

DATED: 5 August 2021

(1) SMART DCC LIMITED

(2) CRITICAL SOFTWARE TECHNOLOGIES LIMITED

**AGREEMENT FOR THE PROVISION OF SERVICES IN RESPECT OF THE SMART
METERING PROGRAMME – ENDURING CHANGE OF SUPPLIER**

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DCC Public

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THIS AGREEMENT is made on

2021

BETWEEN:

(1) **SMART DCC LIMITED** (registered in England and Wales under number 08641679) whose registered office is at 65 Gresham Street, London EC2V 7NQ ("**DCC**"); and

(2) **CRITICAL SOFTWARE TECHNOLOGIES LIMITED** (registered in England and Wales under number 05256049 whose registered office is at Hjs Chartered Accountants, 12-14 Carlton Place, Southampton, Hampshire SO15 2EA (the "**Contractor**").

Each of the above are a "Party" to this Agreement and they shall collectively be referred to herein as the "parties" or "Parties".

RECITALS

The following recitals shall not have contractual or legal effect save as an aid to the background and interpretation of the remainder of this Agreement:

- (A) The Smart Metering Programme has as one of its objectives, the ability for consumers to quickly and securely change energy suppliers. An essential component of this is the process to replace the certificates on devices.
- (B) The original technical and security architecture for the DCC was developed with the government's Smart Metering Implementation Programme provided for a temporary solution for the change of supplier – the "**TCoS solution**" which has been provided by the Prime DSP.
- (C) The TCoS solution does not align with the Trust Model for smart metering because the functionality is not separated from the Prime DSP functionality.
- (D) This Agreement is part of the delivery by the DCC of an Enduring Change of Supplier Solution ("**ECoS**") whereby Change of Supplier events are validated, processed and executed by a separate and centralised Change Of Supplier functionality.
- (E) The DCC has conducted a competitive procurement for the Enduring Change of Supplier functionality in three lots under Request for Proposal DCCT 0216.
- (F) On the basis of the Contractor's proposals and further clarifications, the DCC has agreed to contract with the Contractor to provide the Services on the terms set out in this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION AND DEFINITIONS

1.1 In this Agreement, the definitions and rules of interpretation set out in Schedule 1 (Interpretation and Definitions) shall apply.

2. COMMENCEMENT AND DURATION

2.1 Subject to Clause 48 (Consequences of Expiry or Termination), this Agreement will commence on the Commencement Date and, unless terminated at an earlier date by operation of Law or in accordance with this Agreement, shall terminate at:

2.1.1 the end of the Initial Term; or

2.1.2 if the DCC elects to extend the Term in accordance with Clause 2.2, at the end of the relevant Extension Period.

2.2 The DCC shall have the option to extend the Term of the Agreement in respect of all or part of the Services for



3. DUE DILIGENCE

3.1 Except as expressly provided in this Agreement, no representations, warranties or conditions, express or implied, statutory or otherwise (including as to condition, quality, satisfactory quality, accuracy, performance or fitness for purpose) are given by the DCC in respect of any of the following:

3.1.1 the End-to-End Smart Metering System; or

3.1.2 the Smart Metering Programme;

(collectively, the "**Excluded Matters**") and any such representations, warranties or conditions are excluded, except to the extent prohibited by Law.

3.2 The Contractor acknowledges and agrees that:

3.2.1 the DCC has delivered or made available to the Contractor all Due Diligence Information and all other documents that the Contractor considers necessary or relevant for the performance of its obligations under this Agreement;



- 3.2.2 it has, to the extent that it is reasonably able to do so, made its own enquiries to satisfy itself as to the accuracy and adequacy of such Due Diligence Information;
- 3.2.3 it has, to the extent that it is reasonably able to do so, satisfied itself of all the details relating to:
 - (a) the DCC Requirements;
 - (b) the operating processes and working procedure of the DCC; and
 - (c) the ownership, functionality, capacity condition and suitability for use in the Services of the DCC Assets; and
- 3.2.4 it has advised the DCC in writing of:
 - (a) each aspect, if any, of the DCC Assets that is not suitable for the provision of the Services (other than any DCC Assets that have not been inspected by the Contractor notwithstanding a request by the Contractor to do so);
 - (b) the actions needed to remedy such unsuitable aspect; and
 - (c) a timetable for and, to the extent that such costs are to be payable to the Contractor, the costs of those actions.
- 3.3 The Contractor shall not be excused from the performance of any of its obligations under this Agreement on the ground of, nor shall the Contractor be entitled to recover any additional costs or charges, arising as a result of:
 - 3.3.1 subject to Clause 12 (Relief Events), any unsuitable aspects of the DCC Assets; or
 - 3.3.2 any failure by the Contractor to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

4. SCOPE OF AGREEMENT

- 4.1 This Agreement relates to the provision of Services which shall be delivered by the Contractor to the DCC in accordance with the following Work Packages:
 - 4.1.1 Design, Build and Testing; and
 - 4.1.2 Support Services.
- 4.2 In addition to its other obligations under this Agreement, the Contractor shall provide any ancillary or incidental administrative service, function or responsibility not specified in this Agreement where such service, function or responsibility is necessary for the proper performance of the Services and is not expressly identified in this Agreement as the responsibility of the DCC or a DCC Service Provider.

4.3 The Contractor agrees that it shall not enter into any contract or other arrangement that prevents or restricts competition or prevents or restricts the DCC from procuring services from any third party.

5. OBJECTIVES **

5.1 The Contractor acknowledges that, under the DCC Licence, the DCC is required to comply with certain objectives and principles that are described and referred to in Condition 5 of the DCC Licence (together, the "Objectives").

5.2 The Contractor shall:

5.2.1 in so far as the Agreement leaves any discretion as to how to perform its obligations under this Agreement, perform its obligations under this Agreement in such a manner as to enable the DCC to comply with the Objectives; and

5.2.2 save as expressly required by this Agreement or the DCC, not carry out any activity, or any combination of activities, in a manner which prejudices or impairs, or would be likely to prejudice or impair, the DCC's ability to comply with the Objectives.

5.3 To the extent that the terms of this Agreement require the Parties to:

5.3.1 develop, review and/or agree any plans, procedures or other documents, including under:

(a) Schedule 2.4 (*Continuous Improvement*);

(b) Schedule 6.3 (*Development Process*); or

(c) Schedule 7.3 (*Value for Money*); or

5.3.2 otherwise discuss, negotiate or agree on a particular matter, including under:

(a) Schedule 8.1 (*Governance*);

(b) Schedule 8.2 (*Change Control*); or

(c) Schedule 8.7 (*Co-operation*),

the Parties shall, in carrying out such activities, take account of the Objectives and use reasonable endeavours to give the fullest possible effect to the Objectives.

5.4 To the extent that the terms of this Agreement do not address a particular circumstance or are unclear or ambiguous, such terms shall be construed in a manner which gives the fullest possible effect to the Objectives.

6. SERVICES**

- 6.1 The Contractor shall ensure that the Services at all times for the Term:
 - 6.1.1 comply in all respects with the DCC Requirements and Schedule 4.1 (*Contractor Solution*) and all other terms of this Agreement;
 - 6.1.2 comply with the Mandatory Requirements (and shall be performed so as not to place the DCC nor any DCC Eco-System Entity in breach of any Mandatory Requirement); and
 - 6.1.3 in accordance with Good Industry Practice and to any Service Levels (where applicable).
- 6.2 The Contractor shall (and shall ensure that all Contractor Persons shall):
 - 6.2.1 perform the Services in accordance with all agreed timescales and in all other cases promptly;
 - 6.2.2 perform the Services in a way which enables the DCC at all times to comply with all applicable Law;
 - 6.2.3 monitor any proposed changes to Laws which are applicable to the performance of the Services, develop plans to accommodate such changes and notify the DCC of such plans through the Change Control Procedure together with details of the changes to such Laws; and
 - 6.2.4 notify the DCC immediately on becoming aware of any breach or suspected breach by the Contractor or any Contractor Person of any Laws, provide DCC with such assistance as they may require to investigate such allegations and correct any breach, and on the DCC's request, do all such things as are necessary at its own cost in order to minimise the impact of such breach.

7. IMPLEMENTATION PLAN

- 7.1 The Contractor shall provide the Services referred to in Schedule 6.1 (*Implementation Planning*), Schedule 6.2 (*Testing and Acceptance*) and Schedule 6.3 (*Development Process*) in accordance with the Implementation Plan.
- 7.2 If the Contractor becomes aware that there is, or there is reasonably likely to be, a Delay it shall:
 - 7.2.1 notify the DCC in accordance with Clause 10 (*Rectification Plan*);
 - 7.2.2 comply with the Rectification Plan Process in order to address the impact of the Delay or anticipated Delay; and
 - 7.2.3 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay; and
 - 7.2.4 take all such additional steps necessary to achieve such Milestone as early as practicable after the Milestone Date, and (save where the failure to achieve the Milestone by the applicable Milestone Date is as

a direct result of a DCC Cause or any Other Service Provider Cause) at no extra cost to the DCC.

7.3 The Contractor shall Achieve each Milestone (including by satisfying all applicable Milestone Criteria and Stage Exit Criteria) by the applicable Milestone Date.

8. TESTING AND ACCEPTANCE

8.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 6.2 (*Testing and Acceptance*).

9. PERFORMANCE MONITORING

9.1 The Contractor shall perform its obligations under this Agreement so as to achieve or exceed the Performance Measures. The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 2.2 (*Performance Measures and Monitoring*).

9.2 The Contractor shall co-operate, and, where applicable, procure that its Sub-contractors co-operate, with the DCC in carrying out the monitoring referred to in Clause 9.1 at additional charge to the DCC.

10. RECTIFICATION PLAN**

10.1 Subject to Clause 12 (*Relief Events*), in the event that:

10.1.1 there is, or is reasonably likely to be, a Delay;

10.1.2 any of the events referred to in Paragraph 6.2 of Part B of Schedule 2.2 (*Performance Measures and Monitoring*) occurs;

10.1.3 there has been a Critical KPI Failure; or

10.1.4 the Contractor commits a material breach (being a single event or a series of events which are together a material breach) of any of its obligations under this Agreement that is capable of remedy (whether the same or different obligations and regardless of whether the Contractor has remedied those breaches on previous occasions),

10.2 If:

10.2.1 the Contractor notifies the DCC pursuant to Clause 10.1 that a Notifiable Default has occurred; or

- 10.2.2 the DCC notifies the Contractor that it considers that a Notifiable Default has occurred (setting out sufficient detail so that it is reasonably clear what the Contractor has to rectify),

then, without prejudice to the DCC's other rights and remedies (including the rights under Schedule 8.10 (*Enhanced Scrutiny and Step In*) and/or to terminate), the Contractor shall comply with the Rectification Plan Process.

Submission of the draft Rectification Plan

- 10.3 The Contractor shall submit a draft Rectification Plan to the DCC for it to review as soon as possible [REDACTED] after the original notification pursuant to Clause 10.1. The Contractor shall submit a draft Rectification Plan even if the Contractor disputes that it is responsible for the Notifiable Default provided that it is reasonable for the Contractor to do so insofar as the Contractor having access to the information or systems for it perform the obligations under Clause 10.5.

- 10.4 The draft Rectification Plan shall set out:

- 10.4.1 full details of the Notifiable Default that has occurred, including a root cause analysis (where applicable);

- 10.4.2 the actual or anticipated effect of the Notifiable Default; and

- 10.4.3 the steps which the Contractor proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable); and

- 10.4.4 where the draft Rectification Plan is in respect of a Delay (pursuant to Clause 10.1.1):

- (a) statement confirming that the Delay (and the implementation of the Rectification Plan) will not impact on the Achievement of all other Milestones by the Milestone Dates or otherwise adversely impact the provision of Services; and

- (b) where the Contractor is not able to make such statement (and it is applicable in the circumstances) it shall notify the DCC of such in writing before submitting the draft Rectification Plan. In this event, both Parties shall then meet to discuss the impact on the achievement of future Milestones.

- 10.5 The Contractor shall promptly provide to the DCC any further documentation that the DCC reasonably requires to assess the Contractor's draft Rectification Plan (including the Contractor's root cause analysis).

Agreement of the Rectification Plan

- 10.6 The DCC may reject the draft Rectification Plan by notice to the Contractor if, acting reasonably, it considers that the draft Rectification Plan is inadequate, for example because the draft Rectification Plan:
- 10.6.1 is insufficiently detailed to be capable of proper evaluation;
 - 10.6.2 will take too long to complete;
 - 10.6.3 will not prevent reoccurrence of the Notifiable Default; and/or
 - 10.6.4 will rectify the Notifiable Default but in a manner which is unacceptable to the DCC.
- 10.7 The DCC shall notify the Contractor whether it consents to the draft Rectification Plan as soon as reasonably practicable. If the DCC rejects the draft Rectification Plan, the DCC shall give reasons for its decision and the Contractor shall take the reasons into account in the preparation of a revised Rectification Plan. The Contractor shall submit the revised draft of the Rectification Plan to the DCC for review within three (3) Business Days (or such other period as agreed between the Parties) of the DCC's notice rejecting the first draft. If the DCC foresees that its response may take longer than ten (10) Business Days then it shall promptly notify the Contractor and provide the reasons why AND, to the extent that the DCC has been deducting Service Credits in respect of the subject matter of the Rectification Plan, then the deduction of such Service Credits shall cease at midnight on the tenth (10th) Business Day after the day on which the draft Rectification Plan was submitted to the DCC and shall recommence at midnight on the day that the DCC notifies the Contractor of its decision in accordance with this Clause.
- 10.8 If the DCC consents to the Rectification Plan, the Contractor shall immediately start work on the actions set out in the Rectification Plan.
- 10.9 Failure by the Contractor to comply with a Rectification Plan or this Rectification Plan Process shall be deemed a material breach not capable of remedy for the purposes of Clause 47.1 (*Termination Rights*).

Costs and expenses

- 10.10 Subject to Clause 12 (*Relief Events*) and Schedule 7.1 (*Charges and Payment*) in respect of a Delay, the Contractor shall bear both Parties' costs and expenses in respect of the agreement and implementation of a Rectification Plan.

11. DCC RESPONSIBILITIES

- 11.1 The DCC's obligations under this Agreement shall be limited to (and the DCC shall comply with) the DCC Responsibilities.

12. RELIEF EVENTS

- 12.1 Notwithstanding any other provision of this Agreement, if the Contractor has failed to provide the Services, failed to Achieve a Milestone by its Milestone Date and/or failed to comply with its obligations under this

Agreement (each a "**Contractor Non-Performance**"), and can demonstrate that the Contractor Non-Performance would not have occurred but for a DCC Cause or Other Service Provider Cause, then (subject to the Contractor fulfilling its obligations in this Clause 12):

- 12.1.1 the Contractor shall not be treated as being in breach of this Agreement to the extent the Contractor can demonstrate that the Contractor Non-Performance was caused by the DCC Cause or Other Service Provider Cause; and
 - 12.1.2 the DCC shall not be entitled to exercise any rights that may arise as a result of that Contractor Non-Performance to terminate this Agreement pursuant to Clause 47.1; and
 - 12.1.3 the Contractor shall continue to perform the Services to the extent possible in absence of the performance of the relevant DCC Responsibility or the obligation giving rise to the Other Service Provider Cause.
- 12.2 In order to claim any of the relief referred to in Clause 12.1, the Contractor shall:
- 12.2.1 as soon as reasonably practicable (and in any event within ten (10) Business Days) after becoming aware of the DCC Cause or Other Service Provider Cause, or that a DCC Cause or Other Service Provider Cause is reasonably likely to arise which may result in a Contractor Non-Performance, give the DCC written notice of its intention to service a Relief Notice; and
 - 12.2.2 as soon as reasonable practice (and in any event within three (3) Business Days) of the date of the written notice pursuant to Clause 12.2.1, give the DCC further written notice (a "**Relief Notice**") setting out details of:
 - (a) the Contractor Non-Performance;
 - (b) the DCC Cause or Other Service Provider Cause and its effect, or likely effect, on the Contractor's ability to meet its obligations under this Agreement;
 - (c) any steps which the DCC can take to eliminate or mitigate the consequences and impact of such DCC Cause or Other Service Provider Cause;
 - (d) the relief claimed by the Contractor.
- 12.3 Following the receipt of a Relief Notice, the DCC shall as soon as reasonably practicable consider the nature of the Contractor Non-Performance and the alleged DCC Cause or Other Service Provider Cause and whether it agrees with the Contractor's assessment set out in the Relief Notice as to the effect of the relevant DCC Cause or Other Service Provider Cause and its entitlement to relief, consulting with the Contractor where necessary. In the event that the DCC and the Contractor are unable to agree as to the alleged DCC Cause or Other

Service Provider Cause, such disagreement shall be submitted to the Dispute Resolution Procedure.

- 12.4 The Parties shall use reasonable endeavours to eliminate or mitigate the consequences and impact of the DCC Cause or Other Service Provider Cause, including under circumstances where an alleged DCC Cause or Other Service Provider Cause is in dispute and has been submitted to Dispute Resolution Procedure. If the Contractor incurs any material additional costs in respect of its obligations under this Clause 12.4 then this shall be at the DCC's cost, calculated and approved in accordance with Schedule 8.2 (*Change Control*).
- 12.5 The rights and remedies set out in this Clause shall be the exclusive rights and remedies of the Contractor in the event of any non-performance or delay by the Contractor as a result of any DCC Cause or Other Service Provider Cause and a DCC Cause or Other Service Provider Cause shall not be deemed to be grounds for termination of this Agreement (in whole or in part) by the Contractor.

13. CONTRACTOR COOPERATION AND ASSISTANCE **

- 13.1 The Contractor shall comply with all directions given to it by the DCC with regard to compliance with the Mandatory Requirements. If the Contractor is aware (or reasonably suspects) that any direction given to it may cause the Contractor to be in breach of any Mandatory Requirements or cause the DCC to be in breach of any Mandatory Requirements, it shall immediately notify the DCC; and, subject to any instruction to the contrary from the DCC, the Contractor shall continue to comply with the original direction following any such notification.
- 13.2 The Contractor shall promptly notify the DCC of any act or omission of any Contractor Person, or potential issues of which the Contractor is aware, that have or may have an adverse effect on the DCC's ability to comply with the Mandatory Requirements, and it shall cooperate fully with the DCC to resolve any such adverse effects.
- 13.3 Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:
- 13.3.1 promptly provide any co-operation, documentation, data, information, reports or other assistance reasonably requested by the DCC, a Regulatory Body, the Compliance Officer, a Reviewer and/or any Successor Licensee from time to time in relation to the DCC's compliance with its obligations under the Mandatory Requirements (and any associated activities), including in relation to the preparation, review and/or revision of any plan, report (including in relation to the quality and performance of the Services), which is required by the Mandatory Requirements; and
- 13.3.2 ensure that appropriate representatives of the Contractor, including any representatives specifically identified by the DCC, attend any meetings with the DCC, a Regulatory Body, the Compliance Officer, a Reviewer or any Successor Licensee that are reasonably requested by the DCC from time to time in relation to the DCC's compliance with its

obligations under the Mandatory Requirements including in relation to the preparation, review and/or revision of any plan, report, statement, accounts or other publication which is required to be prepared by the Mandatory Requirements.

Condition 29 Information Requests

- 13.4 Subject to Clause 13.6:
 - 13.4.1 if the DCC receives a request for Condition 29 Information from a Regulatory Body or the Secretary of State (as applicable) under the DCC Licence (each, an "**Information Request**"); and
 - 13.4.2 in order to comply with the Information Request, the DCC requires the Contractor to provide any Condition 29 Information then the Contractor shall provide the Condition 29 Information requested by the DCC within the time and in the form requested by the DCC.
- 13.5 The Contractor shall provide any other assistance reasonably requested by the DCC to enable it to comply with the relevant Information Request.
- 13.6 The DCC agrees that the Condition 29 Information requested by the DCC under Clause 13.4.2 shall not exceed the scope of Condition 29 Information which is required, in turn, from the DCC in order to comply with the relevant Information Request.
- 13.7 ****Notwithstanding anything else to the contrary in the Agreement, the Contractor acknowledges that the DCC may be obliged to disclose Contractor's Confidential Information under the requirements of the relevant Information Request provided that if and to the extent that it is possible and lawful for it to do so, DCC shall give prompt notice to the Contractor prior to the required disclosure and shall cooperate with the Contractor regarding the form, nature, content and purpose of such disclosure or any action which Contractor may reasonably take to challenge the validity or extent of such disclosure obligation. The DCC shall be responsible for determining in its absolute discretion whether any Contractor's Confidential Information is required to be disclosed to a Regulatory Body and/or the Secretary of State in accordance with the relevant Information Request.**
- 13.8 The Contractor shall not enter into or be a party to any agreement or arrangement with any person who is materially connected with the carrying on of the Services that does not contain rights enabling the Contractor to procure from that person and to provide to the DCC any Condition 29 Information that is requested under or pursuant to this Clause 13.

Transparency Requests

- 13.9 The Contractor shall provide all reasonable assistance to and shall cooperate with, the DCC to enable the DCC to comply with any request for information pursuant to the Environmental Information Regulations or any other Law applicable to the DCC relating to transparency (**Transparency Request**). Such assistance shall include the provision

of information specified in the Transparency Request (where held by the Contractor) within time limits specified by the DCC in order to comply with statutory obligations.

- 13.10 The Contractor acknowledges that the DCC may be obliged to disclose Contractor's Confidential Information pursuant to any Transparency Request. To the extent that it is possible and lawful to do so, the DCC shall notify the Contractor prior to any disclosure. The DCC shall have regard for any reasonable representations made by the Contractor relating to applicable exemptions. Notwithstanding, the DCC shall be responsible for determining in its absolute discretion whether any Contractor's Confidential Information is required to be disclosed pursuant to such Transparency Request.

14. SERVICES IMPROVEMENT

- 14.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 2.4 (*Continuous Improvement*).

15. EQUIPMENT**

- 15.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 4.2 (*Technical Infrastructure*).
- 15.2 Unless otherwise agreed in writing by the DCC, all Contractor Equipment and all other components of the Contractor Solution:
- 15.2.1 shall be located within United Kingdom at all times, except as set out in an agreed list in Appendix 1 of Schedule 4.2 (*Technical Infrastructure*); and
- 15.2.2 that are Exclusive Assets shall be used by the Contractor solely for the purposes of providing the Services to the DCC and shall not be used for the Contractor's own purposes or in providing any other services of any nature to any person except as agreed by the DCC in writing.
- 15.3 Subject to Clause 15.4, all of the Contractor's property, including Contractor Equipment (irrespective of location), shall remain at the sole risk and responsibility of the Contractor.
- 15.4 The DCC shall be liable to the Contractor for any loss, damage (except fair wear and tear) or theft of Contractor Equipment located at any DCC Premises to the extent such loss, damage or theft has resulted from any material breach by the DCC of its obligations under this Agreement.
- 15.5 Subject to Clause 15.4, the Contractor hereby waives to the fullest extent possible all such rights and remedies provided by common law or statute (and releases the DCC to the same extent from all liabilities or obligations provided by common law or statute) in respect of any loss, damage or theft of any Contractor Equipment. The Contractor agrees that the SEC Parties are to have the benefit of the waiver set out

immediately above, which is to be enforceable by such persons in accordance with Clause 60 (Third Party Rights).

16. AVAILABILITY OF RESOURCES**

Certification

- 16.1 Without limiting its other obligations under this Agreement, the Contractor shall at all times ensure that it has available to itself, either directly or under appropriate contractual arrangements, such operational and financial resources (including management and financial resources, personnel, fixed and moveable assets, rights, licences, consents, and facilities) on such terms and with all such rights, as will enable it to properly and efficiently perform the Services.
- 16.2 Upon request of the DCC, the Contractor shall promptly give the DCC a certificate (signed by a director of the Contractor) that confirms (having made all due enquiries in accordance with Good Industry Practice and to the best belief and knowledge of the Contractor and its board of directors) its ability to comply with Clause 16.1. The Contractor shall notify the DCC in writing immediately if any directors of the Contractor become aware of any circumstance that causes them no longer to have the reasonable expectation of the Contractor's ability to comply with Clause 16.1.

Disposal of Relevant Business Assets

- 16.3 Without limiting its other obligations under this Agreement, the Contractor may not carry out any Disposal of or any Relinquishment of Operational Control over, any Relevant Business Asset without the prior written consent of the DCC. The Contractor acknowledges that:
 - 16.3.1 the granting of consent by the DCC under this Clause 16.3 may be subject to the Authority also granting its consent to the relevant Disposal or Relinquishment of Operational Control; and
 - 16.3.2 the consent of the DCC under this Clause 16.3 may be given subject to acceptance by the Contractor, or by any third party in favour of whom the relevant Disposal or Relinquishment of Operational Control is to be made, of such conditions as may be specified in the DCC's consent.

17. SMCL ADMINISTRATION ORDERS; REVOCATION OR EXPIRY OF THE DCC LICENCE**

SMCL Administration Orders: Contractor obligations

- 17.1 Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:
 - 17.1.1 continue to perform the Services in accordance with this Agreement notwithstanding the DCC being subject to a SMCL Administration Order;

- 17.1.2 promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by:
- (a) any administrator appointed in accordance with the SMCL Administration Order;
 - (b) the DCC from time to time in relation to its compliance with a SMCL Administration Order; and
 - (c) any person performing any activity or other function of the DCC specified in or determined in accordance with the SMCL Administration Order.
- 17.1.3 comply with any reasonable directions or instructions from any of the persons referred to in Clause 17.1.2 as if they were directions or instructions of the DCC; and
- 17.1.4 ensure that appropriate representatives of the Contractor (or, where applicable, any Key Sub-contractor), including any representatives specifically identified by any of the persons referred to in Clause 17.1.2 attend any meetings with any of the persons referred to in Clause 17.1.2 that are requested from time to time.

Revocation or expiry of DCC licence: Contractor obligations

- 17.2 Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:
- 17.2.1 promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by:
- (a) the DCC from time to time in relation to the preparation, review and/or modification of the Business Handover Plan; or
 - (b) the DCC, a Regulatory Body and/or the Successor Licensee in relation to the handover of the Authorised Business from the DCC to the Successor Licensee;
- 17.2.2 ensure that appropriate representatives of the Contractor (or, where applicable, any Key Sub-contractor), including any representatives specifically identified by the DCC, a Regulatory Body and/or the Successor Licensee, attend any meetings with any of those persons that are reasonably requested from time to time in relation to:
- (a) the preparation, review and/or modification of the Business Handover Plan; or
 - (b) the handover of the Authorised Business from the DCC to the Successor Licensee, and
- 17.2.3 continue to perform the Services in accordance with this Agreement notwithstanding the handover of the Authorised Business from the DCC to the Successor Licensee.

- 17.2.4 perform any reasonable obligations allocated to the Contractor under the Business Handover Plan in accordance with the applicable timescales specified in the Business Handover Plan (or, where no timescales have been specified, as soon as reasonably practicable);
 - 17.2.5 comply with any reasonable obligations applicable to the Contractor issued by the Regulatory Body in relation to the handover of the Authorised Business from the DCC to the Successor Licensee and/or the execution of the Business Handover Plan;
 - 17.2.6 take no steps that would have the effect, directly or indirectly, of avoiding or circumventing any requirement or objective of the Business Handover Plan; and
 - 17.2.7 if requested by the DCC or the Regulatory Body, provide such reasonable support and assistance (including information) as may be specified to persons taking part in any competitive tender process to determine the grant of a Successor Licence.
- 17.3 To the extent that compliance by the Contractor with this Clause 17 requires the Contractor to incur any material additional costs (being costs which it would not have otherwise incurred under this Agreement), then the Contractor may notify the DCC accordingly and the Parties (acting reasonably) shall agree any necessary changes to the Charges in accordance with the Change Control Procedure.

18. INDEPENDENCE AND NON-DISCRIMINATION OBLIGATIONS **

- 18.1 The Contractor shall at all times manage and perform the Services and its obligations under this Agreement in a way that is calculated to ensure that it does not restrict, prevent, or distort competition:
- 18.1.1 in any activity (other than the Authorised Activity) that is authorised by an Energy Licence under the Principal Energy Legislation; or
 - 18.1.2 in the provision of, or in any of the markets for, Commercial Activities that are connected with the Supply of Energy under the Principal Energy Legislation.
- 18.2 The Contractor shall not, and shall procure that any Affiliate or Related Undertaking of the Contractor from time to time shall not, at any time, hold or acquire any investments by way of shares, securities or other financial rights or interests in the DCC (or any subsidiary of the DCC).
- 18.3 The Contractor shall ensure that no director or officer of the Contractor (or any director and/or officer of any Affiliate or Related Undertaking of the Contractor):
- 18.3.1 is or at any time becomes a director or an employee of the DCC (or any subsidiary of the DCC); or
 - 18.3.2 at any time holds or acquires any investments by way of shares, securities or other financial rights or interests in the DCC (or any subsidiary of the DCC).

18.4 The Contractor shall take all appropriate steps within its power (and shall procure that any Affiliate or Related Undertaking of the Contractor from time to time shall take all appropriate steps within its power) to ensure that it and any such entity is not, and does not at any time become, a Related Undertaking of:

18.4.1 the DCC (or any subsidiary of the DCC); or

18.4.2 any person who, whether by virtue of the investments it holds or otherwise, is able to exert a material influence over the conduct or affairs of the DCC (or any subsidiary of the DCC).

18.5 NOT USED.

18.6 In performing any of the Services, the Contractor shall not unduly discriminate between any person or any class or description of persons in connection with the provision of the Services.

18.7 The Contractor shall establish and maintain management systems, procedures and arrangements that are designed to secure its compliance with its obligations under Clauses 18.1 to 18.6.

19. CO-OPERATION WITH THIRD PARTIES

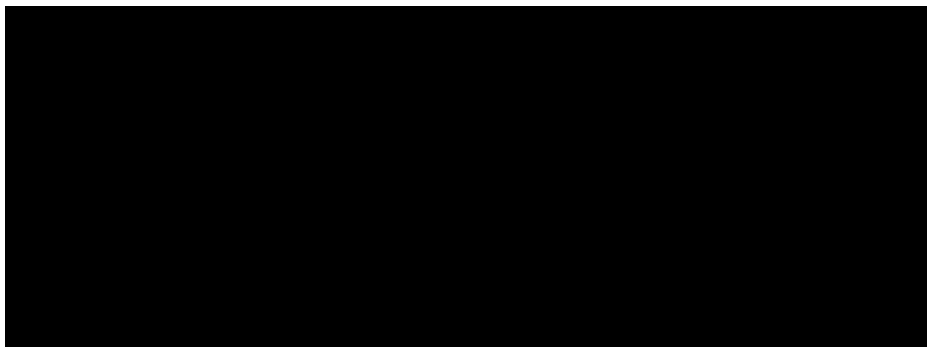
19.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.7 (*Co-operation*).

19.2 The Contractor shall comply with any obligations, responsibilities or other activities allocated to it under any Co-operation Agreement notwithstanding any provisions of the relevant Co-operation Agreement not being legally binding as between the Contractor and the Relevant Counterparty. Accordingly, any reference in this Agreement to the Contractor complying, or failing to comply, with its obligations under a Co-operation Agreement (or similar wording) shall be construed in accordance with Clause 19.2.

20. CHARGING AND INVOICING

20.1 In consideration of the Contractor carrying out its obligations, including the provision of the Services, under this Agreement, the DCC shall pay the Charges to the Contractor in accordance with Schedule 7.1 (*Charges and Payment*).

20.2



[REDACTED]

20.3 [REDACTED]

20.4 The Contractor shall have no right, whether contractual, at common law or otherwise, to deduct or apply to reduce the amount of any sum due to, or becoming due from, the Contractor to the DCC under this Agreement or any other agreement between the Contractor and the DCC or to exercise any right of set-off.

20.5 Any exercise by the DCC of its rights under Clause 20.2 shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.

20.6 Except as expressly stated in this Agreement, the Parties shall each bear their own costs and expenses incurred in respect of compliance with their obligations under this Agreement.

21. FINANCIAL DISTRESS **

21.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 7.4 (*Financial Distress*).

22. VALUE FOR MONEY

22.1 The Contractor and the DCC shall comply with their respective obligations, and may exercise their respective rights, under Schedule 7.3 (*Value for Money*).

23. OPERATIONS MANUAL

23.1 The Contractor shall prepare, update and deliver the Operations Manual in accordance with the requirements and in accordance with the processes set out in Schedule 2.1 (*DCC Requirements*) and Schedule 8.9 (*Operations Manual*). The Operations Manual shall not be in effect until it has been approved by the DCC (acting reasonably).

23.2 The Contractor shall perform the Services in accordance with the approved Operations Manual. Until such time, the Contractor will perform the Services in accordance with the previous version of the Operations Manual (where applicable) or otherwise in accordance with the policies and procedures notified by the DCC.

24. GOVERNANCE

24.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.1 (*Governance*).

[REDACTED]

25. RECORDS AND AUDIT**

25.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.4 (*Records and Audit Provisions*).

26. CHANGE CONTROL**

26.1 Any requirement for a Change shall be subject to the Change Control Procedure and the Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.2 (*Change Control*).

27. DISPUTE RESOLUTION PROCEDURE **

27.1 The Parties shall (unless otherwise expressly stated in this Agreement) resolve all Disputes in accordance with the Dispute Resolution Procedure.

27.2 The Parties shall comply with their respective obligations and may exercise their respective rights under Schedule 8.3 (*Dispute Resolution Procedure*).

28. SUPPLY CHAIN RIGHTS **

28.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 4.3 (*Sub-contractors*).

29. CONTRACTOR PERSONNEL **

29.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 9.2 (*Personnel and Key Personnel*).

30. STAFF TRANSFER

30.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 9.1 (*TUPE*).

31. HEALTH AND SAFETY**

31.1 The Contractor shall comply (and procure that all Contractor Personnel comply) with any Site rules provided to it by the DCC when on any DCC Site.

31.2 The DCC shall comply (and shall procure that all DCC personnel comply) with any Site rules provided to it by the Contractor when on any Contractor Site.

31.3 The Contractor shall ensure that has in effect at all times health and safety policies that comply with Law and Good Industry Practice, and provide copies to the DCC upon request.

31.4 Nothing in this Clause 31 shall require any Party to comply with any rule that is not compliant with Law.

32. EQUALITY AND DIVERSITY **

32.1 The Contractor shall, and shall procure that the Contractor Personnel shall, have in effect at all times equality and diversity policies that comply with Law and Good Industry Practice.

33. NON-SOLICITATION

33.1 No Party will (directly or indirectly, for the benefit of itself or any other person), during the Term [REDACTED], solicit or hire as an employee, contractor or consultant any senior employee or senior long-term consultant of any other Party who is involved with the performance of this Agreement. Provided however that this Clause 33 will not prevent any Party from hiring:

33.1.1 any person who has ceased to be an employee, contractor or consultant of any other Party [REDACTED]

33.1.2 any employee, contractor or consultant of any other Party who contacts the hiring Party on his own initiative without any direct or indirect solicitation by or encouragement from or on behalf of the hiring Party; or

33.1.3 any employee, contractor or consultant of any other Party as a result of placing general advertisements in trade journals, newspapers or similar publications which are not directed at the other Party or its employees or consultants.

34. INTELLECTUAL PROPERTY RIGHTS**

34.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 5.1 (*Intellectual Property Rights*).

35. DCC DATA **

35.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the DCC Data.

35.2 The Contractor shall not store, copy, disclose, process, transmit or use the DCC Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the DCC or as otherwise required by Law.

35.3 To the extent that DCC Data are held and/or processed by the Contractor, the Contractor shall, to the extent not expressly prohibited

by Law, supply that DCC Data to the DCC as requested by the DCC in any format reasonably required by the DCC.

- 35.4 The Contractor shall, take all commercially reasonable measures, acting in accordance with Good Industry Practice and the applicable provisions of this Agreement, to preserve the integrity of DCC Data and prevent the corruption or loss of DCC Data at all times that the relevant DCC Data is under its control or the control of any Sub-contractor.
- 35.5 The Contractor shall ensure that any system on which the Contractor holds any DCC Data, including back-up data, is a system that complies with the Security Policy and the Security Management Plan.
- 35.6 If any of the DCC Data are corrupted, lost or sufficiently degraded as a result of the Contractor's breach of Clause 35.4 so as to be unusable, the DCC may:
- 35.6.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of DCC Data and the Contractor shall do so as soon as practicable [REDACTED]
- 35.6.2 itself restore or procure the restoration of DCC Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- 35.7 The Contractor shall notify the DCC promptly if, at any time, the Contractor suspects or has reason to believe that DCC Data has or may become corrupted, lost or sufficiently degraded in any way for any reason and, the Contractor shall as soon as reasonably practicable [REDACTED] inform the DCC of the remedial action the Contractor proposes to take. Where such corruption, loss or degradation does not arise from a Contractor act or omission, the Contractor shall not take any remedial action unless requested to do so by the DCC and this shall be at the DCC's cost calculated and approved in accordance with Schedule 8.2 (Change Control).

36. PROTECTION OF PERSONAL DATA **

Arrangement between the Parties

- 36.1 To the extent that:
- 36.1.1 the Contractor Processes any Personal Data pursuant to this Agreement which relates to DCC Data Subjects or Energy Industry Data Subjects, then the Contractor shall be a Data Processor and DCC shall be a Data Controller in relation to that Personal Data; and/or
- 36.1.2 the Contractor Processes any Personal Data pursuant to this Agreement relating to Energy Consumer Data Subjects, it shall Process that Personal Data in the capacity of Sub-Processor, DCC shall be the Data Processor and the relevant DCC Service User shall be the Data Controller.

- 36.2 Subject to the other provisions of this Clause 36 and the terms of this Agreement, the types of Personal Data that may be Processed in relation to Contractor Data Subjects, DCC Data Subjects and Energy Industry Data Subjects may include Basic Information and/or Industry Information; and the types of Personal Data that may be Processed in relation to Energy Consumer Data Subjects may include Energy Supply Information.
- 36.3 In respect of the Contractor's Processing under this Agreement:
- 36.3.1 the subject-matter, nature and purpose of the Processing will be for the purposes of performing the Services and/or as required to assist in delivering the Objectives;
- 36.3.2 the duration of the Processing shall be the term of this Agreement (or, in the case of specific Personal Data or categories of Personal Data, such shorter retention period as may be explicitly set out in this Agreement or as DCC may instruct in writing from time to time); and
- 36.3.3 the Parties will use the Change Control Procedure to agree any changes or additions to the subject matter, nature, purpose or type of Personal Data to be Processed under this Agreement.

Processor obligations

- 36.4 Where designated as a Processor or Sub-Processor of DCC under this Agreement (as the case may be), the Contractor shall:
- 36.4.1 Process the Personal Data only in accordance with documented instructions from the DCC and for the purposes of and in the manner permitted by this Agreement;
- 36.4.2 having regard to the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of the relevant Data Subjects, ensure that at all times it has in place appropriate technical and organisational measures to guard against accidental or unlawful loss, destruction, alteration or unauthorised disclosure of, or access to, the Personal Data transmitted, stored or otherwise processed, including the measures as are set out in Clause 35 (DCC Data), Clause 42 (Security Requirements) and the Security Management Plan;
- 36.4.3 taking into account the nature of the processing and the information available to the Contractor, assist the DCC in ensuring compliance with DCC's obligations in Articles 32-36 of the General Data Protection Regulation (or its national equivalent) including:
- (a) notifying DCC without undue delay if the Contractor becomes aware of a breach of the Data Protection Laws in relation to the Personal Data (including in the event of unauthorised access to such Personal Data); and

- (b) providing full details of the relevant breach where caused by the Contractor or any Sub-Contractor without undue delay, or, where necessary, in phases but always without further undue delay;

36.4.4 not disclose or transfer the Personal Data to any third party or Contractor Personnel, or allow a third party or Contractor Personnel access to the Personal Data, unless necessary for the provision of the Services and:

- (a) for any disclosure or transfer of Personal Data to any third party, with the prior written consent of the DCC;
- (b) where the Contractor wishes to appoint a sub-Processor, in compliance with Clause 28 (Supply Chain Rights) and any applicable conditions under such Clause 28 (Supply Chain Rights), provided any sub-Processor is subject to contractual terms which are identical to those set out in this Clause 36;

36.4.5 take all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that the Contractor Personnel:

- (a) are aware of and comply with the Contractor's duties under this Clause 36.4 and Clauses 37 (Confidentiality), 35 (DCC Data) and 42 (Security Requirements);
- (b) are subject to appropriate confidentiality undertakings with the Contractor or the relevant Sub-contractor;
- (c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the DCC or as otherwise permitted by this Agreement; and
- (d) have undergone adequate training in the use, care, protection and handling of personal data (as defined in the Data Protection Laws);

36.4.6 notify the DCC without undue delay (and wherever possible, in advance) if it:

- (a) receives from a Data Subject (or third party on their behalf):
 - (i) a Data Subject Access Request (or purported Data Subject Access Request);
 - (ii) a request to rectify, block or erase any Personal Data; or
 - (iii) any other request, complaint or communication relating to either Party's obligations under the Data Protection Laws;

- (b) Processes Personal Data otherwise than in accordance with this Agreement or Data Protection Laws;
- (c) considers that any of the instructions from the DCC or a Data Controller infringe or are likely to infringe the Data Protection Laws, giving full details of the actual or potential infringement;
- (d) receives any Regulator Correspondence or any other communication from the Information Commissioner or any other Regulatory Body in connection with Personal Data Processed under this Agreement;
- (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) is required by Law to commit an act or omission that would, but for Clause 36.4, constitute a breach of this Clause 36;


36.4.7 provide the DCC with full co-operation and assistance (within the timescales reasonably required by the DCC) in relation to either Party's obligations under the Data Protection Laws or any complaint, communication or request made as referred to in Clause 36.4.7, including by promptly providing:

- (a) the DCC with full details and copies of the complaint, communication or request;
- (b) where applicable, such assistance as is reasonably requested by the DCC to enable the DCC to comply with the Data Subject Access Request within the relevant timescales set out in the Data Protection Laws;
- (c) where applicable, such assistance as is reasonably requested by the DCC to enable the DCC to comply with any enquiry made or investigation or assessment initiated by the Information Commissioner and/or a Regulatory Body; and
- (d) the DCC, on request by the DCC, with any Personal Data it holds in relation to a Data Subject;

36.4.8 assistance following a security breach or incident involving Personal Data as reasonably required by the DCC including with respect to the DCC's consultation with the Information Commissioner's Office;

36.4.9 insofar as it relates to its Processing under this Agreement, maintain accurate and any other information or documentation necessary to demonstrate that it has and is complying with its obligations under this Clause 36 and the Data Protection Laws and make such records, information and documentation available to DCC or, at DCC's request, a Data Controller, promptly upon request; and



- 36.4.10 if requested by the DCC, provide a written description of the measures that it has taken and technical and organisational security measures in place, for the purpose of compliance with its obligations pursuant to this Clause 36.
- 36.5 The Contractor shall not Process or otherwise transfer any Personal Data in or to any Restricted Country without the DCC's prior written consent. If, after the Commencement Date, the Contractor or any Sub-contractor wishes to Process and/or transfer any Personal Data in or to any Restricted Country, the Contractor shall, in seeking consent, submit such information as the DCC shall reasonably require in order to enable it to consider the request and acknowledges that such consent may be given subject to conditions which will, if appropriate, be incorporated into this Agreement at the Contractor's cost and expense using the Change Control Procedure.
- 36.6 The Contractor shall (and shall ensure that its Sub-contractor shall) use all reasonable endeavours to assist the DCC to comply with any obligations under the Data Protection Laws and shall not perform its obligations under this Agreement in such a way as to cause the DCC to breach any of the DCC's obligations under the Data Protection Laws to the extent the Contractor is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations.
- 36.7 The Contractor shall permit the DCC to audit its compliance with this Clause 36 in accordance with Schedule 8.4 (*Records and Audit Provisions*).
- 36.8 

37. CONFIDENTIALITY **

- 37.1 This Clause 37 applies to Confidential Information disclosed by one Party (the "**Disclosing Party**") to the other (the "**Receiving Party**") under or in connection with this Agreement.
- 37.2 The Receiving Party shall only use the Confidential Information solely for the purposes of performing its obligations and exercising its rights in accordance with the terms of this Agreement.
- 37.3 The Receiving Party will exercise in relation to the Disclosing Party's Confidential Information a reasonable and appropriate degree of care and protection and not less than that which it exercises over its own Confidential Information.
- 37.4 The Receiving Party undertakes not to disclose any of the Disclosing Party's Confidential Information to any third party except that it may disclose such Confidential Information to its employees, professional advisors, agents or Sub-contractors but only to the extent necessary for

the exercise of its rights and the performance of its obligations under this Agreement. Notwithstanding the foregoing, the Contractor must not disclose the DCC's Confidential Information to any third party (including any affiliate of the Contractor or Sub-contractor) without the prior written consent of the DCC. The Receiving Party shall ensure that any third party to whom it discloses the Confidential Information shall be informed of the confidential nature of the information and be bound by obligations of confidentiality on terms no less onerous than those set out in this Agreement.

- 37.5 The Receiving Party undertakes to destroy or return (at the Disclosing Party's discretion) to the Disclosing Party all Confidential Information in its possession, custody or control on receipt of a request to that effect and, in any event, upon termination or expiry of this Agreement.
- 37.6 Without prejudice to any other rights or remedies that either Party may be entitled to, the Parties acknowledge that damages may not be an adequate remedy for breach of these confidentiality obligations and agree that both Parties will be entitled to seek the remedies of injunction, specific performance and any other available equitable relief for any threatened or actual breach.
- 37.7 The provisions of this Clause 37 are of indefinite duration but shall not apply to any Confidential Information:
 - 37.7.1 to the extent that it is or comes into the public domain otherwise than as a result of a breach of this Agreement by the Receiving Party;
 - 37.7.2 which the Disclosing Party confirms in writing is not required to be treated as Confidential Information and may be disclosed;
 - 37.7.3 which the Receiving Party can show by its written records was in its possession prior to receiving it from the Disclosing Party and which it had not previously obtained from the Disclosing Party or a third party on its behalf under an obligation of confidence;
 - 37.7.4 which has been independently developed by the Receiving Party without use of the Confidential Information;
 - 37.7.5 which is required to be disclosed by Applicable Law provided that if such Confidential Information is GB Restricted Information then the provisions of this Clause 37.7.5 shall only apply if disclosure is required to or by any British Regulatory Body, British law enforcement agency or other third party pursuant to Law applicable in Great Britain; or
 - 37.7.6 which is disclosed by the DCC in accordance with Clause 37.8.
- 37.8 Subject to Clause 37.10, the DCC may disclose (or permit the disclosure of) Contractor's Confidential Information (including Commercially Sensitive Information) to:
 - 37.8.1 any DCC Eco-System Entity other than a DCC Service Provider in relation to a DCC Purpose provided that such person(s) enters into

confidentiality obligations that are equivalent or offer no less protection to the Contractor than those set out in this Clause 37; or

37.8.2 any DCC Service User to the extent reasonably required in relation to any DCC Purpose and to extent required by the SEC or the DCC Licence or any other Mandatory Requirement; or

37.8.3 any person as reasonably required by the DCC for the exercise of its rights and remedies in connection with this Agreement provided that such person(s) enters into confidentiality obligations that are equivalent or offer no less protection to the Contractor than those set out in this Clause 37; or

37.8.4 any of the following persons:

- (a) Regulatory Bodies;
- (b) the Compliance Officer (as further described in Part B of Schedule 8.4 (*Records and Audit Provisions*)) solely in relation to any DCC Purpose;
- (c) any person as reasonably required by the DCC for the exercise of its rights and remedies in connection with Schedule 8.4 (*Records and Audit Provisions*);
- (d) any person as reasonably required by the DCC for the exercise of its rights and remedies in connection with Schedule 8.10 (*Enhanced Scrutiny and Step-in*);
- (e) any person to whom any rights or obligations of the DCC under this Agreement are or are to be assigned, novated or otherwise transferred in accordance with Clause 52 (*Assignment and Novation*) and/or any proposed or actual Successor Licensee solely in relation to any DCC Purpose; and/or
- (f) any Benchmarker for the purposes of a Benchmark Review under Schedule 7.3 (*Value for Money*),

37.9 Subject to Clause 37.10, the DCC may disclose (or permit the disclosure of) Contractor's Confidential Information (excluding Commercially Sensitive Information) to any DCC Service Provider in relation to a DCC Purpose provided that such person(s) enters into confidentiality obligations that are equivalent or offer no less protection to the Contractor than those set out in this Clause 37.

37.10 To the extent that the DCC discloses Contractor's Confidential Information pursuant to its rights under Clause 37.8 then the DCC shall be liable to the Contractor in damages for breach of contract in respect any breach of equivalent confidentiality obligations referred to in Clause 37.8 as if such breach were a breach by the DCC of this Clause 37.

37.11 For the purposes of this Clause 37 no Confidential Information shall be deemed to be in the public domain merely because such information is

embraced by more general information or, in the case of a complex body of information, because one or more elements of its are separately available in the public domain.

- 37.12 ****Notwithstanding anything else to the contrary in this Agreement, in the event the DCC is requested to disclose any information by the Authority in relation to the DCC Licence or the SEC, the Contractor acknowledges and accepts that this may include the Contractor's Confidential Information.**
- 37.13 The terms of this Clause 37 shall supersede and replace any non-disclosure agreement entered into between the Parties prior to the date of this Agreement.
- 37.14 All of the Contractor's obligations, duties and responsibilities under this Agreement relating to:
 - 37.14.1 the protection, security or maintenance of DCC Confidential Information and other Data (including DCC Data); and
 - 37.14.2 restrictions on the processing, storage, transmission or disclosure of DCC Confidential Information and other Data (including DCC Data),
 - 37.14.3 shall be construed as separate and cumulative obligations, duties and responsibilities. The rights of the Contractor (and Permitted Persons) to disclose DCC Confidential Information or other Data (including DCC Eco-System Data, DCC Data and/or Personal Data) set out in this Clause 37 are subject to all other applicable restrictions set out elsewhere in this Agreement, including Clause 36 (Protection of Personal Data).

38. RIGHT TO PUBLISH**

- 38.1 The Contractor acknowledges that DCC may be obliged to publish this Agreement in order to comply with the Mandatory Requirements. Both Parties agree to such publication and acknowledge that in this circumstance any Confidential Information would be redacted and the Contractor agrees to promptly agree reasonable redactions with DCC to enable this publication.

39. WARRANTIES

Mutual warranties

- 39.1 Each Party warrants, represents and undertakes as at the Commencement Date that:
 - 39.1.1 it has full capacity and authority to enter into and to perform this Agreement and it has (and shall have) undertaken all requisite corporate and other action to approve the signature and performance of this Agreement or any Change to it;
 - 39.1.2 this Agreement is executed by a duly authorised representative of that Party;



- 39.1.3 there are no actions, suits or proceedings or regulatory investigations pending or, to that Party's knowledge, threatened against or affecting that Party (and, in respect of the Contractor, any of its Sub-contractors) before any court or administrative body or arbitration tribunal that might affect the ability of that Party to meet and carry out its obligations under this Agreement (and, where applicable) the Contractor further warrants, represents and undertakes that the same is true in respect of each Sub-Contractor (if any) as at the Commencement Date); and
- 39.1.4 once duly executed, this Agreement will constitute its legal, valid and binding obligations.

Contractor warranties

39.2 The Contractor warrants and undertakes that:

39.2.1 it will ensure that the DCC (and/or its nominee) or the Replacement Contractor shall acquire title to any assets (including the DCC Assets) provided to the DCC (and/or its nominee) or the Replacement Contractor (as applicable);

- (a) in the course of the provision of the Services; or
- (b) in the event of the exercise of any of the options or offers to obtain all the rights, title and interest of the Contractor or any Contractor Person in and to any asset,

in each case with full title guarantee and free from all encumbrances and the DCC (and/or its nominee) or the Replacement Contractor shall have the right to quiet possession of such assets and such assets shall at that stage be in a condition consistent with the Contractor having complied with its obligations under this Agreement;

39.2.2 the Operations Manual contains all necessary information and explanation required for the purpose of executing the Exit Plan and for suitably qualified employees of the DCC and/or Replacement Contractor to be able to use the Software and receive the Services.

39.3 The Contractor warrants and undertakes that:

39.3.1 at the Commencement Date and that no Contractor Person is or shall be an Affiliate or a Related Undertaking to the Prime DSP;

39.3.2 it shall promptly notify the DCC if any Contractor Person becomes an Affiliate or a Related Undertaking of the Prime DSP;

39.3.3 it shall procure an undertaking from the Ultimate Parent Company of each Contractor Person (if any) that no company in the same Group as the Contractor Person shall be an Affiliate or a Related Undertaking of the Prime DSP;

39.3.4 if any Contractor Person comes under the Control of another organisation then the Contractor shall procure an undertaking from the Controlling organisation that no company in the same Group as the

Contractor Person is or shall be an Affiliate or a Related Undertaking of the Prime DSP; and

- 39.3.5 no Contractor Personnel has been, is or shall be engaged in the development or customisation of Hardware or Software in respect of the Transitional Change of Supplier within the period from 29 January 2019 until the expiry or termination of this Agreement.

General

- 39.4 Except as expressly stated in this Agreement, all warranties and conditions (whether express or implied by statute, common law or otherwise) are hereby excluded to the extent permitted by Law.
- 39.5 The fact that any provision in this Agreement is expressed as a warranty shall not preclude any rights of termination the DCC may have in respect of breach of that provision by the Contractor.
- 39.6 If at any time a Party becomes aware that a representation or warranty given by it under this Agreement has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.

40. IPR INDEMNITIES

- 40.1 Subject to Clauses 40.2 and 40.4 to 40.8, the DCC shall indemnify and keep indemnified the Contractor at all times against any Losses incurred by the Contractor in connection with any Claim that the use of any DCC IPR permitted under this Agreement infringes the IPR of a third party ("**DCC IPR Claim**").
- 40.2 Subject to Clauses 40.4 to 40.8, the DCC shall indemnify and keep indemnified the Contractor at all times against any Losses incurred by the Contractor in connection with any Claim that the use of any DCC Service Provider IPR permitted under this Agreement in so far as such DCC Service Provider IPR is required to be used by the Contractor for the delivery of the Services, infringes the IPR of a third party ("**DCC Service Provider IPR Claim**") provided always that the DCC's liability under this Clause 40.2 shall be limited to those Losses of the Contractor which the DCC is able to recover from the relevant DCC Service Provider.
- 40.3 Subject to Clauses 40.4 to 40.8, the Contractor shall indemnify and keep indemnified the DCC (and each of the DCC Eco-System Entities) at all times against any Losses incurred by the DCC (and all DCC Eco-System Entities) in connection with any claim that the Project Specific IPR or the use of any Contractor IPR or any Third Party IPR provided as part of the Services infringes the IPR of a third party ("**Contractor IPR Claim**").
- 40.4 The Indemnified Party shall:
- 40.4.1 promptly notify the Indemnifying Party in writing of any Claim under this Clause 40;

- 40.4.2 allow the Indemnifying Party, at its own expense, to conduct all negotiations and proceedings regarding the Claim;
- 40.4.3 provide the Indemnifying Party with such assistance (at the Indemnifying Party's cost) as is reasonably required by the Indemnifying Party regarding the Claim; and
- 40.4.4 not, without first consulting the Indemnifying Party, make any admission of liability relating to the Claim.
- 40.5 Failure by the Indemnified Party to comply with Clause 40.4 shall not relieve the Indemnifying Party of any of its obligations under Clauses 40.1 to 40.3 (inclusive).
- 40.6 If a Claim is made, or the Indemnifying Party anticipates that a Claim might be made, the Indemnifying Party may, at its option, either:
 - 40.6.1 procure for the Indemnified Party the right to continue to use the IPR which is the subject matter of the Claim ("**Infringing Item**"); or
 - 40.6.2 replace or modify the Infringing Item with non-infringing substitutes.
- 40.7 Unless otherwise agreed by the Parties in writing, the terms of the Agreement shall apply equally to the replaced or modified substitute as they did to the original Infringing Item.
- 40.8 The Indemnifying Party shall:
 - 40.8.1 conduct such Claim with due diligence and propriety and in such a way as not to bring the reputation or good name of the Indemnified Party into disrepute. In this regard it shall take into account and action any reasonable comments made by the Indemnified Party;
 - 40.8.2 use commercially reasonable efforts to mitigate any Claim;
 - 40.8.3 keep the Indemnified Party informed in writing of developments in the litigation or negotiations; and
 - 40.8.4 not make any admissions or otherwise take or fail to take any action which would be prejudicial to the Indemnified Party.

41. General Indemnities

- 41.1 The Contractor shall indemnify and keep indemnified the DCC at all times against any Losses incurred by the DCC in connection with:
 - 41.1.1 Clause 6.1.2 (Mandatory Requirements);
 - 41.1.2 Clause 18 (Independence and Non-Discrimination Obligations);
 - 41.1.3 Clause 29 (Contractor Personnel);
 - 41.1.4 Clause 36 (Protection of Personal Data);

- 41.1.5 Clause 37 (Confidentiality);
 - 41.1.6 Clause 42 (Security Requirements);
 - 41.1.7 Clause 55 (Prevention of Corruption);
 - 41.1.8 Clause 39.3 (Warranties);
 - 41.1.9 loss of or damage incurred by the DCC arising out of or in connection with any Claim under the SEC for loss of or damage to physical property (including loss of or damage to Devices, Systems and loss or corruption of Data) as a result of any breach by the Contractor of this Agreement;
 - 41.1.10 any fines, charges, penalties or other punitive amounts imposed on the DCC by any Regulatory Body as a result of any breach by the Contractor of this Agreement; or
 - 41.1.11 Losses incurred or suffered by the DCC (including without limitation, the ECoS Incentivised Milestone Payments) arising from the DCC's failure to meet any ECoS Incentivised Milestone(s) arising from (in whole or in part) the Contractor's default.
- 41.2 For the avoidance of doubt, this Clause 41 is without prejudice to the Contractor's indemnity in respect of Tax at Paragraph 1.5 of Part A of Schedule 7.1 (*Charges and Payments*).

42. SECURITY REQUIREMENTS **

- 42.1 The Parties shall comply with their respective obligations, and may exercise their rights, under Schedule 2.5 (*Security Management Plan*).

43. BUSINESS CONTINUITY AND DISASTER RECOVERY **

- 43.1 The Parties shall comply with their respective obligations, and may exercise their rights, under Schedule 8.6 (*Business Continuity and Disaster Recovery Plan*).

44. FORCE MAJEURE

- 44.1 Subject to the remaining provisions of this Clause 44, either Party may claim relief from liability for non-performance of its obligations under this Agreement to the extent such non-performance is due to a Force Majeure Event. If the Affected Party has complied with its obligations in Clause 44.3.4 then:
 - 44.1.1 those dates in the Implementation Plan (which shall include Milestone Dates) directly affected by the Force Majeure Event shall be postponed by such time as shall be reasonable, taking into account the likely effect of the delay;
 - 44.1.2 the Affected Party shall be relieved of liability under this Agreement to the extent to which that liability would otherwise have arisen solely as a result of the Force Majeure Event (in particular, the Contractor shall

be relieved from its Service Credits obligation to the extent that the Services are so affected by the Force Majeure Event and the DCC shall be relieved of any obligations that would otherwise have arisen on the occurrence of a DCC Cause or Other Service Provider Cause); and

- 44.1.3 the Charges in respect of any Services not actually delivered solely as a result of Force Majeure Event shall continue unaffected.
- 44.2 An Affected Party cannot claim any relief from liability under this Clause 44:
 - 44.2.1 in relation to its wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event;
 - 44.2.2 in relation to any circumstances resulting from a failure or delay by any other person in the performance of that person's obligations under a contract with the Affected Party (unless that person is itself prevented from or delayed in complying with such obligations as a result of a Force Majeure Event); and/or
 - 44.2.3 as a result of any shortage of labour, material or other resources unless caused by circumstances which are themselves a Force Majeure Event,

and in any event, the Contractor shall not be entitled to relief under this Clause 44 if and to the extent that it is required to comply with the BCDR Plan but has failed to do so (unless such failure is also due to a Force Majeure Event affecting the operation of the BCDR Plan).

- 44.3 The Affected Party shall as soon as practicable and in any event within five (5) days, give the other party written notice of the occurrence of a Force Majeure Event. The notification shall include full details of:
 - 44.3.1 the Force Majeure Event;
 - 44.3.2 the effect of the Force Majeure Event on the obligations of the Affected Party under this Agreement;
 - 44.3.3 the action which the Affected Party is taking, or proposes to take, in order to mitigate the effect of the Force Majeure Event; and
 - 44.3.4 any relief that the Affected Party wishes to claim under this Clause 44 in relation to the Contractor shall demonstrate to the satisfaction of the DCC (acting reasonably) that:
 - (a) the Force Majeure Event directly caused the non-performance of obligations for which relief is claimed;
 - (b) the Contractor could not have avoided or overcome the occurrence of the Force Majeure Event (or its consequences) by taking steps which the Contractor:

- (i) was required to take, or procure, under this Agreement or any relevant Co-operation Agreement; or
- (ii) might reasonably be expected to have taken in accordance with Good Industry Practice; and
- (c) the Contractor is taking all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event on the performance of its obligations under this Agreement.

44.4 As soon as practicable following the occurrence of any Force Majeure Event, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate arrangements to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Agreement.

44.5 The Affected Party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Agreement. Following such notice, this Agreement shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event (unless agreed otherwise by the Parties in accordance with the Change Control Procedure).

44.6 Except as provided in Clause 47.2 (Termination for continuing Force Majeure), and Schedule 8.10 (*Enhanced Scrutiny and Step-in*) the rights and relief set out in Clause 44 shall be the Affected Party's sole and exclusive remedy in respect of any Force Majeure Event and each party waives all rights to claim:

44.6.1 any other extension or allowance of time;

44.6.2 any other relief from its obligations under this Agreement;

44.6.3 any other payment or compensation whatsoever (including for breach of contract or in tort or negligence or under any other legal theory); and/or

44.6.4 to be entitled to terminate this Agreement,

in respect of any Force Majeure Event and neither party shall have any liability to the other in relation to any Loss or Claim which the other party suffers or incurs as a result of any Force Majeure Event.

45.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

45.1.3 [Redacted]

45.1.4 [Redacted]

45.1.5 [Redacted]

45.1.6 [Redacted]

45.2 The Contractor's liability in respect of:

45.2.1 [Redacted]

45.2.2 [Redacted]

45.2.3 [Redacted]

45.2.4 [Redacted]

45.2.5 [Redacted]

45.3 [Redacted]

45.4 The DCC's liability:

45.4.1 [Redacted]

45.4.2 [Redacted]

45.5 [Redacted]

[Redacted]

[Redacted]

45.6

[Redacted]

45.7

[Redacted]

45.8

[Redacted]

45.8.1

[Redacted]

45.8.2

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45.8.3

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45.8.4

[Redacted]

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45.8.6

[Redacted]

45.8.7

[Redacted]

[Redacted]

45.8.8 [REDACTED]

45.9 [REDACTED]

45.10 [REDACTED]

45.11 [REDACTED]

45.12 [REDACTED]

45.13 [REDACTED]

46. INSURANCE

46.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 2.6 (*Insurance*).

