

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

CUSC SECTION 15

USER COMMITMENT METHODOLOGY

CONTENTS

- Part One Introduction**

- Part Two Calculation of Cancellation Charge**

- Part Three Calculation of Cancellation Charge Secured Amount and Credit Requirements**

- Part Four Reconciliation of Actual Attributable Works Cancellation Charge**

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

PART ONE INTRODUCTION

- 1 Where (a) a **Construction Agreement** and/or a **Bilateral Connection Agreement** or **Bilateral Embedded Generation Agreement** between a **User** in respect of the categories specified below and **The Company** is terminated or (b) there is a reduction in **Transmission Entry Capacity** by or in respect of such **User** or (c) there is a reduction in **Developer Capacity** in a **Construction Agreement** prior to the **Charging Date**, or (d) there is a reduction in **Interconnector User Commitment Capacity** by or in respect of such **User**, such **User** shall pay to **The Company** the **Cancellation Charge** calculated and applied in accordance with Part Two of this Section 15
- 2 The **Cancellation Charge** is payable by **Users** on termination of agreements with and reductions in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** in respect of **Users** in the categories of
- (a) a **Power Station** directly connected to the **National Electricity Transmission System** in respect of which there is a **Bilateral Connection Agreement** with **The Company**;
 - (b) an **Embedded Power Station** in respect of which there is a **Bilateral Embedded Generation Agreement** with **The Company**;
 - (c) a **Distribution System** directly connected to the **National Electricity Transmission System** in respect of which there is a **Construction Agreement** associated with **Distributed Generation**
 - (d) an **Interconnector** directly connected to the **National Electricity Transmission System** in respect of which there is a **Bilateral Connection Agreement** with **The Company**

and reference to **User** in this Section 15 shall be interpreted accordingly.

For the avoidance of doubt this schedule does not apply to **Users** other than those described above.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

For the avoidance of doubt in respect of **Users** in the case of category (b) above where **The Company** has an associated **Construction Agreement** with a **User** in the category of (c) above, the **Cancellation Charge** payable by a **User** in category (b) above will not include the **Attributable Works Cancellation Charge** component of the **Cancellation Charge**. In such case the **Attributable Works Cancellation Charge** component of the **Cancellation Charge** will be payable by the associated **User** in category (c) above.

For the avoidance of doubt in the case of:

- (i) **Users** in the case of category (c) above; and
- (ii) **Distributed Generation** (other than an **Embedded Power Station** which is the subject of a **Bilateral Embedded Generation Agreement**),

the **Cancellation Charge** does not apply for reductions in **Developer Capacity** on or after the **Charging Date** or termination on or after the **Charging Date**.

For information, for **Users** other than **Users** in the categories to which this Section 15 applies, the liability for and security requirements in respect of **Final Sums**, which are due on termination of a **Construction Agreement** are as set out in the **Construction Agreement** (and in the proforma attached at **CUSC** Schedule 2, Exhibit 3).

For the avoidance of doubt, in addition to the **Cancellation Charge**, **Termination Amounts** also apply in respect of **Transmission Connection Assets**.

- 3** **The Company** shall apply and calculate the **Cancellation Charge** in accordance with Part Two of this Section 15.

The **Cancellation Charge** is made up of a number of components: the “**Pre Trigger Amount**”, “**Attributable Works Cancellation Charge**” and “**Wider Cancellation Charge**” which apply at different stages.

- 4** As provided for at Paragraph 3.5, the **Attributable Works Cancellation Charge** can be (at the **User’s** election in accordance with Paragraph 7) on the

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

basis of the **Fixed Cancellation Charge** (Paragraph 3.6) rather than the **Actual Attributable Works Cancellation Charge** (Paragraph 3.7).

- 5 This Section 15 also sets out in Part Three the level of, and arrangements for, security required in respect of the **Cancellation Charge**.
- 6 **The Company** shall apply and calculate the **Cancellation Charge Secured Amount** in accordance with this Section 15 Part Three.
- 7 This Section 15 also sets out in Part Four the reconciliation process in respect of the **Actual Attributable Works Cancellation Charge**.
- 8 For reference a number of terms used in this Section 15 are defined within this Section 15.
- 9 **Distributed Generation Users** in the category of (c) above are liable for the **Cancellation Charge** (or where the **Distributed Generation** has a **Bilateral Embedded Generation Agreement**, the **Attributable Works Cancellation Charge** component of the **Cancellation Charge**) on a reduction in **Developer Capacity** (or in the case of **Distributed Generation** with a **Bilateral Embedded Generation Agreement**) **Transmission Entry Capacity** and/or termination of the **Construction Agreement** between **The Company** and the **User**. Given this such **Users** will have arrangements in place with the **Distributed Generation** for reimbursement by the **Distributed Generation** of the **Cancellation Charge** and recognising this there are specific payment arrangements between the **User** and **The Company** provided for in the **Construction Agreement** Between the **User** and **The Company**.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

PART TWO CALCULATION OF CANCELLATION CHARGE

1.1 The **Cancellation Charge** payable shall be calculated in accordance with this Part Two of Section 15.

1.2 Value Added Tax will be payable on any **Cancellation Charge**.

2 Completion Date and Trigger Date

2.1 In making an **Offer** to a **User** **The Company** will consider the **Construction Works** and **Construction Programme** associated with that **Offer** and taking into account the nature and programming of the **Construction Works** and the **Consents** associated with this will identify dates in the **Construction Agreement** as the **Completion Date**.

2.2 The **Trigger Date** will be (a) the 1 April which is three **Financial Years** prior to the start of the **Financial Year** in which the **Charging Date** occurs or (b) where the **Charging Date** is less than three **Financial Years** from the date of the **Construction Agreement**, the date of the **Construction Agreement** (in which case the **Financial Year** in which such date falls is the relevant **Financial Year** within the **Cancellation Charge Profile** working back from the **Charging Date**).

2.3 The **Trigger Date** is the date from which the **Wider Cancellation Charge** applies and the date from which, in the case of the **Fixed Cancellation Charge**, the **Fixed Attributable Works Cancellation Charge** rather than the **Pre Trigger Amount** applies. Prior to the **Trigger Date**, only the **Attributable Works Cancellation Charge** applies, or in case of the **Fixed Cancellation Charge**, the **Pre Trigger Amount** applies.

