

L I N K L A T E R S & P A I N E S

M E M O R A N D U M

TO: Simon Wells, National Power
FROM: Linklaters & Paines (RANK)
DATE: 21 August 1990

CEGB TRANSFER SCHEME

I set out below the summary of Schedule 1 (Records and Intellectual Property) of the CEGB's Transfer Scheme dated 11 March 1990 which you asked me for yesterday.

1 Definitions

"All Purpose Licence" Where a Successor Company has not been allocated any item of the CEGB's intellectual property, in certain circumstances (set out below) that company will be entitled to a licence in respect of that item. There are two possible forms of Licence - an All Purpose Licence or an Internal Use Licence. The intention and effect of receiving an All Purpose Licence is, so far as possible, to equate the position of the licensee with that of the owner. The Internal Use Licence is explained below.

The All Purpose Licence is "non-exclusive, irrevocable, royalty free, worldwide... carrying with it the right to assign, sub-license, mortgage or otherwise deal with the licence". It is meant, however, not to affect the owner's rights in the property allocated to it (hence the words "without prejudice to the Owing Successor Company's rights").

However, not all Intellectual Property or Records can be the subject of the licence - only that which is "Available" (for which see below) may be licensed or that which arises out of an agreement listed in Schedule 1 of the Divisionalisation Scheme.

The "agreed terms" of the licence are included in the definition and to that are added some specific exclusions of liability agreed upon by the parties in the Intellectual Property Supplemental Agreement (referred to as item (101) in Schedule 3 of the Transfer Scheme).

"Available Intellectual Property" and "Available Record" These two definitions may be read together. The idea behind and effect of each of them is the same. That is that a Licence (i.e. an All Purpose Licence or an Internal Licence) of Intellectual Property or Records owned by a successor will only be given in respect of certain (and not all) Intellectual Property or Records.

Registered Trade Marks are excluded altogether from the provisions of Schedule 1, ie it is not possible under that Schedule to obtain rights to any registered trade mark allocated to another successor (c.f. the Cutlass Licence Agreement referred to as item (103) in Part I of Schedule 3). Similarly, any Intellectual Property or any Record which is "Divisional" (for which see below) is also excluded.

Patents are always "Available" irrespective of whether or not they fall within the definition of "Available Intellectual Property".

In respect of Intellectual Property and Records which have not been excluded, the owner only has to grant a licence if (a) it has the Intellectual Property/Record at the date it receives the request for the licence, or (b) it (or the Generating Board, in the case of copies obtained before vesting) is able to license it on the terms of the "All Purpose Licence" or "Internal Use Licence" (as defined below) without being in breach of one or more of three kinds of obligations. The first is any obligation imposed by law. The second is any obligation which came into existence and bound the Generating Board before 31 December 1988 (ie before divisionalisation began) unless that obligation is unenforceable against the owner. The third obligation relates to obligations which came into existence after 31 December 1988 but only if each Division (other than the Nuclear Electric Division) consented, or

after 31 December 1989 (the date on which the separation of Nuclear Electric from National Power began) with the consent of a representative of each Division. The reason for this third obligation was to stop a Successor Company (which knew it would have allocated to it any item of Intellectual Property/Record) from, before vesting, encumbering that Intellectual Property/Record so that after vesting it would be precluded from granting a licence to another successor in respect of it. So far as I am aware, no consent was given by any representative of any Division and therefore (if that is right) this third exception will not be relevant.

"CEGB Archive" This definition was settled by the CEGB and representatives from each Division, who have confirmed that they all know to which documents the definition applies.

"Corporate Accounting Records" As for the CEGB Archive, this definition was settled by representatives from each of the Divisions who, apparently, know to which records the definition relates. The definition is included within the definition of "CEGB Archive".

"Divisional" During the course of divisionalisation it was accepted that each Division would be producing or creating Intellectual Property/Records which would be regarded as separate from the main assets of the CEGB in that they would be allocated exclusively to whichever Successor Company succeeded to the relevant Division which created or obtained them. Thus everything is non-Divisional unless it was created and/or used: (i) to give a commercial advantage over another Division or Successor Company (or any other person), or (ii) for the purpose of giving effect to the relevant Successor Company's Generation, Second Tier Supply or Transmission Licence (granted under Section 6 of the Electricity Act), or unless (iii) National Power created and/or used any Record or Intellectual Property to give a commercial advantage but the Record or Intellectual Property was then allocated to Nuclear Electric. This third exception exists in the case of Nuclear Electric as a result of it not being the subject of divisionalisation until the beginning of 1990.

"Generating Company" means National Power, PowerGen and Nuclear Electric. Nuclear Electric was only included after much debate as to whether or not it should be regarded as a generator like National Power and PowerGen or whether, since that company was still to be Government-owned, it belonged in a separate category, as a hybrid between National Power/PowerGen and National Grid. Nuclear Electric, under this Schedule 1, is treated in exactly the same way as National Power/PowerGen (save that Nuclear Electric holds on to the CEGB Archive - for which see below).

"Internal Use Licence" This is the other of the two kinds of licence which may be granted to a non-Ownning Successor Company. The first kind is the "All Purpose Licence" (referred to above). As to which is granted, it is necessary to see the provisions of the rest of Schedule 1 (for which see below). Unlike an All Purpose Licence, the Internal Use Licence carries with it no right to assign or sub-license (other than to the licensee's wholly owned subsidiaries or to sub-contractors employed in and for the sole benefit of the licensee's business), mortgage or otherwise deal in the licence. Patents cannot be the subject of an All Purpose Licence but will always be the subject of an Internal Use Licence. Otherwise this licence is the same as for the All Purpose Licence.

"Licence" means either the All Purpose Licence or the Internal Use Licence. We know which is meant in any particular circumstances by looking at the relevant operative provisions within Schedule 1.

"Ownning Successor Company" is the definition of whichever Successor Company it is that owns the relevant rights. Allocation of the rights is effected under paragraphs 2.1-2.4 and 3.2 of Schedule 1 and paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 and 12 of the main part of the Scheme. The reason why some rights are allocated under the main part of the Scheme is that they relate to intellectual property rights which were allocated under the Divisionalisation Scheme - they were capable of separate identification because they

either were registered rights (and identifiable as such) or they related to the copyright in certain important software (which was comparatively easily identifiable). A "non-Owning Successor Company" is any Successor Company which is not an "Owning Successor Company".

"Specific Licence" is used only in the definition of "Divisional" (for which see above) and refers to the particular licence granted to each of the Successor Companies pursuant to Section 6 of the Electricity Act 1989.

2 Allocation of the CEGB Archive Records and Intellectual Property

2.1 The idea behind and effect of paragraph 2.1 is that all Records (other than those relating to taxation or Social Security or the CEGB Archive or which were specifically allocated under the main part of the Scheme under paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 and 12) which relate wholly and exclusively to any other property right or liability allocated to one Successor Company under the Scheme should be allocated to that company. All Records relating to taxation (other than corporation tax) including records relating to Social Security are allocated to whichever Successor Company has inherited the business, undertaking or employee to which those records relate.