47. TERMINATION RIGHTS

47.1 Subject to: (i) Clause 12 (*Relief Event*); and (ii) save where a breach is incapable of remedy, Clause 10 (*Rectification Plan*), the DCC may terminate this Agreement in whole or in part on written notice and without liability to the Contractor in the event of:

47.1.1 a Contractor Event of Default;

[REDACTED]

- 47.1.2 an Insolvency Event in respect of the Contractor and/or the Guarantor; or
- 47.1.3 a Guarantor Event of Default.
- 47.2 If a Force Majeure Event continues for a continuous period of more than one hundred and eighty (180) days, the DCC may, by written notice to the Contractor, immediately terminate without liability to the Contractor this Agreement or any affected Work Package.
- 47.3 The DCC may terminate this Agreement in whole or in part for convenience by giving the Contractor not less than six (6) month's prior written notice (a "**Termination for Convenience Notice**"). Subject to any obligation to provide the Services in accordance with the Exit Plan, the Contractor's obligation to provide the Services shall end on the date set out in the Termination for Convenience Notice. If the DCC exercises its right to serve a Termination for Convenience Notice then, unless otherwise stipulated by the DCC in the Termination for Convenience Notice, any Services that have not commenced at the date of receipt of the Termination for Convenience Notice by the Contractor shall be cancelled automatically and irrevocably.
- 47.4 The Contractor acknowledges that the DCC Licence expires on 22 September 2025 ("**Licence Expiry Date**"). In the event that the DCC Licence is not extended and this Agreement is not novated to the Successor Licensee pursuant to Clause 52.3.1 then the DCC may terminate this Agreement on not less than six (6) month's prior written notice to the Contractor. Notwithstanding any obligations in the Exit Plan, the Contractor's obligation to provide the Services shall end on the Licence Expiry Date.
- 47.5 Subject to Clauses 47.6 and 47.7, the Contractor may terminate this Agreement if a DCC Event of Default occurs provided that the Contractor has complied with the provisions of this Clause 47.5:
- 47.5.1 Following the occurrence of a DCC Event of Default, the Contractor shall notify the DCC in writing setting out full details of the DCC Event of Default and the measures required to rectify the DCC Event of Default ("**DCC Default Notice**");
- 47.5.2 If the DCC Event of Default has not been rectified within sixty (60) days of receipt of the DCC Default Notice then the Contractor may suspend delivery of the Services;
- 47.5.3 If the DCC has not rectified within ninety (90) days of receipt of the DCC Default Notice then the Contractor may issue the DCC a further notice stating the date it intends to terminate the Services (or a part thereof) unless the DCC Event of Default is remedied ("**Contractor Termination Notice**"). Such date shall be no earlier than thirty (30) days after the date of receipt of the Contractor Termination Notice by the DCC; and
- 47.5.4 If the DCC has not remedied the DCC Event of Default within the time period specified in the Contractor Termination Notice then the part of

this Agreement affected by the DCC Event of Default shall terminate on the date specified in the Contractor Termination Notice.

- 47.6 If the DCC Event of Default relates to a matter that has been referred to the Dispute Resolution Procedure then the Contractor shall not be able to issue a DCC Default Notice until such the Dispute Resolution Procedure has determined the Dispute.
- 47.7 If the Services are delivered in separate Work Packages then the Contractor may only issue a DCC Default Notice in respect of such Work Package(s) to which the DCC Event of Default applies and accordingly the Agreement will only terminate in respect of the part to which the DCC Event of Default applies. The Charges in respect of any Work Package(s) that are not terminated shall be calculated in accordance with Clause 48 and the Schedule 8.2 (*Change Control Procedure*).
- 47.8 In respect of any breach by the Contractor of Clause 39.3 and as an alternative remedy to termination pursuant to Clause 47.1, where the Contractor or any Affiliate of the Contractor or any company Controlling the Contractor acquires an interest in the Prime DSP, the Contractor shall:
- 47.8.1 If requested by the DCC, divest of any interest in the Prime DSP held by the Contractor;
- 47.8.2 If requested by the DCC, procure that the Contractor's Affiliate or the company Controlling the Contractor divests of any interest in the Prime DSP held by the same,

such divestment shall occur as soon as reasonably practicable and not more than six (6) months after the date of the breach.

- 47.9 The right of termination set out in this Clause 47 is in addition to any other rights of the DCC (or any Successor Licensee) under this Agreement and its exercise shall be without prejudice to any Claim, remedy or right of action that either party may have in relation to this Agreement.
- 47.10 The Contractor shall not exercise, or purport to exercise, and hereby expressly waives, any and all rights or causes of action howsoever arising (whether under the terms of this Agreement or otherwise) to terminate this Agreement or suspend any Services or the performance of any obligations (or accept any repudiation of this Agreement) except as expressly set out in Clause 47.4. Any exercise of such rights or causes or action shall not affect the Contractor's continuing obligations under Clause 48 (Consequences of Expiry or Termination), the provision of any Termination Assistance Services and fulfilment of all other obligations of the Contractor expressed as surviving any termination of this Agreement.

48. CONSEQUENCES OF EXPIRY OR TERMINATION

General

- 48.1 The expiry or termination (however arising) of this Agreement shall be without prejudice to any accrued rights and obligations of the Parties under this Agreement as at the date of expiry or termination.
- 48.2 Following the service of a Termination Notice for any reason the Contractor shall continue to be under an obligation to provide the Services so as to achieve the applicable Performance Measures and to ensure that there is no degradation in the standards of the Services until the end of the Term (subject to Schedule 8.5 (*Exit*) (including, in particular, Parts E and F)).
- 48.3 On the Termination Date and except as provided in this Clause 48, all rights and obligations of the DCC and the Contractor under this Agreement shall cease and be of no further force and effect.
- 48.4 The Contractor shall:
- 48.4.1 promptly (and, in any event, within thirty (30) days after the Termination Date) reimburse the DCC for all Charges paid by the DCC in advance in respect of any Services not provided by the Contractor as at the Termination Date;
- 48.4.2 comply with its applicable obligations contained in the Exit Plan, Clause 49, Schedule 8.5 (*Exit*) and Schedule 9.1 (*TUPE*);
- 48.4.3 subject to the content of the Exit Plan, cease to use the DCC Data and, at the direction of the DCC, provide the DCC and/or the Replacement Contractor with a complete and uncorrupted version of the DCC Data and in electronic form in the formats and on media agreed with the DCC and/or the Replacement Contractor or as specified in the Information Assets Register;
- 48.4.4 comply with its obligations in Clause 37.5.
- 48.5 The Contractor shall provide access during normal working hours to the DCC and/or the Replacement Contractor for up to twelve (12) months after the Termination Date to:
- 48.5.1 such information relating to the Services as remains in the possession or control of the Contractor; and
- 48.5.2 such members of the Contractor Personnel as have been involved in the design, development and provision of the Services in the previous 18 months prior to the Termination Date (or at any time thereafter) and who are still employed by the Contractor,
- provided that the DCC and/or the Replacement Contractor shall pay the reasonable costs of the Contractor actually incurred in responding to requests for access under this Clause 48.5.
- 48.6 Further to Clause 28 (Supply Chain Rights) and Schedule 4.3 (*Sub-contractors*), the Contractor shall procure the prompt assignment, novation or transfer of its rights and/or obligations under any Key Sub-

contract (if and to the extent requested by the DCC) to the DCC or any Replacement Contractor.

- 48.7 Save in respect of any Termination Payments due to the Contractor pursuant to Schedule 7.2 (*Payments on Termination*), any payments due in accordance with Schedule 8.5 (*Exit*) and Charges or other amounts properly due up to the Termination Date, the DCC shall not make any payment to the Contractor on termination of this Agreement.
- 48.8 The provisions of Clauses 1 (Interpretation and Definitions); 3 (Due Diligence); 5 (DCC Objectives); 18 (Independence and Non-Discrimination Obligations); 19 (Co-operation with Third Parties); 20 (Charging and Invoicing); 25 (Records and Audits); 27 (Dispute Resolution Procedure); 30 (Staff Transfer); 33 (Non-solicitation); 34 (Intellectual Property Rights); 35 (DCC Data); 36 (Protection of Personal Data); 37 (Confidentiality); 39.2 and 39.3 (Contractor Warranties); 40.3 (Contractor's IPR indemnity); 45 (Limitations on Liability); 46 (Insurance); 48 (Consequences of Termination Expiry or Termination); 49 (Exit Management); 53 (Waiver and Cumulative Remedies); 54 (Relationship of the Parties); 56 (Publicity and Branding); 57 (Severance); 58 (Further Assurance); 59 (Entire Agreement); 60 (Third Party Rights); 61 (Notices); 64 (Governing Law and Jurisdiction) and the provisions of Schedules 1 (*Interpretations and Definitions*), Schedule 5.1 (*Intellectual Property Rights*), Schedule 7.1 (*Charges and Payment*) and Schedule 8.5 (*Exit*), shall (together with any other provision expressed or implied to survive or otherwise give effect to such termination or expiry of the consequences of such termination or expiry) survive the termination or expiry of this Agreement.

Partial Termination

- 48.9 Where this Agreement terminates in part (Partial Termination), the provisions of this Clause 48 and all related provisions shall be construed to apply to the part of the Agreement terminating and (subject to earlier termination in accordance with its provisions) the remainder of the Agreement shall continue unaffected.
- 48.10 Except where the effect of any Partial Termination has been expressly specified in this Agreement, the Parties shall agree any Change(s) necessary to this Agreement as a result of any Partial Termination (including in relation to the effect of the Partial Termination on the Charges for any continuing Services) in accordance with the Change Control Procedure, provided that:
- 48.10.1 if the Partial Termination arises pursuant to Clause 47.1 then the Contractor shall:
- (a) not be entitled to an increase in the Charges in relation to the Change; and
 - (b) bear its own costs associated with the preparation, negotiation and finalisation of an Impact Assessment;

48.10.2 any increase to the Charges (if any) shall not be unreasonable and in any event shall be calculated in accordance with the Financial Model; and

48.10.3 the Contractor shall not be entitled to reject any Change Request or Change consistent with this Clause 48.10.

49. EXIT MANAGEMENT

49.1 The Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.5 (*Exit*).

50. NON EXCLUSIVITY

50.1 The Contractor agrees that:

50.1.1 it is not the exclusive or sole supplier of the Services to the DCC and any other DCC Eco-System Entity; and

50.1.2 DCC may, at any time, obtain from a third party, or perform itself, services of the same or similar nature as the Services, including without prejudice to the generality of the foregoing, when exercising its rights under Schedule 8.10 (*Enhanced Scrutiny and Step-in*) or Schedule 8.2 (*Change Control*).

50.2 If the DCC exercises its rights under Clause 50.1.2 the Contractor shall give the DCC such assistance and co-operation that the DCC (or any DCC Service Provider) may reasonably require (including without limitation, any obligations under Schedule 8.7 (*Co-operation Agreement*)) to ensure consistency and interoperability of such services with the Services. This shall include: attendance at meetings; testing; provision and/or review of documentation, data, reports or other information; in respect of any software developed by the DCC or a DCC Service Provider, technical design service, configuration management, release management, application support services, ad hoc testing and acceptance testing.

50.3 To the extent that any obligations arising pursuant to Clause 50.2 are additional to the requirements set out in Schedule 2.1 (*DCC Requirements*), then Schedule 8.2 (*Change Control*) shall apply. If the DCC disputes that any obligations are additional or the Parties are unable to agree the Change Request, then either Party may refer to the Dispute Resolution Procedure. The DCC reserves the right to require the Contractor to comply with Clause 50.2 pending the determination of the Dispute Resolution Procedure. The Contractor's only right to any additional costs in respect of its obligations under this Clause 50 shall be pursuant to this Clause 50.3.

51. ENHANCED SCRUTINY AND STEP-IN RIGHTS

51.1 Without prejudice to the DCC's other rights and remedies (including the right to terminate), the Parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.10 (*Enhanced Scrutiny and Step-in*).

52. ASSIGNMENT AND NOVATION **

- 52.1 Subject to Clause 52.2, the Contractor shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights and obligations under this Agreement without the prior written consent of the DCC.
- 52.2 The Contractor may novate its rights and obligations under this Agreement to another member of the Contractor Entity with the prior written consent of the DCC (such consent not to be unreasonably withheld or delayed).
- 52.3 The Contractor agrees that the DCC may:
- 52.3.1 assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement and any associated third party licences to any Successor Licensee; or
- 52.3.2 in the event that the DCC wishes to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement other than in accordance with Clause 52.3.1, the Contractor shall promptly enter into good faith negotiations with the DCC and use all reasonable endeavours to reach Agreement with the DCC on the terms of a disposal. The Contractor shall not unreasonably withhold or delay its consent to any proposed disposal.
- 52.4 Any novation to a Successor Licensee shall be on terms that are substantially the same as those set out in Schedule 2 of the DCC Licence (unless the Parties otherwise agree).
- 52.5 A change in the legal status of the DCC shall not affect the validity of this Agreement and this Agreement shall be binding on any successor body to the DCC.

53. WAIVER AND CUMULATIVE REMEDIES

- 53.1 Any failure to exercise or any delay in exercising a right or remedy provided by this Agreement or at law or in equity (and/or the continued performance of this Agreement) will not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. A waiver of a breach of any of the terms of this Agreement will not constitute a waiver of any other breach and will not affect the other terms of this Agreement.
- 53.2 The rights and remedies provided by this Agreement are cumulative and (except as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided at law or in equity.

54. RELATIONSHIP OF THE PARTIES

- 54.1 Nothing in this Agreement is intended to create a partnership or joint venture of any kind between the Parties, or to authorise either Party to act as agent for the other. Except where expressly so stated in this Agreement neither Party will have authority to act in the name or on behalf of or otherwise to bind the other.

55. PREVENTION OF CORRUPTION **

- 55.1 The Contractor warrants and undertakes to the DCC that the Contractor (and all Contractor Persons) shall:
- 55.1.1 comply with all Laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");
 - 55.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 55.1.3 have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the relevant policies and this Clause 55.1, and will enforce them where appropriate;
 - 55.1.4 immediately notify the DCC if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor (and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement); and
 - 55.1.5 procure that its officers, agents and Contractor Persons shall comply with the DCC's policy on bribery and corruption (as amended from time to time) a copy of which shall be provided to the Contractor upon request.
- 55.2 Breach of the Relevant Requirements by any Contractor Person shall be deemed a material breach incapable of remedy for the purposes of Clause 47.1 and if the DCC terminates this Agreement pursuant to this breach then the Contractor shall not be entitled to claim compensation or any further remuneration from the DCC, regardless of any activities carried out or agreements with third Parties entered into before termination of this Agreement.
- 55.3 For the purpose of this Clause 55, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

56. PUBLICITY AND BRANDING

- 56.1 The Contractor shall not:
- 56.1.1 make or permit or procure to be made any public or press announcements (whether for publication in the press, the radio, television, the internet or any other medium) or disclosure or other form of publicity in respect of this Agreement, its contents or any matters

relating thereto in any way, including its interest in the Services or any matters relating thereto; or

- 56.1.2 use the DCC's name or brand in any promotion or marketing or announcements of orders,
- 56.1.3 without the prior written consent of the DCC, which shall not be unreasonably withheld or delayed.
- 56.2 Nothing in this Agreement (either expressly or by implication) constitutes an endorsement of any products or services of the other Party (including the Services and the DCC Environment) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.
- 56.3 The Contractor shall:
 - 56.3.1 not (and ensure that any Contractor Person shall not) bring the DCC, Smart Metering Programme or any DCC Eco-System Entity into disrepute or damage the public image, reputation or goodwill of the DCC, the Smart Metering Programme or any DCC Eco-System Entity;
 - 56.3.2 notify the DCC promptly (and in any event within two (2) Business Days of becoming aware) of any breach of this Clause 56.3; and
 - 56.3.3 within fifteen (15) Business Days of receiving notice (or, if earlier, becoming aware of) any breach of Clause 56.3, procure that procedures are implemented which are likely to the reasonable satisfaction of the DCC to prevent a repetition or the continuance of such breach and which mitigates so far as practicable the damage caused by such breach.

57. SEVERANCE

- 57.1 If any provision of this Agreement will be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this Agreement which will remain in full force and effect.
- 57.2 If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question will apply with such modification(s) as may be necessary to make it valid.
- 57.3 The Parties agree, in the circumstances referred to in Clause 57.1 and if Clause 57.2 does not apply, to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision. The obligations of the Parties under any invalid or unenforceable provision of this Agreement will be suspended while an attempt at such substitution is made.

58. FURTHER ASSURANCE



58.1 Each Party will at the request of the other Party at its own costs do (or procure others to do) everything commercially reasonably necessary to give the other the full benefit of this Agreement and for vesting in the DCC the full benefit of the assets, rights and benefits to be transferred to it under this Agreement.

59. ENTIRE AGREEMENT

59.1 This Agreement, together with the documents referred to in it, constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes any previous agreement between the Parties relating to such matters notwithstanding the arrangement expressed to survive termination.

59.2 Each of the Parties represents and agrees that in entering this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. The Contractor gives up any rights against the DCC regarding any warranty or representation except in respect of any warranty or representation expressly made in this Agreement.

59.3 Except for those expressly set out in this Agreement, all warranties, conditions, representations and undertakings (including without limitation any and all warranties, conditions, representations and undertakings implied by statute, common law or otherwise) are excluded to the fullest extent permitted by law.

60. THIRD PARTY RIGHTS

60.1 Save as provided in Clause 60.3, a person who is not a party to this Agreement will have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.

60.2 In respect of all substantive (but not procedural) rights or remedies provided by common law or statute (including in tort or delict, but without prejudice to contractual rights or remedies) in respect of loss of or damage to physical property (including loss of or damage to Systems, and loss or corruption of data) arising in relation to the subject matter of the SEC, the Contractor hereby waives and releases (to the fullest extent possible at law) such rights and remedies in respect of such loss or damage as the Contractor may otherwise have against the SEC Parties other than DCC in their capacity as such (and/or against the contractors, employees and agents of such Parties in their capacity as such). The SEC Parties may enforce the terms of this Clause 60.2 subject to and in accordance with the provisions of this Agreement and the Contracts (Rights of Third Parties) Act 1999.

60.3 Notwithstanding Clause 60.2, it is expressly agreed that the Parties may by agreement rescind or vary this Agreement or any term of this Agreement (including Clause 60.2) without the consent of any third party who has the right to enforce this Agreement or the term in question,

notwithstanding that such rescission or variation may extinguish or alter that third party's entitlement under that right.

61. NOTICES

61.1 Any notice or other communication required to be given under this Agreement, shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each Party required to receive the notice or communication as set out below:

61.1.1 DCC: ECoS Contract Manager, Smart DCC, Ibex House, 42-47 Minories, London EC3N

61.1.2



or as otherwise specified by the relevant Party by notice in writing to each other Party.

61.2 Any notice or other communication shall be deemed to have been duly received:

61.2.1 if delivered personally, when left at the address and for the contact referred to in this Clause;

61.2.2 if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second (2nd) Business Day after posting;

61.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or

61.2.4 if delivered by e-mail, at the time of transmission.

61.3 A notice or other communication required to be given under this Agreement shall be validly given if sent by e-mail.

61.4 The provisions of this Clause shall not apply to the service of any proceedings or other documents in any legal action.

62. COSTS AND EXPENSES

62.1 Each Party shall bear its own costs and expenses (including legal fees) in relation to the preparation, and execution of this Agreement.

63. COUNTERPARTS

63.1 This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, will be an original, and all the counterparts together will constitute one and the same instrument.

64. GOVERNING LAW AND JURISDICTION

64.1 This Agreement, and the relationship between the Parties, shall be governed by the laws of England and each Party agrees that all disputes arising out of or in connection with this Agreement, and/or with its negotiation, validity or enforceability, and/or the relationship between the Parties, (in each case whether or not regarded as contractual claims) shall be exclusively governed by and determined in accordance with English law. Each Party expressly submits to the exclusive jurisdiction of the English Courts.

IN WITNESS of which this Agreement has been duly executed by the Parties.



Signed by:

[Redacted Signature]

Print Name.....

[Redacted Name]

Director or Authorised Signatory, for and on behalf of **SMART DCC LIMITED**

Signed by:

.....

Print Name.....

Director or Authorised Signatory, for and on behalf of **CRITICAL SOFTWARE TECHNOLOGIES LIMITED**

DCC - CONFIDENTIAL

Signed by:

.....

Print Name.....

Director or Authorised Signatory, for and on behalf of **SMART DCC LIMITED**

Signed by:



Print Name.. 

Director or Authorised Signatory, for and on behalf of **CRITICAL SOFTWARE TECHNOLOGIES LIMITED**

DCC - CONFIDENTIAL


SCHEDULE 1
INTERPRETATION AND DEFINITIONS

PART A: INTERPRETATION AND DEFINITIONS

1. INTERPRETATION

- 1.1 In this Agreement (except where the context otherwise requires):
- 1.1.1 capitalised expressions shall have the meanings set out in SCHEDULE 1 (*Interpretation and Definitions*);
 - 1.1.2 use of the singular includes the plural (and *vice versa*) and use of any gender includes the other genders;
 - 1.1.3 a reference to a Party is to a party to this Agreement and shall include that Party's personal representatives, successors or permitted assignees;
 - 1.1.4 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;
 - 1.1.5 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;
 - 1.1.6 a reference to persons includes natural persons, firms, partnerships, bodies corporate and corporations, and associations, organisations, governments, states, foundations, trusts and other unincorporated bodies (in each case whether or not having separate legal personality and irrespective of their jurisdiction of origin, incorporation or residence); and
 - 1.1.7 a reference to a Clause or Schedule is to the relevant recital or clause of or schedule to this Agreement; a reference to a sub-clause or paragraph is to the relevant sub-clause or paragraph of the Clause or Schedule in which it appears.
- 1.2 The Schedules form an integral part of this Agreement and have effect as if set out in full in the body of this Agreement. A reference to this Agreement includes the Schedules.
- 1.3 The table of contents and headings are included for convenience only and will not affect the construction or interpretation of this Agreement.
- 1.4 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 6.1.2 (*Mandatory Requirements*), Clause 13 (*Contractor Cooperation and Assistance*) and provisions in relation to Change in Mandatory Requirements elsewhere in the Agreement. For the avoidance of doubt, references to Standards in this Agreement refer to the latest version as updated from time to time 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.

- 1.5 References to a public organisation or Regulatory Body (including BEIS, 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.
- 1.6 Without limiting the Contractor's obligations pursuant to Clause 6.1.2 (*Mandatory Requirements*), if there is any conflict or inconsistency between any of the Clauses, the Schedules, any Appendices or Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:
 - 1.6.1 the Clauses and Schedule 1 (*Interpretation and Definitions*);
 - 1.6.2 Schedule 2.5 (*Security Management Plan*) and its Appendices and Annexes;
 - 1.6.3 Schedule 8.6 (*Business Continuity and Disaster Recovery Plan*) and its Appendices and Annexes;
 - 1.6.4 Schedule 8.5 (*Exit*) and its Appendices and Annexes;
 - 1.6.5 Schedule 6.1 (*Implementation Planning*) and its Appendices and Annexes;
 - 1.6.6 Schedule 6.2 (*Testing and Acceptance*) and its Appendices and Annexes;
 - 1.6.7 Schedule 2.1 (*DCC Requirements*) and Schedule 2.2 (*Performance Measures and Monitoring*) and their Appendices and Annexes;
 - 1.6.8 the Relevant Documents;
 - 1.6.9 the remaining Schedules and their Appendices and Annexes; and
 - 1.6.10 Schedule 4.1 (*Contractor Solution*) and its Appendices and Annexes.
- 1.7 If:
 - 1.7.1 the Contractor becomes aware of any conflict or inconsistency between a Relevant Document, Schedule 2.1 (*DCC Requirements*) and Schedule 4.1 (*Contractor Solution*), the Contractor shall as soon as reasonably practicable (and in any event within ten (10) Business Days) notify the DCC of such conflict or inconsistency; or
 - 1.7.2 the DCC becomes aware of any conflict or inconsistency between a Relevant 

Document, Schedule 2.1 (*DCC Requirements*) and Schedule 4.1 (*Contractor Solution*), the DCC may notify the Contractor of such conflict or inconsistency, and

the Contractor shall, if the DCC so requests, amend the Relevant Document, Schedule 2.1 (*DCC Requirements*) and/or Schedule 4.1 (*Contractor Solution*) to address the conflict or inconsistency at no cost to the DCC.

- 1.8 Notwithstanding paragraph 1.6, where a Relevant Document, Schedule 2.1 (*DCC Requirements*) or Schedule 4.1 (*Contractor Solution*) contains provisions which are more favourable to the DCC in relation to the rest of the Agreement, such provision of the Relevant Document, Schedule 2.1 (*DCC Requirements*) or Schedule 4.1 (*Contractor Solution*) shall prevail. The DCC shall have the absolute right to determine whether any provision in a Relevant Document, Schedule 2.1 (*DCC Requirements*) or Schedule 4.1 (*Contractor Solution*) is more favourable to it in relation to this Agreement.
- 1.9 Except as expressly stated in this Agreement, the Contractor acknowledges and accepts that any consent, approval, agreement or acceptance (including in relation to any document, proposal or other matter) by any DCC Eco-System Entity shall:
- 1.9.1 not act as an endorsement of any matter;
 - 1.9.2 not relieve the Contractor of its responsibility for ensuring that the Services are provided in accordance with the requirements of this Agreement;
 - 1.9.3 not give rise to any rights of estoppel or waiver; and
 - 1.9.4 not relieve the Contractor of any other obligation under this Agreement, except as otherwise expressly stated by the DCC in writing therein with reference to this Paragraph 1.9 of Schedule 1 (*Interpretation and Definitions*) and in compliance with the terms of this Agreement.
- 1.10 Without prejudice to paragraph 1.4, references to any law, statute, enactment, order, regulation or other similar instrument ("Legislation") (and Legislation having effect in the UK shall be "UK Legislation") shall, unless otherwise stated, be construed as a reference to each of the same as amended, replaced or superseded by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof;
- 1.11 Where the UK ceases to be (or where UK Legislation is passed in anticipation of the UK ceasing to be) a member of the EU, references to Legislation originating from the EU (whether directly effective in the UK or which was effective in the UK via UK Legislation) ("EU Legislation") shall be construed as including a reference to any UK Legislation, including (but not limited to) the European Union (Withdrawal) Act 2018 and European Union (Withdrawal Agreement) Act 2020, which replaces EU Legislation, or which implements or transposes EU Legislation into UK Legislation.

PART B: DEFINITIONS

In this Agreement (except where the context otherwise requires) the following words and expressions have the following meanings, provided that any capitalised words and expressions used in the Agreement that are not defined below shall have the meaning given in the Smart Energy Code:

"Acceptance"	means the process to be carried out under this Agreement, as further set out in Part C of Schedule 6.2 (<i>Testing and Acceptance</i>), in respect of a Report;
"Access Control"	<p>means a mechanism for determining whether a person attempting to access part of the End-to-end Smart Metering System and/or issue a Service Request is permitted to do so, including Role Based Access Control and measures to verify:</p> <ul style="list-style-type: none"> • that the person has permission to access the type of service that it is attempting to access in its given role; • where a person is attempting to access a specific meter point, that it is registered in Industry Registration Systems with such meter point; and <p>where a person is attempting to access or issue a Critical Service Request, that the meter holds relevant Security Credentials for that person;</p>
"Achieve"	<p>means:</p> <p>(a) in respect of a Test, to successfully meet the Test Success Criteria (and have all relevant Test Reports approved by the DCC); and</p> <p>(b) in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone in accordance with Schedule 6.1 (Implementation Planning),</p> <p>and "Achieved" and "Achievement" shall be construed accordingly;</p>
"Acknowledgement"	has the meaning given in the SEC;
"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"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
"Agreement"	means the Clauses of this Agreement together with the Schedules, Appendices and Annexes to it and any document(s) attached to it;
"Alerts"	means the warning message relating to the detection of alert events as listed in the most recent SMETS/ the DCC User Gateway Catalogue, by a Smart Metering System;
"Annual Summary"	has the meaning given in paragraph 4.1 of Part E of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Anomaly Detection"	means a mechanism to identify Alerts, Service Requests, Commands, Service Responses, and/or the services described in Schedule 2.1 (<i>DCC Requirements</i>) that fall outside the expected behaviour of the same;
"APDU"	Application Layer Protocol Data Unit, a low-level function providing communications between a DCC Service Provider and Devices;
"Application Management Service"	means the services for managing applications in accordance with Schedule 2.1 (<i>DCC Requirements</i>);
"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;
"Asset Register"	has the meaning given in paragraph 2.1 of Schedule 4.2 (<i>Technical Infrastructure</i>);
"Authorised Activity"	means the activity of providing within the area of Great Britain a Smart Meter Communication Service as defined at paragraph 4 of Part 1 (Terms in Respect of Grant) of the DCC Licence;
"Authorised Business"	means the whole of the business carried on by the DCC under the DCC Licence;



“Authorised Third Party”	means an Other SEC Party;
"Authority to Proceed Certificate"	means a certificate issued by the DCC to approve the Contractor progressing to subsequent testing or stage as set out in the certificate;
"Authority to Proceed Notice"	has the meaning given in Part B of Schedule 6.3 (<i>Development Process</i>);
"Authority"	means the Gas and Electricity Markets Authority as established under section 1 of the Utilities Act 2000;
"Availability"	has the meaning given in ‘Performance Measure 2.1 – Availability’ in Appendix 2 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Average Price"	means, in relation to the Comparable Supply 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 Benchmark;
"Basic Information"	means, in relation to a Data Subject, Personal Data which identifies who they are, where they live or work and how to contact, communicate or otherwise interact with them, including copies and records of such contact, communications and interactions. In a business context, this may include details of their job title, role and responsibilities;
"BCDR Plan" or “Business Continuity and Disaster Recovery Plan”	has the meaning given in paragraph 1.1.2 of Part A (Development of the BCDR Plan) of Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>);
"BCDR Solution"	means those aspects of the Contractor Solution which are relevant to business continuity and disaster recovery, as further described in Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>);
"BCDR Solution Specification"	shall be construed in accordance with Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>);
“Benchmark Report”	means the report produced by the Benchmark following the Benchmark Review as further described in Part A of Schedule 7.3 (<i>Value for</i>



	<i>Money</i>);
"Benchmark Review"	means a review of any or all of the Services carried out in accordance with Part A of Schedule 7.3 (<i>Value for Money</i>) to determine whether those Services represent Good Value;
"Benchmarked Services"	has the meaning given in Paragraph 1 of Part A of Schedule 7.3 (<i>Value for Money</i>);
"Benchmarker"	has the meaning given in Paragraph 3 and 4 of Part A of Schedule 7.3 (<i>Value for Money</i>);
"Boundary Service"	means IT services providing protection between two domains with different security classifications;
"Breach of Security"	<p>means the occurrence of any of the following events which affects or otherwise relates to any part of the Services or any of the Contractor Systems or Sites (whether or not such event results from an act or omission of any Contractor Person):</p> <ul style="list-style-type: none"> a) any loss of the DCC Data; b) any corruption, degradation or other loss of integrity of the DCC Data; c) any loss of confidentiality of the DCC Data; d) any loss of availability of the DCC Data; e) any unauthorised access to, use of, or interference with, the DCC Data and/or the Services; f) any unauthorised access to any of the Contractor Systems or Sites; g) any accidental compromise, access to, use of, or interference with, the DCC Data, the Contractor Systems and/or the Services; and/or h) any use of the Services or the Contractor Systems by any third party in order to gain unauthorised access to, or which results in any accidental compromise of, any computer resource or data of the DCC or any DCC Service User including the DCC Data;



“Break Point Review”	has the meaning given in Part F of Schedule 7.3 (<i>Value for Money</i>);
“Breakage Costs”	<p>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:</p> <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; (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; and/or <p>do not relate to contracts or sub-contracts with Affiliates of the Contractor;</p>
"Business Continuity Plan"	has the meaning given in paragraph 1.1(b) of Part A of Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>);
"Business Day"	means any day other than a Saturday, Sunday or bank or other public holiday in England;
"Business Handover Plan"	has the meaning given in Condition 43.26 of the DCC Licence;
"Capacity Plan"	shall be construed in accordance with Schedule 6.3 (<i>Development Process</i>);
"Catalogue Services"	has the meaning given in Schedule 2.7 (<i>Catalogue Services</i>) of this Agreement;
"Catalogue Service Call-Off Form"	means the form developed and maintained in accordance with paragraph 1.3 of Schedule 2.7 (<i>Catalogue Services</i>);
"Catalogue Service Cessation Form"	means the form developed and maintained in accordance with paragraph 1.3 of Schedule 2.7 (<i>Catalogue Services</i>);
“Change”	means any change to this Agreement or the Services to be provided under this Agreement (including any Operational Change);

"Change Authorisation Notice"	has the meaning given in Schedule 8.2 (<i>Change Control</i>);
"Change in Mandatory Requirements"	<p>means any change (including any modification, replacement, extension, consolidation or amendment) in any Mandatory Requirement(s) which comes into effect after the Commencement 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, which impacts on the performance of the Services or any of the Contractor's other obligations under this Agreement;
"Change Control Procedure"	means the procedure for carrying out a Change Control as set out in Schedule 8.2 (<i>Change Control</i>);
"Change of Control"	means a change in Control of the Contractor or Sub-contractor;
"Change Request"	has the meaning given in Schedule 8.2 (<i>Change Control</i>);
"Chargeable Time"	has the meaning given in Appendix 3 of Schedule 7.1 (<i>Charges and Payment</i>);
"Charges"	means the charges payable by the DCC for the provision of the Services referred to in Schedule 7.1 (<i>Charges and Payment</i>). For avoidance of doubt, Charges includes (without limitation) Milestone Payments and Operational Charges;
"CHECK"	has the meaning given to that term in the NCSC's 'Penetration Testing Scheme using NCSC approved companies' as published from time to time by the NCSC;

"CISM"	means a certified information security manager certified by the Information Systems Audit and Control Association;
"CISSP"	means a certified information system security professional as certified by the (ISC) ² ;
"Claim"	means any allegation, claim, proceedings, action or demand made (or litigation, arbitration or mediation or other dispute resolution process commenced);
"Code Administrator"	means the body providing SEC administration services;
"Code of Connection" or "CoCo"	<p>means an agreement between persons that defines the technical and operational arrangements for any communications interface between such persons and including:</p> <ul style="list-style-type: none"> a) establishing the framework for general ways of working between both persons; b) defining specific interface standards to be used; c) setting of agreed capacity limits (e.g. network loading) per time period and associated parameters (e.g. regional load); d) setting of agreed response times; e) defining the operational management process; f) defining the issue resolution process; and <p>defining the right to audit (which, to the extent any such audit rights are those of the DCC, shall be in addition and without prejudice to any other DCC audit rights), to ensure that the Code of Connection terms are being honoured;</p>
"Commencement Date"	means the date of this Agreement;
"Commercial Activities"	has the meaning given in the DCC Licence;
"Commercially Available Software"	means software which is generally and commercially available for purchase and which does not require significant customisation and/or configuration for use in connection with the Services, DCC Environment (or Other DCC Service Provider Solution(s)) and/or the DCC Services;

<p>"Commercially Sensitive Information"</p>	<p>means Confidential Information that is specifically and clearly marked "Commercially Sensitive – Access by other DCC Contractor(s) Generally Prohibited" and which details: (a) the charges, cost or profits of the Contractor or a Contractor Person in relation to the Services (or any proposed Services); (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 made publicly available); or (c) as set out in Schedule 5.4 (<i>Commercially Sensitive Information</i>);</p>
<p>"Commodity Supplier"</p>	<p>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:</p> <ul style="list-style-type: none"> (a) has access (whether physical or otherwise) to any DCC Confidential Information; and/or (b) is a Key Sub-contractor;
<p>"Common Change"</p>	<p>means any Change which may affect one or more of the DCC Service Providers or any part(s) of any services provided by any DCC Service Provider, or give rise to consequential changes that would need to be addressed under one or more of the DCC Service Provider Contracts;</p>
<p>"Communications Hub"</p>	<p>has the meaning given in the SEC;</p>
<p>"Communications Service Provider" or "CSP"</p>	<p>means any person:</p> <ul style="list-style-type: none"> a) contracted to the DCC to provide (on behalf of the DCC) any communications service(s) in connection with the Smart Metering Programme; b) providing communications services to a DCC Service User (other than the DCC) in connection with the Smart Metering Programme; and c) providing services in replacement of such Communications Service Provider at (a) and (b), <p>but excluding any direct or indirect sub-</p>

	contractor, contractor, agent, representative or service provider providing any goods or services to the person that is contracted directly to the DCC;
"Comparable Services"	means services that are materially similar to the 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 Benchmarking shall propose an approach for developing a comparable service benchmark;
"Comparable Supply"	means the supply of services to another customer of the Contractor that are the same or similar to any of the Services;
"Comparison Group"	means a sample group of organisations providing Comparable Services identified by the Benchmarking under Part A of Schedule 7.3 (<i>Value for Money</i>) 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 Benchmarking's professional opinion) fair comparators with the Contractor or which, in the professional opinion of the Benchmarking, are best practice organisations;
"Competent Independent Organisation" or "CIO"	has the meaning given in the SEC;
"Compliance Officer"	means the person appointed for the purposes of monitoring and facilitating the DCC's compliance with the requirements of the DCC Licence;
"Compromised"	has the same meaning as in the Smart Energy Code, with all due adjustments or modifications having been made to apply such term in the context of the Live Services;
"Condition 29 Information"	means " Information ", as such term is defined in the DCC Licence;
"Condition"	means a condition of the DCC Licence, and a reference to a condition includes any Schedules to it.
"Confidential Information"	means (in any medium or format and however conveyed): a) any information of the Disclosing Party pursuant to or in anticipation of this Agreement that is clearly designated as being



	<p>confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Receiving Party's attention or into the Receiving Party's possession in connection with this Agreement;</p> <p>b) in the case of any information of the DCC:</p> <ul style="list-style-type: none"> (i) DCC Data and any records and / or documentation and / or similar materials kept and maintained by the Contractor in order to comply with its obligations under this Agreement; (ii) all data and / or information disclosed by any person or received by any Contractor Person in connection with the Services: <ul style="list-style-type: none"> (A) 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 (B) that is not obvious and the unauthorised disclosure of which is likely to materially negatively affect the business, <ul style="list-style-type: none"> 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; (iii) all data that is "Party Data" as defined in the SEC that is clearly marked (or otherwise stated) to be confidential and/or "Confidential Information" of any SEC Party as defined in the SEC; and (iv) any other data and / or information 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
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	<p>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 reasonably to be considered by the Contractor to be confidential to any DCC Eco-System Entity,</p> <p>c) in the case of any information of the Contractor:</p> <ul style="list-style-type: none"> (i) any information specified in Schedule 5.4 as Confidential Information; or (ii) (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 such Confidential Information in any medium or format whether prepared by the Contractor or not, <p>together with all reproductions (hard copy or electronic), extracts, summaries or analyses of such Confidential Information in any medium or format whether prepared by the Disclosing Party or not;</p>
"Configuration Items"	means all components of the Service, including all Systems, documents or things (or any part of any of the forgoing) that needs to be managed in order to deliver any part(s) of the Service to the DCC Eco System;
"Configuration Items"	means the catalogue of Configuration Items as



Catalogue"	approved by the DCC;
"Configuration Management Database" or "CMDB"	means a repository that acts as a data warehouse for IT installations. It holds data relating to a collection of IT assets, commonly referred to as Configuration Items, as well as to descriptive relationships between such assets;
"Configuration Records"	means a collection of records stored in a Configuration Management Database;
"Consents"	means all permissions, way-leaves 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"	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);
"Consumer Premises"	means premises on which any energy consumption is metered using a Smart Metering System;
"Continuous Improvement Plan" or "CIP"	has the meaning given in Part B of Schedule 2.4 (<i>Continuous Improvement</i>);
"Contract Change"	means any Change to this Agreement (or the Services to be provided under this Agreement), other than an Operational Change;
"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 Commencement Date or on an anniversary of the Commencement Date;
"Contractor CMDB Data"	means Data forming part of the Contractor CMDB;

<p>"Contractor Background IPR"</p>	<p>means:</p> <ul style="list-style-type: none"> a) IPR owned by the Contractor (or a Contractor Person or any Affiliate of a Contractor Person) before the Commencement Date; or b) IPR created by the Contractor (or a Contractor Person or any Affiliate of a Contractor Person) independently of this Agreement after the Commencement Date; and <p>in each case,</p> <ul style="list-style-type: none"> i) used by the Contractor (or any third party on behalf of the Contractor) to provide the Services or otherwise perform the Contractor's obligations under this Agreement; and ii) is made available to the DCC and/or another party in connection with this Agreement, and/or iii) is listed in Appendix 1 to Schedule 5.1 (<i>Intellectual Property Rights</i>), <p>in each case, including all updates and amendments of these items, but excluding the Project Specific IPR.</p>
<p>"Contractor Change"</p>	<p>means any Change to this Agreement pursuant to Paragraph 2 of Schedule 8.2 (<i>Change Control</i>);</p>
<p>"Contractor Data Subject"</p>	<p>means a Data Subject who works for the Contractor and/or any of its group companies, affiliates, or sub-contractors, whether by way of employment or otherwise;</p>
<p>"Contractor Entity"</p>	<p>means:-</p> <ul style="list-style-type: none"> a) a Contractor Person; and b) any Affiliate of any Contractor Person;
<p>"Contractor Equipment"</p>	<p>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;</p>
<p>[REDACTED]</p>	<p>[REDACTED]</p>

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[Redacted]

	<p>o) failure by the Contractor to comply with any obligations under Schedule 4.3 (<i>Sub-contractors</i>) to terminate a Sub-contract; or</p> <p>p) any failure by the Contractor to comply with Laws;</p>
"Contractor IPR Claim"	has the meaning given in Clause 40;
"Contractor IPR"	means any Contractor Software or Contractor's Background IPR;
"Contractor Non-Performance"	has the meaning given in Clause 12.1;
"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;
"Contractor Persons"	means: (a) the Contractor; (b) each Affiliate of the Contractor; (c) the Sub-contractors; and (d) the Contractor Personnel, and "Contractor Person" shall be construed accordingly;
"Contractor Premises"	means premises owned, controlled or occupied by the Contractor and which are made available for use by the DCC or used by the Contractor for provision of the Services (or any of them);
"Contractor Security Architecture"	means the security architecture for the Contractor Solution as referred to in Schedule 4.1 (as updated with the approval of the DCC from time to time);
"Contractor Security Documents"	<p>means:</p> <p>a) the Contractor Security Policy;</p> <p>b) the ISMS; and</p> <p>c) the Security Management Plan,</p> <p>each as further described in Schedule 2.5 (<i>Security Management Plan</i>);</p>
"Contractor Security Policy"	has the meaning given in paragraph 1.1 of Part B of Schedule 2.5 (<i>Security Management Plan</i>);



<p>"Contractor Software"</p>	<p>means any software in which the IPR is owned by the Contractor (or a Contractor Person or any Affiliate of a Contractor Person), and:-</p> <ul style="list-style-type: none"> a) used by the Contractor (or any third party on behalf of the Contractor) to provide the Services or otherwise perform the Contractor's obligations under this Agreement; or b) is made available to the DCC in connection with this Agreement, and/or c) listed in Appendix 1 to Schedule 5.1 (IPR), <p>and, in each case, including all updates and amendments of these items, but excluding the Specially Written Software;</p>
<p>"Contractor Solution"</p>	<p>means all of the following:-</p> <ul style="list-style-type: none"> a) the meaning given to it in Schedule 4.1 of this Agreement; b) the Services (and any items, features or services associated with the provision of the Services or a change in the provision of the Services); c) the Contractor System; and d) 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;
<p>"Contractor System"</p>	<p>means the Systems used by or on behalf of any Contractor Person in performing the Services including the Software and any equipment, Hardware and related cabling used by a Contractor Person in performing the Services, but excluding all parts of any other DCC Service Provider(s) Solution;</p>
<p>"Contractor System Data"</p>	<p>means data created by a Contractor Person relating to the performance (or non-performance) of Non-Exclusive Assets. However, the definition of Contractor Systems Data shall in all cases exclude each of the following:</p> <ul style="list-style-type: none"> (a) Performance Information; (b) Transactional Data;



	<p>(c) System Audit Data;</p> <p>(d) DCC CMDB Data; and</p> <p>(e) any Data generated specifically and solely for the Services,</p> <p>(and the generality of such exclusions shall apply in each case regardless of whether or not any of the foregoing is based on Contractor Systems Data);</p>
“Contractor’s Solution Design Documents”	means the documents listed in Appendix 1 of Schedule 4.1 (<i>Contractor Solution</i>) and Appendix 2 of Schedule 6.3 (<i>Development Process</i>), in each case, including all updates and amendments of these items;
“Contractor’s Service Management Framework”	means the documents listed in Appendix 2 of Schedule 4.1 (<i>Contractor Solution</i>) in each case, including all updates and amendments of these items;
“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;
"Co-operation Agreement"	has the meaning given in Paragraph 4.1 of Schedule 8.7 (<i>Co-operation</i>);
"Co-operation Objectives"	has the meaning given in Paragraph 2.1 of Schedule 8.7 (<i>Co-operation</i>);
"Countersigned Service Request"	has the meaning given in the SEC;
"Credit Rating Level"	means a Dun and Bradstreet risk indicator;
"Critical KPI Failure"	has the meaning given in Paragraph 3.6 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);



"Critical Service Failure"	has the meaning given in paragraph 5.17 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Critical Service Request"	has the meaning given in the SEC;
"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);
"Data Controller"	has the meaning given in the Data Protection Laws;
"Data Leakage"	means the unauthorised transmission or disclosure of information;
"Data Processor"	has the meaning given in the Data Protection Laws;
"Data Protection Impact Assessment"	as described in GDPR, a Data Protection Impact Assessment is a means by which a Data Controller complies with the GDPR requirement to reduce the risk to the rights and freedoms of natural persons by evaluating the origin, nature and particularly the severity of the risk to Personal Data;
"Data Protection Laws"	any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, retained EU law within the meaning of section 6 subsection (7) of the European Union (Withdrawal) Act 2018, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the DPA (and including the GDPR) and the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy;
"Data Security"	means protecting data from destructive forces and from the unwanted actions of unauthorised users;
"Data Security Plan"	means the security measures that a Contractor must implement to ensure that DCC Data obtains adequate protection throughout its lifecycle i.e. creation, storage, use, sharing, archival and destruction. The plan must identify the actors



	allowed to access data by type; the functions they can perform on the data e.g. access, process and store and the locations from which a defined type of access is permitted. Drawing on the "Data Protection Impact Assessment", the Plan shall enhance compliance with Regulation related to Personal Data;
"Data Subject Access Request"	a request made by a Data Subject in accordance with rights granted pursuant to Data Protection Laws to access his or her Personal Data;
"Data Subject"	has the meaning given in Data Protection Laws;
"Date Compliant"	means that no previous or future date change has had or will have any adverse impact on performance or functionality;
"Day Rate"	means the day rate for Contractor Personnel set out in Appendix 3 to Schedule 7.1 (<i>Charges and Payment</i>);
"DCC Assets"	means the DCC Materials, infrastructure and any other data, software, assets, equipment or other property owned by or licensed or leased to the DCC and which may be used in connection with the provision or receipt of the Services;
"DCC Cause"	means any breach by the DCC of the DCC Responsibilities except to the extent that it is the result of:- <ul style="list-style-type: none"> a) any act or omission of the Contractor including any breach of this Agreement (or any Co-Operation Agreement) by the Contractor; or b) any act or omission by the DCC to which the Contractor has given its prior consent;
"DCC Change"	means any Change pursuant to Paragraph 1 of Schedule 8.2 (<i>Change Control</i>);
"DCC Data"	means:- <ul style="list-style-type: none"> a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which:- <ul style="list-style-type: none"> (i) are supplied to the Contractor by or on behalf of the DCC or any DCC Eco-System Entity; and/or

	<p>(ii) the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>b) any Personal Data for which the DCC is the Data Controller or the Data Processor;</p>
"DCC Data Subject"	means a Data Subject who works for the DCC and/or any of its group companies, affiliates, or sub-contractors, whether by way of employment or otherwise;
"DCC Data Systems"	means the software used by or on behalf of the Contractor to satisfy the functional and non-functional, interface and security requirements for the Services together with all systems and process documentation, toolsets and parts of Contactor CMDB relating to such software or the use of such software;
"DCC Eco-system Entities"	<p>means:-</p> <ul style="list-style-type: none"> a) the DCC; b) each DCC Service Provider; c) SECCo; d) the Code Administrator; e) the SEC Secretariat; f) the SEC Panel (including all panels, committees, sub-panels and sub-committees); and g) DCC Service Users, <p>and "DCC Eco-System Entity" shall be construed accordingly;</p>
"DCC Environment"	means the Systems used by or on behalf of the DCC, excluding all parts of any DCC Service Provider Solution and/or the Contractor Systems;
"DCC Event of Default"	<p>means any failure by the DCC to pay undisputed Charges due to the Contractor under this Agreement which (either singly or in aggregate) exceeds a sum equal to</p> <div style="background-color: black; width: 100%; height: 20px; margin-top: 5px;"></div>



"DCC IPR Claim"	has the meaning given in Clause 40;
"DCC IPR"	means the IPR which is owned by the DCC or licensed to the DCC under the SEC and which is required to be used by the Contractor for the purposes of providing the Services, but excluding the DCC Service Provider IPR, Contractor IPR, Third Party IPR, Project Specific IPR and the Documentation;
"DCCKI"	has the meaning given in the SEC;
"DCC Licence"	means the "Licence for the Provision of a Smart Meter Communication Service" granted to DCC or any successor pursuant to section 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, as amended from time to time;
"DCC Live Systems"	has the meaning given in the SEC;
"DCC Materials"	means the DCC Data together with any materials, documentation, information, programs and codes supplied by the DCC to the Contractor, the IPRs in which are owned or used by or on behalf of the DCC but excluding any Project Specific IPR, Contractor IPR and Third Party IPR;
"DCC Premises"	means premises owned, controlled or occupied by the DCC and which are made available for use by the Contractor or any of the Sub-contractors for provision of the Services (or any of them);
"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 Term;
"DCC Requirements"	means the requirements of the DCC set out in Schedule 2.1 (<i>DCC Requirements</i>), Schedule 2.2 (<i>Performance Measures and Monitoring</i>); Schedule 2.5 (<i>Security Management Plan</i>); Schedule 6.1 (<i>Implementation Planning</i>); Schedule 6.2 (<i>Testing and Acceptance</i>); Schedule 6.3 (<i>Development Process</i>); Schedule 8.4 (<i>Records and Audit</i>); Schedule 8.5 (<i>Exit</i>); Schedule 8.6 (<i>Business Continuity and Disaster</i>



	<i>Recovery Plan</i>); Schedule 8.9 (<i>Operations Manual</i>), Schedule 8.10 (<i>Enhanced Scrutiny and Step-in</i>) and all those requirements set out in the Relevant Documents;
"DCC Responsibilities"	means the responsibilities of the DCC as set out in Schedule 3 (<i>DCC Responsibilities</i>);
"DCC Security Architecture"	means the general overview of the technical architecture that specifies the functional and non-functional security requirements applicable to Smart Meters installed in Great Britain and the End-to-end Smart Metering System as specified by the DCC from time to time;
"DCC Security Policy"	means the DCC's security policy, as developed and updated from time to time in accordance with Schedule 2.5 (<i>Security Management Plan</i>);
"DCC Security Tests"	has the meaning given in paragraph 2.1 of Part C of Schedule 2.5 (<i>Security Management Plan</i>);
"DCC Service Management System"	means the service management system the Prime DSP operates on behalf the DCC;
"DCC Service Management System Interface"	means the connection point(s), supplied by the Prime DSP, between the DCC Service Management System and the Contractor Solution and that allows DCC Service Providers to send and receive Service Management information from the DCC Service Management System, and the link supplied by the Service Provider making the connection;
"DCC Service Provider"	means: <ul style="list-style-type: none"> a) a person with whom DCC enters into a DCC Service Provider Contract or its servants or agents; b) a person with whom the person described in a) above 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, but excluding the Contractor;
"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 sub-contractor of the DCC) and any third party under which such third

	party provides facilities, goods, services or other supply to the DCC (or any sub-contractor to the DCC);
"DCC Service Provider IPR"	means the IPR which is owned by a DCC Service Provider and which is required to be used by the Contractor for the purposes of providing the Services, but excluding the Contractor IPR, Third Party IPR and Project Specific IPR;
"DCC Service Provider IPR Claim"	has the meaning given in Clause 40 (<i>IPR Indemnities</i>);
"DCC Service Provider Solutions"	means, in relation to any other DCC Service Provider, all of the following: <ul style="list-style-type: none"> (a) Services: the services provided by that DCC Service Provider to the DCC in accordance with the applicable DCC Service Provider Contract (and any items, features or services associated with the provision of the Services or a change in the provision of the Services); (b) System: the Systems used by or on behalf of that DCC Service Provider in performing the Services, including any software, Hardware, other equipment and related cabling; and (c) Other: any and all processes, ways of working, equipment or materials used or provided by or on behalf of that DCC Service Provider or its Affiliates, sub-contractors or other personnel in connection with any obligations under the applicable DCC Service Provider Contract;
"DCC Service Users"	means (other than DCC): <ul style="list-style-type: none"> a) each person who receives or is to receive services from DCC (including authorised third Parties) (other than any person acting solely as an Energy Consumer); b) each person who is a SEC Party; and c) each person who is an "Other User" (as defined by the SEC);
"DCC Services"	means any and all services to be provided by the DCC to the DCC Service Users or to any other person in connection with such DCC Services or the DCC Licence;



<p>"DCC Software"</p>	<p>means software which is owned by or licensed to the DCC, including:</p> <ul style="list-style-type: none"> a) software which is or will be used by the Contractor for the purposes of providing the Services; and/or b) software which is listed in Appendix 1 to Schedule 5.1 (<i>Intellectual Property Rights</i>); <p>but excluding the Contractor Software;</p>
<p>"DCC Sub-contractor"</p>	<p>means a sub-contractor of the DCC;</p>
<p>"DCC User Gateway Catalogue"</p>	<p>shall be construed in accordance with Schedule 6.3 (<i>Development Process</i>);</p>
<p>"DCC User Gateway Interface" or "DCC User Gateway"</p>	<p>means the connection point(s), supplied by the Prime DSP, between the DCC Data Systems and DCC Service Users and the link, supplied by the Prime DSP, that connects the DCC Data Systems and DCC Service Users;</p>
<p>"DCC User Interface Specification"</p>	<p>refers to the specific SEC documents referred to in Schedule 2.1 (<i>DCC Requirements</i>) and Schedule 4.1 (<i>Contractor Solution</i>);</p>
<p>"Default Interest Rate"</p>	<p>means, for any day, [REDACTED]</p>
<p>"Delay"</p>	<p>means a delay in the Achievement of a Milestone by its Milestone Date;</p>
<p>"Delay Payments"</p>	<p>means the amounts payable by the Contractor to the DCC in respect of a Delay as specified in Schedule 7.1 (<i>Charges and Payment</i>);</p>
<p>"Demilitarized Zone" or "DMZ"</p>	<p>means a security method for separating two systems with different security classifications, typically an internal and an external system;</p>
<p>"Deliverable"</p>	<p>means an output or deliverable (including the Reports and all components of the Software (including an item or feature and all documents and reports relating thereto)) delivered or to be delivered by the Contractor during the performance of this Agreement;</p>
<p>"Development Plan"</p>	<p>means the development plan that the DCC is required to prepare pursuant to the DCC Licence;</p>
<p>"Device"</p>	<p>has the meaning given in the SEC;</p>

"Device and User System Tests"	has the meaning given in the SEC;
"Device ID"	has the meaning given in the SEC;
"Digital Signature"	has the meaning given in the SEC;
"Direct Step-in Option Agreement"	means an agreement between a Sub-contractor and the DCC enabling the DCC to exercise rights on substantially the same terms as set out in Schedule 8.10 (<i>Enhanced Scrutiny and Step-in</i>) in respect of the relevant sub-contracts;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable for period of [REDACTED] [REDACTED] will mean that the Services or a material part of the Services will be unavailable for that period;
"Disaster Recovery Plan"	has the meaning given in paragraph 1.1.3 of Part A of Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>);
"Disaster Recovery Services"	means the disaster recovery services to be provided by the Contractor pursuant to Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>) in the event of a Disaster;
"Disclosing Party"	has the meaning given in Clause 37 (<i>Confidentiality</i>);
"Disposal"	in relation to any Relevant Business Asset, means any of the following:- <ul style="list-style-type: none"> a) a novation, assignment, transfer, or other passing of that Relevant Business Asset (whether or not for value) to a person other than the Contractor; b) a lease, licence, or loan of (or the grant of any other right of possession in relation to) that Relevant Business Asset; c) the grant of any mortgage, charge, or other form of security over that Relevant Business Asset; or where the asset comprises a contractual arrangement of any kind, any variation of its terms that would be likely to reduce or otherwise impair the efficiency and effectiveness of the



	Contractor's provision of Services under or pursuant to this Agreement;
"Dispute"	means any dispute, difference or questions 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 Notice"	has the meaning set out in Part A of Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
"Dispute Resolution Procedure"	means the procedure for the resolution of disputes between the Parties under this Agreement, as set out in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
"Document Review"	has the meaning given in Part F of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Documentation"	<p>means descriptions of the Services and Performance Measures, technical specifications, user manuals, operating manuals, process definitions and procedures, and all such other documentation as:</p> <ul style="list-style-type: none"> a) as referred to in Schedule 2.1 (<i>DCC Requirements</i>); b) is required to be supplied by the Contractor to the DCC under this Agreement; c) is required by the Contractor in order to provide the Services; and/or d) listed in Appendix 1 to Schedule 5.1 (<i>Intellectual Property Rights</i>), e) has been or shall be generated for the purpose of providing the Services, <p>and, in each case, including all updates and amendments of these items.</p>
"Due Diligence Information"	means any information supplied to the Contractor by or on behalf of the DCC prior to the Commencement Date (including the information relating to the Excluded Matters as set out in Clause 3.1;



“E-PDMS”	means the ECoS Product Data Management System set up and maintained by the DCC for the development, building, testing, operation and maintenance of the ECoS solution by the Contractor and other DCC Service Providers;
“ECoS Incentivised Milestone”	means the Project Activity Milestones identified by the Secretary of State in the Scheme set out in the “Smart Metering Implementation Programme: Government response to consultation on the proposed baseline margin project performance adjustment scheme relating to delivery of the Enduring Change of Supplier arrangements” dated 15 October 2020 https://smartenergycodecompany.co.uk/latest-news/beis-consultation-response-on-bmppa-scheme-for-ecos/ ;
“ECoS Incentivised Milestone Payments”	means any amount(s) levied, withheld, charged or otherwise from DCC pursuant to the Scheme set out in the “Smart Metering Implementation Programme: Government response to consultation on the proposed baseline margin project performance adjustment scheme relating to delivery of the Enduring Change of Supplier arrangements” dated 15 October 2020;
“Emergency Exit”	means any termination of this Agreement which is: (a) a termination of the whole or part of this Agreement, except where the period of notice given is greater than or equal to six (6) months; (b) a termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served by either party; or (c) a wrongful termination or repudiation of this Agreement by either party;
“Employee Liabilities”	means all claims, including, without limitation, claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race or disability discrimination or discrimination on the grounds of sexual orientation, religion, belief, age, gender re-assignment, marriage, civil partnership, pregnancy or maternity, claims for equal pay, compensation for less favourable treatment of part-time or fixed-term workers, any liability in respect of pension schemes and collective



	bargaining agreements which would transfer to a transferee under the Employment Regulations and any claims (whether in tort, contract or statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equality and Human Rights Commission, or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation), and any legal costs and expenses on an indemnity basis;
"End-to-end Smart Metering System"	means all components and services included in the end-to-end smart metering system;
"End to End Testing"	means the Test Stage of that name as further described in Schedule 6.2 (<i>Testing and Acceptance</i>);
"Energy Consumer"	has the meaning given in the DCC Licence;
"Energy Consumer Data Subject"	means a Data Subject who is a member of the public, including individuals who are the end-user customer of an energy supplier in England, Scotland or Wales. For the avoidance of doubt, an individual who might qualify for another category of Data Subject under this Amendment, shall qualify for this definition where they are acting as a member of the public or the end-user customer of an energy supplier in England, Scotland or Wales;
"Energy Industry Data Subject"	means a Data Subject who works for an energy company licensed under the Electricity Act 1989 and the Gas Act 1986, and/or any of their group companies, affiliates or sub-contractors, whether by way of employment or otherwise;
"Energy Licence"	means any licence (including the DCC Licence) that is granted, or treated as granted, under section 7, 7A, or 7AB of the Gas Act 1986 or under section 6 of the Electricity Act 1989;
"Energy Registration Services"	has the meaning given in the DCC Licence;



“Energy Supply Information”	means, in connection with an Energy Consumer Data Subject, any Personal Data relating to their use of gas, electricity and/or smart meters and communications hubs. This may include (but is not limited to):- (a) Personal Data relating to energy consumption and supply; and/or (b) other Personal Data included in, or otherwise Processed as a result of, electronic communications sent and received by the DCC or its service providers via the smart metering network(s) and systems;
"Environmental Information Regulations"	means the Environmental Information Regulations 2004;
“Equivalent Services Data”	means data derived from an analysis of the Comparable Services provided by the Comparison Group as adjusted in accordance with Part A of Schedule 7.3 (<i>Value for Money</i>);
“Equivalent Steps”	has the meaning given in the SEC;
“Event”	means a change of state that has significance for the management of an IT service or other Configuration Item. The term is also used to mean an Alert or notification created by any IT service, configuration item or monitoring tool. Events typically require IT operations personnel to take actions, and often lead to Incidents being logged;
"Excluded Matters"	has the meaning given in Clause 3.2;
“Exclusive Asset”	means those Assets used exclusively in the provision of the Services, as identified in the Asset Register;
“Executive Management Board” or “EMB”	has the meaning given in Schedule 8.1 (<i>Governance</i>);
"Exit Manager"	the person appointed by each Party pursuant to Schedule 8.5 (<i>Exit</i>) for managing the Parties' respective obligations under Schedule 8.5 (<i>Exit</i>);
"Exit Plan"	means the Initial Exit Plan as defined in Paragraph 1 of Part D of Schedule 8.5 (<i>Exit</i>), the Final Exit Plan as defined in Paragraph 4 of Schedule 8.5 (<i>Exit</i>) and all other forms exit plan or updated to these plans prepared in the context



	of Schedule 8.5 (<i>Exit</i>);
“Expert”	means the person appointed under Part D of Schedule 8.3 (<i>Dispute Resolution Procedure</i>) to conduct an expert determination;
"Extension Period"	has the meaning given in Clause 2.2;
"E2E BCDR Plan" or “End to End Business Continuity and Disaster Recovery Plan”	has the meaning given in Schedule 8.6 (<i>Business Continuity and Disaster Recovery</i>);
“Final Major Incident Summary Report”	means the document of that name described in Schedule 2.1 (<i>DCC Requirements</i>);
"Fast Track Dispute Resolution Procedure"	means, in relation to a Dispute, an expedited version of the Dispute Resolution Procedure, as further described in Schedule 8.3 (<i>Dispute Resolution Procedure</i>);
“Financial Distress Event”	has the meaning given in Part A of Schedule 7.4 (<i>Financial Distress</i>);
“Financial Distress Service Continuity Plan”	has the meaning given in Part A of Schedule 7.4 (<i>Financial Distress</i>);
"Financial Model"	means the model developed in accordance with the provisions as set out in Appendix 2 to Schedule 7.1 (<i>Charges and Payment</i>);
“FIPS 140-2”	the Federal Information Processing Standard is a security standard used to approve cryptographic modules;
“Fix”	means the Contractor has identified the root cause of a Testing Issue and has amended its solution to correct such Testing Issue. For the avoidance of doubt, the 'Fix' does not include time for Testing;
“Fixed Operational Charges”	has the meaning given in paragraph 8 of Part C of Schedule 7.1 (<i>Charges and Payment</i>);
"Force Majeure Event"	means an event which falls within one or more of the following categories:- <ul style="list-style-type: none"> a) war, civil war, riot, civil commotion or armed conflict; b) terrorism (being 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