2.4 **Changes to Construction Programme or Construction Works or Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity**

2.4.1 Where the **Construction Programme** or the **Construction Works** or **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** subsequently changes

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

from that in the original **Construction Agreement** the following principles will apply in respect of reassessing the **Trigger Date** and the **Cancellation Charge**.

2.4.2 Where such change is as a result of **The Company's** exercise of its rights under the **Construction Agreement** then:

- (i) Where there is a delay to the **Completion Date** and the **Trigger Date** has not passed, the **Trigger Date** will be revised by reference to the revised **Completion Date**. The period for which the **Pre Trigger Amount** applies, will be adjusted to reflect the new **Trigger Date**;
- (ii) Where there is a delay to the **Completion Date** and the **Trigger Date** has passed, the **Trigger Date** will be revised by reference to the revised **Completion Date** and the **Cancellation Charge** (including the **Cancellation Charge Profile**) will be adjusted to reflect the revised date.
- (iii) In the case of a **Fixed Cancellation Charge**, a change in the **Attributable Works** will not adjust the **Cancellation Charge Profile** unless the **Completion Date** has also changed in which case (ii) above will apply.

2.4.3 Where a change is as a result of the **User's** request then, notwithstanding any change in the **Completion Date**;

- (i) Where there is a delay to the **Completion Date** and the **Trigger Date** has not passed, the **Trigger Date** will be revised by reference to the revised **Completion Date**. The period for which the **Pre Trigger Amount** applies, will be adjusted to reflect the new **Trigger Date**;
- (ii) Where there is a delay to the **Completion Date** and the **Trigger Date** has passed, the **Trigger Date** will not be revised by reference to the revised **Completion Date** and the **Cancellation Charge** will not be adjusted downwards but will be held at that level and will increase from that level in line with any new **Construction Programme**.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

3 Calculation of Cancellation Charge

3.1 The **Cancellation Charge** is the charge due to **The Company** by a **User** on termination of a **Construction Agreement**, **Disconnection** or a reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** prior to the **Charging Date** and **Disconnection** or a reduction in **Transmission Entry Capacity** or **Interconnector User Commitment Capacity** on or after the **Charging Date**.

3.2 This calculation of the **Cancellation Charge** is different:

- (a) where the **Construction Agreement** is terminated or **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** is reduced before the **Trigger Date** (the “**Pre Trigger Amount**” or “**Actual Attributable Works Cancellation Charge**”) (Paragraphs 3.6.1 and 3.7);
- (b) where the **Construction Agreement** is terminated or **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** is reduced on or after the **Trigger Date** but prior to the **Charging Date** (the “**Fixed Attributable Works Cancellation Charge**” or “**Actual Attributable Works Cancellation Charge**” and the “**Wider Cancellation Charge**”) (Paragraphs 3.5 to 3.8);
- (c) depending whether the **Attributable Works Cancellation Charge** is a **Fixed Cancellation Charge** or **Actual Attributable Works Cancellation Charge** (Paragraphs 3.5 to 3.7);
- (d) where the **Transmission Entry Capacity** or **Interconnector User Commitment Capacity** is reduced or **Disconnection** occurs on or after the **Charging Date** (the “**Wider Cancellation Charge**”) (Paragraph 3.8).

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

3.3 Where the Construction Agreement is terminated or Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity is reduced before the Trigger Date

Where a **Construction Agreement** is terminated or **Transmission Entry Capacity** is reduced or **Developer Capacity** is reduced or **Interconnector User Commitment Capacity** is reduced before the **Trigger Date** the **Cancellation Charge** shall be calculated as follows:

Cancellation Charge = Attributable Works Cancellation Charge

3.4 Where the Construction Agreement is terminated or Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity is reduced on or after the Trigger date but prior to the Charging Date

Where a **Construction Agreement** is terminated or **Transmission Entry Capacity** is reduced or **Developer Capacity** is reduced or **Interconnector User Commitment Capacity** is reduced on or after the Trigger date but prior to the **Charging Date** the **Cancellation Charge** shall be calculated as follows:

Cancellation Charge = Attributable Works Cancellation Charge plus Wider Cancellation Charge

The following Paragraphs set out in detail the **Attributable Works Cancellation Charge** and **Wider Cancellation Charge** and Paragraph 3.7 sets out the above calculation by formula.

3.5 Attributable Works Cancellation Charge

The **Attributable Works Cancellation Charge** can be either the **Fixed Cancellation Charge** or **Actual Attributable Works Cancellation Charge**.

3.6 Fixed Cancellation Charge

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

The calculation of the **Fixed Cancellation Charge** is different where the **Construction Agreement** is terminated or **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** is reduced before (“**Pre Trigger Amount**”) or on or after the **Trigger Date** (“**Fixed Attributable Works Cancellation Charge**”).

3.6.1 Pre Trigger Amount

Should a **Construction Agreement** be terminated, or **Transmission Entry Capacity** be reduced or **Developer Capacity** be reduced or **Interconnector User Commitment Capacity** be reduced before the **Trigger Date** the **Fixed Cancellation Charge** is the **Pre Trigger Amount** calculated as a £/MW figure by reference to the **Cancellation Charge Profile** and derived in accordance with the formula at Paragraph 3.9 and set out in the **Notification of Fixed Cancellation Charge** by reference to which an election is made in accordance with Paragraph 7:

3.6.2 Fixed Attributable Works Cancellation Charge

Where a **Construction Agreement** is terminated or **Transmission Entry Capacity** is reduced or **Developer Capacity** is reduced or **Interconnector User Commitment Capacity** is reduced on or after the **Trigger Date** but prior to the **Charging Date** the **Fixed Cancellation Charge** is the **Fixed Attributable Works Cancellation Charge** calculated as follows:

Fixed Attributable Works Cancellation Charge = (Attributable Works Cancellation Amount x MW Reduction in Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity) x Cancellation Charge Profile

Where the **Attributable Works Cancellation Amount** results in a £/MW figure calculated as follows:

(Estimated Attributable Works Capital Cost x (1 – Local Asset Reuse Factor) x Strategic Investment Factor x Distance Factor) / Transmission

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity

Where the **Estimated Attributable Works Capital Cost** is the fair and reasonable estimate of the **Attributable Works Capital Cost** for each component within the **Attributable Works** and which is as set out in the **Notification of Fixed Cancellation Charge** by reference to which an election is made in accordance with Paragraph 6.