Paragraphs 2.1 to 2.4 are best understood and read in order because they provide a means by which rights are allocated in order. This means that if any right is not allocated under paragraph 2.1 it may be under paragraph 2.2; if it is not allocated under paragraph 2.2 it may be under paragraph 2.3; but if it isn't allocated under any of the first three paragraphs, it must be allocated under paragraph 2.4.

All the existing CEGB intellectual property is therefore allocated under paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 and 12 of the main part of the Scheme or paragraphs 2.1 to 2.4 of Schedule 1.

Any intellectual property which would have arisen to the CEGB as a result of contracts entered into by the CEGB before vesting but which does not arise until after the transfer date, is allocated under paragraph 3.2 (for which see below)).

2.2 This paragraph allocates the CEGB Archive to Nuclear Electric. This provision needs to be read in conjunction with the references to the CEGB Archive in the Intellectual Property Supplemental Agreement which further documents Nuclear Electric's rights and obligations in respect of it.

2.3 This paragraph specifies that physical property in Records is allocated to whichever Successor Company happens to be in occupation of the premises where the Records are kept. All the physical rights of ownership in Records (other than those which have already been allocated) - but not the intellectual property rights - are allocated to respectively National Power, PowerGen, Nuclear Electric and National Grid. Thus any Record located in or on:

i) the property allocated to National Power specified in paragraph 2.2.3 of the main part of the Scheme (other than where an interest in the property is granted to any other Successor Company) or any property which is occupied by National Power under the terms of the specified Underlease between it and Nuclear Electric (in the case of Sudbury, Laud and Courtenay Houses) and the specified Underlease between National Grid and National Power (in respect of offices at Bankside House) is allocated to National Power. The terms of these Underleases can be seen from items (104) and (107) of Schedule 3 to the Scheme;

ii) the property allocated to PowerGen specified in paragraph 3.2.3 of the main part of the Scheme (other than where an interest in that property is granted to another Successor Company) is allocated to PowerGen;

Intellectual Property or any Record for any period longer than may be required by "sound and prudent business practice". Thus if the owner no longer has any item of Intellectual property or any Record because it has destroyed it in accordance with sound and prudent business practice, no Licence can (or need) be granted in respect of it.

Paragraph 2.5 deals with Internal Use Licences whilst paragraph 2.6 deals with All Purpose Licences. National Grid can only ever get or give Internal Use Licences from the Generating Companies because as its business is different from that of the Generating Companies, it was agreed that it would be inappropriate for it to receive the wider All Purpose Licence.

Paragraph 2.5 requires each Generating Company to grant, without undue delay, following a request, an Internal Use Licence in favour of National Grid. National Grid has the same obligation to grant such licences to each Generating Company. In either case, however, the requesting non-owner must show, to the reasonable satisfaction of the Owner, that it has a genuine need for the licence for its business activities. If it cannot show this, it will not be entitled to the licence in respect of the requested right.

- 2.6 This paragraph comprises the obligations of the Generating Companies between themselves to grant each other licences. Here the Owning Generating Company must, if requested by a non-Owning Generating Company, without undue delay, grant All Purposes Licences in relation to any specified Available Record and/or Available Intellectual Property to the requesting non-owner and an Internal Use Licence in relation to any specified Patent owned by it. Although there is no logical reason why "Patents" are treated differently from other intellectual property (in that only Internal Use and not All Purpose Licences are granted in respect of them), the commercial agreement between the parties as to who was allocated what was based on the assumption that only an Internal Use Licence would be given.

iii) the property allocated to Nuclear Electric specified in paragraph 4.2.3 of the Scheme (other than where an interest is granted to another Successor Company) or which is occupied by Nuclear Electric under the terms of the specified sub-Underlease between National Power and Nuclear Electric of part of Sudbury House and the specified Underlease of offices at Bankside House between National Grid and Nuclear Electric, is allocated to Nuclear Electric;

iv) the property allocated to National Grid (other than where an interest is granted to another Successor Company) specified in paragraph 5.2.3 of the Scheme or which is occupied by National Grid under the specified Lease between Nuclear Electric and National Grid of offices at Bankside House, is allocated to National Grid.

2.4 Paragraph 2.4 allocates all Intellectual Property (including any which is embodied in any Record) which has not otherwise been allocated. Such Intellectual Property is allocated to whichever Successor Company happens to have had allocated, under paragraph 2.3 above, the "original" of the relevant Record. Unregistered trade marks are allocated to whichever Successor Company is allocated the goodwill to which such marks relate. Allocation of goodwill is effected under the provisions of paragraphs 12.1 to 12.4 of the main part of the Scheme.

2.5 Paragraphs 2.5 and 2.6 might more appropriately be read after paragraph 2.7 as paragraphs 2.5 and 2.6 set out the obligations of the Owning Successor Companies to grant Licences to the non-owners where Licences under paragraph 2.7 have not, "on or forthwith after" vesting, been granted. The obligations in these two paragraphs go on for perpetuity except that under the Intellectual Property Supplemental Agreement, no Owning Successor Company is required to hold on to any item of

2.7 This paragraph requires the owner "on or forthwith after" 30 March 1990 to execute the relevant licence to the non-owner in respect of certain Intellectual Property or Records. Sub-paragraph (i) refers to Intellectual Property or Records which were specifically allocated under the provisions of paragraphs 2.2.12, 3.2.12, 4.2.14 and 5.2.13 of the main part of the Scheme and sub-paragraph (ii) refers to any copies of any Record or Intellectual Property which a Division had immediately before 30 March 1990. In either case, if the Record or Intellectual Property is not "Available" in the sense that the Generating Board, immediately before 30 March 1990 was not free to license it without being in breach of the law (or the other obligations set out under the definition of "Available" above), there is no obligation to grant the licence.

Under the terms of the Intellectual Property Supplemental Agreement, the owner complies with its obligation under this paragraph 2.7 by granting the necessary licences. This means that if the Division prior to 30 March 1990 had copied another Division's Record or Intellectual Property (which was something which was encouraged within the CEGB at the time, as a means of avoiding large numbers of requests for licences pursuant to the provisions of clauses 2.5 and 2.6), then provided that Record or Intellectual Property was "Available", it is automatically licensed to the copier under the terms of the All Purpose Licence or Internal Use Licence (as the case may be). If no copy had been obtained prior to 30 March 1990 but a non-owner nonetheless wants to obtain a copy, it has the right to obtain access to the owner's Records and Intellectual Property (under the provisions of the Intellectual Property Supplemental Agreement) and a licence of the relevant Intellectual Property or Record (under the provisions of paragraphs 2.5 and 2.6) in either case only if the Owner still has the Intellectual Property or Record in question.

2.7.5 is the same obligation on National Grid as is imposed on each Generating Company under paragraph 2.7.3 (for which see above).

