

Smart Meters Programme Schedule 1

(Interpretation and Definitions) (Billing System version)

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This Schedule 1 comprises the following parts:

| Part | Scope |
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| Part A | Interpretation |
| Part B | General definitions |
| Part C | Systems |
| Part E | DCC Service Provider and other provider definitions |
| Part F | DCC Service Users, SEC and Multi-Party Framework Agreement definitions |
| Part G | Industry Codes and Arrangements, SMETS and SEC Subsidiary Documents |
| Part I | Implementation Phases, Implementation, Achievement of Milestones, Testing and Acceptance, Roll Out, Milestones and Entry/Exit |
| Part K | Premises and Sites |
| Part M | Energy Suppliers, Network Operators (including DNOs and GTs) and Energy Registration Services |
| Part Q | Technical Definitions |
| Part S | SMKI Definitions |

PART A – INTERPRETATION AND DEFINITIONS

1. Interpretation

- 1.1 In this Agreement, unless the context otherwise requires:
- (a) the singular includes the plural and vice versa;
 - (b) reference to a gender includes the other gender and the neuter;
 - (c) reference to "parties" means the parties to this Agreement and references to "a party" mean one of the parties to this Agreement;
 - (d) references to any agreement or document (including this Agreement) include (subject to all relevant approvals and any other provisions of this Agreement concerning variations, amendments, supplements, substitutions, novations or assignments to or of agreements or documents) a reference to that agreement or document as varied, amended, supplemented, substituted, novated or assigned;
 - (e) any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words; and
 - (f) words importing persons shall, where the context so requires or admits, include individuals, firms, partnerships, authorities, corporations, governments, governmental bodies, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity.
- 1.2 The headings in this Agreement shall be deemed not to be part of this Agreement and shall not be taken into consideration in the interpretation of this Agreement.
- 1.3 Except where the context expressly requires otherwise, references to Clauses, paragraphs, sub-paragraphs', parts and Schedules are references to Clauses, paragraphs, sub-paragraphs', parts of and Schedules to this Agreement and references to Sections, Appendices, Annexes and Attachments (if any) are references to Sections, Appendices, Annexes and Attachments to or contained in this Agreement.
- 1.4 Except where the context expressly requires otherwise, references to any paragraph or sub-paragraph within a Schedule or part of a Schedule to this Agreement are references to paragraphs or sub-paragraphs within that Schedule or that part of the Schedule.
- 1.5 The Schedules, Appendices and Annexes to this Agreement are an integral part of this Agreement and a reference to this Agreement includes a reference to the Schedules, the Appendices and the Annexes.

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- 1.6 The language of this Agreement is English. All correspondence, notices, drawings, design data, test reports, certificates, specifications and information shall be in English. All operating and maintenance instructions, name plates, identification labels, instructions and notices to the public and staff and all other written, printed or electronically readable matter required in accordance with, or for purposes envisaged by, this Agreement shall be in English.
- 1.7 References to any Mandatory Requirement are to be construed as references to that Mandatory Requirement as from time to time amended or to any Mandatory Requirement from time to time replacing, modifying, extending, consolidating, re-enacting or amending the same and any Mandatory Requirement(s) made under it. The impact of any such amendment, modification, replacing, consolidation, extension or re-enactment on this Agreement shall be dealt with in accordance with Clause 33 (Change in Mandatory Requirements). For the avoidance of doubt, references to Standards in this Agreement refer to the latest version as updated from time to time in accordance with Clause 33 and any reference in this Agreement to any specific Law for England and Wales shall be deemed to include reference to any relevant Law for Scotland having equivalent or similar effect.
- 1.8 References to a public organisation or Regulatory Body (including DECC, the ICO, Ofgem, Ofcom and the Authority) shall be deemed to include a reference to any successor(s) to such public organisation or Regulatory Body or any organisation(s) or entity(ies) which has taken over either or both the functions and responsibilities of such public organisation or Regulatory Body. References to other persons shall include their successors and assignees.
- 1.9 Where this Agreement states that an obligation shall be performed "no later than" or "within" or "by":
- (a) a stipulated date or event which is a prescribed number of days or Working Days after a stipulated date or event; or
 - (b) a prescribed number of days or Working Days before a base date or "by" a date which is a prescribed number of days or Working Days before a base date,
- the latest time for performance shall be noon on the last day or Working Day for performance of the obligations concerned.
- 1.10 References to "reasonable endeavours" in this Agreement shall mean a duty (at the sole cost and expense of the party on whom such duty falls) to do what is reasonable (including incurring expenditure) in the circumstances on the basis of a standard of reasonableness which is that of a reasonable board of directors acting properly in the interests of their company taking into account:
- (a) commercial practicality;
 - (b) the interests of their company;
 - (c) the costs to their company; and

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(d) the likelihood of success,

such that if such board of directors determined (taking all relevant circumstances into account) that the obligation imposed on the company was too great for the company to undertake, the obligated party will not be in breach of any obligation to use its reasonable endeavours by failing to take such action.

1.11 References to a "deliberate" act or omission of any person shall be construed as meaning any act or omission of that person where the consequences of that act or omission are:

(a) known to that person (or in the case of the Contractor, any Contractor Person) prior to committing the act or omission; or

(b) not considered (or are considered but rejected) by that person (or in the case of the Contractor, any Contractor Person) prior to committing the act or omission, but the act or omission involved a risk of those consequences occurring which would have been obvious to an ordinary prudent person,

and the expression shall exclude acts or omissions which were otherwise required to comply with the terms of this Agreement.

1.12 References to "material breach" shall include a single material breach or a number of breaches or repeated breaches (whether of the same or different obligations) that taken together constitute a material breach.

1.13 All of the Contractor's obligations, duties and responsibilities under this Agreement shall be construed as separate obligations, duties and responsibilities and, except where expressly stated otherwise, are to be performed at the Contractor's own cost and expense.

1.14 References in this Agreement to "unavoidable costs" shall be construed as meaning any costs which the party in question has not been able to avoid after taking all reasonable steps to mitigate or eliminate such costs.

1.15 The words in this Agreement shall bear their natural meaning. The parties have had the opportunity to take legal advice on this Agreement and no term shall, therefore, be construed contra proferentem.

1.16 References to "contractor" and "sub-contractor" shall be regarded as interchangeable and bearing the same and (to the extent of any difference) in each case including both meanings.

1.17 Reference to "termination" or "expiry" (unless otherwise stated or the context otherwise requires) shall be to the termination or expiry (as appropriate) of the Term (as opposed to of the Service Period).

1.18 References to "software" (unless otherwise stated) include firmware and other computer code.

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- 1.19 References to "services" (unless otherwise stated or the context otherwise requires) includes the supply of goods and performance of any other obligations under relevant arrangements.
- 1.20 Unless otherwise expressly stated, references in this Agreement to "written", "writing" or "in writing" (and similar expressions) shall include fax but not e-mail.
- 1.21 Unless otherwise expressly stated, references in this Agreement to "costs" or "expenses" include all costs, expenses, charges and the like.
- 1.22 In this Agreement, "company" includes any body corporate and "subsidiary" or "holding company" shall be construed in accordance with section 1159 of the Companies Act 2006.
- 1.23 Unless the context otherwise requires, in this Agreement the expressions in Parts B to Part R shall have the meanings set out in those Parts.
- 1.24 Unless the context otherwise requires, references to any document forming a part of the Contractor Solution Design Documents, Service Management Framework (and for the avoidance of doubt any reference to the collective terms "Contractor Solution Design Documents" and "Service Management Framework") shall be construed as a reference to the latest version(s) of the relevant document(s) approved by the DCC (e.g. Detailed Product Description, Relevant Document and so on) from time to time.