	<p>serious violence endangers a person's life, creates a serious risk to the public or is designed to seriously interfere with or disrupt an electronic system);</p> <p>c) nuclear, chemical or biological contamination;</p> <p>d) earthquakes, fire, storm damage or severe flooding (if in each case it affects a significant geographical area); and/or</p> <p>e) any blockade or embargo (if in each case it affects a significant geographical area);</p>
"Functional Requirements"	means all the requirements set out in Paragraph 2 of Schedule 2.1 (<i>DCC Requirements</i>);
"GB Companion Specification" or "GBCS"	has the meaning given to GB Companion Specification in Schedule 6.3 (<i>Development Process</i>);
"GB Restricted Information"	means any Confidential Information which is (or which relates to): <ul style="list-style-type: none"> a) any technical aspects of any Systems used within Great Britain in connection with the provision or receipt of the Services or DCC Services; b) Data that the Contractor is not permitted to store, transmit and/or process outside of Great Britain; c) any aspect of the security of any part(s) of the End-to-end Smart Metering System or any Other Energy Industry Systems; and/or d) any DCC Data;
"General Data Protection Regulation" or "GDPR"	EU Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data;
"General Change in Mandatory Requirements"	means any Change in Mandatory Requirements which is not a Specific Change in Mandatory Requirements (including any change to Data Protection Laws);
"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): (a) the Charges attributable to a Benchmarked Service are, having taken into account the Performance Measures, less than or equal to the Average Price; or (b) 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);
“Group”	has the meaning given to it in s.474 of the Companies Act 2006;
“Guarantee”	means the deed of guarantee in favour of the DCC entered into by the Guarantor on or about the date of this Agreement (which is in the form set out in Schedule 10 (<i>Financial Guarantee</i>)), or any guarantee acceptable to the DCC that replaces it from time to time;
“Guarantor”	means CRITICAL Software S.A., a company registered in Portugal, under company number 504208187, whose registered office is at Parque Industrial de Taveiro, lote 48, 3045-504, Coimbra;
“Guarantor Event of Default”	means any breach or anticipatory breach of the terms of the Guarantee which is not rectified by the Contractor to the reasonable satisfaction of the DCC within twenty (20) Business Days of any Termination Notice from the DCC in respect of the same;
“GUEK”	as defined in the Device Language Message Specification (DLMS) Standard, means the Global Unicast Encryption Key (GUEK) being a block cipher key for unicast that secures Extended DLMS (xDLMS) Application Layer Protocol Data Units (APDUs) and/or Companion Specification for Energy Metering (COSEM) 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: <ul style="list-style-type: none"> a) computer and computer devices and equipment; b) telecommunications devices and equipment; 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 any asset which relies in any way on (a), (b), (c) or (d) above or other ICT;
“Hosting and Service Management Service Provider”	means the entity providing hosting and service management in respect of ECoS from time to time;
"Impact Assessment"	has the meaning given in Schedule 8.2 (<i>Change Control Procedure</i>);
"Implementation Plan"	means the Draft Implementation Plan as set out at the Commencement Date in Appendix 3 of Schedule 6.1 (<i>Implementation Planning</i>) as amended pursuant to Schedule 6.1 (<i>Implementation Planning</i>);
"Implementation Service Provider"	means:- <ul style="list-style-type: none"> a) any person contracted to the DCC to provide (on behalf of the DCC) any facilities, goods, services or other supply in connection with the Smart Metering Implementation Programme. b) any person providing any facilities, goods, services or other supply to a DCC Service User (other than the DCC) in connection with the Smart Metering Implementation

	<p>Programme; and</p> <p>c) providing services in replacement of such Implementation Service Provider at (a) and (b),</p> <p>but excluding any direct or indirect sub-contractor, contractor, agent, representative or service provider providing any goods or services to the person that is contracted directly to the DCC;</p>
"Incentivised Milestone"	has the meaning given in paragraph 6.1 of Part B of Schedule 7.1 (<i>Charges and Payment</i>);
"Incident"	means an actual or potential incident in respect of the Live Services;
"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 D of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Incident Management"	means the Process responsible for managing the lifecycle of all Incidents. Incident management ensures that normal service operation is restored as quickly as possible and the business impact is minimized;
"Incident Management Processes"	means the process for the management of Major Incidents, as set out in Schedule 2.1 (<i>DCC Requirements</i>);
"Incident Party or Incident Parties"	means a SEC Party or SEC Parties;
"Incident Report"	means the first notification of an Incident received by the Service Desk (including from the Contractor) in respect of that Incident;
"Increment"	means work cycle during which work is completed and made ready for review;
"Indemnified Party"	means the Party which receives the benefit of any indemnity arising under Clause 40 (<i>IPR Indemnities</i>);
"Indemnifying Party"	means the Party which bears the burden of any indemnity arising under Clause 40 (<i>IPR Indemnities</i>);
"Industry Codes and"	means any binding code, code of practice,

<p>Arrangements"</p>	<p>methodology or industry agreements (including contracts) relating to the DCC, the Services, DCC Services or DCC Service Users (including all that any DCC Eco-System Entity is a party to or subject to), including:-</p> <ul style="list-style-type: none"> a) in relation to the electricity industry: <ul style="list-style-type: none"> (i) the relevant "Core Industry Documents" as defined in Condition 21 of the DCC Licence (together with any replacement, extension, consolidation or amendments to the same (whether or not reflected in the DCC Licence from time to time)); and (ii) the SEC; and b) in relation to the gas industry: <ul style="list-style-type: none"> (i) the relevant Core Industry Documents; and (ii) the SEC; c) each Energy Licence; d) the DCC Licence; and e) any other statement, code, methodology or other document which must be prepared by the DCC and approved by a Regulatory Body in accordance with Mandatory Requirement;
<p>"Industry Information"</p>	<p>means, in relation to a Data Subject (other than an Energy Consumer Data Subject), any Personal Data which DCC is required to Process in order to fulfil its licence and Smart Energy Code obligations and purposes in connection with smart metering, other than Basic Information;</p>
<p>"Industry Registration Data"</p>	<p>means the collective term for all electricity and gas data contained within the Industry Registration Systems;</p>
<p>"Industry Registration Systems" or "Registration Systems"</p>	<p>means the collective term for the Systems (other than any DCC & Contractor Systems) that provide the Energy Registration Services, including in particular:</p>



	<p>a) for electricity, the MPAS system operated by each of the distribution companies to deliver the registration Service; and</p> <p>b) for Gas, the UK Link suite of systems operated by Xoserve delivers the registration service for Gas Transporters.</p>
“Information Assets”	means a body of information, defined and managed as a single unit so it can be understood, shared where appropriate, protected and exploited effectively. Information assets have recognisable and manageable value, risk, content and lifecycles;
“Information Assets Register”	means the register of that name as referred to in Schedule 8.9 (<i>Operations Manual</i>);
“Information Classification Scheme”	means the DCC Information Classification and Handling Standard which presents an “Information Classification Scheme” setting out the requirements relating to the identification, classification and management of DCC information and provides controls to protect the confidentiality, integrity and availability of information, and non-compliance with legislation which would otherwise occur;
“Information Commissioner”	means the UK regulator for Data Protection Laws;
"Information Request"	has the meaning given to that term in Clause 13 (<i>Contractor Cooperation and Assistance</i>);
“Initial Major Incident Summary Report”	means the document of that name described in Schedule 2.1 (<i>DCC Requirements</i>);
"Initial Term"	
“Innovation Report”	has the meaning given in paragraph 2.1 of Part C of Schedule 2.4 (<i>Continuous Improvement</i>);
"Insolvency Event"	<p>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:</p> <p>a) the person passing a resolution for its winding up or a court of competent</p>



	<p>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;</p> <p>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;</p> <p>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;</p> <p>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;</p> <p>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</p> <p>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 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) over or in respect of any Contractor Equipment.</p> <p>However, a resolution by the relevant person or a court order that such person be wound up for the</p>
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	purpose of a bona fide solvent reconstruction or amalgamation shall not amount to an Insolvency Event;
"Insurances"	has the meaning given in Schedule 2.6 (<i>Insurance</i>);
"Integration Parties"	means: <ul style="list-style-type: none"> (a) the DCC Service Providers; (b) persons providing Energy Registration Services; (c) the DCC; and (d) each DCC Service User;
"Intrusion Detection System" or "IDS"	means a system which inspects all inbound and outbound network activity and detects suspicious patterns that may indicate a network or system attack from someone attempting to break into or compromise a system;
"Intrusion Prevention Systems" or "IPS"	means a system which, having detected a suspected attack on the network or system proactively prevents the event continuing;
"ISMS" or "Information Security Management System"	has the meaning given to ISMS in Schedule 2.5 (<i>Security Management Plan</i>);
"IPR" or "Intellectual Property Rights"	means:- <ul style="list-style-type: none"> a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor 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;



“Interface Testing” or “User Interface Testing”	means the Test Stage of that name as further described in Schedule 6.2 (<i>Testing and Acceptance</i>);
“ITIL”	has the meaning given in Paragraph 2.2 of Schedule 2.3 (<i>Standards</i>);
“IT Hosting Service”	means the services described at Schedule 2.1 (<i>DCC Requirements</i>);
“Key Personnel”	means those members of the Contractor Personnel described as such in this Agreement, including those listed as such in Schedule 9.2 (<i>Personnel and Key Personnel</i>) as such is modified by agreement by the Parties;
“Key Sub-contract”	means each Sub-contract with a Key Sub-contractor;
“Key Sub-contractor”	means (unless otherwise agreed) any Sub-contractor to which any of the following applies: <ul style="list-style-type: none"> (a) each Key Sub-contractor listed in Schedule 4.3 (<i>Sub-contractors</i>); or (b) any Sub-contractor with a Sub-contract with a contract value in any Contract Year in excess of £1 Million sterling (£1,000,000); or (c) any Sub-contractor that shall (or whose Sub-contractor shall) at any time process, store, have access to or transmit any DCC Data; and / or (d) any Sub-contractor that in the reasonable opinion of the DCC: <ul style="list-style-type: none"> (i) performs a business critical role in the provision of the Services; or (ii) performs obligations, the interruption to which may materially disrupt the Services;
“Know-How”	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services;
“Knowledge Management”	means the gathering, analysing, storing and sharing of knowledge and information within an organisation to reduce the need to rediscover knowledge;



“Knowledge Management Strategy”	shall be construed in accordance with Schedule 6.3 (<i>Development Process</i>);
“Known Error”	means a Problem that has a documented root cause and a workaround. Known errors are created and managed throughout their lifecycle by Problem Management. Known errors may also be identified by development or suppliers;
“KPI” or “Key Performance Indicator”	means each key performance indicator identified in Appendix 1 (<i>Key Performance Indicators</i>) of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
“KPI Failure”	has the meaning given in Paragraph 3.6 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
“Law”	means any applicable law, statute, bye law, regulation, order, regulatory policy, compulsory guidance, industry code of practice (voluntary or otherwise), rule of court or directives, delegated or subordinate legislation in any applicable jurisdiction, or any applicable requirements or notices of any Regulatory Body relevant to the provision or receipt of the Services in connection with this Agreement;
“Live Services”	means any of the services that the DCC provides to SEC Parties in accordance with the Smart Energy Code enabling, amongst other things, the two-way communication and data transfer between the DCC Environment and smart meters;
“Loss” or “Losses”	means losses, liabilities, damages, compensation, costs and expenses (including legal fees on a solicitor/client basis), fines, charges, penalties, and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
“Major Incident”	means the highest category of impact for an Incident. A major Incident results in significant disruption to the business;
“Major Incident Management”	means the process for the management of Major Incidents, as set out in Schedule 2.1 (<i>DCC Requirements</i>);
“Major Incident Management”	means the process for the management of Major Incidents, as set out in Schedule 2.1 (<i>DCC</i>



Process”	<i>Requirements</i>);
“Major Incident Manager”	means the process for the management of Major Incidents, as set out in Schedule 2.1 (<i>DCC Requirements</i>);
“Major Security Incident”	means the process for the management of Major Incidents, as set out in Schedule 2.1 (<i>DCC Requirements</i>);
“Malicious Software”	means any software program or code which may prevent, impair, affect the reliability of, destroy, interfere with, 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;
“Mandatory Requirements”	means: (a) Law; (b) Industry Codes and Arrangements; and (c) Standards;
“Material Service Failure”	has the meaning given in paragraph 5.11 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
“Maximum Service Points”	has the meaning given in paragraph 4.1(c) of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
“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 (<i>Performance Measures and Monitoring</i>);
“Milestone”	means an event or task:- a) described in Appendix 1 (<i>Milestones</i>) of Schedule 6.1 (<i>Implementation Planning</i>); and b) otherwise agreed between the Parties to be a Milestone, in each case, which shall be completed by the Milestone Date;
“Milestone Achievement”	means a certificate materially in the form of the



Certificate"	document contained in Appendix 4 of Schedule 6.1 (<i>Implementation Planning</i>) issued by the DCC pursuant to Paragraph 2.1 of Part B of Schedule 6.1 (<i>Implementation Planning</i>);
"Milestone Criteria"	means the criteria applicable in respect of each Milestone as set out in Appendix 1 of Schedule 6.1 (<i>Implementation Planning</i>);
"Milestone Date"	means the date by which a Milestone must be Achieved as set out in Appendix 1 (<i>Milestones</i>) of Schedule 6.1 (<i>Implementation Planning</i>);
"Milestone Payment"	means the value shown against the specific Milestone in Paragraph 5 of Schedule 7.1 (<i>Charges and Payment</i>);
"Milestone Value"	has the meaning given in paragraph 5.3.2 of Part B of Schedule 7.1 (<i>Charges and Payment</i>);
"Minimum Service Level"	means, in relation to any Service Measure or KPI, the level of service identified in Appendix 1 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>) as the "Minimum Service Level";
"Month"	a calendar month and "monthly" shall be interpreted accordingly;
"NCSC"	means the National Cyber Security Centre;
"NCSC Cloud Service Security Principles"	means the cloud security principles published by the NCSC from time to time;
"Network Operation Centre" or "NOC"	means one or more locations from which network monitoring and control or network management is exercised over a computer, telecommunication or satellite network, as further defined in Schedule 2.1 (<i>DCC Requirements</i>);
"New KPI"	means a Service Measure which has been re-categorised as a KPI in accordance with Part C of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"New Service Measure"	means a KPI which has been re-categorised as a Service Measure in accordance with Part D of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Notifiable Default"	has the meaning given in Clause 10.1;
"Objectives"	has the meaning given in Clause 5.1;



"Ongoing Access Asset"	has the meaning given in paragraph 1.1 of Part B of Schedule 8.5 (<i>Exit</i>);
"Open Source Software"	means computer software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;
"Operating Capability"	means the Services provided by the Contractor following the Commencement of Initial Operating Capability;
"Operating System"	means system software that manages computer hardware and software resources and provides common services for computer programs;
"Operational Charges"	has the meaning given in paragraph 8 of Part C of Schedule 7.1 (<i>Charges and Payment</i>);
"Operational Change"	<p>means any Contractor Change that does not:</p> <ul style="list-style-type: none"> (a) have a negative impact on the Services or the Contractor's ability to deliver the Services; (b) cause or is likely to cause the DCC or the Contractor to be in breach of any Mandatory Requirements; (c) involve the DCC paying any additional Charges or other costs; and (d) require any change to this Agreement (including the DCC Requirements or any Service Level(s)) or is inconsistent with any of the DCC's rights and/or the Contractor's obligations under this Agreement;
"Operational Management Board" or "OMB"	has the meaning given in Schedule 8.1 (<i>Governance</i>);
"Operational Management Team" or "OMT"	has the meaning given in Schedule 8.1 (<i>Governance</i>);
"Operations Manual"	means the document or database to be developed and maintained by the Contractor setting out the basis upon which the Services are to be provided and in the format approved by the DCC in accordance Schedule 8.9 (<i>Operations Manual</i>);
"Ordinary Exit"	means:



	<p>(a) any termination of this Agreement where the period of notice given by the party serving notice to terminate is [REDACTED] or [REDACTED]</p> <p>(b) the expiry of the Initial Term or any Extension Period;</p>
"Other Energy Industry Systems"	<p>means (other than the End-to-end Smart Metering System):</p> <p>(a) all DCC Service User Systems;</p> <p>(b) Registration Systems;</p> <p>(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;</p>
"Other SEC Party"	has the meaning given in the Smart Energy Code;
"Other Service Provider Cause"	<p>means any failure by any Relevant Counterparty to comply with any obligations, responsibilities or other activities allocated to it under any Co-operation Agreement (whether or not these are legally binding between the Parties to the Co-operation Agreement), except to the extent that such is the result of:</p> <p>(a) any breach of this Agreement by the Contractor;</p> <p>(b) any failure to perform or comply with any obligations, responsibilities or other activities allocated to the Contractor under any Co-operation Agreement;</p> <p>(c) any Force Majeure Event; or</p> <p>(d) any act or omission by any person at the direction of any Contractor Person;</p>
"Outline BCDR Plan"	has the meaning given in paragraph 2 of Part A of Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>);
"Outline Performance Monitoring Approach"	has the meaning given in paragraph 1.6 of Part E of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Outline Security Management Plan"	has the meaning given in paragraph 2 of Part B of Schedule 2.5 (<i>Security Management Plan</i>);
"Pass-Through Expenses"	means third party charges passed directly through to the DCC by the Contractor without mark up or other charge as detailed in Schedule



	7.1 (<i>Charges and Payments</i>);
"Partial Termination"	means the partial termination of this Agreement to the extent that it relates to the provision of any part of the Services;
"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 (<i>Performance Measures and Monitoring</i>);
"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-categorisation"	has the meaning given in paragraph 5.1 of Part C (Changes to Performance Measures) of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Performance Measure" or "PM"	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 (<i>Performance Measures and Monitoring</i>) as either: (a) a Service Measure; or (b) a Key Performance Indicator; and such measures may be referred to by their "PM No." as set out in Appendix 1 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Performance Monitoring Approach"	has the meaning given in paragraph 1.1 of Part E of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Performance Monitoring Report"	means the monthly report prepared by the Contractor in accordance with paragraph 2 of Part E of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"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 Schedule 2.2 (<i>Performance Measures and Monitoring</i>);



"Permitted Purpose"	<p>means to:</p> <ul style="list-style-type: none"> a) receive the benefit of the Services; b) exercise any of its rights under this Agreement (including under Schedule 6.2 (<i>Testing and Acceptance</i>) or Schedule 8.10 (<i>Enhanced Scrutiny and Step-In</i>)); c) integrate the Services with any other services provided pursuant to (or otherwise related to) the Smart Metering Programme or otherwise as envisaged by this Agreement; and/or d) carry out any of the other activities referred to in Schedule 5.1 (<i>Intellectual Property Rights</i>), <p>by DCC, the DCC Service Users, the SEC Parties, the DCC Service Providers (or such other entities referred to in paragraph 5.3 of Schedule 5.1 (<i>Intellectual Property Rights</i>));</p>
"Personal Data"	<p>personal data (as defined in Data Protection Laws) which is Processed by the Contractor or any Sub-contractor on behalf of the DCC pursuant to or in connection with this Agreement;</p>
"Persistent Service Failure"	<p>has the meaning given in paragraph 5.15 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);</p>
"Phase"	<p>shall be as defined in Paragraph 1.1 of Schedule 6.1 (<i>Implementation Planning</i>);</p>
"Physical SIT"	<p>means the physical system integration testing to be completed pursuant to this Agreement;</p>
"Plan"	<p>means the Project Delivery Implementation Plan and/or Implementation Plan;</p>
"Preliminary Assessment"	<p>has the meaning given to it in Schedule 8.2 (<i>Change Control</i>);</p>
"Prime DSP"	<p>means:</p> <ul style="list-style-type: none"> a) the entity that contracted with the DCC further to the selection process initiated by notice in the Official Journal of the European Union with reference number 2011/S 165-273114; and b) any person(s) providing services in replacement of such DSP,

	but excluding any direct or indirect sub-contractor, contractor, agent, representative or service provider providing any goods or services to the person that is contracted directly to the DCC;
"Principal Energy Legislation"	means the Gas Act 1986 and the Electricity Act 1989 Act, read together so far as they apply for the purposes of the DCC Licence in respect of the Supply of Energy under those Acts;
"Process"	has the meaning given to it under Data Protection Laws and "Processor" , "Processed" and "Processing" shall be construed accordingly;
"Problem Management"	means the process responsible for managing the lifecycle of all Problems. Problem management proactively prevents Incidents from happening and minimizes the impact of Incidents that cannot be prevented;
"Problem"	means a cause of one or more Incidents. The cause is not usually known at the time a Problem record is created, and the Problem Management process is responsible for further investigation;
"Prohibited Change of Control"	means a Change of Control of the Contractor that:- <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 DCC Service Provider (or any Affiliate of any SEC Party, the DCC or any other DCC Service Provider);
"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;
"Project Participants"	means those individuals who undertake the roles pursuant to the Contractor Approach;
"Project Specific IPR"	means:- <ul style="list-style-type: none"> a) Specially Written Software; b) Documentation; and c) the items listed in Appendix 1 to Schedule 5.1 (<i>Intellectual Property Rights</i>); and

	<p>d) all other items created by the Contractor (or any third party on behalf of the Contractor):-</p> <p>(i) specifically for the purposes of this Agreement; or</p> <p>(ii) in performing the Services; and</p> <p>in each case, including all updates and amendments of these items;</p>
“Protective Monitoring”	has the meaning given by the NCSC in their Principles and Guidance, and Protective Monitoring is a set of business processes, with essential support technology, that need to be put into place to oversee how ICT systems are used (or abused) and to assure user accountability for their use of ICT facilities;
"Quality Plan"	means the quality plan produced by the Contractor pursuant to Schedule 2.1 (<i>DCC Requirements</i>) and in accordance with the Agreement including any applicable Standards (for example, ISO 9001:2000);
"Quarter"	means the first three months after the Commencement Date and each subsequent three months during the Term;
"Quarterly Summary"	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 E (<i>Performance Monitoring</i>) of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Re-allocation Notice"	has the meaning given in paragraph 4.2 of Part C (<i>Changes to Performance Measures</i>) of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Re-categorisation Notice"	has the meaning given in paragraph 5.2 of Part C (<i>Changes to Performance Measures</i>) of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Records"	has the meaning given in Paragraph 1 of Part A of Schedule 8.4 (<i>Records and Audit Provisions</i>);
“Recovery Point Objective”	means the objectives set out in Performance Measures 9.2 and 9.4 as specified in Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
“Recovery Time Objectives”	means the objectives set out in Performance Measures 9.1 and 9.3 as specified in Schedule

	2.2 (<i>Performance Measures and Monitoring</i>);
"Rectification Plan Process"	as set out in Clauses 10.3 (<i>Submission of the draft Rectification Plan</i>) to 10.8 (<i>Agreement of the Rectification Plan</i>);
"Rectification Plan"	a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Default as detailed in Clause 10 (<i>Rectification Plan</i>);
"Register of Business Assets"	means a register that identifies and records particulars of all Relevant Business Assets;
"Regression Test Packs"	as defined in Schedule 6.2 (<i>Testing and Acceptance</i>);
"Regulator Correspondence"	any correspondence from the Information Commissioner's Office, or any successor body, in relation to the Processing of Personal Data under this Agreement;
"Regulated Charging Mechanism"	means the charging mechanism (as set out in relevant Industry Codes and Arrangements from time to time) by which the DCC is entitled to charge the DCC Service Users for any DCC Services;
"Regulatory Bodies"	means those government departments, regulators, regulatory bodies, and other entities, committees and bodies (including the SEC Panel) which, whether under law, industry codes or otherwise, are entitled to regulate, supervise, investigate, or influence: <ul style="list-style-type: none"> a) any matters dealt with in this Agreement; or b) the DCC or any of its business, activities or affairs, including Ofcom and Ofgem, and " Regulatory Body " shall be construed accordingly;
"Related BCDR Plan"	has the meaning given in Paragraph 3 of Part A (<i>Development of the BCDR Plan</i>) of Schedule 8.6 (<i>Business Continuity and Disaster Recovery Plan</i>);
"Related Service Failure"	has the meaning given Paragraph 3.1 of Schedule 8.7 (<i>Co-Operation</i>);
"Related Test Document"	has the meaning given in Paragraph 9 of Schedule 6.2 (<i>Testing and Acceptance</i>);



"Related Undertaking"	means, in relation to any person, any undertaking in which that person has a participating interest as defined in section 421A of the Financial Services and Markets Act 2000;
"Release"	means one or more Changes to an IT service that are built, tested and deployed together. A single release may include Changes to Hardware, Software, Documentation, Processes and other components;
"Release Policy"	shall be construed in accordance with Schedule 6.3 (<i>Development Process</i>);
"Release Schedule"	shall be construed in accordance with Schedule 6.3 (<i>Development Process</i>);
"Relevant Business Asset"	means all assets and rights used by the Contractor or any Contractor Person to provide the Services in accordance with this Agreement (including rights under any Sub-contract) and that are required by the DCC and/or a Replacement Contractor in connection with the DCC carrying on of the Authorised Business, but excluding those assets and rights owned by the DCC;
"Relevant Counterparty"	has the meaning given in Schedule 8.7 (<i>Co-operation</i>);
"Relevant Document(s)"	means, as the Commencement Date, the Contractor's Solution Design Documents and Contractor's Service Management Framework, as such documents may be developed and updated following the Commencement Date in accordance with Schedule 6.3 (<i>Development Process</i>);
"Relevant Performance Measure"	has the meaning given in Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Relevant Requirements"	has the meaning given to that term in Clause 59.1.1;
"Relevant Third Party Service Measure"	has the meaning given to the term in Appendix 1 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Relief Notice"	has the meaning given in Clause 12.2;
"Relinquishment of Operational Control"	in relation to any Relevant Business Asset, means entering into any agreement or arrangement under which operational control of that Relevant Business Asset is not or will cease

	to be under the sole management of the Contractor;
"Repeat Service Failure"	has the meaning given in paragraph 5.7 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Replacement Contractor"	means any third party (including any third party appointed by the DCC from time to time) providing or which shall provide Replacement Services;
"Replacement Services"	means any services which the DCC 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;
"Report"	means a report to be delivered pursuant to Paragraph 5.15 of Schedule 2.1 (<i>DCC Requirements</i>);
"Representatives"	means either or both of the DCC Representative and the Contractor Representative;
"Request for Environmental Information"	means a request for information or an apparent request under the Environmental Information Regulations;
"Resolution"	means action taken to repair the root cause of an Incident or Problem, or to implement a workaround. In ISO/IEC 20000-1, resolution processes is the process group that includes Incident and Problem Management;
"Resolved"	means in relation to an Incident that the service or services affected by the Incident have been restored to normal operation and the Incident status has been set to closed on the relevant service management system(s);
"Restricted Countries"	<ul style="list-style-type: none"> a) any country outside the United Kingdom and European Economic Area; and b) any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC;
"Reviewer"	means a person appointed by a Regulatory Body to review any matters reported by the Contractor



	in respect of which the Regulatory Body and/or the DCC requires clarification;
"Risk Treatment Plan"	has the meaning given in paragraph 1.5 of Appendix 1 (<i>Security Management Requirements</i>) of Schedule 2.5 (<i>Security Management Plan</i>);
"Satisfaction Surveys"	has the meaning given in paragraph 6.1 of Part E of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"SEC Panel"	has the meaning given in the DCC Licence;
"SEC Party"	has the meaning given in the DCC Licence and "SEC Parties" shall be construed accordingly;
"SEC Secretariat"	means the body providing SEC secretariat services;
"SECCo"	has the meaning given in the SEC;
"Security Audit Trails"	means the record containing details of equipment and system access and log-on requests, as further explained in Schedule 2.1 (<i>DCC Requirements</i>);
"Security Controls"	means those obligations of the Contractor and Contractor Persons and requirements and controls listed in Paragraph 4 of Schedule 2.5 (<i>Security Management Plan</i>);
"Security Credentials"	means data used to identify and authenticate an individual or system as set out in: (a) 4.3.9.2 of SMETS for GSME; and (b) 5.4.9.2 of SMETS for ESME;
"Security Development Lifecycle"	means a process to develop and continuously manage the security assurance of a system, service or software;
"Security Logs"	shall have the meaning given in 5.6.4.31 of SMETS;
"Security Management Plan"	means the Contractor's security management plan to be developed and maintained in accordance with Schedule 2.5 (<i>Security Management Plan</i>);
"Security Management Requirements"	means the requirements relating to security set out in Appendix 1 of Schedule 2.5 (<i>Security Management Plan</i>);

"Security Operations Centre" or "SOC"	means one or more locations from which security monitoring is exercised over a computer, telecommunication or satellite network, as further defined in Schedule 2.1 (<i>DCC Requirements</i>);
"Security Monitoring"	means the process of monitoring, collecting, recording and analysing indicators of potential security threats, then triaging the identified security threats for appropriate action;
"Security Requirements"	means: (a) the requirements relating to security set out in Schedule 2.5 (<i>Security Management Plan</i>), including the Security Management Requirements; and (b) any other security related requirements set out elsewhere in this Agreement;
"Security Related Functionality"	means all aspects of the Contractor Solution relating directly or indirectly to Security, including all management, operational and technical security controls (and their associated data types) employed within the Contractor Solution;
"Security Standards"	has the meaning given in Schedule 2.5 (<i>Security Management Plan</i>);
"Security Tests"	has the meaning set out in paragraph 1 of Part C (Testing) of Schedule 2.5 (<i>Security Management Plan</i>);
"Security Vulnerability"	has the meaning given in paragraph 5.1 of Part C of Schedule 2.5 (<i>Security Management Plan</i>);
"Self Service Interface"	has the meaning given in the SEC;
"Service Audit Trails"	means the record of all service activity, including details of Service Requests and Service Responses, as set out in Schedule 2.1 (<i>DCC Requirements</i>);
"Service Commencement Date"	means the commencement date for the provision of Operational Services (i.e. Milestone 1.8 (Go-Live));
"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 (<i>Charges and Payment</i>);



"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"	has the meaning given in paragraph 5.2 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Service Failure Report"	has the meaning given in paragraph 5.3(b) of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Service Level(s)"	Means the service level(s) further described in Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Service Management"	refers to the entirety of activities – directed by policies, organized and structured in processes and supporting procedures – that are performed by an organization to design, plan, deliver, operate and control information technology (IT) services offered to customers;
"Service Management Service Request"	means a formal request from a user for something to be provided – for example, a request for information or advice; to reset a password; or to install a workstation for a new user. Service Requests are managed by the request fulfilment process, usually in conjunction with the Service Desk. Service Requests may be linked to a request for Change as part of fulfilling the request, as further defined in Schedule 2.1 (<i>DCC Requirements</i>);
"Service Management Strategy"	shall be construed in accordance with Schedule 6.3 (<i>Development Process</i>);
"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 (<i>Performance Measures and Monitoring</i>) and include, for the avoidance of doubt, any New Service Measures from time to time;



"Service Period"	means the period from the Service Commencement Date to the Termination Date;
"Service Point Re-allocation"	has the meaning given in paragraph 4.1 of Part C of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"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 (<i>Performance Measures and Monitoring</i>), and which shall be converted into Service Credits in accordance with Schedule 7.1 (<i>Charges and Payment</i>);
"Service Portfolio"	shall be construed in accordance with Schedule 6.3 (<i>Development Process</i>);
"Service Request"	has the meaning given in the SEC;
"Service Response"	means a response provided to DCC Service Users associated with either an individual Service Request or a schedule of Service Requests;
"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 (<i>Contractor Solution</i>);
"Severity Level"	The severity level applied to Incidents as defined in Appendix 4 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Severity Level 1 Incident"	has the meaning given in Appendix 4 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Severity Level 2 Incident"	has the meaning given in Appendix 4 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Severity Level 3 Incident"	has the meaning given in Appendix 4 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Severity Level 4 Incident"	has the meaning given in Appendix 4 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Severity Level 5 Incident"	has the meaning given in Appendix 4 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Site"	means any site or premises:-



	<ul style="list-style-type: none"> a) from which the Services are provided; b) from which the Contractor manages, organises or otherwise directs the provision or the use of the Services; c) where any part of the Contractor System is situated; or d) where any physical interface between (i) the Contractor Solution; and (ii) the DCC Environment and/or DCC Service Provider Solution(s) takes place;
“Smart Appliance”	<p>means a device or System (e.g. a smart fridge or a consumer access device) that interfaces with the Smart Metering System that is used on any Consumer Premises other than:</p> <ul style="list-style-type: none"> (a) any part of any Smart Metering System; and/or (b) any hand-held terminal or other device used by or on behalf of any DCC Service User on the Relevant Consumer Premises for maintenance of the Smart Metering System;
"Smart Energy Code" or "SEC"	has the meaning given in the DCC Licence;
“Smart Metering Device”	<p>means:</p> <ul style="list-style-type: none"> (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; and/or (e) for the avoidance of doubt, any PPMID;
"Smart Metering Implementation Programme" or "SMIP"	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 Licensee);
"Smart Metering System"	has the meaning given in the SEC;
"SMCL Administration Order"	means a smart meter communication licence administration order issued pursuant to the Smart Meters Act 2018;
"SMETS"	means the document of that name as designated by the Secretary of State for incorporation into the SEC with respect to the technical and functional capabilities of Smart Metering Systems (and all versions thereof). Individual designated versions of SMETS are identified by unique version numbers (for example SMETS1 and SMETS2);
"SMETS1"	means the Smart Metering Equipment Technical Specifications 1;
"SMETS2"	means the Smart Metering Equipment Technical Specification 2;
"Software"	means Specially Written Software, Contractor Software and Third Party Software;
"Software Defect(s)"	means any defect (including any design or programming error, failure to be of satisfactory quality or failure to perform in all respects with the DCC Requirements) to the extent that such defect directly or indirectly causes (in whole or substantially in part) any Incident which has a Severity Level 1 or Severity Level 2 (as set out in Appendix 4 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>));
"Source Code Materials"	means, in relation to each item of Specially Written Software and each item of Deposited Software (the " Relevant Software "):- <ul style="list-style-type: none"> a) the Relevant Software expressed in a source language or form readable by a human (and that can be interpreted or compiled and then executed by a computer as commands); b) a running object code version of the Relevant Software on media that is acceptable to the DCC (acting reasonably) and which is free from malicious software in a compiled form



	<p>ready to be executed by a computer;</p> <p>c) copies of any relevant maintenance tools, compilers and assemblers;</p> <p>d) details of all hardware (including communications links) required in order to operate the Relevant Software;</p> <p>e) details of relevant hardware, processor and system configurations applicable to the Relevant Software;</p> <p>f) descriptions of any generally-available third party software required for the support or maintenance of the Relevant Software and its availability; and</p> <p>all documentation and tools (including the Relevant Software expressed in a source language that can be interpreted by a human) reasonably required for a person having commercially available computer programming skills to read, understand and modify the Relevant Software;</p>
"Specially Written Software"	<p>means any software which is created by the Contractor (or any third party on behalf of the Contractor):-</p> <p>(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</p> <p>(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,</p> <p>(c) is otherwise listed in Appendix 1 to Schedule 5.1(<i>Intellectual Property Rights</i>)</p> <p>in each case, including all updates and amendments of these items;</p>
"Specific Change in Mandatory Requirements"	<p>means a Change in Mandatory Requirements that relates specifically to the Smart Metering Programme and which would not affect a Comparable Supply;</p>
"SEC Subsidiary Document" or "SSD"	<p>means SEC Subsidiary Document as that term is defined in the SEC;</p>



"Staff Vetting Procedure"	means all:- a) vetting procedures in: (i) the Security Policy and/or the Security Management Plan; or (ii) otherwise required pursuant to any provision of this Agreement; and b) the Contractor's vetting procedures and policies to the extent these require or imply any additional vetting to that otherwise referred to under this definition; and c) (additional vetting procedures agreed under the Change Control Procedure;
"Staffing Information"	has the meaning given in Schedule 9.1 (<i>TUPE</i>);
"Subsidiary"	shall have the meaning given in section 1159 of the Companies Act 2006 and shall include subsidiary undertakings as defined in section 1162 of the Companies Act 2006 (each section being as in force at the Commencement Date);
"Sub-contract"	means any contract or agreement (or proposed contract or agreement) between the Contractor (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Contractor (or the Sub-contractor) all or any part of the Services or facilities or services which are material 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 the expression "Sub-contracting" shall be construed accordingly;
"Sub-contractor"	any third party with whom: a) the Contractor enters into a Sub-contract; or b) a third party under (a) above enters into a Sub-contract, or the servants or agents of that third party;
"Sub-Processor"	means any person who Processes Personal Data on behalf of a Processor;
"Successor Licensee"	means the person that is to succeed (or has succeeded) the DCC as holder of a licence to carry on the Authorised Activity within Great Britain (and, if the context so permits, may include any person who has applied, or is considering whether to apply, to be that licence

	holder);
"Supply of Energy"	means either or both of the supply of gas pursuant to the Gas Act 1986 and the supply of electricity pursuant to the Electricity Act 1989, in each case within the meaning that is given to the term "supply" in the respective Act;
"Supporting Documentation"	has the meaning given in Paragraph 16.6 of Schedule 7.1 (<i>Charges and Payment</i>);
"System"	means computing, information systems and ICT environment(s) (including hardware, assets, software (including firmware), all data, IPRs and/or telecommunications networks or equipment;
"System Audit Data"	means Data contained in or to be contained in audits conducted in accordance with this Agreement of the Contractor's performance of the Services, including pursuant to Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"System Update"	has the meaning given in Part F of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Target Performance Level"	means the target performance level for each KPI as set out in Appendix 1 of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"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 (<i>Performance Measures and Monitoring</i>);
"Taxes"	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;



	<p>b) national insurance contributions in the UK (and corresponding obligations elsewhere);</p> <p>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</p> <p>d) any penalty, charge, surcharge, fine, charges or costs or interest payable in connection with any such taxation, duty, impost, levy or tariff;</p> <p>and "Tax" shall be construed accordingly;</p>
"Term"	the period commencing on the Commencement Date and ending on the expiry of the Initial Term or any Extension Period; or on earlier termination of this Agreement (or, if later, the expiry of the Termination Assistance Period);
"Termination Charge"	means the Charge identified as such and calculated in accordance with Part D of Schedule 7.1 (<i>Charges and Payment</i>);
"Termination Notice"	has the meaning given in Paragraph 2.1 of Part F of Schedule 8.5 (<i>Exit</i>);
"Termination Assistance Period"	means the period during which the Contractor shall provide the Termination Assistance Services (as specified in the Termination Assistance Notice) and as may be extended pursuant to Schedule 8.5 (<i>Exit</i>);
"Termination Assistance Services"	means the services and activities to be performed by the Contractor pursuant to the Exit Plan and as specified in the Termination Assistance Notice;
"Termination Date"	<p>means in relation to the Agreement (or any part of the Agreement (as the context requires)):</p> <p>(a) the final day of the Termination Assistance Period; or</p> <p>(b) if the DCC does not require a Termination Assistance Period:</p> <p>(i) the date on which any Termination Notice takes effect in accordance with the provisions of this Agreement; or</p> <p>(ii) on expiry of the Initial Term or any Extension Period, as the case may</p>

	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 Payments”	means the payment set out in Schedule 7.2 (<i>Payments on Termination</i>);
"Test Approach Document"	means the DCC's test approach document (as applicable from time to time);
"Test Document"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Test Plan"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
“Test Reports”	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Test Specification"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Test Stage Completion Certificate"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Test Success Criteria"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Test Witness"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Test"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Test Environment"	has the meaning given in Part F of Schedule 6.2 (<i>Testing and Acceptance</i>);
“Testing Participant”	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
"Testing Quality Audit"	has the meaning given in Part F (Definitions) of Schedule 6.2 (<i>Testing and Acceptance</i>);
“Testing Services”	means the services required for an enduring testing service as set out in Section 6 in Schedule 2.1 (<i>DCC Requirements</i>);
“Testing Services Charge”	means the Charge identified as such and calculated in accordance with the principles set out in Schedule 7.1 (Charges and Payment) and the Rate Care;

<p>"Third Party IPR"</p>	<p>means:-</p> <ul style="list-style-type: none"> a) Third Party Software; and b) all other items owned by a third party (other than a Contractor Person or any Affiliate of a Contractor Person): and, <ul style="list-style-type: none"> (i) used by the Contractor (or any third party on behalf of the Contractor) to provide the Services or otherwise perform the Contractor's obligations under this Agreement; or (ii) made available to the DCC in connection with this Agreement; (i) is otherwise listed in the Appendixes to Schedule 5.1 (<i>Intellectual Property Rights</i>) <p>and, in each case, including all updates and amendments of these items, but excluding the Project Specific IPR;</p>
<p>"Third Party Software"</p>	<p>means any software in which the IPR is owned by a third party (other than a Contractor Person or any Affiliate of a Contractor Person) including Commercially Available Software:</p> <ul style="list-style-type: none"> a) used by the Contractor (or any third party on behalf of the Contractor) to provide the Services or otherwise perform the Contractor's obligations under this Agreement; or 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); or c) is otherwise listed in Appendix 1 to Schedule 5.1 (<i>Intellectual Property Rights</i>); <p>in each case, including all updates and amendments of these items;</p>
<p>"Total System"</p>	<p>means the Systems used by the DCC and/or the DCC Service Providers pursuant to the Smart Energy Code for the provision of the Live Services;</p>
<p>"Transaction Charge(s)"</p>	<p>means the Charge(s) calculated in accordance with Part C of Schedule 7.1 (<i>Charges and</i></p>




	<i>Payment</i>);
"Transactional Data"	means all data contain in or forming part of any Service Request, Service Response, Command and/or Alert, including for example all meter reads, authentication and payload data;
"Transferable Asset"	has the meaning given in Paragraph 3.4.1 of Schedule 8.5 (<i>Exit</i>);
"Transferable Asset Value"	Has the meaning given in paragraph 1.1 of Part B of Schedule 8.5 (<i>Exit</i>);
"Transferred IPR and Materials"	has the meaning given in paragraph 7.1 of Schedule 5.1 (<i>Intellectual Property Rights</i>);
"Transitional Change of Supplier (TCoS)"	Means the application supplied by the Prime DSP for the provision of change of supplier functionality;
"Transparency Request"	has the meaning given to it in Clause 13 (<i>Contractor Cooperation and Assistance</i>);
"Trap"	means a specific threshold which when exceeded generates an Event;
"Trust Model"	has the meaning given to it in the End to End Security Architecture Smart Metering Implementation Programme (as issued by the UK Government) from time to time in effect;
"TUPE Regulations"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (246/2006) and/or any other regulations enacted for the purpose of implementing the Acquired Rights Directive (Council Directive 77/187/EEC as amended by Council Directive 98/50 EEC and consolidated in Council Directive 2001/23/EEC) into English law;
"Ultimate Parent Company"	means the entity which directly or indirectly Controls the Group;
"Underlying Obligation"	has the meaning given in paragraph 6.3 of Part B of Schedule 2.2 (<i>Performance Measures and Monitoring</i>);
"Unique Transaction Reference Number" or "UTRN"	means a cryptographic code used to transfer credit to a SMS operating in Prepayment Mode;
"Unresolved"	means, in relation to an Incident, that such Incident has not been Resolved;



"UIT"	means the user integration testing to be completed pursuant to this Agreement;
"UK Security Check (SC) Cleared"	means having passed the UK Security Check as defined in the United Kingdom Security Vetting Scheme;
"Unavailable"	means when the Services are not Available;
"Unsuitable Person"	<p>means a person who in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> a) 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; b) 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 Energy Consumer or member(s) of the public, or Great Britain; c) is reasonably likely to undermine public confidence in (or damage the reputation or goodwill of) the DCC or the Smart Metering Programme; d) 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; e) is suffering (or is reasonably likely to suffer) any Insolvency Event; or f) 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. <p>Without limitation, the Contractor agrees that the DCC's opinion shall in all cases be reasonable if based on an opinion given by any Regulatory Body;</p>

"Unsuitable Staff"	has the meaning given in Schedule 9.2 (<i>Personnel and Key Personnel</i>);
"Unsuitable Sub-contractor"	<p>means any Sub-contracting to a Key Sub-contractor that:</p> <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 the Authority in writing; or (c) is Controlled by a SEC Party, the DCC or any other DCC Service Provider (or any Affiliate of any SEC Party, the DCC or any other DCC Service Provider);
"Use"	<p>means:</p> <ul style="list-style-type: none"> (a) with respect to the DCC Software, Project Specific IPR, Specially Written Software or Source Code Materials), the right to load, execute, store, transmit, display, copy (for the purposes of loading, execution, storage, transmission or display), modify, adapt, enhance, reverse compile, decode, translate, or otherwise utilise the relevant software; (b) with respect to Contractor Software and the DCC Service Provider 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; (c) 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; (d) with respect to any IPRs referred to in paragraph 3.6 of Schedule 5.1 (<i>Intellectual Property Rights</i>), the right to copy, adapt, publish, distribute or otherwise use such IPRs; (e) with respect to the Documentation, the right to store and make copies;
"User Systems"	has the meaning given in the SEC;
"User"	has the meaning given in the SEC;



"VAT"	means value added tax and/or any equivalent and/or any sales taxes, duties and/or levies imposed by any authority, government or government agency in any jurisdiction;
"Warranty Claim"	has the meaning given to it in Paragraph 7.3 of Schedule 5.1 (<i>Intellectual Property Rights</i>);
"Warranty Month"	Warranty Month has the meaning given to it in paragraph 4.3 of Part B Schedule 7.1 (<i>Charges and Payment</i>);
"Warranty Period"	
"Work Off Plan"	means a plan to resolve any outstanding test issues;
"Work Package(s)"	means the work packages specified in Clause 4.1 and any other work packages agreed by the Parties pursuant to Schedule 8.2 (<i>Change Control</i>).



SCHEDULE 2.1 – DCC REQUIREMENTS

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1 Introduction

This schedule sets out the DCC Requirements for the Services to be provided by the Contractor.

For the purposes of this schedule the Contractor’s Solution will be referred to as the Solution.

Any requirement relating to compliance with a Smart Energy Code (SEC requirement), shall be a reference to the latest version of the Smart Energy Code on the Commencement Date.

The base set of functional requirements is set out in the E-PDMS. As the Contractor and other DCC Service Providers develop their detailed design, these designs will be uploaded to the E-PDMS after they have been reviewed and approved by the DCC pursuant to DCC design assurance. The DCC shall notify the Contractor of any updates or additions to the E-PDMS including any updates that are as a result of SEC or other requirements being refined or changed. Within ten (10) Business Days (or such time as specified by the DCC acting reasonably) of receipt of such notification, the Contractor shall review such update or addition (other than its own) and notify the DCC if a Change to the Contractor’s Solution is necessary to accommodate the update or addition. The Parties shall progress such Change in accordance with the provisions of Schedule 8.2 (Change Control).

Requirement ID	Requirement
RTM-ECoS-314	<p>The Contractor shall comply with the latest version of the SEC obligations relevant for the provision of the Services. The minimum set of SEC requirements are as contained in the following SEC Sections:</p> <ul style="list-style-type: none"> • Section E – Registration Data; • Section F2 – Central Products List; • Section G – Security (in particular, G2.5, G2.6, G2.10, G2.12 - G2.34, G2.44, G2.44B – G2.49, G5.1 – G5.13, G6.5, G6.6); • Section H – DCC Services; • H13.1A; • Section I – Data Privacy (in particular, I1.6 - I1.7, I1.12); • Section L – Smart Metering Key Infrastructure; • Section M – General (as applicable); • Schedule 8 – Great Britain Companion Specification; • Schedule 9 – Smart Metering Equipment Technical Specifications; • Schedule 10 – Communications Hub Technical Specifications; • Appendix B - Organisation Certificate Policy; • Appendix C – SMKI Compliance Policy; • Appendix D – Registration Authority Policies and Procedures; • Appendix E – DCC User Interface Services Schedule; • Appendix J – Enduring Testing Assurance Document; • Appendix L – SMKI Recovery Procedure; • Appendix O – SMKI Repository Interface Design Specification; • Appendix P – SMKI Repository Code of Connection; • Appendix Q – IKI Certificate Policy; • Appendix R – Common Test Scenarios Document; • Appendix S – DCCKI Certificate Policy; • Appendix T - DCCKI Interface Design Specification;



Requirement ID	Requirement
	<ul style="list-style-type: none"> • Appendix U - DCCKI Repository Interface Design Specification; • Appendix V - DCCKI CoCo and DCCKI Repository CoCo; • Appendix W -: DCCKI Registration Authority Policies and Procedures; • Appendix X - Registration Data Interface Specification; • Appendix Z: CPL Requirements Document; • Appendix AA: Threshold Anomaly Detection Procedures; • Appendix AB: Service Request Processing Document; • Appendix AC: Inventory, Enrolment and Decommissioning Procedures; • Appendix AD: DCC User Interface Specification All Versions; • Appendix AF: Message Mapping Catalogue All Versions ; • Appendix AG: Incident Management Policy; • Other SEC sections that reference COS party including SEC Variation Testing Approach Document and referenced documents.



2 Functional Requirements

Requirement ID	Requirement
RTM-ECoS-001	The Contractor shall supply its deliveries, tests, and services with reference to the DCC requirements contained in the E-PDMS . The information to all design and test documents and specifications that the Contractor provides must be conformant against deliveries. The Contractor shall ensure that all Contractor documents and artefacts are conformant with DCC document formatting and content requirements before DCC will be able to assure these documents or other artefacts so that they can be included in the E-PDMS when required.
RTM-ECoS-003	In the event of any changes to the E-PDMS (notified by the DCC), the Contractor shall promptly notify DCC of any impact to its deliveries (in accordance with Schedule 8.2 (Change Control).
RTM-ECoS-005	The Contractor shall provide its detailed design and test documentation with reference to the version of the E-PDMS.
RTM-ECoS-007	<p>The Contractor shall supply all requested design and test documentation to DCC using automated tools (e.g. BiZZdesign EA software) or such other tools as approved by the DCC from time to time. The Contractor shall provide input as reasonably required for design and test documentation prepared by the DCC or by other DCC Service Providers (as indicated in the list below by the “***”). The scope of the documentation required appears throughout the Agreement and, as a minimum, shall include at least the following:</p> <ul style="list-style-type: none"> • End to End Functional and Design Architecture; • High Level Design solution design document; • High and Low Level Design Documents for all the sub-components of the system; • Definition and detail of all internal system interfaces; • Functional specification and Code of Connection of external interfaces; • Agreement of external specifications and Codes of Connections; • Report Definitions; • Monitoring and Operator Specification; • System configuration Specification; • Preferred hosting and interface architecture**; • Task scheduling and sequencing specification; • Logical Database Design; • Physical Database Design**; • Logical and Physical Configuration Management Matrix showing the versioning of all software elements and their hosting requirements**; • Scaling specification including scale up and scale down logic and assumed load sharing mechanisms**; • Security Management Plan and architecture specifications to cover all functional and non-functional requirements not covered in other documents; • Requirements Traceability Matrix to Tests or other delivery evidence; • Change and release management plan; and • Test specifications and reports.
RTM-ECoS-008	The Contractor shall provide a DCC approved auditable and requirement traceable set of Test Planning and Specification Documents to the DCC within the agreed timescales and in the agreed format that allows DCC to deliver the solution into its various governances stages and into production for all functional and non-functional testing in all required

Requirement ID	Requirement
	<p>environments. The documentation and artefact scope shall include at least the following:</p> <ul style="list-style-type: none"> • Test Plans; • Test Approach Documents; • Test Specifications and Test Cases; • Test Results; • Test reports and defect summaries; • User or Operator guidance; • Requirements Traceability Matrices; • Release Management Process including release management processes and defect fixes, <p>and as otherwise required by Schedule 6.2 (Testing and Acceptance). The Contractor shall co-operate with other DCC Service Providers in respect of the same.</p>
RTM-ECoS-224	<p>The Contractor shall ensure that documentation, artefacts, know-how and other items necessary for DCC to have the benefit of the Services are promptly provided to the DCC (and regularly reviewed and updated by the Contractor).</p>



2.1 Processing Requirements

Requirement ID	Requirement
ECoS-PRO-001	The Contractor Solution shall validate the 6.23 Service Request utilising relevant reference and registration data
ECoS-PRO-002	The Contractor shall have controls and processes in place which utilises Anomaly Detection Thresholds (ADTs) to protect the service and its Users
ECoS-PRO-003	The Contractor Solution shall be capable of sending a validated and countersigned CoS 'Pre-Command' to the DSP for onward processing
ECoS-PRO-004	The Contractor Solution shall keep a record of Smart Metering Devices that have an ECoS certificate installed
ECoS-PRO-005	The Contractor Solution shall be capable of receiving the updated CoS ADT values that apply to each MPID (Each DCC User)
ECoS-PRO-006	The Contractor shall technically enable and provide support to the TCoS Service Provider and the DCC in successfully migrating the TCoS service to ECoS
ECoS-PRO-007	The Contractor Solution shall update the registration and meter inventory databases upon successful updates to the meters credentials to reflect any amendments and then utilise the updated information as a part of future processing
ECoS-PRO-008	The Contractor Solution shall be capable of generating SMKI keys via a DCC approved HSM
ECoS-PRO-009	The Contractor Solution shall facilitate the change of supplier credentials relating to both SMETS1 and SMETS2 Devices
ECoS-PRO-010	The Contractor Solution shall not affect the way that Devices operate, either during implementation or operation
ECoS-PRO-011	The Contractor Solution shall be separate from other Systems, i.e. it must be subject to controls which ensure that no communication may take place between it and any other System, unless such communication is necessary for the intended operation of the System
ECoS-PRO-012	The Contractor Solution and ACB shall maintain individual reference data which is separate from other DCC Systems
ECoS-PRO-013	The Contractor Solution and ACB shall operate using separate time-sources

ECoS Schedule 2.1 (DCC Requirements) (Critical Software)



ECoS-PRO-014	The Contractor Solution and ACB shall perform volume-based anomaly detection checks on CoS requests
ECoS-PRO-015	The Contractor Solution shall support the change of CoS Party credentials on Devices
ECoS-PRO-016	The Contractor Solution shall be able to distinguish Devices of different technical specifications (SMETS1/SMETS2)
ECoS-PRO-017	The Contractor Solution shall be able to update CoS certificates on devices (ECoS to ECoS) and include these updates in future processing
ECoS-PRO-018	The Contractor will provide the necessary mechanism to allow the Hosting and Service Management Service Provider to monitor ECoS system performance and SLAs using the facilities on the ECoS system GUI or dashboard
ECoS-PRO-019	The Contractor Solution shall be able to automatically raise incidents based on activity/ errors, and allow for a facility for data processing issues or other errors to be manually corrected without database access by the Hosting and Service Management Service Provider and/ or DCC
ECoS-PRO-020	<p>The Contractor and the Contractor Solution shall be able to carry out ECoS recovery and replacement of CoS credentials with a new certificate using the recovery key (potentially triggered by either Service Desk or other user activity)</p> <p>The Contractor Solution will expose mechanisms by which the Hosting and Service Management Service Provider can replace the ECOS Certificate.</p>
ECoS-PRO-021	The Contractor shall support the DCC Migration team in the transition from the TCoS to ECoS system through various reporting mechanisms on the ECoS system, fed by migration success updates from the DSP
ECoS-PRO-022	The Contractor Solution shall carry out COS processing for SMETS (1 and 2+) devices to meet DCC and SEC requirements in the E-PDMS
ECoS-PRO-023	<p>The Contractor and the Contractor Solution shall provide business support processes, including at least the following:</p> <ul style="list-style-type: none"> - Loading of ADT files for each user - Updating system configuration files in the system - Reloading files if necessary - Monitoring system load and failures - Stopping and starting containers and services to adjust to demand - Resolving incidents <p>All functional requirements are specified in the EPDMS.</p>



3 Migration Requirements

The Hosting and Service Management Service Provider shall be responsible for delivering the transition framework, methodologies and policies (the **Service Transition Framework**). The purpose of this section is to detail the Contractor's obligations in respect of supporting the Service Transition Framework.

Requirement ID	Requirement
RTM-T2EM-031	The Contractor shall provide a valid ECoS certificate for installation in the DCC device manufacturing pack in accordance with the Implementation Plan.
RTM-T2EM-019	The Contractor shall supply comprehensive early life support services to support the transition from TCoS to EcoS. The Contractor's proposals for early life support services shall be submitted to the DCC for review and approval at Milestone 1.5 (SIT Testing Phase Exit / UIT Testing Environment Entry).
RTM-ECoS-285	The Contractor shall produce its Transition Approach Document which details its approach to transitioning ECoS into the live environment. The Contractor acknowledges that this is part of DCC's Transition Approach Document and accordingly, the DCC (acting reasonably) may require the Contractor to make revisions or amendments. To the extent that DCC requires revisions or amendments to the Transition Approach Document then the Contractor shall promptly address the DCC's comments and resubmit. The Contractor's Transition Approach Document shall be binding when approved by the DCC.
RTM-ECoS-287	The Contractor shall produce a Service Transition Responsibilities and Deliverables matrix in conjunction with the Hosting and Service Management Service Provider (pursuant to Schedule 8.7 Co-Operation), subject to DCC approval.
RTM-ECoS-288a	The Contractor shall provide DCC (or other DCC Service Providers) with reasonable support (as requested by DCC) in respect of developing documentation, making submissions, responding to queries or otherwise for any DCC internal processes (including without limitation operational acceptance) and external industry governance (such as the Security Sub-Committee, SecOps Group, SEC Panel etc.)*
RTM-ECoS-290a	The Contractor shall comply with any transition framework, methodologies, policies, updating requirements and communications policies developed by the Hosting and Service Management Service Provider for ECoS and approved by the DCC (the Service Transition Framework).
RTM-ECoS-290b	The Contractor shall collaborate with the DCC and other DCC Service Providers to manage the Cross-Provider Transition Planning, Execution, and Support Process for the Transition from TCoS to ECoS. (For the avoidance of doubt, the Parties shall set out the process for achieving this in their Co-Operation Agreement and shall comply with the Co-Operation Objectives in respect of the same).
RTM-ECoS-297	The Contractor shall meet all entry and exit criteria for stages relating to Transition Readiness agreed as part of the Service Transition Framework.
RTM-ECoS-301	The Contractor shall update the Hosting and Service Management Service Provider with items for the Risks, Assumptions, Issues and Dependencies Log (the RAID Log) for the TCoS to ECoS transition activities. The Contractor shall collaborate with the DCC and other DCC Service Providers for resolution of the same.

ECoS Schedule 2.1 (DCC Requirements) (Critical Software)

Requirement ID	Requirement
RTM-ECoS-303	The Contractor shall use DCC approved templates where required by the DCC.
RTM-ECoS-304	The Contractor shall comply with the DCC's release and change management process (as notified to the Contractor from time to time).



4 Security Requirements

4.1 Application Security

ID	Requirement	Detail
DCC-AIS-01	Application Security	The Contractor shall ensure applications and programming interfaces (APIs) are designed, developed, deployed, and tested in accordance with leading industry standards (e.g., OWASP for web applications) and adhere to applicable legal, statutory, or regulatory compliance obligations.
DCC-AIS-04	Data Security/Integrity	The Contractor shall ensure policies and procedures are established and maintained in support of data security to include confidentiality, integrity, and availability across multiple system interfaces, jurisdictions, and business functions to prevent improper disclosure, alteration, or destruction.
DCC-AIS-02	Customer Access Requirements	The Contractor shall ensure prior to granting customers access to data, assets, and information systems, identified security, contractual, and regulatory requirements for customer access are addressed.
DCC-AIS-03	Data Integrity	The Contractor shall ensure data input and output integrity routines (i.e., reconciliation and edit checks) are implemented for application interfaces and databases to prevent manual or systematic processing errors, corruption of data, or misuse.

4.2 Audit and Assurance

Requirement	Detail
Audit Planning	The Contractor shall ensure audit plans are developed and maintained to address business process disruptions. Auditing plans shall focus on reviewing the effectiveness of the implementation of security operations. All audit activities must be agreed upon prior to executing any audits.
Independent Audits	The Contractor shall ensure that independent reviews and assessments are performed at least annually to ensure that the organisation addresses nonconformities of established policies, standards, procedures, and compliance obligations.
Information System Regulatory Mapping	The Contractor shall ensure they create and maintain a control framework which captures standards, regulatory, legal, and statutory requirements relevant for their business needs. The control framework shall be reviewed at least annually to ensure changes that could affect the business processes are reflected.



4.3 Change Control & Configuration Management

Requirement	Detail
New Development / Acquisition	The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, to ensure the development and/or acquisition of new data, physical or virtual applications, infrastructure network, and systems components, or any corporate, operations and/or data centre facilities have been pre-authorized by the Contractor's business leadership or other accountable business role or function.
Outsourced Development	Sub-contractors shall adhere to the same policies and procedures for change management, release, and testing as internal developers within the organisation (e.g., ITIL service management processes).
Quality Testing	The Contractor shall follow a defined quality change control and testing process (e.g., ITIL Service Management) with established baselines, testing, and release standards that focus on system availability, confidentiality, and integrity of systems and services
Unauthorised Software Installations	The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, to restrict the installation of unauthorised software on organisationally-owned or managed user end-point devices (e.g., issued workstations, laptops, and mobile devices) and IT infrastructure network and systems components.
Production Changes	The Contractor shall ensure policies and procedures are established for managing the risks associated with applying changes to: <ul style="list-style-type: none"> • Business-critical or DCC-impacting (physical and virtual) applications and system-system interface (API) designs and configurations. • Infrastructure network and systems components. Technical measures shall be implemented to provide assurance that all changes directly correspond to a registered change request, business-critical or DCC, and/or authorisation by, the DCC as per agreement (SLA) prior to deployment.

4.4 Data Security & Information Lifecycle Management

Requirement	Detail
Classification	The Contractor shall ensure data and objects containing data are assigned a classification by the data owner based on data type, value, sensitivity, and criticality to the organisation.



Data Inventory / Flows	The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, to inventory, document, and maintain data flows for data that is resident (permanently or temporarily) within the service's geographically distributed (physical and virtual) applications and infrastructure network and systems components and/or shared with other third parties to ascertain any regulatory, statutory, or supply chain agreement (SLA) compliance impact, and to address any other business risks associated with the data. Upon request, the Contractor shall inform DCC of compliance impact and risk, especially if DCC Data is used as part of the services.
Handling / Labelling / Security Policy	The Contractor shall ensure policies and procedures are established for the labelling, handling, and security of data and objects which contain data. Mechanisms for label inheritance shall be implemented for objects that act as aggregate containers for data.
Non-Production Data	The Contractor shall ensure production data is not replicated or used in non-production environments. Any use of DCC Data in non-production environments requires explicit, documented approval from the DCC, and must comply with all Mandatory Requirements relating to scrubbing of sensitive data elements.
Ownership / Stewardship	The Contractor shall ensure that all Data is designated with stewardship, with assigned responsibilities defined, documented, and communicated.
Secure Disposal	The Contractor shall ensure policies and procedures are established with supporting business processes and technical measures implemented for the secure disposal and complete removal of data from all storage media, ensuring data is not recoverable by any computer forensic means.

4.5 Datacentre Security

Requirement	Detail
Asset Management	The Contractor shall ensure that Assets are classified in terms of business criticality, service-level expectations, and operational continuity requirements. A complete inventory of business-critical assets located at all sites and/or geographical locations and their usage over time shall be maintained and updated regularly and assigned ownership by defined roles and responsibilities.
Controlled Access Points	The Contractor shall ensure physical security perimeters (e.g., fences, walls, barriers, guards, gates, electronic surveillance, physical authentication mechanisms, reception desks, and security patrols) are implemented to safeguard sensitive data and information systems.
Equipment Identification	The Contractor shall ensure automated equipment identification is used as a method of connection authentication. Location-aware technologies may be used to validate connection authentication integrity based on known equipment location.
Off-Site Authorisation	The Contractor shall ensure authorisation is obtained prior to relocation or transfer of hardware, software, or data to an offsite premise.
Off-Site Equipment	The Contractor shall ensure policies and procedures are established for the secure disposal of equipment (by asset type) used outside the organisation's premises. This shall include a wiping solution or destruction process that renders recovery of information impossible. The



	erasure shall consist of a full overwrite of the drive to ensure that the erased drive is released to inventory for reuse and deployment, or securely stored until it can be destroyed.
Policy	The Contractor shall ensure policies and procedures are established, and supporting business processes implemented, for maintaining a safe and secure working environment in offices, rooms, facilities, and secure areas storing sensitive information.
Secure Area Authorisation	The Contractor shall ensure ingress and egress to secure areas are constrained and monitored by physical access control mechanisms to ensure that only authorised personnel are allowed access.
Unauthorised Persons Entry	The Contractor shall ensure that ingress and egress points such as service areas and other points where unauthorised personnel may enter the premises are monitored, controlled and, if possible, isolated from data storage and processing facilities to prevent unauthorised data corruption, compromise, and loss.
User Access	The Contractor shall ensure physical access to information assets and functions by users and support personnel are restricted.