3 Rights Arising after the Transfer Date

- 3.1 The effect of this paragraph is to deal with the situation where the owner of any of CEGB's Available Intellectual Property and Available Records applies for registered intellectual property right protection in respect of it. If it does so and the application relates wholly and exclusively to such rights, then the provisions of paragraphs 2.5 and 2.6 will apply, so that the owner will be obliged to grant the relevant Licence to the non-owner.
- 3.2 This paragraph allocates intellectual property rights arising in the future as a result of contracts entered into by the CEGB before 30 March 1990 to whichever Successor is allocated the relevant contract. It also allocates intellectual property rights to whichever Successor Company is listed in Schedule (31) to the Divisionalisation Scheme as an "Allocated Party".
- 3.3 This paragraph explains that the provisions of paragraphs 3.4 and 3.5 apply to any intellectual property which arises after the transfer date under an agreement listed in Part I to Schedule 31 to the Divisionalisation Scheme.
- 3.4 This paragraph obliges the owner of the CEGB's arising intellectual property (ie that Successor Company which has allocated to it the relevant contract under the provisions of paragraph 3.2 above), without undue delay following a request, to execute licences in favour of any non-owner which has, under the provisions of Part 1 of Schedule (31) to the Divisionalisation Scheme, claimed an interest in respect of

that contract. That interest will have been claimed under that Schedule if the relevant non-owner is a "Successor Company Claiming Interest" (as set out in that Schedule).

3.5 As between each Generating Company, the licence referred to in paragraph 3.4 above will be an "All Purpose Licence" whereas between a Generating Company and National Grid, it will be an "Internal Use Licence".

3.6 This paragraph deals with the CEGB's arising intellectual property under contracts listed in Part II of Schedule (31) to the Divisionalisation Scheme. The owner of that property must grant All Purpose Licences (or whatever form of licence may be specified in the relevant Supplemental Agreement) provided that the non-owner is listed in Part II of that Schedule as a "Successor Company Claiming Interest" in respect of the relevant agreement.

3.7 This paragraph specifies that the provisions of paragraph 3.8 (below) apply to intellectual property rights or records (whether already existing at the date of the transfer date or which may come into existence as a result of a contract entered into by the CEGB with a third party and allocated to an Owning Successor Company). These provisions only apply if the non-owner has the relevant intellectual property or record by virtue of a licence.

3.8 The effect of this paragraph is to put each non-owner who has obtained a licence effectively in the same position as the owner. The non-owner is given the right to sue any third party that made the record or intellectual property available to the CEGB or the owner. The point this paragraph seeks to address is where any intellectual property or record may prove to be defective or to have been negligently produced, the owner may have a contractual right to damages against the third party producer which, but for this paragraph 3.8, the non-owner would

not have. The effect, then, of paragraph 3.8 is to give the non-owner the same contractual rights against the third party as the owner. The owner retains all the rights it is entitled to (hence the allocation to the non-owner is "in addition" to the allocation of rights to the owner). However, not all non-owners who have obtained a licence gain the benefits of these extra rights.

Paragraphs 3.8.1 to 3.8.3 specify the three categories of persons entitled to the extra rights. They are:-

3.8.1 any non-owner which is a Successor Company Claiming Interest in respect of any contract referred to paragraphs 3.4 or 3.6 above;

3.8.2 each Generating Company entitled to an All Purpose Licence from any other Generating Company (see the provisions of paragraph 2.6 above); and

3.8.3 any non-owner which obtains a Licence in accordance with paragraph 2.7 above.

The provisions of Schedule One (outlined above) should be read in conjunction with the Intellectual Property Supplemental Agreement. John Stubbs and Andrew Swanson were the people at National Power from whom I took instructions and who should therefore know the effect of both Schedule One and that Agreement.

Linklaters & Paines (RANK)

21 August 1990

G23RANK 633

DATED 31st March, 1990

(1) NATIONAL POWER PLC

(2) POWERGEN plc

(3) THE NATIONAL GRID COMPANY plc

(4) NUCLEAR ELECTRIC PLC

INTELLECTUAL PROPERTY

S U P P L E M E N T A L A G R E E M E N T

LINKLATERS & PAINES
Barrington House
59-67 Gresham Street
London EC2V 7JA
Tel: 01-606 7080

Ref: RANK

THIS AGREEMENT is made on 31st March 1990

BETWEEN:

(1) NATIONAL POWER PLC whose registered office is at Sudbury House, 15 Newgate Street, London EC1A 7AU ("National Power");

(2) POWERGEN plc whose registered office is at 53 New Broad Street, London EC2M 1JJ ("PowerGen");

(3) THE NATIONAL GRID COMPANY plc whose registered office is at National Grid House, Sumner Street, London SE1 9JU ("National Grid"); and

(4) NUCLEAR ELECTRIC PLC whose registered office is at Barnett Way, Barnwood, Gloucester GL4 7RS ("Nuclear Electric")

(together "the Successor Companies").

WHEREAS

1. The Central Electricity Generating Board (the "Generating Board") has, pursuant to Section 66(1) of the Electricity Act 1989 (the "Act"), made a scheme (the "Transfer Scheme") for the division of all its property, rights and liabilities between the Successor Companies which were nominated by the Secretary of State, pursuant to Section 66(3) of the Act, for the purposes of Section 66(1).
2. With a view to facilitating the making of the Transfer Scheme and pursuant to Minute No. 355 of the meeting of the Members of the Generating Board held on 7th December 1988, and Minute No. 334 of the Minutes of the meeting of the Members of the Generating Board held on 6th December 1989 the Generating Board has carried on its business and undertaking progressively since 1 January 1989, so far as possible, in three and since 1st January 1990, so far as possible, in four separate divisions all as described in the

Divisionalisation Scheme (as defined below) and known as National Power Division ("National Power Division"), PowerGen Division ("PowerGen Division"), National Grid Division ("National Grid Division") and Nuclear Electric Division ("Nuclear Electric Division") (each a "Division" and together "the Divisions"). The divisionalisation of the Generating Board is embodied in a document dated 7th March 1990 known as the Divisionalisation Scheme (the "Divisionalisation Scheme").

3. The Transfer Scheme, inter alia, allocated to National Power, PowerGen, Nuclear Electric, and National Grid all the property, rights and liabilities comprised in National Power Division, PowerGen Division, Nuclear Electric Division and National Grid Division respectively, except, in each case, for such properties, rights and liabilities as were allocated to one of the other Successor Companies.
4. The Transfer Scheme allocates Records and Intellectual Property of the Generating Board and Schedule One thereto provides that where a Successor Company is not allocated a Record or Intellectual Property, it is or may be entitled to a certain Licence (as defined in the Transfer Scheme) from whichever Successor Company is allocated the relevant property.
5. This Agreement deals with Records and Intellectual Property and is entered into pursuant to the Transfer Scheme, which under Section 68(2)(c) of the Act, provided that the parties hereto shall enter into this Agreement forthwith upon the Transfer Scheme becoming effective.

IT IS AGREED AS FOLLOWS:

1 Definitions

1.1 For the purposes of this Agreement all capitalised expressions shall, unless defined below, have the same meaning as in the Transfer Scheme.

