/or any other regulator; and

**Works**: means all works to be undertaken by the Indemnifier on the ENWL Network from time to time, including (without limitation) any electricity cabling, overhead lines, plant connections and ancillary works and the process of determining any point of connection.

1.2 Clause headings shall not affect the interpretation of this deed.

1.3 Unless the context otherwise requires, references to clauses are to the clauses of this deed.

1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.6 Unless the context otherwise requires, words in the singular shall include the plural and the plural shall include the singular.

1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.9 Except in relation to notices that are required to be issued pursuant to clause 6, a reference to **writing** or **written** includes email but not fax (unless otherwise expressly provided in this deed).

1.10 Where the words **include(s)**, **including**, or **in particular** are used in this deed, they are deemed to have the words "without limitation" following them.

1.11 Any obligation in this deed on the Indemnifier to do something includes an obligation to do that thing at the Indemnifier's own cost and expense.

1.12 **Other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

1.13 A reference to **representatives** includes partners, agents, employees and any other person acting on behalf and with the authority of a party.

**2. INDEMNITY**

2.1  In this clause 2, a reference to ENWL shall include ENWL's subsidiaries, and the provisions of this clause shall be for the benefit of ENWL and each such subsidiary, and shall be enforceable by each such subsidiary, in addition to ENWL.

2.2 The Indemnifier shall indemnify ENWL (who shall have no duty to mitigate its losses) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by ENWL arising out of or in connection with:

(a) any breach of HSWA (and/or and subordinate legislation) arising from the Indemnifier performing the Works and/or interfacing with the ENWL Network;

(b) any breach of ESQCR (and/or and subordinate legislation) arising from the Indemnifier performing the Works and/or interfacing with the ENWL Network;

(c) any Claim made against ENWL by a third party arising out of or in connection with the Indemnifier performing the Works and/or interfacing with the ENWL Network;

(d) any Regulatory Incentive Losses; and/or

(e) any other losses, damages, expenses or other costs incurred by ENWL arising out of or in connection with the Indemnifier performing the Works and/or interfacing with the ENWL Network.

2.3 This indemnity shall apply whether or not ENWL has been negligent or at fault.

**3. SEVERANCE**

3.1 If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause 3.1 shall not affect the legality, validity and enforceability of the rest of this deed.

**4. VARIATION AND WAIVER**

4.1 No variation of this deed shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

4.2 No failure or delay by a party to exercise any right or remedy provided under this deed or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

5. SUCCESSORS

5.1 The rights of ENWL under this deed shall continue for the benefit of their successors.

6. NOTICES

6.1 Any notice given to a party under or in connection with this deed shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case).

6.2 Any notice shall be deemed to have been received:

(a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

(b) if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.

6.3 This clause 6 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

6.4 A notice given under this deed is not valid if sent by email.

7. GOVERNING LAW AND JURISDICTION

7.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England and Wales.

7.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

|  |  |
| --- | --- |
| Executed as a deed by **ELECTRICITY NORTH WEST LIMITED** acting by a director, in the presence of:  ……………………………………  Signature of witness  Name  Address  Occupation of witness:  Executed as a deed by [**INSERT**] acting by a director, in the presence of:  ……………………………………  Signature of witness  Name  Address  Occupation of witness: | .....................................................  Signature of Director  ………………………………………  Name of Director  .....................................................  Signature of Director  ………………………………………  Name of Director |