

# Appendix to Smart Meters Programme, Main Agreement, Parse and Correlate Version

## Appendix 1 – Audit Regulatory Requirements

### 1. REGULATORY ACCOUNTS OF DCC

#### DCC's obligations under DCC Licence

1.1 The Contractor acknowledges that, under the DCC Licence:

#### Regulatory Accounts

- (a) the DCC must prepare Regulatory Accounts for each Regulatory Year;
- (b) the DCC must keep (or cause to be kept) for a period approved by the Authority, but no less than the period referred to in section 388(4)(b) of the Companies Act 2006 and in the manner referred to in that section, such accounting records and other records as are necessary to ensure that all of the revenues, costs, assets, liabilities, reserves and provisions of, or that are reasonably attributable to, each of the Authorised Business Activities of the DCC are separately identifiable in those records (and in those of any Affiliate or Related Undertaking of the DCC);
- (c) the Regulatory Accounts are to be prepared on a consistent basis derived from the accounting records and other records referred to in paragraph 1.1(b) in respect of each Regulatory Year;
- (d) the Regulatory Accounts must have the contents specified in, and must otherwise comply with the requirements specified in, the DCC Licence;

#### Audit requirements

- (e) the DCC must procure an audit of its Regulatory Accounts (and supporting reports and reviews) in accordance with the requirements specified in the DCC Licence, together with a report by the relevant auditor that states whether the Regulatory Accounts fairly present the financial position, financial performance and cash flows of the Authorised Business Activities;
- (f) the DCC must deliver the Regulatory Accounts, and the auditor's report, to the Authority in accordance with the requirements of the DCC Licence; and
- (g) the DCC must publish the Regulatory Accounts (excluding any information agreed by the Authority to be confidential) in accordance with the DCC Licence.

## **Contractor's obligations**

- 1.2 Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:
- (a) promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by the DCC from time to time in relation to the DCC's compliance with its obligations under the DCC Licence regarding the preparation, audit and publication of the Regulatory Accounts (and any associated activities); and
  - (b) ensure that appropriate representatives of the Contractor (or, where applicable, any Contractor Person), including any representatives specifically identified by the DCC, attend any meetings with the DCC or its auditors that are reasonably requested by the DCC from time to time in relation to the DCC's compliance with its obligations under the DCC Licence regarding the preparation, audit and publication of the Regulatory Accounts (and any associated activities).

## **2. COMPLIANCE OFFICER**

### **DCC's obligations under the DCC Licence**

- 2.1 The Contractor acknowledges that, under the DCC Licence, the DCC is required to appoint an independent officer (the "**Compliance Officer**") for the purposes of monitoring and facilitating the DCC's compliance with the requirements and prohibitions established and imposed by the following conditions of the DCC Licence:
- (a) Condition 9 (Independence and autonomy of the Licensee);
  - (b) Condition 10 (Protection of Confidential Information); and
  - (c) Condition 11 (No abuse of the Licensee's special position),
- (the "**Chapter 2 Requirements**").

### **Contractor's obligations**

- 2.2 Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:
- (a) promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by the Compliance Officer from time to time in relation to the performance of the Compliance Officer's tasks and duties; and
  - (b) ensure that appropriate representatives of the Contractor (or, where applicable, any Contractor Person), including any representatives specifically identified by the Compliance Officer, attend any meetings with the Compliance Officer that are reasonably requested by the DCC from time to time in relation to the performance of the Compliance Officer's tasks and duties.

### 3. COMPLIANCE REPORT

#### DCC's obligations under the DCC Licence

3.1 The Contractor acknowledges that, under the DCC Licence:

- (a) the DCC is required to produce a report (the "**Compliance Report**") on an annual basis regarding:
  - (i) its compliance during the reporting year with the Chapter 2 Requirements; and
  - (ii) its implementation during that year of the practices, procedures and systems maintained pursuant to the Compliance Statement;
- (b) each Compliance Report is required to:
  - (i) detail the activities of the Compliance Officer during the reporting year;
  - (ii) refer to such other matters as may be appropriate in relation to the DCC's implementation during the reporting year of the practices, procedures and systems adopted in accordance with the Compliance Statement;
  - (iii) set out the details of any investigations carried out by the Compliance Officer during the reporting year, including:
    - (A) the number, type, and source of any complaints or representations on which those investigations were based;
    - (B) the outcome of the investigations; and
    - (C) any remedial action taken by the DCC following them; and
  - (iv) state the Compliance Officer's opinion of the extent to which the DCC complied with the Chapter 2 Requirements during the reporting year.

#### Contractor's obligations

3.2 Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:

- (a) promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by the DCC from time to time in relation to the preparation of the Compliance Report by the DCC; and
- (b) ensure that appropriate representatives of the Contractor (or, where applicable, any Contractor Person), including any representatives specifically identified by the DCC, attend any meetings with the DCC

that are reasonably requested by the DCC from time to time in relation to the preparation of the Compliance Report by the DCC.