"Access" means the right of a non-Owning Successor Company (or a "Successor Company Claiming Interest") to obtain access (in such manner as the Owning Successor Company may reasonably determine) to any Available Record or record arising out of any contract or agreement listed in Schedule (31) to the Divisionalisation Scheme (or any part thereof) and/or one copy thereof (in the same medium as that Record held by the Owning Successor Company) for use only in accordance with either the Internal Use Licence or the All Purpose Licence (as the case may be).

"Accounting Records" means the Records of the Generating Board (other than the Corporate Accounting Records) necessary for any Successor Company to comply with any law, including any accounting and financial Records necessary for any Successor Company to comply with s.221 of the Companies Act 1985 and any supporting documentation required to comply with VAT regulations and s.20 of the Taxes Management Act 1970.

"Registered Rights" means in relation to any jurisdiction, any Intellectual Property which is either the subject of registration (or application for registration) with any competent authority in that jurisdiction or otherwise requires expenditure for its prosecution or maintenance in that jurisdiction.

1.2 References in this Agreement to any statute, law, decree or regulation shall be deemed to be references to such statute, law, decree or regulation as re-enacted, consolidated, amended or extended from time to time.

1.3 Any reference whatsoever in this Agreement to any agreement or document (including this Agreement) shall be deemed to include references to such agreement or document as amended, modified, extended, varied, supplemented or replaced from time to time.

2 Owning Successor Companies' rights

2.1 Notwithstanding any other provisions of this Agreement, the Owning Successor Company shall be free to assign, mortgage, sub-license, disclose or otherwise deal in any item referred to in Paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 or 12 of the Transfer Scheme or in paragraphs 2.1, 2.3, 2.4 and 3 of Schedule One thereto or any right arising therefrom as it sees fit without prejudice to the non-Owning Successor Company's rights in respect thereof set out in Paragraphs 2.5 to 2.7 and 3 of Schedule One of the Transfer Scheme and, subject to the provisions of Clause 9 of this Agreement, shall be under no obligation to keep or maintain any such item for any longer period than is required by sound and prudent business practice.

3 Rights arising after the transfer date

3.1 The provisions of this Clause 3 shall apply to Records and Intellectual Property created after the transfer date pursuant to any agreement set out in Parts I and II of Schedule (31) to the Divisionalisation Scheme and made between the Generating Board and any other person, notwithstanding the provisions of Paragraphs 3.3 to 3.6 of Schedule One of the Transfer Scheme.

3.2 Except where any provisions of the Act make such consent unnecessary, where the consent of that other person (referred to in Clause 3.1 above) is required to enable the Owning Successor Company entitled to the benefit of such an agreement to fulfil its obligations under Paragraphs 3.3 to 3.6 of Schedule One of the Transfer Scheme to any other Successor Company to grant Access to or a Licence of any Record or Intellectual Property arising under that agreement, the Owning Successor Company concerned shall, at the request of any other Successor Company entitled to Access or a Licence, use its reasonable endeavours to procure such consent as may be required.

3.3 No Owning Successor Company, in the exercise of its reasonable endeavours to procure such consent, shall be required to pay any amount

to any such other person for its consent unless fully indemnified to its reasonable satisfaction against all costs and expenses of so doing by the Successor Company upon whose request it is acting.

3.4 Nothing in this Clause 3 shall require any Successor Company to pay or preclude any Successor Company from agreeing to pay any other Successor Company any amount in respect of any Record or Intellectual Property to which this paragraph applies.

4 Licences for existing copies

4.1 The provisions of this Clause 4 shall have effect in respect of any Available Record or Available Intellectual Property:-

(i) allocated under Paragraphs 2.2.12, 3.2.12, 4.2.14 and 5.2.13 of the Transfer Scheme; and/or

(ii) of which a Division had a copy in its possession immediately prior to the transfer date;

as the case may be.

4.1.1 In the event that a Generating Company is the Owing Successor Company of any Record or Intellectual Property specified in Clause 4.1 (i) or (ii) above, it hereby grants All Purpose Licences in favour of each other Generating Company in respect thereof.

4.1.2 In the event that a Generating Company is the Owing Successor Company of any Record or Intellectual Property specified in Clause 4.1(ii) above, it hereby grants Internal Use Licences in favour of National Grid in respect thereof.

4.1.3 In the event that a Generating Company is the Owing Successor Company of any Record or Intellectual Property specified

in Clause 4.1(i) above, it hereby grants Internal Use Licences in favour of National Grid in respect thereof provided that National Grid (or National Grid Division) has shown to the reasonable satisfaction of the relevant Generating Company (or Division) that it has a genuine need for such Internal Use Licences for its business activities.

4.1.4 In the event that National Grid is the Owing Successor Company of any Record or Intellectual Property specified in Clause 4.1(ii) above, it hereby grants Internal Use Licences in favour of each Generating Company in respect thereof.

4.1.5 In the event that National Grid is the Owing Successor Company of any Record or Intellectual Property specified in Clause 4.1(i) above, it hereby grants Internal Use Licences in favour of each Generating Company in respect thereof provided that the relevant Generating Company (or Division) has shown to the reasonable satisfaction of National Grid (or National Grid Division) that it has a genuine need for such Internal Use Licences for its business activities.

4.2 The Owing Successor Company hereby disclaims all liability (other than in respect of any liability for negligence causing death or personal injury) and any conditions, warranties or terms (whether express or implied, statutory or otherwise) in, under or with respect to any Licence granted by it under Clause 4.1 above.

4.3 The non-Owing Successor Company shall hold the Owing Successor Company harmless from all liability arising out of any use of any Available Record or Available Intellectual Property by the non-Owing Successor Company as a result of any Licence granted to the relevant non-Owing Successor Company except in relation to a Record or Intellectual Property as described in Clause 3.2 above where such liability arises purely and exclusively as a result of any failure by an Owing Successor Company to obtain the consent of the person referred to in Clause 3.2 above.

5 Exclusions of Liability

5.1 The Owing Successor Company shall, on and with effect from the granting of any Licence (other than a Licence granted under Clause 4 above):-

5.1.1 be entitled to disclaim all liability (other than in respect of any liability for negligence causing death or personal injury) and any conditions, warranties or terms (whether express or implied statutory or otherwise) in, under or with respect to any Licence granted by it to any non-Owing Successor Company; and

5.1.2 be held harmless by the non-Owing Successor Company from all liability arising out of use of any Available Record or Available Intellectual Property by the non-Owing Successor Company as a result of any Licence granted to the relevant non-Owing Successor Company except in relation to a Record or Intellectual Property as described in Clause 3.1 above where such liability arises purely and exclusively as a result of any failure by an Owing Successor Company to obtain the consent of the person referred to in Clause 3.2 above.

6 Access

6.1 Each Owing Successor Company shall, if requested so to do by any other Successor Company entitled to a Licence in relation to any specified Available Record, Available Intellectual Property or any intellectual property arising out of any contract or agreement listed in Schedule (31) to the Divisionalisation Scheme, without undue delay be obliged to allow Access to that non-Owing Successor Company.