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PART B – GENERAL DEFINITIONS

Unless the context otherwise requires, the following expressions shall have the meanings set out below:

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| "Achieve" | has the meaning given in Part I of this Schedule 1; |
| "Actual Service Level" | means, in relation to any month, the Contractor's actual level of performance against the applicable Service Measure or KPI (which shall be specified in the Performance Monitoring Report for that month); |
| "Affected Party" | means the party seeking to claim relief in respect of a Force Majeure Event; |
| "Affiliate" | means in relation to a person (including any body corporate): <ul style="list-style-type: none">(a) any other person which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that person from time to time; and/or(b) any Related Undertaking; |
| "Agreement" | means the Clauses of this Agreement together with the Schedules, appendices and annexes to it and any document(s) attached to it; |
| "Allowable Action" | has the meaning given in Clause 40.10; |
| "Annual Summary" | has the meaning given in paragraph 4.1 of Part F of Schedule 2.2 (Performance Measures and Monitoring); |
| "Anti-Bribery Law" | has the meaning given in Clause 48; |
| "Anti-Bribery Policy" | has the meaning given in Clause 48; |
| "Assets" | means all assets and rights used by the Contractor or any Contractor Person to provide the Services in accordance with this Agreement, but excluding those assets and rights owned by the DCC; |
| "Authorised Activity" | has the meaning given in the DCC Licence; |
| "Authorised Business Activities" | has the meaning given in the DCC Licence; |

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| "Authorised Business of the Licensee" | has the meaning given in the DCC Licence; |
| "Authority" | means the Gas and Electricity Markets Authority that is established under section 1 of the Utilities Act 2000; |
| "Average Price" | means, in relation to the Comparable Services provided by the Comparison Group, the mean average of prices for those Comparable Services as adjusted to produce Equivalent Services Data over the previous twelve (12) month period (or such other period agreed between the DCC and the Contractor from time to time). The "mean average price" shall be calculated in the manner determined by the Benchmarker; |
| "BCDR Plan" | has the meaning given in Clause 35 |
| "Billing System" | means the system that is being constructed to create invoices to DCC Service Users for using the DCC Services |
| "Breakage Costs" | means any costs (such as costs payable for early termination of contracts entered into by the Contractor prior to receipt of the Termination Notice) incurred by the Contractor directly as a result of the termination of this Agreement which: <ul style="list-style-type: none">(a) would not have been incurred had this Agreement continued until its expiry;(b) relate directly to the termination of the Services;(c) are unavoidable, proven, reasonable, and not capable of recovery; and(d) are incurred under arrangements or agreements that are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms.(e) |
| "Britain" or "GB" | means Great Britain; |

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| "Business Handover Plan" | has the meaning given in the DCC Licence; |
| "Change Authorisation Note" | has the meaning given in Schedule 8.2 (Change Control); |
| "Change Communication" | has the meaning given in Schedule 8.2 (Change Control); |
| "Change Control Procedure" | means the procedure for changing this Agreement, as set out in Schedule 8.2 (Change Control); |
| "Change in Mandatory Requirements" | <p>means any change (including any modification, replacement, extension, consolidation or amendment) in any Mandatory Requirement(s) after the Signature Date, including:</p> <ul style="list-style-type: none">(a) the enactment or commencement of any new Mandatory Requirement other than (i) the designation of the SEC by the Secretary of State and/or (ii) the coming into effect at any time of any provision in the SEC contained in the SEC at the time of its designation;(b) the modification or repeal of any Mandatory Requirement;(c) any applicable judgment of a relevant court of law which changes a binding precedent; or(d) the imposition of a requirement by a Regulatory Body for an additional necessary Consent, <p>which impacts on the performance of the Services or any of the Contractor's other obligations under this Agreement;</p> |
| "Change Log" | has the meaning given in Schedule 8.2 (Change Control); |
| "Change of Control" | means a change in Control of the Contractor; |
| "Change Request" | has the meaning given in Schedule 8.2 (Change Control); |

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| "Change" | means any change to this Agreement or the Services to be provided under this Agreement (including any Contract Change or Operational Change); |
| "Charges" | means the charges payable by the DCC for the provision of the Services referred to in Schedule 7.1 (Charges and Payment); |
| "Claim" | means any allegation, claim, proceedings, action or demand made (or litigation, arbitration or mediation or other dispute resolution process commenced); |
| "Code Administrator" | has the meaning given in Part F of this Schedule 1; (a) |
| "Commencement Date" | means, with regard to a part of the Services, the date on which that part of the Services commences in accordance with this Agreement; |
| "Commercial Activities" | has the meaning given in the DCC Licence; |
| "Commercially Sensitive Information" | means Contractor's Confidential Information that is specifically and clearly marked " <i>Commercially Sensitive – Access by other DCC Contractor(s) Generally Prohibited</i> " and which details: (a) the Charges, cost or profits of the Contractor or a Sub-contractor in relation to the Services (or any proposed Services); and/or (b) the strategic business intentions of the Contractor (that are not obvious and that are likely to materially negatively affect the business of the Contractor if publically available); |
| "Commodity Supplier" | means a Sub-contractor that solely provides goods, services and/or supplies that can be readily obtained by the Contractor and/or the DCC from a competitive market, materially similar in form, function and price that have not been produced or rendered specifically for or with the Services in mind. The phrase Commodity Supplier excludes any Sub-contractor that has access (whether physical or otherwise) to any DCC Confidential Information; |
| "Common Change" | has the meaning given in Schedule 8.2 (Change Control); |
| "Comparable" | means services that are materially similar to the |

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| Services" | Benchmarked Services (including in terms of scope, specification, volume and quality of performance) provided that if no materially similar services exist in the market, the Benchmarker shall propose an approach for developing a comparable service benchmark; |
| "Comparison Group" | means a sample group of organisations providing Comparable Services identified by the Benchmarker which consists of organisations which are either of similar size to the Contractor or which are similarly structured in terms of their business and their service offering so as to be (in the Benchmarker's professional opinion) fair comparators with the Contractor or which, in the professional opinion of the Benchmarker, are best practice organisations; |
| "Compensation Payment" | means the payment calculated in accordance with paragraph 4 of Schedule 7.2 (Payments on Termination); |
| "Condition 29 Information" | means "Information", as such term is defined in the DCC Licence; |
| "Confidential Information" | means the DCC Confidential Information (as Confidential Information of the DCC) and/or the Contractor's Confidential Information (as Confidential Information of the Contractor); |
| "Consents" | means all permissions, way-leaves, spectrum licences or access rights, other rights of access, exemptions, consents, approvals, certificates, permits, permissions, waivers, registrations, licences, statutory agreements, agreements and authorisations required by Law or required from any third parties (including Regulatory Bodies), in order to provide the Services in accordance with this Agreement; |
| "Consumer Member" | has the meaning given in the DCC Licence; |
| "Consumer Premises" | has the meaning given in Part K of this Schedule 1; |

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| "Consumer" | means: <ul style="list-style-type: none">(a) each Energy Consumer, including any person responsible for paying for the gas and/or electricity (as appropriate) supplied or required to be supplied to any Consumer Premises; and/or(b) any person using (in any manner) any part of the Smart Metering System (including a connected Smart Appliance) (other than persons acting solely in the capacity as a DCC Eco-System Entity); |
| "Contract Change" or "Contractual Change" | has the meaning given in Schedule 8.2 (Change Control); |
| "Contract Year" | means a period of three hundred and sixty five (365) days (or three hundred and sixty six (366) days in the case of any leap year) (or shorter period in the case of the Final Contract Year) commencing on the Signature Date or on an anniversary of the Signature Date; |
| "Contractor Entity" | means: <ul style="list-style-type: none">(a) any Contractor Person; and(b) any Affiliate of any Contractor Person; |
| "Contractor Equipment" | means the equipment and Hardware supplied or used by or on behalf of the Contractor or its Sub-contractors (but not hired, leased or loaned from the DCC) for the provision of the Services; |
| "Contractor Milestones" | means those Milestones in the Project Plan for which the Contractor is solely or partially responsible; |
| "Contractor Personnel" | means all natural persons that are employees, staff, workers, agents, consultants, contractors, directors, officers, professional advisors and/or other persons performing services, roles or functions on behalf of the Contractor and/or of any Sub-contractor in connection with this Agreement; |

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"Contractor Persons"

means:

- (a) the Contractor;
- (b) each other member of the Contractor's Group;
- (c) the Sub-contractors; and
- (d) the Contractor Personnel,

and **"Contractor Person"** shall be construed accordingly;

"Contractor Security Documents"

means:

- (a) the Contractor Security Policy;
- (b) the ISMS; and
- (c) the Security Management Plan.