Where the **Attributable Works** are as specified in Appendix MM of the **Construction Agreement** at the time of the **Notification of Fixed Cancellation Charge** by reference to which an election is made in accordance with Paragraph 6.

Where the **Local Asset Reuse Factor** is the factor representing the potential for reuse of each component within the **Attributable Works** as set out in the **Notification of Fixed Cancellation Charge** by reference to which an election is made in accordance with Paragraph 6.

Where the **Strategic Investment Factor** is a factor calculated for each component within the **Attributable Works** as a ratio of the **Transmission Entry Capacity** and/or **Developer Capacity** and/or **Interconnector User Commitment Capacity** sharing those **Attributable Works** against the secured capability of the **Transmission** assets and set out in the **Notification of Fixed Cancellation Charge** by reference to which an election is made in accordance with Paragraph 6.

Where the **Distance Factor** is a factor calculated for each component within the **Attributable Works** as a ratio of distance to the nearest suitable MITS substation and distance to the MITS substation where the **Attributable Works** connect as set out in the **Notification of Fixed Cancellation Charge** by reference to which an election is made in accordance with Paragraph 6. This factor is only valid for components where distance is relevant i.e. cables and overhead lines.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Where the **Cancellation Charge Profile** is the profile derived in accordance with the formula at Paragraph 3.10 and set out in the **Notification of Fixed Cancellation Charge** by reference to which an election is made in accordance with Paragraph 6.

3.6.3 The **Pre Trigger Amount** and the **Attributable Works Cancellation Amount** (and the factors used in deriving this) and the **Cancellation Charge Profile** are fixed at the time an election is made in accordance with Paragraph 7 and the **Pre Trigger Amount** and **Attributable Works Cancellation Amount** are not subject to any further specific adjustment, reconciliation or credit should any of the **Transmission** assets resulting from the **Attributable Works** be reused or of benefit to other **Users**.

3.7 Actual Attributable Works Cancellation Charge

3.7.1 The **Actual Attributable Works Cancellation Charge** is the **Attributable Works Capital Cost** in respect of each component within the **Attributable Works** at the time at which the **Construction Agreement** is terminated or **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** is reduced including (a) fees, expenses and costs properly payable by **The Company** in respect of, or arising from the termination by **The Company** or any third party of any contract for or relating to the carrying out of any of the **Attributable Works** provided it is negotiated on an arms length basis (including any such arising under the **STC**) and (b) a sum equal to the reasonable costs of removing any **Transmission Connection Assets** and of making good the remaining **Plant** and **Apparatus** following such removal and (c) proper and reasonable expenses incurred and or paid or which **The Company** is legally bound to incur or pay in seeking **Consents** for the **Attributable Works** and (d) interest on any such amounts from the date they were paid by **The Company** to the date of **The Company's** invoice at 2% over **Base Rate** from time to time and for the time being provided that in each case **The Company** shall take into account the **Local Asset Reuse Factor**, the **Strategic Investment Factor** and the **Distance Factor** as calculated in paragraph 3.6.2, of the **Attributable Works** and any of the resulting **Transmission** assets.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

3.7.2 In the case of the **Actual Attributable Works Cancellation Charge**, on termination of the **Construction Agreement** or reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** prior to the **Charging Date**, **The Company** shall be entitled to invoice the **User** for a sum equal to **The Company's** fair and reasonable estimate of the **Actual Attributable Works Cancellation Charge** and so (a) in the case of termination, the **User** shall pay to **The Company** on account of the **Actual Attributable Works Cancellation Charge** a sum equal to the estimate of **Actual Attributable Works Cancellation Charge** as shown in the **Cancellation Charge Statement** for the period in which the termination occurs and (b) in the case of a reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity**, a sum by reference to the MW reduction based on the £/MW figure derived from the estimate of **Actual Attributable Works Cancellation Charge** as shown in the **Cancellation Charge Statement** for the period in which the termination occurs. These will then be subject to reconciliation in accordance with this Section 15 Part Four.

3.8 Wider Cancellation Charge

The **Wider Cancellation Charge** results in a £/MW charge calculated as follows:

Zonal Unit Amount x (MW of reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity**) x **Cancellation Charge Profile**

The **Zonal Unit Amount** is a £/MW figure calculated by reference to the **Generation Zone** in which the **Power Station** or **Interconnector** is to be located as set out in the **Cancellation Charge Statement**. It is calculated by reference to the **Annual Wider Cancellation Charge Statement** for the **Financial Year** in which notice of reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** is given and/or notice of **Disconnection** is given or, where in the case of an **Event of Default** where notice is not given, the **Financial Year** in which the reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** or **Disconnection** occurs.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Where the **Zonal Unit Amount** = **Load Related Boundary Capex** apportioned to **Boundaries** by **Boundary (LR) Level** and **Non Load Related Boundary Capex** apportioned to **Boundaries** by **Boundary (NLR) Level**, summated and multiplied by **Boundary Non Compliance Factors** and then mapped to **Generation Zones** and divided by the **Wider User Commitment Liability Base**, excluding those **Power Stations** or **Interconnectors** in respect of which a **Construction Agreement** has terminated or **The Company** has been notified of a reduction in the **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** or **Disconnection** within the period in question.

Where **Load Related Boundary Capex** is the capex required to increase capability in the network as determined by **The Company** for a given **Financial Year**, excluding any **Attributable Works Capital Cost**, multiplied by the **User Risk Factor** and the **Global Asset Reuse Factor**, as set out in the **Annual Wider Cancellation Charge Statement**.

Where **Non Load Related Boundary Capex** is the capex required to maintain capability in the network as determined by **The Company** for a given **Financial Year**, excluding any **Attributable Works Capital Cost**, multiplied by the **User Risk Factor** and the **Global Asset Reuse Factor**, as set out in the **Annual Wider Cancellation Charge Statement**.

Where the **User Risk Factor** is the share of total risk between generation and consumers, set at 0.5.

Where the **Global Asset Reuse Factor** for a given **Financial Year** is as set out in the **Annual Wider Cancellation Charge Statement**.

Where the **Boundaries** are as detailed in Section 8 of the **Seven Year Statement**.

Where **Boundary (LR) Level** is the depth of each **Boundary** as determined by **The Company** multiplied by the increase in required capability on that

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Boundary over the forthcoming four year period, as set out in the **Seven Year Statement**.