4.6 Encryption & Key Management

Requirement	Detail
Entitlement	The Contractor shall ensure keys have identifiable owners (binding keys to identities) and there shall be key management policies.
Key Generation	The Contractor shall ensure policies and procedures are established for the management of cryptographic keys in the service's cryptosystem (e.g., lifecycle management from key generation to revocation and replacement, public key infrastructure, cryptographic protocol design and algorithms used, access controls in place for secure key generation, and exchange and storage including segregation of keys used for encrypted data or sessions). Upon request, the Contractor shall inform the DCC of changes within the cryptosystem, especially if the DCC Data is used as part of the service, and/or the DCC has some shared responsibility over implementation of the control.
Sensitive Data Protection	The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, for the use of encryption protocols for protection of sensitive data in storage (e.g., file servers, databases, and end-user workstations), data in use (memory), and data in transmission (e.g., system interfaces, over public networks, and electronic messaging) as per applicable legal, statutory, and regulatory compliance obligations.
Storage and Access	The Contractor shall ensure platform and data-appropriate encryption (e.g., as defined in the SEC and Schedule 2.3) in open/validated formats and standard algorithms are required. Keys shall not be stored in the cloud (i.e., at the cloud provider in question), but maintained by the cloud consumer or trusted key management provider. Key management and key usage shall be separated duties.



4.7 Governance and Risk Management

Requirement	Detail
Baseline Requirements	<p>The Contractor shall ensure baseline security requirements are established for developed or acquired, organisationally-owned or managed, physical or virtual, applications and infrastructure system and network components that comply with applicable legal, statutory, and regulatory compliance obligations. Deviations from standard baseline configurations must be authorised following change management policies and procedures prior to deployment, provisioning, or use. Compliance with security baseline requirements must be reassessed at least annually unless an alternate frequency has been established and authorised based on business needs.</p>
Data Focus Risk Assessments	<p>The Contractor shall ensure risk assessments associated with data governance requirements are conducted at planned intervals and shall consider the following:</p> <ul style="list-style-type: none"> • Awareness of where sensitive data is stored and transmitted across applications, databases, servers, and network infrastructure. • Compliance with defined retention periods and end-of-life disposal requirements. • Data classification and protection from unauthorised use, access, loss, destruction, and falsification.
Management Oversight	<p>The Contractor shall ensure its managers are responsible for maintaining awareness of, and complying with, security policies, procedures, and standards that are relevant to their area of responsibility.</p>
Management Plan	<p>The Contractor shall ensure its Information Security Management Program (ISMP) is developed, documented, approved, and implemented that includes administrative, technical, and physical safeguards to protect Assets and Data from loss, misuse, unauthorised access, disclosure, alteration, and destruction. The security program shall include, but not be limited to, the following areas insofar as they relate to the characteristics of the business:</p> <ul style="list-style-type: none"> • Risk management • Security policy • Organisation of information security • Asset management • Human resources security • Physical and environmental security • Communications and operations management • Access control • Information systems acquisition, development, and maintenance
Management Support/Involvement	<p>The Contractor shall ensure its executive and line management take formal action to support information security through clearly documented direction and commitment, and shall ensure that the action has been assigned.</p>
Policy	<p>The Contractor shall ensure that information security policies and procedures are established and made readily available for review by all impacted personnel and external business relationships. Information security policies must be authorised by the organisation's business leadership (or other accountable business role or function) and supported by a strategic business plan and an information security management program inclusive of defined information security roles and responsibilities for business leadership.</p>



Policy Enforcement	The Contractor shall ensure a formal disciplinary or sanction policy is established for employees who have violated security policies and procedures. Employees shall be made aware of what action might be taken in the event of a violation, and disciplinary measures must be stated in the policies and procedures.
Policy Impact on Risk Assessments	The Contractor shall ensure risk assessment results are include updates to security policies, procedures, standards, and controls to ensure that they remain relevant and effective.
Policy Reviews	The Contractor shall ensure the organisation's business leadership (or other accountable business role or function) reviews the information security policy at planned intervals or as a result of changes to the organisation to ensure its continuing alignment with the security strategy, effectiveness, accuracy, relevance, and applicability to legal, statutory, or regulatory compliance obligations.
Risk Assessments	The Contractor shall ensure that to align with the enterprise-wide framework, formal risk assessments are performed at least annually or at planned intervals, (and in conjunction with any changes to information systems) to determine the likelihood and impact of all identified risks using qualitative and quantitative methods. The likelihood and impact associated with inherent and residual risk shall be determined independently, considering all risk categories (e.g., audit results, threat and vulnerability analysis, and regulatory compliance).
Risk Management Framework	The Contractor shall ensure that risks are mitigated to an acceptable level. Acceptance levels based on risk criteria shall be established and documented in accordance with reasonable resolution time frames and stakeholder approval.

4.8 Human Resources

Requirement	Detail
Asset Returns	The Contractor shall ensure that upon termination of workforce personnel and/or expiration of external business relationships, all organisationally-owned assets (including DCC owned assets) are returned within an established period.
Employment Agreements	The Contractor shall ensure that contracts of employment or engagement for all members of its workforce personnel involved in the provision of the Services incorporate provisions and/or terms for adherence to established information governance and security policies and must be signed by newly hired or on-boarded workforce personnel (e.g., full or part-time employee or contingent staff) prior to granting workforce personnel user access to DCC's corporate facilities, resources, and assets.
Employment Termination	The Contractor shall ensure that roles and responsibilities for performing employment termination or change in employment procedures are assigned, documented, and communicated to the DCC (as reasonably requested).
Mobile Device Management	The Contractor shall ensure that policies and procedures are established, and supporting business processes and technical measures implemented, to manage business risks associated with permitting mobile device access to corporate resources and may require the implementation of higher assurance compensating controls and acceptable-use policies and procedures (e.g., mandated security training, stronger identity, entitlement and access controls, and device monitoring).



Roles / Responsibilities	The Contractor shall ensure that roles and responsibilities of its employees, sub-contractors, agents and other third-parties engaged by the Contractor are documented in terms of how each role (and its associated responsibilities) relates to information assets and security where performance of that role (including access granted by the role) may have a material impact on the Services and/or the DCC (such as an impact to IPR and/or commercially sensitive documents exchanged with the Contractor).
Technology Acceptable Use	The Contractor shall maintain and provide the DCC with a copy of its acceptable use policies that address the use of (i) devices owned and provided to its workforce by clients (and, in particular, policies relevant in respect of DCC-owned devices), (ii) devices owned and provided to its workforce by the Contractor, and (iii) any other devices that may be used by the Contractor's workforce in the provision of the Services. The Contractor shall ensure that the policies (and procedures described in the policies) are established and enforced, and that supporting business processes and technical measures are implemented, for defining allowances and conditions for permitting usage of organisationally-owned or managed user end-point devices (e.g., issued workstations, laptops, and mobile devices) and IT infrastructure network and systems components. Any allowances and conditions that permit usage of personal mobile devices and associated applications (i.e. Bring-Your-Own-Device or "BYOD") to access corporate resources (including DCC networks and systems) shall be expressly set out in the policies and the use of non-DCC owned devices (including BYOD) by workforce involved in the provision of the Services shall be subject to DCC's prior written approval.
Training / Awareness	As part of its compliance with Contractor Personnel obligations in this Agreement, including at paragraph 1.1.1 of Schedule 9.2 (Personnel and Key Personnel), the Contractor shall ensure a security awareness training program is established and made a mandatory requirement (where appropriate) for all its employees, sub-contractors and any other members of its workforce. All individuals with access to DCC Data shall receive appropriate awareness training and regular updates in organisational procedures, processes, and policies relating to their professional function relative to the organisation.
User Responsibility	The Contractor shall ensure all personnel are made aware of their roles and responsibilities for: <ul style="list-style-type: none"> • Maintaining awareness and compliance with established policies and procedures and applicable legal, statutory, or regulatory compliance obligations. • Maintaining a safe and secure working environment.
Workspace	The Contractor shall ensure policies and procedures are established to require that unattended workspaces do not have openly visible (e.g., on a desktop) sensitive documents and user computing sessions are disabled after an established period of inactivity.



4.9 Identity & Access Management

Requirement	Detail
Audit Tools Access	The Contractor shall ensure access to, and use of, audit tools that interact with the organisation's information systems are appropriately segregated and access restricted to prevent inappropriate disclosure and tampering of log data.
Credential Lifecycle / Provision Management	<p>The Contractor shall ensure that user access policies and procedures are established, and supporting business processes and technical measures implemented, for ensuring appropriate identity, entitlement, and access management for all internal corporate and DCC users with access to data and organisationally-owned or managed (physical and virtual) application interfaces and infrastructure network and systems components. These policies, procedures, processes, and measures must incorporate the following:</p> <ul style="list-style-type: none"> • Procedures, supporting roles, and responsibilities for provisioning and de-provisioning user account entitlements following the rule of least privilege based on job function (e.g., internal employee and contingent staff personnel changes, customer-controlled access, suppliers' business relationships, or other third-party business relationships) • Business case considerations for higher levels of assurance and multi-factor authentication secrets (e.g., management interfaces, key generation, remote access, segregation of duties, emergency access, large-scale provisioning or geographically-distributed deployments, and personnel redundancy for critical systems) • Access segmentation to sessions and data in multi-tenant architectures by any third party (e.g., Contractor and/or other DCC Service Providers) • Identity trust verification and service-to-service application (API) and information processing interoperability (e.g., SSO and federation) • Account credential lifecycle management from instantiation through revocation • Account credential and/or identity store minimisation or re-use when feasible • Authentication, authorisation, and accounting (AAA) rules for access to data and sessions (e.g., encryption and strong/multi-factor, expirable, non-shared authentication secrets) • Permissions and supporting capabilities for DCC controls over authentication, authorisation, and accounting (AAA) rules for access to data and sessions • Adherence to applicable legal, statutory, or regulatory compliance requirements
Diagnostic / Configuration Ports Access	The Contractor shall ensure that user access to diagnostic and configuration ports are restricted to authorised individuals and applications.
Policies and Procedures	The Contractor shall ensure policies and procedures are established to store and manage identity information about every person who accesses IT infrastructure and to determine their level of access. Policies shall also be developed to control access to network resources based on user identity.
Source Code Access Restriction	The Contractor shall ensure access to the organisation's own developed applications, program, or object source code, or any other form of intellectual property (IP), and use of proprietary software is appropriately restricted following the rule of least privilege based on job function as per established user access policies and procedures.



Third Party Access	The Contractor shall ensure the identification, assessment, and prioritisation of risks posed by business processes requiring third-party access to the organisation's information systems and data is followed by coordinated application of resources to minimise, monitor, and measure likelihood and impact of unauthorised or inappropriate access. Compensating controls derived from the risk analysis shall be implemented prior to provisioning access.
Trusted Sources	The Contractor shall ensure policies and procedures are established for permissible storage and access of identities used for authentication to ensure identities are only accessible based on rules of least privilege and replication limitation only to users explicitly defined as business necessary.
User Access Authorisation	The Contractor shall ensure provisioning user access (e.g., employees, contractors, customers (tenants), business partners, and/or supplier relationships) to data and organisationally-owned or managed (physical and virtual) applications, infrastructure systems, and network components are authorised by the organisation's management prior to access being granted and appropriately restricted as per established policies and procedures. Upon request, provider shall inform DCC of this user access, especially if DCC Data is used as part of the service and/or DCC has some shared responsibility over implementation of control.
User Access Review	The Contractor shall ensure user access is authorised and revalidated for entitlement appropriateness, at planned intervals, by the organisation's business leadership or other accountable business role or function supported by evidence to demonstrate the organisation is adhering to the rule of least privilege based on job function. For identified access violations, remediation must follow established user access policies and procedures.
User Access Revocation	The Contractor shall ensure timely de-provisioning (revocation or modification) of user access to data and organisationally-owned or managed (physical and virtual) applications, infrastructure systems, and network components, are implemented as per established policies and procedures and based on user's change in status (e.g., termination of employment or other business relationship, job change, or transfer). Upon request, provider shall inform DCC of these changes, especially if DCC Data is used as part the service and/or DCC has some shared responsibility over implementation of control.
User ID Credentials	The Contractor shall ensure internal corporate or DCC user account credentials are restricted as per the following, ensuring appropriate identity, entitlement, and access management and in accordance with established policies and procedures: <ul style="list-style-type: none"> • Identity trust verification and service-to-service application (API) and information processing interoperability (e.g., SSO and Federation) • Account credential lifecycle management from instantiation through revocation. • Account credential and/or identity store minimisation or re-use when feasible. • Adherence to industry acceptable and/or regulatory compliant authentication, authorisation, and accounting (AAA) rules (e.g., strong/multi-factor, expirable, non-shared authentication secrets).
Utility Programs Access	The Contractor shall ensure utility programs capable of potentially overriding system, object, network, virtual machine, and application controls are restricted.



4.10 Infrastructure & Virtualisation Security

Requirement	Detail
Audit Logging / Intrusion Detection	The Contractor shall ensure higher levels of assurance for protection, retention, and lifecycle management of audit logs, adhering to applicable legal, statutory or regulatory compliance obligations and providing unique user access accountability to detect potentially suspicious network behaviours and/or file integrity anomalies, and to support forensic investigative capabilities in the event of a security breach.
Change Detection	The Contractor shall ensure the integrity of all virtual machine images at all times. Any changes made to virtual machine images must be logged and an alert raised regardless of their running state (e.g., dormant, off, or running). The results of a change or move of an image and the subsequent validation of the image's integrity must be immediately available to DCC through electronic methods (e.g., portals or alerts).
Clock Synchronisation	The Contractor shall ensure a reliable and mutually agreed upon external time source is used to synchronise the system clocks of all relevant information processing systems to facilitate tracing and reconstitution of activity timelines.
Information System Documentation	The Contractor shall ensure the availability, quality, and adequate capacity and resources are planned, prepared, and measured to deliver the required system performance in accordance with legal, statutory, and regulatory compliance obligations. Projections of future capacity requirements shall be made to mitigate the risk of system overload.
Vulnerability Management	The Contractor shall ensure that the security vulnerability assessment tools or services accommodate the virtualisation technologies used (e.g., virtualisation aware).
Network Security	The Contractor shall ensure network environments and virtual instances are designed and configured to restrict and monitor traffic between trusted and untrusted connections. These configurations shall be reviewed at least annually and supported by a documented justification for use for all allowed services, protocols, ports, and by compensating controls.
OS Hardening and Base Controls	The Contractor shall ensure each operating system is hardened to provide only necessary ports, protocols, and services to meet business needs and have in place supporting technical controls such as: antivirus, file integrity monitoring, and logging as part of their baseline operating build standard or template.
Production / Non-Production Environments	The Contractor shall ensure production and non-production environments are separated to prevent unauthorised access or changes to information assets. Separation of the environments may include: stateful inspection firewalls, domain/realm authentication sources, and clear segregation of duties for personnel accessing these environments as part of their job duties.



Segmentation	<p>The Contractor shall ensure multi-tenant organisationally-owned or managed (physical and virtual) applications, and infrastructure system and network components, are designed, developed, deployed, and configured such that provider and DCC user access is appropriately segmented from other tenant users, based on the following considerations:</p> <ul style="list-style-type: none"> • Established policies and procedures • Isolation of business critical assets and/or sensitive user data, and sessions that mandate stronger internal controls and high levels of assurance. • Compliance with legal, statutory, and regulatory compliance obligations.
VM Security - Data Protection	<p>The Contractor shall ensure secured and encrypted communication channels are used when migrating physical servers, applications, or data to virtualised servers and, where possible, shall use a network segregated from production-level networks for such migrations.</p>
Hypervisor Hardening	<p>The Contractor shall ensure access to all hypervisor management functions or administrative consoles for systems hosting virtualised systems are restricted to personnel based upon the principle of least privilege and supported through technical controls (e.g., two-factor authentication, audit trails, IP address filtering, firewalls, and TLS encapsulated communications to the administrative consoles).</p>
Wireless Security	<p>The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, to protect wireless network environments, including the following:</p> <ul style="list-style-type: none"> • Perimeter firewalls implemented and configured to restrict unauthorised traffic. • Security settings enabled with strong encryption for authentication and transmission, replacing vendor default settings (e.g., encryption keys, passwords, and SNMP community strings) • User access to wireless network devices restricted to authorised personnel. • The capability to detect the presence of unauthorised (rogue) wireless network devices for a timely disconnect from the network.
Network Architecture	<p>The Contractor shall ensure network architecture diagrams clearly identify high-risk environments and data flows that may have legal compliance impacts. Technical measures shall be implemented and shall apply defence-in-depth techniques (e.g., deep packet analysis, traffic throttling, and black-holing) for detection and timely response to network-based attacks associated with anomalous ingress or egress traffic patterns (e.g., MAC spoofing and ARP poisoning attacks) and/or distributed denial-of-service (DDoS) attacks.</p>

4.11 Interoperability & Portability

Requirement	Detail
APIs	<p>The Contractor shall use open and published APIs to ensure support for interoperability between components and to facilitate migrating applications.</p>



Data Request	The Contractor shall ensure all structured and unstructured data is available to the customer and provided to them upon request in an industry-standard format (e.g., .doc, .xls, .pdf, logs, and flat files).
Policy & Legal	The Contractor shall ensure policies, procedures, and mutually-agreed upon provisions and/or terms are established to satisfy DCC requirements for service-to-service application (API) and information processing interoperability, and portability for application development and information exchange, usage, and integrity persistence.
Standardised Network Protocols	The Contractor shall use secure (e.g., non-clear text and authenticated) standardised network protocols for the import and export of data and to manage the service, and shall make available a document to DCC detailing the relevant interoperability and portability standards that are involved.
Virtualisation	The Contractor shall use an industry-recognised virtualisation platform and standard virtualisation formats (e.g., OVF) to help ensure interoperability, and shall have documented custom changes made to any hypervisor in use and all solution-specific virtualisation hooks available for customer review.

4.12 Mobile Security

Requirement	Detail
Anti-Malware	The Contractor shall ensure anti-malware awareness training, specific to mobile devices, is included in the provider's information security awareness training.
Application Stores	The Contractor shall ensure a documented list of approved application stores have been defined as acceptable for mobile devices accessing or storing provider managed data.
Approved Applications	The Contractor shall have a documented policy prohibiting the installation of non-approved applications or approved applications not obtained through a pre-identified application store.
Approved Software for BYOD	The Contractor shall ensure the Bring Your Own Device (BYOD) policy and supporting awareness training clearly states the approved applications, application stores, and application extensions and plugins that may be used for BYOD usage.
Awareness and Training	The Contractor shall have a documented mobile device policy that includes a documented definition for mobile devices and the acceptable usage and requirements for all mobile devices. The provider shall post and communicate the policy and requirements through the company's security awareness and training program.
Cloud Based Services	The Contractor shall ensure all cloud-based services used by the company's mobile devices or BYOD are pre-approved by the DCC for usage and the storage of company business data.
Compatibility	The Contractor shall have a documented application validation process to test for mobile device, operating system, and application compatibility issues.
Device Eligibility	The Contractor shall ensure the BYOD policy defines the device and eligibility requirements to allow for BYOD usage.



Device Inventory	The Contractor shall ensure an inventory of all mobile devices used to store and access company data (including DCC Data) is kept and maintained. All changes to the status of these devices (i.e., operating system and patch levels, lost or decommissioned status, and to whom the device is assigned or approved for usage (BYOD)) will be included for each device in the inventory.
Device Management	The Contractor shall ensure a centralised, mobile device management solution is deployed to all mobile devices permitted to store, transmit, or process customer data.
Encryption	The Contractor shall ensure the mobile device policy requires the use of encryption either for the entire device or for data identified as sensitive on all mobile devices and shall be enforced through technology controls.
Jailbreaking and Rooting	The Contractor shall ensure the mobile device policy prohibits the circumvention of built-in security controls on mobile devices (e.g., jailbreaking or rooting) and shall enforce the prohibition through detective and preventative controls on the device or through a centralised device management system (e.g., mobile device management).
Legal	The Contractor shall ensure the BYOD policy includes clarifying language for the expectation of privacy, requirements for litigation, e-discovery, and legal holds. The BYOD policy shall clearly state the expectations regarding the loss of third party Data in the case that a wipe of the device is required.
Lockout Screen	The Contractor shall ensure BYOD and/or company-owned devices are configured to require an automatic lockout screen, and the requirement shall be enforced through technical controls.
Operating Systems	The Contractor shall ensure changes to mobile device operating systems, patch levels, and/or applications are managed through the company's change management processes.
Passwords	The Contractor shall ensure password policies, applicable to mobile devices, are documented and enforced through technical controls on all company devices or devices approved for BYOD usage, and shall prohibit the changing of password/PIN lengths and authentication requirements.
Policy	The Contractor shall ensure the mobile device policy requires the BYOD user to perform backups of data, prohibit the usage of unapproved application stores, and require the use of anti-malware software (where supported).
Remote Wipe	The Contractor shall ensure all mobile devices permitted for use through the company BYOD program or a company-assigned mobile device allows for remote wipe by the company's corporate IT or shall have all company-provided data wiped by the company's corporate IT.
Security Patches	The Contractor shall ensure mobile devices connecting to corporate networks, or storing and accessing company information, allow for remote software version/patch validation. All mobile devices shall have the latest available security-related patches installed upon general release by the device manufacturer or carrier and authorised IT personnel shall be able to perform these updates remotely.
Users	The Contractor shall ensure the BYOD policy clarifies the systems and servers allowed for use or access on a BYOD-enabled device.



4.13 Security Incident Management, E-Discovery, & Cloud Forensics

Requirement	Detail
Contact / Authority Maintenance	The Contractor shall ensure points of contact for applicable regulation authorities, national and local law enforcement, and other legal jurisdictional authorities are maintained and regularly updated (e.g., change in impacted-scope and/or a change in any compliance obligation) to ensure direct compliance liaisons have been established and to be prepared for a forensic investigation requiring rapid engagement with law enforcement.
Incident Management	The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, to triage security-related events and ensure timely and thorough incident management, as per established IT service management policies and procedures.
Incident Reporting	The Contractor shall ensure workforce personnel and external business relationships are informed of their responsibilities and, if required, shall consent and/or contractually agree to report all information security events in a timely manner. Information security events shall be reported through predefined communications channels in a timely manner adhering to applicable legal, statutory, or regulatory compliance obligations.
Incident Response Legal Preparation	The Contractor shall ensure proper forensic procedures, including chain of custody, are required for the presentation of evidence to support potential legal action subject to the relevant jurisdiction after an information security incident. Upon notification, customers and/or other external business partners impacted by a security breach shall be given the opportunity to participate as is legally permissible in the forensic investigation.
Incident Response Metrics	The Contractor shall ensure mechanisms are put in place to monitor and quantify the types, volumes, and costs of information security incidents.

4.14 Supply Chain Management, Transparency, and Accountability

Requirement	Detail
Data Quality and Integrity	The Contractor shall inspect, account for, and work with their cloud supply-chain partners to correct data quality errors and associated risks. The Contractor shall design and implement controls to mitigate and contain data security risks through proper separation of duties, role-based access, and least-privilege access for all personnel within their supply chain.
Incident Reporting	The Contractor shall make security incident information available to the DCC as required in this Agreement and, in any event, on a regular basis (as agreed between the Parties) through electronic methods in the DCC incident management portal and as otherwise reasonably requested by DCC.



Network / Infrastructure Services	The Contractor shall ensure business-critical or DCC impacting (physical and virtual) application and system-system interface (API) designs and configurations, and infrastructure network and systems components, are designed, developed, and deployed in accordance with mutually agreed-upon service and capacity-level expectations, as well as IT governance and service management policies and procedures.
Provider Internal Assessments	The Contractor shall perform annual internal assessments of conformance to, and effectiveness of, its policies, procedures, and supporting measures and metrics.
Supply Chain Agreements	<p>In respect of supply chain agreements (e.g., SLAs) between the Contractor and its service providers and customers (tenants) under which any part of the Services will be performed, the Contractor shall ensure that those agreements incorporate at least the following mutually-agreed upon provisions and/or terms:</p> <ul style="list-style-type: none"> • Scope of business relationship and services offered (e.g., DCC Data acquisition, exchange and usage, feature sets and functionality, personnel and infrastructure network and systems components for service delivery and support, roles and responsibilities of provider and DCC and any subcontracted or outsourced business relationships, physical geographical location of hosted services, and any known regulatory compliance considerations). • Information security requirements, provider and DCC primary points of contact for the duration of the business relationship, and references to detailed supporting and relevant business processes and technical measures implemented to enable effectively governance, risk management, assurance and legal, statutory and regulatory compliance obligations by all impacted business relationships. • Notification and/or pre-authorisation of any changes controlled by the provider with DCC impacts. • Timely notification of a security incident (or confirmed breach) that is consistent with security incident notification requirements of the Contractor under this Agreement(i.e., up- and down-stream impacted supply chain). • Assessment and independent verification of compliance with agreement provisions and/or terms (e.g., industry-acceptable certification, attestation audit report, or equivalent forms of assurance) without posing an unacceptable business risk of exposure to the organisation being assessed. • Expiration of the business relationship and treatment of DCC Data impacted. • DCC service-to-service application (API) and data interoperability and portability requirements for application development and information exchange, usage, and integrity persistence.
Supply Chain Governance Reviews	The Contractor shall review the risk management and governance processes of their partners so that practices are consistent and aligned to account for risks inherited from other members of that partner's cloud supply chain (in alignment with standards in Schedule 2.3)
Supply Chain Metrics	The Contractor shall ensure policies and procedures are implemented to ensure the consistent review of service agreements (e.g., SLAs) between service providers and DCC across the relevant supply chain (upstream/downstream). Reviews shall be performed at least annually and identify any non-conformance to established agreements. The reviews should result in actions to address service-level conflicts or inconsistencies resulting from disparate supplier relationships.



Third Party Assessment	The Contractor shall assure reasonable information security across their information supply chain by performing an annual review. The review shall include all partners/third party-providers upon which their information supply chain depends.
Third Party Audits	In addition to requirements set out at Schedule 2.5, Schedule 4.3 and elsewhere in the Agreement, the Contractor shall ensure that its sub-contractors demonstrate compliance with information security and confidentiality, access control, service definitions, and delivery level agreements included in third-party contracts. Third-party reports, records, and services shall undergo audit and review at least annually to govern and maintain compliance with the service delivery agreements.

4.15 Threat and Vulnerability Management

Requirement	Detail
Anti-Virus / Malicious Software	The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, to prevent the execution of malware on organisationally-owned or managed user end-point devices (i.e., issued workstations, laptops, and mobile devices) and IT infrastructure network and systems components.
Vulnerability / Patch Management	The Contractor shall ensure policies and procedures are established, and supporting processes and technical measures implemented, for timely detection of vulnerabilities within organisationally-owned or managed applications, infrastructure network and system components (e.g., network vulnerability assessment, penetration testing) to ensure the efficiency of implemented security controls. A risk-based model for prioritising remediation of identified vulnerabilities shall be used. Changes shall be managed through a change management process for all vendor-supplied patches, configuration changes, or changes to the organisation's internally developed software. Upon request, the provider informs DCC of policies and procedures and identified weaknesses especially if DCC Data is used as part the service and/or DCC has some shared responsibility over implementation of control.
Mobile Code	The Contractor shall ensure policies and procedures are established, and supporting business processes and technical measures implemented, to prevent the execution of unauthorised mobile code, defined as software transferred between systems over a trusted or untrusted network and executed on a local system without explicit installation or execution by the recipient, on organisationally-owned or managed user end-point devices (e.g., issued workstations, laptops, and mobile devices) and IT infrastructure network and systems components.



4.16 Other Specific Security Requirements

Requirement ID	Requirement	Detail
DCC-ECOS-01	RTM-ECoS-538	The Contractor shall ensure that ECoS will replace the TCoS manufacturing certificate with an in-life certificate in the device trust anchor cell within 7 days of Install & Commission, and in alignment with the DSP initiated ACB certificate replacement
DCC-ECOS-02	RTM-ECoS-305	The Contractor shall ensure that no information exchange should take place between the ECoS and TCoS systems unless that exchange is for an intended purpose
DCC-ECOS-03		The Contractor shall ensure that ethical walls are demonstrated for those personnel working on other parts of the Smart Meter Implementation Programme



5 Non-Functional Requirements

Requirement ID	Requirement
RTM-ECoS-016	The Contractor shall align their internal incident management process with the Hosting and Service Management Service Provider's incident management process
RTM-ECoS-018	The Contractor shall not have any direct contact with DCC Users, without DCC's prior written consent (at the manager or above level).
RTM-ECoS-019	The Contractor shall interact with the Hosting and Service Management Service Provider's Service Desk to support a centralised view of its services, including Incident Management, Problem Management, Operational Change and other ITIL service management functions as required. For avoidance of doubt, it is expected the Hosting and Service Management Service Provider's Service Desk shall train and support the Contractor to use the service desk tools.
RTM-ECoS-021	The Contractor shall provide all updates in respect of the Hosting and Service Management Service Provider's Service Desk 'queues'; logging, prioritising, collating, managing, escalating, and distributing accurate, timely & quality information with respect to day to day operational activities, in a timely manner (regular updates).
RTM-ECoS-033	The Contractor shall provide 3rd line support for Incidents that have been raised at the DCC Service Desk relating to the Services. '3rd line support' may also be referred to as 'Level 3 support' or 'Tier 3 support', and is broadly defined as expert product and service support providing highest technical resources available for problem resolution or new feature creation. 3rd line support methodology may involve duplication of problems and defining root causes, using product designs, code, or specifications. Incidents that are not capable of resolution by the first two lines of support may be escalated to the Contractor.
RTM-ECoS-216	The Contractor shall use failure codes which are easy to understand with additional information that includes a plain English description and sufficient details to aid diagnosis and resolution.
RTM-ECoS-128	The Contractor Performance Monitoring Approach shall make performance data for its Services available to DCC with a choice to view data by: Day, Week and Month
RTM-ECoS-129	The Contractor's Performance Monitoring Approach shall (without prejudice to Schedule 2.2) provide monthly reporting, to include as a minimum and where applicable: Number and nature of Incidents; Major Incidents; Problems; Changes; Releases; Service Management Service Requests; Performance measures during the Reporting Period; Service Levels achieved; and Full details of failed measures and MIM.

Requirement ID	Requirement
RTM-ECoS-220	<p>The Hosting and Service Management Service Provider shall investigate the underlying reasons for any failure to meet the Target Service Level(s) for availability Performance Measures.</p> <p>The Contractor shall assist the Hosting and Service Management Service Provider with any such investigation, where applicable and in accordance with Schedule 2.2 (Performance Measures and Monitoring).*</p>
RTM-ECoS-221	<p>The Hosting and Service Management Service Provider shall provide feedback and status reporting regarding availability and performance for its Services.</p> <p>The Contractor shall provide to the Hosting and Service Management Service Provider, information relevant to any such feedback, where applicable.*</p>
RTM-ECoS-239	<p>The Solution shall be able to continue to receive incoming requests and messages even if incapable of completing processing at that time. The Contractor will agree with the Hosting and Service Management Service Provider how this will be achieved. In addition, the Solution shall provide controls and functionality such that all received messages are processed and applicable responses are made.</p>
RTM-ECoS-570	<p>The Solution shall include a flexible reporting solution to ensure that any new or amended reports can be provided to DCC without any application code changes or Contract Changes, subject to the information being available for the report request being made</p>
RTM-ECoS-571	<p>The Solution shall provide a near real time audit data capability that must be available to the Technical Operations Centre in the DCC.</p>
RTM-ECoS-140	<p>The Contractor shall operate a fully documented and auditable Service Management Service Request process with records made available to the DCC on request</p>
RTM-ECoS-142	<p>The Contractor shall provide scripts, processes, procedures & work instructions to the DCC on request to facilitate successful completion of ECoS related Service Management Service Requests by DCC Service Desk Agents.</p>
RTM-ECoS-075	<p>The Contractor shall align their release schedule to Hosting and Service Management Service Provider's release schedules, unless in exceptional circumstances, whereby a DCC approval shall be gained in advance. The Contractor shall provide the Hosting and Service Management Service Provider such inputs as it may reasonably require in order to produce a consolidated release schedule (including without limitation, a rolling 52 week Release schedule and, where such schedule is changed then an updated version on the next Business Day).</p>
RTM-ECoS-079	<p>The Contractor shall provide the same level of back-out processes (as agreed by the Parties) for each change to its systems, application and/ or processes in case there is a need to reverse any changes made as part of a release.</p>



Requirement ID	Requirement
RTM-ECoS-082	The Contractor shall provide the Hosting and Service Management Service Provider with all support materials for a release not less than thirty five (35) Business Days prior to a planned implementation.
RTM-ECoS-083	<p>The Contractor shall notify the Hosting and Service Management Service Provider of any changes that are necessary for the effective implementation and operation of any release, at least thirty five (35) Business Days before the planned implementation date.</p> <p>This does not exclude the responsibility of the Hosting and Service Management Service Provider to assess how this change will impact their tools and systems.</p>
RTM-ECoS-084	The Contractor shall update all documentation resulting from a Release within five (5) Business Days of the Release being implemented.
RTM-ECoS-085	The Contractor shall put in place systems and processes that allow for expediting emergency Releases (subject to DCC approval) in business critical situations (and co-operate with the Hosting and Service Management Service Provider) to align such systems and processes.
RTM-ECoS-086	The Contractor shall only implement correctly identified, authorised and tested software and hardware within its Services.
RTM-ECoS-087	The Contractor shall create, store and maintain a log of all systems and services that have been used in both testing and the live provision of services.
RTM-ECoS-238	The Contractor shall monitor software components including licensing limits such that an alert is triggered when approaching licensing limits.
RTM-ECoS-088	The Contractor shall provide Configuration Items to its own Configuration Management Database (CMDB) the contents of which can be referenced back to an agreed version of the E-PDMS. The Contractor shall also supply a full extract of the CMDB to DCC on request including but not limited to: an Asset Register; and configuration lists and baselines. The scope of Configuration Items will be agreed with the DCC in the Configuration Items Catalogue, but will include Hardware versions, Software versions, communication versions, and configurations as a minimum.
RTM-ECoS-089	The Contractor shall record all changes to all Configuration Items for its Services into its own CMDB.
RTM-ECoS-090	The Contractor shall maintain Configuration Records throughout the lifecycle of the Asset or Configuration Item over the Service Period.



Requirement ID	Requirement
RTM-ECoS-091	<p>The Hosting and Service Management Service Provider shall manage the recording, retrieval and consolidation of the current configuration status and the status of all preceding configurations to confirm that information in the Service management CMDB is at all times correct, timely, and secure.</p> <p>The Contractor shall support this by validating the configurations where applicable.*</p>
RTM-ECoS-093	The Contractor shall keep Asset and configuration records for a minimum of twenty-four (24) months.
RTM-ECoS-094	The Contractor shall align where appropriate with the Hosting and Service Management Service Provider's configuration management process. For avoidance of doubt, the Hosting and Service Management Service Provider shall integrate as appropriate with DCC's Asset and configuration management processes.
RTM-ECoS-098	The Contractor shall produce and maintain (including regular updating as appropriate) all of its Services documentation including, but not limited to: operational manuals; processes; procedures; and work instructions. These shall be provided to the Hosting and Service Management Service Provider for centralised storage throughout the Term.
RTM-ECoS-099	The Contractor shall identify, create and deliver regular relevant training, knowledge and materials for its Services, including User guides and Frequently Asked Questions (FAQs), so that DCC can establish, operate and maintain an effective ECoS Service.
RTM-ECoS-100	The Contractor shall create Knowledge Articles in relation to its Services for live publication to the ECoS Service Management Providers Knowledge Management tool & the DCC DSMS.
RTM-ECoS-102	The Contractor shall allow the Hosting & Service Management Service Provider to operate its declared strategy for its services, which provides configuration management data & information for its services, in order to assist with the processing of other ITIL processes, including at least Incident, Problem, Change, Release & Knowledge.
RTM-ECoS-103	The Contractor shall provide scripts and tools to ensure a high degree of automated Diagnosis and Resolution of Events before underlying issues become Incidents, to be detailed as part of the detailed design. Any other scripts or tools outside of the resolution of problems with the application will be managed in accordance with the Change Control Procedure
RTM-ECoS-104	The Contractor shall provide the Hosting and Service Management Service Provider with updated documentation and training to support delivery of all new Releases of their Services.*
RTM-ECoS-105	The Hosting and Service Management Service Provider shall install, manage and update a repository of all information and documentation relating to application management (including without limitation, operational manuals; processes; procedures; and work instructions) which can be accessed both locally and remotely by DCC staff and any other staff authorised by the DCC.



Requirement ID	Requirement
	The Contractor shall provide the Hosting and Service Management Service Provider with documentation related to the application.*
RTM-ECoS-106	The Contractor's Knowledge Management process shall align to the DCC's Knowledge Management process.
RTM-ECoS-227	The Hosting and Service Management Service Provider and DCC shall measure availability outside scheduled maintenance periods using a declared and agreed method. The Contractor shall provide input into this process as and when requested.*
RTM-ECoS-110	The Contractor shall support the Hosting and Service Management Service Provider to provide impact assessments to the DCC in response to proposed changes in DCC business demand forecast for its services. The impact assessments shall be in accordance with the Change Control Procedure.*
RTM-ECoS-119	The Contractor shall support the capacity management process by contributing to the Hosting and Service Management Service Provider's capacity management process, plans and reviews*.
RTM-ECoS-122c	The Hosting and Service Management Service Provider shall report to DCC incidents relating to system capacity via DSMS. The Contractor shall support the Hosting and Service Management Service Provider with these requirements where required.*
RTM-ECoS-479	The Contractor shall support the Hosting and Service Management Service Provider's Network Operations Centre (NOC) and Security Operations Centre (SOC) through provision of information in respect of Events from the Solution in accordance with Schedule 2.2.*
RTM-ECoS-480	The Solution shall provide event logging to service the Hosting and Service Management Service Provider's NOC and SOC in accordance with Schedule 2.2.*
RTM-ECoS-481	The Contractor shall analyse Events and Alerts referred to it by Hosting and Service Management Service Provider, acting reasonably, to identify Incidents.
RTM-ECoS-482	For the Solution, the Contractor shall agree Event and Alert thresholds and appropriate actions in response to Alerts with the Hosting and Service Management Service Provider and the DCC, specified as part of the detailed design. For clarity, Event in this instance refers to application related events.
RTM-ECoS-483	The Solution shall support the Hosting and Service Management Service Provider to provide near real-time transactional level information in respect of Events and Alerts to the DCC to support a DCC Technical Operations Centre (TOC) dashboard service, according to rules agreed with the DCC.*
RTM-ECoS-486	The Contractor shall support the Hosting and Service Management Provider to use Event and Alert data to report against the Performance Measures defined in Schedule 2.2 (Performance Measures and Monitoring) on a monthly basis.*

Requirement ID	Requirement
RTM-ECoS-487	The Solution shall ensure that all Event and Alert data is recorded with a transaction timestamp i.e. the point of Event or Alert generation
RTM-ECoS-488	The Contractor shall support the Hosting and Service Management Service Provider to resolve any degradation to its Services through the Incident and Problem Management processes in relation to the application*
RTM-ECoS-489	The Solution shall enable the Hosting and Service Management Service Provider to meet the Performance Requirements in Schedule 2.2 of the contract.
RTM-ECoS-198	The Solution shall ensure that any web facing solutions comply with Web Content Accessibility Guidelines (WCAG) 2.1 (W3C Recommendation 05 June 2018) which can be found at: https://www.w3.org/TR/WCAG21/ .
RTM-ECoS-199	The Contractor shall ensure that any user facing solutions must be accessible from different device types, such as desktops, laptops, tablets, mobile phones, etc.
RTM-ECoS-200	The Contractor shall ensure that any web user interface supports the current or last 2 versions of the following browsers: Last 2 versions: Internet Explorer Chrome Microsoft Edge Current versions: Firefox Safari
RTM-ECoS-201	The Contractor shall document all DCC Data Systems information that provides feedback to the user in a style that clearly informs and advises them to act appropriately, e.g. warning and failure messages.
RTM-ECoS-202	The Solution shall be capable of validation of data elements against configurable business rules, specified as part of detailed design
RTM-ECoS-203	The Solution shall apply complete and configurable error logging and reporting functionality.
RTM-ECoS-204	The Solution shall return exhaustive failure codes in response to invalid incoming messages, providing it does not compromise security or functional performance of the system. All failure codes are returned (as opposed to just the first error detected), specified as part of detailed design
RTM-ECoS-205	The Solution shall return interface errors to the source service on the same interface used for the original message. These errors relate to failures in the process of exchanging data through interfaces.



Requirement ID	Requirement
RTM-ECoS-206	<p>The Solution shall use failure codes for each message failure scenario identified during the development of the software solution. These failure codes shall include as a minimum requirement:</p> <ul style="list-style-type: none"> (a) Message transmission (b) Content validation (c) Message processing.
RTM-ECoS-208	<p>The Contractor shall adhere to any patching / upgrade processes put in place by the Hosting and Service Management Service Provider.</p>
RTM-ECoS-209	<p>The Contractor shall work with the Hosting and Service Management Service Provider to create a schedule of planned maintenance for each month, at least twenty (20) days prior to the start of that month. For the avoidance of doubt, the Parties shall set out the process for achieving this in their Co-Operation Agreement and shall comply with the Co-Operation Objectives in respect of the same.</p> <p>The schedule of Planned Maintenance for each month shall set out (as a minimum) the following:</p> <ul style="list-style-type: none"> • the proposed Maintenance activity (in reasonable detail); • the parts of the Services that will be disrupted (or in respect of which there is a Material Risk of disruption) during each such Maintenance activity; • the time and duration of each such Maintenance activity; and • any associated risk that may subsequently affect the return of normal Services.
RTM-ECoS-213	<p>The Contractor agrees that planned maintenance shall be undertaken inside the planned maintenance windows and shall not exceed four (4) hours in any monthly service period, without the express, written consent of the DCC.</p>
RTM-ECoS-567	<p>The Contractor shall ensure compliance to ISO 9001 relevant to the Services.</p>
RTM-ECoS-568	<p>The Contractor shall produce a Quality Plan and provide the Integrated Management System manual for delivery of the Services as part of the Documentation that Contractor is required to provide.</p>
RTM-ECoS-569	<p>The Contractor shall ensure that the DCC have rights to review and approve the Quality Plan, in particular in accordance with relevant provisions at Schedule 8.1 (Governance)</p>



6 Testing Requirements

Requirement ID	Requirement
RTM-ECoS-247	The Contractor shall support product changes and testing and shall be accommodated as part of the Contractor's enduring test activities as required by and agreed with the DCC
RTM-ECoS-250	The Contractor shall conduct testing phases and include Functional Testing, Regression Testing and Exception (Negative) Testing to ensure robustness and stability within the environments and applications.
RTM-ECoS-251	The Contractor shall comply with agreed DCC Test Assurance governance, DCC Testing Service governance, release management and change management processes and frameworks to achieve a successful exit from all delivery test phases, project gateways both as part of initial solution delivery and provide an enduring User Testing Service
RTM-ECoS-265	The Contractor shall provide services to allow DCC to carry out its regulatory requirements for User Testing Services as a part of the development of the solution as well as the enduring UIT test service
RTM-ECoS-266	The Contractor shall provide services to the DCC and both its Service Providers and Service Users during the PIT, SIT and UIT Phases and for the enduring User Testing Service. Services will include resolving testing issues and dealing with queries, in an acceptable and timely manner
RTM-ECoS-279	The Contractor shall provide details of how Incidents will be managed by priority once the product has been accepted into System Integration Testing (SIT) and User Testing Services (UTS), including a suggested approach to resolution, new releases and supporting notes. Furthermore the DCC Test Programme will also require a definition of service levels for defect fixes based on Severity and Priority levels
RTM-ECoS-282	The Contractor must ensure that details of known errors / issues with the Solution are documented and notified to the DCC when requested
RTM-ECoS-241b	The Contractor shall provide the DCC with all required and agreed Test Evidence documentation and associated artefacts within the agreed timescales and in the agreed format that allows DCC to deliver the solution into its various governance stages and into production
RTM-ECoS-242	The Contractor shall provide the DCC with all required and agreed Test Witnessing documentation and associated artefacts within the agreed timescales and in the agreed format that allows DCC to deliver the solution into its various governance stages and into production
RTM-ECoS-244	The Contractor shall ensure that the solution planning and testing methodology is agreed with DCC prior to execution within the agreed timescales and in the agreed formats that allow DCC to deliver the Solution into its various governance stages (including PIT exit, SIT, UIT) and into production. DCC will agree with the Contractor which documents require assurance as a part of the testing process.
RTM-ECoS-259	The DCC shall have the right to reject any document or artefact if it believes that the documented approach will not provide sufficient assurance. Where this is the case, the Contractor shall remedy and resubmit the documents or artefacts in question until such assurance is able to be provided by the DCC

RTM-ECoS-263	The Contractor shall provide the facilities for witness Testing for DCC Assurance purposes. These will normally be carried out during a Factory Acceptance Test (FAT) stage within PIT but DCC can request additional testing at any other time
RTM-ECoS-272	In respect of testing environments for which the Contractor is responsible or for which it has responsibilities, the Contractor is required to provide monitoring and reporting of their systems within all such testing environments as applicable to the Contractor.
RTM-ECoS-273	The Contractor shall align to DCC's Release and Change management process particularly where all releases/changes within both UIT environments must happen outside supported testing hours (i.e. supported testing hours are 8am to 8pm Mon-Sat) and seventy-two (72) hours' notice must be provided. All updates must not impact User Testing
RTM-ECoS-276	The Contractor shall make at least three members of staff available (on-site or remote) as required by the DCC during the Business Acceptance Test window with the following roles: -one as an escalation point; -one playing the role of an analyst; and -one as a defect manager to resolve BAT specific testing issues within the test execution window
RTM-ECoS-278	The Contractor and Hosting and Service Management Service Provider must demonstrate through the execution schedule how many test cycles will be required for predicted resolution of testing issues.*



7 Co-operation Requirements

Requirement ID	Requirement
RTM-ECoS-493	<p>The Contractor shall conclude a comprehensive Co-operation Agreement (in accordance with Schedule 8.7 (Co-operation)) with the Hosting and Service Management Service Provider. The scope of such Co-operation Agreement shall have due regard for the Co-Operation Objectives set out in Schedule 8.7 and shall include (as a minimum) the activities listed below and any requirements marked with * elsewhere in this Schedule 2.1. (The use of an * against a requirement in this Schedule 2.1 identifies a requirement that DCC regards as relevant for co-operation between the Contractor and the Hosting and Service Management Service Provider):</p> <ul style="list-style-type: none"> • Joint design reviews with the objective of ensuring that the design of each Party's solution is compliant with functional and non-functional requirements and meets the defined interface specifications and requirements in the DCC Design Baseline Document; • Early identification and treatment of interfaces between the Contractor and the Relevant Counterparty; • Processes for early warning (and rectification) and escalation to DCC of any incompatibilities in designs and integration in solutions; • Processes for early warning and resolution of ambiguities and omissions in specification, design documents, interface specification, DCC Requirements and/or Mandatory Requirements (with early warning to the DCC of any matters that may affect the timely deliverability of the ECoS Solution); • Processes for early identification and treatment of dependencies between the Contractor and the Relevant Counterparty (including details of criticality and impacts of such dependencies); • A process for co-operation and joint working in respect of the obligations set out in Schedule 6.2 (Testing and Acceptance); • Service Transition Responsibilities and Deliverables Matrix (including without limitation, Operational Acceptance Checklist); • A process for co-operation and joint working in respect of any live service failures with the objective of ensuring restoring normal service as quickly as possible, minimising the impact to the quality and availability of the ECoS Solution; and • A process for sharing knowledge on failures (and near misses), resolution and improvement for the purpose of service improvement.
RTM-ECoS-494	<p>The Contractor shall conclude a comprehensive Co-operation Agreement (in accordance with Schedule 8.7 (Co-operation)) with the Prime DSP. The scope of such Co-operation Agreement shall have due regard for the Co-Operation Objectives set out in Schedule 8.7.</p>
RTM-ECoS-508	<p>The Contractor shall provide the Hosting and Service Management Service Provider information about all live integration services (in a timely manner) that Hosting and Service Management Service Provider may reasonably require to produce the ECoS Service Catalogue.</p>



SCHEDULE 2.2 PERFORMANCE MEASURES AND MONITORING

OVERVIEW

This Schedule 2.2 (Performance Measures and Monitoring) sets out:

- (a) the high-level principles and objectives of the overall Performance Framework for the Agreement;
- (b) the Performance Measures which the Contractor is required to achieve in relation to the performance of the Services and its other obligations under this Agreement;
- (c) the mechanisms to change and update the Performance Measures;
- (d) the mechanism by which Incidents will be managed; and
- (e) the method by which the Contractor's performance of the Services and its other obligations under this Agreement will be monitored and reported.

This Schedule 2.2 (Performance Measures and Monitoring) comprises the following parts:

Part	Scope
Part A	Performance Framework
Part B	Performance Measures
Part C	Changes to Performance Measures
Part D	Reporting of Incidents
Part E	Performance Monitoring
Appendix 1	Part A – Performance Measures: Metrics
	Part B – Service Request Target Response Times
Appendix 2	Part A – Performance Measures: Scope
Appendix 3	Worked examples
Appendix 4	Incident and Problem Severity Levels
Appendix 5	Performance Monitoring Approach

Capitalised terms used in this Schedule 2.2 that are not defined within this Schedule 2.2 or Schedule 1 of this Agreement shall be construed in accordance with the DCC User Interface Specification.

PART A – PERFORMANCE FRAMEWORK

1. SCOPE OF PART A

This Part A of Schedule 2.2 addresses the following issues:

- (a) **Principles:** the principles of the Performance Framework; and
- (b) **Performance Framework:** the role of the Performance Measures within the overall Performance Framework under this Agreement.

2. PRINCIPLES

The Performance Framework is based on the principles of:

- (a) incentivising consistent performance against the Performance Measures, Milestones and other elements of the Performance Framework;
- (b) incentivising the Contractor and the relevant DCC Service Providers to collectively support the DCC’s compliance with the Performance Measures and other end-to-end requirements of the DCC;
- (c) incentivising a timely resolution of issues which cause under-performance against the Performance Measures, Milestones and/or other elements of the Performance Framework;
- (d) ensuring the reasons for such under-performance are addressed expeditiously;
- (e) aligning the level of the DCC’s remedies for such under-performance to the consequence of such under-performance;
- (f) increased or additional remedies for the DCC in relation to continued under-performance against the Performance Measures, Milestones and/or other elements of the Performance Framework; and
- (g) ensuring flexibility of the Performance Framework to adapt over time as the Smart Metering Programme evolves.

3. PERFORMANCE FRAMEWORK

The parties acknowledge the overall performance framework under this Agreement is intended to ensure that the Contractor delivers the required level of performance (the "**Performance Framework**"). The key elements of the Performance Framework are set out in Table 1 below:

Relevant elements of Performance Framework	Contractual provisions
Compliance with applicable Milestones	Schedule 6.1 (Implementation Planning)
	Schedule 6.2 (Testing and Acceptance)
Performance Measures	Part B of Schedule 2.2 (Performance Measures and Monitoring)
Changes to Performance Measures	Part C of Schedule 2.2 (Performance Measures and Monitoring)
Continuous improvement obligations	Schedule 2.4 (Continuous Improvement)
Value for money obligations	Schedule 7.3 (Value for Money)

Table 1: Performance Framework



PART B – PERFORMANCE MEASURES

1. SCOPE OF PART B

This Part B of Schedule 2.2 addresses the following issues:

- (a) **Objectives:** the objectives of the Performance Measure regime;
- (b) **Performance Measures:** the performance measures applicable to the Contractor's performance of the Services and its other obligations under this Agreement;
- (c) **Service Points and Service Credits:** how under-performance by the Contractor against the Service Measures shall be converted into Service Credits;
- (d) **Nature of Service Credits:** the events for which Service Credits shall not be the exclusive financial remedy of the DCC; and
- (e) **Types of Service Failure:** the Contractor's obligations regarding different types of under-performance against the Performance Measures.

2. OBJECTIVES

The objectives of the Performance Measure regime in this Part B of Schedule 2.2 are to:

- (a) ensure that the Services, and the Contractor's other obligations under this Agreement, are consistently performed to the required standard;
- (b) incentivise the Contractor to deliver the Services appropriately and to remedy any failure to meet the Target Service Levels expeditiously; and
- (c) ensure the flexibility for the Performance Measures to adapt and evolve over time.

3. PERFORMANCE MEASURES

3.1 Each Performance Measure is categorised in Part A of Appendix 1 as either:

- (a) a Service Measure (which are subject to Service Credits); or
- (b) a Key Performance Indicator (which are not subject to Service Credits).

The parties acknowledge that a Performance Measure is identified in Appendix 1, and elsewhere in this Schedule 2.2, as "**PM**", a Service Measure is identified in Appendix 1, and elsewhere in this Schedule 2.2, as a "**SM**" and a Key Performance Indicator is identified in Appendix 1, and elsewhere in this Schedule 2.2, as a "**KPI**".

3.2 Each Service Measure and KPI shall be subject to a Target Service Level and a Minimum Service Level, as set out in Part A of Appendix 1.

Service Measures

- 3.3 Subject to paragraph 3.4, the Contractor shall, at all times following the Commencement Date provide the Services (or perform its other obligations under this Agreement) in such a manner that the Target Service Level for each Service Measure is achieved or bettered.
- 3.4 If the Actual Service Level achieved by the Contractor during a Measurement Period in respect of any Service Measure does not meet or better the applicable Target Service Level, then (without prejudice to the DCC's other rights and remedies under this Agreement or otherwise, but subject to paragraph 6 of this Part B and paragraph 8 of Schedule 7.1 (Charges and Payment)) Service Points shall accrue in accordance with paragraph 4 below unless and to the extent a failure to do so is subject to the provisions of Clause 12 (*Relief Events*).

Key Performance Indicators

- 3.5 The Contractor shall, at all times following the Commencement Date provide the Services (or perform its other obligations under this Agreement) in such a manner that the Target Service Level for each KPI is achieved or bettered.
- 3.6 If the Actual Service Level achieved by the Contractor during a Measurement Period in respect of any KPI does not meet or better the applicable Target Service Level, then no Service Points shall accrue (provided that this paragraph 3.6 is (i) subject to paragraphs 6.3 to 6.5 of this Part B and (ii) otherwise without prejudice to any non-financial rights or remedies of the DCC under this Agreement or otherwise in relation to the failure by the Contractor to achieve the applicable Target Service Level) unless and to the extent a failure to do so is subject to the provisions of Clause 12 (*Relief Events*). A "**KPI Failure**" means a failure by the Contractor to achieve the Target Service Level for any KPI in relation to the relevant Measurement Period. A "**Critical KPI Failure**" means a failure by the Contractor to achieve the Minimum Service Level for any single KPI in relation to the relevant Measurement Period.

Amendment of Performance Measures

- 3.7 The DCC may, from time to time, amend the Performance Measures in accordance with the process set out in Part C of this Schedule 2.2.

Monitoring and reporting of Performance Measures

- 3.8 Subject to paragraph 3.9, with effect from the Commencement Date, the Contractor shall monitor its performance against each of the Performance Measures, and provide reports to the DCC detailing the Contractor's performance against each of the Performance Measures, in accordance with the provisions of Part E of this Schedule 2.2.
- 3.9 Unless a Performance Measure is expressly stated to apply over a specific period, Performance Measures shall be measured continuously (i.e. on a 24/7/365 basis).

4. SERVICE POINTS AND SERVICE CREDITS

- 4.1 For each Service Measure, Part A of Appendix 1 sets out:

- (a) the Target Service Level;
- (b) the Minimum Service Level; and
- (c) the maximum number of Service Points which can be accrued by the Contractor in any month in relation to that Service Measure (the "**Maximum Service Points**").

4.2 Subject to the DCC's rights under Part C, the Measurement Period for any Service Measures shall be one month. The Service Points accrued by the Contractor in relation to the Measurement Period shall be determined by reference to the Contractor's Actual Service Level for the relevant Service Measure in respect of such Measurement Period.

4.3 NOT USED

4.4 If, in relation to any Measurement Period, the Contractor's Actual Service Level for a Service Measure:

- (a) achieves or betters the applicable Target Service Level, then no Service Points shall be accrued by the Contractor in respect of any of the months for which that Measurement Period is used as a reference point (as determined in accordance with paragraph 4.2 or 4.3);
- (b) is at, or does not meet, the applicable Minimum Service Level, then the Maximum Service Points associated with that Service Measure shall be accrued by the Contractor in respect of each month for which that Measurement Period is used as a reference point (as determined in accordance with paragraph 4.2 or 4.3); or
- (c) is between the applicable Target Service Level and the applicable Minimum Service Level, then the number of Service Points accrued by the Contractor in respect of each month for which that Measurement Period is used as a reference point (as determined in accordance with paragraphs 4.2 or 4.3) shall be calculated in accordance with the following formula:

$$SP_{SM} = MaxSP_{SM} \times \left(\frac{TSL_{SM} - ActSL_{SM}}{TSL_{SM} - MinSL_{SM}} \right)$$

where:

SP_{SM} means the number of Service Points accrued by the Contractor for the applicable Service Measure in respect of the relevant month;

$MaxSP_{SM}$ means the Maximum Service Points (on a per month basis) for the applicable Service Measure;

TSL_{SM} means the Target Service Level for the applicable Service Measure;

$ActSL_{SM}$ means the Contractor's Actual Service Level for the applicable Service Measure in respect of the Measurement Period which is used as a reference point for the relevant month (as determined in accordance with paragraph 4.2 or 4.3); and

MinSL_{SM} means the Minimum Service Level for the applicable Service Measure.

4.5 Subject to paragraph 6 of this Part B:

- (a) the Maximum Service Points associated with any individual Service Measure under this Schedule 2.2 shall (except where paragraph 5.9 of this Part B applies) not (on a per month basis) be more than 250 Service Points;
- (b) the number of Service Points which may be accrued by the Contractor in any month for each Service Measure shall (except where paragraph 5.9 of this Part B applies) not exceed the Maximum Service Points associated with that Service Measure; and
- (c) across all Service Measures under this Schedule 2.2, the sum of the Maximum Service Points for any month shall equal 1,000 Service Points.

4.6 All Service Points accrued shall be rounded to the nearest whole number as follows:

- (a) if the decimal part of the Service Point calculation, as determined in accordance with paragraph 4.4 above, is less than 0.5, then the number of Service Points accrued shall be rounded down to the nearest whole number; or
- (b) if the decimal part of the Service Point calculation is equal to, or greater than, 0.5, then the number of Service Points shall be rounded up to the nearest whole number.

4.7 Schedule 7.1 (*Charges and Payment*) sets out the mechanism by which Service Points shall be converted into Service Credits.

4.8 The DCC shall use the Performance Monitoring Reports, pursuant to Part E of this Schedule 2.2 to, among other things, verify the calculation and accuracy of the Service Credits, if any, applicable to each month. A worked example of the calculation of Service Points is provided in Appendix 3.

4.9 The Contractor confirms that it has modelled the Service Points, and associated Service Credits, and has taken them into account in setting the level of the Charges. Both parties agree that the Service Points, and resulting Service Credits, are a reasonable method of price adjustment to reflect poor performance by the Contractor.

5. TYPES OF SERVICE FAILURE

5.1 Underperformance by the Contractor against the Service Measures shall be classified as one or more of the following:

- (a) a Service Failure;
- (b) a Repeat Service Failure;
- (c) a Material Service Failure;
- (d) a Persistent Service Failure; and/or
- (e) a Critical Service Failure,

as each are further described in paragraphs 5.2 to 5.18 below.

Service Failures

- 5.2 If, in any month, the Contractor fails to achieve the Target Service Level for any Service Measure, then such failure shall constitute a "**Service Failure**".
- 5.3 Subject to paragraph 5.4, within five (5) Business Days after the occurrence of the Service Failure, the Contractor shall:
- (a) identify the cause(s) of the Service Failure;
 - (b) provide to the DCC a written report ("**Service Failure Report**") which identifies:
 - (i) the cause(s) of the Service Failure;
 - (ii) any consequences of the Service Failure;
 - (iii) the steps that the Contractor proposes to take in order to prevent the reoccurrence of the Service Failure (and the Contractor's proposed timescales for the implementation of such steps); and
 - (iv) any activities to be conducted by the Contractor in order to mitigate any consequences of the Service Failure.
- 5.4 If, in relation to any Service Failure, the Contractor (acting reasonably and in good faith) believes that it is impractical to identify the cause(s) of that Service Failure within the timescales referred to in paragraph 5.3, then:
- (a) the Contractor shall promptly notify the DCC accordingly, giving reasonable details of the reasons for its belief;
 - (b) within the timescales referred to in paragraph 5.3, the Contractor shall deliver to the DCC a draft Service Failure Report setting out:
 - (i) a plan (in reasonable detail) of the activities to be undertaken by the Contractor in order to identify the cause(s) of the relevant Service Failure; and
 - (ii) the proposed timescales for carrying out such activities and submitting a final Service Failure Report to the DCC which complies with the requirements of paragraph 5.3; and
 - (c) the DCC shall confirm whether or not the Contractor's proposed approach and timescales under this paragraph 5.4 is accepted (such acceptance not to be unreasonably withheld or delayed).
- Any Dispute between the parties regarding the matters referred to in this paragraph 5.4 shall be resolved in accordance with paragraph 5.6.
- 5.5 Subject to paragraph 5.6, the Contractor shall implement the steps specified in the Service Failure Report in accordance with the timescales identified in the Service Failure Report.

5.6 If requested by the DCC, the Service Failure Report shall be reviewed by the Operational Management Team (and the Contractor shall ensure that its members of the Operational Management Team attend any meeting requested by the DCC under this paragraph 5.6). Any Dispute between the parties regarding the contents of the Service Failure Report, and/or the matters referred to in paragraph 5.4, following a review by the Operational Management Team shall be resolved in accordance with the Dispute Resolution Procedure.

Repeat Service Failures

5.7 If a Service Failure occurs in relation to the same Service Measure in respect of any two (2) Measurement Periods in any period of three (3) consecutive Measurement Periods, then the second Service Failure shall be deemed to be a **"Repeat Service Failure"**.

5.8 Once an initial Repeat Service Failure has occurred under paragraph 5.7, any subsequent Service Failure in relation to the same Service Measure that occurs within the same period of three (3) consecutive Measurement Periods as:

- (a) the initial Repeat Service Failure under paragraph 5.7; or
- (b) any subsequent Repeat Service Failure under this paragraph 5.8,

shall also be deemed to be Repeat Service Failure.

5.9 If any Repeat Service Failure occurs under paragraph 5.7 or 5.8 (as applicable), the number of Service Points that shall accrue to the Contractor in respect of such Repeat Service Failure shall be the number of Service Points that would normally accrue in respect of an initial Service Failure for the relevant Service Measure (as set out in Appendix 1) multiplied by the relevant factor set out in Table 2 below:

No. of Repeat Service Failures in relation to the same Service Measure	Multiplying factor
0 (initial failure)	1
1	1.5
2	2
3	2.5
4	3
5	3.5

Table 2: Repeat Service Failure multiplier

5.10 For the avoidance of doubt, where a Repeat Service Failure occurs, the number of Service Points which may be accrued by the Contractor in the relevant month for the relevant Service Measure may exceed the Maximum Service Points associated with



that Service Measure. However, across all Service Measures under this Schedule 2.2, the total Service Points that can be accrued by the Contractor, notwithstanding the occurrence of any Repeat Service Failure, shall not exceed 1,000 Service Points.