(a)

"Contractor Software"

means any software:

- (a) which is used by any Contractor Person to provide the Services (or is made available to the DCC as part of the Services); and
- (b) the Intellectual Property Rights in which are owned by any Contractor Person or any Affiliate of any Contractor Person

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"Contractor Solution"

means all of the following:

- (a) the Services (and any items, features or services associated with the provision of the Services or a change in the provision of the Services);
- (b) the Contractor System; and
- (c) any and all processes, ways of working, equipment or materials used or provided by or on behalf of the Contractor in connection with any obligations under this Agreement;

"Contractor's Background IPRs"

means:

- (a) the following:
 - (i) IPRs owned by any Contractor Entity before the Signature Date (including any Contractor Software);
 - (ii) IPRs created by any Contractor Entity

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independently of this Agreement; and/or

- (iii) any modification or enhancement to any Contractor's Background IPRs;

"Contractor's Confidential Information"

means (excluding in each case any Performance Information) any Data in any medium or format provided by or on behalf of the Contractor to any DCC Eco-System Entity in connection with the provision of the Services, however it is conveyed, that is any non-public, commercially proprietary or sensitive information (or materials) that relates to the business, affairs, finances, customers, employees, policies, procedures, methodologies, algorithms, trade secrets or information technologies systems and process which ought reasonably to be considered to be confidential to the Contractor or any Sub-contractor that is clearly marked as or otherwise stated to be "confidential" and all reproductions (hard copy or electronic), extracts, summaries or analyses of Contractor Confidential Information in any medium or format whether prepared by the Contractor or not;

"Contractor's Group"

means the Contractor and its Affiliates;

"Contractor's Staff List"

means a list prepared and updated by the Contractor of all Contractor Personnel who are engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services as at the date of such list;

"Control"

means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) or is otherwise deemed to have control of another person for the purposes of section 1124 of the Corporation Tax Act 2010 and "**Controls**" and "**Controlled**" shall be interpreted accordingly;

"Core Standards"

has the meaning given in Clause 7.2;

"Correction Plan"

means the Contractor's plan for the remediation of any Delay or failure or potential failure to complete or Achieve a Test by the agreed date or a Milestone by its Milestone Date ;

"Critical Service Failure"

has the meaning given in paragraph 5.17 of Part B of Schedule 2.2 (Performance Measures and Monitoring);

"Data Controller"

shall have the same meaning as set out in the Data Protection Act 1998;

"Data Load"

means any errors that occur when the data files are

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| Completeness Errors” | presented to the Billing System due to the contents of the file |
| “Data Load Structure Errors” | means any errors that occur when the data files are presented to the Billing System due to the structure of the file |
| "Data Processor" | shall have the same meaning as set out in the Data Protection Act 1998; |
| "Data Protection Legislation" | means the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable Laws relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner; |
| "Data Subject" | shall have the same meaning as set out in the Data Protection Act 1998; |
| "Data " | means any information, data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) embodied in any medium (including whether tangible or electronic); |
| "Database" | means the rights in or to each database developed and supplied by or on behalf of the Contractor in accordance with the terms of this Agreement; |
| "Date Compliant" | means that no previous or future date change has had or will have any adverse impact on the performance or functionality of the Contractor System; |
| "DCC Confidential Information" | means (in any medium or format and however conveyed): <ul style="list-style-type: none">(a) all DCC Data, Records (but excluding any Contractor Owned Records) and |

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Documentation;

- (b) all Data disclosed by any person or received by any Contractor Person in connection with the Services:
 - (i) relating to any business, affairs, developments, finances (including charges, costs or profits), policies, customers, employees, procedures, methodologies, algorithms, trade secrets, know-how, technical information or information technologies systems or process(es) and/or business intention(s); and/or
 - (ii) that is not obvious and which is likely to materially negatively affect the business, of any DCC Eco-System Entity or (in each case whether direct or indirect) any of their customers, sub-contractors, agents, advisors, employees or suppliers;
- (c) all Data that is:
 - (i) "Party Data" as defined in the SEC that is clearly marked (or otherwise stated) to be confidential; and/or
 - (ii) "Confidential Information" of any SEC Party as defined in the SEC; and
- (d) any other Data clearly designated by the DCC as being confidential (whether or not it is marked "confidential") or which the DCC notifies the Contractor that it or any DCC Eco-System Entity is under any obligation under any applicable Mandatory Requirement or contract to treat as confidential (other than to the Contractor or pursuant to this Agreement) or which ought to reasonably be considered to be confidential to any DCC Eco-System Entity,

together with all reproductions (hard copy or electronic), extracts, summaries or analyses of the above DCC Confidential Information in any medium or format whether prepared by the DCC or not;

"DCC Cause"

Means any breach by the DCC of any of the DCC Responsibilities;

except to the extent that it is the result of:

- (a) any breach of this Agreement by the Contractor;
- (b) any act or omission by any person at the direction

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- of any Contractor Person;
- (c) any Force Majeure Event;

"DCC Data"

means all of the following (and also all Data derived from such Data (including any modification or enhancement) and all Databases to the extent composed of any DCC Data):

- (a) Transactional Data;
- (b) System Audit Data;
- (c) cryptographic keys;
- (d) DCC CMDB Data; and
- (e) any Data:
 - (i) owned or originated by or on behalf of the DCC or any DCC Eco-System Entity that either is or may be used in connection with provision or receipt of Services;
 - (ii) generated specifically and solely for the Services that relates to any DCC Eco-System Entity or the DCC Services (excluding ad hoc Service related e-mails and internal communications between Contractor Persons) unless otherwise explicitly agreed in a particular Change or Project); and/or
 - (iii) to which the Contractor would not have had access other than in connection with the performance of Services under this Agreement, including:
 - A. any Data supplied to the Contractor by or on behalf of the DCC (excluding any Data owned in accordance with this Agreement or originally possessed by any Contractor Person); and
 - B. all Industry Registration Data,

but excluding:

- (a) Contractor Systems Data;
- (b) Contractor Software;
- (c) Data that forms part of the Contractor CMDB;
- (d) Project Specific IPRs; and
- (e) Data that forms part of the Contractor's Background IPRs;

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| "DCC Eco-System Entities" | means: <ul style="list-style-type: none">(a) the DCC;(b) DCC Service Providers;(c) SECCo;(d) the Code Administrator;(e) the SEC Secretariat; and(f) DCC Service Users, and "DCC Eco-System Entity" shall be construed accordingly; |
| "DCC Environment" | has the meaning given in Part C of this Schedule 1; |
| "DCC Licence" | means the "Licence for the Provision of a Smart Meter Communication Service" granted to the DCC or any successor pursuant to sections 7AB(1) or 7AB(2) and 7AB(4) of the Gas Act 1986 and sections 6(1)(f) or 6(1A) and 6(1C) of the Electricity Act 1989; |
| "DCC Objectives" | has the meaning given in Clause 5.1; |
| "DCC Obligations" | means any and all Mandatory Requirements binding on the DCC; |
| "DCC Premises" | has the meaning given in Part K of this Schedule 1; |
| "DCC Purpose" | means in connection with: <ul style="list-style-type: none">(a) the performance of any of the DCC's obligations and/or exercise of any its rights and/or remedies in connection with any of this Agreement and/or any Mandatory Requirement; and/or(b) the receipt and/or use of any of the Services during the Service Period; |
| "DCC Requirements" | means requirements set out in Schedule 2.1 (DCC Requirements); |
| "DCC Responsibilities" | Means those obligations of the DCC set out in the Clauses of this Agreement and the paragraphs of the Schedules, but excluding: |

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- (a) Schedule 2.1 (DCC Requirements), and,
- (b) Schedule 4.1 (Contractor Solution);