6.2 Any request for Access by the relevant non-Owing Successor Company shall be deemed, unless otherwise stated in the request, to include a request by such company for an Internal Use Licence or an All Purpose Licence as the case may be.

7 Payments

7.1 Other than as specified in Clause 9.1 below, whenever a non-Owning Successor Company shall request and be entitled to Access, or a Licence, that company shall promptly pay to the relevant Owning Successor Company the latter's reasonable costs and expenses (including all of any tax charges other than VAT for which a credit is available to the relevant Owning Successor Company under Sections 14 and 15 of the Value Added Tax Act 1983) incurred therewith upon receiving notice thereof.

7.2 Where any Successor Company is liable to pay any amount to any other Successor Company under this Agreement, the Successor Company liable to pay shall pay any VAT which may be payable in connection therewith.

7.3 If any taxation authority charges to taxation any sum paid by a Successor Company to another Successor Company under or by reason of Clause 3.3, 4.3, 5.1.2, 7.1, 8.1, 8.2, 8.7, the proviso to Clause 9.1 or 9.2 (except insofar as the liability, cost, expense, or other matter in respect of which the payment is made is deductible for corporation tax purposes) then the amount so payable shall be grossed up by such amount as will ensure that after payment of the taxation so charged there shall be left a sum equal to the amount which would otherwise be payable thereunder.

8 Prosecution and maintenance of Intellectual Property

8.1 Decisions regarding the prosecution, maintenance or protection of any Intellectual Property and any intellectual property rights arising from any contract listed in Schedule (31) to the Divisionalisation Scheme in any jurisdiction shall be a matter for the Owning Successor Company. Any action against any other person in relation to any Available Intellectual Property shall be a matter for the Owning Successor Company and any damages or compensation received shall be for its own account but each other Successor Company shall render such assistance as that Owning Successor Company may reasonably require for the purpose of bringing and

prosecuting such action. The Owing Successor Company shall pay the assisting non-Owning Successor Company its reasonable costs and expenses incurred in complying with the latter's obligation to assist under this paragraph.

8.2 If an Owing Successor Company decides not to take or within a reasonable time fails to institute such proceedings as are referred to in Clause 8.1 after written request by any Successor Company which has obtained a Licence or which has requested and is entitled to a Licence in respect of the relevant Available Intellectual Property or Available Record, any such other Successor Company shall be entitled to do so and the Owing Successor Company shall (at the other Successor Company's request and expense) render such assistance as that other Successor Company may reasonably require for the purpose of the institution and prosecution of such proceedings (including, where the Owing Successor Company's participation is necessary to provide sufficient locus standi for the institution of those proceedings, being a plaintiff or co-plaintiff to such proceedings). The other Successor Company shall pay the Owing Successor Company's reasonable costs and expenses incurred in complying with the latter's obligation to assist and, if relevant, participate under this paragraph.

8.3 As between an Owing Successor Company and each non-Owning Successor Company which has at any time obtained a Licence of any Available Record or Available Intellectual Property, each shall, on becoming aware of any infringement of any right in such Available Record or Available Intellectual Property, without undue delay inform the other of such infringement and without undue delay on request thereafter inform the other whether or not it intends to take any action in respect thereof.

8.4 If an Owing Successor Company wishes to cease the prosecution or maintenance of any of its Available Intellectual Property which constitute Registered Rights, it shall first give timely notice to the other Successor Companies offering either to assign that Registered Right, free of charge to the other Successor Companies or requesting payment of whatever expenditure may be necessary to prosecute or maintain

such right in any jurisdiction. If such offer is accepted by one or more of the other Successor Companies within a period of 28 days of such notice:-

8.4.1 such Registered Right shall then either be assigned to the accepting Successor Company or, if more than one to such Successor Companies jointly; or

8.4.2 the accepting Successor Company, or if more than one, such Successor Companies shall then pay the aforesaid sum in equal shares to the Owing Successor Company;

as the case may be.

8.5 If any one Successor Company shall accept the offer set out in Clause 8.4 above by requesting an assignment of the relevant Registered Right, such assignment shall take place in accordance with Clause 8.4 above notwithstanding any acceptance of the aforesaid offer by any Successor Company offering to pay the aforesaid sum to the Owing Successor Company.

8.6 Any assignment in accordance with Clause 8.4 or 8.5 above shall be subject to Access and a Licence to all the Successor Companies (including the former Owing Successor Company) in accordance with the same terms as are set out in paragraphs 2.5 to 2.6 of Schedule One of the Transfer Scheme as the case may be. If such offer of assignment or request for payment is not accepted by any Successor Company within the aforesaid 28 day period, the Owing Successor Company shall thereafter be at liberty to cease such prosecution and maintenance and to abandon such Registered Right.

8.7 Any Successor Company receiving the assignment of any Registered Right or paying whatever expenditure is necessary to prosecute or maintain such right agrees to indemnify the Owing Successor Company against any costs of assignment, prosecution or maintenance as the case may be reasonably or properly incurred (including any tax charges incurred by the Owing Successor Company as a result of such assignment, prosecution, maintenance or receipt of the expenditure).

9 CEGB Archive and Accounting Records

9.1 Nuclear Electric shall retain the CEGB Archive for a period of 5 years from the transfer date and for such further period and on such terms as may be agreed between the Successor Companies save that the provisions of Clause 9.2 below shall in any event apply after such period of 5 years (or longer as may be agreed). Throughout the period referred to above Nuclear Electric agrees, on payment annually in arrears of one quarter of its costs and expenses (including irrecoverable VAT) of retention from each of the other Successor Companies, not to cease to hold or to destroy any part of the CEGB Archive and further agrees to provide Access and to grant Licences in respect thereof to all other Successor Companies without requiring any further payment whatsoever provided always that such other Successor Companies to which the relevant Licence is granted shall pay to Nuclear Electric any tax charge incurred by it in connection with the grant of the relevant Licence other than VAT for which a credit is available to Nuclear Electric under Sections 14 and 15 of the Value Added Tax Act 1983.

9.2 Subject to Clause 9.1 above, if an Owing Successor Company wishes to cease to maintain all or any part of the CEGB Archive, it shall first give timely notice to the other Successor Companies offering to assign the rights in all or that part of the CEGB Archive free of charge to the other Successor Companies. If such offer is accepted by one or more of the other Successor Companies within a period of 28 days of such notice, the rights in that part of the CEGB Archive shall then be assigned to the accepting Successor Company or, if more than one to such Successor Companies jointly subject to any Licences which may have already been granted to the other Successor Companies. The accepting Successor Company or Companies shall be obliged to remove the relevant part of the CEGB Archive within 28 days from acceptance of the notice, on giving the Owing Successor Company reasonable notice. If such offer of assignment is not accepted by any Successor Company or the relevant part of the CEGB Archive is not removed within the relevant period, the Owing Successor Company shall thereafter be at liberty to cease to maintain or otherwise

destroy all or the relevant part of the CEGB Archive. Any Successor Company receiving the assignment of any part of the CEGB Archive agrees to indemnify the Owing Successor Company against any costs of assignment reasonably or properly incurred (including any tax charges incurred by the Owing Successor Company as a result of such assignment).