Material Service Failures

5.11 In this Agreement, a "**Material Service Failure**" means:

No.	Material Service Failure events
1.	The Contractor would have accrued, in respect of any of the Service Measures under this Schedule 2.2, a total of 1,200 or more Service Points in relation to any month (as a result of the multiplier effect under paragraph 5.9 in this Part B) but for the application of the Maximum Service Points limit of 1,000 Service Points in paragraph 4.5(c) of this Part B.
2.	Any Severity Level 1 Incident remaining Unresolved for a period of eight (8) hours (except where the Business Continuity and Disaster Recovery Plan has been invoked in accordance with Schedule 8.6). A separate Material Service Failure shall be deemed to have occurred in relation to each subsequent period of eight (8) hours during which the relevant Incident remains Unresolved (except where the Business Continuity and Disaster Recovery Plan has been invoked in accordance with Schedule 8.6).
3.	Any Severity Level 2 Incident remaining Unresolved for a period of forty-eight (48) hours (except where the Business Continuity and Disaster Recovery Plan has been invoked in accordance with Schedule 8.6). A separate Material Service Failure shall be deemed to have occurred in relation to each subsequent period of forty-eight (48) hours during which the relevant Incident remains Unresolved (except where the Business Continuity and Disaster Recovery Plan has been invoked in accordance with Schedule 8.6).

Table 3: Material Service Failure

5.12 If a Material Service Failure occurs, then (without prejudice to the DCC's other rights and remedies under this Agreement):

- (a) the Contractor shall prepare a Service Failure Report in respect of the Material Service Failure in accordance with the requirements of paragraphs 5.3 to 5.6; and
- (b) the DCC shall have the rights, and the Contractor shall have the obligations, set out in Schedule 8.10 (*Enhanced Scrutiny and Step-in*).

5.13 If a Material Service Failure occurs in respect of item #2 or #3 in the above table in paragraph 5.11, then (without prejudice to the DCC's other rights and remedies under this Agreement) the DCC may escalate the ongoing failure to resolve the relevant Incident to the following members of the Contractor's senior management:

Status of Incident	Escalation point
--------------------	------------------



Severity Level 1 Incident is Unresolved for more than 8 hours	Operational Management Team
Severity Level 2 Incident is Unresolved for more than 48 hours	
Severity Level 1 Incident is Unresolved for more than 16 hours	Operational Management Board
Severity Level 2 Incident is Unresolved for more than 72 hours	
Severity Level 1 Incident is Unresolved for more than 24 hours	Executive Management Board
Severity Level 2 Incident is Unresolved for more than 96 hours	

Table 4: Escalation of Incidents

- 5.14 The Contractor shall ensure that the persons referred to in paragraph 5.13 respond promptly to any escalation by the DCC under paragraph 5.13, including by:
- (a) attending any meetings (or conference calls) requested by the DCC in relation to the ongoing Incident; and
 - (b) monitoring and reporting on a regular basis to the DCC on the steps being taken by the Contractor to resolve the relevant Incident.

Persistent Service Failures

5.15 In this Agreement, a “**Persistent Service Failure**” means:

No.	Persistent Service Failure events
1.	The Contractor has accrued, in respect of any of the Service Measures under this Schedule 2.2, a total of 750 or more Service Points in relation to each month for three (3) consecutive months.
2.	The occurrence of five (5) Repeat Service Failures under this Schedule 2.2 in any period of six (6) months (regardless of whether or not such Repeat Service Failures relate to the same Service Measure).

Table 5: Persistent Service Failure

5.16 If a Persistent Service Failure occurs, then (without prejudice to the DCC's other rights and remedies under this Agreement) the DCC shall have the rights, and the Contractor shall have the obligations, set out in Clause 10 (*Rectification Plan*) and Schedule 8.10 (*Enhanced Scrutiny and Step-in*) of this Agreement.

Critical Service Failures

5.17 In this Agreement, a "**Critical Service Failure**" shall be deemed to have occurred where:

No.	Critical Service Failure events
1.	More than ten (10) Material Service Failures (of any type) occur under this Schedule 2.2 during any period of six (6) months.
2.	More than four (4) Persistent Service Failures (of any type) occur under this Schedule 2.2 during any period of twelve (12) months.

Table 6: Critical Service Failure

5.18 If a Critical Service Failure occurs, then (without prejudice to the DCC's other rights and remedies under this Agreement) the DCC shall have the rights, and the Contractor shall have the obligations, set out in Clause 47 (*Termination Rights*) and Schedule 8.10 (*Enhanced Scrutiny and Step-in*) of this Agreement.

6. NATURE OF SERVICE CREDITS

General principle

6.1 Service Credits shall be the exclusive financial remedy of the DCC in relation to any Service Failure, except where:

- (a) one of the events referred to in paragraph 6.2 occurs; or



- (b) any of paragraphs 6.3 to 6.5 apply.

Specific exceptions

6.2 The events referred to in paragraph 6.1(a) are:

- (a) the occurrence of a Material Service Failure;
- (b) the occurrence of a Persistent Service Failure;
- (c) the occurrence of a Critical Service Failure;
- (d) the relevant Service Failure amounts to a material breach of this Agreement;
- (e) the relevant Service Failure, in combination with other acts or omissions of the Contractor or any Contractor Person, amounts to a material breach of this Agreement;
- (f) the DCC otherwise being entitled to serve (whether exercised or not) a notice of termination of this Agreement as a result of the relevant Service Failure;
- (g) the relevant Service Failure occurs as a result of:
 - (i) any fraud or fraudulent misrepresentation by the Contractor or any Contractor Person; or
 - (ii) any deliberate act or omission of the Contractor or any Contractor Person;
- (h) the relevant Service Failure results in:
 - (i) the DCC incurring a liability to pay any fine, penalty or other amount to any Regulatory Body; or
 - (ii) the loss, destruction, corruption, degradation or inaccuracy of any DCC Data.

Right to seek remedies for separate breaches of Agreement

6.3 The Contractor acknowledges and agrees that:

- (a) Performance Measures PM5 to PM8 are simply intended to provide a mechanism for the DCC to measure and monitor the Contractor's performance against certain obligations of the Contractor set out elsewhere in this Agreement (each, an "**Underlying Obligation**"). (Similarly, PM6, is simply intended to monitor the Contractor's performance against its obligations under paragraph 7.5 of Part F of Schedule 8.2 (*Change Control*)); and
- (b) nothing in this Schedule 2.2 is intended to affect the DCC's ability to seek damages from the Contractor, or pursue any other remedy available to the DCC under this Agreement or otherwise, in respect of any breach by the Contractor of any of the Underlying Obligations.

Right to seek remedies for related breaches of Agreement

- 6.4 Nothing in this Schedule 2.2 is intended to affect the DCC's ability to seek damages from the Contractor, or pursue any other remedy available to the DCC under this Agreement or otherwise, in respect of any breach by the Contractor of any of its other obligations under this Agreement which is related to a Service Failure or KPI Failure (including where such breach contributed towards, and/or resulted from, such Service Failure or KPI Failure).

Disaster Recovery Performance Measures

- 6.5 The Contractor acknowledges that a Service Failure or a KPI Failure in relation to any of Performance Measures 9.1 to 9.4 (Disaster Recovery) (each a "**Relevant Performance Measure**") could have a material adverse effect on the DCC and its ability to provide the DCC Services in accordance with the DCC Obligations. Accordingly:
- (a) any Service Credits payable under this Agreement in respect of any of the Relevant Performance Measures shall not be the DCC's exclusive financial remedy and paragraph 6.6 shall apply in relation to the payment of such Service Credits; and
 - (b) the principle (as set out in paragraph 3.7 of this Part B) that no Service Points shall accrue in relation to a KPI Failure shall be without prejudice to the DCC's other rights and remedies under this Agreement or otherwise (including to seek damages from the Contractor) in respect of a KPI Failure in relation to any of the Relevant Performance Measures.

Approach where general principle does not apply

- 6.6 Notwithstanding paragraph 4.9 above, in any of the circumstances described in paragraphs 6.2 to 6.5, the Contractor's liability to pay, and the DCC's right to deduct, any Service Credits shall be without prejudice to the other rights or remedies of the DCC, whether under this Agreement or otherwise (provided that this paragraph 6.6 is not intended to permit the DCC to obtain "double recovery" of the same loss by virtue of the receipt of Service Credits and other damages from the Contractor).

PART C – CHANGES TO PERFORMANCE MEASURES

1. SCOPE OF PART C

This Part C of Schedule 2.2 addresses the following issues:

- (a) **Objectives:** the objectives of the regime in this Part C;
- (b) **Changes to Service Measures:** the ability of the DCC to request the introduction of new Service Measures or the removal of existing Services Measures;
- (c) **Changes to Service Points:** the ability of the DCC to increase or decrease the Maximum Service Points applicable to any of the Service Measures; and
- (d) **Changes to Performance Measure classifications:** the ability of the DCC to re-categorise any KPI so that it becomes a Service Measure and/or re-categorise any Service Measure so that it becomes a KPI.

2. OBJECTIVES

The objectives of this Part C of Schedule 2.2 are to ensure that:

- (a) the Performance Measures continue to support the achievement of the DCC's objectives; and
- (b) the Maximum Service Points associated with individual Service Measures continue to reflect the relative importance of those Service Measures to the DCC.

3. CHANGES TO PERFORMANCE MEASURES

3.1 Subject to paragraph 3.2, the DCC may, at any time, request the introduction of new Performance Measures, or the removal of existing Performance Measures, in accordance with the Change Control Procedure.

3.2 For each new Performance Measure, the parties shall agree, in accordance with the Change Control Procedure:

- (a) the scope of the Performance Measure and the manner in which it shall be measured;
- (b) the Target Service Level;
- (c) the Minimum Service Level;
- (d) the Maximum Service Points; and
- (e) where applicable, any changes to the Maximum Service Points applicable to the existing Service Measures in order to comply with the requirements of paragraph 3.3.

- 3.3 Unless otherwise agreed by the parties, and without limiting the DCC's rights under paragraph 4 below, following the introduction or removal of any Service Measure under paragraph 3.1:
 - (a) the sum of the Maximum Service Points across all Service Measures under this Schedule 2.2 for any month shall equal 1,000 Service Points; and
 - (b) the allocation of Maximum Service Points between the existing Service Measures shall be distributed in the same proportion as was applied before the introduction or removal of the relevant Service Measure.

4. **CHANGES TO SERVICE POINTS**

- 4.1 Subject to the remainder of this paragraph 4, the DCC shall be entitled, at any time and at its sole discretion, to increase or decrease the Maximum Service Points applicable to any of the Service Measures (each, a "**Service Point Re-allocation**").
- 4.2 The DCC shall:
 - (a) give the Contractor at least ninety (90) days' prior written notice of any Service Point Re-allocation (each, a "**Re-allocation Notice**"); and
 - (b) if requested by the Contractor following receipt of the Re-allocation Notice, meet with the Contractor to discuss the Service Point Re-allocation.
- 4.3 Unless otherwise agreed by the parties, the DCC shall not be entitled to issue more than two (2) Re-allocation Notices during each Contract Year and shall not be entitled to issue any Re-allocation Notices during any Termination Assistance Period. However, the parties acknowledge that each Re-allocation Notice may include a Service Point Re-allocation in relation to any or all of the Service Measures.
- 4.4 Any Service Point Re-allocation shall not take effect until the start of the month immediately following the expiry of the notice period referred to in paragraph 4.2(a) (or, where applicable, any subsequent month specified by the DCC in the relevant Re-allocation Notice).
- 4.5 Any Service Point Re-allocation by the DCC shall be subject to the following conditions:
 - (a) the principal purpose of the Service Point Re-allocations must, in the DCC's reasonable opinion, be to reflect changing industry standards and/or changes to the requirements and priorities of the DCC;
 - (b) the Service Point Re-allocation must not be specifically intended to penalise the Contractor for poor performance in relation to particular Service Measures;
 - (c) unless otherwise agreed by the parties in writing, the Maximum Service Points associated with any individual Service Measure under this Schedule 2.2 shall (except where paragraph 5.7 of Part B applies) not be more than 250 Service Points; and
 - (d) unless otherwise agreed by the parties in writing, the sum of the Maximum Service Points across all Service Measures under this Schedule 2.2 for any



month following any Service Point Re-allocation shall remain at 1,000 Service Points.

4.6 Any Service Point Re-allocation shall not result in any changes to the Charges.

5. CHANGES TO PERFORMANCE MEASURE CLASSIFICATIONS

5.1 Subject to the remainder of this paragraph 5, the DCC shall be entitled, at any time and at its sole discretion, to re-categorise any KPI so that it becomes a Service Measure and/or to re-categorise any Service Measure so that it becomes a KPI (each, a "**Performance Measure Re-categorisation**").

5.2 The DCC shall:

- (a) give the Contractor at least ninety (90) days' prior written notice of any Performance Measure Re-categorisation (each, a "**Re-categorisation Notice**");
- (b) if requested by the Contractor following receipt of the Re-categorisation Notice, meet with the Contractor to discuss the Performance Measure Re-categorisation.

5.3 Each Re-categorisation Notice shall specify:

- (a) which of the KPIs are to be re-categorised as a Service Measures (each, a "**New Service Measure**"); and
- (b) which of the Service Measures are to be re-categorised as a KPI (each, a "**New KPI**");
- (c) the date on which the Relevant Performance Measure re-categorisation(s) are to take effect (which must not be before the date referred to in paragraph 5.5);
- (d) where applicable, details of the Maximum Service Points to apply to any New Service Measure; and
- (e) where applicable, any related changes under paragraph 5.6 to the Maximum Service Points applicable to the existing Service Measures.

5.4 Any Performance Measure Re-categorisation shall not take effect until the start of the month immediately following the expiry of the notice period referred to in paragraph 5.2(a) (or, where applicable, any subsequent month specified by the DCC in the relevant Re-categorisation Notice).

5.5 Unless otherwise agreed by the parties, the sum of the Maximum Service Points across all Service Measures under this Schedule 2.2 for any month following any Performance Measure Re-categorisation shall remain at 1,000 Service Points. The parties agree that:

- (a) the DCC may comply with this paragraph 5.5 by decreasing the number of Maximum Service Points applicable to the existing Service Measures; and

(b) any change under paragraph 5.5(a) shall not be treated as a Service Point Re-allocation for the purposes of paragraph 4 (and, accordingly, the requirements of paragraph 4 shall not apply to such change). For the avoidance of doubt, the notification of a decrease under paragraph 5.5(a) shall not be regarded as a Re-allocation Notice for the purposes of paragraph 4.3.

5.6 Any Performance Measure Re-categorisation shall not result in any change to the Charges.

5.7 Any New Service Measure introduced under this paragraph 5 shall become subject to the Service Measure regime set out in Part B of this Schedule 2.2 with effect from the start of the relevant month identified in accordance with paragraph 5.4 and:

(a) the Target Service Level for the New Service Measure; and

(b) the Minimum Service Level for the New Service Measure,

shall be as specified in Part A of Appendix 1 in relation to the original KPI which has been re-categorised as the New Service Measure.

5.8 Any New KPI shall become subject to the KPI regime set out in Part B of this Schedule 2.2 with effect from the start of the relevant month identified in accordance with paragraph 5.4. For the avoidance of doubt, any New KPI shall cease to be subject to Service Points with effect from the start of the relevant month identified in accordance with paragraph 5.4.

PART D – REPORTING OF INCIDENTS

1. REPORTING OF INCIDENTS

- 1.1 The DCC shall report all Incidents to the Contractor’s Service Desk and the Contractor acknowledges that Incidents may also be notified to the Contractor’s Service Desk by the DCC service desk.
- 1.2 If the Contractor itself becomes aware of an Incident prior to the Contractor’s Service Desk receiving notification of that Incident, the Contractor shall immediately notify the Incident to:
 - (a) the Contractor’s Service Desk;
 - (b) the DCC service desk.
- 1.3 Without prejudice to the Contractor’s obligations under Clause 10 (*Rectification Plan*) of the Agreement, the Contractor shall notify the DCC as soon as reasonably possible of any Incident that it believes may result from a DCC Cause or (subject to paragraph 1.4 below) Other Service Provider Cause.
- 1.4 To the extent that the Incident relates to any Performance Measure that is identified in Table 7 of Appendix 2 of this Schedule 2.2 (*Performance Measures and Monitoring*) with a Contractor role of “Co-operation” then the responsibility for such Incident shall be agreed by the Contractor and the Hosting and Service Management Service Provider pursuant to the shared process detailed in paragraph 1.3 (g) of Part E of this Schedule 2.2 (*Performance Measures and Monitoring*). To the extent that the Contractor and Hosting and Service Management Service Provider do not agree in respect of the assignment of responsibility for an Incident then this shall be construed as a “Cooperation Agreement Dispute” and the provisions of Schedule 8.7 (*Co-operation*) shall apply.

2. INCIDENT LOG

- 2.1 The Contractor shall ensure that all Incidents are logged in the Contractor’s Incident Log immediately on receipt of notification in accordance with paragraphs 1.1 to 1.3 above.
- 2.2 The DCC has the right to check the accuracy and completeness of all entries made by the Contractor in the Incident Log at any time.
- 2.3 Where the Service Desk receives more than one report of the Incident, then all such reports shall be logged on the Incident Log (but for the avoidance of doubt, the first report shall be deemed to be the Incident Report).
- 2.4 The Contractor shall ensure that, as a minimum, the following details are recorded by the Contractor in the Incident Log in respect of each Incident:
 - (a) a unique report number (report numbers shall be applied sequentially);
 - (b) the date and time the report is received at the Service Desk;

- (c) the nature and location of the Incident;
- (d) the person/organisation making the report;
- (e) the Severity Level assigned to the Incident (in accordance with paragraph 3 below);
- (f) to the best of the Contractor's knowledge, an estimate (produced with all due care and diligence) of which DCC Service Users are affected by the Incident;
- (g) the action intended to be taken or which has been taken to address the Incident;
- (h) details of any communication with the DCC in connection with the Incident;
- (i) notes/comments regarding any mitigating circumstances with regard to the Incident; and
- (j) the potential impact of the Incident in not achieving the Target Service Level for any Performance Measure.

2.5 Where the Contractor (acting reasonably) believes that the Incident may lead to a Service Failure, the Contractor shall:

- (a) subject to paragraph 5.4 of Part B of this Schedule 2.2, prepare a Service Failure Report in accordance with paragraph 5.3(b) of Part B of this Schedule 2.2 within five (5) Business Days after the date on which the Incident is logged in the Incident Log; and
- (b) if requested by the DCC (acting reasonably), implement the steps specified in the Service Failure Report in accordance with the timescales identified in the Service Failure Report.

2.6 The Contractor shall provide the DCC with a copy of the entry in the Incident Log in respect of each Incident within six (6) hours of receipt of the Incident Report or within such shorter period as the DCC shall reasonably require with respect to:

- (a) any Incident which has resulted in the Contractor's performance against any Service Measure falling below the applicable Minimum Service Level; and/or
- (b) any Severity Level 1 Incident or Severity Level 2 Incident.

2.7 Whenever requested by the DCC (acting reasonably), the Contractor shall, at intervals of no more than 1 hour, provide to the DCC an up-to-date status report with respect to any Severity Level 1 Incident or Severity Level 2 Incident.

3. SEVERITY LEVELS

Initial allocation

3.1 Immediately upon an Incident being notified to the Service Desk in accordance with paragraphs 1.1 to 1.3 above, the Contractor shall:

- (a) allocate a Severity Level to each Incident in accordance with the criteria set out in Appendix 4 (*Incident and Problem Severity Levels*);
 - (b) record the Severity Level in the Incident Log in accordance with paragraph 2.4(e) above; and
 - (c) inform the DCC of the allocated Severity Level together with the applicable reference number.
- 3.2 In the event that two or more reports of the same Incident are allocated different Severity Levels, the applicable Severity Level shall be the highest Severity Level so allocated.

Alteration by the Contractor

- 3.3 Subject to paragraph 3.4, the Contractor shall increase and, subject to the approval of the DCC (such approval not to be unreasonably withheld or delayed), decrease the Severity Level allocated to an Incident as soon as it becomes aware of any facts or circumstances which make such an increase or decrease appropriate.
- 3.4 Subject to paragraph 3.7, if, at any time, the DCC (having regard to the information available to the Contractor or the DCC at that time) determines that the Contractor has failed to increase the Severity Level allocated to the Incident in accordance with paragraph 3.3 above, the DCC may allocate a different Severity Level to the Incident.

Alteration by the DCC

- 3.5 Subject to paragraph 3.7, the DCC may (acting reasonably) change the Severity Level in Appendix 4 allocated to any Incident at any time.

Recording alterations

- 3.6 The Contractor shall promptly record in the Incident Log any alterations to the Severity Level allocated to an Incident under paragraphs 3.3 to 3.5.

Disputes

- 3.7 If the Contractor disagrees with any reallocation of the Severity Level by the DCC under paragraph 3.4 or 3.5, then the Contractor shall be entitled to raise the issue at the next Performance Review Meeting. Failing agreement by the parties at such meeting, the issue shall be resolved with in accordance with the Dispute Resolution Procedure.

PART E – PERFORMANCE MONITORING

1. PERFORMANCE MONITORING APPROACH

Purpose

- 1.1 This Part E provides the methodology for the monitoring of the Contractor's performance of the Services and its other obligations under this Agreement to ensure that the Contractor is complying with the Performance Measures ("**Performance Monitoring Approach**").

Preparation of Performance Monitoring Approach

- 1.2 Within twenty (20) Business Days after the Commencement Date, the Contractor shall provide the DCC with a draft plan for delivery of its Performance Monitoring Approach (the **Performance Monitoring Approach Plan**). The draft Performance Monitoring Approach Plan shall set out delivery dates for the various documents comprising the Performance Monitoring Approach (the **Performance Monitoring Approach Documents**) with reference to the Milestone Dates.
- 1.3 The Performance Monitoring Approach which shall, as a minimum, comply with the requirements of Appendix 5 of this Schedule 2.2 (*Performance Measures and Monitoring*) and include details of the Contractor's proposals in respect of the following:
- (a) notifications to the Service Desk of Incidents and other issues relating to the Contractor's performance and/or delivery of the Services;
 - (b) Contractor self-monitoring in accordance with the Performance Monitoring Approach using an industry recognised service desk tool;
 - (c) Satisfaction Surveys;
 - (d) performance review;
 - (e) DCC audit;
 - (f) the processes and systems that the Contractor shall put in place to monitor effectively the performance of the Services against the Performance Measures, including recording such information as is identified as being required for each Performance Measure in Appendix 2 of this Schedule 2.2;
 - (g) if the Contractor Role for a Performance Measure is identified in Table 7 of Appendix 2 of this Schedule 2.2 as "Co-operation" then the Contractor and the Hosting and Service Management Service Provider (pursuant to the Co-operation Agreement between the Contractor and the Hosting and Service Management Service Provider) shall effect a shared process to enable the identification of the root cause of any failure to comply with the Performance Measure and/or Incident and to assign responsibility (and liability) for the same. This process shall form part of the Performance Monitoring Approach of both the Contractor and the Hosting and Service Management Service Provider;
 - (h) the format and content of the Performance Monitoring Reports; and

- (i) how the Contractor will comply with the obligations set out in Part D (*Reporting of Incidents*) of this Schedule 2.2 .
- 1.4 The DCC shall notify the Contractor within ten (10) Business Days after receipt of the draft Performance Monitoring Approach Plan and any draft Performance Monitoring Approach Document of its response (approval or rejection) to it. The draft Performance Monitoring Approach Plan (and any draft Performance Monitoring Approach Document) shall not be deemed to have been approved if no notice of approval is given during such period.
- 1.5 If the draft Performance Monitoring Approach Plan or any draft Performance Monitoring Approach Document is approved by the DCC, it shall be adopted immediately.
- 1.6 If the DCC gives notice of its rejection of the draft Performance Monitoring Approach Plan (or any draft Performance Monitoring Approach Document), it shall (in such notice) identify the changes it requires to be made to it. The Contractor shall amend the draft Performance Monitoring Approach Plan or Document so as to incorporate the changes required by the DCC and re-submit the amended draft Performance Monitoring Approach Plan or Document to the DCC for approval within ten (10) Business Days of receipt of the DCC's rejection notice. If the DCC does not approve the draft Performance Monitoring Approach Plan or Document following its resubmission to the DCC pursuant to the provisions of this paragraph 1.5, the matter shall be resolved in accordance with the Dispute Resolution Procedure.

Updating of Performance Monitoring Approach

- 1.7 The Contractor shall ensure that the Performance Monitoring Approach shall be maintained and updated from time to time by the Contractor as may be necessary to reflect the then current state of the Services. Any updated Performance Monitoring Approach under this paragraph 1.7 shall be forwarded to the DCC for approval within five (5) Business Days after the end of the relevant calendar month.
- 1.8 The DCC shall be entitled to require reasonable amendments to the updated Performance Monitoring Approach issued by the Contractor under paragraph 1.7. The Contractor shall make such amendments and re-submit a further updated Performance Monitoring Approach to the DCC for approval within five (5) Business Days after receipt by the Contractor of the DCC's notice under this paragraph 1.8. Until such time as the updated Performance Monitoring Approach is approved by the DCC, the then current Performance Monitoring Approach shall continue to apply.
- 1.9 Without prejudice to the obligations imposed upon the Contractor and the rights afforded to the DCC pursuant to this paragraph 1, the parties shall consider and review the Performance Monitoring Approach from time to time at the Commercial & Finance OMB meetings under Schedule 8.1 (*Governance*).
- 1.10 The DCC shall be entitled to reasonably require, and the Contractor must promptly comply with requests for, routine changes to the Performance Monitoring Approach without reference to the Change Control Procedure.
- 1.11 Without prejudice to the provisions of this paragraph 1, each of the DCC and the Contractor shall have the right to propose any Changes to the Performance Monitoring Approach in accordance with the Change Control Procedure. For the avoidance of

doubt, any requests for Changes to the Performance Monitoring Approach shall be dealt with via the Change Control Procedure.

2. PERFORMANCE MONITORING AND PERFORMANCE REVIEW

2.1 Within ten (10) Business Days after the end of each month following the Commencement Date, the Contractor shall provide a draft Performance Monitoring Report to the DCC in relation to all Performance Measures.

2.2 The draft Performance Monitoring Report shall be in the format set out in the Performance Monitoring Approach and shall contain, as a minimum, the following information in respect of the month just ended:

General

- (a) the monitoring which has been performed in accordance with the Performance Monitoring Approach with a summary of any issues identified by such monitoring;
- (b) for each Performance Measure, the Actual Service Level achieved in the most recent Measurement Period, and that achieved in each of the previous three (3) Measurement Periods;

Service Failures

- (c) a summary of all Service Failures that occurred during the month;
- (d) a summary of any Repeat Service Failures that occurred during the month;
- (e) a summary of any Material Service Failures that occurred during the month;
- (f) a summary of any Persistent Service Failures that occurred during the month;
- (g) a summary of any Critical Service Failures that occurred during the month;
- (h) a summary of any Service Failure Reports delivered during the month;
- (i) for any Repeat Service Failures, the actions taken to resolve the underlying cause and prevent recurrence;
- (j) the number of Service Points accrued in respect of each Service Failure in the month and in each of the past six (6) months;

KPI Failures

- (k) a summary of all KPI Failures that occurred during the month;
- (l) a summary of all Critical KPI Failures that occurred during the month;

Incidents

- (m) a summary of all Incidents that occurred during the month;

- (n) the Severity Level of each Incident which occurred;
- (o) which Incidents remain outstanding and progress in resolving them;
- (p) for any Severity Level 1 Incident occurring in the month, the cause of the fault and any action being taken to reduce the likelihood of recurrence;

Service Credits

- (q) the amount of the Service Credits accrued in respect of the month;
- (r) the amount of Service Credits that the Contractor has accrued in each of the past six (6) months.

Other content

- (s) such other details as the DCC may reasonably require from time to time.

2.3 The draft Performance Monitoring Report shall be reviewed, and its contents agreed, by the parties at the next Performance Review Meeting.

3. QUARTERLY SUMMARY

3.1 The Contractor shall provide the DCC with a quarterly written summary of the monthly Performance Monitoring Reports that have been prepared during that calendar quarter ("**Quarterly Summary**"). The Quarterly Summary shall be provided by the Contractor to the DCC within ten (10) Business Days after the end of each calendar quarter, and shall be reviewed at the next Performance Review Meeting. The Quarterly Summary shall contain such additional information as the DCC shall reasonably require from time to time, including a summary of:

- (a) the Contractor's performance as measured against the Target Service Levels;
- (b) the total number of Service Points and Service Credits incurred by the Contractor during the calendar quarter;
- (c) all Incidents (of Severity Level 3 or higher) that occurred during the calendar quarter;
- (d) any KPI Failures and Critical KPI Failures that occurred during the calendar quarter;
- (e) any Service Failures that occurred during the calendar quarter;
- (f) any Repeat Service Failures that occurred during the calendar quarter;
- (g) any Material Service Failures that occurred during the calendar quarter;
- (h) any Persistent Service Failures that occurred during the calendar quarter;
- (i) any Critical Service Failures that occurred during the calendar quarter;

- (j) the status of any current Service Failure Reports and Rectification Plans regarding the Performance Measures; and
- (k) any recommendations of the Contractor for the ongoing development of the Performance Measures.

4. **ANNUAL SUMMARY**

- 4.1 The Contractor shall provide the DCC with an annual written summary of the monthly Performance Monitoring Reports that have been prepared during that Contract Year ("**Annual Summary**"). The Annual Summary shall be provided by the Contractor to the DCC within ten (10) Business Days after the end of each Contract Year, and shall be reviewed at the next Performance Review Meeting. The Annual Summary shall contain such additional information as the DCC shall reasonably require from time to time, including a summary of:
- (a) its performance against the Performance Measures during the relevant Contract Year;
 - (b) a summary of all Service Failures, KPI Failures and Critical KPI Failures during the relevant Contract Year and how they were rectified; and
 - (c) the status of any current Service Failure Reports, Rectification Plans regarding the Performance Measures.

5. **PERFORMANCE REVIEW MEETINGS**

- 5.1 The parties shall attend Performance Review Meetings on a monthly basis (unless otherwise agreed).
- 5.2 The Performance Review Meetings will be the forum for the review by the Contractor and the DCC of:
- (a) the Performance Monitoring Reports;
 - (b) each Quarterly Summary; and
 - (c) each Annual Summary.
- 5.3 The Performance Review Meetings shall (unless otherwise agreed):
- (a) take place within one (1) week of the Performance Monitoring Report being issued by the Contractor;
 - (b) take place at such location and time (within normal business hours) as the DCC shall reasonably require unless otherwise agreed in advance;
 - (c) be attended by appropriate representatives of the Operational Management Team (as agreed by the parties from time to time); and
 - (d) be fully minuted by the DCC. The prepared minutes will be circulated by the DCC to all attendees at the relevant meeting. The minutes of the preceding

month's Performance Review Meeting will be agreed and signed by both the Contractor's representative and the DCC's representative at each meeting.

- 5.4 The DCC may invite representatives of any other DCC Service Providers to attend any Performance Review Meeting, provided that the Contractor shall be entitled to require the representatives of such person:
- (a) not to attend any Performance Review Meeting dealing solely with the Contractor's Confidential Information; and
 - (b) to leave any Performance Review Meeting for the period during which the Contractor's Confidential Information is discussed.
- 5.5 The DCC shall (acting reasonably) be entitled to raise any additional questions and/or request any further information regarding any Incident and/or Service Failure and/or KPI Failure and/or Critical KPI Failure, and the Contractor shall promptly comply with such request from the DCC.
- 5.6 The Contractor shall provide to the DCC such supporting documentation as the DCC may reasonably require from time to time in order to verify the level of the performance by the Contractor and the calculations of the amount of Service Credits for any specified period.

6. **SATISFACTION SURVEYS**

- 6.1 In order to assess the conduct of the Contractor in performing the Services, the DCC may undertake satisfaction surveys in respect of the Contractor and/or various groups of DCC Service Providers ("**Satisfaction Surveys**"). These surveys may consider:
- (a) the assessment of the Contractor's conduct in performing the Services; and/or
 - (b) other suggestions for improvement to the Services.
- 6.2 The DCC shall be entitled to notify the Contractor of any aspects of its performance of the Services which the responses to the Satisfaction Surveys reasonably suggest are not meeting the requirements of this Agreement, and which require improvement.
- 6.3 The Contractor shall, as soon as reasonably practicable after the notification from the DCC in accordance with paragraph 6.2 above, ensure that such measures are taken by it as are appropriate to achieve such improvements as soon as reasonably practicable.
- 6.4 All other suggestions for improvements to the Services shall be addressed in accordance with the Change Control Procedure.

7. **RECORDS**

The Contractor shall retain all supporting documents and records used in the preparation of the Performance Monitoring Reports, the Quarterly Summaries and the Annual Summaries in accordance with the obligations detailed in Part C of Schedule 8.4 (*Records and Audit Provisions*).

Appendix 1 – Performance Measures: Metrics

This Appendix 1 sets out the applicable metrics for the Performance Measures being:

Part A – Performance Measures

- (a) whether the Performance Measure is a Service Measure or a KPI;
- (b) the Target Service Level;
- (c) the Minimum Service Level; and
- (d) the Maximum Service Points.

Part B – Service Request Target Response Time

In relation to each type of Service Response, Part B sets out the relevant Performance Measures and associated Service Request Target Response Times.

PART A – PERFORMANCE MEASURES

Table 7: Performance Measures

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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	[REDACTED]		[REDACTED]	[REDACTED]				
	[REDACTED]		[REDACTED]	[REDACTED]				
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]				
[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]				
	[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]			

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
			[REDACTED]					
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Table 8: NOT USED

[REDACTED]

ECoS Schedule 2.2 (Performance Measures and Monitoring) (Critical Software)

PART B – NOT USED



Appendix 2 – Definitions and Interpretations of Table 7

The High Level Architecture document will provide the detail of each Performance Measure (KPI/ SM), and the Contractor is required to submit their response by way of their High Level Design document by the end of their Design Complete stage.

Explanation of “Contractor Role” Terms in Table 7

- **“Responsibility of each Supplier”** means the Contractor and the Hosting and Service Management Service Provider each reports on this Performance Measure separately and independently. The Contractor is responsible and liable for any breach of this Performance Measure caused by the Contractor.
- **“Sole Responsibility”** means only the Contractor reports on this Performance Measure and the Contractor is solely responsible and liable for any breach of this Performance Measure. Noting that Contractor does not have access to the application and therefore is dependent on reports of the breach being provided to it by the Hosting and Service Management Service Provider.
- **“Cooperation”** means either the Contractor or the Hosting and Service Management Service Provider may cause a breach of this Performance Measure. Responsibility (and liability) for such breach shall be assigned to either the Contractor or the Hosting and Service Management Service Provider pursuant to the process described in paragraph 1.3 (g) of Part E of this Schedule 2.2 (*Performance Measures and Monitoring*).
- **“N/A”** means the Contractor has neither responsibility nor liability for this Performance Measure.

Explanation of “Application Requirements” Terms in Table 7;

- **“Capture”** – the Contractor solution will record data that will allow reporting of this measure. The detailed definitions of how this will be achieved will be defined in the Detailed Design stage.
- **“Report”** – the Contractor will deliver a report within the solution that will demonstrate compliance with this measure. The detailed definitions of how this will be achieved will be defined in the Detailed Design stage.
- **“None”** – the Contractor will, where required, record data to enable the Hosting and Service Management Service Provider to accurately report on these measures.

Explanation of “Disaster Recovery” Terms in Table 7;

Recovery Time Objective – Performance Measure 9.1 and 9.3

- 1.1 The Recovery Time Objective measures the time between a disaster recovery incident occurring, and the re-instatement of DCC Services.
- 1.2 The Contractor shall, as part of their Performance Management Approach, record the following information:
 - (a) the Disaster Occurrence Time: the time at which the Service Disruption or Disaster occurred; and
 - (b) the Recovery Time: the time, following the occurrence of the Service Disruption or Disaster, that DCC Services are re-instated and are being performed in accordance with the requirements of the Agreement (as such re-instatement process is further described in the BCDR Plan).
- 1.3 Performance Measures 9.1 and 9.3 shall equal the time between the Recovery Time and the Disaster Occurrence Time.

Recovery Point Objective - Performance Measure 9.2 and 9.4

- 1.4 The Recovery Point Objective measures the point in time, before the Data Centre Disruption or Disaster, to the point in time when the Data Centre is re-instated and the DCC Services in that re-instated Data Centre are recovered, following the Recovery Time.
- 1.5 The Contractor shall, as part of their Performance Management Approach, record the following information:
 - (a) the Disaster Occurrence Time: the time at which the Data Centre Disruption or Disaster occurred;
 - (b) the Recovery Time: the time, following the occurrence of the Data Centre Disruption or Disaster, that the Data Centre is re-instated and the DCC Services in that re-instated Data Centre are being performed in accordance with the requirements of the Agreement (as such re-instatement process is further described in the BCDR Plan); and
 - (c) the Recovery Point Time: the maximum amount of time in which data is lost from the service measured from the point in time, before the occurrence of the Data Centre Disruption or Disaster, at which the Contractor has recovered all data associated with DCC Services / Service Management Services in a consistent state at the Recovery Time.
- 1.6 Performance Measures 9.2 and 9.4 shall equal the time between the Disaster Occurrence Time and the Recovery Point Time.

Appendix 3 – Worked examples

Example 1: Calculation of Service Points

Consider the following Actual Service Levels for the given Service Measures, where the Target Service Level, Minimum Service Levels and Maximum Service Points are as follows:

Service Measure	Target Service Level	Minimum Service Level	Maximum Service Points	Actual Service Level

Table 9: Calculation of Service Points

NB: No worked example provided at Commencement Date.

Appendix 4 – Incident and Problem Severity Levels

Incident Severity Levels

Severity Level	Description	Service Level Requirements
1	<p>An Incident which, in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> • prevents a large group of DCC Service Users from using the DCC Service User Systems; • has a critical adverse impact on the activities of the DCC; • causes significant financial loss and/or disruption to the DCC; or <p>results in any material loss or corruption of DCC Data.</p> <p>For a Major Security Incident there are additional considerations:</p> <ul style="list-style-type: none"> • Her Majesty's Government, through Centre for the Protection of National Infrastructure, have declared a Major Incident based on their procedures; • a pattern has been seen across the DCC Total System that in total would have a significant security impact; or • Data covered by the Data Protection Act has either been lost or obtained by an unauthorised party, or is seriously threatened. 	<p>Target Incident Notification Time (Contractor detects event and raises incident): <i>5 minutes</i></p> <p>Target Incident Response Time (incident is raised/allocated and Contractor identifies appropriate action to resolve): <i>10 minutes</i></p> <p>Target Incident Resolution Time (the time from Contractor detecting event and raising incident until the incident is closed by Contractor): <i>4 hours</i></p> <p>(The Target Incident Resolution Time includes the Target Incident Notification Time and the Target Incident Response Time)</p>
	<p>Non-exhaustive examples</p> <ul style="list-style-type: none"> • A single Incident leading to loss of the Services to more than 1,000,000 endpoints or loss of the Services to more than 10% of the total number of endpoints in a Region • An Incident leading to non-availability which results in a complete and total outage of the key service or infrastructure element. • An Incident leading to non-availability which prevents all Service Users in any Region from completing ECoS transactions. 	
2	<p>An Incident which, in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> • has a major (but not critical) adverse impact on the activities of the DCC but the service is still working at a reduced capacity; or 	<p>Target Incident Response Time: <i>20 minutes</i></p> <p>Target Incident Notification Time: <i>10 minutes</i></p>

Severity Level	Description	Service Level Requirements
	<ul style="list-style-type: none"> causes financial loss and/or disruption to the DCC which is more than trivial but less severe than the significant financial loss described in the definition of a Severity 1 Incident. <p>Non-exhaustive examples</p> <ul style="list-style-type: none"> A single Incident leading to loss of the SMWAN Service to more than 500,000 but less than 1,000,000 endpoints in a Region or loss of the SMWAN Service to more than 5% but less than 10% of the total number of endpoints in a Region. An Incident leading to the unavailability of the DCC Management Interface or DCC Service Management Interface. An incident leading to reduced capacity of the DCC SMWAN Gateway interface, increasing the service request handling times. An incident leading to reduced capacity of the DCO Interface, increasing the service request handling times 	<p>Target Incident Resolution Time: <i>24 hours</i></p>
3	<p>An Incident which, in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> has a major adverse impact on the activities of the DCC but which can be reduced to a moderate adverse impact due to the availability of a work around; or has a moderate adverse impact on the activities of the DCC. <p>Non-exhaustive examples</p> <ul style="list-style-type: none"> A single Incident leading to loss of the Services to 100,000 or more but less than 500,000 endpoints. 	<p>Target Incident Response Time: <i>45 minutes</i></p> <p>Target Incident Notification Time: <i>10 minutes</i></p> <p>Target Incident Resolution Time: <i>72 hours</i></p>
4	<p>An Incident which, in the reasonable opinion of the DCC has a minor adverse impact on the activities of the DCC.</p> <p>Non-exhaustive examples</p> <ul style="list-style-type: none"> Minor service interruptions / defects in business process or functionality of the DCC Systems and / or service. 	<p>Target Incident Response Time: <i>3 hours</i></p> <p>Target Incident Notification Time: <i>1 hour</i></p> <p>Target Incident Resolution Time: <i>5 days</i></p>

Severity Level	Description	Service Level Requirements
	<ul style="list-style-type: none"> A single Incident leading to loss of the DCC Service to 30,000 or more but less than 100,000 endpoints. 	
5	<p>An Incident which, in the reasonable opinion of the DCC has minimal impact to the activities of the DCC.</p> <p>Non-exhaustive examples</p> <ul style="list-style-type: none"> Trivial incidents with workarounds which are noted for future releases but minimal impact of running existing services. A single Incident leading to loss of the DCC Service to fewer than 30,000 endpoints. 	<p>Target Incident Response Time: <i>1 day</i></p> <p>Target Incident Notification Time: <i>3 hours</i></p> <p>Target Incident Resolution Time: <i>10 days</i></p>

<p>Notes:</p> <ul style="list-style-type: none"> Severity 1 is the highest (i.e. most serious) severity level and Severity 5 is the lowest (i.e. least serious) severity level. An Incident which results in the Non-Availability of the Contractor System shall always be classified as either a Severity 1 or Severity 2 Incident.

Problem Severity Levels

Problem Severity Level	Description	Target Root Cause Analysis and Preventative Actions Time	Target Resolution Time
Critical	<p>A Critical Severity Problem is a Problem which, in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> prevents a large group of Service Users and/or Service Providers from using the Live Services; has a critical adverse impact on the activities of the Service Users and/or 	<p>2 Business Days to define Root Cause</p> <p>3 Business Days to define and agree preventive actions</p>	<p>5 Business Days to implement defined fix</p>



Problem Severity Level	Description	Target Root Cause Analysis and Preventative Actions Time	Target Resolution Time
	<p>Service Providers using the Live Services of the DCC;</p> <ul style="list-style-type: none"> causes significant financial loss and/or disruption to the Service Users and Service Providers; or results in any material loss or corruption of DCC Data <p>For a Major Security or BCDR Problem there are additional considerations:</p> <ul style="list-style-type: none"> a pattern has been seen across the DCC Total System that would have a significant security impact; or data covered by the Data Protection Act has either been lost or obtained by an unauthorised party or is seriously threatened. 		
High	<p>A High Severity Problem is a Problem which, in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> has a non-critical adverse impact on the activities of Service Users and/or Service Providers, but the Live Service is still working at a reduced capacity. 	<p>4 Business Days to define Root Cause</p> <p>6 Business Days to define and agree preventive actions</p>	<p>8 Business Days to implement defined fix</p>
Medium	<p>A Medium Severity Problem is a Problem which, in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> has a moderate to minor adverse impact on the activities of Service Users and/or Service Providers. 	<p>8 Business Days to define Root Cause</p> <p>12 Business Days to define and agree preventive actions</p>	<p>15 Business Days to implement defined fix</p>
Low	<p>A Low Severity Problem is a Problem which, in the reasonable opinion of the DCC:</p> <ul style="list-style-type: none"> has a minimal adverse impact on the activities of Service Users and/or Service Providers. 	<p>30 Business Days to define Root Cause</p> <p>40 Business Days to define</p>	<p>90 Business Days to implement defined fix</p>

Problem Severity Level	Description	Target Root Cause Analysis and Preventative Actions Time	Target Resolution Time
		and agree preventive actions	



Appendix 5 –Performance Monitoring Approach

PERFORMANCE MONITORING APPROACH

1. OVERVIEW

This document describes the proposed structure and content for the Performance Monitoring Approach document.

The structure of the document will be:

- **Performance Measures** – this section will list the Performance Measures that the DSP will be measured against
- **Gathering the Performance Data** – in this section we describe how we will gather the underlying data that will be used to calculate the Performance Measures.
- **Performance Monitoring Processes** – this section will describe the processes and systems we will use to monitor the Performance Measures.
- **Performance Reports** – in this section we will outline the format and content of the Performance Reports that we will produce.
- **Performance Reviews** – this section describes the various methods to be used for reviewing the performance of our service.
- **Changes to Performance Measures** – this section describes how changes to Performance Measures will be managed.

SCHEDULE 2.3

STANDARDS

1. PURPOSE

- 1.1 This Schedule 2.3 (*Standards*) details certain Standards with which the Contractor is required to comply in delivering the Services under this Agreement.
- 1.2 This Schedule 2.3 (*Standards*) is without prejudice to the Contractor's other obligations under this Agreement, including any requirement to comply with other Standards referred to elsewhere in this Agreement.
- 1.3 For the avoidance of doubt, references to Standards in this Agreement refer to the current version of such Standards in place at the Commencement Date, and any subsequent updates, amendments or replacement of these versions or Standards shall apply.

2. STANDARDS

- 2.1 Without prejudice to any other provisions of this Agreement, the Contractor (and the Contractor Solution) shall comply with the Standards referred to in this Schedule 2.3 (*Standards*) throughout the Term save that if any Standard is annotated with an asterisk then the DCC acknowledges that the Hosting and Service Management Service Provider shall be responsible for compliance with this Standard and the Contractor's obligation shall be to provide the Hosting and Service Management Service Provider with such assistance as it may reasonably require (given the scope of services of the Contractor) in respect of such compliance obligation.
- 2.2 Any changes to this Schedule 2.3 shall be agreed via the Change Control Procedure as set out at Schedule 8.2 (*Change Control*).
- 2.3 The Standards appearing in the tables in this Schedule are accorded a "**Requirement Status**" to identify whether the reason for compliance with the Standard arises because it is a mandatory requirement of the SEC or a requirement as determined by the DCC. The relevant Requirement Status is indicated as follows:

A = Mandatory requirement from the SEC

B = Required by DCC

For the avoidance of doubt, Requirement Status is provided for information purposes and the Contractor's obligation to comply with a Standard shall not differ as between different Requirement Status.

2.4 ITIL Standards

Standards contained in the Office of Government Commerce's IT Infrastructure Library ("ITIL").

2.5 Technical standards

Current version of the following technical standards:

No.	Req. Status (A/B)	Standard
1. *	B	ISO/IEC 17826:2016 Information Technology – Cloud Data Management Interface <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
2. *	B	ISO/IEC 17788:2014 Information technology -- Cloud computing -- Overview and vocabulary <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
3. *	B	ISO/IEC 19086-1:2016 Information Technology – Cloud computing – Service Level Agreement (SLA) framework <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
4. *	B	ISO/IEC 18384:2016 Information Technology – Reference Architecture for a Service Orientated Architecture (SOA) <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
5. *	B	ISO/IEC 19941:2017, Information technology -- Cloud computing -- Interoperability and portability. <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
6. *	B	ISO/IEC 19944-1:2020, Cloud computing and distributed platforms -- Data flow, data categories and data use <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
7. *	B	ISO/IEC Technical Specification 23167:2020, Information technology -- Cloud computing -- Common technologies and techniques

		<i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
8.	A	RFC 5280 As set out in the SEC at SEC Appendices A and Q

2.6 Security standards

Security standards, including:

No.	Req. Status (A/B)	Standard
ISO/BS Standards		
1.	A	BS 10008-2:2020 Evidential weight and legal admissibility of electronically stored information (ESI) Part 2: Code or practice for implementation of BS 10008-1 <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
2. *	B	ISO/IEC 17789:2014 Information technology -- Cloud computing -- Reference architecture <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
3. *	B	ISO/IEC 19944:2020 Information technology -- Cloud computing -- Cloud services and devices: Data flow, data categories and data <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
4.	A	ISO/IEC 27001 – Information technology — Security techniques — Information security management systems — Requirements (current version).
5.	A	ISO/IEC 27002 – Information technology — Security techniques — Code of practice for information security controls (current version).

6.	A	ISO/IEC 27005 – Information technology — Security techniques — Information security risk management (current version).
7.	A	ISO/IEC 27033-1:2015 Network Security <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
8.	A	ISO/IEC 27033-2:2012 Network Security <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
9.	A	ISO/IEC 27033-3:2010 Network Security <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
10.	A	ISO/IEC 27035-1:2016 Principles of incident management <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
11.	A	ISO/IEC 27035-2:2016 Guidelines to plan and prepare for incident response <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
12.	A	ISO/IEC 27036-2:2014-2 – Information technology -- Security techniques -- Information security for supplier relationships Part 2: Requirements (current version).
13.	A	BS 10008-1:2020 – Evidential weight and legal admissibility of electronic information. Part 1: Specification
14.	A	BS 10008-2:2020 - Evidential weight and legal admissibility of electronic information. Part 2 Code of practice for implementation of BS 10008-1

15. *	A	BS 7858:2019 – Security screening of individuals employed in a security environment. Code of practice
16. *	A	ISO 19790:2012 Security requirements for cryptographic modules <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
17. *	B	ISO/IEC 24759:2017 Information technology — Security techniques — Test requirements for cryptographic modules <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
HMG/CESG Standards		
18.	B	Cyber Assurance Framework https://www.ncsc.gov.uk/collection/caf <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
19.	A	NCSC Guidance: Secure sanitisation of storage media https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
20.	B	HMG Security Policy Framework https://www.gov.uk/government/publications/security-policy-framework <i>CSW's Security Management System (ISMS), which is ISO 27001 certified, aligns with the principles of the HMG Security Policy Framework.</i>
21. *	B	HMG Baseline Personnel Security Standard (BPSS)
22.	A	SMKI PMA Good Practice Guidance https://smartenergycodecompany.co.uk/download/29784/
23.	B	ISO/IEC 27002:2013 Information technology — Security techniques — Code of practice for information security controls

24.	B	Compliance with latest National Cyber Security Centre Guidance
25. *	A	Cryptographic Modules that meet FIPS 140-3
26.	A	NCSC Check https://www.ncsc.gov.uk/guidance/penetration-testing <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i> <i>Applies to security testing suppliers.</i>
27.	B	Compliance with the National Cyber Security Centre (NCSC) 10 Steps to Cyber Security ¹ and updates to this Guidance issued from time to time.
Other Standards		
28.	B	Any requirements or advice of the Centre for Protection of National Infrastructure regarding Critical National Infrastructure (CNI) category as notified to the Contractor from time to time by the DCC See Note 1
29.	B	MITRE ATT&CK framework https://attack.mitre.org/
30.	B	Center for Internet Security (CIS) Benchmarks for secure system configuration hardening https://www.cisecurity.org/

2.7 Business Continuity standards

Business continuity standards and guidelines, including:

No.	Req. Status (A/B)	Standard
1.	A	ISO/IEC 27031:(current version) (Information technology – Security techniques – Guidelines for information and communication technology readiness for business continuity).

¹ 10 Steps to Cyber Security: <https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>

2.	A	ISO/IEC 22301:(current version) (Societal security – Business continuity management systems – Requirements).
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2.8 Quality and service management standards

Quality and service management standards, including:

No.	Standard
1.	"Managing Successful Programmes" (the HMG-approved programme management methodology) <i>NB: Not a certifiable standard but a set of guidelines (or, if certifiable, certification is not required)</i>
2.	ISO 9001:(current version) (Quality management systems – Requirements).
3.	TickITplus <i>NB: Not a certifiable standard but a set of guidelines (or, if certifiable, certification is not required)</i>

2.9 Environmental standards

Environmental standards, including:

No.	Standard
1. *	European Code of Conduct on Data Centres Energy Efficiency <i>NB: Not a certifiable standard but a set of guidelines (or, if certifiable, certification is not required)</i>
2.	BS EN ISO 14001:(current version) Environmental management systems – Requirements

2.10 **Details of technical standards the Contractor cannot comply with:**

In respect of any Standards (or part thereof) listed in the table below, the Parties have agreed that the Contractor may not comply with the full standard as detailed in the column headed "Reason for non-compliance".

COMMERCIALLY SENSITIVE INFORMATION – ACCESS BY OTHER DCC CONTRACTORS GENERALLY PROHIBITED				
Paragraph number in this Schedule	Heading	No.	Standard	Reason for non-compliance

2.11 **Details of the Contractor's applicable technical standards not listed above in this Schedule 2.3:**

ECoS Schedule 2.3 (Standards) (Critical Software) [REDACTED]

COMMERCIALY SENSITIVE INFORMATION – ACCESS BY OTHER DCC CONTRACTORS GENERALLY PROHIBITED		
Paragraph number in Schedule & Heading	Number	Details

3. Best Practice and Industry Guidance

The Guidance appearing in the table in this Paragraph 3 is a list of the recommended best practice and industry guidance in relation to the Smart Metering Programme, in particular to the provision of the Enduring Change of Supplier (ECoS) Services. DCC and Contractor to review and discuss the extent to which Contractor is capable of compliance and will comply with the Guidance appearing in the table at Paragraph 3.

No.	Category	Guidance
1.	Technical	Open and accessibility standards, wherever possible, following www.w3.org guidelines for web services
2.	Technical	Java Coding Standard
3.	Security	ISO/IEC 27036-3:2013 Information technology — Security techniques — Information security for supplier relationships — Part 3: Guidelines for information and communication technology supply chain security <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>

4.	Security	ISO/IEC 27036-2:2014-2 – Information technology - - Security techniques -- Information security for supplier relationships -- Part 2: Requirements <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
5.	Security	ISO/IEC 30111:2019 Information technology — Security techniques — Vulnerability handling processes <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
6.	Security	ISO/IEC 29147:2018 Information technology — Security techniques — Vulnerability disclosure <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
7.	Security	ISO/IEC 27034-3:2018 Information technology — Application security — Part 3: Application security management process <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i>
8.	Security	ISO/IEC 27036-3:2013 Information technology — Security techniques — Information security for supplier relationships — Part 3: Guidelines for information and communication technology supply chain security <i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time.</i>
9.	Security	ISO 28001:2007 Security management systems for the supply chain — Best practices for implementing supply chain

		<p>security, assessments and plans — Requirements and guidance</p> <p><i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i></p>
10.	Security	<p>HMG IA Maturity Model (IAMM)</p> <p>https://www.ncsc.gov.uk/information/hmg-ia-maturity-model-iamm</p>
11.	Security	<p>Cyber Essentials Plus</p> <p>https://www.cyberessentials.ncsc.gov.uk</p> <p><i>Or any equivalent to that standard, procedure or guideline which updates or replaces it from time to time</i></p>
12.	Security	<p>HMG Information Assurance Standard No. 6 (Protecting Personal Data and Managing Information Risk)</p>
13.	Security	<p>HMG Security Procedures – Telecommunications Systems and Services</p>
14.	Security	<p>NCSC Guidance: Malware prevention</p> <p>https://www.ncsc.gov.uk/collection/10-steps-to-cyber-security/the-10-steps/malware-prevention</p> <p>We have well established process and build guidelines for our IT infrastructure including awareness training and monitoring.</p>
15.	Security	<p>NCSC Guidance: Supply chain security guidance</p> <p>https://www.ncsc.gov.uk/collection/supply-chain-security</p>
16.	Security	<p>NCSC Guidance: Remote Working</p> <p>https://www.ncsc.gov.uk/collection/10-steps-to-cyber-security/the-10-steps/home-and-mobile-working</p>
17.	Security	<p>NCSC Guidance: Separation and Cloud Security</p>

		https://www.ncsc.gov.uk/guidance/separation-and-cloud-security
18.	Security	NCSC CAF Objective D - Minimising the impact of cyber security incidents https://www.ncsc.gov.uk/collection/caf/cyber-assessment-framework/caf-objective-d-minimising-the-impact-of-cyber-security-incidents
19.	Security	CCTV Operational Requirements Manual 2009 (Publication No. 28/09)
20.	Business continuity	Business Continuity Institute (BCI) Good Practice Guidelines

SCHEDULE 2.4

CONTINUOUS IMPROVEMENT

PURPOSE

The overall purpose of this Schedule 2.4 (*Continuous Improvement*) is to ensure that the Parties, together with those DCC Service Providers identified by DCC whose services are relate to or interface with the Services (the “**Relevant DCC Service Providers**”), are able to identify, assess and, where applicable, implement potential improvements in relation to (i) the Contractor Solution, (ii) the relevant DCC Service Providers Solutions and/or (iii) the Smart Metering Programme generally, which could:

- a) increase quality, efficiency or productivity;
- b) improve utilisation of relevant assets and/or capacity;
- c) reduce operational risks;
- d) improve security;
- e) offer greater sustainability;
- f) generate cost savings and/or other financial gains; and/or
- g) otherwise offer increased value for money.

This Schedule 2.4 should be read in conjunction with Schedule 7.3 (*Value for Money*).

This Schedule 2.4 comprises the following parts:

Part	Scope
Part A	General obligations on the Contractor
Part B	Continuous Improvement Plan
Part C	Innovation Reports
Part D	Implementation of improvements
Part E	Governance arrangements

PART A – GENERAL OBLIGATIONS ON THE CONTRACTOR

1. GENERAL

- 1.1. The Contractor shall at all times during the Service Period:
 - 1.1.1. ensure that the Services are performed in the most efficient manner that is reasonably practicable, taking appropriate account of the Contractor's obligations under this Agreement;
 - 1.1.2. encourage and promote continuous improvement and innovation in relation to the performance of the Services;
 - 1.1.3. pro-actively assess and identify potential improvements in relation to the Contractor Solution in accordance with the procedures set out in this Schedule 2.4; and
 - 1.1.4. work pro-actively and co-operatively with the DCC and the Relevant DCC Service Providers (in accordance with the procedures set out in this Schedule 2.4 and Schedule 8.7 (*Co-operation*)) to assess and identify potential improvements in relation to:
 - i. the Contractor Solution;
 - ii. the relevant DCC Service Providers Solutions; and/or
 - iii. the Smart Metering Programme generally.
- 1.2. The Contractor shall:
 - 1.2.1. ensure that all improvements identified by the Contractor, and other information provided to the DCC, under this Schedule 2.4:
 - i. are sufficiently clear and detailed to enable the DCC to decide whether to implement the relevant improvement;
 - ii. where applicable, are targeted towards identifying opportunities for the DCC to better achieve the Objectives; and
 - iii. where paragraph 1.2.1.ii applies, clearly demonstrates the manner in which the DCC will be able to better achieve the Objectives; and
 - 1.2.2. promptly provide any clarification or further information reasonably requested by the DCC in relation to any improvements identified by the Contractor under this Schedule 2.4.

2. MONITORING ACTIVITIES

- 2.1. The Contractor shall implement appropriate systems and business processes which will enable the Contractor to:
 - 2.1.1. monitor the quality, efficiency and productivity of the Services (and to monitor any improvements to the same over time); and

- 2.1.2. identify "lessons learned" in relation to the performance of the Services which can be implemented by the Contractor in the future.

3. MARKET ANALYSIS

- 3.1. The Contractor shall carry out appropriate market analysis at least once every Contract Year in order to enable the Contractor to comply with its obligations under this Schedule 2.4, including to monitor and assess:
 - 3.1.1. developments in technology or other forms of innovation which may be applicable to the Contractor Solution specifically and/or the Smart Metering Programme generally;
 - 3.1.2. developments in Good Industry Practice and other prevailing industry norms which may be applicable to the Contractor Solution specifically and/or the Smart Metering Programme generally; and
 - 3.1.3. the manner in which other organisations delivering similar services to the Services have been able to achieve improvements in the quality, efficiency and/or productivity of such services.

PART B – CONTINUOUS IMPROVEMENT PLAN

1. SCOPE

- 1.1. This Part B of Schedule 2.4 sets out the Parties' respective rights and obligations regarding the development of a rolling thirty-six (36) month continuous improvement plan, as further described in paragraph 2 (the "**Continuous Improvement Plan**" or "**CIP**").
- 1.2. The Contractor and each Relevant DCC Service Provider shall be required to prepare a separate CIP. However, the Contractor undertakes to work pro-actively and co-operatively with the Relevant DCC Service Providers (in accordance with the procedures set out in this Schedule 2.4 and Schedule 8.7 (*Co-operation*)) in relation to the development of the CIP in order to ensure, as far as reasonably possible, that:
 - 1.2.1. the CIP prepared by the Contractor under this Agreement is consistent with the equivalent continuous improvement plans prepared by the Relevant DCC Service Providers;
 - 1.2.2. any improvements proposed by the Contractor in the CIP are consistent and co-ordinated with any improvements proposed by the Relevant DCC Service Providers in their equivalent continuous improvement plan; and
 - 1.2.3. where necessary, any improvements proposed by the Contractor in the CIP have been agreed, validated and, where applicable, tested with the applicable Relevant DCC Service Providers before submission of the CIP to the DCC.
- 1.3. The DCC shall provide reasonable support and assistance to the Contractor and the Relevant DCC Service Providers in relation to the activities referred to in paragraph 1.2, including by arranging appropriate meetings of the Operational Management Team or any of the Management Boards under Schedule 8.1 (*Governance*).

2. PURPOSE AND CONTENT OF CONTINUOUS IMPROVEMENT PLAN

Purpose

- 2.1. The purpose of the CIP is to ensure that the Parties, together with the Relevant DCC Service Providers, are able to identify, assess and, where applicable, implement potential improvements in relation to (i) the Contractor Solution, (ii) the DCC Service Provider Solutions and/or (iii) the Smart Metering Programme generally, which could:
 - 2.1.1. increase quality, efficiency or productivity;
 - 2.1.2. improve utilisation of relevant assets and/or capacity;
 - 2.1.3. reduce operational risks;
 - 2.1.4. improve security;
 - 2.1.5. offer greater sustainability;

- 2.1.6. generate cost savings and/or other financial gains; and/or
 - 2.1.7. otherwise offer increased value for money.
- 2.2. The potential improvements to be identified and assessed under this Part B may include:
- 2.2.1. developments in technology or other forms of innovation which may be applicable to:
 - i. the Contractor Solution;
 - ii. the relevant DCC Service Provider Solutions; and/or
 - iii. the Smart Metering Programme generally.
 - 2.2.2. developments in Good Industry Practice and other prevailing industry norms which may be applicable to
 - i. the Contractor Solution;
 - ii. the DCC Service Provider Solutions; and/or
 - iii. the Smart Metering Programme generally.
 - 2.2.3. changes in the Contractor's business processes or working methods relating to the performance of the Contractor Solution;
 - 2.2.4. changes in the business processes or working methods of the Relevant DCC Service Providers relating to the performance of the DCC Service Provider Solutions; and
 - 2.2.5. changes in other business processes or working methods relating to other aspects of the delivery of the Smart Metering Programme generally.

Relationship with Development Plan and Contractor Development Plan

- 2.3. The Parties acknowledge that:
- 2.3.1. under the DCC Licence, the DCC is required to prepare a Development Plan;
 - 2.3.2. in order to support such obligations on the DCC, the Contractor is required to develop a Contractor Development Plan (the content of which is further described in Schedule 8.9 (*Operations Manual*));
 - 2.3.3. the Development Plan (and, accordingly, the Contractor Development Plan) is intended to be a high-level overview of the DCC's long-term business development objectives; and
 - 2.3.4. by contrast, the CIP is intended to be focussed on:
 - i. specific improvements which can be implemented in relation to:

- A. the Contractor Solution;
 - B. any of the DCC Service Provider Solutions; and/or
 - C. the Smart Metering Programme generally in the shorter term; and
- ii. the specific content requirements set out in this paragraph 2.
- 2.4. The Parties agree that, in order to avoid unnecessary duplication of effort by the Contractor, the Contractor shall be entitled to incorporate relevant content from the Contractor Development Plan into the CIP (and vice versa) where it is appropriate to do so (and provided that the CIP continues to comply with the requirements of this Part B of Schedule 2.4 and the Contractor Development Plan continues to comply with the requirements of Schedule 8.9 (*Operations Manual*), as applicable).