Where **Boundary (NLR) Level** is the depth of each **Boundary** as determined by **The Company** multiplied by the available capability on that **Boundary** in the year in question, as set out in the **Seven Year Statement**.

Where **Boundary Non Compliance Factors** are the ratio between the available capability and required capability on each **Boundary** as detailed in Section 8 of the **Seven Year Statement**, capped at 100%.

Where **Generation Zones** are (a) as defined in the **Seven Year Statement** for the **Financial Year** in which the termination or reduction in **Transmission Entry Capacity** or reduction in **Developer Capacity** or reduction in **Interconnector User Commitment Capacity** occurs prior to the **Charging Date** (or where not so defined as set out in the relevant **Cancellation Charge Statement**) or (b) as defined in the **Seven Year Statement** for the **Financial Year** in which the notice of **Disconnection** or reduction in **Transmission Entry Capacity** occurs on or after the **Charging Date**.

Where the **Wider User Commitment Liability Base** is the total amount of generation and **Interconnector User Commitment Capacity** in MW liable for the **Wider Cancellation Charge** in the year in question and the total amount of generation and **Interconnector User Commitment Capacity** in MW which will become liable for the **Wider Cancellation Charge** in the year in question and set out in the **Annual Wider Cancellation Charge Statement**.

Where the **Cancellation Charge Profile** is the profile derived in accordance with the formula at Paragraph 3.10 or 3.11, as appropriate.

3.9 Where the Construction Agreement is terminated or Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity is reduced before the Trigger Date

Should a **Construction Agreement** be terminated, or **Transmission Entry Capacity** be reduced or **Developer Capacity** be reduced or **Interconnector**

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

User Commitment Capacity be reduced before the **Trigger Date** the **Cancellation Charge** shall be calculated as follows:

Cancellation Charge = Either the Actual Attributable Works Charge or, where on the Fixed Attributable Works Cancellation Charge, a charge calculated as follows:

Reduction in Transmission Entry Capacity or Reduction in Developer Capacity or Reduction in Interconnector User Commitment Capacity x Pre Trigger Amount_t

Where:

- *Transmission Entry Capacity /Developer Capacity /Interconnector User Commitment Capacity expressed in MW.*
- *Termination of Construction Agreement equates to a reduction in Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity to zero*
- *Pre Trigger Amount_t which varies according to the number of Financial Years from the date of the Construction Agreement to the Trigger Date:*
 - *up to the end of the first Financial Year (i.e. t=1), the lower of either (a) Pre Trigger Amount_t = (£1000/MW) or (b) a sum equivalent to the Cancellation Charge (and if not known an estimate of this) which would apply in the Financial Year which is 3 Financial Years prior to the Financial Year in which the Charging Date occurs.*
 - *Where t = 2, the lower of either (a) Pre Trigger Amount_t = (£2000/MW) or (b) a sum equivalent to the Cancellation Charge (and if not known an estimate of this) which would apply in the Financial Year which is 3 Financial Years prior to the Financial Year in which the Charging Date occurs.*
 - *Where t ≥ 3 up to Trigger Date, the lower of either (a) Pre Trigger Amount_t = (£3000/MW) or (b) a sum equivalent to the Cancellation Charge (and if not known an estimate of this) which would apply in the Financial Year which is 3 Financial Years prior to the Financial Year in which the Charging Date occurs.*

3.10 Where the Construction Agreement is terminated or Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity is reduced on or after the Trigger Date but prior to the Charging Date

Where a **Construction Agreement** is terminated or **Transmission Entry Capacity** is reduced or **Developer Capacity** is reduced or **Interconnector User Commitment Capacity** is reduced on or after the **Trigger Date** but prior to the **Charging Date** a **User** shall pay the **Cancellation Charge** calculated as follows:

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Cancellation Charge = the sum of (a) Fixed Attributable Works Cancellation Charge or Actual Attributable Works Cancellation Charge and (b) Wider Cancellation Charge

(a) Either the Actual Attributable Works Charge or, where on the Fixed Attributable Works Cancellation Charge, a charge calculated as follows:

Where:

- Termination of Construction Agreement equates to reduction in Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity to zero*
- Fixed Attributable Works Cancellation Charge = Attributable Works Cancellation Amount x MW reduction in Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity x Cancellation Charge Profile_t*
- Cancellation Charge Profile_t which varies according to the number of Financial Years working back from the Charging Date to the Trigger Date:*
 - In the Financial Year in which the Charging Date occurs (t=0), Cancellation Charge Profile = 1.0,*
 - In the Financial Year which is 1 Financial Year prior to the Financial Year in which the Charging Date occurs (t=1), Cancellation Charge Profile = 0.75;*
 - In the Financial Year which is 2 Financial Years prior to the Financial Year in which the Charging Date occurs (t=2), Cancellation Charge Profile = 0.5; and*
 - In the Financial Year which is 3 Financial Years prior to the Financial Year in which the Charging Date occurs (t=3), Cancellation Charge Profile, = 0.25.*

AND

(b) Wider Cancellation Charge

Where:

- Termination of Construction Agreement equates to reduction in Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity to zero*
- Wider Cancellation Charge = Zonal Unit Amount x reduction in Transmission Entry Capacity or Developer Capacity or Interconnector User Commitment Capacity x Cancellation Charge Profile_t*
- Cancellation Charge Profile_t which varies according to the number of Financial Years working back from the Charging Date to the Trigger Date:*
 - In the Financial Year in which the Charging Date occurs (t=0), Cancellation Charge Profile = 1.0,*

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

- *In the Financial Year which is 1 Financial Year prior to the Financial Year in which the Charging Date occurs (t=1), Cancellation Charge Profile = 0.75;*
- *In the Financial Year which is 2 Financial Years prior to the Financial Year in which the Charging Date occurs (t=2), Cancellation Charge Profile = 0.5; and*
- *In the Financial Year which is 3 Financial Years prior to the Financial Year in which the Charging Date occurs (t=3), Cancellation Charge Profile = 0.25.*

3.11 Where the Transmission Entry Capacity or Interconnector User Commitment Capacity is reduced or Notice of Disconnection is given on or after the Charging Date