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| "DCC Security Policy" | means the DCC's security policy, as developed and updated from time to time; |
| "DCC Service Provider" | has the meaning given in Part E of this Schedule 1; |
| "DCC Service User Providers" | has the meaning given in Part F of this Schedule 1; |
| "DCC Service User Systems" | has the meaning given in Part C of this Schedule 1; |
| "DCC Service User" | has the meaning given in Part F of this Schedule 1; |
| "DCC Services" | means any and all services to be provided by the DCC to the DCC Service Users or to any other person (including the provision of information relating to Smart Meters) in connection with such DCC Services or the DCC Licence; |
| "DCC Software" | means software which is owned by or licensed to the DCC, including software which is or will be used by the Contractor for the purposes of providing the Services but excluding the Contractor Software |
| "DCC Target Service Level" | has the meaning given in paragraph 3.2(a) of Part C of Schedule 2.2 (Performance Measures and Monitoring); |
| "DECC Impact Assessment" | means the impact assessment relating to the smart meter roll-out for the domestic and small and medium non-domestic sectors (GB) issued by DECC (IA No: DECC0009,URN: 13D/004) dated 24 January 2013; |
| "DECC" | means The Department of Energy & Climate Change of the UK Government; |
| "Default Interest Rate" | means, for any day, 8% above the base lending rate of the Bank of England at 13.00 hours on that day; |

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| "Delay" | has the meaning given in Clause 45.12 (and "Delayed" shall be construed accordingly); |
| "Delay Payments" | means the amounts payable by the Contractor to the DCC in respect of a Delay as specified in Schedule 7.1 (Charges and Payment); |
| "Deliverable" | means an item, feature or service associated with the provision of the Services or a change in the provision of the Services which is required to be delivered by the Contractor at a Milestone Date or at any other stage during the performance of this Agreement; |
| "Direct Funding Agreement (CHuRP)" | means the element of the Communications Hubs cost charge that must be invoiced separately to DCC Service Users; |
| "Disaster Recovery Services" | means the disaster recovery services to be provided by the Contractor pursuant to Schedule 8.6 (Business Continuity and Disaster Recovery Plan) in the event of a Disaster; |
| "Disaster" | means the occurrence of one or more events which, either separately or cumulatively, result in a Service Disruption which exceeds the relevant thresholds set out in the Business Continuity Plan; |
| "Dispute" | means any dispute, difference or question of interpretation arising out of or in connection with this Agreement including, in relation to the Services, any failure to agree in accordance with the Change Control Procedure or any matter where this Agreement directs the parties to resolve an issue by reference to the Dispute Resolution Procedure; |
| "Dispute Resolution Procedure" | means the dispute resolution procedure in Clause 21; |
| "DSP Enterprise Gateway Interface Code of Conduct (COCO)" | means the code of conduct that governs interfaces between all of the systems; |
| "Employment" | means the Transfer of Undertakings (Protection of |

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| Regulations" | Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Laws implementing the Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses; |
| "Energy Licence" | has the meaning given in the DCC Licence; |
| "Environmental Consent" | means any Consent required at any time under any Environmental Law; |
| "Environmental Guidance" | means any Guidance relating to compliance with Environmental Law and/or Environmental Matters; |
| "Environmental Law" | means all applicable Law relating to Environmental Matters or the Environment; |
| "Environmental Management Plans" | means the plans and policies to be used by the Contractor in accordance with Clause 13 (Environment); |
| "Environmental Matters" | means any matter relating directly or indirectly to any of the following: <ul style="list-style-type: none">(a) waste (including packaging waste);(b) contamination;(c) discharges, release, emissions to air, land, ground, surface and coastal waters and sewers;(d) abstraction and use of water;(e) extraction, consumption or use of natural resources;(f) generation and consumption of energy and matters related to energy efficiency; |

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- (g) noise, vibration and light;
- (h) Harmful Substances;
- (i) common law nuisance, trespass and negligence;
- (j) statutory nuisance;
- (k) conservation or protection of species, habitats, biodiversity, flora and fauna;
- (l) human health and safety; and
- (m) town and country planning in so far as it relates to any of the above;

"ERA" means the Employment Rights Act 1996;

"Euro Compliant" means that:

- (a) the introduction of the euro within any part of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect the DCC's business;
- (b) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and
- (c) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data):
 - (i) be able to perform all such functions in any number of currencies and/or in euros;
 - (ii) during any transition phase applicable to the UK, be able to deal with multiple currencies and in relation to the euro and the national currency of UK dual denominations;
 - (iii) recognise, accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;
 - (iv) incorporate protocols for dealing with rounding and currency conversion;
 - (v) recognise data irrespective of the

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currency in which it is expressed (which includes the euro) and express any output data in the national currency of the UK and/or the euro; and

- (vi) permit the input of data in euro and display an outcome in euro where such data, supporting the DCC's normal business practices, operates in euro and/or the national currency of the UK;

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| "Exclusive Assets" | means those Assets used exclusively in the provision of the Services, as identified in the Asset Register; |
| "Exit Management" | means the obligations and rights of the respective parties pertaining to managing a smooth transition from the provision of the Services by the Contractor to the provision of Replacement Services by the DCC or any Replacement Contractor, all as set out in Schedule 8.5 (Exit); |
| "Exit Manager" | means a representative of either of the parties that is appointed to be the point of contact for all matters relating to Exit Management; |
| "Exit Plan" | means the Initial Exit Plan, or once approved in accordance with paragraph 4 of Part D of Schedule 8.5 (Exit), the Final Exit Plan; |
| "Expiry Date" | has the meaning given in the DCC Licence; |
| "Expiry Period" | has the meaning given in the DCC Licence; |
| "Extension Period" | has the meaning given in Clause 3; |
| "External Service Providers" | has the meaning given in Part E of this Schedule 1; |
| "Final Contract Year" | means the Contract Year commencing on the last anniversary of the Signature Date that falls during the Service Period; |
| "Final Exit Plan" | means the final version of the Exit Plan to be prepared and approved in accordance with paragraph 4 of Part D of Schedule 8.5 (Exit); |
| "Force Majeure Event" | means the occurrence after the Signature Date of any of the following: |

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- (a) war, civil war, riot, civil commotion or armed conflict;
- (b) Terrorism;
- (c) nuclear, chemical or biological contamination;
- (d) earthquakes, fire, storm damage or severe flooding (if in each case it affects a significant geographical area); and/or
- (e) any blockade or embargo (if in each case it affects a significant geographical area);

"General Change in Mandatory Requirements" means any Change in Mandatory Requirements which is not a Specific Change in Mandatory Requirements (including any change to the Data Protection Act 1998);

"Go Live" The date at which the Parties agree that the SMKI Service achieves operational status. As of signature date this is expected to be 1st July 2015.

"Good Industry Practice" means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector;

"Good Value" means that (as applicable):
the Charges attributable to a Benchmarked Service are, having taken into account the Performance Measures, less than or equal to the Average Price; or
any Performance Measures attributable to Benchmarked Services are, having taken into account the Charges, equal to or greater than the median performance measures for the Comparable Services (as adjusted using the Equivalent Services Data);

"Guidance" means any non-binding requirement, rule, code, code of practice, circular, policy, order, demand, decision, determination, direction, guidance, consent or notice issued by any Regulatory Body or other competent authority from time to time with which a contractor operating in the same industry as the Contractor and working in accordance with Good Industry Practice would be expected to comply;

"Hardware" means:
(a) computer and computer devices and equipment;
(b) telecommunications devices and equipment;

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- (c) cabling and network systems;
- (d) any part of the technical infrastructure which is used in the operation of, or connected to, (a), (b) or (c) above (including all firmware and licences to operating software which is shipped as an integral part of (a), (b) or (c) above and all data and other information that is embedded in (a), (b) or (c) above); and
- (e) any asset which relies in any way on (a), (b), (c) or (d) above or other ICT;

"Harmful Substance"

means in connection with the performance of the Services or in complying with this Agreement, any substance (in whatever form) which is subject to regulatory control as being hazardous or dangerous or which is capable of causing harm or damage to the Environment;

"Health and Safety Regime"

means any health & safety Laws and applicable Guidance in force from time to time in relation to prevention of harm to human health, including the Food Safety Act 1990 (and associated regulations), the Health & Safety at Work etc. Act 1974 (and associated regulations), the Regulatory Reform (Fire Safety) Order 2005, and any similar or analogous health & safety Law in force from time to time and as amended;

"ICT"

means information and communications technology;

"Impact Assessment"

has the meaning given in Schedule 8.2 (Change Control);

"Incident Log"

means the hard copy and electronic version of the log created and maintained by the Contractor as part of the Services in accordance with paragraph 2 of Part E of Schedule 2.2 (Performance Measures and Monitoring);