9.3 The provisions of Clause 9.2 above shall apply mutatis mutandis to the Accounting Records as they do to the CEGB Archive save that the provisions of Clause 9.1 above shall have no effect in relation to the Accounting Records and the obligations on the Owing Successor Company under Clause 9.2 above shall be construed for the purposes of this Clause as obligations on the Owing Successor Company only to use its reasonable endeavours to comply therewith having regard, so far as it is aware, to the possible interest of any other Successor Company therein.

9.4 For the avoidance of doubt, after any assignment of all or any part of the CEGB Archive or Accounting Records pursuant to Clauses 9.2 or 9.3 above, such CEGB Archive or Accounting Records shall continue to be Available Intellectual Property and Available Records.

10 Confidentiality

10.1 Each non-Owning Successor Company shall hold in confidence any Intellectual Property (other than Intellectual Property obtained at any time under an All Purpose Licence) and any Intellectual Property obtained under an Internal Use Licence, and shall not disclose or transfer such Intellectual Property to persons other than to its subsidiaries or holding companies or subsidiaries of holding companies (as such terms are defined in the Companies Act 1985), and their authorised agents (including professional advisors) without the prior written consent of the Owing Successor Company (not to be unreasonably withheld or delayed). Any such permitted disclosure shall require the person to whom such disclosure is made to adhere to the same obligations of confidence in favour of the Owing Successor Company as pertain to the non-Owning Successor Company under this Clause 10.1. In protecting such Intellectual Property from disclosure to third parties the non-Owning

Successor Company shall employ a standard of care which shall in no event be less than the standard it employs in the protection of its own confidential information.

10.2 The restrictions on disclosure set out in Clause 10.1 above shall not apply to Intellectual Property (a) to the extent that it is in the public domain otherwise than by default of any non-Owning Successor Company; (b) which is independently created or ascertained or rightfully known; (c) which was rightfully acquired from a third party which is not in breach of an obligation of confidentiality owed to the Owning Successor Company; (d) if required to be disclosed by law or any court or pursuant to the arbitration rules of the Electricity Supply Industry Arbitration Association in force from time to time, or pursuant to any order or direction made thereunder; or (e) which is required to be disclosed by the regulations of any exchange upon which the share capital of the non-Owning Successor Company making the disclosure is or is proposed to be from time to time listed or dealt in; (f) which is required to be disclosed pursuant to or in accordance with any licence granted under the Electricity Act 1989 to the relevant non-Owning Successor Company; or (g) which is required to be disclosed by or to any foreign or UK government, governmental department, regulatory or fiscal body or authority (whether governmental, quasi governmental or otherwise) and their authorised agents (including professional advisors).

10.3 As used in sub-paragraphs (d), (e), (f) and (g) of Clause 10.2 above, "required" shall mean "necessary desirable or expedient or in accordance with good and proper business or accountancy practice (including for the purposes of obtaining consents, confirmations, clearances, waivers, approvals, authorisations and other permissions)".

11 Further Assurances

11.1 Each Successor Company shall take all steps (including entering into such further deeds or documents) as may reasonably be required by any other Successor Company to give effect to the provisions of this Agreement and/or confirm the rights granted under the Transfer Scheme and/or hereunder.

12 Waiver

12.1 No omission or delay on the part of any Successor Company hereto in exercising any right, power or privilege hereunder shall impair such right, power or privilege or be construed as a waiver thereof, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise thereof or of any other right, power or privilege. The rights and remedies herein provided are cumulative with and not exclusive of any rights or remedies provided by law.

13 Notices

13.1 Any notice or communication or demand to be given or made pursuant to this Agreement shall be given or made by pre-paid, registered or recorded delivery post or by telex (where a telex number is given below), or by hand delivery addressed and sent to the Successor Company to be served at the following addresses:

to National Power at:

Sudbury House
15 Newgate Street
London EC1A 7AU

Telex No. 883141

to PowerGen at:

53 New Broad Street
London EC2M 1JJ

Telex No. 8811400

to National Grid at:

National Grid House
Summer Street
London SE1 9JU

Telex No. 258151

to Nuclear Electric at:

Barnett Way
Barnwood
Gloucester GL4 7RS

Telex No. 43501

or such other address or telex number as the party changing its address or telex number may notify to the other. Except where receipt is expressly required by the terms of this Agreement, any such notice, communication or demand, if given or made by prepaid registered or recorded delivery post, shall be deemed to have been duly given or made two days after the same was posted (and in proving such it shall be sufficient to prove that the envelope containing the same was posted), if given or made by telex transmission, shall be deemed to have been duly given or made at the time of sending.

14 Restrictive Trade Practices

14.1 Notwithstanding any other provisions of this Agreement, any restriction or restrictions contained in this Agreement, or any agreement or arrangement of which this Agreement forms part, which cause this Agreement to be registrable under the Restrictive Trade Practices Act 1976 (the "Act") shall be of no effect until the day after particulars of this Agreement shall have been furnished to the Director General of Fair Trading pursuant to Section 24 of the Act.

IN WITNESS whereof the Common Seals of the Successor Companies have hereunto been affixed the day and year first above written.

THE COMMON SEAL of NATIONAL)
POWER PLC was hereunto)
affixed in the presence of:-)



Authorised Signatory





(THE COMMON SEAL of POWERGEN
(plc was hereunto affixed in
(the presence of:-

Janil Paul

Secretary



(THE COMMON SEAL of THE
(NATIONAL GRID COMPANY plc
(was hereunto affixed in the
(presence of:-

G. Butler

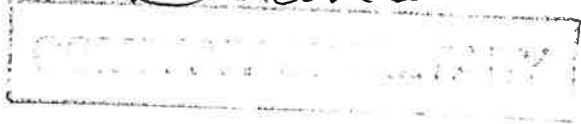
Authorised Signatory



(THE COMMON SEAL of NUCLEAR
(ELECTRIC PLC was hereunto
(affixed in the presence of:-

ANTHONY
Authorised Signatory

R. Melville



SCHEDULE ONE

Records and Intellectual Property

1. Definitions

In this Schedule, save where inconsistent with the subject matter or context, the following expressions shall bear the following meanings:-

"All Purpose Licence" means, without prejudice to the Owing Successor Company's rights in any Record, Intellectual Property and any rights to intellectual property arising out of any contract or agreement listed in Schedule (31) to the Divisionalisation Scheme, a non-exclusive, irrevocable, royalty-free, worldwide licence (with the right to assign, sub-license, mortgage or otherwise deal with such licence) to use any Available Record for any purpose whatsoever and do what otherwise would or might be an infringement of the relevant Available Intellectual Property or any intellectual property arising out of any contract or agreement listed in Schedule (31) to the Divisionalisation Scheme, to be granted on the agreed terms;