The **Cancellation Charge** payable on notice of **Disconnection** and/or a reduction in **Transmission Entry Capacity** or **Interconnector User Commitment Capacity** on or after the **Charging Date** is calculated on a £/MW basis as follows by reference to the **Zonal Unit Amount** for the **Financial Year** in which the notice is given:

Cancellation Charge = Wider Cancellation Charge

Where:

- *Disconnection equates to reduction in Transmission Entry Capacity or Interconnector User Commitment Capacity to zero*
- *Wider Cancellation Charge = Zonal Unit Amount for year in which notice of disconnection or reduction is given x reduction in Transmission Entry Capacity or Interconnector User Commitment Capacity x Cancellation Charge Profile_t.*
- *Cancellation Charge Profile_t which varies according to the number of Financial Years notice given from the date of notification to Disconnection or reduction in Transmission Entry Capacity or Interconnector User Commitment Capacity.*
 - *where notice is given in the Financial Year in which such notice is to take effect (t=0) Cancellation Charge Profile = 1,*
 - *except as provided below where notice is given in the Financial Year prior to the Financial Year in which such notice is to take effect (t=1), Cancellation Charge Profile = 0.75,*
 - *where notice of reduction of Transmission Entry Capacity is given in the CMP 213 Judicial Review Period which is within a Financial Year prior to the CMP213 Financial Year in which such notice is to take effect (t=1), for the purposes of the Cancellation Charge such notice shall be deemed to have been given in timescales such that the Cancellation Charge Profile = zero where;*

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

- *the “CMP213 Judicial Review Period” means the period of 20 Business Days (inclusive) from the day on which (having exhausted all appeals) the Judicial Review proceedings against the Authority’s decision to approve Approved CUSC Modification 213 are concluded*
- *The « CMP213 Financial Year » means the Financial Year in which Approved CUSC Modification 213 is directed by the Authority to take effect,*
- *where notice is given in the Financial Year which is two Financial Years prior to the Financial Year in which such notice is to take effect (t=2), Wider Cancellation Charge = zero.*

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

4 Annual Wider Cancellation Charge Statement

4.1 By not later than 31 January prior to the start of each **Financial Year** **The Company** will publish a statement showing:

- (a) the **Zonal Unit Amount** by **Generation Zone** for that **Financial Year**;
- (b) the **Wider User Commitment Liability Base** for that **Financial Year**;
- (c) the **Total TO Capex** for that **Financial Year** (*where the **Total TO Capex** is the forecast of the **Load Related Boundary Capex** and **Non Load Related Boundary Capex** for a given **Financial Year**, excluding the total **Attributable Works Capital Cost**);*
- (d) a forecast of the **Total TO Capex** for the following three **Financial Years**;
- (e) the **Global Asset Reuse Factor** for that **Financial Year**;
- (f) the **Boundary Non Compliance Factors** for that **Financial Year**;
- (g) a forecast of the **Zonal Unit Amount** by **Generation Zone** for the following three **Financial Years**;
- (h) the % of the **Cancellation Charge** that is required to be secured prior to (and including) and after the **Key Consents in Place Date**.

4.2 In the event that for any **Financial Year** it is proposed to change the **Global Asset Reuse Factor** or the % of the **Cancellation Charge** that is required to be secured prior to (and including) and after the **Key Consents in Place Date** from that set out in the **Annual Wider Cancellation Charge Statement** for the previous **Financial Year**, **The Company** shall not make such change without first consulting on the change (and its provision in electronic form on the Website and in electronic mails to **CUSC Parties** and such other persons who have supplied relevant details shall meet this requirement).

5. Statement of Cancellation Charge

5.1 With an **Offer** **The Company** shall provide each **User** with an indicative profile of the estimated spend in respect of the **Attributable Works** and a **Notification of Fixed Cancellation Charge**.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

5.2 Cancellation Charge Statement

5.2.1 The Company shall issue a **Cancellation Charge Statement** to a **User** showing the amount of the payment required or which may be required to be made by the **User** to **The Company** in respect of the **Cancellation Charge** prior to the **Charging Date** at the following times and in respect of the following periods:-

- (i) Forthwith on and with effect from the signing of the **Construction Agreement**, in respect of the period from and including the day of signing of the **Construction Agreement** until the next following 30 September or 31 March, whichever is the earlier; and thereafter
- (ii) not less than 75 (seventy five) days (or if such day is not a **Business Day** the next following **Business Day**) prior to each 30 September and 31 March thereafter in respect of the period of six calendar months commencing on the immediately following 1 October or 1 April (as the case may be), until the earlier of either the termination of the relevant **Construction Agreement** or the **Charging Date**.

5.3 If a **User** does not elect for the **Fixed Cancellation Charge** (unless and until a **User** subsequently elects for a **Fixed Cancellation Charge** as provided for at Paragraph 7 or advises **The Company** that it does not wish to receive this) **The Company** shall provide a **Notification of Fixed Cancellation Charge** and an estimate of the **Actual Attributable Works Cancellation Charge** with each **Cancellation Charge Statement**.

5.4 The **Actual Attributable Works Cancellation Charge** shall apply unless and until a **User** elects for a **Fixed Cancellation Charge** in accordance with Paragraph 7.

5.5 Estimating the Actual Attributable Works Cancellation Charge

In the case of the **Actual Attributable Works Cancellation Charge**, the **Cancellation Charge Statement** shall set out a fair and reasonable estimate of the **Actual Attributable Works Cancellation Charge** for the 6 month period

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

and, for the project generally. In addition the 6 month estimate of the **Actual Attributable Works Cancellation Charge** shall, for the purposes of assessing the **Cancellation Charge Secured Amount**, be prorated on a MW basis between those **Users** who share a component within the **Attributable Works**.

6 Electing for the Fixed Cancellation Charge

6.1 To elect for a the **Fixed Cancellation Charge**, a **User** must notify **The Company** to this effect by (a) returning a signed copy of the **Notification of Fixed Cancellation Charge** with its acceptance of the **Construction Agreement** or (b) , where a **User** does not elect at that time, it can elect 45 days (or if such day is not a **Business Day** the next following **Business Day**) prior to each 30 September or 31 March thereafter by returning a signed copy of the **Notification of Fixed Cancellation Charge** as provided with the relevant **Cancellation Charge Statement**.

6.2 Once a **User** has elected for the **Fixed Cancellation Charge**, the **Pre Trigger Amount**, **Attributable Works Amount** and **Cancellation Charge Profile** will then be fixed as that set out in the **Notification of Fixed Cancellation Charge** by reference to which such election was made and a **User** cannot revert to the **Actual Attributable Works Cancellation Charge**.