- "Initial Exit Plan"** means the initial version of the Exit Plan to be prepared, approved and updated in accordance with paragraphs 1 to 3 of Part D of Schedule 8.5 (Exit);
- "Initial Term"** Means a period of ten(10) Contract Years, starting on the Signature Date;
- "Insolvency Event"** means the occurrence of any of the following events, appointments or circumstances (or the occurrence of any event, appointment or circumstances analogous to any of the following in a jurisdiction other than England and Wales) in relation to the relevant person:
- (a) the person passing a resolution for its winding up or a court of competent jurisdiction making an order for the person to be wound up or dissolved or a liquidator otherwise being appointed or the person being otherwise dissolved;
 - (b) the giving of any notice of intention of appointment or notice of appointment of, or the appointment of, an administrator of, or the making of an administration order in relation to, the person;
 - (c) the appointment of a receiver, manager or receiver or administrative receiver of, or an encumbrancer taking possession of, selling or giving any notice in respect of, the whole or any part of the person's undertaking, assets, rights or revenue;
 - (d) the person commencing negotiations for or entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or taking steps to obtain a moratorium or making an application to a court of competent jurisdiction for protection from its creditors;
 - (e) the person stopping or suspending payment of any of its debts or being unable to pay its debts or being declared unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - (f) any circumstance arising which would (or which with the giving of notice, lapse of time, determination of materiality or fulfilment of any other applicable condition or any combination of the foregoing would) entitle any third party to

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enforce any encumbrance (including any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, security interest, any other security agreement or arrangement or which otherwise restricts the Contractor's ability to use and deal with the relevant Contractor Equipment or Asset) over or in respect of any Contractor Equipment or Asset.

However, a resolution by the relevant person or a court order that such person be wound up for the purpose of a bona fide solvent reconstruction or amalgamation shall not amount to an Insolvency Event;

"Intellectual Property Rights" or "IPRs" or "IPR"

means:

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semiconductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;
- (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction;

"IPR Claim"

means a Claim by any person alleging or asserting that:

- (a) the assignment by the Contractor to any person of any Intellectual Property Rights under this Agreement;
- (b) the grant by the Contractor, or exercise by the DCC or any DCC Eco-System Entity, of any licence relating to the Contractor IPR under this Agreement;
- (c) the use by any Contractor Entity of any of the Contractor IPR and/or any IPR assigned by the Contractor to any person under this Agreement in relation to the provision of the Services or the performance of the Contractor's other obligations under this Agreement;
- (d) the use of any of the Contractor IPR and/or any IPR assigned by the Contractor to any person under this Agreement by the DCC or any DCC Eco-System Entity in accordance with this

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Agreement; and/or

- (e) the provision of the Services, or the DCC or any DCC Eco-System Entity taking the benefit of the Services, under this Agreement,

infringes the Intellectual Property Rights of that person;

"ITIL"

means ITIL v3 2011;

"Know-How"

means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services but excluding know how already in the Contractor's or the DCC's possession before this Agreement;

"Law"

means:

- (a) any Act of Parliament;
- (b) any subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978;
- (c) common law;
- (d) any exercise of the royal prerogative;
- (e) any enforceable community right within the meaning of Section 2(1) of the European Communities Act 1972;
- (f) any applicable judgment of a relevant court of law which is a binding precedent; and
- (g) any rule, code, code of practice, circular, policy, order, demand, decision, determination, direction, guidance, consent, or notice of any Regulatory Body, which in each case are binding on either of the parties,

in each case in force in Great Britain (or any part thereof) at any time during the Service Period;

"Loss"

means all damages, losses, liabilities, costs, debts, expenses (including legal and other professional charges and expenses) and charges howsoever arising (whether arising under contract, Law or otherwise) (and, in relation to any reference to Losses of the DCC, including all direct losses as defined in Clause 38.9);

"Major Incident"

means the highest category of impact for an Incident. A major Incident results in significant disruption to the business;

"Malicious Software"

means any software program or code which may prevent, impair, affect the reliability of, destroy, interfere with,

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| | corrupt, or cause undesired effects on (or to) Systems, program files, data or other information, executable code or application software macros or services (including all worms, trojan horses, spyware, viruses and similar things or devices), whether or not its operation is immediate or delayed, and whether the Malicious Software is introduced wilfully, negligently or without knowledge of its existence; |
| "Man Day" | means seven and a half (7.5) Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; |
| "Man Hours" | means the hours spent by the Contractor Personnel properly working on the Services including time spent travelling (other than to and from the Contractor's offices, or to and from the premises at which the services are to be principally performed) but excluding lunch breaks; |
| "Management Order" | has the meaning given in the DCC Licence; |
| "Mandatory Business Services" | has the meaning given in the DCC Licence; |
| "Mandatory Business" | has the meaning given in the DCC Licence; |
| "Mandatory Requirements" | means: (a) Laws; (b) Industry Codes and Arrangements; and (c) Standards; |
| "Master Data" | means non transactional data that is used with transactional data to create charges against DCC Service Users |
| "Material Service Failure" | has the meaning given in paragraph 5.11 of Part B of Schedule 2.2 (Performance Measures and Monitoring); |
| "Maximum Service Points" | has the meaning given in paragraph 4.1(c) of Part B of Schedule 2.2 (Performance Measures and Monitoring); |
| "Measurement Period" | means, in relation to any Performance Measure, the period in respect of which the Contractor's performance against the relevant Target Service Level is measured. The Measurement Period applicable to each Performance Measure is specified in Appendix 2 of Schedule 2.2 (Performance Measures and Monitoring); |
| "Milestone" | Means a certificate, issued by the DCC, indicating that a |

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| Achievement Certificate" | Milestone with the Project Plan has been achieved by the Contractor. It may be conditional on the achievement of an agreed Correction Plan; |
| "Milestone Date" | has the meaning given in Part I of this Schedule 1; |
| "Milestone Value" | has the meaning given in Part I of this Schedule 1; |
| "Milestone" | has the meaning given in Part I of this Schedule 1; |
| "Minimum Service Level" | means, in relation to any Service Measure or KPI, the level of service identified in Appendix 1 of Schedule 2.2 (Performance Measures and Monitoring) as the "Minimum Service Level"; |
| "Modification Report" | has the meaning given in Clause 10.3.3; |
| "Modification" | means, in relation to any of the Software: (a) any new release or new version of the Software; or (b) any other modification or amendment to the Software, including any patch, fix, workaround, upgrade or enhancement; |
| "month" | means (unless otherwise expressly stated) a calendar month and " monthly " shall be interpreted accordingly; |
| "New KPI" | means a Service Measure which has been re-categorised as a KPI in accordance with Part D of Schedule 2.2 (Performance Measures and Monitoring); |
| "New Service Measure" | means a KPI which has been re-categorised as a Service Measure in accordance with Part D of Schedule 2.2 (Performance Measures and Monitoring); |
| "Non-Exclusive Assets" | means those Assets (if any) which are used by the Contractor in the provision of the Services but which are also used by the Contractor for other purposes; |
| "Ofcom" | means the United Kingdom Regulatory Body known as the Office of Communications or Ofcom; |
| "Ofgem" | means the British Regulatory Body known as the Office of the Gas and Electricity Markets or Ofgem; |
| "Ongoing Access Assets" | has the meaning given in paragraph 1.1 of Part B of Schedule 8.5 (Exit); |

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| | (a) |
| "Operational Change Policy" | means a document setting out how all changes will be undertaken to any aspect of the Operational Service; |
| "Operational Change" | has the meaning given in Schedule 8.2 (Change Control); |
| "Operational Charge" | means the Charge identified and calculated as set out in paragraph 8 of Schedule 7.1 (Charges and Payment); |
| "Operational Service" | means the Services provided by the Contractor following Go Live; |
| "Ordinary Exit" | means: <ul style="list-style-type: none">(a) any termination of this Agreement where the period of notice given by the party serving notice to terminate is greater than or equal to six (6) months; or(b) the expiry of the Initial Term or any Extension Period; |
| | (a) |
| "Outline Performance Monitoring Approach" | has the meaning given in paragraph 1.6 of Part F of Schedule 2.2 (Performance Measures and Monitoring); |
| "Payment Month" | means a calendar month to which a payment obligation in this Agreement relates; |
| "Performance Framework" | has the meaning given in paragraph 3 of Part A of Schedule 2.2 (Performance Measures and Monitoring); |
| "Performance Information" | means information relating to the performance (or non-performance) of the Services and/or Contractor Solution, including as against the Performance Measures and/or the Contractor's other obligations under this Agreement; |
| "Performance Measure Re- | has the meaning given in paragraph 5.1 of Part D (Changes to Performance Measures) of Schedule 2.2 |