#### 4. **REGULATORY INSTRUCTIONS AND GUIDANCE**

##### **DCC's obligations under the DCC Licence**

4.1 The Contractor acknowledges that the Authority is entitled to issue Regulatory Instructions and Guidance ("**RIGs**") under the DCC Licence in relation to:

(a) Quality of Service Information; and

(b) Price Control Information,

(together, the "**Specified Information**").

4.2 The Contractor acknowledges that the matters that may be included, or for which provision may be made, in any RIGs issued by the Authority are:

(a) a complete statement of the information that is to comprise the Specified Information;

(b) instructions and guidance on the Authority's requirements with respect to the collection, recording, and provision of Specified Information;

(c) instructions and guidance on the standards of accuracy and reliability that are applicable to the recording of the Specified Information (including different classes of Specified Information);

(d) a timetable for the development of such systems, processes, and procedures as are required to achieve such standards for the Specified Information;

(e) provision with respect to the meaning of words and phrases used in defining the Specified Information;

(f) requirements as to the form and manner in which, or the frequency with which, the Specified Information must be recorded;

(g) requirements as to the form and manner in which, or the frequency with which, the Specified Information must be provided to the Authority; and

(h) provision about how the Authority may monitor and assess the DCC's compliance with the RIGs.

4.3 The Contractor acknowledges that:

(a) no Specified Information that is to be provided by the DCC to the Authority pursuant to any RIGs issued under the DCC Licence may exceed what could reasonably be requested from the DCC by the Authority under the terms of the DCC Licence; and

- (b) certain of the Quality of Service Information and/or the Price Control Information may be subject to publication by the Authority (having particular regard to section 105 of the Utilities Act 2000).

4.4 The Contractor acknowledges that, under the DCC Licence:

- (a) the DCC must at all times act in accordance with RIGs issued by the Authority in accordance with the DCC Licence; and
- (b) the DCC must have in place and maintain (and must ensure that the Contractor has in place and maintains) appropriate records (including accounting records), systems, processes and procedures to enable the DCC:
  - (i) to measure, record and collect such Quality of Service Information and/or Price Control Information as may be specified from time to time in the RIGs;
  - (ii) to report Quality of Service Information in respect of such periods, in such a manner, and within such timeframes as are specified in the RIGs; and
  - (iii) to report Price Control Information to the Authority in respect of the period comprising each separate Regulatory Year by not later than 31 July in the next Regulatory Year.

4.5 The Contractor acknowledges that:

- (a) the Authority is entitled to modify any RIGs already in force or issue new RIGs, in accordance with the procedures set out in Condition 33 of the DCC Licence; and
- (b) the DCC must comply with any modified or new RIGs issued by the Authority (subject to the provisions of Part C of Condition 33 of the DCC Licence).

#### **Contractor's obligations**

4.6 Without limiting its other obligations under this Agreement, the Contractor shall at all times:

- (a) act in accordance with all aspects of the RIGs issued by the Authority in accordance with the DCC Licence which are applicable to the Contractor and/or the Services (as notified to the Contractor by the DCC in writing from time to time), including any modified or new RIGs issued by the Authority from time to time;
- (b) have in place and maintain appropriate records (including accounting records), systems, processes and procedures, as determined by the DCC (acting reasonably) from time to time, to enable the DCC:
  - (i) to measure, record and collect such Quality of Service Information and/or Price Control Information as may be specified from time to time in the RIGs;

- (ii) to report Quality of Service Information in respect of such periods, in such a manner, and within such timeframes as are specified in the RIGs; and
- (iii) to report Price Control Information to the Authority in respect of the period comprising each separate Regulatory Year by not later than 31 July in the next Regulatory Year.

## 5. **AUTHORITY REVIEWER**

### **DCC's obligations under the DCC Licence**

5.1 The Contractor acknowledges that, under the DCC Licence:

- (a) the Authority may itself review, or arrange for a person appointed by the Authority (a "**Reviewer**") to review, any matters in the Quality of Service Information and/or Price Control Information reported by the DCC in respect of which the Authority requires clarification;
- (b) subject to paragraph 5.1(e), the DCC must give the Authority or (as the case may be) the Reviewer all such assistance as it or he may reasonably require for the purposes of any review carried out under Conditions 31 and/or 32 of the DCC Licence;
- (c) the DCC's obligation to assist the Authority or a Reviewer includes an obligation to allow it or him to carry out any inspections, measurements, or tests considered necessary in relation to any systems, processes, or procedures operated or maintained for or in relation to the requirements of Conditions 31 and/or 32 of the DCC Licence;
- (d) the DCC's obligation to assist the Authority or a Reviewer also includes an obligation to ensure that the Contractor will also (if requested to do so) assist the Authority or that Reviewer; and
- (e) the DCC is not required to perform its obligations in relation to a Reviewer and his functions unless the Reviewer has entered into an agreement with the DCC to maintain confidentiality on reasonable terms.

### **Contractor's obligations**

5.2 If requested by the DCC at any time, the Contractor shall give the Authority or (as the case may be) the Reviewer, in relation to Specified Information relevant to the Contractor and/or the Services, such assistance as it or he may reasonably require for the purposes of any review carried out under Conditions 31 and/or 32 of the DCC Licence, including by providing access to the Records referred to in Clause 19 (Records) on request.