"Available Intellectual Property" means any Intellectual Property (excluding the Registered Trade Marks, the Patents and any Divisional Intellectual Property) which:-

(1) the Owing Successor Company has, at the date of receipt of a request for a Licence; or

(2) the Generating Board has, in the case of Intellectual Property licensed under paragraph 2.7 of this Schedule, immediately before the transfer date;

in its possession, custody or control and is free to license on the terms of the relevant Licence without being in breach of:-

(i) the law; or

(ii) any obligation which came into existence and was binding on the Generating Board on or before 31 December 1988 unless that obligation is not for any reason enforceable against the relevant Owning Successor Company; or

(iii) any obligation which came into existence after 31 December 1988 with the consent of a representative of each Division other than the Nuclear Electric Division or after 31 December 1989 with the consent of a representative of each Division;

"Available Record" means the CEGB Archive and any other Record (other than any Divisional Record) which:-

(1) the Owning Successor Company has, at the date of receipt of a request for a Licence; or

(2) the Generating Board has, in the case of Records licensed under paragraph 2.7 of this Schedule, immediately before the transfer date;

in its possession, custody or control and is free to license on the terms of the relevant Licence, without being in breach of:-

(i) the law; or

(ii) any obligation which came into existence and was binding on the Generating Board on or before 31st December 1988 unless that obligation is not enforceable for any reason against the relevant Owning Successor Company; or

(iii) any obligation which came into existence after 31 December 1988 with the consent of a representative of each Division other than the Nuclear Electric Division or after 31st December 1989 with the consent of a representative of each Division;

"CEGB Archive" means the Corporate Accounting Records, this Scheme and the minutes and papers associated with the meetings of the Members of the Generating Board, the executive co-ordinating committee, the executive, the production directorate, the central executive committee, the full time members' meeting, the research executive, the audit committee(s) and the engineering executive as they exist immediately before the transfer date;

"Corporate Accounting Records" means the annual trial balances and supporting statements from locations, consolidated accounts papers, current cost accounting data including valuation of fixed assets and stocks, government statistical returns and Records relating to corporation tax;

"Divisional" in relation to any Record or any Intellectual Property means any Record or any Intellectual Property (i) created by or for one Division and created for and/or used by it for the sole or predominant purpose of giving it or its Successor Company a commercial advantage over any other Division or Successor Company or any other person, or (ii) created by or for one Division and created for and/or used by it for the purpose of giving effect to the relevant Successor Company's Specific Licence obligations, or (iii) allocated to Nuclear Electric under the provisions of this Scheme but created by or for National Power and created for and/or used by it with the effect of, or by Nuclear Electric for the sole or predominant purpose of, giving Nuclear Electric Division or its Successor Company a commercial advantage over any other Division or Successor Company or any other person;

the "Generating Companies" means National Power, PowerGen and Nuclear Electric;

"Internal Use Licence" means a non-exclusive, irrevocable, royalty-free, worldwide licence (with no right to assign, sub-license (other than to the licensee's wholly-owned subsidiaries

or to sub-contractors employed in and for the sole benefit of the licensee's business), mortgage or otherwise deal in such licence) to use any Available Record, Available Intellectual Property, any intellectual property arising out of any contract or agreement listed in Schedule (31) to the Divisionalisation Scheme, or as the case may be, Patent, for the purposes of the licensee's (or the licensee's wholly-owned subsidiaries') own business and undertaking, to be granted on the agreed terms;

"Licence" means either an All Purpose Licence or an Internal Use Licence;

"Owning Successor Company" means, in relation to any Record or Intellectual Property, the Successor Company to which any property, rights and liabilities in any such thing is allocated pursuant to paragraphs 2.1 to 2.4 and 3.2 of this Schedule and Paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 and 12 of this Scheme and "non-Owning Successor Company" shall be construed accordingly; and

"Specific Licence" means, in the case of each of the Generating Companies, its respective Electricity Generation Licence and Second Tier Licence to Supply Electricity and, in the case of National Grid, its Transmission Licence, granted as the case may be pursuant to section 6 of the Act.

2. Allocation of the CEGB Archive, Records and Intellectual Property

2.1 All property, rights and liabilities of the Generating Board in or in respect of all Records (other than Records relating to taxation, including Social Security contributions) and all property, rights and liabilities in Intellectual Property other than those referred to in paragraph 2.2 of this Schedule and as are otherwise allocated under Paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 and 12 of this Scheme, which relate wholly and exclusively to any property, right, or liability allocated to any one Successor Company under this Scheme, shall be allocated to that Successor Company and all property rights and

liabilities of the Generating Board in or in respect of all Records relating to taxation other than corporation tax but including Social Security contributions shall if and to the extent that they relate to the business undertaking or employees of a Division be allocated to the Successor Company to that Division.

2.2 All property, rights and liabilities of the Generating Board in or in respect of the CEGB Archive shall be allocated to Nuclear Electric.

2.3 All property, rights and liabilities of the Generating Board (other than all property, rights and liabilities in Intellectual Property) in or in respect of all Records (other than those referred to in paragraphs 2.1 and 2.2 of this Schedule and as are otherwise allocated under the provisions of Paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 and 12 of this Scheme) located in or on:-

- (i) the power stations, other land and buildings and parts thereof (other than those in respect of which interests are to be granted to any other Successor Company) specified in Paragraph 2.2.3 of this Scheme or which are to be occupied by National Power pursuant to items (104) and (107) of Schedule Three to this Scheme shall be allocated to National Power;
- (ii) the power stations, other land and buildings and parts thereof (other than those in respect of which interests are to be granted to any other Successor Company) specified in Paragraph 3.2.3 of this Scheme shall be allocated to PowerGen;
- (iii) the power stations, other land and buildings and parts thereof (other than those in respect of which interests are to be granted to any other Successor Company) specified in Paragraph 4.2.3 of this Scheme or which are to be occupied by Nuclear Electric pursuant to items (105) and (108) of Schedule Three to this Scheme shall be allocated to Nuclear Electric; and

(iv) the substation, grid control centres, power and converter stations, power stations, other land and buildings and parts thereof (other than those in respect of which interests are to be granted to any other Successor Company) specified in Paragraph 5.2.3 of this Scheme or which are to be occupied by National Grid pursuant to item (106) of Schedule Three to this Scheme shall be allocated to National Grid.

2.4 All property, rights and liabilities in or in respect of any and all Intellectual Property including that which is embodied in any Record (other than all property, rights and liabilities in Intellectual Property allocated under paragraphs 2.1 and 2.2 of this Schedule and as are otherwise allocated under the provisions of Paragraphs 2.2.12, 3.2.12, 4.2.14, 5.2.13 and 12 of this Scheme) shall be allocated to the Successor Company to which the original of the relevant Record is allocated under paragraph 2.3 of this Schedule except any unregistered trade marks which shall be allocated to whichever Successor Company is entitled to the goodwill in the relevant business under Paragraphs 12.1 to 12.4 of this Scheme.