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| "categorisation" | (Performance Measures and Monitoring); |
| "Performance Measure" | means the standards which the Contractor is required to achieve in relation to the performance of the Services and its other obligations under this Agreement, and which is categorised in Appendix 1 of Schedule 2.2 (Performance Measures and Monitoring) as either: (a) a Service Measure; or (b) a Key Performance Indicator; |
| "Performance Monitoring Approach" | has the meaning given in paragraph 1.1 of Part F of Schedule 2.2 (Performance Measures and Monitoring); |
| "Performance Monitoring Report" | means the monthly report prepared by the Contractor in accordance with paragraph 2 of Part F of Schedule 2.2 (Performance Measures and Monitoring); |
| "Performance Review Meeting" | means the regular meeting between the Contractor and the DCC to manage and review the Contractor's performance under this Agreement, as further described in paragraph 5 of Part F of Schedule 2.2 (Performance Measures and Monitoring); |
| "Permitted Persons" | has the meaning given in Clause 30.11; |
| "Persistent Service Failure" | has the meaning given in paragraph 5.15 of Part B of Schedule 2.2 (Performance Measures and Monitoring); |
| "Personal Data" | shall have the same meaning as set out in the Data Protection Act 1998; |
| "Price Control Information" | has the meaning given in the DCC Licence; |
| "Principal Energy Legislation" | has the meaning given in the DCC Licence; |
| "Production Environment" | means the infrastructure, premises, data, systems and controls used in the delivery of the DCC Services. This shall include all capability parts of the BCDR solution; |

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| "Prohibited Change of Control" | <p>means a Change of Control of the Contractor or a Key Sub-contractor that:</p> <ul style="list-style-type: none">(a) results in such person being Controlled by an Unsuitable Person; or(b) results in such person being Controlled by a SEC Party, the DCC or any other External Service Provider (or any Affiliate of any SEC Party or any other External Service Provider); |
| "Project Plan" | <p>means a formal, approved document used to guide both project execution and project control that the Parties using reasonable endeavours shall have agreed within 30 days of Signature date as amended from time to time.;</p> |
| "Project Specific IPRs" | <p>means (excluding all IPRs in any documentation, DCC Data and/or DCC Software):</p> <ul style="list-style-type: none">(a) IPRs:<ul style="list-style-type: none">(i) in items created by the Contractor or any other Contractor Person (or by a third party on behalf of the Contractor or a Contractor Person) specifically for the purposes of this Agreement and updates and amendments of these items; and/or(ii) arising as a result of the performance of the Contractor's obligations under this Agreement, <p>excluding the Contractor's Background IPRs or the Specially Written Software;</p> |
| "Quarter" | <p>means the first three months after the Signature Date and each subsequent three months during the Service Period;</p> |
| "Quarterly Summary" | <p>means the summary of the performance by the Contractor to be provided by the Contractor to the DCC pursuant to paragraph 3.1 of Part F (Performance Monitoring) of Schedule 2.2 (Performance Measures and Monitoring);</p> |
| "Re-allocation Notice" | <p>has the meaning given in paragraph 4.2 of Part D (Changes to Performance Measures) of Schedule 2.2</p> |

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| | (Performance Measures and Monitoring); |
| "Re-categorisation Notice" | has the meaning given in paragraph 5.2 of Part D (Changes to Performance Measures) of Schedule 2.2 (Performance Measures and Monitoring); |
| "Records" | has the meaning given in Clause 19.1; |
| "Redundancy" | shall have the meaning ascribed to it by section 139 of the ERA; |
| "Regulatory Bodies" | <p>means those government departments, regulators, regulatory bodies, and other entities, committees and bodies (including the SEC Panel) which, whether under Law, Industry Codes and Arrangements or otherwise, are entitled to regulate, supervise, investigate, or influence:</p> <ul style="list-style-type: none">(a) any matters dealt with in this Agreement; or(b) the DCC, Contractor Person(s) or DCC Eco-System Entities or any of their business, activities or affairs, <p>including the Authority, Ofcom and Ofgem, and "Regulatory Body" shall be construed accordingly;</p> |
| "Relevant Agreements" | has the meaning given in paragraph 3.1 of Part B of Schedule 8.5 (Exit); |
| "Relevant Breach" | has the meaning given in Clause 38.9; |
| | (a) |
| "Relevant SEC" | has the meaning given in Part F of this Schedule 1; |

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Objectives"

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| "Relevant Service Capability" | has the meaning given in the DCC Licence; |
| "Relevant Service Measure" | has the meaning given in paragraph 3.1(b)(i) of Part C of Schedule 2.2 (Performance Measures and Monitoring); |
| "Relevant Third Party Service Measure" | has the meaning given in paragraph 3.1(b)(ii) of Part C of Schedule 2.2 (Performance Measures and Monitoring); |
| "Remediable Event" | has the meaning given to it in Clause 41.1; |
| "Remedial Plan Process" | means the process set out in Clause 41; |
| "Remedial Plan Sponsor" | has the meaning given in Clause 41.2; |
| "Remedial Plan" | means the plan referred to in Clause 41.1; |
| "Repeat Service Failure" | has the meaning given in paragraph 5.7 of Part B of Schedule 2.2 (Performance Measures and Monitoring); |
| "Replacement Contractor" | means any third party (including any third party appointed by the DCC or any DCC Eco-System Entity from time to time) providing or which shall provide Replacement Services; |
| "Replacement Services" | means any services which the DCC or any DCC Eco-System Entity obtains or itself provides: <ul style="list-style-type: none">(a) in substitution for the Services or any part of the Services at any time; and/or(b) in substitution for the services of the DCC or any part of the DCC's services to DCC Service Users at any time; |
| "Representatives" | means either or both of the DCC Representative and the Contractor Representative; |
| "Revised Milestone Date" | means any revised date which is set for the Achievement of a Milestone; |

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| "SAP Customer Account" | means the account that has been assigned to a DCC Service User within the SAP Accounts Receivable Ledger; |
| "SEC Modification Arrangements" | has the meaning given in Clause 10.3; |
| "SEC Panel" | has the meaning given in Part F of this Schedule 1; |
| "SEC Party" | has the meaning given in Part F of this Schedule 1; |
| "SECCo" | has the meaning given in Part F of this Schedule 1; |
| "Secretary of State" | means the Secretary of State for the Department of Energy & Climate Change; |
| "Security Requirements" | means: the requirements relating to security set out in Clause 34 and (a) any other security related requirements set out elsewhere in this Agreement; |
| "Service Credits" | means the amounts payable by the Contractor in respect of a failure to achieve the applicable Target Service Level in relation to any of the Service Measures, as calculated in accordance with Part C of Schedule 7.1 (Charges and Payment); |
| "Service Debit Points" | has the meaning given in paragraph 4.2 of Part C of Schedule 2.2 (Performance Measures and Monitoring); |
| "Service Debit" | means the amounts payable to the Contractor in accordance with the earn back arrangements set out in Part C of Schedule 2.2 (Performance Measures and Monitoring), as calculated in accordance with Part C of Schedule 7.1 (Charges and Payment); |