5.3 The Contractor's obligation to assist the Authority or a Reviewer under paragraph 5.2 includes the obligation:

- (a) to allow it or him to carry out any inspections, measurements, or tests considered necessary in relation to any systems, processes, or procedures operated or maintained for or in relation to the requirements of Conditions 31 and/or 32 of the DCC Licence; and

- (b) to ensure that any Contractor Persons will also (if requested to do so) assist the Authority or that Reviewer.

## 6. ANNUAL SERVICE REPORT

### DCC's obligations under the DCC Licence

6.1 The Contractor acknowledges that, under the DCC Licence:

- (a) the DCC must, by not later than 31 July in each Regulatory Year (commencing on and after 1 April 2014), prepare and submit to the Authority a report (the "**Annual Service Report**") about overall service performance during the previous Regulatory Year (the "**Performance Year**");
- (b) the concept of overall service performance to which paragraph 6.1(a) refers must be presented, analysed, and evaluated by the DCC in its Annual Service Report by reference both separately and collectively, as appropriate, to:
  - (i) the performance (both generally and in detail) of the DCC in providing the DCC Services to SEC Parties under or pursuant to the Smart Energy Code (the "**DCC Performance**") during the Performance Year; and
  - (ii) the performance (both generally and in detail) of each External Service Provider in providing such Relevant Service Capability as it was contracted to provide to the DCC (the "**Provider Performance**") during the Performance Year;
- (c) the Annual Service Report must identify and set out (in appropriate detail) all relevant operational and technical aspects of user service arising from the DCC Performance and the Provider Performance during the Performance Year that the DCC considers should be brought to the Authority's notice, having regard to the functions that the DCC is required to exercise under or by virtue of the Principal Energy Legislation, the DCC Licence and the Smart Energy Code;
- (d) the Authority may require the Annual Service Report to contain a statistical record based on appropriate performance measures with respect to either or both of the DCC Performance and the Provider Performance during the Performance Year, including, in particular, details of any failures, loss of service, or other material faults within the overall expected reliability of such performance;
- (e) any statistical record that is required to be presented in the Annual Service Report by virtue of paragraph 6.1(d) must have such content and be presented in such format and with respect to such periods of time as are specified in any direction issued by the Authority (following consultation with the DCC and the Contractor);
- (f) the DCC must:
  - (i) provide a copy of the final Annual Service Report to the Secretary of State, the SEC Panel and each External Service Provider;

- (ii) give a copy of the final Annual Service Report to any other person who requests it; and
  - (iii) publish the final Annual Service Report on its website;
- (g) in complying with the requirements referred to in paragraphs 6.1(f)(ii) and 6.1(f)(iii), the DCC must have due regard to the need for excluding from the Annual Service Report, so far as is practicable, any matter that relates to the affairs of a person if the publication of that matter would prejudice, or be likely to prejudice, his commercial interests; and
- (h) any question arising under paragraph 6.1(g) as to whether the publication of some matter that relates to the affairs of a person would prejudice, or would be likely to prejudice, his commercial interests is to be resolved by the Authority following consultation with that person.

### **Contractor's obligations**

6.2 Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:

- (a) promptly provide any co-operation, documentation, data, information, analysis, evaluation or other assistance reasonably requested by the DCC from time to time in relation to the preparation of the Annual Service Report, including in relation to:
  - (i) the performance (both generally and in detail) of the Contractor in providing the Services (the "**Contractor Performance**") during the relevant Performance Year;
  - (ii) all relevant operational and technical aspects arising from the Contractor Performance during the Performance Year that the DCC or the Contractor considers should be brought to the Authority's notice as part of the Annual Service Report; and
  - (iii) such statistical records based on appropriate performance measures with respect to the Contractor Performance during the Performance Year as are requested by the DCC (which may include details of any failures, loss of service, or other material faults within the overall expected reliability of such performance). Any such statistical records shall have such content and be presented in such format and with respect to such periods of time as are reasonably specified by the DCC in order to comply with a direction from the Authority referred to in paragraph 6.1(e); and
- (b) ensure that appropriate representatives of the Contractor (or, where applicable, any Contractor Personnel), including any representatives specifically identified by the DCC, attend any meetings with the DCC that are reasonably requested by the DCC from time to time in relation to the preparation of the Annual Service Report (including any of the issues set out in paragraph 6.2(a) above).



- 6.3 Before submitting any Annual Service Report to the Authority, the DCC shall provide the Contractor with a copy of the draft report. The Contractor (acting reasonably) shall provide any comments on such parts of the draft report as are relevant to the Services within twenty-eight (28) days after receipt of the draft report from the DCC under this paragraph 6.3.

7. **CHARGING FOR ADDITIONAL COSTS**

Where compliance with the provisions in this Appendix requires the Contractor to incur material additional costs (being costs that it would not otherwise have incurred under this Agreement), the Contractor may notify the DCC accordingly and the parties (acting reasonably) shall agree any necessary Change to the Charges in accordance with the Change Control Procedure. Any Change under this paragraph 7 shall be deemed to be a Specific Change in Mandatory Requirements.