2.5 Each Generating Company shall if requested so to do by National Grid in relation to any specified Available Record, Available Intellectual Property and/or Patent owned by it, without undue delay, execute an Internal Use Licence in favour of National Grid and National Grid shall if requested so to do by any Generating Company in relation to any specified Available Record, Available Intellectual Property and/or Patent owned by it, without undue delay, execute an Internal Use Licence in favour of any Generating Company, in any such case if at the date of the request for such an Internal Use Licence it is shown, to the reasonable satisfaction of the Owning Successor Company, that the Successor Company making the request has a genuine need for such Internal Use Licence for its business activities.

2.6 Each Generating Company shall if requested so to do by any other Generating Company in relation to any specified Available Record and/or Available Intellectual Property owned by it, without undue delay, execute

an All Purpose Licence in favour of that other Generating Company, and, in relation to the Patents, each Generating Company shall if requested so to do by any other Generating Company in relation to any specified Patent owned by it, without undue delay, execute an Internal Use Licence in favour of that other Generating Company.

2.7 The provisions of this paragraph 2.7 shall have effect in respect of any Available Record or Available Intellectual Property:-

- (i) allocated under Paragraphs 2.2.12, 3.2.12, 4.2.14 and 5.2.13 of this Scheme; and/or
- (ii) of which a Division has a copy in its possession immediately prior to the transfer date;

as the case may be.

2.7.1 In the event that a Generating Company is the Owing Successor Company of any Record or Intellectual Property specified in paragraphs 2.7(i) or (ii) of this Schedule, it shall on or forthwith after the transfer date execute All Purpose Licences in favour of each other Generating Company in respect thereof.

2.7.2 In the event that a Generating Company is the Owing Successor Company of any Record or Intellectual Property specified in paragraph 2.7(ii) of this Schedule, it shall on or forthwith after the transfer date execute Internal Use Licences in favour of National Grid in respect thereof.

2.7.3 In the event that a Generating Company is the Owing Successor Company of any Record or Intellectual Property specified in paragraph 2.7(i) of this Schedule, it shall on or forthwith after the transfer date execute Internal Use Licences in favour of National Grid in respect thereof provided that National Grid (or National Grid Division) has shown to the reasonable satisfaction of the relevant Generating Company (or

Division) that it has a genuine need for such Internal Use Licences for its business activities.

2.7.4 In the event that National Grid is the Owing Successor Company of any Record or Intellectual Property specified in paragraph 2.7(ii) of this Schedule, it shall on or forthwith after the transfer date execute Internal Use Licences in favour of each Generating Company in respect thereof.

2.7.5 In the event that National Grid is the Owing Successor Company of any Record or Intellectual Property specified in paragraph 2.7(i) of this Schedule, it shall on or forthwith after the transfer date execute Internal Use Licences in favour of each Generating Company in respect thereof provided that the relevant Generating Company (or Division) has shown to the reasonable satisfaction of National Grid (or National Grid Division) that it has a genuine need for such Internal Use Licences for its business activities.

3 Rights arising after the transfer date

3.1 In the event that any Successor Company obtains any patent, registered design or other registered intellectual property right (other than a registered trademark) or makes any application therefor which relates wholly and exclusively to any Available Intellectual Property and/or Available Record, such patent, registered design or other registered intellectual property right and application therefor shall be deemed to be Available Intellectual Property or Patents, as the case may be, so that the provisions herein whereby an Owing Successor Company is obliged to execute Licences to the relevant non-Owing Successor Company shall apply equally to such patent, registered design or other registered intellectual property and application therefor.

3.2 Where a Successor Company is allocated the rights and liabilities of the Generating Board in, under or in respect of a contract or agreement listed in Schedules (5), (12), (19) and (26) to the Divisionalisation

Scheme or is listed in Schedule (31) to the Divisionalisation Scheme as an "Allocated Party" in relation to any contract or agreement, that Successor Company shall be allocated all rights to intellectual property which may at any time arise from any such contract or agreement.

3.3 The provisions of paragraphs 3.4 and 3.5 of this Schedule shall apply to intellectual property rights created after the transfer date pursuant to any agreement listed in Part I of Schedule (31) to the Divisionalisation Scheme and made between the Generating Board and any other person.

3.4 Each Owning Successor Company shall if requested so to do by any non-Owning Successor Company in relation to intellectual property rights created pursuant to an agreement listed in Part I of Schedule (31) to the Divisionalisation Scheme, without undue delay, execute Licences in favour of that non-Owning Successor Company provided that such non-Owning Successor Company is listed in Part I of Schedule (31) to the Divisionalisation Scheme as a "Successor Company Claiming Interest" in respect of such agreement.

3.5 The Licences specified in paragraph 3.4 of this Schedule shall be All Purpose Licences in all cases except as between a Generating Company and National Grid, where the Licences shall be Internal Use Licences.

3.6 Each Owning Successor Company shall if requested so to do by any non-Owning Successor Company in relation to any intellectual property rights created pursuant to an agreement listed in Part II of Schedule (31) to the Divisionalisation Scheme, without undue delay, execute All Purpose Licences (or such other licence as may be specified in any agreement executed in pursuance of Paragraph 16.1 of this Scheme) in favour of that non-Owning Successor Company provided that such non-Owning Successor Company is listed in Part II of Schedule (31) to the Divisionalisation Scheme as a "Successor Company Claiming Interest" in respect of such agreement.

3.7 The provisions of paragraph 3.8 of this Schedule shall apply to any agreement or contract to which the Generating Board was a party under which (1) the relevant Intellectual Property or Record was made available to the Generating Board, or (2) the relevant intellectual property rights arising out of the contract or agreement are made available to the Owing Successor Company, if and to the extent that such Intellectual Property or Record (or such rights to intellectual property) are made available to the relevant non-Owning Successor Company by the Licence.

3.8 Wherever any property, rights and liabilities in or in respect of any and all Intellectual Property (and any rights to intellectual property arising out of any contract or agreement listed in Schedule (31) to the Divisionalisation Scheme) or Records are allocated to the Owing Successor Company under the provisions of this Schedule, there shall also be allocated (in addition to the allocations by paragraph 3.2 of this Schedule to the Owing Successor Company and by Paragraphs 2.2.4, 3.2.4, 4.2.4, 5.2.4 and 13.1 of this Scheme) to:-

- 3.8.1 each non-Owning Successor Company which is a "Successor Company Claiming Interest" in respect of any agreement referred to in paragraphs 3.4 or 3.6 of this Schedule;
- 3.8.2 each Generating Company entitled to a Licence from any other Generating Company under paragraph 2.6 of this Schedule; and
- 3.8.3 each non-Owning Successor Company which is to be granted a Licence in accordance with paragraph 2.7 of this Schedule;

all such rights in, under or in respect of any such agreement or contract as is referred to in paragraph 3.7 of this Schedule as are required by the non-Owning Successor Company to recover damages from the person with whom the Generating Board had a relevant agreement or contract in respect of any loss it suffers as a result of any breach of the relevant agreement or contract or any other act or omission by that person.