Scope of the Continuous Improvement Plan

- 2.5. In preparing and updating the CIP in accordance with this Part B of Schedule 2.4, the Contractor shall be required to assess all aspects of the Contractor Solution, including:
- 2.5.1. efficient use of physical infrastructure and software;
 - 2.5.2. service reliability; and
 - 2.5.3. service management.

Specific content of the Continuous Improvement Plan

- 2.6. The CIP shall identify and assess potential improvements in relation to (i) the Contractor Solution and (ii) the DCC Service Provider Solutions, including:
- 2.6.1. the use, application and development of smart metering (or similar) technology in other jurisdictions and/or countries;
 - 2.6.2. the emergence of new and emerging technologies which could improve (or reduce the cost of) the Contractor Solution and/or the DCC Service Provider Solutions;
 - 2.6.3. the application of alternative, existing technologies which could improve (or reduce the cost of) the Contractor Solution and/or the DCC Service Provider Solutions;
 - 2.6.4. improvements regarding the quality, availability, responsiveness and stability of the Contractor Solution and/or the DCC Service Provider Solutions;
 - 2.6.5. potential improvements to the interfaces or integration of the Contractor Solution and/or the DCC Service Provider Solutions with any other services or systems provided pursuant to (or otherwise related to) the Smart Metering Programme which might result in greater efficiency, productivity gains or a reduction of operational risks; and/or

- 2.6.6. changes in business processes or working practices that would enable the Contractor Solution and/or the DCC Service Provider Solutions to be delivered at a lower cost and/or in a manner which provides greater benefits to the DCC, DCC Service Users and/or Consumers.
- 2.7. The CIP may, but is not required to, propose potential improvements (including the types of improvement referred to in paragraph 2.6) in relation to any other services or systems provided pursuant to (or otherwise related to) the Smart Metering Programme, including:
 - 2.7.1. the DCC Services and/or the DCC Environment; and
 - 2.7.2. the services and/or systems provided by the Relevant DCC Service Providers.

Technology roadmap

- 2.8. The CIP shall include:
 - 2.8.1. an assessment of the Contractor System as at the date of the relevant version of the CIP, including a detailed appraisal of the capacity of the Contractor System to fulfil the existing and planned requirements for the Services;
 - 2.8.2. a detailed technology roadmap (covering at least the same period as the CIP) identifying:
 - i. the anticipated end-of-life in relation to applicable components of the Contractor System;
 - ii. the expected upgrades, refreshes and other changes to the Contractor System (and the timescales for the implementation of the same), including to address any end-of-life arrangements referred to in paragraph 2.8.2.i; and
 - iii. any issues or risks relating to the obsolescence of any component of the Contractor System (including where such matters might have an adverse impact on the Services, the services provided by any of the Relevant DCC Service Providers and/or the DCC Services as a whole).
- 2.9. For the avoidance of doubt, the DCC shall not be liable for any additional costs associated with any upgrades, refreshes or other changes to the Contractor System which are intended to address end-of-life or other obsolescence of any component of the Contractor System.
- 2.10. The Contractor shall not be obliged to disclose its technology roadmap (as further described in 2.8.2) to any of the Relevant DCC Service Providers as part of the development of the CIP.

Energy efficiency

- 2.11. If requested by the DCC (and provided that it is reasonable in respect of the Services being provided), the CIP shall include a review (on an annual basis)

in relation to the Contractor's performance against the following energy efficiency metrics in relation to the provision of the Services:

- 2.11.1. overall energy consumption;
- 2.11.2. power usage effectiveness (PUE); and
- 2.11.3. carbon footprint,

(each, an "**Energy Efficiency Metric**").

- 2.12. In respect of each of the Energy Efficiency Metrics, the CIP shall include:
 - 2.12.1. a description of the methodology used by the Contractor to determine its performance against the Energy Efficiency Metric;
 - 2.12.2. the Contractor's performance against the Energy Efficiency Metric during the twelve (12) month period prior to the Initial CIP Date or the relevant CIP Review Date (as applicable) (as defined in paragraphs 3 and 4 respectively);
 - 2.12.3. details of the change in the Contractor's performance against the Energy Efficiency Metric:
 - i. between the period referred to in paragraph 2.12.2 and the previous twelve (12) month period; and
 - ii. cumulatively, since the twelve (12) month period following the date on which Milestone 1.8 (Go Live Achieved Milestone) was Achieved and/or such other Milestone as deemed relevant by the DCC;
 - 2.12.4. an explanation (in appropriate detail) of the reason for any increase or decrease in the Contractor's performance against the Energy Efficiency Metric under paragraph 2.12.3.i and/or 2.12.3.ii; and
 - 2.12.5. potential improvements to the Contractor's performance against the Energy Efficiency Metric in respect of any Sites which are under the control of the Contractor and excluding any Sites controlled by Key Sub-Contractors or Sub-Contractors unless agreed by the Parties in writing.

Approach to phases under this Agreement

- 2.13. The content of each version of the CIP prepared under this Part B of Schedule 2.4 shall be specifically tailored to reflect the individual phases of this Agreement which will occur during the period covered by that version of the CIP.

Implementation proposal

- 2.14. In respect of any improvement to the Contractor Solution and/or any DCC Service Provider Solution set out in the CIP, the CIP shall contain a proposal (in reasonable detail) regarding the manner in which such improvement would be implemented by the DCC, the Contractor and/or the Relevant DCC

Service Provider(s).

Format of the Continuous Improvement Plan

- 2.15. The CIP shall be provided in the format agreed by the Parties from time to time (acting reasonably), provided that it complies with the requirements of paragraphs 2.16 and 2.17.
- 2.16. The CIP shall provide a level of detail which is sufficient for the DCC:
 - 2.16.1. to make informed decisions; and
 - 2.16.2. to carry out strategic and operational planning activities,in relation to any proposed improvements identified in the CIP regarding (i) the Contractor Solution, (ii) any of the DCC Service Provider Solutions and/or (iii) the Smart Metering Programme generally.
- 2.17. The CIP shall include clear sections addressing the following issues in relation to any proposed improvements regarding (i) the Contractor Solution, (ii) any of the DCC Service Provider Solutions and/or (iii) the Smart Metering Programme generally:
 - 2.17.1. potential benefits (including any potential reduction of the ongoing Charges and/or other financial benefits);
 - 2.17.2. strategic fit with the DCC's strategy, business development objectives and existing change programmes;
 - 2.17.3. strategic fit with the Objectives;
 - 2.17.4. prioritisation (i.e. relative to other proposed improvements);
 - 2.17.5. risks; and
 - 2.17.6. estimated costs and timescales for implementation.

3. PREPARATION OF CONTINUOUS IMPROVEMENT PLAN

- 3.1. By no later than the second anniversary of the Commencement Date (the "**Initial CIP Date**"), the Contractor shall deliver to the DCC a draft of the CIP which:
 - 3.1.1. sets out the content required under paragraph 2 of this Part B of Schedule 2.4 in relation to the thirty-six (36) month period starting from the Initial CIP Date;
 - 3.1.2. unless otherwise agreed with the DCC, is consistent with the DCC's business development objectives, as set out in the then current version of the Development Plan;
 - 3.1.3. unless otherwise agreed with the DCC, is consistent with the content of the then current Contractor Development Plan (as further described in Schedule 8.9 (*Operations Manual*)); and

- 3.1.4. otherwise complies with the requirements of this Part B of Schedule 2.4.
- 3.2. Within thirty (30) days after receipt of the draft CIP from the Contractor, the DCC shall notify the Contractor if it (acting reasonably) considers that the draft:
 - 3.2.1. is insufficiently detailed to be properly evaluated; and/or
 - 3.2.2. does not comply with any of the requirements set out in paragraph 3.1,(each, for the purposes of this paragraph 3, a "**non-conformity**").
- 3.3. By no later than twenty (20) days after receipt of a notice from the DCC under paragraph 3.2 or 3.4, the Contractor shall:
 - 3.3.1. make any amendments to the CIP that are necessary to address the non-conformities notified by the DCC under paragraph 3.2 or 3.4; and
 - 3.3.2. re-submit the revised CIP to the DCC for approval.
- 3.4. Within thirty (30) days after receipt of the revised CIP from the Contractor, the DCC shall notify the Contractor of any new or outstanding non-conformities.
- 3.5. The process in this paragraph 3 will then be repeated until the DCC notifies the Contractor that the CIP is approved. Any dispute relating to the existence of non-conformities in the CIP shall be referred to the Dispute Resolution Procedure.
- 3.6. The DCC shall provide any information or assistance reasonably requested by the Contractor in relation to the preparation of the CIP under this paragraph 3 (or any updates to the CIP under paragraph 4).

4. ONGOING REVIEW OF THE CONTINUOUS IMPROVEMENT PLAN

- 4.1. By no later than each anniversary of the Initial CIP Date (each, a "**CIP Review Date**"), the Contractor shall review and update the CIP in order to:
 - 4.1.1. update the content of the CIP (as specified in paragraph 2 of this Part B of this Schedule 2.4) in relation to the thirty-six (36) month period starting on the relevant CIP Review Date; and
 - 4.1.2. ensure that the CIP is otherwise fully up-to-date and accurately reflects the then current scope and nature of the Contractor Solution (and otherwise continues to comply with the requirements of this Part B of Schedule 2.4),and submit an updated version of the CIP for approval by the DCC.
- 4.2. Unless otherwise agreed by the DCC in writing, in relation to any updated version of the CIP under this paragraph 4, the Parties shall comply with the procedure set out in paragraph 3 relating to the approval of the updated

version of CIP by the DCC.

PART C – INNOVATION REPORTS

1. SCOPE

- 1.1. This Part C of Schedule 2.4 sets out the Parties' respective rights and obligations regarding the annual reporting of short-term innovation improvements and opportunities in addition to, and in order to support, the more long-term planning under the CIP.
- 1.2. It is intended that Innovation Reports will be focussed on potential improvements to the Contractor Solution and will not need to address potential improvements to the DCC Service Provider Solutions and/or the Smart Metering Programme generally.

2. PROVISION OF INNOVATION REPORTS

- 2.1. By no later than the start of each Contract Year, the Contractor shall provide to the DCC a report which complies with the requirements set out in paragraph 2.2(each, an "**Innovation Report**").
- 2.2. Each Innovation Report shall:
 - 2.2.1. provide a current, up-to-date "snapshot" of the issues referred to in paragraph 2.6 of Part B of this Schedule 2.4 in relation to the Contractor Solution;
 - 2.2.2. focus on potential improvements under paragraph 2.2.1 which are capable of being implemented during the next twelve (12) months (or other period agreed by the Parties from time to time);
 - 2.2.3. comply with paragraph 2.16 of Part B of this Schedule 2.4 in respect of any potential improvements under paragraph 2.2.1; and
 - 2.2.4. contain the information referred to in paragraph 2.17 of Part B of this Schedule 2.4 in respect of any potential improvements under paragraph 2.2.1.

PART D – IMPLEMENTATION OF IMPROVEMENTS

1. IMPROVEMENTS TO THE CONTRACTOR SOLUTION

1.1. If the DCC wishes to implement any improvements which have been identified in:

1.1.1. the CIP or any Innovation Report prepared by the Contractor under this Agreement, and/or

1.1.2. the equivalent continuous improvement plans or innovation reports prepared by any of the Relevant DCC Service Providers,

then the DCC shall issue a Change Request to the Contractor in accordance with Schedule 8.2 (*Change Control*) and the Parties shall comply with their respective obligations under the Change Control Procedure in relation to the Agreement and implementation of the relevant improvement.

Any improvements to the pricing of any element of the Contractor Solution shall be implemented in accordance with the Change Control Procedure.

2. IMPROVEMENTS TO DCC SERVICE PROVIDER SOLUTIONS

2.1. If the DCC wishes to implement any improvements to any of the DCC Service Provider Solutions identified in (i) the CIP or any Innovation Report prepared by the Contractor under this Agreement and/or (ii) the equivalent continuous improvement plans or innovation reports prepared by any of the Relevant DCC Service Providers, then such improvement shall be agreed and implemented by the DCC and the Relevant DCC Service Provider(s), whether as a project or a change, under the applicable provisions of the DCC Service Provider Contract.

2.2. Where any further co-operation, information or other assistance is required from the Contractor by the DCC or the Relevant DCC Service Provider(s) in relation to the implementation of an improvement under paragraph 2.1, it may issue a Change Request to the Contractor in accordance with Schedule 8.2 (*Change Control*), and the Parties shall comply with their respective obligations under Schedule 8.2 (*Change Control*) in relation to the Agreement and implementation of the relevant Change.

3. IMPLEMENTATION OF OTHER IMPROVEMENTS

3.1. The Contractor acknowledges that the DCC shall be entitled to implement any improvements to the Smart Metering Programme generally:

3.1.1. which are identified in (i) the CIP or any Innovation Report prepared by the Contractor under this Agreement and/or (ii) the equivalent continuous improvement plans or innovation reports prepared by any of the Relevant DCC Service Providers; but

3.1.2. which do not fall within the scope of paragraph 1 or 2 of this Part D.

3.2. Where any further co-operation, information or other assistance is required from the Contractor by the DCC or any of the Relevant DCC Service Providers in relation to the implementation of an improvement under

paragraph 3.1, it may issue a Change Request to the Contractor in accordance with Schedule 8.2 (*Change Control*), and the Parties shall comply with their respective obligations under Schedule 8.2 (*Change Control*) in relation to the Agreement and implementation of the relevant Change.

4. COST SAVINGS AND OTHER FINANCIAL GAINS

- 4.1. In determining the manner in which any improvement to the Contractor Solution is to be implemented, the Parties shall comply with the requirements of Part B of Schedule 7.3 (*Value for Money*) and the applicable provisions of Schedule 7.1 (*Charges and Payment*).

PART E – GOVERNANCE ARRANGEMENTS

1. OMB MEETINGS

- 1.1. The Service Improvement & Innovation Review OMB (as referred to in Schedule 8.1 (*Governance*)) shall have primary responsibility for overseeing the continuous improvement initiatives under this Schedule 2.4 (including the implementation of any improvements identified under this Schedule 2.4).
- 1.2. At each meeting of the Service Improvement & Innovation Review OMB during the Service Period, the Parties shall (together with the Relevant DCC Service Providers):
 - 1.2.1. review the current version of the CIP;
 - 1.2.2. review the latest Innovation Report;
 - 1.2.3. identify and assess any improvements identified under this Schedule 2.4 which the DCC may wish to implement;
 - 1.2.4. assess the status of the implementation of improvements identified under this Schedule 2.4 (including progress against any applicable Milestones or other similar arrangements);
 - 1.2.5. identify any potential obstacles or other issues which may adversely affect the implementation of any improvements identified under this Schedule 2.4 (and determine appropriate causes of action to eliminate or mitigate such obstacles or other issues); and
 - 1.2.6. review the Contractor's performance against the Energy Efficiency Metrics referred to in paragraphs 2.11 and 2.12 of Part B (if any).
- 1.3. The Contractor shall comply with its obligations under Schedule 8.1 (*Governance*) regarding the conduct of, and attendance at, meetings of the Service Improvement & Innovation Review OMB.
- 1.4. By no later than five (5) Business Days before each meeting of the Service Implementation OMB, the Contractor shall deliver to the DCC a copy of:
 - 1.4.1. the current version of the CIP; and
 - 1.4.2. the latest Innovation Report.

2. APPOINTMENT OF IMPROVEMENT MANAGERS

- 2.1. Each Party will appoint a senior representative who shall be responsible for ensuring that party's compliance with the requirements of this Schedule 2.4 and otherwise encouraging and promoting continuous improvement and innovation in relation to the performance of the Services (each, an "**Improvement Manager**"). Each Party shall provide written notification of such appointment to the other Party by no later than the start of the User Integration Phase.
- 2.2. The Contractor's Improvement Manager shall be deemed to be a member of the Key Personnel for the purposes of this Agreement.

- 2.3. The Parties' Improvement Managers will liaise with one another in relation to all matters connected with this Schedule 2.4 and each party's compliance with it.
- 2.4. Either Party may request a meeting of the Improvement Managers by giving the other not less than five (5) Business Days' written notice. Such meeting shall take place within five (5) Business Days after the date of such notice at a mutually convenient time and venue. For the avoidance of doubt, this paragraph 2.4 of Part E of Schedule 2.4 does not limit the ability of the Improvement Managers to meet on a day-to-day basis in accordance with paragraph 2.3 as agreed by the Parties from time to time.

SCHEDULE 2.5

SECURITY MANAGEMENT PLAN

PURPOSE

This Schedule 2.5 (*Security Management Plan*) addresses the following issues:

- a) the principles of security to be applied in relation to the Contractor Solution (including in relation to the management, implementation and operation of all Sub-contractors);
- b) the development, implementation, operation, maintenance and continual improvement of:
 - i. the Contractor Security Policy;
 - ii. an "Information Security Management System" (as defined by ISO/IEC 27001 and as further described in Part B of this Schedule 2.5 (*Security Management Plan*)) (the "**ISMS**"); and
 - iii. the Security Management Plan,(together, the "**Contractor Security Documents**");
- c) compliance with the Security Requirements;
- d) compliance with standards relating to security issues (as further described in Schedule 2.3 (*Standards*)) (the "**Security Standards**"); and
- e) obligations in the event of actual, potential or attempted breaches of security.

Without limiting the DCC's other rights and remedies under this Agreement or otherwise, the Parties acknowledge that the DCC shall be entitled to exercise its rights under Schedule 8.10 (*Enhanced Scrutiny and Step-in*) in response to a breach or material breach (as applicable) by the Contractor in relation to its obligations under this Schedule 2.5 (*Security Management Plan*).

This Schedule 2.5 (*Security Management Plan*) comprises the following parts:

Part	Scope
Part A	Principles of security
Part B	Contractor Security Documents
Part C	Testing
Part D	ISO/IEC 27001 certification
Part E	Security audits
Part F	Breach of Security
Appendix 1	Security Management Requirements
Appendix 2	Contractor Security Policy
Appendix 3	Outline Security Management Plan

PART A – PRINCIPLES OF SECURITY

1. IMPORTANCE OF SECURITY ISSUES

1.1. The Contractor acknowledges that the DCC places great emphasis on the confidentiality, integrity and availability of the DCC Data, and consequently on the security of:

- 1.1.1. the Contractor Solution;
- 1.1.2. the DCC Environment; and
- 1.1.3. the DCC Services.

The Contractor also acknowledges the critical and confidential nature of the DCC Data.

2. OVERVIEW OF CONTRACTOR OBLIGATIONS

2.1. The Contractor shall be responsible for:

- 2.1.1. the security of the Contractor Solution;
- 2.1.2. the security of the Sites;
- 2.1.3. the security of Contractor Personnel (including compliance with paragraph 3.3.2);
- 2.1.4. the security of all Sub-contractors (including their systems, solutions and services) in respect of their involvement in the provision of the Services; and
- 2.1.5. the implementation and on-going management of, and compliance with, the Contractor Security Documents.

2.2. The Contractor shall comply at all times with:

- 2.2.1. Subject to paragraph 4 of this Part A, the DCC Security Architecture; and
- 2.2.2. Contractor Security Architecture.

3. CONTRACTOR'S SECURITY OBLIGATIONS

3.1. The Contractor shall, at all times during the Service Period, ensure that the Contractor Solution provides and ensures a level of security which:

- 3.1.1. is in accordance with Good Industry Practice including any applicable Guidance;
- 3.1.2. complies with all applicable Laws and the requirements of this Agreement;
- 3.1.3. subject to paragraph 4 of this Part A, complies with the DCC

Security Policy;

- 3.1.4. appropriately manages security threats to the Contractor Solution in accordance with the requirements of this Agreement;
 - 3.1.5. appropriately manages security threats to the DCC Environment and/or the DCC Services (as such threats emerge or change from time to time), to the extent that such security threats are due to a failure by (i) the Contractor, (ii) the Contractor Solution or (iii) any of the Contractor Security Documents to comply with the requirements of this Agreement;
 - 3.1.6. complies with the Security Standards; and
 - 3.1.7. complies with the Security Requirements.
- 3.2. If there is any inconsistency between any of the requirements, standards, guidance and policies referred to in paragraph 3.1, the Contractor shall notify the DCC of such inconsistency promptly upon becoming aware of the same, and the DCC shall, as soon as reasonably practicable, advise the Contractor which of the applicable requirements, standards, guidance and policies the Contractor shall be required to comply with in the relevant circumstances.
- 3.3. Without limiting paragraph 3.1, the Contractor shall:
- 3.3.1. at all times ensure that the level of security employed in relation to the Contractor Solution is appropriate and adequate to ensure that the risk of any Breach of Security occurring is maintained in accordance with the applicable risk level specified in the relevant Contractor Security Document(s) (and is otherwise consistent with the Contractor's obligations under this Agreement);
 - 3.3.2. comply with the requirements of Clause 29 (*Contractor Personnel*) and Schedule 9.2 (*Personnel and Key Personnel*) regarding all Contractor Personnel employed or engaged in the provision of the Services; and
 - 3.3.3. implement and maintain physical security controls which are intended to prevent any unauthorised access to any of the Sites (and taking into account any Sites which are identified as being critical in the BCDR Plan).

4. DCC SECURITY ARCHITECTURE

- 4.1. The Contractor acknowledges that the ECoS Security Architecture, part of the DCC Security Architecture, will not be finalised until after the Commencement Date. Accordingly, the DCC shall:
 - 4.1.1. before finalising the ECoS Security Architecture, provide the Contractor with a reasonable opportunity to review and comment on the draft ECoS Security Architecture;
 - 4.1.2. take reasonable account of any comments from the Contractor (and

other relevant DCC Service Providers) in finalising the ECoS Security Architecture; and

4.1.3. provide the Contractor with a copy of the finalised ECoS Security Architecture as soon as reasonably practicable.

4.2. The finalised ECoS Security Architecture (as provided to the Contractor under paragraph 4.1.3) is not intended to increase the scope of the Contractor's obligations under this Agreement. However, to the extent that compliance with the finalised ECoS Security Architecture would require:

4.2.1. a change in relation to any of the Contractor's obligations under this Agreement; and/or

4.2.2. the Contractor to incur any material additional costs (being costs which it would not have otherwise incurred under this Agreement),

then the Contractor shall notify the DCC accordingly and the Parties (acting reasonably) shall agree any necessary Change to this Agreement in accordance with the Change Control Procedure.

4.3. Paragraph 4.2 is without prejudice to the parties' respective rights and obligations under paragraph 6 of Part B of this Schedule 2.5 (*Security Management Plan*) in relation to subsequent changes to the ECoS Security Architecture.

PART B – CONTRACTOR SECURITY DOCUMENTS

1. OVERVIEW

- 1.1. The Contractor's security policy relating to the Contractor Solution ("**Contractor Security Policy**") is set out in Appendix 2. Without limiting the Contractor's obligations under paragraph 6, the Contractor shall ensure that, at all times, the Contractor Security Policy complies with:
 - 1.1.1. subject to paragraph 4 of Part A of this Schedule 2.5 (*Security Management Plan*), the DCC Security Policy;
 - 1.1.2. the requirements set out in this Schedule 2.5 (*Security Management Plan*); and
 - 1.1.3. any other applicable requirements of this Agreement.
- 1.2. The Contractor shall develop, implement, operate, maintain and continuously improve an ISMS and the Security Management Plan which shall, without prejudice to the requirements of Part A of this Schedule 2.5 (*Security Management Plan*), be subject to the approval of the DCC in accordance with paragraph 4 of this Part B.

2. OUTLINE SECURITY MANAGEMENT PLAN

- 2.1. An outline security management plan ("**Outline Security Management Plan**") has been agreed between the DCC and the Contractor and is set out in Appendix 3. The Outline Security Management Plan shall be binding upon the Contractor from the Commencement Date until the full Security Management Plan is agreed between the parties in accordance with paragraph 4 of this Part B.

3. COMPLIANCE WITH CONTRACTOR SECURITY DOCUMENTS

- 3.1. Without limiting paragraph 2 of this Part B, once agreed in accordance with paragraph 4 of this Part B, the Contractor shall comply with its obligations set out in the Contractor Security Documents at all times during the Service Period.

4. DEVELOPMENT OF THE ISMS AND SECURITY MANAGEMENT PLAN

- 4.1. By no later than twenty (20) Business Days after the Commencement Date (and, where applicable, in accordance with paragraph 6), the Contractor shall deliver to the DCC:
 - 4.1.1. a draft of the ISMS which:
 - i. complies with the requirements set out in ISO/IEC 27001;
 - ii. is consistent with the Contractor Security Policy and the draft Security Management Plan;
 - iii. sets out retention periods assigned to all the categories of

- data;
 - iv. details the approach to performing monitoring, security information and event correlation; and
 - v. otherwise complies with the requirements set out in this Schedule 2.5 (*Security Management Plan*), including paragraph 5 below;
- 4.1.2. a draft of the Security Management Plan which:
- i. is based on the Outline Security Management Plan;
 - ii. is consistent with the Contractor Security Policy and the draft ISMS; and
 - iii. otherwise complies with the requirements set out in this Schedule 2.5 (*Security Management Plan*), including paragraph 5 below.

In order to demonstrate the commitment of the Contractor's management to implementing and maintaining the security measures referred to in this Schedule 2.5 (*Security Management Plan*), the Contractor shall ensure that each version of the ISMS and the Security Management Plan is approved by a member of the Contractor's senior management team (being at board level and as agreed with the DCC in writing), who shall also have overall responsibility for the implementation and maintenance of such security measures by the Contractor and any relevant Contractor Person.

- 4.2. Within forty (40) days after receipt of the draft ISMS and Security Management Plan from the Contractor, the DCC shall notify the Contractor if it (acting reasonably) considers that either draft:

- 4.2.1. is insufficiently detailed to be properly evaluated; and/or
- 4.2.2. does not comply with the requirements set out in this Schedule 2.5 (*Security Management Plan*), including paragraph 5 below,

(each, for the purposes of this paragraph 4, a "**non-conformity**"). The DCC shall provide reasonable details regarding the nature of, and the rationale for, any non-conformities notified to the Contractor under this paragraph 4.2.

- 4.3. By no later than twenty (20) days after receipt of a notice from the DCC under paragraph 4.2 or 4.4, the Contractor shall:

- 4.3.1. make any amendments to the ISMS and/or the Security Management Plan (as applicable) that are necessary to address the non-conformities notified by the DCC under paragraph 4.2 or 4.4; and
- 4.3.2. re-submit the revised ISMS and/or Security Management Plan (as applicable) to the DCC for approval.

- 4.4. Within thirty (30) days after receipt of the revised ISMS and/or Security Management Plan (as applicable) from the Contractor, the DCC shall notify the Contractor of:
- 4.4.1. any outstanding non-conformities from the previous version of the ISMS and/or Security Management Plan (as applicable); and/or
 - 4.4.2. any new non-conformities appearing in the revised ISMS and/or Security Management Plan (as applicable).

The DCC shall provide reasonable details regarding the nature of, and the rationale for, any non-conformities notified to the Contractor under this paragraph 4.4.

- 4.5. The process in paragraphs 4.3 and 4.4 will then be repeated until the DCC notifies the Contractor that both the ISMS and the Security Management Plan are approved (except that the timescales in paragraphs 4.3 and 4.4 may be adjusted in relation to any repetition of the process in such paragraphs by the DCC, acting reasonably and taking appropriate account of the extent of any amendments to be made to the ISMS and/or the Security Management Plan by the Contractor). Any dispute relating to the existence of non-conformities in the ISMS and/or Security Management Plan (as applicable) shall be referred to the Dispute Resolution Procedure.
- 4.6. The DCC shall provide any information or assistance reasonably requested by the Contractor in relation to the preparation of the ISMS and/or the Security Management Plan under this paragraph 4 (or any updates under paragraph 6).
- 4.7. Once the ISMS and the Security Management Plan, or any subsequent revision to either of them in accordance with paragraph 6 below, are approved by the DCC in accordance with this paragraph 4, they will be adopted immediately and will replace the previous version of the ISMS or Security Management Plan (if applicable).

5. CONTENT OF THE ISMS AND THE SECURITY MANAGEMENT PLAN

5.1. The ISMS and the Security Management Plan shall:

- 5.1.1. set out the security measures to be implemented and maintained by the Contractor in relation to all aspects of the Contractor Solution (including all processes associated with the delivery of the Services);
- 5.1.2. specify the security tests to be conducted by the Contractor in accordance with Part C of this Schedule 2.5 (*Security Management Plan*) (which shall be sufficient to determine the extent to which the Contractor Solution and the security measures set out in the Contractor Security Documents are sufficient to enable the Contractor to comply with its obligations under this Schedule 2.5 (*Security Management Plan*));
- 5.1.3. at all times comply with, and specify security measures and

procedures which are sufficient to ensure that the Contractor Solution complies with, the provisions of this Schedule 2.5 (*Security Management Plan*) (including the principles set out in Part A of this Schedule 2.5 (*Security Management Plan*));

- 5.1.4. be structured in accordance with ISO/IEC 27001 and ISO/IEC 27002, cross-referencing if necessary to other Schedules of this Agreement which cover specific areas included within that standard;
- 5.1.5. be written in plain English in language which is readily comprehensible to the Contractor Personnel and any DCC personnel engaged in relation to the Services; and
- 5.1.6. only reference documents which have been provided to the DCC by the Contractor or other Open Source documents (or which are attached to the ISMS and/or the Security Management Plan, as applicable).

6. REVIEW OF THE CONTRACTOR SECURITY DOCUMENTS

- 6.1. The Contractor shall fully review and update the Contractor Security Documents in accordance with this paragraph 6:
 - 6.1.1. on an annual basis by no later than each anniversary of the Commencement Date;
 - 6.1.2. within ten (10) Business Days after the implementation of any material Change to this Agreement;
 - 6.1.3. within five (5) Business Days after the occurrence of any actual, potential or attempted Breach of Security;
 - 6.1.4. within ten (10) Business Days after any material change to the DCC Security Architecture (including to the ECoS Security Architecture as set out at Paragraph 4.1 at Part A), the DCC Security Policy, the DCC Environment and/or the DCC Services (as notified to the Contractor by the DCC from time to time); and
 - 6.1.5. at such other times as may be necessary to ensure that the Contractor complies with the requirements of this paragraph 6.
- 6.2. The purpose of reviews of, and updates to, the Contractor Security Documents under this paragraph 6 shall be to ensure that they accurately and properly reflect:
 - 6.2.1. emerging changes in Good Industry Practice and applicable Mandatory Requirements;
 - 6.2.2. any change to the Contractor Solution;
 - 6.2.3. any change to the DCC Security Policy, the DCC Security Architecture, the DCC Environment and/or the DCC Services (as notified to the Contractor by the DCC from time to time);

- 6.2.4. any change to the organisational structure or operating procedures of any Contractor Person which could have an impact on any security related issues;
- 6.2.5. any change in the services and/or systems provided by the DCC Service Providers (as notified to the Contractor by the DCC from time to time);
- 6.2.6. any new perceived or changed security threats that the Contractor becomes aware of (having made reasonable enquiries and analysis), including those identified by the DCC or third parties, including Government intelligence authorities; and
- 6.2.7. the recommendation of internal security audits,

and that they otherwise continue to comply with the requirements of this Schedule 2.5 (*Security Management Plan*).

- 6.3. Subject to paragraph 6.4, the parties shall comply with the procedure set out in paragraph 4 of this Part B in relation to the approval by the DCC of any updated versions of the ISMS and/or the Security Management Plan under this paragraph 6 from time to time. Any updated version of the Contractor Security Policy under this paragraph 6 shall be subject to the prior written approval of the DCC.
- 6.4. Any change or amendment to the Contractor Security Documents resulting from:
 - 6.4.1. the circumstances referred to in paragraph 6.2.3 or 6.2.5; or
 - 6.4.2. any other circumstances not contemplated by paragraph 6.2,shall be subject to the Change Control Procedure and shall not be implemented until approved in writing by the DCC.
- 6.5. Any changes to any of the Contractor Security Documents, whether under paragraph 6.3 or 6.4 of this Part B or paragraph 5 of Part C, shall be approved by the relevant member of the Contractor's senior management team, as further described in paragraph 4.1 of this Part B.

PART C – TESTING

1. SECURITY TESTS BY THE CONTRACTOR

- 1.1. The Contractor shall conduct security tests in relation to the Contractor Solution and the operation of the security measures set out in the Contractor Security Documents (as further described in paragraph 5.1 of Part B of this Schedule 2.5 (*Security Management Plan*)) in accordance with the testing arrangements set out in the Contractor Security Documents ("**Security Tests**"). The Security Tests shall be conducted:
 - 1.1.1. on an annual basis by no later than each anniversary of the Commencement Date;
 - 1.1.2. within thirty (30) days after the implementation of any material Change to this Agreement;
 - 1.1.3. within ten (10) Business Days after the implementation of any steps under this Part C which are intended to address any Security Vulnerability;
 - 1.1.4. within ten (10) Business Days after the implementation of any steps under Part F of this Schedule 2.5 (*Security Management Plan*) which are intended to address the occurrence of any actual, potential or attempted Breach of Security;
 - 1.1.5. within thirty (30) days after any material change to the DCC Environment and/or the DCC Services (as notified to the Contractor by the DCC from time to time); and
 - 1.1.6. at such other times as may be necessary to ensure that the Contractor complies with the requirements of this Schedule 2.5 (*Security Management Plan*).
- 1.2. The date, timing, scope and conduct (including rules of engagement) of the Security Tests shall be agreed in advance with the DCC. Unless otherwise agreed with the DCC, all Security Tests shall be designed and implemented so as to minimise the impact on the delivery of the Services to the extent reasonably possible.
- 1.3. The DCC shall be entitled to send representative(s) to witness the conduct of all or any of the Security Tests.
- 1.4. The Contractor shall provide the DCC with the results of all Security Tests (in a form approved by the DCC in advance) as soon as practicable (but, in any event, within ten (10) Business Days) after completion of each Security Test.

2. DCC SECURITY TESTS

- 2.1. The DCC and/or its authorised representatives shall be entitled to carry out such additional security tests (including penetration tests) in relation to the Contractor Solution and the operation of the security measures set out in the

Contractor Security Documents as it may deem necessary in order to assess:

- 2.1.1. The adequacy of the Contractor Security Documents;
- 2.1.2. The Contractor's compliance with this Schedule 2.5 (*Security Management Plan*);
- 2.1.3. The Contractor's compliance with the Security Requirements; and/or

The Contractor's compliance with the Contractor Security Documents (the "**DCC Security Tests**"). Subject to paragraph 2.2, the DCC shall provide the Contractor with at least five (5) Business Days' notice of any DCC Security Tests. The DCC shall notify the Contractor of the results of the DCC Security Tests as soon as reasonably practicable after their completion.

- 2.2. Where the DCC (acting reasonably) considers that the conduct of the DCC Security Tests will have a material adverse effect on the Contractor's ability to deliver the Services in accordance with this Agreement (including compliance with the Performance Measures):
 - 2.2.1. the DCC shall provide the Contractor with reasonable advance notice (but, in any event, at least twenty (20) Business Days' notice) of the DCC Security Tests;
 - 2.2.2. the Contractor shall, as soon as reasonably practicable (but, in any event, within ten (10) Business Days) after receipt of such notice from the DCC, advise the DCC:
 - i. whether the conduct of the DCC Security Tests will, in its reasonable opinion, have a material adverse effect on the Contractor's ability to deliver the Services in accordance with this Agreement (including compliance with the Performance Measures); and
 - i. if so, any activities that the Contractor may reasonably be able to undertake to mitigate such effect on the Services;
 - 2.2.3. the DCC shall, within ten (10) Business Days after receipt of such notice from the Contractor, confirm in writing to the Contractor the extent of any relief to be granted to the Contractor in the event of any actual non-performance by the Contractor of its obligations under this Agreement (including any under-performance against the Performance Measures) as a result of the conduct of the DCC Security Tests (and taking account of any mitigation activities notified by the Contractor under paragraph 2.2.2(ii));
 - 2.2.4. if there is any Dispute between the parties in relation to the matters contemplated by this paragraph 2.2, including:
 - i. the extent to which the conduct of the DCC Security Tests will have a material adverse effect on the Contractor's ability to deliver the Services in accordance with this Agreement

(including compliance with the Performance Measures);

- ii. the Contractor's ability to mitigate such effect on the Services; and/or
- iii. the relief against any actual non-performance by the Contractor of its obligations under this Agreement (including any under-performance against the Performance Measures),

either party may refer the Dispute to the Dispute Resolution Procedure. For the avoidance of doubt, and unless otherwise agreed by the DCC in writing, the existence of any such Dispute (or its referral to the Dispute Resolution Procedure) shall not prevent or delay the conduct of the DCC Security Tests by the DCC and/or its authorised representatives in accordance with paragraph 2.1.

3. SECURITY ASSURANCE BY THE CONTRACTOR

3.1. The Contractor shall at all times:

- 3.1.1. demonstrate to the DCC, by regular reporting to the relevant OMB (or the PMB or EMB, if escalated) and otherwise in accordance with the governance arrangements set out in Schedule 8.1 (*Governance*), that it is performing security assurance of the Contractor Solution in accordance with the Security Requirements; and
- 3.1.2. perform security assurance activities (as further described in the Security Requirements).

4. SECURITY CERTIFICATION

- 4.1. The Contractor shall provide such information and assistance as may be reasonably requested by the DCC (or any relevant independent entity) from time to time in relation to conducting any certification of the End-to-end Smart Metering System against SMETS and/or associated security standards.
- 4.2. If any certification referred to in paragraph 4.1 of this Part C is not obtained due to a failure by the Contractor to comply with its obligations under this Agreement (including this Schedule 2.5 (*Security Management Plan*)), the Contractor shall immediately take all steps necessary to rectify such failure and notify the DCC as soon as the failure has been rectified.
- 4.3. If any failure by the Contractor referred to in paragraph 4.2 of this Part C amounts to a material breach for the purposes of any provision of Clause 47.1, the DCC may require the Contractor to comply with the Rectification Plan Process in respect of such breach.

5. SECURITY VULNERABILITIES

- 5.1. Where:
 - 5.1.1. any Security Tests;



- 5.1.2. any DCC Security Tests;
- 5.1.3. any security assurance activities carried out pursuant to paragraph 3 of this Part C; and/or
- 5.1.4. any security certification carried out pursuant to paragraph 4 of this Part C,

reveal any (i) actual or potential Breach of Security, (ii) any other failure or weakness in the Contractor Solution and/or any of the Contractor Security Documents, or (iii) any failure by the Contractor to comply with any of the Security Requirements (each a "**Security Vulnerability**"), then, subject to paragraph 5.2, the Contractor shall notify the DCC of any changes to Contractor Solution and/or the relevant Contractor Security Document(s), and any other steps, which the Contractor (acting reasonably) proposes to implement in order to address the relevant Security Vulnerability (and a proposed timetable for the implementation of such matters).

5.2. Where any Security Vulnerability relates to an actual or potential Breach of Security that is not due to a failure by (i) the Contractor, (ii) the Contractor Solution or (iii) any of the Contractor Security Documents to comply with the requirements of this Agreement, then the Contractor shall notify the DCC of:

- 5.2.1. any steps which the Contractor could itself implement in order to address the relevant Security Vulnerability (and a proposed timetable, and estimated costs, regarding the implementation of such steps); and/or
- 5.2.2. where known to the Contractor (having given the matter reasonable consideration), any steps which may need to be implemented by the DCC and/or the relevant DCC Service Provider(s) in order to address the Security Vulnerability.

5.3. The Contractor's notice under paragraph 5.1 or 5.2 (as applicable) shall be provided to the DCC as soon as possible and, in any event, within:

- 5.3.1. five (5) Business Days after completion of the relevant Security Tests;
- 5.3.2. five (5) Business Days after notification by the DCC of the results of the DCC Security Tests under paragraph 2.1;
- 5.3.3. five (5) Business Days after any security assurance activities carried out pursuant to paragraph 3 of this Part C reveal the relevant Security Vulnerability; and/or
- 5.3.4. five (5) Business Days after notification by the DCC of any Security Vulnerability revealed by any security certification carried out pursuant to paragraph 4 of this Part C,

or such other period agreed by the parties (acting reasonably) in writing.

5.4. Within ten (10) Business Days (or such other period agreed in writing by the

parties) after receipt of the Contractor's proposal under paragraph 5.1, the DCC shall notify the Contractor as to whether the proposal is approved. The DCC's approval shall not be unreasonably withheld, provided that the DCC shall be entitled to reject the Contractor's proposal if (in the reasonable opinion of the DCC):

- 5.4.1. the proposal (including the proposed timetable) would be inappropriate or insufficient to address the relevant Security Vulnerability;
 - 5.4.2. any proposed changes to the relevant Contractor Security Document(s) would result in those documents failing to comply with the requirements set out in this Schedule 2.5 (*Security Management Plan*), including paragraph 5 of Part B, in any respect; and/or
 - 5.4.3. any other proposed steps would be inconsistent with the requirements of this Schedule 2.5 (*Security Management Plan*).
- 5.5. If there is any Dispute between the parties in relation to the matters contemplated by paragraph 5.4, either party may refer the Dispute to the Dispute Resolution Procedure. Until such time as the Dispute is resolved in accordance with the Dispute Resolution Procedure, the Contractor shall comply with any additional or alternative security measures notified by the DCC which are (in the reasonable opinion of the DCC) necessary to address relevant Security Vulnerability.
- 5.6. Subject to the approval of the DCC under paragraph 5.4, the Contractor shall implement any proposed changes to the relevant Contractor Security Document(s) and/or take any other proposed steps to address the relevant Security Vulnerability in accordance with the approved timetable.
- 5.7. Within ten (10) Business Days (or such other period agreed in writing by the parties) after receipt of the Contractor's proposal under paragraph 5.2.1, the DCC shall notify the Contractor whether the proposal is approved in principle, in which case, the proposal shall be fully agreed and implemented by the parties in accordance with the Change Control Procedure.
- 5.8. In relation to any proposal of the Contractor under paragraph 5.2.2, the DCC shall discuss such matters further with the relevant DCC Service Provider(s) and use reasonable endeavours to address the relevant Security Vulnerability as soon as reasonably practicable.

PART D – ISO/IEC 27001 CERTIFICATION

1. The Contractor shall obtain independent certification of the ISMS with the requirements of ISO/IEC 27001, using an appropriate organisation which is certified by the UK Accreditation Service (the "**UKAS Entity**"), within twelve (12) months after the Commencement Date and shall maintain such certification at all times during the Service Period, including by complying with any on-going audit and testing requirements of the relevant UKAS Entity.
2. If certain parts of the ISMS do not conform to the requirements of ISO/IEC 27001 and/or Good Industry Practice, and/or the controls as described in ISO/IEC 27002 are not consistent with the DCC Security Policy, and, as a result, the Contractor reasonably believes that it is not compliant with ISO/IEC 27001, the Contractor shall promptly notify the DCC of this.
3. If the Contractor notifies the DCC under paragraph 2 that:
 - 3.1. any part of the ISMS does not comply with the requirements of ISO/IEC 27001 and/or does not conform to Good Industry Practice, the Contractor shall (at its own expense) take such steps as may be necessary to rectify such non-compliance and are approved by the DCC (acting reasonably), including, where necessary, re-obtaining ISO/IEC 27001 certification in accordance with paragraph 1; or
 - 3.2. the controls as described in ISO/IEC 27002 are not consistent with the DCC Security Policy, the Contractor shall comply with any direction notified by the DCC in response to such request (which may involve the amendment of the DCC Security Policy to be consistent with the relevant ISO/IEC 27002 controls).

PART E – SECURITY AUDITS

1. SCOPE OF DCC SECURITY AUDITS

- 1.1. The DCC may conduct a security audit under this Part E (each, a "**DCC Security Audit**") for the following purposes:
 - 1.1.1. to verify the Contractor's compliance with its obligations under:
 - i. this Schedule 2.5 (*Security Management Plan*);
 - ii. any of the Contractor Security Documents; and/or
 - iii. the Security Requirements;
 - 1.1.2. to review the confidentiality, integrity and availability of any DCC Data that is processed, stored or transmitted by any Contractor Person under this Agreement (including by examining the systems, processes and procedures used in relation to such processing, storage and transmission activities); and
 - 1.1.3. to ensure that the ISMS maintains compliance with the principles and practices of ISO/IEC 27001.

Security audits for SEC Panel and/or Secretary of State

- 1.2. As part of the DCC Security Audit process set out in this Part E, the DCC shall provide independent assurance to the SEC Panel and the Secretary of State that the DCC, the Contractor and the DCC Service Providers have fully complied with the DCC Security Architecture and implemented the Security Requirements. This assurance is to be annually provided by the DCC through the provision of a completed audit report carried out and produced by the DCC Independent Security Assessment Service Provider (as described in SEC Section G9.4) with the first report due within twelve (12) months after the date on which Milestone 1.8: 'Go Live' Achieved Milestone has been Achieved. The parties shall comply with their respective obligations, and may exercise their respective rights, in respect of any DCC Security Audit relating to this paragraph 1.2.

2. OBLIGATIONS OF THE CONTRACTOR

- 2.1. The Contractor shall comply with its obligations under paragraph 2 of Part A of Schedule 8.4 (*Records and Audit Provisions*) in respect of any DCC Security Audit conducted under this Part E. For the avoidance of doubt, any reference to a "DCC Audit" in paragraph 2 of Part A of Schedule 8.4 (*Records and Audit Provisions*) shall, for the purposes of this Part E, be deemed to be a reference to the relevant DCC Security Audit.

3. FREQUENCY OF DCC SECURITY AUDITS

- 3.1. Subject to the limitations set out in paragraph 3.2, the DCC may conduct DCC Security Audits at any time during the Service Period and for up to twenty-four (24) months after the Termination Date. Any audit after the

Termination Date shall be limited to a review of the records and other materials retained by the Contractor in accordance with the requirements of this Agreement or otherwise.

- 3.2. Except as set out in paragraph 3.3:
 - 3.2.1. the DCC shall provide at least five (5) Business Days' written notice of its intention to conduct a DCC Security Audit, specifying in reasonable detail the purpose and scope of the DCC Security Audit and the estimated duration;
 - 3.2.2. the DCC may not conduct a DCC Security Audit more than twice in any Contract Year during the Service Period;
 - 3.2.3. the DCC may not conduct a DCC Security Audit more than once in any twenty-four (24) month period after the Termination Date; and
 - 3.2.4. the DCC shall use reasonable endeavours to conduct each DCC Security Audit at such times as to minimise disruption to the Contractor Solution.
- 3.3. The limitations set out in paragraph 3.2 shall not apply where a DCC Security Audit is to be conducted by the DCC in connection with any actual or suspected material breach (where the DCC has reasonable grounds to suspect such breach) by the Contractor or any other Contractor Person of any of the Contractor's obligations under:
 - 3.3.1. this Schedule 2.5 (*Security Management Plan*);
 - 3.3.2. any of the Contractor Security Documents; and/or
 - 3.3.3. the Security Requirements.

4. DCC OBLIGATIONS

- 4.1. The DCC shall use reasonable endeavours to ensure that the conduct of any DCC Security Audit does not unreasonably delay or disrupt the provision of the Services or unreasonably disrupt the operations of the Contractor generally and shall, in undertaking any DCC Security Audit, comply with such reasonable policies (as notified by the Contractor in advance and in writing) as are generally applicable in respect of access to the relevant Sites.
- 4.2. The DCC shall ensure that any third party conducting a DCC Security Audit on behalf of the DCC shall, not be a direct competitor of the Contractor and prior to commencing the DCC Security Audit, be subject to confidentiality obligations in favour of the DCC on terms which provide substantially equivalent protection in relation to the Contractor's Confidential Information as the provisions of Clause 37 (*Confidentiality*) of this Agreement and the DCC shall be responsible for the compliance by such third party with such confidentiality obligations and to take all reasonable enforcement action.

5. COST OF DCC SECURITY AUDITS

- 5.1. The parties shall bear their own costs and expenses in respect of any DCC Security Audit under this Part E, unless any DCC Security Audit identifies any material breach by the Contractor or any other Contractor Person of any of the Contractor's obligations under:

- 5.1.1. this Schedule 2.5 (*Security Management Plan*);
- 5.1.2. any of the Contractor Security Documents; and/or
- 5.1.3. the Security Requirements,

in which case the Contractor shall reimburse the DCC for the reasonable and demonstrable costs incurred by it in relation to the relevant DCC Security Audit.

6. OUTCOME OF DCC SECURITY AUDITS

- 6.1. If any DCC Security Audit identifies any material breach by the Contractor or any other Contractor Person of any of the Contractor's obligations under:

- 6.1.1. this Schedule 2.5 (*Security Management Plan*);
- 6.1.2. any of the Contractor Security Documents; and/or
- 6.1.3. the Security Requirements,

the DCC shall be entitled to exercise its applicable rights and remedies under this Agreement (including, where applicable, requiring the Contractor to comply with Clause 10 (*Rectification Plan*)).

- 6.2. If any DCC Security Audit identifies that the ISMS is not compliant with the principles and practices of ISO/IEC 27001, then the DCC shall notify the Contractor accordingly and the Contractor shall immediately (and at its own cost) undertake such actions as are necessary to ensure that the ISMS becomes compliant with the principles and practices of ISO/IEC 27001.

- 6.3. Where the DCC (in its sole discretion) considers that it would be useful for the Contractor to review and comment on the draft findings of a DCC Security Audit, the Contractor shall provide such comments within a reasonable period as requested by the DCC.

7. INDEPENDENT SECURITY REVIEW

DCC's obligations

- 7.1. The Contractor acknowledges that:
 - 7.1.1. the DCC is required to provide assurance to the SEC Panel and the Secretary of State that the DCC, the Contractor and the DCC Service Providers have fully complied with the DCC Security Architecture and fully implemented the Security Requirements; and
 - 7.1.2. in order to comply with paragraph 7.1.1, the DCC and/or the SEC

Panel may appoint a "Competent Independent Organisation" (the "**CIO**", as defined in the SEC) to perform the activities referred to in paragraph 7.3.

7.2. The CIO must:

- 7.2.1. be fully independent of the DCC;
- 7.2.2. be appropriately qualified to conduct information security audits by virtue of:
 - i. employing one or more persons who are members of the NCSC Certified Cyber Professional Scheme ("**CCP**") (or any successor to that scheme);
 - ii. being accredited under the NCSC CHECK (IT Health Check Service) Scheme (or any successor to that scheme);
 - iii. (where relevant) being approved as a provider of NCSC-approved Commercial Product Assurance (CPA) assessments (or any successor to those assessments);
 - iv. being approved as a provider of CTAS (CESG Tailored Assurance Service) assessments (or any successor to those assessments); or
 - v. holding any other membership, accreditation, approval, or similar form of validation that is substantially equivalent in its status and effect to one or more of the arrangements referred to in paragraphs 7.2.2.i to 7.2.2.iii; and
- 7.2.3. have engaged, as its lead auditor, an individual who is certified under the NCSC CCP Scheme or any successor to, or equivalent of, that scheme.

7.3. The tasks and duties of the CIO may include:

- 7.3.1. working with the DCC, the Contractor and/or the DCC Service Providers during the design and implementation of the DCC Services (including the design and implementation of the Contractor Solution under this Agreement) to review the security aspects of the DCC Services (including the Contractor Solution);
- 7.3.2. preparing, when requested by the DCC and/or the SEC Panel from time to time, an up-to-date and independent assessment of the compliance by the DCC, the Contractor and the DCC Service Providers with the DCC Security Architecture and the Security Requirements (together with an analysis of the approach taken by such entities to risk assessment and risk treatment);
- 7.3.3. if necessary, providing recommendations to the DCC in relation to specific actions to be taken by the DCC, the Contractor and/or the DCC Service Providers to ensure full compliance with the DCC

Security Architecture and the Security Requirements; and

- 7.3.4. providing a copy of its assessment under paragraph 7.3.2, together with any recommendations under paragraph 7.3.3, to the SEC Panel and/or the Secretary of State on request.

Contractor's obligations

- 7.4. Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:
 - 7.4.1. promptly provide the CIO with reasonable access to any Sites (or other premises) and other resources (including the Contractor System and other Assets) used by any Contractor Person (whether exclusively or non-exclusively) in relation to the performance of the Services;
 - 7.4.2. promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by the DCC and/or the CIO from time to time in relation to the performance of the CIO's tasks and duties (as set out in paragraph 7.3);
 - 7.4.3. ensure that appropriate representatives of the Contractor (or, where applicable, any Contractor Person), including any representatives specifically identified by the DCC or the CIO, attend any meetings with the DCC and/or the CIO that are reasonably requested by the DCC from time to time in relation to the performance of the CIO's tasks and duties (as set out in paragraph 7.3);
 - 7.4.4. where any of the CIO's recommendations under paragraph 7.3.3 relate to a failure by the Contractor to comply with its obligations under this Agreement, immediately rectify such failure; and
 - 7.4.5. where any CIO's recommendations under paragraph 7.3.3 do not relate to a failure by the Contractor to comply with its obligations under this Agreement, such recommendations shall be implemented (if requested by the DCC) in accordance with the Change Control Procedure.
- 7.5. Save in respect of paragraph 7.4.4, the Contractor shall be able to recover its costs in respect of its obligations under paragraph 7.4 provided that such costs are agreed in advance with the DCC, demonstrated and in all circumstances reasonable.

8. NO IMPACT ON OTHER AUDIT RIGHTS

- 8.1. The parties' rights and obligations under this Part E are without prejudice to:
 - 8.1.1. the parties' rights and obligations under Schedule 8.4 (*Records and Audit Provisions*); and

- 8.1.2. any other audit, inspection or access rights of the DCC under this Agreement.

PART F – BREACH OF SECURITY

1. NOTIFICATION

- 1.1. Each party shall notify the other:
 - 1.1.1. immediately upon becoming aware of any actual, potential or attempted Breach of Security (regardless of the cause of such Breach of Security); or
 - 1.1.2. promptly after becoming aware of any actual, potential or attempted breach of security (which is equivalent to a Breach of Security) in relation to the DCC, any DCC Service Provider or any DCC Service User that may also affect the Contractor Solution (each, a "**Third Party Breach of Security**"),

such notification shall, where applicable, be made in accordance with the agreed security incident management process set out in the ISMS.

- 1.2. The Contractor acknowledges and agrees that:
 - 1.2.1. the DCC is entitled to notify the relevant DCC Service Providers and/or DCC Service Users of any actual, potential or attempted Breach of Security that may also affect the Systems of such persons; and
 - 1.2.2. unless otherwise agreed by the parties in writing, the DCC shall be solely responsible for liaising with:
 - i. the relevant DCC Service Providers and/or DCC Service Users regarding their respective response to any actual, potential or attempted Breach of Security under paragraph 1.2.1; and
 - ii. the relevant Regulatory Bodies regarding any actual, potential or attempted Breach of Security under paragraph 1.2.1 (provided that this paragraph 1.2.2.ii shall not prevent the Contractor liaising with any relevant Regulatory Bodies to the extent that the actual, potential or attempted Breach of Security also affects any services provided by the Contractor other than the Services or is otherwise required by Law),

and if the DCC fails to act in accordance with Good Industry Practice in executing its responsibility under this paragraph 1.2.2, the Contractor shall be entitled to a Relief Event (in accordance with Clause 12) to the extent that such failure causes the Contractor to be in breach of any obligation under this Agreement (for example, where failure to act interferes with the ability of the Contractor to take any remedial steps or it otherwise contributes to the DCC incurring additional loss or liability).

- 1.3. As soon as reasonably practicable (but, in any event, within one (1) hour of

the detected and observed occurrence of the actual, potential or attempted Breach of Security), the Contractor shall provide to the DCC a further report setting out all details of the actual, potential or attempted Breach of Security that are then available to the Contractor (having made all enquiries and analysis that are reasonably practicable within the timescales referred to in this paragraph 1.3).

2. RECTIFICATION

General

- 2.1. Subject to paragraph 2.2, upon becoming aware of any actual, potential or attempted Breach of Security under paragraph 1.1.1 of this Part F, the Contractor shall immediately take all reasonable steps necessary to:
 - 2.1.1. remedy any actual Breach of Security or protect the integrity of the Contractor Solution against any potential or attempted Breach of Security; and
 - 2.1.2. prevent an equivalent Breach of Security in the future.

Such steps shall include any action or changes reasonably required by the DCC.

Breach of Security not due to Contractor default

- 2.2. Where an actual, potential or attempted Breach of Security under paragraph 1.1.1 of this Part F is not due to a failure by (i) the Contractor, (ii) the Contractor Solution or (iii) any of the Contractor Security Documents to comply with the requirements of this Agreement, then the Contractor shall notify the DCC of:
 - 2.2.1. any steps which the Contractor could itself implement in order to address the Breach of Security (and a proposed timetable, and estimated costs, regarding the implementation of such steps); and/or
 - 2.2.2. where known to the Contractor (having given the matter reasonable consideration), any steps which may need to be implemented by the DCC and/or the relevant DCC Service Provider(s) in order to address the Breach of Security.
- 2.3. The Contractor's notice under paragraph 2.2 shall be provided to the DCC as soon as possible and, in any event, within five (5) Business Days after the occurrence of the relevant Breach of Security (or such other period agreed by the parties in writing).
- 2.4. Within ten (10) Business Days (or such other period agreed in writing by the parties) after receipt of the Contractor's proposal under paragraph 2.2.1, the DCC shall notify the Contractor whether the proposal is approved in principle, in which case, the proposal shall be fully agreed and implemented by the parties at DCC's cost in accordance with the Change Control Procedure.

- 2.5. In relation to any proposal of the Contractor under paragraph 2.2.2, the DCC shall discuss such matters further with the relevant DCC Service Provider(s) and use reasonable endeavours to address the circumstances giving rise to the relevant Breach of Security as soon as reasonably practicable.

Other breaches of security

- 2.6. Subject to paragraph 2.9, in relation to any actual, potential or attempted Third Party Breach of Security, the Contractor shall notify the DCC of any steps which the Contractor could itself implement in order to address the Third Party Breach of Security (and a proposed timetable, and estimated costs, regarding the implementation of such steps).
- 2.7. The Contractor's notice under paragraph 2.6 shall be provided to the DCC as soon as possible and, in any event, within five (5) Business Days (or such other period agreed by the parties in writing) after the earlier of:
 - 2.7.1. the date on which the Contractor became aware of the occurrence of the relevant Third Party Breach of Security; and
 - 2.7.2. the date of receipt of the DCC's notification regarding the relevant Third Party Breach of Security.
- 2.8. Within ten (10) Business Days (or such other period agreed in writing by the parties) after receipt of the Contractor's proposal under paragraph 2.6, the DCC shall notify the Contractor whether the proposal is approved in principle, in which case, the proposal shall be fully agreed and implemented by the parties in accordance with the Change Control Procedure.
- 2.9. To the extent that the relevant Third Party Breach of Security is due to a failure by (i) the Contractor, (ii) the Contractor Solution or (iii) any of the Contractor Security Documents to comply with the requirements of this Agreement, the Contractor shall immediately take all steps necessary to rectify such failure and notify the DCC as soon as the failure has been rectified.
- 2.10. Paragraph 2.9 is without prejudice to any other rights or remedies of the DCC in relation to the relevant failure by (i) the Contractor, (ii) the Contractor Solution or (iii) any of the Contractor Security Documents to comply with the requirements of this Agreement.

Appendix 1 – Security Management Requirements

1. Risk Management

- 1.1. The Contractor shall perform risk assessments of all Contractor systems and processes supporting the End-to-end Smart Metering System in line with ISO/IEC 27005 to identify security risks.
- 1.2. The Contractor shall perform risk assessments in line with ISO/IEC 27005 to identify security risks in at least the following cases:
 - 1.2.1. on a minimum of an annual basis; and
 - 1.2.2. on any System Update (as defined in Schedule 6.2 (*Testing and Acceptance*)).
- 1.3. Without prejudice to any other obligation, the Contractor shall implement risk mitigation measures in accordance with the amount of risk that the Contractor is prepared to accept, tolerate, or be exposed to at any point in time (provided such risk appetite is acceptable to the DCC (acting reasonably)) for those security risks identified using ISO/IEC 27005 and which the Contractor is responsible for under this Agreement.
- 1.4. If the Contractor wishes to use an alternative assessment methodology to replace ISO/IEC 27005, the Contractor shall request permission from the DCC, who shall consider the alternative assessment and (in its sole discretion) make a judgement on its use.
- 1.5. The Contractor shall create and maintain a risk treatment plan in line with ISO 27001/5 and in accordance with the ISMS (such plan for the purposes of this Appendix 1 being the “**Risk Treatment Plan**”). The Contractor’s Risk Treatment Plan will comply with the requirements for the Critical National Infrastructure (CNI) category notified to the Contractor from time to time by the Centre for Protection of National Infrastructure via the DCC.
- 1.6. The Contractor shall submit its Risk Treatment Plan to the DCC and demonstrate to the DCC's satisfaction that the Risk Treatment Plan addresses the identified security risks. The Contractor shall update its Risk Treatment Plan to address any concerns raised by the DCC.
- 1.7. Without prejudice to the generality of paragraph 1.8, the Contractor shall:
 - 1.7.1. as required by Schedule 8.2 (*Change Control*); and
 - 1.7.2. in any event, and at DCC’s cost (agreed in accordance with Schedule 8.2 (*Change Control*)), promptly upon instruction from the DCC from time to time,perform an information security risk assessment of all Additional Services (as defined in Schedule 8.2 (*Change Control*)) the Contractor proposes to provide to the DCC Service Users and/or Authorised Third Parties prior to implementing any Change.

- 1.8. The Contractor shall:
- 1.8.1. as required by Schedule 8.2 (*Change Control*); and
 - 1.8.2. in any event, and at DCC's cost (agreed in accordance with Schedule 8.2 (*Change Control*), promptly upon instruction from the DCC from time to time,
- perform an information security risk assessment on all Change Requests prior to implementing any Change.

2. Contractor Security Policy

- 2.1. The Contractor shall ensure the Contractor Security Policy shall, as a minimum:
- 2.1.1. demonstrate its management's commitment to security (in accordance with ISO 27001) and comply at all times with the Security standards in Schedule 2.3 (*Standards*);
 - 2.1.2. set out the security principles with which all Contractor Persons must comply;
 - 2.1.3. comply at all times with relevant Law;
 - 2.1.4. comply at all times with regulatory requirements and contractual requirements in accordance with its obligations under this Agreement;
 - 2.1.5. ensure risks resulting from their interactions with third parties have been considered as part of their risk management processes;
 - 2.1.6. contain provisions to ensure security education, training and awareness of Sub-contractors and Contractor Personnel;
 - 2.1.7. contain provisions to ensure business continuity management in accordance with its obligations under this Agreement, including the Business Continuity standards in Schedule 2.3 (*Standards*);
 - 2.1.8. contain provisions to ensure physical security arrangements in accordance with its obligations under this Agreement; and
 - 2.1.9. set out robust consequences for any member of Contractor Personnel causing a Breach of Security.
- 2.2. The Contractor shall update the Contractor Security Policy at a minimum on an annual basis to reflect:
- 2.2.1. the latest security risk landscape;
 - 2.2.2. organisational re-structuring;
 - 2.2.3. management commitment; and

2.2.4. the outcome of internal security audits.