6.2.2 If the **User** becomes aware that the bank or insurance company issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, the **User** shall so notify **The Company** in writing as soon as it becomes so aware. If **The Company** becomes aware that the bank or insurance company issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, **The Company** may notify the **User** to that effect in writing. Where the bank, insurance company or the company so ceases to be either a **Qualified Bank** or a **Qualified Company** (as the case may be) as a consequence of **The Company** having reasonable cause to doubt the continued rating of the said bank, insurance company or company, such notice shall be accompanied by a statement setting out **The Company's** reasons for having such doubt. The **User** shall within 21 days of the giving of

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

such notice by **The Company** or the **User** whichever is the earlier provide a replacement **Performance Bond** and/or **Letter of Credit** from a **Qualified Bank** or **Qualified Company**, as the case may be, and/or provide a cash deposit in the required amount in a **Bank Account**. From the date the replacement **Performance Bond** or **Letter of Credit** or **Bank Account** cash deposit is effectively and unconditionally provided and **Valid**, **The Company** will consent in writing to the security which it replaces being released.

7 Cancellation Charge Secured Amount Statement

7.1 Where a **User** has to provide security in accordance with Part Three of this Section 15 the **Cancellation Charge Statement** shall be accompanied by the **Cancellation Charge Secured Amount Statement**.

7.2 The **Cancellation Charge Secured Amount** shall be based on the highest level of **Cancellation Charge** due within the period covered by the **Cancellation Charge Secured Amount Statement**.

8 Interconnector Transition to Cancellation Charge

8.1 This provision only applies in respect of **Users** who are **Interconnectors**.

8.2 The provisions of this Section 15 shall apply in respect of the first **Security Period** which is not less than 6 months after the **Implementation Date** for **CUSC Modification Proposal 222**. In the period prior to that **Security Period** and as soon as practicable after the **Implementation Date** for **CUSC Modification Proposal 222**

8.2.1 **The Company** shall

8.2.1.1 offer to amend each **User's Construction Agreement** such that it will be substantially in the form of that set out Schedule 2, Exhibit 3 Part 1 (as it relates to the **Cancellation Charge** arrangements);

8.2.1.2 send to each **User** in respect of each **Construction Agreement** a **Cancellation Charge Statement** for that **Security Period**

8.2.2 the **User** shall put **Security Arrangements** in place in respect of its **Construction Agreement** in accordance with **CUSC** Section 15 to be effective from the start of that **Security Period** to the next following 31 March or 30 September (whichever is the earlier).

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

- 8.3** If **The Company** and a **User** fail to agree changes to the **Construction Agreement** either such person may refer the matter to the **Authority** under Standard Condition C9 Paragraph 4 of the **Transmission Licence**.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

PART THREE

1. CALCULATION OF CANCELLATION CHARGE SECURED AMOUNT AND CREDIT REQUIREMENTS

2. Each **User** which has a **Construction Agreement** shall provide security in respect of each of its **Construction Agreements** for the **Cancellation Charge Secured Amount** as applied and calculated in accordance with this Part Three of Section 15:

2.1 in the case of a **User** which meets **The Company Credit Rating** at the date of the **Construction Agreement** in accordance with Paragraph 4; and

2.2 in the case of a **User** which does not meet **The Company Credit Rating** at the date of the **Construction Agreement** or thereafter ceases to meet it, in accordance with Paragraph 5.

3. CALCULATION OF CANCELLATION CHARGE SECURED AMOUNT

3.1 Prior to the **Trigger Date** the **Cancellation Charge Secured Amount** is the **Cancellation Charge** as set out in the **Cancellation Charge Statement** for the relevant **Security Period**.

3.2 On or after the **Trigger Date** until the **Charging Date** the **Cancellation Charge Secured Amount** is that percentage of the figure shown as the **Cancellation Charge** in the **Cancellation Charge Statement** for the relevant **Security Period** determined as follows:

For Users in category (a) as per Section 15 Part One Paragraph 2	
Prior to (and including) the Key Consents In Place Date	the % for that Financial Year as set out in the Annual Wider Cancellation Charge Statement .
From the Key Consents In Place	the % for that Financial Year as set out in

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Date	the Annual Wider Cancellation Charge Statement .
For Users in categories (b) and (c) as per Section 15 Part One Paragraph 2	
Prior to (and including) the Key Consents In Place Date	the % for that Financial Year for Distributed Generation as set out in the Annual Wider Cancellation Charge Statement .
From the Key Consents In Place Date	the % for that Financial Year for Distributed Generation as set out in the Annual Wider Cancellation Charge Statement .

3.3 The **User** shall notify **The Company** once it considers that it has been granted the **Key Consents**. **The Company** shall respond as soon as practicable after such notification confirming that it is satisfied that this is the case or giving reasons why it is not so satisfied.

4. PROVISION OF SECURITY WHERE USER MEETS THE COMPANY CREDIT RATING

4.1 The **User** shall as soon as possible after entering into a **Construction Agreement** and/or **Bilateral Connection Agreement** or **Bilateral Embedded Generation Agreement** and in any event no later than one (1) month after the date of the same confirm to **The Company** whether it meets **The Company Credit Rating**. Thereafter not less than 75 days before the 1 April and 1 October each year until 30 days after the **Charging Date** the **User** shall confirm to **The Company** whether it meets **The Company Credit Rating** (which in the case of a long term private credit rating shall be confirmed by Standard and Poor's or Moody's within a period of 45 days prior to the date of confirmation). The **User** shall inform **The Company** in writing forthwith if it becomes aware of no longer meeting **The Company Credit Rating** or if it is or is likely to be put on credit watch or any similar credit surveillance procedure which may give **The Company** reasonable cause to believe that the **User** may not be able to sustain meeting **The Company Credit Rating** for at least 12 months.

4.2 In the event that the **User** has elected to provide **The Company** with an indicative credit rating and **The Company** is of the reasonable opinion that the

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

User has ceased to comply with the requirements of Paragraph 4.1 then **The Company** may require the **User** forthwith:

- (i) to apply to Standard and Poor's and/or Moody's for a further indicative long term private credit rating; or
- (ii) to confirm to **The Company** that it shall provide the security referred to in Paragraph 4.4 below.