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| "Service Desk" | means a single point of contact with the service provider. A typical service desk manages Incidents and Service Requests, and also handles associated communications; |
| "Service Disruption" | means the occurrence of one or more events which either separately or cumulatively, result in a failure of, or disruption to, any element of the Services; |
| "Service Failure Report" | has the meaning given in paragraph 5.3(b) of Part B of Schedule 2.2 (Performance Measures and Monitoring); |
| "Service Failure" | has the meaning given in paragraph 5.2 of Part B of Schedule 2.2 (Performance Measures and Monitoring); |
| "Service Level Management" or "SLM" | has the meaning given in Part Q of this Schedule 1; |
| "Service Measure" | means the standards which the Contractor is required to achieve in relation to the performance of the Services and its other obligations under this Agreement, where a failure to do so may result in the Contractor being liable for Service Credits. The Service Measures are further described in Appendix 1 and 2 of Schedule 2.2 (Performance Measures and Monitoring) and include, for the avoidance of doubt, any New Service Measures from time to time; |
| "Service Period" | means the period from the Signature Date to the Termination Date; |
| "Service Point Re-allocation" | has the meaning given in paragraph 4.1 of Part D of Schedule 2.2 (Performance Measures and Monitoring); |
| "Service Points" | means the points which shall accrue in respect of a failure by the Contractor to achieve the applicable Target Service Level in relation to any of the Service Measures, as specified in Schedule 2.2 (Performance Measures and Monitoring), and which shall be converted into Service Credits in accordance with Schedule 7.1 (Charges and Payment); |
| "Services" | means any and all of the services (including the provision of the Contractor Solution, supply of goods and performance of any other obligations under this Agreement) to be provided by the Contractor under this Agreement, including those set out in Schedule 4.1 (Contractor Solution); |
| "Signature Date" | means the date on which this Agreement is signed by both parties; |

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| "Sites" | has the meaning given in Part K of this Schedule 1; |
| "Smart Energy Code" or "SEC" | has the meaning given in Part F of this Schedule 1; |
| "Smart Meter" | has the meaning given in the DCC Licence; |
| "Smart Metering Programme" | means the SMIP and (following SMIP Completion (as such term is defined in the DCC Licence)) those other government and/or industry programmes and arrangements relating to the continuation, maintenance and/or further enhancement of the End-to-end Smart Metering System and/or roles and responsibilities of the DCC (and any Successor DCC); |
| "Software" | means Specially Written Software, Contractor Software and Third Party Software; |
| "Specially Written Software" | means any software: <ul style="list-style-type: none">(a) which is used by any Contractor Person to provide the Services (or is made available to the DCC as part of the Services); and(b) which is created by the Contractor or any other Contractor Person (or by a third party on behalf of the Contractor or a Contractor Person) specifically for the purposes of this Agreement; |
| "Specific Change in Mandatory Requirements" | means any Change in Mandatory Requirements that relates specifically to the activities of the DCC or any DCC Service User conducted pursuant to a licence granted under section 6(1)(c), 6(1)(d) or 6(1)(f) or 6(1A) and 6(1C) of the Electricity Act 1989 or section 7, 7A(1) or 7AB(1) or 7AB(2) and 7AB(4) of the Gas Act 1986, including a change to any of the following: <ul style="list-style-type: none">(a) the SEC; |

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- (b) any of the Industry Codes and Arrangements; or
- (c) the DCC Licence;

"Staff Transfer" means the transfer of staff pursuant to the Employment Regulations under this Agreement;

"Standards" means:

- (a) the standards set out in this Agreement; and
- (b) all other standards, codes of practice, guidance, policies, procedures or specifications with which a contractor operating in the same industry as the Contractor and working in accordance with Good Industry Practice would be expected to comply;

"Sub-contract" means:

- (a) any arrangements or proposed arrangements (including any arrangements with an Affiliate) between the Contractor or any Sub-contractor and any third party whereby that third party (including any Affiliate) agrees to provide to the Contractor or any Sub-contractor the Services or any part thereof or facilities, goods or services or other supply necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof; and/or
- (b) any arrangement or proposed arrangements under which any Affiliate of any Contractor Person or any other third party provides goods, works or services relating to the Services (whether or not pursuant to contract),

and **"Sub-contracting"** shall be construed accordingly;

"Sub-contractor" means:

- (a) a third party with whom the Contractor enters into a Sub-contract or its servants or agents; and
- (b) any third party with whom a Sub-contractor enters into a Sub-contract or its servants or agents (and so on);

"Successor DCC" means:

- (a) any Successor Licensee;
- (b) any person to whom the DCC has assigned, novated or otherwise disposed of any or all of its rights and obligations under this Agreement in accordance with Clause 66 or to whom it is to make any such assignment, novation or disposal;

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and/or

- (c) any other person subsequently licensed to carry on the Authorised Activity (or any part thereof);

"Successor Licensee"

has the meaning given in the DCC Licence;

"Supporting Documentation"

has the meaning given in paragraph 19.6 of Part F of Schedule 7.1 (Charges and Payment);

"Sustainability Objectives"

has the meaning given in Clause 13.2.2;

"System"

means computing, Information Systems and ICT environment(s) (including Hardware, assets, software (including firmware), all Data, IPRs and/or telecommunications networks or equipment);

"Target Service Level"

means, in relation to any Service Measure or KPI, the level of service which the Contractor is required to achieve or exceed in relation to the performance of the Services and its other obligations under this Agreement, as set out in Appendix 1 of Schedule 2.2 (Performance Measures and Monitoring);

"Taxation" or "Tax"

means any form of taxation, duty, impost, levy, tariff of any nature whatsoever (including, without limitation, statutory, governmental, state, federal, provincial, local, government or municipal charges, duties, imposts, contributions, levies, withholdings or liabilities wherever chargeable and whether of the UK or any other jurisdiction) including:

- (a) (whether or not any such taxation, duty, impost, levy or tariff arises) in respect of actual, deemed, gross or net income, profit, gain, value, receipt, payment, sale, use, occupation, franchise, value added property or right;
- (b) national insurance contributions in the UK (and corresponding obligations elsewhere);
- (c) any withholding amount subject to PAYE or other amount of or in respect of any of the foregoing payable by virtue of any Tax statute; and
- (d) any penalty, charge, surcharge, fine, charges or costs or interest payable in connection with any such taxation, duty, impost, levy or tariff;

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| "Term" | means the period commencing on the Signature Date and ending on: <ul style="list-style-type: none">(a) the expiry of the Initial Term;(b) if the DCC elects to extend the Term in accordance with Clause 3.2, the expiry of the relevant Extension Period; or(c) if applicable, the earlier termination of this Agreement; |
| "Termination Assistance Charge" | means the Charge identified as such and calculated in accordance with paragraph 13 of Part D of Schedule 7.1 (Charges and Payment); |
| "Termination Assistance Notice" | has the meaning given in paragraph 2.1 of Part F of Schedule 8.5 (Exit); |
| "Termination Assistance Period" | means the period during which the Contractor shall provide the Termination Assistance Services (as specified in a Termination Assistance Notice from the DCC), as further described in paragraph 2.2 of Part F of Schedule 8.5 (Exit) and as may be extended in accordance with paragraph 2.3 of Part F of Schedule 8.5 (Exit); |
| "Termination Assistance Services" | means the services and activities to be performed by the Contractor pursuant to the Exit Plan, including those activities listed in paragraph 4 of Part F of Schedule 8.5 (Exit), as specified in the Termination Assistance Notice; |
| "Termination Date" | means in relation to the Agreement (or any part of the Agreement (as the context requires)): <ul style="list-style-type: none">(a) the final day of the Termination Assistance Period; or(b) if the DCC does not require a Termination Assistance Period:<ul style="list-style-type: none">(i) the date on which any Termination Notice takes effect in accordance with the provisions of this Agreement; or(ii) on expiry of the Term, as the case may be; |
| "Termination Notice" | means a notice to terminate this Agreement or part of the Services either immediately or at a date specified in the notice; |
| "Termination Payment" | means the payment calculated in accordance with the formula set out in paragraph 3 of Schedule 7.2 (Payments on Termination); |
| "Territory" | means Great Britain; |