3. Organisation of Information Security

- 3.1. The Contractor shall have an individual security professional, with a minimum of five (5) years senior security management experience, appointed as ECoS Chief Information Security Officer (“**ECoS CISO**”). If the Contractor seeks to replace the named person in the role of ECoS CISO as set out in the Key Personnel table at paragraph 4.10 of Schedule 9.2 (Personnel and Key Personnel) at any time during the Term, the DCC shall approve such replacement in accordance with Schedule 9.2, provided that the replacement has:
 - 3.1.1. a minimum of five (5) years senior security management experience;
 - 3.1.2. substantially similar professional security qualifications to the exiting ECoS CISO. For example, full membership (MCIIS) of the Chartered Institute of Information Security (CIISec), Certified Information Systems Security Professionals (CISSP), Certified Information Security Manager (CISM), relevant MSc qualifications, or similar; and
 - 3.1.3. been placed in the same position or role within the Contractor’s organisation as the exiting ECoS CISO.
- 3.2. NOT USED.
- 3.3. The Contractor's ECoS CISO shall be accountable for implementing the Contractor's security obligations documented in this Agreement.
- 3.4. The Contractor’s ECoS CISO shall regularly review security incidents and identify those that require escalation (such as those that could represent a material impact to the Services) internally within the Contractor’s hierarchy of security incident escalation and to the DCC.
- 3.5. The Contractor shall revoke Security Credentials and retrieve all physical Assets and retrieve (or entirely remove or otherwise obliterate in accordance with HMG Information Assurance Standard No. 5 or such other standard as the DCC may notify from time to time) all Information Assets issued to:
 - 3.5.1. a DCC Service User upon such person ceasing to be a DCC Service User;
 - 3.5.2. a DCC Service Provider upon termination or expiry of their DCC Service Provider Contract with the DCC; and
 - 3.5.3. any predecessor to the DCC upon revocation of its DCC Licence.
- 3.6. The Contractor shall revoke Security Credentials and retrieve all physical Assets and retrieve (or entirely remove or otherwise obliterate in accordance with HMG Information Assurance Standard No. 5 or such other standard as the DCC may notify from time to time) all Information Assets issued to Sub-

contractors upon the Termination Date (or, if earlier, when such person ceases to act as a Sub-contractor).

4. Asset Management

- 4.1. The Contractor shall implement security controls to protect the information processed, stored (including on removable media) and transmitted by the Contractor, which are proportionate to the sensitivity and impact of the information in question as set out in the Security Management Plan.
- 4.2. The Contractor shall examine all information to be processed and stored by the Contractor to assess its sensitivity and impact.
- 4.3. The Contractor shall establish a classification scheme that identifies the different categories of information processed, stored or transmitted by the Contractor (that aligns to the Standards and is acceptable to the DCC (acting reasonably)) and assign a sensitivity and impact (the impact in the event of loss of Data on the End-to-end Smart Metering System and Consumers) to each of the identified categories of information which shall be set out in the Security Management Plan.
- 4.4. The Contractor shall implement a system (that aligns to the Standards and is acceptable to the DCC (acting reasonably)) to manage the classification of information processed, stored or transmitted by the Contractor.
- 4.5. The Contractor shall maintain an asset register for all information and physical assets that support the End-to-end Smart Metering System.
- 4.6. The Contractor shall use the asset register referred to in paragraph 4.5 immediately above to support other security activities, such as the secure disposal of assets.
- 4.7. The Contractor shall assign ownership to an individual member of its staff for each physical asset and Information Asset contained within the Asset Register and/or the Information Assets Register (as defined in Schedule 8.9 (Operations Manual)) that they are responsible for.
- 4.8. The Contractor shall ensure that licences are maintained and renewed where and as required.
- 4.9. The Contractor shall maintain the assets' lifecycle ensuring any end-of-life ("EOL") assets are replaced and/or upgraded, and provide notification to the DCC in advance of any such replacement or upgrade in accordance with notification requirements at Schedule 2.1 (*DCC Requirements*) and elsewhere in the Agreement.
- 4.10. The Contractor shall implement and maintain asset hardening to an appropriate standard as set out in the relevant standards at Schedule 2.3 (*Standards*).

5. Human Resources Security

- 5.1. Applicable requirements relating to personnel security have been included in

Schedule 9.2 (*Personnel and Key Personnel*).

- 5.2. The Contractor shall provide security awareness training to all Contractor Personnel that is specifically tailored to their role.

6. Physical and Environmental Security

- 6.1. The Contractor shall dispose of physical assets and Information Assets that support the Contractor Solution and/or WANs in a secure manner in line with the Data Protection Legislation and as set out in Schedule 2.3 (*Standards*).

7. Communications and Operations Management

- 7.1. The Contractor shall not store Transactional Data for longer than the Contractor requires it to perform its authorised processes on the Data.
- 7.2. The Contractor shall dispose of Transactional Data in line with the relevant standards at Schedule 2.3 (*Standards*).
- 7.3. The Contractor shall securely delete all Data from the Contractor Solution (or any other System that processes or stores DCC Data) in accordance with the relevant standards at Schedule 2.3 (*Standards*), following the expiry of the associated retention period.
- 7.4. The Contractor shall monitor and audit access to DCC Data.
- 7.5. The Contractor shall provide the Hosting and Service Management Service Provider with such assistance as it may reasonably require in respect of its performance of security audits (which are to be performed at least once in each twelve (12) month period of the Service Period) of the controls implemented to monitor and prevent attacks on the DCC User Gateway and DCC User Gateway Interface.
- 7.6. The Hosting and Service Management Service Provider shall maintain (and update on each anniversary of the Commencement Date and upon each System Update (as defined in Schedule 6.2 (*Testing and Acceptance*))) its network diagram detailing the logical and physical segregation of infrastructure supporting the End-To-end Smart Metering System, including highlighting different trust zones with a focus on those identified as CNI and web-based services on the network diagram, and the Contractor shall provide the Hosting and Service Management Service Provider with such assistance as it may reasonably require to enable its compliance with this paragraph 7.6.
- 7.7. NOT USED
- 7.8. The Contractor shall have a robust process designed to detect Data Leakage specified as part of the Security Management Plan.

8. Access Control

- 8.1. The Contractor shall have an Access Control policy unique to the services it provides in support of the End-to-end Smart Metering System.

- 8.2. The Contractor's Access Control policy shall include, but not be limited to:
 - 8.2.1. stating the levels of identity assurance and vetting required;
 - 8.2.2. specifications for Security Credentials;
 - 8.2.3. information for users on what they must do in order to keep their Security Credentials secure; and
 - 8.2.4. a process for granting, changing and removing access privileges.

9. Information Systems Acquisition, Development and Maintenance

- 9.1. The Contractor shall ensure that the Contractor's Solution enables the Hosting and Service Management Service Provider to perform monitoring, security information and event correlation (and shall support the Hosting and Service Management Service Provider in respect of the same) of:
 - 9.1.1. the Service Audit Trails and Security Audit Trails;
 - 9.1.2. Security Logs from all devices used in connection with the provision of the Services;
 - 9.1.3. Service Requests received per DCC Service User over a period of time (including accounting for seasonality changes) against expected volumes of Service Requests, in support of its obligations to provide the Anomaly Detection service as further described in Schedule 2.1 (*DCC Requirements*);
 - 9.1.4. aggregated Service Request volumes over a period of time (including accounting for seasonality changes) against expected aggregated volumes, in support of its obligations to provide the Anomaly Detection service as further described in Schedule 2.1 (*DCC Requirements*);
 - 9.1.5. the number of failed authentication requests across the Contractor Solution; and
 - 9.1.6. responses received from Smart Metering Devices, including Alerts, scheduled Service Responses or ad hoc Service Responses against known Incidents, response profiles and GB Companion Specification message format.
- 9.2. Unexpected and potentially inappropriate use of the DCC Data Systems shall be investigated and acted upon. Monitoring shall be conducted in accordance with SMKI PMA Good Practice Guidance.
- 9.3. The Contractor shall ensure that the Contractor's Solution enables the Hosting and Service Management Service Provider to retain evidence of performing monitoring, security information and event correlation (and shall support the Hosting and Service Management Service Provider in respect of the same) of:

- 9.3.1. the Service Audit Trails and Security Audit Trails;
- 9.3.2. Security Logs from all devices used in connection with the provision of the Services;
- 9.3.3. Service Requests received per DCC Service User over a period of time (including accounting for seasonality changes) against expected volumes of Service Requests, in support of its obligations to provide the Anomaly Detection service as further described in Schedule 2.1 (*DCC Requirements*);
- 9.3.4. aggregated Service Request volumes over a period of time (including accounting for seasonality changes) against expected aggregated volumes, in support of its obligations to provide the Anomaly Detection service as further described in Schedule 2.1 (*DCC Requirements*);
- 9.3.5. number of failed authentication requests across the Contractor Solution; and
- 9.3.6. responses received from Smart Metering Devices, including Alerts, scheduled Service Responses or ad hoc Service Responses against known Incidents, response profiles and GB Companion Specification message format.

Evidence of monitoring shall be provided promptly to the DCC upon request.

- 9.4. The Contractor shall ensure the ISMS shall specify the approach to performing monitoring, security information and event correlation with the DCC, with regards to:
 - 9.4.1. the Service Audit Trails and Security Audit Trails;
 - 9.4.2. Service Requests received per DCC Service User over a period of time (including accounting for seasonality changes) against expected volumes of Service Requests, in support of its obligations to provide the Anomaly Detection service as further described in Schedule 2.1 (*DCC Requirements*);
 - 9.4.3. aggregated Service Request volumes over a period of time (including accounting for seasonality changes) against expected aggregated volumes in support of its obligations to provide the Anomaly Detection service as further described in Schedule 2.1 (*DCC Requirements*);
 - 9.4.4. the number of failed authentication requests across the Contractor Solution;
 - 9.4.5. responses received from Smart Metering Devices, including Alerts, scheduled responses or ad hoc Service Responses against known Incidents, response profiles and GB Companion Specification message format; and



9.4.6. Contractor Security Logs from all devices used in connection with the provision of the Services.

9.5. The DCC acknowledges that the Hosting and Service Management Service Provider shall be the primary party responsible for compliance with the obligations set out in this Paragraph 9.5, and the Contractor's obligation shall be to provide the Hosting and Service Management Service Provider with assistance in respect of these obligations, including taking into account these obligations in the Design, Build and Testing of the Contractor Solution and Anomaly Detection service. The Contractor shall provide the Hosting and Service Management Service Provider with such assistance as it may reasonably require so that the Hosting and Service Management Service Provider shall be able to:

9.5.1. promptly inform the DCC of all unexpected and potentially inappropriate access or use of the Contractor Solution;

9.5.2. obtain expected volume estimates for Service Requests, per message type, from each DCC Service User through the DCC in support of the Anomaly Detection service;

9.5.3. obtain updated volume estimates for Service Requests, per message type, from each DCC Service User through the DCC on an ad hoc basis;

9.5.4. collaborate and share with DCC Service Providers their developed inbound/outbound traffic profiles against which pattern analysis occurs to refine the approach and monitoring techniques for the Anomaly Detection service;

9.5.5. formally document the Anomaly Detection approach in each Code of Connection entered into with the DCC relating to any connections with each DCC Service User; and

9.5.6. implement the Anomaly Detection service to detect unusual patterns of Service Requests outside of the 'normal' patterns using a set of deterministic and/or heuristic business rules. (As part of the ISMS) the business rules to be used by the Hosting and Service Management Service Provider's Anomaly Detection service shall be agreed with the DCC, with input and support from the Contractor as may reasonably be required.

10. Information Security Incident Management

10.1. The Contractor shall implement security incident management procedures in accordance with the relevant standards at Schedule 2.3 (*Standards*).

10.2. The Contractor shall put in place the security incident management procedure (referred to in paragraph 10.1 immediately above) prior to the provision of the Services and thereafter maintain it throughout the Service Period (with the exception of the Termination Assistance Period).

10.3. The Contractor shall test its security incident management procedures (referred to in paragraph 10.1 above) before commencement of the Services

and promptly provide evidence of this testing to the DCC.

- 10.4. The Contractor's security incident response capability shall include, as a minimum, the following:
 - 10.4.1. defined roles and responsibilities;
 - 10.4.2. the ability to identify and monitor security incidents, e.g. through monitoring software;
 - 10.4.3. a clear communications plan;
 - 10.4.4. a consistent and repeatable reporting approach for recording security incidents from identification to resolution;
 - 10.4.5. security incident classification;
 - 10.4.6. escalation procedures; and
 - 10.4.7. recovery systems being in place such as backup sites and Systems in different locality to the primary Systems.
- 10.5. The Contractor shall perform on-going threat monitoring (in accordance with best practice) to identify emerging threats and vulnerabilities and assess whether these could have a material impact on the Contractor Solution or the Services. If the Contractor identifies a threat and/or vulnerability that could have a material impact on the Contractor Solution or the Services the Contractor shall escalate through its Incident Management procedures.

11. Business Continuity Management

- 11.1. Requirements relating to business continuity have been included in Schedule 8.6 (*Business Continuity and Disaster Recovery Plan*).

12. Compliance

- 12.1. Without prejudice or limitation to the generality of its other obligations under this Agreement (including in particular requirement 20 of Part D of Schedule 2.1 (*DCC Requirements*) and Clause 37.13), and subject to 12.1.1 below, the Contractor shall not transfer any Data that pertains in any way to the Production Environment (including any Data that can be used in connection with or has been generated by the Production Environment) outside of the EEA such that it results in a persistent storage of that Data outside of its original physical location (or permit any processing or use of Data in breach of those requirements set out in Schedule 2.1 (*DCC Requirements*)).
 - 12.1.1. The Contractor shall be allowed to develop and maintain non-Security Related Functionality off-shore, subject to conducting a risk assessment and following the mitigations identified in the associated Contractor risk treatment plan.
- 12.2. The Contractor shall ensure that the Contractor Solution complies with applicable local and international Law (whilst at a minimum ensuring

alignment to SMKI PMA Good Practice Guidance).

- 12.3. The Contractor shall develop a Code of Connection with each Integration Party that wants to establish a connection to the Contractor.
- 12.4. The Contractor shall maintain a Code of Connection with each Integration Party once they establish a connection to the Contractor.
- 12.5. The Contractor shall share with the DCC for review and approval the developed Codes of Connection with each Integration Party that wishes to connect to the Contractor before the connection is established.
- 12.6. The Contractor shall perform an assessment of all Integration Parties that connect to the Contractor to check that they adhere to the content of the established Code of Connection.
- 12.7. The Contractor will not accept connections from Integration Parties that do not have:
 - 12.7.1. in the case of an Integration Party that is a DCC Service Provider, a valid and appropriate Code of Connection between the Contractor and the Integration Party in the form of a Final Document Iteration in respect of which an Authority to Proceed Notice has been issued by the DCC under Schedule 6.3 (*Development Process*) (or a subsequent version approved by the DCC); and
 - 12.7.2. if the relevant Integration Party is the DCC (except with regard to the DCC Service Management System Interface), a valid and appropriate Code of Connection between the Contractor and the DCC in the form of a Final Document Iteration in respect of which an Authority to Proceed Notice has been issued by the DCC under Schedule 6.3 (*Development Process*) (or a subsequent version approved by the DCC); and
 - 12.7.3. in the case of an Integration Party other than the DCC or a DCC Service Provider:
 - i. a valid and appropriate Code of Connection in place between the Integration Party and the DCC; and also
 - ii. a valid and appropriate Code of Connection between the Contractor and the DCC in the form of a Final Document Iteration in respect of which an Authority to Proceed Notice has been issued by the DCC under Schedule 6.3 (*Development Process*) (or a subsequent version approved by the DCC).
- 12.8. The Contractor shall obtain evidence through the DCC that DCC Service Users meet the applicable security requirements, as defined in the Codes of Connection referred to in paragraph 12.7 above, before a connection is established between the Contractor and a DCC Service User.
- 12.9. If a third party provides an interface that supports the Code of Connection, the Contractor shall obtain evidence that this interface adheres to the security

requirements set by the Contractor and the Contractor's security obligations under this Agreement. If the evidence is inadequate, the Contractor shall alert the Hosting and Service Management Service Provider and the DCC.

- 12.10. The Contractor shall be certified to ISO 27001 for all information, Assets, processes or Information Systems that provide and/or support the End-to-end Smart Metering System, no later than one year after the point at which the Contractor Solution commences the Services.
- 12.11. The Contractor when scoping the ISMS shall include all Information Assets, processes and Information Systems that pertains to all Services that provide and/or support the End-to-end smart Metering System. This requirement also applies to any other Services the Contractor provides that supports the End-to-end Smart Metering System.
- 12.12. The Contractor shall maintain ISO 27001 certification throughout the Service Period.
- 12.13. The Contractor shall, at its own expense, be assessed against ISO 27001 by a UKAS certified body, in accordance with the certification body assessment process, or as a minimum at least once in each twelve (12) month period of the Service Period.
- 12.14. The Contractor shall perform internal security audits of processes to collect and store patch/version numbers of Hardware, software and firmware used by or supporting the End-to-end Smart Metering System at least once in each twelve (12) month period of the Service Period.
- 12.15. The Contractor shall retain records of performing internal security audits for the duration of the Service Period.
- 12.16. The Contractor shall (promptly) provide evidence of performing internal security audits to the DCC upon request.
- 12.17. The Contractor shall have retention periods assigned to all the categories of data identified by the Contractor in accordance with the ISMS.
- 12.18. The Contractor shall implement retention periods for all categories of Data according to applicable Laws.
- 12.19. The Contractor shall collect and store evidence in accordance with the rules and requirements outlined in BS 10008 and the forensic readiness plan in SMKI PMA Good Practice Guidance to support security incident investigations.
- 12.20. The Hosting and Service Management Service Provider shall collect and store as a minimum the Contractor Security Logs of all devices used in connection with the provision of the Services, and the Contractor shall take this obligation into account in the Design, Build and Testing and provision of Support Services.
- 12.21. The Contractor, in its capacity as the service provider of the Design, Build and Testing and Support Services, shall ensure the DCC User Gateway is

compliant with ISO 27033 from commencement of the Services. The DCC recognises that it shall be the responsibility of the Hosting and Service Management Service Provider to subsequently ensure the on-going compliance with ISO 27033 for the duration of the DCC User Gateway operation and the Contractor shall provide it such assistance as reasonably requested.

- 12.22. As soon as practicable and, in any event before the completion of the Design, Build and Testing phase, the Contractor shall record and retain evidence that the DCC User Gateway is compliant with ISO 27033, with the Hosting and Service Management Service Provider retaining evidence of the on-going compliance for the duration of the DCC User Gateway operation, which either party shall (promptly) provide to the DCC upon request.

13. Testing and Acceptance

- 13.1. The Contractor shall incorporate security controls to address known vulnerabilities at every stage of the development lifecycle (planning, requirement definition, system design, implementation, testing, deployment and maintenance) for the Contractor Solution, using a recognised Security Development Lifecycle methodology.

14. Governance

- 14.1. The Contractor shall perform internal security audits in line with its Risk Treatment Plan to monitor its progress in terms of mitigating identified risks. If any external audits undertaken pursuant to this Agreement (including audits by or on behalf of the DCC) or internal audits produce actions for the Contractor to follow up on them, the Contractor shall comply with such follow-up action(s) and keep a log demonstrating and evidencing in reasonable detail that it has done so (such log to be shared promptly with the DCC on request).
- 14.2. The Contractor's internal security audit requirements and scope will be defined and signed off by the ECoS CISO.
- 14.3. The Contractor shall address all findings from the internal security audit in a remediation plan to track progress, which will be (promptly) shared with the DCC upon completion of the security audit and upon request at any time.
- 14.4. The Contractor shall perform internal security audits of all business areas to track progress against the agreed actions imposed on them by the latest Risk Treatment Plan.

Appendix 2 – Contractor Security Policy

The Security Policy Document will be written as part of the ISMS as detailed in the Security Management Plan. It will ensure that all relevant elements of the ISO 27000 family of controls are adhered to. This will be in conjunction with the controls and requirements detailed in Section G of the Smart Energy Code. All security policy and control documents will be subject to regular review and updated accordingly.

INFORMATION SECURITY POLICY

Ref: CSW-QMS-2019-CPD-01507-information-security-policy

Appendix 3 – Outline Security Management Plan

SECURITY MANAGEMENT PLAN

1. OVERVIEW

This document describes the proposed structure and content for the Security Management Plan

The structure of the document will be:

1. **Introduction** – this section will describe the objective, scope and audience of this plan
2. **Security Policy** – this section details the policies related to the preservation of the confidentiality, integrity and availability of systems and information used by CSW
3. **Organisation and Governance of Information Security** – this section cover the Security Roles and responsibilities and the Risk Management process to maintain the acceptable level of risk for the organisation.
4. **Asset Management**- This section covers the ownership and the monitoring of the assets for the performance of the service.
5. **Access Control**- Details the policies and guidelines that dictated who's allowed to access and use company information and resources.
6. **Information Systems in Production, SIT and UIT** –This section describes the security scope and obligations for the ECoS Solution in Production and environments or other regulated environments
7. **Information Security Incident Management** – Describes the process of identifying, managing, recording security threats or vulnerabilities.
8. **Business Continuity Management**- this section details the plan which contains strategies for handling IT disruptions
9. **Compliance**- Describes the Security Standards applicable to the project
10. **Testing and Acceptance** – this section details the security testing and security assurance whenever vulnerabilities are found

ANNEXES (Security Logs and Risk Assessment):

- Information Security Incident Log
- Audit Report Log
- Security Issues Log
- Risk Assessment

SCHEDULE 2.6 INSURANCE

1. INSURANCE COVENANTS

1.1 For the purposes of this Schedule 2.6:

"Insurances" means the Mandatory Insurances and the Required Insurances;

"Mandatory Insurances" means employer's liability insurance and such other insurance as may from time to time be required by any Law; and

"Required Insurances" means insurance in respect of such risks related to the Services and the assets owned by the Contractor or used by or on behalf of the Contractor for the purposes of the Services as would normally be maintained by a reasonably prudent contractor performing the functions of the Contractor in respect of the Services including insurance in respect of the following risks:

- (a) loss or damage to real estate, plant, machinery and tangible assets;
- (b) public liability;
- (c) product liability;
- (d) cyber and data loss; and
- (e) professional indemnity insurance.

1.2 The Contractor shall at all times from the Commencement Date until the date which is six (6) years following the end of the Term:

- (a) In accordance with Good Industry Practice maintain the Insurances in full force and effect with reputable insurers who are appropriately regulated and of good financial standing reasonably acceptable to the DCC in such amounts (including the full replacement/repair/reinstatement cost of any asset), and on such terms and with such exclusions, conditions and deductibles as would normally be obtained and/or accepted by a reasonably prudent contractor performing the functions of the Contractor in respect of the Services and are available in the market for such types of insurance;
- (b) be permitted to change the insurers with whom the Insurances are held provided that such replacement complies fully with 1.2(a) and such change is notified to the DCC promptly and in any event within twenty (20) Business Days;
- (c) not cancel the Insurances or make any material change (such as reduction in the level of cover or a material change in the policy exceptions) thereto without the express written consent of the DCC;
- (d) not do anything which would entitle the relevant insurer to cancel, rescind or suspend any Insurance or cover, or to treat any Insurance, cover or claim as avoided in whole or part;

- (e) notify the DCC as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend, terminate or avoid any Insurance, or any cover or claim under any Insurance in whole or in part; and
- (f) apply the proceeds of any claim in respect of any Insurance in or towards the discharge of all liabilities to which the same relates (in respect of liability insurance) or in or towards the replacement or repair of the insured asset (in respect of property or asset insurance) save where any asset or deficiency relating to the Services has been rectified by the Contractor prior to the proceeds of any claim being made available to the Contractor.

1.3 Where any Insurances are provided by an Affiliate of the Contractor, the Contractor shall provide to the DCC on the Commencement Date (or inception of the relevant Insurances if later) and thereafter within ten (10) Business Days of written request from the DCC evidence of good financial standing of the relevant Affiliate in a form satisfactory to the DCC.

1.4 In respect of the following Insurances, without prejudice to the generality of paragraph 1.2(a), the Contractor shall procure that the following minimum levels of cover and maximum levels of deductible are applicable to such Insurances:

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

The minimum sum to be insured under each of the Insurances set out in the table above:

- (a) is subject to indexation to the extent that this leads to such amounts increasing. For the avoidance of doubt, if the minimum sum to be insured cannot be bought in the amount arrived at through indexation the sum shall be rounded up to the nearest whole insurable amount; and

[REDACTED]

- (b) may be increased in proportion to the increase in any insurable risk to which such Insurance relates which the DCC reasonably considers has occurred. The parties shall document any such change in a Change Authorisation Note in accordance with the Change Control Procedure but the notice shall be binding on the Contractor from the date of receipt or deemed receipt. Any Dispute arising under this paragraph 1.4(b) shall be addressed under the Fast Track Dispute Resolution Procedure.
- 1.5 The Contractor shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the DCC shall be indemnified in respect of Claims made against the DCC in respect of death or bodily injury or third party property damage arising out of or in connection with the Services and for which the Contractor is legally liable.
- 1.6 Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":-
- (a) if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall immediately submit to the DCC:-
- i. details of the policy concerned; and
 - ii. its proposed solution for maintaining the minimum limit of indemnity specified; and
- (b) if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Contractor shall:-
- i. ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or
 - ii. if the Contractor is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the DCC full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.
- 1.7 Without limiting the other provisions of this Agreement, the Contractor shall:-
- (a) take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - (b) promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Contractor is or becomes aware; and
 - (c) hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.
- 1.8 The Contractor shall, before the Commencement Date and at any time promptly (and in any event within five (5) Business Days following written request by the DCC) provide such

evidence as the DCC shall reasonably require as to the continued maintenance by the Contractor of Insurances in compliance with the requirements of this Schedule 2.6. Such evidence shall include copies of the relevant policies and a confirmation from the insurance brokers to the Contractor confirming the nature of the policies maintained, the limits of cover, the amount of the deductible and any conditions or exclusions which are not entirely normal for the type of policy concerned. On each occasion that the Contractor is renewing any Insurance policy, the Contractor shall provide the information above regarding the planned renewal of such policy not later than ten (10) Business Days in advance thereof. Receipt of such evidence by the DCC shall not in itself constitute acceptance by the DCC or relieve the Contractor of any of its liabilities and obligations under this Agreement.

- 1.9 Subject to Paragraph 1.10, the Contractor shall notify the DCC in writing at least fifteen (15) Business Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 1.10 Without prejudice to the Contractor's obligations under Paragraph 1.8, Paragraph 1.9 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule 2.6.
- 1.11 To the extent that the Contractor has failed to maintain in full force and effect any of the Insurances required pursuant to this Schedule 2.6, the DCC may purchase (if possible) such Insurance on behalf of the Contractor and the DCC may recover the premium and other costs incurred in doing so as a debt due from the Contractor, provided that the DCC gives the Contractor not less than ten (10) Business Days notice of any purchase of Insurance pursuant to this paragraph 1.11.
- 1.12 The Contractor shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Agreement for which it may be entitled to claim under any of the Insurances. In the event that the DCC receives a claim relating to or arising out of the Services and/or this Agreement, the Contractor shall co-operate with the DCC and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.
- 1.13 Except where the DCC is the claimant party, the Contractor shall give the DCC notice within twenty (20) Business Days after any insurance claim in excess of one million pounds (£1,000,000) relating to or arising out of the provision of the Services or this Agreement on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the DCC) full details of the incident giving rise to the claim.
- 1.14 Where any of the Insurances require payment of a premium, the Contractor shall be liable for and shall promptly pay such premium.
- 1.15 Where any of the Insurances are subject to an excess or deductible below which the indemnity from insurers is excluded, the Contractor shall be liable for such excess or deductible. The Contractor shall not be entitled to recover from the DCC any sum paid by way of excess or deductible under the Insurances whether under the terms of this Agreement or otherwise.

1.16



SCHEDULE 2.7

CATALOGUE SERVICES

1. INTRODUCTION

- 1.1. This Schedule 2.7 (*Catalogue Services*) provides a framework for the DCC to call off Catalogue Services from the Contractor.
- 1.2. The remainder of this Schedule 2.7 (*Catalogue Services*) sets out the process by which the DCC may call-off or cease the provision of any Catalogue Services.
- 1.3. The format and content of the Catalogue Service Call-Off Form and Catalogue Service Cessation Form shall be notified to the Contractor by the DCC and will be appended to this Schedule in Appendix 1.

2. GENERAL

- 2.1. The Contractor acknowledges that nothing in this Schedule 2.7 (*Catalogue Services*) shall oblige the DCC to take any Catalogue Services from the Contractor or prevent the DCC from receiving services similar or identical to Catalogue Services from any third party.
- 2.2. The Change Control Procedure shall not apply to any request by the DCC for the provision by the Contractor of any Catalogue Services.
- 2.3. If the DCC requests the Contractor to provide any of the Catalogue Services at any time during the Service Period, the Contractor shall provide all those Catalogue Services in accordance with the provisions of this Schedule 2.7 (*Catalogue Services*). The Contractor shall ensure that, at all times during the Service Period, the Catalogue Services comply with all requirements applicable to the Services (including as set out elsewhere in this Agreement).
- 2.4. Until such time as a Catalogue Service Call-Off Form or Catalogue Service Cessation Form has been signed and issued by a duly authorised representative of the DCC in accordance with the DCC's authorisation and sign off procedure(s) (as notified to the Contractor in writing from time to time) then:
 - 2.4.1. unless the DCC expressly agrees otherwise in writing, the Contractor shall continue to supply the Services in accordance with the existing terms of this Agreement as if such Catalogue Service Call-Off Form or Catalogue Service Cessation Form did not apply; and
 - 2.4.2. any discussions, negotiations or other communications which may take place between the DCC and the Contractor in connection with any proposed Catalogue Service Call-Off Form or Catalogue Service Cessation Form, including the submission of any related communications, shall be without prejudice to each Party's other rights and remedies under this Agreement.

3. INITIATION OF NEW CATALOGUE SERVICES

General

- 3.1. The Contractor shall, at all times during the Service Period, be obliged to:
- 3.1.1. provide any Catalogue Services requested by the DCC in accordance with this Agreement (provided such request complies with paragraph 3.2);
 - 3.1.2. ensure through a combination of periodic reviews and, where necessary, appropriate testing and implementation of any necessary adjustments, that it is and continues to be able to provide any Catalogue Services duly requested in accordance with this Schedule 2.7 (*Catalogue Services*) without any risks or impacts (including any arising in connection with the implementation, testing or operational use of such Catalogue Services):
 - i. to the rights or obligations of either party under this Agreement;
 - ii. to the End-to-end Smart Metering System and/or Other Energy Industry Systems; or
 - iii. to the Services, DCC Services or any DCC Eco-System Entity, (each a "**Risk/Impact**"); and
 - 3.1.3. ensure, at all times during the Service Period, that the Services referred to in the Catalogue Service Call-Off Form (including their implementation, testing and/or operational use) do not affect the performance by any Contractor Person of any other obligation with regard to any other parts of the Services.

Call-Off

- 3.2. The DCC may notify the Contractor that it requires any Catalogue Services (including additional Catalogue Services) by sending the Catalogue Service Call-Off Form to the Contractor (signed by a duly authorised representative of the DCC in accordance with paragraph 2.4). The Contractor shall:
- 3.2.1. acknowledge receipt of the Catalogue Service Call-Off Form by written notice to the DCC within two (2) Business Days and (in the same notice) provide all information and assistance reasonably necessary to enable the DCC to assess the nature of any Risk/Impact relating to the Catalogue Services (or shall confirm there is no Risk/Impact);
 - 3.2.2. without prejudice to paragraph 3.1, inform the DCC of potential Risk/Impacts relating to the Catalogue Services and how it proposes to mitigate and/or remove the same;
 - 3.2.3. promptly provide all further information and assistance necessary to enable the DCC to assess the nature, risks or impact of any

Risk/Impact relating to the Catalogue Services or any proposal made by the Contractor under paragraph 3.2.2 above; and

- 3.2.4. unless notified in writing by the DCC that it wishes to withdraw the Catalogue Service Call-Off Form prior to the commencement of the Catalogue Services, implement, test and commence the provision of the Catalogue Services in accordance with this Schedule 2.7 (*Catalogue Services*) and this Agreement (including the applicable timescales for commencement of the Catalogue Services set out in this Schedule 2.7 (*Catalogue Services*)).
- 3.3. Following the successful implementation, testing and commencement of the Catalogue Services in accordance with this Schedule 2.7 (*Catalogue Services*), the Charges shall be adjusted in accordance with the Charges detailed in Appendix 2 (*Service Catalogue*) of this Schedule 2.7 (*Catalogue Services*).
- 3.4. From the time that the provision of the Catalogue Services is commenced and in addition to its other obligations under this Agreement, the Contractor shall, at no additional cost to the DCC, implement and provide any ancillary or incidental service, function or responsibility not specified for the Catalogue Services where such service, function or responsibility is necessarily required for the proper performance by the Contractor of the Catalogue Services and is not expressly identified for the Catalogue Services as the responsibility of the DCC or another DCC Service Provider.
- 3.5. Any work undertaken by the Contractor to implement a Catalogue Service or in providing any such Service prior to receipt of a Catalogue Service Call-Off Form duly signed by the DCC (in accordance with paragraph 2.4) shall be strictly at the Contractor's risk, cost and expense and the Contractor waives all claims it may have at any time for compensation under the *quantum meruit* doctrine or any other basis whatsoever.

4. CESSATION OF CATALOGUE SERVICES

- 4.1. The DCC may notify the Contractor that it requires the Contractor to cease the provision of any Catalogue Services by sending a Catalogue Service Cessation Form to the Contractor. The Contractor shall be obliged to:
 - 4.1.1. cease the provision of any Catalogue Services as requested by the DCC; and
 - 4.1.2. ensure at all times that such cessation does not affect any other parts of the Services and does not result in any other Risk/Impact.
- 4.2. Without prejudice to the generality of the Contractor's obligations under this Schedule 2.7 (*Catalogue Services*), upon receipt of the Catalogue Service Cessation Form, the Contractor shall promptly (and in any event within two (2) Business Days) provide all information and assistance reasonably necessary to enable the DCC to assess the nature of any Risk/Impact relating to the cessation of the relevant Catalogue Services (or shall confirm there is no Risk/Impact).
- 4.3. Each Catalogue Service Cessation Form must comply with, and shall be

subject to the obligations of the parties set out in, this Schedule 2.7 (*Catalogue Services*) (including the applicable timescales for cessation of the Catalogue Services set out in this Schedule 2.7 (*Catalogue Services*)).

- 4.4. If the DCC does not otherwise elect by notice in writing that it wishes to withdraw the Catalogue Service Cessation Form (prior to the Contractor ceasing to provide the relevant Catalogue Services), the Contractor shall:
 - 4.4.1. acknowledge receipt of the Catalogue Service Cessation Form; and
 - 4.4.2. cease to provide the relevant Catalogue Services in accordance with this Schedule 2.7 (*Catalogue Services*) and this Agreement (including the applicable timescales for cessation of the relevant Catalogue Services set out in this Schedule 2.7 (*Catalogue Services*)).
- 4.5. From the date at which the Contractor is to cease providing the relevant Catalogue Services in accordance with the Catalogue Service Cessation Form, the Charges shall be reduced (as if such Catalogue Services are no longer provided) in accordance with the provisions of Appendix 2 of this Schedule 2.7 (*Catalogue Services*).
- 4.6. In ceasing to provide any Catalogue Services, the Contractor shall, at no additional cost to the DCC, perform all obligations and provide any ancillary or incidental service, function or responsibility not specified for the Catalogue Services where such service, function or responsibility is necessarily required for the proper performance by the Contractor of the cessation of the relevant Catalogue Services and is not expressly identified for the Catalogue Services as the responsibility of the DCC or another DCC Service Provider.
- 4.7. The cessation of any Catalogue Service shall not be deemed a partial termination of this Agreement.

Appendix 1

Catalogue Service Call-Off and Cessation Forms

This Appendix 1 will include copies of the Catalogue Service Call-Off Form and Catalogue Service Cessation Form as created and maintained pursuant to paragraph 1.3 of this Schedule.

The Parties have not identified any Catalogue Services at the Commencement Date. If any Catalogue Services are agreed from time to time by Parties in accordance with Schedule 8.2 (*Change Control*) then this Appendix 1 shall be updated to contain details of these services.

Appendix 2

Service Catalogue

1. INTRODUCTION

- 1.1. This Appendix 2 details the Service Catalogue that the Contractor shall use to provide Catalogue Services to the DCC.
- 1.2. The Parties have not identified any Catalogue Services at the Commencement Date. If any Catalogue Services are agreed from time to time by Parties in accordance with Schedule 8.2 (*Change Control*) then this Appendix 2 shall be updated to contain details of these services.

SCHEDULE 3

DCC RESPONSIBILITIES

1. OVERVIEW

- 1.1. The DCC Responsibilities in this Schedule 3 are presented in two sections:
 - 1.1.1. general DCC Responsibilities (as set out in paragraph 2 below); and
 - 1.1.2. specific DCC Responsibilities (as set out in paragraph 3 below).
- 1.2. Obligations, responsibilities and dependencies shall not be considered DCC Responsibilities unless expressly set out in this Schedule 3.
- 1.3. Without prejudice to the generality of paragraph 1.2, any obligations, responsibilities or dependencies of the DCC in:
 - 1.3.1. Schedule 2.1 (DCC Requirements);
 - 1.3.2. Schedule 2.5 (Security Management Plan) and all Contractor Security Documents;
 - 1.3.3. Schedule 4.1 (Contractor Solution);
 - 1.3.4. Schedule 4.2 (Technical Infrastructure);
 - 1.3.5. Schedule 6.1 (Implementation Planning) and the Implementation Plan;
 - 1.3.6. Schedule 6.2 (Testing and Acceptance) and all Test Documents;
 - 1.3.7. Schedule 8.5 (Exit) and the Exit Plan;
 - 1.3.8. Schedule 8.6 (Business Continuity and Disaster Recovery Plan) and the BCDR Plan;
 - 1.3.9. any Relevant Document;
 - 1.3.10. any Change; or
 - 1.3.11. any other document provided pursuant to this Agreement,

shall not be DCC Responsibilities and the DCC shall have no obligation, responsibility or dependency to perform any such obligations, responsibilities or dependencies unless they are expressly set out in this Schedule 3. During the design of the Contractor Solution, the DCC acknowledges that additional dependencies and responsibilities may be identified. The Contractor shall issue a Change Request identifying any proposed additional DCC Responsibilities and its rationale for such dependency or responsibility. The DCC shall consent to such Change Request provided that it is in all circumstances reasonable to do so.

GENERAL DCC RESPONSIBILITIES



General DCC responsibilities

- 1.4. The DCC shall also perform the obligations, responsibilities and dependencies set out in the table below:

DCC Responsibility	Description
Access to DCC premises etc.	<p>The DCC shall provide the Contractor with reasonable access to its own premises, systems and equipment to the extent such access is reasonably necessary for the Contractor to perform its obligations under this Agreement, and provided that:</p> <ul style="list-style-type: none"> a) such access shall be provided during the DCC's normal working hours on Business Days unless otherwise agreed by the DCC (such agreement not to be unreasonably withheld or delayed); and b) the Contractor, at all times, complies with all requirements of this Agreement applicable to the access and use of such premises, systems and equipment.
Access to DCC employees	<p>The DCC shall provide the Contractor with access to appropriate DCC employees to the extent such access is reasonably necessary for the Contractor to perform its obligations under this Agreement, and provided that:</p> <ul style="list-style-type: none"> a) such access shall be provided during the DCC's normal working hours on Business Days unless otherwise agreed by the DCC (such agreement not to be unreasonably withheld or delayed); and b) the Contractor, at all times, complies with all requirements of this Agreement applicable to the access to the DCC's employees.
Access to information etc.	<p>The DCC shall provide such documentation, data and/or other information that is in the possession or control of the DCC as reasonably requested by the Contractor, to the extent such documentation, data and/or other information is reasonably necessary for the Contractor to perform its obligations under this Agreement and provided that:</p> <ul style="list-style-type: none"> a) such documentation, data and/or information is available to the DCC and is authorised for release by the DCC; and b) that the Contractor, at all times, complies with all requirements of this Agreement applicable to the access and use of such documentation, data and/or other information.

Performance of DCC Service User responsibilities

- 1.5. The DCC shall use reasonable endeavours to ensure that the relevant DCC Service User(s) perform the obligations, responsibilities and dependencies



set out below:

DCC Service User obligations	Description
Provision of information	Provide information reasonably requested by the Contractor, where such information from the relevant DCC Service User(s) is necessary in order for the Contractor to resolve an Incident or a Problem.
Access to premises	Reasonable access to the premises of the relevant DCC Service User in relation to the installation and maintenance of circuits and equipment required in relation to the DCC User Gateway, provided that: a) such access shall be provided during the relevant DCC Service User's normal working hours on Business Days unless otherwise agreed by the relevant DCC Service User; and b) the Contractor, at all times, complies with all reasonable requirements of the relevant DCC Service User applicable to the access and use of such premises.
Specific Testing responsibilities	A minimum number of DCC Service Users required to commence Testing are available to start such Testing (including having made available all connections to be provided by each such DCC Service User) in line with the dates agreed in the Implementation Plan from time to time.
E-PDMS	DCC shall establish and maintain a product data management system for ECoS

2. SPECIFIC DCC RESPONSIBILITIES

2.1. The DCC shall perform the responsibilities set out below:

Clause Reference	DCC Responsibility	Description
	Gamma links	DCC will provide the necessary gamma links to connect the Contractor's environments to the

		DCC.
	CSP links	DCC will provide the necessary links to connect the Contractor's environments to each CSP.
	DCC Service Desk	DCC will provide access to the DCC Service Desk for the Contractor's Service team to allow the management on Incidents and Problems.
	TOC	DCC will provide: <ul style="list-style-type: none"> • Interface specification to provide data to the TOC • Access to the TOC dashboard by the Contractor's Service team to allow them to monitor the system status
	Anomaly Detection	DCC will provide: <ul style="list-style-type: none"> • A list of Service Requests, the fields within them and the values these are to be checked against • A list of Service Requests and the total number per time interval that are permitted
	Information Provision	All DCC documentation pertaining to standards and policies (or otherwise) related to this Agreement must be provided by the DCC to the Contractor in a timely manner.



SCHEDULE 4.1 CONTRACTOR SOLUTION

1. PURPOSE OF THIS SCHEDULE

1.1 This Schedule 4.1 sets out the Contractor's Solution.

2. CONTRACTOR SOLUTION

2.1 The Contractor Solution is defined by the Contractor Solution Design Documents listed in Appendix 1.

2.2 The Contractor shall create and maintain the Contractor Solution Design Documents in accordance with Schedule 6.3 (Development Process).

2.3 The Contractor Solution shall at any point in time be defined by the approved versions of the Contractor Solution Design Documents recorded on the Design Baseline.

2.4 The Contractor may make changes to the set of Contractor Solution Design Documents from time to time upon request to the DCC.

2.5 To support the release of a new set of Contractor Solution Design Documents the Contractor shall submit to the DCC a summary Design Note to accompany the new set of Contractor Solution Design Documents to identify the documents that have changed as part of the release and provide a summary of the changes included in each of the changed documents.

2.6 The Contractor shall create and maintain documents within the Service Management Framework in accordance with Schedule 6.3 (Development Process). These documents are listed in Appendix 2.

2.7 The Contractor shall create and maintain documents for Integration Testing in accordance with Schedule 6.2 (Testing and Acceptance). These documents are listed in Appendix 3.

2.8 The Contractor shall create and maintain documents for Exit Management in accordance with Schedule 8.5 (Exit). These documents are listed in Appendix 4.

Appendix 1 – Contractor Solution Design Documents

Ref	Name	Description	Level 2 Criterion	Version						
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]						
[REDACTED]	[REDACTED]	[REDACTED]	<table border="1"> <tr> <td data-bbox="1003 552 1408 647">[REDACTED]</td> </tr> <tr> <td data-bbox="1003 647 1408 743">[REDACTED]</td> </tr> <tr> <td data-bbox="1003 743 1408 839">[REDACTED]</td> </tr> <tr> <td data-bbox="1003 839 1408 903">[REDACTED]</td> </tr> <tr> <td data-bbox="1003 903 1408 963">[REDACTED]</td> </tr> </table>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]						
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]						

[REDACTED]

Ref	Name	Description	Level 2 Criterion	Version
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

In addition to the above documents, the Contractor will also produce other design documents as agreed from time to time which are provided to the DCC or Service Providers.

[REDACTED]

Appendix 2 – Service Management Framework Documents

Ref	Name	Description	Level 2 Criterion
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	

[REDACTED]

Ref	Name	Description	Level 2 Criterion
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Appendix 3 – Testing Documents

Ref	Name	Description
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Ref	Name	Description
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Appendix 4 – Exit Management Documents

Ref	Name	Description	Level 2 Criterion	Version
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



SCHEDULE 4.2
TECHNICAL INFRASTRUCTURE

1. PURPOSE OF THIS SCHEDULE

- 1.1. This Schedule 4.2 sets out the Contractor's obligations to produce and maintain complete and accurate records of the Technical Infrastructure.

2. ASSET REGISTER

- 2.1. The Contractor shall create and maintain an Asset register based on Schedule 4.1 (Contractor Solution) and as required in Schedule 8.5 (Exit) (the latest version of such register approved by the DCC in accordance with this Agreement from time to time being the "**Asset Register**").

- 2.2. The Asset Register shall comprise of four (4) sections covering physical Assets (including details of Transferrable Assets and Ongoing Access Assets), Software, other IPRs and a register of Sub-contracts and other agreements required for the performance of the Services, as outlined below and in accordance with any other obligations set out in this Agreement:

2.2.1. Physical Assets

General

- i. record of each Exclusive Asset and Ongoing Access Asset used as part of the Contractor Solution, to include:
 - A. a description of each Asset;
 - B. a categorisation of each Asset by type;
 - C. an individual Asset identification number for each Asset; and
 - D. the ownership status of each Asset;
- ii. a brief description of each Asset's use within the Contractor Solution;
- iii. the security "impact level" that each Asset will operate at;
- iv. the location of the Asset, including geographic and physical location;
- v. a Solution architecture reference number for each Asset;
- vi. the useful life of each Asset;
- vii. a report on disposal of each Asset;

Transferable Assets

- viii. a record of whether each Asset is a Transferable Asset;
- ix. the Transferable Asset Value of each Transferable Asset;
- x. a maintenance history of each Transferable Asset;

Ongoing Access Assets

- xi. a record of whether each Asset is an Ongoing Access Asset;
- xii. the manner in which such Ongoing Access Asset will continue to be made available to the DCC and/or any Replacement Contractor after exit;
- xiii. the scope of the rights of use available to the DCC and/or any Replacement Contractor in relation to such Ongoing Access Asset after exit;
- xiv. the duration of access arrangements in relation to such Ongoing Access Asset;
- xv. any other mechanisms to ensure that the DCC and/or any Replacement Contractor receives the benefit of such Ongoing Access Asset to the extent necessary to continue the provision of the Services after exit; and
- xvi. the charges, and any related commercial terms, relating to the on-going use of such Ongoing Access Assets after exit;

2.2.2. Register of Software

- i. the register required by paragraph 1.1(b) of Part B of Schedule 8.5 (Exit);

2.2.3. Register of other IPRs

- ii. the register required by paragraph 1.1(c) of Part B of Schedule 8.5 (Exit); and

2.2.4. Register of Sub-contracts and other agreements required for performance of the Services

- i. the register required by paragraph 1.1(d) of Part B of Schedule 8.5 (Exit).

3. INITIAL ASSET REGISTER

General

- 3.1. The parties have agreed that Appendix 1 (Initial Asset Register) shall, unless otherwise agreed by the parties following the Commencement Date, be the Asset Register from the Commencement Date.



- 3.2. The DCC acknowledges that the Assets indicated in the Asset Register as at the Commencement Date are not necessarily in the control or possession of the Contractor as at the Commencement Date and may be sourced by the Contractor in due course following the Commencement Date.
- 3.3. The Contractor shall ensure the Contractor Solution is provided using the Assets identified in the Asset Register (save as otherwise agreed by the parties in accordance with this Agreement).

4. UPDATING THE ASSET REGISTER

- 4.1. Subject to the ten (10) Business Day period referred to in paragraph 4.2 (and any time taken by the DCC to consider any proposed changes) and paragraph 4.3, the Contractor shall keep the Asset Register up-to-date at all times.
- 4.2. Subject to paragraph 4.3, within ten (10) Business Days following any change to the Contractor Solution the Contractor shall:
 - 4.2.1. review the Asset Register; and
 - 4.2.2. if appropriate, provide a proposed update of the Asset Register to the DCC for its approval.
- 4.3. The Contractor shall not make or permit any change to any of:
 - 4.3.1. the Contractor Solution that would require a change in the Asset Register; or
 - 4.3.2. the Asset Register,without the prior written approval of the DCC (not to be unreasonably withheld or delayed).
- 4.4. No changes shall take effect with respect to the Asset Register until approved by the DCC in accordance with this Agreement.

Appendix 1 – Initial Asset Register

Initial Asset Register – Physical Assets				
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Initial Asset Register - Software
As set out in Appendix 1 of Schedule 5.1 (Intellectual Property Rights)

Initial Asset Register IPR
As set out in Appendix 1 of Schedule 5.1 (Intellectual Property Rights)

Initial Asset Register - Sub-contracts and other agreements required for the performance of the Services
As set out in Appendix 1 (Relevant Agreements) of Schedule 8.5 (Exit)



SCHEDULE 4.3
SUB-CONTRACTORS

1. INTRODUCTION

- 1.1. This Schedule 4.3 sets out the processes around and terms governing:
 - 1.1.1. the Contractor's obligations in respect of any Sub-contractor;
 - 1.1.2. the DCC's rights in respect of any Sub-contracting by the Contractor;
 - 1.1.3. the requirements and obligations with which a Sub-contractor and a Key Sub-contractor must comply;
 - 1.1.4. the amendment of Sub-contracts; and
 - 1.1.5. a change in a Sub-contractor's status.

2. SUB-CONTRACTING

- 2.1. The Contractor shall (and shall ensure that each Sub-contractor shall):-
 - 2.1.1. satisfy itself, before entering into any Sub-contract (including in connection with the replacement of any Sub-contractor) that the proposed Sub-contractor is capable of satisfying the requirements imposed on it and/or the Contractor pursuant to this Agreement (including security and other requirements), including by conducting a security assessment of the proposed Sub-contractor;
 - 2.1.2. not Sub-contract to a person (including in connection with the replacement of any Sub-contractor) without the DCC's prior written consent, which shall not be unreasonably withheld or delayed. For the avoidance of doubt, this Paragraph 2.1.2 shall not apply to the appointment of Contractor Personnel; and
 - 2.1.3. not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights and obligations under this Agreement or any Sub-contract without the prior written consent of the DCC (such consent not to be unreasonably withheld or delayed).
- 2.2. The Contractor shall remain responsible for all acts and omissions of Contractor Persons, and the acts and omissions of those employed or engaged by the Contractor Persons, as if they were its own acts and omissions. Any obligation on the Contractor to do, or to refrain from doing, any act or thing under this Agreement or otherwise shall include an obligation upon the Contractor to procure that all Contractor Persons also do, or refrain from doing, such act or thing.
- 2.3. The DCC may, by written notice, require the Contractor to terminate any Sub-contract and/or remove the relevant Sub-contractor from the performance of the Services within ninety (90) days if:-



- 2.3.1. the acts or omissions of the relevant Sub-contractor have given rise to any right for the DCC to terminate this Agreement;
 - 2.3.2. the Sub-contractor has failed to comply with any requirement or warranty set out in this Agreement and, if remediable, the Sub-contractor has failed to remedy such breach within twenty (20) days of the DCC giving written notice of such failure to the Contractor;
 - 2.3.3. it is a Key Sub-contractor and (following a Prohibited Change of Control) the DCC has served a notice requiring the Contractor to terminate the Sub-contract and/or remove the relevant Sub-contractor from the performance of the Services in accordance with Clause 52.8.2; and/or
 - 2.3.4. an Insolvency Event affecting the relevant Key Sub-contractor occurs.
- 2.4. If any Sub-contract shall at any time during the Term expire, terminate or otherwise cease to be in full force and effect, the Contractor shall:-
- 2.4.1. immediately itself provide suitable replacement services or appoint a replacement Sub-contractor; and
 - 2.4.2. ensure that the relevant Sub-contractor shall, where relevant, comply with the applicable provisions of this Agreement, including Clause 48.4 (Consequences of Expiry or Termination) as if the relevant Sub-contractor were the Contractor at the end of the Term.
- 2.5. If the DCC exercises its rights under this Schedule 4.3, the Contractor shall:-
- 2.5.1. ensure the Services continue to be provided without interruption (including without any degradation in quality or performance against the Performance Measures);
 - 2.5.2. ensure the Services are provided at no additional Charge to the DCC (and any extra costs or expense shall be borne by the Contractor);
 - 2.5.3. immediately put forward proposals for the interim management or provision of the relevant Services until such time as an alternative Sub-contractor can be engaged by the Contractor in accordance with this Agreement. If the Contractor fails to put forward such proposals (or if such proposals, if implemented, are not reasonably likely to ensure provision of the relevant Services in accordance with this Agreement) then, without prejudice to the DCC's other rights or remedies, the DCC may perform, or procure a third party to perform, such Services; and
 - 2.5.4. not be entitled to any relief or forbearance as a result of any delay in the appointment of a replacement Sub-contractor (unless and to the extent that the DCC has withheld or delayed its consent contrary to an express provision of this Agreement).
- 2.6. For the avoidance of doubt, the Contractor shall not be entitled to any reimbursement, costs or expenses (including in connection with termination compensation payments to Sub-contractors) in connection with the performance of any obligation under this Schedule 4.3.

- 2.7. The Contractor shall ensure that a term is included in each Sub-contract permitted under this Agreement which requires the Contractor to pay any undisputed sums due to its Sub-contractors within a specified period that does not exceed thirty (30) days from the date on which the Contractor receives the relevant Sub-contractor's invoice. The Contractor shall ensure that all Sub-contractors are paid promptly and in accordance with each Sub-contract.
- 2.8. The Contractor shall not (and shall ensure it and all other Contractor Persons do not and shall not take steps to) terminate or materially amend the terms of any Sub-contract without the DCC's prior written consent, which shall not be unreasonably withheld or delayed.
- 2.9. The DCC will be deemed to have given its consent to the use of the Key Sub-contractors listed at the Commencement Date in Appendix 1 to this Schedule 4.3, for the purposes set out therein. As at the Commencement Date, the Contractor has ensured Appendix 1 lists all Key Sub-contractors and Appendix 2 lists all Sub-contractors (other than Key Sub-contractors and Commodity Suppliers). The Contractor shall ensure at all times that Appendix 1 and Appendix 2 are updated in accordance with the terms of this Agreement and remain accurate and complete throughout the Term.
- 2.10. Where the proposed or existing Sub-contractor is also an Affiliate of the Contractor, the Contractor shall ensure the proposed or existing Sub-contract has been agreed on "arms-length" terms.

3. SUB-CONTRACTOR INFORMATION

- 3.1. The Contractor agrees that, subject to paragraph 8, in making a request pursuant to Paragraph 2.1 or at any time subsequently requested by the DCC, the Contractor shall provide the DCC with all of the information about any proposed or existing Sub-contractor (other than any Commodity Supplier) as set out in Appendix 3, any further information reasonably requested by the DCC, and, for each Key Sub-contractor, a copy of the proposed or existing Sub-contract which the Contractor may, without prejudice to its obligations under Clause 13 and Schedule 8.4 (Records and Audit Provisions), redact (acting reasonably) to preserve the confidentiality of sensitive financial information contained therein.

4. SUB-CONTRACTOR REQUIREMENTS

- 4.1. Without prejudice to the Contractor's other obligations under this Schedule 4.3 or this Agreement generally, the Contractor shall, unless the DCC has agreed otherwise in writing and the same having been recorded in accordance with paragraph 2.9 above:
 - 4.1.1. procure its Sub-contracts in a manner that secures value for money in terms of the combination of quality and cost over the lifetime of the Sub-contract, employing transparent and objective procurement processes; if appropriate, provide a proposed update of the Asset Register to the DCC for its approval.
 - 4.1.2. prior to entering into any Sub-contract, determine (acting reasonably) which of the:



- (i) Security Standards;
- (ii) the Security Requirements;
- (iii) the provisions of Clauses 29 (Contractor Personnel), 35 (DCC Data), 36 (Protection of Personal Data) and 37 (Confidentiality) and Schedule 9.2 (Personnel and Key Personnel); and/ or
- (iv) any other obligations of the Contractor relating to security and integrity of systems and information under this Agreement (including the Contractor's obligations under Schedule 2.5 (Security Management Plan)),

will need to be imposed on the relevant Sub-contractor (together, the "**Sub-contractor Security Obligations**"), taking account of the nature and scope of the obligations to be performed by the relevant Sub-contractor in relation to this Agreement;

- 4.1.3. ensure that the Sub-contractor Security Obligations are clearly specified in the relevant Sub-contract and that such Sub-contractor is not an Unsuitable Sub-contractor (unless otherwise agreed by DCC);
- 4.1.4. in relation to any Key Sub-contractor, ensure that, subject to paragraph 3 above, a copy of the relevant Sub-contract containing the Sub-contractor Security Obligations is provided to the DCC prior to the execution of the relevant Sub-contract in order to enable the DCC to assess the adequacy and appropriateness of the Sub-contractor Security Obligations (as part of determining whether to consent to the proposed Sub-contracting arrangement under Clause 28 (Supply Chain Rights));
- 4.1.5. provide the relevant Sub-contractor, for information purposes, with appropriate details of any Security Standards, Security Requirements and/or other obligations of the Contractor relating to security and integrity of systems and information under this Agreement (including the Contractor's obligations under Schedule 2.5 (Security Management Plan)), which are not required to form part of the Sub-contractor Security Obligations, but which are nonetheless relevant to the obligations under this Agreement to be performed by the relevant Sub-contractor; and
- 4.1.6. put in place such arrangements with the relevant Sub-contractor as necessary to ensure the Contractor can comply with its obligations to provide such information and rights of access and assistance to the DCC (or any Regulatory Body) as are required under this Agreement, including for the DCC to exercise its rights pursuant to Schedule 8.4 (Records and Audit Provisions).

4.2. The Contractor shall not make use of a pre-existing contract with:

- 4.2.1. any Key Sub-contractor, including those listed as such in Appendix 1 of this Schedule 4.3, without the prior written consent of the DCC, which shall not be unreasonably withheld or delayed; and/or

- 4.2.2. any Sub-contractor (other than a Key Sub-contractor or a Commodity Supplier), including those listed as such in Appendix 2 to this Schedule 4.3, unless it has first put in place arrangements and notified the DCC of its compliance with paragraph 4.1 above.

5. KEY SUB-CONTRACTORS: ADDITIONAL REQUIREMENTS

- 5.1. Unless the DCC has agreed otherwise in writing, the Contractor shall ensure that each Key Sub-contract shall, in addition to the obligations set out in paragraph 4 above, include (and the relevant Key Sub-contractor shall comply at all times with) the provisions set out in Appendix 4 to this Schedule 4.3 in a manner that is substantially similar to the equivalent provisions set out in the Agreement.
- 5.2. In addition to those Key Sub-contractors listed at the Commencement Date in Appendix 1 as having already agreed appropriate provisions enabling the Contractor to assign, sublicense, transfer or otherwise dispose of any of its rights, or subcontract, transfer or otherwise dispose of any of its obligations under the Key Sub-contract to the DCC when requested by the DCC in the circumstances listed for each relevant Key Sub-contract in Appendix 1, the DCC may, as a condition of its consent under Clause 29 (Contractor Personnel) and under this Schedule after the Commencement Date, require that:
 - 5.2.1. the relevant Key Sub-contractor enters into similar arrangements to the ones described above or a direct agreement with the DCC, in which case the Contractor shall procure that the relevant Key Sub-contractor irrevocably consents to and/or enters into a direct agreement with the DCC (including on terms at least as favourable to the DCC (and as onerous on the Key Sub-contractor as the Contractor) as this Agreement and without the requirement for any costs or charges (or additional Charges)) as soon as reasonably possible and on such terms as may be reasonably requested by the DCC; and/or
 - 5.2.2. the Key Sub-contractor immediately enters into a Direct Step-In Option Agreement with the DCC.

6. AMENDMENT OF SUB-CONTRACTS

- 6.1. Without prejudice to any provisions of this Schedule 4.3 and in particular, paragraph 7 below, the Contractor shall not (and shall ensure it and all other Contractor Persons do not and shall not take steps to) terminate or materially amend the terms of any Key Sub-contract without the DCC's prior written consent, which shall not be unreasonably withheld or delayed.

7. CHANGE IN SUB-CONTRACTOR STATUS

- 7.1. The Contractor agrees that should there be a change in status such that:
 - 7.1.1. a Sub-contractor at any time meets the definition of a Key Sub-contractor; or
 - 7.1.2. a Key Sub-contractor ceases to meet the definition of a Key Sub-contractor for a period of one (1) month; or

- 7.1.3. Contractor Person contemplates any change in any arrangements that may have any such effects as set out in paragraphs 7.1.1 or 7.1.2,

but in each case remains a Sub-contractor, then the Contractor shall notify the DCC at once (and, in any event, within two (2) Business Days of such change in status occurring).

- 7.2. The Contractor agrees that the following changes in status shall be subject to the prior written consent of the DCC, which shall not be unreasonably withheld or delayed:

7.2.1. a change in status of a Sub-contractor (that did not meet the definition of a Key Sub-contractor) to a Key Sub-contractor; and

7.2.2. a Key Sub-contractor losing its status of Key Sub-contractor.

- 7.3. The Contractor agrees that where an existing Sub-contractor becomes a Key Sub-contractor, other than as a result of its contract value exceeding the defined threshold, the provisions and requirements of this Agreement (including Clause 28 (Supply Chain Rights) and this Schedule 4.3) shall apply to such Sub-contract as if it was a Key Sub-contract from the outset or, as applicable, sixty (60) days after exceeding the defined contract value threshold, including that the Contractor shall be in material breach of Clause 28 (Supply Chain Rights) of this Agreement unless the DCC has granted all prior consents in accordance with this Schedule 4.3.

8. PROVISION OF INFORMATION RESTRICTED BY LAW

- 8.1. If the supply of information required pursuant to paragraphs 3 (Sub-contractor Information), 4 (Sub-contractor Requirements) or 5 (Key Sub-contractors: Additional Requirements) would amount to a breach of any rules and/or regulations of any exchange on which the shares of the Contractor or a Sub-contractor are admitted for listing and/or trading, or any other rules and/or regulations with which the Contractor or Sub-contractor is obliged to comply as a result of that listing, the Contractor shall provide the DCC with the relevant information to the fullest extent permitted by those rules and/or regulations.

9. DISPUTE RESOLUTION

- 9.1. Any Dispute under this Schedule 4.3 should be dealt with through the Dispute Resolution Procedure except that, in the event of any Dispute as to whether a Sub-contractor is a Key Sub-contractor, the determination of the DCC shall be final (acting reasonably).

Appendix 1 – Key Sub-contractors

Sub-contractor Name	Registered Address and Company Number	Product / Service Description	Pre-existing contract (see paragraph 5.2) Yes / No	Agreed exceptions to obligations in this agreement Yes / No
n/a				



**Appendix 2 – Sub-contractors
(excluding Key Sub-contractors and Commodity Suppliers)**

Sub-contractor Name	Registered Address and Company Number	Product / Service Description	Agreed exceptions to obligations in this agreement Yes / No
n/a			



Appendix 3 – Sub-contractor Information

1. Sub-contractor name, registered office and company registration number;
2. the purposes for which the proposed or existing Sub-contractor will be or is contracted, including the scope of any services provided or to be provided by the proposed or existing Sub-contractor;
3. confirmation that each existing or proposed Sub-contract requires the proposed or existing Sub-contractor to comply with:
 - 3.1. any relevant Performance Measures;
 - 3.2. the terms of paragraphs 4 (Sub-contractor Requirements) and 5 (Key Sub-contractors: Additional Requirements) of this Schedule 4.3 (as the case may be); and
 - 3.3. any other terms of this Agreement which are expressly stated to apply to Sub-contractors;
4. where the proposed or existing Sub-contractor is also an Affiliate of the Contractor, evidence that demonstrates to the reasonable satisfaction of the DCC that the proposed or existing Sub-contract has been agreed on "arms-length" terms and any further information reasonably requested by the DCC; and
5. all information required by the DCC to determine whether the Sub-contractor may be an Unsuitable Sub-contractor.