4.3 In the event of the **User**:

- (i) not meeting **The Company Credit Rating**; or
- (ii) having a credit rating below **The Company Credit Rating**; or
- (iii) not having obtained from Standard and Poor's or Moody's within 30 days of the written notification under Paragraph 4.2(i) above an indicative long term private credit rating,

or if **The Company** becomes aware that:
 - (iv) the **User** ceases to meet **The Company Credit Rating**; or
 - (v) the **User** is put on credit watch or other similar credit surveillance procedure as specified above which may give **The Company** reasonable cause to believe that the **User** may not be able to maintain **The Company Credit Rating** for at least 12 months; or
 - (vi) the **User** has not obtained from Standard and Poor's within 30 days of the written notification by **The Company** under Paragraph 4.2(i) above a further indicative long term private credit rating,

the **User** shall (where appropriate on receipt of written notification from **The Company**) comply with the terms of Paragraph 4.4.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

4.4 The **User** shall within 21 days of the giving of a notice under Paragraph 4.3 or within 30 days of the **User** confirming to **The Company** under Paragraph 4.2(ii) that it will provide the security specified below (whichever is the earlier), provide **The Company** with the security specified below to cover the **Cancellation Charge Secured Amount** for the relevant **Security Period** as notified by **The Company** to the **User**.

4.5 The form of security provided shall be of a type set out in Paragraph 6.

4.6 If the facts of circumstances giving rise to the obligation of the **User** to provide the security have ceased, then **The Company** shall release the security.

5. PROVISION OF SECURITY WHERE USER DOES NOT MEET OR CEASES TO MEET THE COMPANY CREDIT RATING

5.1 Each **User** hereby agrees that it shall at the date of the relevant **Construction Agreement** and/or **Bilateral Connection Agreement** or **Bilateral Embedded Generation Agreement** provide to **The Company** or procure the provision to **The Company** of, and the **User** shall until 28 days after the **Charging Date** maintain or procure that there is maintained in full force and effect (including by renewal or replacement) a security arrangement from time to time and for the time being as set out in Paragraph 6 to provide security for the **Cancellation Charge Secured Amount**.

5.2 If there shall be any dispute between the **User** and **The Company** as to:-

- (i) the fairness and reasonableness of the estimate of the **Attributable Works Capital Charge**; or
- (ii) the calculation of the **Cancellation Charge**, or
- (iii) whether there has been an **Event of Default** as provided in **CUSC** Section 5; or
- (iv) the lawfulness or otherwise of any termination or purported termination of the **Construction Agreement**,

such dispute shall not affect the ability of **The Company** to make demands pursuant to the security arrangement to be provided pursuant to this **CUSC** Section 15 and to

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

recover the amount or amounts payable thereunder, it being acknowledged by the **User** that but for such being the case **The Company's** security would be illusory by reason of the period of validity of the relevant security being likely to expire or capable of expiring before the final resolution of such dispute. The **User** accordingly covenants with **The Company** that it will not take any action, whether by way of proceedings or otherwise, designed or calculated to prevent, restrict or interfere with the payment to **The Company** of any amount secured under the security arrangement nor seek nor permit nor assist others to do so.

6. TYPES OF SECURITY

6.1 The **User** shall from time to time and for the time being as set out in Paragraph 5 provide security for the **Cancellation Charge Secured Amount** by any one of the following:-

6.1.1 A **Performance Bond** or **Letter of Credit** from a **Qualified Bank** for **Cancellation Charge Secured Amount** for a given **Security Period**, such **Performance Bond** or **Letter of Credit** to be **Valid** for at least that given **Security Period** and to be renewed periodically where applicable in the manner stated in paragraph 6.2.3; or

6.1.2 A cash deposit in a **Bank Account** at least for the amount of the **Cancellation Charge Secured Amount** to be secured for a given **Security Period**, such cash deposit to be increased or reduced periodically where applicable in the manner stated in paragraph 6.2.4; or

6.1.3 A **Performance Bond** from a **Qualified Company** for the amount of the **Cancellation Charge Secured Amount** to be secured for a given **Security Period**, such **Performance Bond** to be **Valid** for at least that **Security Period** and to be renewed periodically where applicable in the manner stated in paragraph 6.2.3.

6.2 General Provisions regarding Security

6.2.1 Any **Notice of Drawing** to be delivered to Barclays Bank PLC or any other bank at which the **Bank Account** shall have been opened or a

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Qualified Bank or a **Qualified Company** may be delivered by hand, by post or by facsimile transmission.

6.2.2 If the **User** becomes aware that the bank issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, the **User** shall so notify **The Company** in writing as soon as it becomes so aware. If **The Company** becomes aware that the bank issuing the **Performance Bond** or **Letter of Credit** ceases to be a **Qualified Bank** or that the company giving the **Performance Bond** ceases to be a **Qualified Company**, **The Company** may notify the **User** to that effect in writing. Where the bank or the company so ceases to be either a **Qualified Bank** or a **Qualified Company** (as the case may be) as a consequence of **The Company** having reasonable cause to doubt the continued rating of the said bank or company, such notice shall be accompanied by a statement setting out **The Company's** reasons for having such doubt. The **User** shall within 21 days of the giving of such notice by **The Company** or the **User** whichever is the earlier provide a replacement **Performance Bond** and/or **Letter of Credit** from a **Qualified Bank** or **Qualified Company**, as the case may be, and/or provide a cash deposit in the required amount in a **Bank Account**. From the date the replacement **Performance Bond** or **Letter of Credit** or **Bank Account** cash deposit is effectively and unconditionally provided and **Valid**, **The Company** will consent in writing to the security which it replaces being released.

6.2.3 The following provisions shall govern the issuance, renewal and release of the **Performance Bond** or **Letter of Credit**:-

6.2.3.1 The **Performance Bond** or **Letter of Credit** shall be **Valid** initially for the **First Security Period**. Such **Performance Bond** or **Letter of Credit** shall be for an amount not less than the **Cancellation Charge Secured Amount** for that **First Security Period**.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

6.2.3.2 On a date which is at least 45 days (or if such day is not a **Business Day** then on the immediately preceding **Business Day**) before the start of each following **Security Period** such **Performance Bond** or **Letter of Credit** shall be renewed so as to be **Valid** for not less than such **Security Period** and in the case of the last **Security Period** to be **Valid**, unless **The Company** agrees otherwise, for 45 days after the last day of such **Security Period**. Such renewed **Performance Bond** or **Letter of Credit** shall be for an amount not less than the **Cancellation Charge Secured Amount** to be secured during that **Security Period**.