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| "Terrorism" | means the use or threat of action, designed to influence the government or intimidate the public or for the purpose of advancing a political, religious or ideological cause and which involves serious violence against a person or serious damage to property, endangers a person's life, creates a serious risk to the public or is designed to seriously interfere with or disrupt an electronic system; |
| "Test" | means any test required to be carried out in as part of the Implementation Plan or as required for a Milestone, and "Testing" shall be construed accordingly; |
| "Test Success Criteria" | means, in relation to a Test, the criteria to be applied to determine whether the Test has passed or failed; |
| "Third Party Software" | means any software: <ul style="list-style-type: none">(a) which is used by any Contractor Person to provide the Services (or is made available to the DCC as part of the Services); and(b) the Intellectual Property Rights in which are owned by a third party (other than any Contractor Person or any Affiliate of any Contractor Person); |
| "Transferable Asset Value" | has the meaning given in paragraph 1.1 of Part B of Schedule 8.5 (Exit); |
| "Transferable Asset" | has the meaning given in paragraph 1.1 of Part B of Schedule 8.5 (Exit); |
| "Transferring Agreements" | has the meaning given in paragraph 3.2 of Part G of Schedule 8.5 (Exit); |
| "UK" | means the United Kingdom; |
| "Underlying Obligation" | has the meaning given in paragraph 6.3 of Part B of Schedule 2.2 (Performance Measures and Monitoring); |
| "Unrecovered Bad Debt Payment" | means any payment due to the DCC from a DCC Service User that has not been paid and is referred to as bad debt under the terms of the DCC Licence; |
| "Unresolved" | means, in relation to an Incident, that such Incident has not been Resolved; |

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- "Unsuitable Person"** means a person who in the reasonable opinion of the DCC:
- (a) would not meet any of the mandatory or discretionary exclusion criteria set out in the pre-qualification questionnaire under which this Agreement was initially procured (as further explained in the Recitals) (were such applied to it today, with any reference to Law set out therein including such Laws and all Laws that from time to time have replaced, modified, extended, re-enacted or amended the same);
 - (b) has failed or is reasonably likely to fail (or lacks or is reasonably likely to lack capacity or capability) to comply with any obligation of the Contractor under this Agreement and/or any material obligation under its or any other Sub-contract;
 - (c) is reasonably likely to present an actual or potential risk to the safety, welfare or security of any DCC Eco-System Entity, any part of the End-to-end Smart Metering System (or any associated Systems), any Consumer or member(s) of the public, or Great Britain;
 - (d) is reasonably likely to undermine public confidence in (or damage the reputation or goodwill of) the DCC or the Smart Metering Programme;
 - (e) is or is reasonably likely to be:
 - (i) unreliable or untrustworthy; and/or
 - (ii) otherwise not a fit and proper person to be engaged, or employed or hold office in or in connection with the provision or performance of any of the Services;
 - (f) is suffering (or is reasonably likely to suffer) any Insolvency Event;
 - (g) is subject to any Financial Distress Event;
 - (h) has a Conviction; and/or
 - (i) is Controlled by an Unsuitable Person or employs or has as a director or officer (or any directors or partners or any other person who has powers of representation, decision or control over it (directly or indirectly)) that is an Unsuitable Person.

Without limitation, the Contractor agrees that the DCC's opinion shall in all cases be reasonable if based on an

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| | opinion given by any Regulatory Body; |
| "Unsuitable Staff" | has the meaning given in Clause 22.4; |
| "Unsuitable Sub-contractor" | means any Sub-contracting / that: <ul style="list-style-type: none">(a) is or that is Controlled by an Unsuitable Person;(b) that places or is reasonably likely to place the DCC in breach of the SEC or DCC Licence or is objected to by Ofgem in writing; or(c) is Controlled by a SEC Party, the DCC or any other External Service Provider (or any Affiliate of any SEC Party, the DCC or any other External Service Provider); |
| "Urgent Change" | has the meaning given in Schedule 8.2 (Change Control); |
| "Use" | means: <ul style="list-style-type: none">(a) with respect to Contractor Software, the right to load, execute, store, transmit, display and copy (for the purposes of loading, execution, storage, transmission or display) and utilise the relevant Software;(b) with respect to any Third Party Software, the right to load, execute, store, transmit, display and copy (for the purposes of loading, execution, storage, transmission or display) that Software;(c) with respect to any Project Specific IPR other than Software, the right to copy, adapt, publish, distribute or otherwise use such Project Specific IPR; |
| "VAT" | means value added tax as provided for in the Value Added Tax Act 1994; |
| "Working Day" | means any day other than a Saturday, Sunday or public holiday in Great Britain; |

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PART C – SYSTEMS

Note: "System" is defined in Part B of this Schedule 1 (above).

Key types of System:

"Other Energy Industry Systems" means (other than the End-to-end Smart Metering System):

- (a) all DCC Service User Systems;
- (b) Registration Systems;
- (c) all Systems used by or on behalf of any DCC Service User to the extent those Systems are entitled in connection with the SEC to interface with any part(s) of the DCC & Contractor Systems;

"Consumer Access Device" or "CAD" means a Smart Appliance (or part of a Smart Appliance) that operates as a bridging device that will:

- (a) convert and transmit the information available via the HAN interface to other Smart Appliances; and/or
- (b) provide Consumers with the ability for remote communication/control of other Smart Appliances (including those that support demand side management, e.g. central heating thermostat);

Definitions relating to End-to-end Smart Metering System:

"Communications Hub" or "Comms Hub" means:

- (a) devices (including any HAN module and/or SMWAN modules) installed within Consumer Premises with the purpose of providing connectivity between the SMWAN provided by the relevant CSP and the Home Area Network;
- (b) any auxiliary equipment (including aerials) used to connect the relevant device referred to in paragraph (a) to the SMWAN;
- (c) (unless the context otherwise requires) any equipment and/or part(s) that are to remain physically connected to the relevant device referred to in paragraph (a) for the purposes of physically connecting it to any part of: (i) any

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Consumer Premises; (ii) any Smart Meter and/or (iii) any other HAN module; and

- (d) any Gas Proxy associated with the relevant device referred to in paragraph (a);

"Contractor System" means the Systems used by or on behalf of any Contractor Person in performing the Services including the Software, the Contractor Equipment and related cabling, but excluding all parts of any Other ESP Solution(s);

"DCC Systems" means collectively the DCC Data Systems and the DCC Service Management System;

"DCC & Contractor Systems" means (excluding all Smart Appliances and Smart Metering Systems (except the Communications Hub)):

- (a) the DCC Environment;
(b) the Other ESP Solution(s); and
(c) the Contractor System,

and including the DCC User Gateway and the other DCC Interfaces & Gateways;

"DCC Environment" means the Systems used by or on behalf of the DCC, excluding all parts of any Other ESP Solution, or the Contractor Systems;

"Home Area Network" or "HAN" means the network to be provided by the Comms Hub and through which communication between elements of the Smart Metering System (and Consumer Access Devices) in Consumer Premises is effected;

"Smart Metering Device" means:

(a) any Smart Meter (including microgeneration Smart Meters) in connection with which the DCC provides any data, communications or other services;

(b) any Communications Hub in connection with which the DCC provides any data, communications or other services;

(c) any Type 1 Device;

(d) any Type 2 Device

"Smart Metering System" or "SMS" means a system comprised of Smart Metering Devices (including at least one Communications Hub)

"SMWAN" or "Smart Metering Wide Area Network" means the wide area network provided by a CSP that connects the Communications Hub with the Systems of the Prime DSP;

Definitions relating to Other Energy Industry Systems:

"DCC Service User Systems" means the Systems used by or on behalf of DCC Service Users and/or DCC Service User Providers excluding the End-to-end Smart Metering System;

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PART E – DCC SERVICE PROVIDER AND OTHER PROVIDER DEFINITIONS

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| "Comms Service Provider(s)", "Communications Service Provider(s)" or "CSP(s)" | means: (a) the Prime CSPs; and (b) any Other CSP; |
| "Data Service Provider" or "DSP" | means: (a) the Prime DSP; and (b) any Other DSP (if any); |
| "DCC Service Provider" | means: (a) a third party with whom the DCC enters into a DCC Service Provider Contract or its servants or agents; and (b) any third party with whom a DCC Service Provider enters into a DCC Service Provider Contract or its servants or agents; and (c) without prejudice to the generality of the foregoing, any Replacement Contractor providing services in substitution for the Services or any part of the Services at any time; |
| "DCC Service Provider Contract" | means (excluding any arrangement that is a Sub-contract and/or this Agreement) any contract or agreement or proposed contract or agreement between the DCC or any DCC Service Provider and any third party whereby that third party agrees to provide to the DCC or any DCC Service Provider facilities, goods, services or other supply; |
| "ESP Contract" | means this Agreement and each contract between the DCC and each External Service Provider; |
| "External Service Providers" | means the Contractor and each DCC Service Provider who is a DSP or CSP; |