6.2.4 The following provisions shall govern the maintenance of cash deposits in the **Bank Account**:-

6.2.4.1 The amount of the **User's** cash deposit to be maintained in the **Bank Account** shall be maintained by the **User** from the date of the **Construction Agreement** at least to the end of the **First Security Period**. Such cash deposit shall be in the amount of the **Cancellation Charge Secured Amount** to be secured during that **First Security Period**.

6.2.4.2 If the amount of the **Cancellation Charge Secured Amount** to be secured from the start of each **Security Period** is an amount greater than the amount then secured, the **User's** cash deposit in the **Bank Account** in respect of the **Security Amount** shall be increased by the **User** to such greater amount on the date which is 45-21 calendar days before the start of the given **Security Period**.

6.2.4.2a The value of any cash deposit to be provided by the **User** under 6.2.4.2 shall be notified to **The Company** in writing on or before 45 calendar days before the start of the given **Security Period**.

Commented [GN1]: New requirement added so we get some information of how much we should be expecting via cash.

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

6.2.4.3 If the **Cancellation Charge Secured Amount** for a given **Security Period** is smaller than the amount then secured, the **User's** cash deposit in the **Bank Account** in respect of the **Security Amount** shall not be reduced to the amount so stated until the expiry of 7 days after the start of that given **Security Period** ("the **Release Date**").

6.2.4.4 The sum equal to the amount of reduction in the **User's** cash deposit in the **Bank Account** in respect of the **Security Amount** shall be paid by **The Company** to the **User** from the **Bank Account** on the **Release Date**.

6.2.4.5 Any interest accruing in respect of the **User's** cash deposit in the **Bank Account** in respect of the **Security Amount** shall be for the account of and belong to the **User** absolutely, and **The Company** agrees to take any steps required to be taken by it for the release from the **Bank Account** (or any other bank account in the name of **The Company** in which such interest is held) and payment to the **User** of such interest as soon as **The Company** shall have received notice from the **User** requesting such payment.

6.2.4.6 For the avoidance of doubt, the **User's** cash deposit in the **Bank Account** shall remain the sole property and entitlement of the **User** until such time when (and to such extent as) the **Company** exercises its right of set off against the **User's** cash deposit in accordance with the terms of the **CUSC**, and the **User** shall have no right to have the cash deposit returned to it for so long as it is under any prospective or contingent liability to the **Company**.

6.3 Notwithstanding any provision aforesaid:-

6.3.1 The **User** may provide different securities to **The Company** at any one time, each securing a different amount, provided that the aggregate amount secured by such securities shall be not

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

less than the amount of the **Cancellation Charge Secured Amount** required to be secured for that **Security Period**.

6.3.2 The **User** may upon the expiry of at least 14 days prior written notice to **The Company**, substitute one type of security for another provided that unless **The Company** shall otherwise agree in writing such substituted security must be **Valid** from the first day of the relevant **Security Period** and committed at least 45 days before this in the following manner:-

(a) where a **Performance Bond** or a **Letter of Credit** is to substitute for other securities, it must be issued or given at least 45 days before the start of the **Security Period** to which it relates.

(b) where a cash deposit in a **Bank Account** is to substitute for other securities, it must be deposited into the **Bank Account** at least 45 days before the start of the **Security Period** to which it relates.

6.3.3 Upon request by the **User** to **The Company**, securities substituted in the aforesaid manner shall, providing the substitute security shall be **Valid**, be released on the first day of the **Security Period** which the substitute security is securing. However, where the **Cancellation Charge Secured Amount** to be secured for any **Security Period** is less than the amount required to be secured in the preceding **Security Period**, the substituted security shall not be released until 7 days after the start of the **Security Period** that that substitute security is securing.

6.3.4 *Where the **User** provides securities to **The Company** in multiple types as per paragraph 6.1, the provisions of paragraph 6.2.3 and 6.2.4 shall apply respectively to each type of security.*

Commented [GN2]: Trying to capture that under a mixed security type scenario, cash can be provided 21 days before (and notified 45 days before) but other forms are provided 45 days before

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

PART FOUR RECONCILIATION OF ACTUAL ATTRIBUTABLE WORKS CANCELLATION CHARGE

1. As soon as practicable and in any event within 60 days of the date, as appropriate, of termination of the **Construction Agreement** or reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** **The Company** shall:
 - (a) furnish the **User** with a statement showing a revised estimate of the **Actual Attributable Works Cancellation Charge** and will provide as soon as practicable evidence of such having been incurred; and
 - (b) furnish the **User** with justification of and supporting information in respect of its assessment of the actual or potential for reuse and any strategic benefits of the **Attributable Works** and any of the resulting **Transmission** assets.

2. As soon as reasonably practicable after termination of this **Construction Agreement** or reduction in **Transmission Entry Capacity** or **Developer Capacity** or **Interconnector User Commitment Capacity** and in any event within 12 months of such event **The Company** shall provide the **User** with a final statement of the **Actual Attributable Works Cancellation Charge**. If the **Actual Attributable Works Cancellation Charge** is greater than the payments made by the **User** in respect of **The Company's** estimate(s) of the **Actual Attributable Works Cancellation Charge** the **User** shall within 28 days of the said statement and invoice prepared by **The Company** pay to **The Company** the additional payments due by the **User** together with interest calculated thereon on a daily basis at **Base Rate** for the time being and from time to time from the date of previous payment(s) to the date of the final statement of the **Actual Attributable Works Cancellation Charge** and final invoice for the **Attributable Works Cancellation Charge**. If the **Actual Attributable Works Cancellation Charge** is less than the payments made by the **User** in respect of **The Company's** estimate(s) of the **Actual Attributable Works Cancellation Charge** **The Company** shall forthwith pay to the **User** the excess paid together with interest on a daily basis at **Base Rate** for the time being and from time to time from the date of payment of the fair and reasonable estimate of the **Actual**

Annex X – CMP351 Legal Text (*Proposed changes shown as red tracked changes*)

Attributable Works Cancellation Charge to the date of reimbursement by **The Company** of the said excess paid.