Appendix 4 – Key Sub-contractor Obligations

Key Sub-contract Provision	Corresponding Clause of Agreement (where relevant)
Provisions enabling the Contractor to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-contract (without cost, charge or expense to the Contractor, DCC or Replacement Contractors) to the DCC or a Replacement Contractor on termination or expiry of this Agreement in whole or in part.	N/A
A right under the Contracts (Rights of Third Parties) Act 1999 for the DCC to enforce the terms of that Key Sub-contract as if it were the Contractor.	N/A
Provisions restricting the ability of the Key Sub-contractor to further subcontract, assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights and obligations under its Sub-contract or any elements of the services provided to the Contractor unless it and the Contractor are at all times compliant with the requirements of Clause 28 (Supply Chain Rights).	N/A
Provisions requiring the Key Sub-contractor to comply with the terms of and provide such information as to enable the Contractor to comply with Clause 25 in respect of the services provided by the relevant Key Sub-contractor only.	Clause 25 (Records and Audit)
Provisions requiring the Key Sub-contractor to comply with Clauses 29 and 33.	Clause 29 (Contractor Personnel) Clause 33 (Non-Solicitation)
Provision requiring the Sub-contractor to comply with the provisions of Clauses 35 and 36.	Clauses 35 (DCC Data) Clause 36 (Protection of Personal Data)
Provisions requiring the Sub-contractor to comply with the obligations as to confidentiality set out in Clause 37 and requiring the Key Sub-contractor, at the DCC's request, to enter into a direct confidentiality agreement with the DCC on the same terms as set out in Clause 37.	Clause 37 (Confidentiality)
Provisions enabling the DCC or any person on behalf of the DCC, to exercise rights of step-in and enhanced scrutiny on substantially the same terms as set out in Schedule 8.10 (Enhanced Scrutiny and Step-in) and for the Sub-contractor to accept and undertake such actions and/or management directions as may be required by the	Schedule 8.10 (Enhanced Scrutiny and Step-in)

<p>DCC and/or the Contractor to mitigate or rectify the state of affairs which entitle the DCC to exercise its such rights and, if the DCC requires the Key Sub-contractor to enter into a Direct Step-In Option Agreement, provisions requiring the Key Sub-contractor to immediately effect and at all times comply with such Direct Step-In Option Agreement.</p>	
<p>A provision requiring the Key Sub-contractor to comply with the restrictions on corrupt gifts and payments pursuant to Clause 55.</p>	<p>Clause 55 (Prevention of Corruption)</p>
<p>Provisions requiring the Sub-contractor to comply with Clauses 18, 13, 31 and 32.</p>	<p>Clause 18 (Independence and Non-Discrimination Obligations)</p> <p>Clause 13 (Contractor Cooperation and Assistance)</p> <p>Clause 31 (Health and Safety)</p> <p>Clause 32 (Equality and Diversity)</p>
<p>Provisions requiring the Key Sub-contractor to notify the DCC promptly in writing of any material non-payment or late payment of any sums properly due under the Sub-contract to the Key Sub-contractor from the Contractor (or any other Contractor Person) under a specified valid invoice and not subject to a genuine dispute.</p>	<p>N/A</p>
<p>Provisions requiring the Key Sub-contractor to promptly notify the Contractor and the DCC in writing of a Financial Distress Event affecting such Key Sub-contractor or any fact, circumstance or matter which could cause such a Financial Distress Event (and, in any event, provide such notification within five (5) Working Days of the date on which the Key Sub-contractor first becomes aware of such a Financial Distress Event or any fact, circumstance or matter which could cause such a Financial Distress Event).</p>	<p>Schedule 7.4 (Financial Distress)</p>
<p>Provisions requiring the Key Sub-contractor to co-operate with the Contractor and the DCC in order to give full effect to the provisions of Part G of Schedule 7.4, including meeting with the Contractor and the DCC to discuss and review the effect of any Financial Distress Event on the continued performance and delivery of the Services, and contributing to and complying with the Financial Distress Service Continuity Plan.</p>	<p>Schedule 7.4 (Financial Distress)</p>



SCHEDULE 5.1
INTELLECTUAL PROPERTY RIGHTS

1. Principles

- 1.1 The Contractor Solution shall comprise of IPR ownership that does not directly or indirectly constrain the DCC's ability to contract with third parties to use, modify, amend or vary the Contractor Solution or for the DCC to use the Contractor Solution for another purpose than that identified in the Agreement.
- 1.2 The Contractor warrants that as much of the Contractor Solution as is practicable is comprised of Commercially Available Software. The Contractor shall not create Project Specific IPR or create or use any Contractor IPR in the Contractor Solution where Commercially Available Software provides the same or substantially similar functionality.

2. Third Party IPR

- 2.1 The Contractor warrants that all Third-Party IPR (including Third Party Software) required for the performance of the Services is set out in Appendix 1. The Contractor shall ensure that it includes in Appendix 1 all Third Party IPR used by the Contractor notwithstanding that it does not require the DCC to hold any licences in respect of the same.
- 2.2 If the Contractor Solution requires any licences of Third Party IPR for the Permitted Purpose then:
- (a) the Contractor shall procure the licences for the Third Party IPR as specified in Appendix 1 for the Permitted Purpose on the terms specified in Appendix 1; and/or
 - (b) the DCC shall procure licences for its own benefit for the Third Party IPR as specified in Appendix 1.
- 2.3 If a requirement for the DCC to hold any licence for Third Party IPR is not specified in Appendix 1 then it shall be deemed as unnecessary for the DCC to hold such licence to receive the benefit of the Services. To the extent that licences are required for Third Party IPR not specified in Appendix 1 or such software is not identified pursuant to Paragraph 2.2 above and such licences are required by the DCC to receive the benefit of the Services (or the Permitted Purpose) then the cost of such licences shall be for the Contractor's account.
- 2.4 The Contractor warrants and represents that any Third Party IPR specified in Appendix 1 or otherwise required (pursuant to paragraph 2.3 above) for the performance of the Services shall be licensed on such terms as to ensure that it can be used for the Permitted Purpose.

3. Project Specific IPR




- 3.1 The Contractor hereby assigns to the DCC title to and all rights and interest in the Project Specific IPR or shall procure that the first owner of the relevant Project Specific IPR assigns them to the DCC on the same basis.
- 3.2 The assignment under Paragraph 3.1 shall take effect on the Commencement Date or as a present assignment of future rights that will take effect immediately upon the coming into existence of any Project Specific IPR.
- 3.3 The assignment under Paragraph 3.1 shall be with full title guarantee, free from incumbrances and shall include the right to take action for any past, present or future damages or other remedies in respect of any infringement.
- 3.4 If requested to do so by the DCC, the Contractor shall without charge to the DCC execute all documents and do all such further acts as the DCC may require to perfect the assignment under Paragraph 3.1 or shall procure that the owner of the relevant Project Specific IPR does so on the same basis.
- 3.5 The Contractor acknowledges and accepts that the DCC may subsequently transfer the title to and all rights and interest in the Project Specific IPR to any third party.
- 3.6 The Contractor hereby grants the DCC a non-exclusive, perpetual, royalty-free, transferrable and sub-licensable licence to any Contractor IPR and Third Party IPR that are embedded in, form an integral part of, or are otherwise necessary for the operation of the Project Specific IPR.

4. Open Source Software

- 4.1 The Contractor may only use the Open Source Software specified in Appendix 1. The Contractor shall not be entitled to use any other Open Source Software unless it has been agreed by the DCC in accordance with Schedule 8.2 (**Change Control**).

5. Contractor IPR

- 5.1 Without prejudice to the Contractor's obligations under Paragraph 3.6, the Contractor hereby grants the DCC a royalty-free, irrevocable, sub-licensable (in accordance with Paragraph 5.3 below), transferrable (in accordance with Paragraph 5.3 below) and non-exclusive licence during the Term to Use the Contractor IPR specified in Appendix 1 for the Permitted Purpose.
- 5.2 To the extent that the DCC requires the Contractor IPR after the end of the Term then the Contractor shall negotiate in good faith to agree terms for the use of such Contractor IPR by the DCC or any Replacement Contractor. The Contractor undertakes that such terms and the fee for such licence shall be in all circumstances reasonable (and not materially disadvantageous to those applying previously).
- 5.3 The DCC may sub-licence its rights under Paragraph 5.1 to:
 - (a) any DCC Eco-System Entity (including any replacements for such persons from time to time);
 - (b) any Regulatory Body (or any third party representative acting on behalf of any Regulatory Body from time to time) to the extent necessary for such persons to:-


- (i) exercise any of the rights of such Regulatory Body under the terms of any applicable Mandatory Requirements, including the DCC Licence and/or the SEC; and
- (ii) otherwise fulfil any of the statutory duties of such Regulatory Body under the terms of any applicable Mandatory Requirements regarding the Smart Metering Programme;
- (c) any DCC Service Provider to the extent necessary for the DCC Service Provider to provide goods and/or services to the DCC in connection with the Permitted Purpose; and
- (d) subject to payment of a reasonable licence fee (agreed in accordance with Paragraph 5.2), determined with reference to the scope of such licence, any Replacement Contractor.

6. Assignment and Novation

6.1 The Contractor acknowledges and agrees that if this Agreement is novated, assigned or otherwise transferred to any person in accordance with Clause 52 (*Assignment and Novation*) (the “**Transferee**”), then:

- (a) the licences granted by the Contractor under this Schedule 5.1 and the other rights of the DCC under this Agreement, shall automatically transfer to the Transferee on the same terms as such licences and rights are granted under this Agreement; and
- (b) each Transferee shall be entitled, in perpetuity, to transfer such licences and rights to any person who is subsequently licensed to carry on the Authorised Activity.

6.2 If, for any reason, this Agreement is not novated, assigned or otherwise transferred to any person in accordance with Clause 52 (*Assignment and Novation*), the Contractor undertakes to grant equivalent licences and rights to those set out in this Schedule 5.1 to:

- (a) each Successor Licensee; and
- (b) any other person who is subsequently licensed to carry on the Authorised Activity,

to the extent necessary for each Successor Licensee (or any other person referred to in Paragraph 6.2) to exercise its functions under or pursuant to its licence to carry on the Authorised Activity.

7. DCC IPR AND DCC SERVICE PROVIDER IPR

7.1 The DCC hereby grants to the Contractor a royalty-free, non-exclusive and non-transferrable licence to Use the DCC IPR and the Project Specific IPR during the Term solely to the extent necessary for the performance of the Services in accordance with this Agreement.

7.2 The DCC shall procure the grant to the Contractor of a royalty-free, non-exclusive and non-transferrable licence to Use the DCC Service Provider IPR as specified in Appendix 1 during the Term solely to the extent necessary for the performance of the Services in accordance with this Agreement.

7.3 In the event of the termination or expiry of this Agreement the licences referred to in Paragraph 7 shall terminate automatically with effect from the end of the Termination Assistance Period and the Contractor shall deliver to the DCC all material licensed to the Contractor pursuant to Paragraph 7 in the Contractor's possession or control.

8. Warranties

8.1 In performing its obligations under this Agreement, all Software used by or on behalf of the Contractor will:-

- (a) unless otherwise agreed under the Change Control Procedure, at all times be fully supported versions of that Software; and
- (b) perform in all material respects in accordance with the specification.

8.2 The Contractor warrants and undertakes to the DCC that from the Warranty Period (including where calculated under Paragraph 8.6), the Specially Written Software shall be free from Software Defects.

8.3 If the DCC gives notice to the Contractor within the Warranty Period of any Software Defect ("**Warranty Claim**"), the Contractor shall on receipt of such Warranty Claim prepare and deliver to the DCC a correction plan ("**Correction Plan**") which shall set out:

- (a) a description of the problem and the root cause;
- (b) a description of what is required to resolve the problem;
- (c) a date and time when the problem will be solved;
- (d) a set of milestones (if relevant) to solving the problems and their related dates; and
- (e) any dependencies on the DCC and actions that are required to be taken by the DCC.

8.4 The Contractor shall deliver the Correction Plan to the DCC pursuant to Paragraph 8.3 in accordance with the following timescales:

- (a) Severity Level 1 Software Defect: One (1) Business Day; and
- (b) Severity Level 2 Software Defect: Ten (10) Business Days.

8.5 The Contractor shall remedy the Software Defect in accordance with the Correction Plan following delivery to the DCC.

8.6 Where the Contractor remedies a Software Defect pursuant to Paragraph 8.5, a new Warranty Period in respect of the relevant Software shall commence on the date that

such Software is delivered back to the DCC following successful remediation of the Software Defect.

- 8.7 The Contractor shall bear both Parties' costs and expenses in respect of the remediation of such Software Defect pursuant to Paragraph 8.5, including additional costs being those incurred by other DCC Service Providers arising from or related to the Software Defect.

9. Registers and Software Depository

- 9.1 The Contractor shall maintain and keep updated at all times a register of all IPR comprised in the Contractor Solution including without limitation, Commercially Available Software, Project Specific IPR, Open Source Software, Contractor IPR, DCC IPR and any DCC Service Provider IPR.

- 9.2 The Contractor shall make such register available for the DCC's review on not less than five (5) Business Days' notice.

- 9.3 The Contractor shall deliver to the DCC's software depository (from time to time notified to the Contractor) an up-to-date copy of the Source Code Materials:

(a) comprised in the Project Specific IPR (and any modification or Change thereto); and

(b) any Contractor IPR and Third Party IPR in accordance with Paragraph 3.6,

not later than the Service Commencement Date (and in respect of any modification or Change within twenty (20) Business Days of such modification or Change being implemented).

- 9.4 The Contractor shall ensure at all times during the Term that the Source Code Materials placed in the DCC's software depository are kept fully up-to-date and accurately reflect the version of any software comprised in the Project Specific IPR then in use (including any modifications of Changes thereto).

- 9.5 The DCC reserves the right at any time to verify, analyse and test the Source Code Materials delivered to the DCC pursuant to this Paragraph 9 on not less than ten (10) Business Days' notice to the Contractor. Such exercises purpose shall (without limitation) verify:

(a) the Source Code Materials are complete and comply with the requirements of this Agreement regarding the scope and content of such Source Code Materials;

(b) the Source Code Materials contain all of the Software and other information and materials that would be necessary for the DCC, a Replacement Contractor or any entity referred to in Paragraph 5.3, including that:

(i) any compressed files included within the Source Code Materials can be decompressed;

(ii) any encrypted files included within the Source Code Materials can be read; and

- (iii) any password-protected files within the Source Code Materials can be accessed;
 - (c) the Source Code Materials do not contain any malicious software; and
 - (d) the Source Code Materials otherwise comply with the requirements of this Agreement.
- 9.6 The DCC may at its absolute discretion procure a third-party tester to perform the Verification Exercise.

10. General

- 10.1 The Contractor shall waive or procure a waiver of any moral rights in any copyright works assigned to the DCC under this Agreement.
- 10.2 Where either party acquires, by operation of Law, title to IPR that is inconsistent with the allocation of title set out in this Schedule 5.1, it shall promptly do all acts and things as may be necessary, and execute all necessary documents, to assign such IPR as it has acquired to the other party and, pending such assignment, shall hold all such IPR on trust for the other party.
- 10.3 Where any of the Contractor Entities acquires, by operation of Law, title to IPR that is inconsistent with the allocation of title set out in this Schedule 5.1, the Contractor shall procure that:
- (a) the relevant Contractor Entity shall promptly do all acts and things as may be necessary, and execute all necessary documents, to assign such IPR as it has acquired to the DCC; and
 - (b) pending such assignment, the relevant Contractor Entity shall hold all such IPR on trust for the DCC.
- 10.4 Nothing in this Schedule 5.1 shall prevent any person from using any techniques, ideas or know-how of generic application gained during the performance of the Agreement in the course of its normal business to the extent that such person does not:
- (a) infringe the Intellectual Property Rights of the other party or any third party; or
 - (b) breach its obligations of confidentiality under this Agreement or under agreements with third parties.

Appendix 1

Software

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Category of IPR	Description	Area of Service	Owner or Licensor	Licensee	Notes
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
				[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
				[REDACTED]	
				[REDACTED]	
				[REDACTED]	

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
				[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
				[REDACTED]	

[REDACTED]

SCHEDULE 5.4

CONFIDENTIAL AND COMMERCIALY SENSITIVE INFORMATION

Title of document	Date of document	Description of document	Confidential Information	Commercially Sensitive Information	Duration of sensitivity
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

ECoS Schedule 5.4 (Confidential and Commercially Sensitive Information) (Critical Software)

SCHEDULE 6.1 IMPLEMENTATION PLANNING

PURPOSE

This Schedule 6.1 (*Implementation Planning*) sets out:

- (a) the Milestones applicable to the Services;
- (b) the process for the preparation, implementation and on-going review of the Implementation Plan; and
- (c) certain additional governance arrangements.

This Schedule 6.1 should be read in conjunction with Schedule 6.2 (*Testing and Acceptance*) and Schedule 6.3 (*Development Process*).

This Schedule 6.1 comprises the following parts:

Part	Scope
Part A	Overview
Part B	Milestones
Part C	Implementation Plan
Part D	Governance arrangements and Reporting
Part E	Definitions
Appendix 1	Milestones for the Implementation Plan
Appendix 2	Required content of the Implementation Plan
Appendix 3	Draft Implementation Plan
Appendix 4	Form of Milestone Achievement Certificate

PART A – OVERVIEW

1. GENERAL OBLIGATIONS OF THE PARTIES

General

- 1.1 The parties acknowledge the importance of detailed planning for the delivery of the Services, including the need to develop the Implementation Plan in accordance with this Schedule 6.1, and the importance of such planning being undertaken in conjunction with the Hosting and Service Management Service Provider and any other DCC Service Providers relevant for delivery of the Services.
- 1.2 Subject to Clause 11 (*DCC Responsibilities*), the Contractor shall be responsible for the orderly and timely implementation of the Services in accordance with this Schedule 6.1, the Implementation Plan and the other requirements of this Agreement.
- 1.3 Without limiting the Contractor's obligations under paragraph 1.2 and Schedule 8.7 (*Co-operation*), the Contractor shall co-operate with the DCC and, where applicable, any DCC Service Provider to ensure the orderly and timely implementation of the DCC Services.

Order of Precedence

- 1.4 If there is any conflict between any of the following documents, the conflict shall be resolved in accordance with the following order of precedence (in descending order of precedence):
 - (a) this Schedule (and its Appendices and Annexes) and Schedule 6.2 (*Testing and Acceptance*) (and its Appendices and Annexes) (which shall rank equally in the order of precedence in accordance)); and
 - (b) the Implementation Plan.

DCC Responsibilities

- 1.5 Without prejudice to any circumstance that may amount to a DCC Cause or an Other Service Provider Cause, the DCC shall have no responsibility, liability or obligation in connection with any of:
 - (a) the Draft Implementation Plan; and
 - (b) any part of any Implementation Plan other than the part clearly headed "DCC Responsibilities" in accordance with paragraph 1.2 of Part C and paragraphs 1.7 and 1.8 of Appendix 2,

and Clauses 12 (*Relief Events*) of this Agreement shall be construed accordingly and any performance or non-performance of any obligation referred to in any document or part of a document mentioned in this paragraph 1.5 shall NOT be a DCC Cause.

Draft Implementation Plan

ECoS Schedule 6.1 (Implementation Planning) (Critical Software)

- 1.6 The initial version of the Implementation Plan (the "**Draft Implementation Plan**") is attached as Appendix 3 (*Draft Implementation Plan*).
- 1.7 The Contractor acknowledges that the Draft Implementation Plan was developed without input by the DCC and that as such the DCC shall have no DCC Responsibilities or obligations under the Draft Implementation Plan.
- 1.8 All dependencies, obligations or responsibilities express or implied to be on the DCC and all assumptions under the Draft Implementation Plan shall not be binding on the DCC (or give rise to a DCC Cause) save to the extent incorporated into a subsequent version of such document approved by the DCC in accordance with this Agreement.
- 1.9 The DCC and Contractor shall seek to agree a revised version of the Draft Implementation Plan as soon as possible following the Commencement Date under the process set out in paragraph 2 of Part C.
- 1.10 Paragraphs 1.6 to 1.9 (inclusive) of this part shall be without prejudice to the Master Milestone Table (which as at the Commencement Date shall be that set out in Appendix 1 of this Schedule as further explained in Appendix 3).

2. **NEW SERVICES, PROJECTS AND CHANGES**

- 2.1 Where required by the DCC, the parties shall comply with the procedures set out in this Schedule 6.1 (and the testing procedures set out in Schedule 6.2 (*Testing and Acceptance*)) in relation to the implementation of Catalogue Services, Projects and/or Changes (each, a "**New Implementation**"), including:
 - (a) agreeing Milestones for the New Implementation;
 - (b) the preparation and approval of an updated Implementation Plan for the New Implementation in accordance with Part C of this Schedule 6.1 (provided that the required content of the updated Implementation Plan – as set out in Appendix 2 – shall be amended for the purposes of the New Implementation as agreed by the parties in writing); and
 - (c) compliance with the additional governance arrangements set out in Part D of this Schedule 6.1.

3. **SYSTEM INTEGRATION**

- 3.1 The Contractor shall at all times integrate and interface its Systems with all Systems of the Integration Parties to deliver the DCC Services as required pursuant to Schedule 2.1 (*DCC Requirements*), the Implementation Plan and the other obligations under this Agreement.
- 3.2 The Contractor shall co-ordinate availability of and access to all its environments and Systems required for Testing in any of the Test Stages in a manner consistent with the agreed Test Plan and the Performance Measures.

3.3 The Contractor shall liaise with the Hosting and Service Management Service Provider to co-ordinate availability of the Contractor System in all the Test Environments required for Testing in any of the Test Stages in a manner consistent with the agreed Test Plan and the Performance Measures where the Hosting and Service Management Service Provider is responsible for the Test Environment as defined in Appendix 2 of Schedule 6.2 (*Testing & Acceptance*).

4. **Interfaces – General**

4.1 The Contractor:

- (a) shall comply with the Interface Specification and Codes of Connection; and
- (b) if and to the extent it produces its own Interface Specification and associated Codes of Connection, it shall be responsible at its sole cost for determining the root cause of and remedying any defect in its Interface Specification and associated Codes of Connection.

PART B – MILESTONES

1. CONTRACTOR OBLIGATIONS: CONTRACTOR MILESTONES

1.1 The Contractor shall perform its obligations under the Implementation Plan, and under this Agreement generally, so as to ensure that each Contractor Milestone is Achieved by the applicable Milestone Date.

1.2 If:

- (a) the Contractor has failed to Achieve any Contractor Milestone by the applicable Milestone Date; or
- (b) the DCC (acting reasonably) considers that the Contractor shall not, or is unlikely to, Achieve any Contractor Milestone by the applicable Milestone Date,

then the parties shall have the rights and remedies, and shall be subject to the obligations, set out in this Agreement, including:

- (i) Clause 7.2 (*Implementation Plan*) (*Delay*);
- (ii) Clause 10 (*Rectification Plan*); and/or
- (iii) paragraph 6 of Schedule 7.1 (*Charges and Payments*).

2. ACCEPTANCE ACTIVITIES AND MILESTONE ACHIEVEMENT CERTIFICATES

2.1 The Contractor shall ensure the DCC has reasonable opportunity to conduct the equivalents of Product Inspection, Document Review and/or Test Witnessing (which terms shall be construed in accordance with those Acceptance Activities described in paragraphs 2 to 5 of Part D of Schedule 6.2 (*Testing and Acceptance*)) in respect of any matters that are a pre-condition for the Achievement of any Milestone (in the same way as the DCC would be so entitled in respect of any Test and/or Test Stage, including as if references to Tests and/or Test Stages and to the Test Plans in the relevant provisions of Schedule 6.2 referred, respectively, to the relevant Milestone and Implementation Plan) in order to ensure the DCC is satisfied with the achievement of such pre-conditions in accordance with this Agreement.

2.2 The Contractor shall ensure reasonable time for the DCC to conduct such Acceptance Activities referred to in paragraph 2.1 (including any associated activities, including reporting, reworking, re-submission and re-review and/or remediation) is factored into all Implementation Plans.

2.3 A Milestone shall NOT be Achieved until the DCC has issued a Milestone Achievement Certificate in respect of it. When the relevant Milestone has been Achieved in accordance with this Agreement, but for the issuing by the DCC of a Milestone Achievement Certificate in respect of the same, the DCC shall promptly issue a Milestone Achievement Certificate substantially in the form of Appendix 4 (*Form of Milestone Achievement Certificate*) to this

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Schedule 6.1 and the Contractor shall be entitled to raise the related invoice (if any) in accordance with Schedule 7.1 (*Charges and Payment*).

2.4 If the DCC has not notified the Contractor within ten (10) Business Days, pursuant to clause 2.3 of this Schedule that:

- (a) the Contractor's performance does not meet the Milestone Criteria (as detailed in Appendix 1); or
- (b) the evidence reviewed by the DCC does not sufficiently demonstrate to the DCC (acting reasonably) that the Milestone Criteria have been met,

then the Contractor shall notify the DCC that it has not received confirmation of the status of the Milestone and if no reply is received from the DCC within a further ten (10) Business Days then the Contractor may refer the matter to the Dispute Resolution Procedure.

2.5 Without prejudice to the DCC rights and remedies under this Agreement, if the DCC notifies the Contractor that the evidence reviewed by the DCC does not sufficiently demonstrate to the DCC (acting reasonably) that the Milestone Criteria have been met, then the Parties shall discuss measures to ensure the appropriate documentation or other material is promptly made available to the DCC.

PART C – IMPLEMENTATION PLAN

1. THE IMPLEMENTATION PLAN

- 1.1 The Contractor shall at all times maintain a plan which sets out how the Contractor shall deliver the Services. This plan shall set out the then current Master Milestone Table and outline the Contractor Milestones, Deliverables and relevant agreed dependencies. This plan shall be made available to the DCC promptly on request from time to time (the latest such plan from time to time approved by the DCC in accordance with paragraphs 2 and 5 (as appropriate) of this Part (and prior to the first such plan being approved by the DCC, the Draft Implementation Plan in accordance with Part A) being the "**Implementation Plan**").
- 1.2 The Contractor shall ensure the Implementation Plan does not seek to impose on the DCC any responsibility or dependency in connection with any dependencies on any Relevant Counterparty. Without prejudice to the foregoing, the DCC's obligations under the Implementation Plan shall be limited to those obligations of (and dependencies on) the DCC incorporated into the Implementation Plan and expressly identified as being DCC Responsibilities in a section of the Implementation Plan headed "DCC Responsibilities".

2. PREPARATION OF THE IMPLEMENTATION PLAN

- 2.1 By no later than thirty (30) Business Days after the Commencement Date, or as otherwise agreed with the DCC in writing, the Contractor shall deliver to the DCC drafts of an updated Implementation Plan (to replace the Draft Implementation Plan).
- 2.2 The Contractor shall ensure that each proposed Implementation Plan (including in terms of the steps and activities to be carried out by the Contractor, the timeframes for such steps and activities and the resources to be allocated by the Contractor to such steps and activities) shall:
- (a) be based on the latest Implementation Plan approved by the DCC (and prior to the first such plan being approved by the DCC, the draft plans attached as Appendix 3 (*Draft Implementation Plan*) to this Schedule 6.1);
 - (b) set out the Contractor's proposed methodology for achieving an orderly, timely and co-ordinated implementation of the Contractor Solution and the delivery of Services in accordance with this Schedule 6.1 and the other requirements of this Agreement;
 - (c) comply with the requirements of this Schedule 6.1, including Appendix 2 (*Required content of the Implementation Plan*);
 - (d) be sufficient to ensure that the Contractor shall be able to Achieve each of the Contractor Milestones by the applicable Milestone Date; and
 - (e) be sufficient to ensure the timely delivery (including for approval) of all Test Documents by the relevant Milestone Date(s).

- 2.3 Within twenty (20) days after receipt of a draft Implementation Plan from the Contractor, the DCC shall notify the Contractor if it (acting reasonably) considers that:
- (a) the draft does not comply with the then current Master Milestone Table or paragraph 5.5 of this Part;
 - (b) the draft is insufficiently detailed to be properly evaluated;
 - (c) the draft does not comply with the relevant requirements of this Agreement; and/or
 - (d) any of:
 - (i) the proposed obligations on the DCC;
 - (ii) the proposed obligations on the DCC Service Providers; and/or
 - (iii) the other proposed dependencies,specified by the Contractor in the Draft Implementation Plan are unreasonable or impractical for any reason (taking account of the relevant resources available to the DCC, the relevant DCC Service Providers or any applicable third parties),
- (each, for the purposes of this paragraph 2, a "**non-conformity**").
- 2.4 By no later than ten (10) days after receipt of a notice from the DCC under paragraph 2.5 or 2.7, the Contractor shall:
- (a) make any amendments to such Implementation Plan that are necessary to address the non-conformities notified by the DCC under paragraph 2.5; and
 - (b) re-submit a revised version of such Implementation Plan (as appropriate) to the DCC for approval.
- 2.5 Within fifteen (15) days after receipt of the revised version of such Implementation Plan (as appropriate) from the Contractor pursuant to paragraph 2.6 above, the DCC shall notify the Contractor of any new or outstanding non-conformities.
- 2.6 The process in this paragraph 2 shall then be repeated until the DCC notifies the Contractor in writing that such Implementation Plan (as appropriate) is approved. Any dispute relating to the existence of non-conformities in the draft Implementation Plan (as appropriate) may be referred to the Dispute Resolution Procedure.
- 2.7 The DCC shall provide any information or assistance reasonably requested by the Contractor in relation to the preparation of the Implementation Plan under this paragraph 2 (or any updates under paragraph 5 (*Updates to the Implementation Plan*)).

3. **REQUIRED CONTENT OF THE IMPLEMENTATION PLAN**

- 3.1 The Contractor shall ensure that the Implementation Plan (and any updates to the foregoing made or proposed by the Contractor from time to time) shall, as a minimum, contain those topics as set out in (and shall otherwise comply with) Appendix 2 to this Schedule 6.1.

4. **COMPLIANCE WITH THE IMPLEMENTATION PLAN**

- 4.1 The parties shall (subject to paragraph 1.2 of Part C) comply with the Implementation Plan (and prior to the first such plan being approved by the DCC, the Draft Implementation Plan which shall take effect as an Implementation Plan on the Commencement Date subject to paragraphs 1.5 to 1.9 of Part A) at all times.

5. **UPDATES TO THE IMPLEMENTATION PLAN**

On-going review by the Contractor

- 5.1 Subject to paragraphs 5.2 to 5.4 of this Part, the Contractor shall review and update the Implementation Plan at intervals as set out below to ensure that the Implementation Plan is otherwise fully up-to-date and accurately reflects the then current status of the implementation of the Contractor Solution and Master Milestone Table (and otherwise continues to comply with the requirements of this Schedule 6.1).

Permitted Changes

- 5.2 The DCC may notify the Contractor from time to time of any types of amendment to the Implementation Plan which may be made by the Contractor under paragraph 5.1 of this Part without the prior written approval of the DCC (each, a "**Permitted Change**").
- 5.3 Except for the Permitted Changes as defined above, any amendments to the Implementation Plan referred to in paragraph 5.1 of this Part shall be subject to the prior written approval of the DCC in accordance with paragraph 5.6 of this Part.

Contractor may not alter Milestone Dates

- 5.4 The Contractor shall not, in any circumstances, alter or attempt to alter any of the Contractor Milestones (or any of the applicable Milestone Dates) or the current Master Milestone Table without the prior written approval of the DCC.

Periodic reviews by the Contractor

- 5.5 Without limiting the Contractor's obligations under paragraph 5.1 of this Part, the Contractor shall review and update the Implementation Plan to which that paragraph refers so as to ensure that it is kept fully up-to-date and accurately reflect the then current status of the implementation of the Services or the current Master Milestone Table (and otherwise continues to comply with the requirements of this Schedule 6.1):

- (a) on a monthly basis; and
- (b) within ten (10) Business Days after receiving notification from the DCC of any event identified by the DCC (acting reasonably) as requiring a revised Implementation Plan.

Approval of revised Implementation Plan

- 5.6 Unless otherwise agreed by the DCC in writing, in relation to any updated version of, or other amendments to, the Implementation Plan under paragraph 5.3, 5.4 or 5.5 of this Part, the parties shall comply with the procedure set out in paragraph 2 (above) relating to the approval of the updated version of the Implementation Plan referred to in paragraph 5.1 of this Part by the DCC.

Compliance with existing Implementation Plan

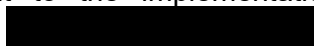
- 5.7 Until such time as the updated Implementation Plan has been approved by the DCC in accordance with paragraph 5.6 of this Part, the parties shall (subject to paragraph 1.2 of this Part C) comply with the then current Implementation Plan.

PART D – GOVERNANCE ARRANGEMENTS AND REPORTING

1. OMB MEETINGS

- 1.1 The Service Implementation OMB (Operational Management Board) shall (as amongst the other OMBs but without implying any responsibility on the DCC or reducing any obligation of the Contractor) have primary responsibility for overseeing the implementation of the Services according to the Implementation Plan and monitoring achievement of the Milestones generally.
- 1.2 At each meeting of the Service Implementation OMB, the parties shall:
 - (a) review the current version of the Implementation Plan;
 - (b) assess the status of the implementation of the Services generally;
 - (c) review progress against each of the Contractor Milestones; and
 - (d) identify any potential obstacles or other issues which may adversely affect the achievement of any of the Contractor Milestones (and determine appropriate causes of action to eliminate or mitigate such obstacles or other issues).
- 1.3 The Contractor shall comply with its obligations under Schedule 8.1 (*Governance*) regarding the conduct of, and attendance at, meetings of the Service Implementation OMB.
- 1.4 By no later than five (5) Business Days before each meeting of the Service Implementation OMB, the Contractor shall deliver to the DCC a copy of the current version of the Implementation Plan or confirm that versions previously supplied are still current.

2. APPOINTMENT OF HEADS OF IMPLEMENTATION

- 2.1 Each party shall, subject to Clause 24 (*Governance*), appoint an implementation manager (each, an "**Head of Implementation**") and provide written notification of such appointment to the other party.
- 2.2 The Contractor's Head of Implementation shall be responsible for ensuring that the Contractor (and the relevant Contractor Persons) complies with this Schedule 6.1, Schedule 6.2 (*Testing and Acceptance*) and Schedule 6.3 (*Development Process*). The Contractor shall ensure that its Head of Implementation has the requisite authority to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor and the relevant Contractor Persons to comply with the requirements set out in this Schedule 6.1, Schedule 6.2 (*Testing and Acceptance*) and Schedule 6.3 (*Development Process*).
- 2.3 The Contractor's Head of Implementation shall be deemed to be a member of the Key Personnel for the purposes of this Agreement.
- 2.4 The parties' Heads of Implementation shall liaise with one another in relation to all issues relevant to the implementation of the Services and the


achievement of the Contractor Milestones, and all matters connected with this Schedule 6.1 and each party's compliance with it.

2.5 The Contractor shall promptly work with other DCC Service Providers as reasonably required to monitor and manage progress against the Implementation Plan.

2.6 Either party may request a meeting of the Heads of Implementation by giving the other not less than five (5) Business Days' written notice. Such meeting shall take place within five (5) Business Days after the date of such notice at a mutually convenient time and venue. For the avoidance of doubt, this paragraph 2.6 does not limit the ability of the Heads of Implementation to meet on a day-to-day basis in accordance with paragraph 2.4 of this Part as agreed by the parties from time to time.

3. **Implementation Governance**

3.1 The Contractor's Head of Implementation shall report on the progress against Contractor Milestones and the associated Deliverables in writing to the DCC's Head of Implementation weekly (for the purposes of paragraphs 3.1 to 3.4 (inclusive) of this Part the "**Weekly Progress Report**") in a form to be agreed with the DCC.

3.2 The Weekly Progress Report shall include:

- (a) a RAG Status against each Contractor Milestone and each Deliverable;
- (b) a narrative against any every item in the report particularly where the RAG Status has changed;
- (c) a summary of the status of key risks and issues;
- (d) a narrative on any new risks and issues identified;
- (e) a RAG status on the level of resource available to the implementation team;
- (f) any changes to the forecast delivery dates of any Deliverable or product description for a Deliverable; and
- (g) an update on any change requests in progress.

3.3 The Contractor's Head of Implementation shall structure the Weekly Progress Report such that the status of Contractor Milestones may be presented to all other organisations reliant on or contributing to any such Milestones.

3.4 The parties' Heads of Implementation shall meet to discuss the Weekly Progress Report (which may be a telephone meeting) and to allow for an early and open recognition of issues.

PART E - DEFINITIONS

1. In this Agreement:

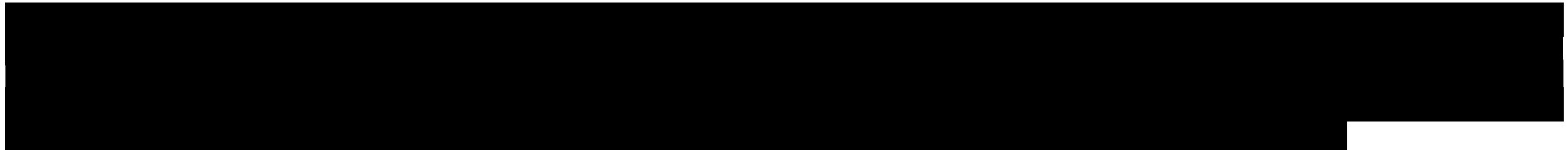
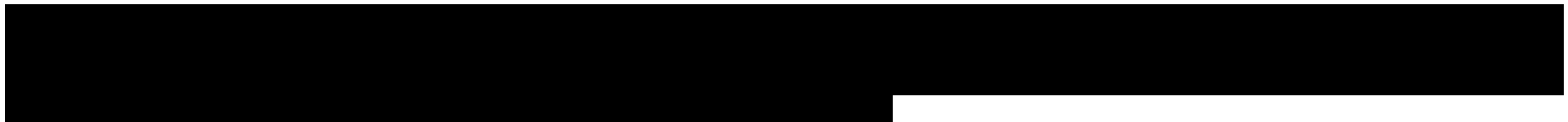
"Draft Implementation Plan"	has the meaning given in paragraph 1.6 of Part A;
"Final Document Iteration"	has the meaning given in Appendix 1;
"Head of Implementation"	has the meaning given in paragraph 2.1 of Part D;
"Implementation Plan"	has the meaning given in paragraph 1.1 of Part C;
"Master Milestone Table"	means the table forming part of the Implementation Plan addressing those matters addressed in the Master Milestone Table as the Commencement Date (as set out in Appendix 1 of this Schedule 6.1) as may be amended from time to time in accordance with this Agreement with the approval of the DCC;
"New Implementation"	has the meaning given in paragraph 2.1 of Part A;

Appendix 1 –Milestones for Implementation Plan

For the purposes of this Agreement (including any Implementation Plan):

- **"Contractor Milestone"** means those Milestones listed as a Contractor Milestone under the heading "Type" in the Master Milestone Table;
- **"Final Document Iteration"** means, in respect of a Relevant Document, the final Document Iteration of such Relevant Document as described in its Detailed Product Description (defined terms within this definition having the meaning given in Schedule 6.3 (*Development Process*));

For the purposes of this Agreement, the following table is the Master Milestone Table as at the Commencement Date.

A large rectangular area of the document is completely redacted with a solid black fill, obscuring the content of the Master Milestone Table.A second large rectangular area of the document is completely redacted with a solid black fill, obscuring the content of the Master Milestone Table.A small rectangular area of text is redacted with a solid black fill.

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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

ECoS Schedule 6.1 (Implementation Planning) (Critical Software)

Appendix 2 – Required content of the Implementation Plan

1. GENERAL REQUIREMENTS

1.1 The Contractor shall ensure the Implementation Plan referred to in this paragraph 1 shall each contain a complete plan of all steps and activities required to implement the Services in accordance with this Agreement, including all steps and activities required to Achieve each of the Contractor Milestones. The Contractor shall ensure that the Implementation Plan complies with the following:

- (a) **Implementation Plan:** in respect of the delivery of the Services, the Implementation Plan shall:
 - (i) be a detailed plan setting out the Master Milestone Table and all Milestones, including the Milestone Dates, Deliverables and the dates for Testing relating to each Milestone (and which shall align with the then current Master Milestone Table save to the extent the DCC otherwise agrees);
 - (ii) clearly outline all the main steps required to Achieve the relevant Milestones in accordance with this Agreement; and
 - (iii) clearly outline the required roles and responsibilities of the parties, including resource requirements, subject to the DCC's responsibilities being consistent with Schedule 3 (*DCC Responsibilities*) and this Schedule.

1.2 The Contractor shall ensure that the Implementation Plan shall, as a minimum:

- (a) allow sufficient time for the activities specified and all required steps to complete them and to produce the Deliverables; and
- (b) identify all applicable risks, issues and dependencies in accordance with paragraphs 1.12 and 1.13 of this Appendix and paragraph 1.6 of Part C of this Schedule 6.1 (*Implementation Planning*).

Implementation Plan

1.3 The Contractor shall ensure that the Implementation Plan shall include the then current version of the Master Milestone Table and clearly define for each Milestone:

- (a) its scope, objective and duration;
- (b) the activities required to deliver it;
- (c) subject to paragraph 1.2(b) of this Appendix, the roles and responsibility of each party;
- (d) its Deliverables;
- (e) its training and resource requirements; and

- (f) its relationship to any other Milestone, including the identification of its dependency on any other Milestone.

1.4 The Contractor shall ensure that the Implementation Plan shall:

- (a) identify all implementation risks and how they might be mitigated (without requiring amendments to the Agreement);
- (b) subject to paragraph 1.2(b) of this Appendix, identify the actions, assumptions and requirements on which the success of the Implementation Plan is dependent;
- (c) provide for knowledge transfer and training activities, including a plan for the transfer of knowledge from the Contractor to the DCC and/or DCC Service Users that demonstrates the success of these activities;
- (d) provide a detailed plan for all cutover activities to the extent that cutover activities are required by the Contractor Solution or any Test Documents;
- (e) detail provisions for governance of the relationship between the DCC and the Contractor during the implementation; and
- (f) provide for the transfer of any tools, documents or operating manuals in respect of the Deliverables that are required and necessary for their delivery.

1.5 The Contractor shall ensure that each Implementation Plan shall contain a project background, project definition, Project Initiation Document (such term being interpreted in accordance with PRINCE2), detailed description of the management and organisational structure, communication arrangements, project controls, project schedule and other working practices to be put in place and employed.

DCC obligations

1.6 The Implementation Plan shall contain a detailed description of any proposed obligations or dependencies to be performed by the DCC or other DCC Eco-System Entities (excluding any SMETS 1 Service Providers) in relation to the implementation of the Services, which shall in each case be subject to (and of no legal effect without) the DCC's approval of such document in accordance with paragraphs 2 and 5 (as appropriate) of Part C of this Schedule 6.1 (*Implementation Planning*). This paragraph 1.11 is subject to paragraph 1.6 of Part C of this Schedule 6.1.

1.7 The Contractor shall agree with the DCC Service Providers in the Co-operation Agreement any obligations and/or dependencies on such other DCC Service Provider before presenting the Implementation Plan to the DCC. Such obligations and/or dependencies shall not form DCC Responsibilities (or obligations of the DCC) (instead, the Contractor shall ensure that these are addressed in the Co-operation Agreement).

- 1.8 The Implementation Plan shall specify (in reasonable detail) how any dependencies referred to in paragraphs 1.12 and 1.13 of this Appendix shall be pro-actively managed by the Contractor to ensure that they do not adversely affect the Contractor's ability to Achieve any relevant Contractor Milestones.
- 1.9 By reference to the relevant proposed co-operation arrangements (that in each case shall be subject to approval by the DCC), the Implementation Plan shall set out (in reasonable detail) the arrangements to be implemented between the Contractor and any third party other than the SMETS 1 Service Providers in relation to:the implementation of the Contractor Solution (including the Achievement of the Contractor Milestones).

Appendix 3 – Draft Implementation Plan

The parties have agreed that the Commencement Date Draft Implementation Plan is incorporated here by reference.

The parties have agreed that the initial Master Milestone Table as at the Commencement Date shall be as set out in Appendix 1 to this Schedule 6.1 (*Implementation Planning*) and shall be deemed incorporated into such Commencement Date Draft Implementation Plan (and hence the Draft Implementation Plan) on the Commencement Date.

The Master Milestone Table in Appendix 1 of this Schedule 6.1 shall take effect from the Commencement Date. The Contractor shall update the Implementation Plan in accordance with Part C of this Schedule 6.1.

Appendix 4:

Form of Milestone Achievement Certificate

To: [CONTRACTOR]

From: [DCC]

[Date]

Dear Sirs,

MILESTONE ACHIEVEMENT CERTIFICATE

[Milestone]: *[insert description]*

We refer to the Agreement relating to the provision of Services to the DCC ("**Agreement**") between [#] ("**DCC**") and [#] ("**Contractor**") dated [#].

The definitions for terms capitalised in this certificate shall have the same meanings as in the Agreement.

We confirm that subject to the provisions of the Agreement (including completion of any relevant Work-off Plans), all of the Deliverables and requirements relating to the Achievement of Milestone reference number [#] (*[insert description]*) have been achieved.

[You may now issue and invoice in respect of [details of relevant Charges] in accordance with Schedule 7.1 (Charges and Payment) and the Agreement].*

Please note that the granting by the DCC of this Certificate shall not result in a transfer of risk to the DCC in respect of any part of the Contractor Solution and the Services.

Yours faithfully

[Name]

[Position]

acting on behalf of the DCC

**delete/amend as appropriate*

SCHEDULE 6.2 TESTING AND ACCEPTANCE

PURPOSE

This Schedule 6.2 (*Testing and Acceptance*) sets out the approach to Testing and the different Testing activities to be undertaken under this Agreement.

Unless otherwise specified by the DCC, the provisions of this Schedule 6.2 and Clauses 8 (*Testing and Acceptance*) to 12 (*Relief Events*) (inclusive) of this Agreement shall apply to all Testing activities undertaken under this Agreement from time to time (collectively "**Testing Activities**").

This Schedule 6.2 comprises the following parts:

Part	Scope
Part A	Overview
Part B	Test Documents
Part C	Testing
Part D	Outcome of Testing
Part E	Risk
Part F	Definitions
Appendix 1	Test Phase / Test Stage Complete Certificate
Appendix 2	NOT USED
Appendix 3	NOT USED
Appendix 4	NOT USED

For the purposes of this Schedule 6.2, the term "Systems Integrator" (or "SI") shall be construed as meaning the Prime DSP and may be used interchangeably.

PART A – OVERVIEW

1. OVERVIEW OF TESTING

- 1.1 Without limiting the Contractor's obligations pursuant to Clause 16.3, if there is any conflict between any of the following documents, the conflict shall be resolved in accordance with the following order of precedence (in descending order of precedence):
- (a) this Schedule (and its Appendices and Annexes) and Schedule 6.1 (*Implementation Planning*) (and its Appendices and Annexes) (which shall rank equally in the order of precedence);
 - (b) the Implementation Plan;
 - (c) the DCC Test Strategy (which, for clarity, may also be referred to as the Joint Test Strategy);
 - (d) SEC Variation Testing Approach Document (SVTAD)
 - (e) each Test Approach;
 - (f) each Test Plan; and
 - (g) each Test Specification.
- 1.2 Testing shall be carried out separately on a Release by Release basis. Releases fall into three categories as described below;
- (a) Major Release – comprise initial Contractor Solution and large-scale solution enhancements and Changes with a significant impact.
 - (b) Minor Release – comprise small scale solution enhancements and Changes, along with low priority operational defect fixes and minor operational enhancements.
 - (c) Emergency Release – comprise Changes of varying scale which are required for the purposes of resolving an incident with a major impact on the DCC's Systems.
- 1.3 The Testing Phases set out in this schedule shall apply both during the Design, Build and Test Phase and during any Operational Phase after each Go Live Date, including the Final Go Live Date. Each Release of the Contractor Solution whether before or after the Final Go Live Date shall be Tested in accordance with the requirements set out in this Agreement.
- 1.4 Testing shall be supported on an enduring basis through the provisions of SEC Appendix J – Enduring Test Approach.
- 1.5 Without prejudice to any circumstance that may amount to an Other Service Provider Cause, the DCC shall have no responsibility, liability or obligation in connection with any of:
- (a) paragraphs 1.5 to 5 (inclusive) of Part B of this Schedule;

- (b) paragraphs 3 to 11 (inclusive) of Part C of this Schedule;
- (c) Appendix 2 of this Schedule;
- (d) any part of any Test Document other than the part of a DCC Test Strategy and/or Test Approach clearly headed "DCC Responsibilities"; and

and Clauses 12 (*Relief Events*) and 15 (*Equipment*) of this Agreement shall be construed accordingly and any performance or non-performance of any obligation referred to in any document or part of a document mentioned in this paragraph 1.5 shall NOT be a DCC Cause.

The provisions of this Schedule 6.2 shall (without prejudice to the above) otherwise be subject to the provisions of Part E of this Schedule.

1.6 The Contractor shall:

- (a) ensure that no Changes are made to any part(s) of the Contractor Solution, other than where the Change is agreed with the DCC to not have any impact on the security of the Contractor Solution or End-to-end Smart Metering System or any Smart Appliance, unless such Changes have been subject to Testing in accordance with this Schedule 6.2 or the DCC otherwise elects in writing;
- (b) remain liable for any adverse impact of any Change made in accordance with 1.4 (a) above or other Changes to the Contractor Solution (and ensure the same have been rigorously tested prior to the Change being deployed to Production) regardless of whether or not these have been subject to Testing in accordance with this Schedule 6.2 or otherwise; and

support Testing of the Systems of the DCC and DCC Service Providers and other DCC Eco-Systems Entities during the Test Phases and Stages in accordance with this Schedule 6.2.

Test Phases and Test Stages

1.7 Testing for each Release shall be divided into "**Test Phases**" and each Test Phase shall be divided into one or more "**Test Stages**" as follows:

(a) The **Pre-Integration Test (PIT) Phase** comprising the following Test Stages:

- (i) Unit Testing;
- (ii) Link Testing;
- (iii) System Testing (functional and non-functional); and
- (iv) Factory Acceptance Testing (FAT).

The Contractor shall ensure that each Pre-Integration Test Phase shall provide for at least three (3) cycles of functional testing to be performed in each Test Stage for the functionality under test in that Test Stage, unless the DCC determines that two (2) or less cycles of functional testing will suffice. The Contractor shall undertake all such cycles of functional testing and a Test Stage shall not achieve its Stage Exit Criteria unless the relevant Test Success Criteria are met in the final test cycle.

Where tests are unable to be fully validated within the PIT Phase, the final set of tests must be carried out in a test environment that (i) is to be used for SIT Testing, and (ii) has been constructed by the Hosting and Service Management Service Provider and/or the Prime DSP, and shall use artefacts that will be agreed and assured by the DCC and that shall be supplied by the Contractor.

The Contractor shall work with both the Hosting and Service Management Service Provider and the Prime DSP to establish links to and working practices for this PIT Phase.

As part of the criteria for exiting this PIT Phase, the Contractor shall supply requested evidence and deliver the required solutions to remedy any defects that occur in this Testing Phase to assist DCC in its achievement of its regulatory requirements.

(b) The **System Integration Test (SIT) Phase** comprising the following Test Stages:

- (i) Solution Testing (functional and non-functional); and
- (ii) UAT;

The Contractor shall work with both the Hosting and Service Management Service Provider and Prime DSP to establish links to and working practices for the SIT Phase.

The SIT Test Phase shall not achieve its Phase Exit Criteria unless the relevant Test Success Criteria for each Test Stage has been met. In addition to the above, the Parties recognise that testing may be carried

out whereby the Contractor shall support the Systems Integrator in conducting Pre-Systems Integration Testing, with the intention of proving the Test Stages of SIT ahead of formal entry to the SIT Test Phase.

As part of the criteria for exiting this SIT Phase, the Contractor shall supply requested evidence and deliver the required solutions to remedy any defects that occur in this Testing Phase to assist DCC in its achievement of its regulatory requirements.

(c) The **User Integration Test (UIT) Phase** comprising the following Test Stages as further described in Appendix 2 of this Schedule:

- (i) User Entry Process Testing; and
- (ii) Device and User System Testing
- (iii) End to End Testing.

The User Integration Test Phase shall not achieve its Phase Exit Criteria unless the relevant Test Success Criteria for each Test Stage has been met.

The Contractor shall work with both the Hosting and Service Management Service Provider and Prime DSP to establish links to and working practices for the UIT Phase.

As part of the criteria for exiting this UIT Phase, the Contractor shall supply requested evidence and deliver the required solutions to remedy any defects that occur in this Testing Phase to assist DCC in its achievement of its regulatory requirements.

(d) The **Transition to Operations (TTO) Test Phase** comprising the following Test Stages as further described in Appendix 2 of this Schedule:

- (i) Operational Acceptance Testing; and
- (ii) Business Acceptance Testing.

The Contractor will work as part of the ECoS programme team in engaging with the DCC service design team in compiling operational processes which will be static or otherwise in the Testing Phases during the lead up to Go Live.

The TTO Test Phase shall not achieve its Phase Exit Criteria unless the relevant Test Success Criteria for each Test Stage has been met.

The Contractor shall work with both the Hosting and Service Management Service Provider and Prime DSP to establish links to and working practices for the TTO Test Phase.

- 1.8 As part of the criteria for exiting this TTO Test Phase, the Contractor shall supply requested evidence and deliver the required solutions to remedy any defects that occur in this Testing Phase to assist DCC in its achievement of its regulatory and operational requirements. The parallel running of Test Phases and Stages shall be permitted by the Contractor where it is defined in the Test Approach document that is assured by the DCC.
- 1.9 Each Service Component shall undergo Unit Testing, Link Testing, System Testing (functional and non-functional), Component Integration Testing and the Factory Acceptance Testing (FAT) in the Pre-Integration Test Phase. Following the completion of the Pre-Integration Testing for each individual Service Component, the Contractor Solution as a whole shall undergo all Test Phases set out in paragraph 1.8 (b) to (e) above. The scope of all testing and acceptance will be carried out in accordance with the plans and other testing artefacts that have been assured by DCC.

Test Requirements

- 1.10 This Agreement (including this Schedule and its Appendices) sets out a number of requirements ("**Test Requirements**") that shall apply to Testing Activities and how they are to be conducted, including:
 - (a) Phase Entry Criteria;
 - (b) Stage Entry Criteria;
 - (c) the types of Test that are relevant;
 - (d) Stage Exit Criteria;
 - (e) Phase Exit Criteria.
- 1.11 The Contractor shall conduct all Tests in accordance with the Test Documents (as explained further in Part B of this Schedule 6.2). In addition to complying with its other obligations under this Agreement, the Contractor shall (unless otherwise agreed by the DCC and Contractor in writing) at all times ensure that:
 - (a) all Tests conducted under this Agreement; and
 - (b) all Contractor's Test Documents,each comply with all applicable Test Requirements.
- 1.12 All costs of Testing required in connection with any System Updates to the Contractor's Solution (including System Updates to Other ESP Solutions) in response to a Test Incident shall be borne by the Contractor.

2. OVERVIEW OF CONDUCT OF TESTING

- 2.1 Where any Testing is identified in the Test Approach as being executed by the DCC or another DCC Service Provider, the Contractor shall provide all technical support and assistance to the DCC, such DCC Service Provider required to verify the results of such Tests if requested by the DCC and as agreed in the applicable Test Approach.

- 2.2 Where the Contractor requires support from the DCC ((as opposed to the Systems Integrator or Prime DSP) as part of the execution of its own Testing, the Contractor shall seek the agreement of the DCC to include such support as part of the DCC Responsibilities in the relevant Test Approach.
- 2.3 Unless the DCC otherwise elects in writing, the execution of Testing:
- (a) in respect of each Test Phase associated with each Release, the Test Phase shall not be started until all Phase Entry Criteria (including any regression testing relevant to any Changes to the Contractor Solution made since the previous Release) have been met and / or reviewed in relation to overlapping Test Phases;
 - (b) in respect of each individual Test Stage associated with each Release within a Test Phase, the Test Stage shall not be started until the Phase Entry Criteria and all Stage Entry Criteria (including any regression testing relevant to any Changes to the Contractor Solution made since the previous Release) for that Test Stage have been met; and
 - (c) an Approval to Proceed Certificate has been issued by the DCC for the Contractor to commence testing in that Test Phase or Test Stage associated with each Release,

and the provisions of paragraph 6 of Part D of this Schedule 6.2 shall apply.

- 2.4 A Test Stage shall not be considered successfully completed except as provided in paragraph 6 of Part D of this Schedule.
- 2.5 A Test Phase shall not be considered successfully completed except as provided in paragraph 6 of Part D of this Schedule.
3. **NOT USED**

PART B – TEST DOCUMENTS

1. TEST DOCUMENTS

1.1 The Contractor shall develop and maintain the Contractor's Test Documents (and provide all assistance and support required by the Systems Integrator in the development and maintenance of Test Documents and User Guides where required) in accordance with the provisions of this Part B for each Test Phase and Test Stage. The Contractor shall comply (and ensure all Testing complies) with all Test Documents.

1.2 The parties have agreed:

(a) the Systems Integrator shall develop the initial version and updates from time to time of Joint Test Documents, provided that:

(i) such documents do not conflict with the requirements of this Schedule 6.2 or (if any) the Co-operation Agreement with the Contractor;

(ii) the Contractor acts in accordance with any processes and requirements agreed in the Co-operation Agreement with the Systems Integrator; and

(iii) such documents shall take effect under this Agreement, and the Contractor shall comply with such documents, once (and only if) approved by the DCC; and

(b) the Contractor shall promptly provide resources, information and other assistance to the Systems Integrator in connection with the development and maintenance of the Joint Test Documents in accordance with its obligations under this Agreement and the Co-operation Agreement with the Systems Integrator.

1.3 Given the DCC Service's dependency on multiple stakeholders, the Contractor recognises the importance of the Contractor's Test Documents complying at all times with the DCC Test Strategy and if project specific; SVTAD and TAD and shall ensure such compliance.

1.4 Where versions of the DCC Test Strategy are produced at different times the Contractor shall note where elements in the later document supersede content in the earlier counterpart document.

1.5 The Contractor shall ensure that the following Test Documents shall be produced (in each case as approved by the DCC) by the dates to be agreed between the parties (and "final" in this paragraph 1.5 shall be construed accordingly):

(a) for the Pre-Integration Test Phase of each Release, unless otherwise agreed between both parties, the Contractor shall develop for its Solution final versions of:

(i) Pre-Integration Test Phase Test Approach and Test Plan: no later than forty (40) Business Days before the commencement of any test in connection with the relevant Pre-Integration Test

Phase; the PIT Test Plan, which may be provided incrementally throughout the PIT Phase, shall include sections for each of the following:

- (A) Unit Testing Test Plan;
- (B) Link Testing Test Plan;
- (C) System Test Plan;
- (D) Component Integration Test Plan,

and these sections shall be provided to DCC prior to commencement of the first relevant test and in line with the timeframes agreed between the Parties during the detailed planning stage; and

- (ii) FAT Test Plan: no later than thirty (30) Business Days before the commencement of the first relevant FAT Test.
- (b) for the System Integration Test Phase of each Release, the Contractor shall promptly provide resources, information and other assistance to the Systems Integrator in connection with the development and maintenance of the Test Documents in accordance with its obligations under this Agreement and the Co-operation Agreement with the Systems Integrator. The expected Test Documents requiring input are described below:
- (i) SIT Phase Test Approach (including the Pre-SIT Stage, where applicable, for functional and non-functional testing, especially where these form separate artefacts);
 - (ii) Solution Test Plan; and
 - (iii) UAT Test Plan.
- (c) for UIT Testing of each Release, the Contractor shall promptly provide resources, information and other assistance to the Systems Integrator in connection with the development and maintenance of the Test Documents in accordance with its obligations under this Agreement and the Co-operation Agreement with the Systems Integrator. The expected Test Documents requiring input are described below:
- (i) User Testing Services Approach Document;
 - (ii) UIT Proving and Regression Test Plan;
 - (iii) User Guides
 - (iv) Interface Test Plan;
 - (v) Device and User System Test Approach; and
 - (vi) User Test Cases.

- (d) for the TTO Test Phase, the DCC shall be responsible for the development and maintenance of TTO Test Plan (incorporating OAT and BAT Schedule) with the final version no later than thirty (30) Business Days before the commencement of the first Test.

General

- 1.6 The dates given in paragraph 1.5 for the commencement of a Test refer to the date indicated for commencement of that Test in the Test Approaches and/or Implementation Plan. The Contractor shall, where it is responsible, ensure all final versions of the documents referred to above are up to date as at the date approved by the DCC. The Contractor recognises that the preparation of such Test Documents will require a considerable degree of co-operation and interaction with DCC Eco-System Entities and shall ensure it plans accordingly.
- 1.7 Prerequisite preparations for Testing, such as for data and environments, are also recognised by the Contractor as requiring a degree of co-operation and interaction as per paragraph 1.6 above.

2. JOINT TEST APPROACH

- 2.1 The Contractor shall develop and maintain its Test Approach, including test deliverables in accordance with Schedule 2.1 (*DCC Requirements*) for each Test Phase that shall describe, the testing arrangements applicable to each and every testing activity in all programme phases, including testing activity to be conducted by the Contractor for its own PIT Phase and as part of the joint Test Phases with the Hosting and Service Management Service Provider, and each testing activity shall be conducted by the Contractor in connection with its respective DCC Service Provider Contract.
- 2.2 The Contractor shall ensure its Test Approach relates to all test activities in the applicable Test Phases (including the joint Test Phases) and complies with all Test Requirements and DCC Requirements. The Contractor's Test Approach shall form part of the Joint Test Approach. The Contractor shall support the Prime DSP when reviewing and updating the Joint Test Approach so as to ensure that it is kept fully up-to-date and accurately reflects the status of Testing by all applicable parties. The Contractor's Test Approach shall include:
 - (a) the detail of each Test Phase and Test Stage for the Release;
 - (b) the detail of how Testing for the Release will be conducted;
 - (c) the Testing procedures including details, amongst other things, of the scope of each Test Phase in accordance with the Test Requirements;
 - (d) the manner in which readiness assessments and quality gate reviews will be conducted with DCC Programme Assurance;
 - (e) the process to be used to capture and record Test results and the categorisation of Test Incidents, including a triage capability to allow Test Incidents to be further analysed and allocated to the relevant party for further investigation and/or resolution, either for new Test Incidents or existing Test Incidents that have been referred back for further analysis or re-allocation to a different party for resolution within the E-

PDMS requirements agreed in relation to the defect management process;

- (f) the method for mapping the expected Test results to the Test Success Criteria;
- (g) the procedure to be followed should the Test Success Criteria not be met, or Test results fail to be as expected or any Phase / Stage Exit Criteria not be met, including any rectification procedure;
- (h) the process for the production and maintenance of Test Reports and reporting, and the Contractor's Test Incident Management Log (or, as appropriate, the Contractor's and the Systems Integrator's Test Incident Management Log for joint Test Phases), and a plan to resolve Test Incidents;
- (i) a high-level identification of the resources required for Testing, including facilities, infrastructure, Test Stubs, Smart Metering Devices, Test Data and other equipment, personnel and DCC and/or third-party support for the conduct of the Tests. For the avoidance of doubt, real Smart Metering Devices should be used wherever possible;
- (j) for the integrated Test Phases, a high-level identification of the Contractor and Prime DSP resources required for DCC and DCC Service Users to plan and execute their testing and to support the analysis and resolution of Test Incidents;
- (k) for all Test Phases, the extent of functional and non-functional testing;
- (l) all dependencies (including any DCC Responsibilities);
- (m) the technical environments required to support the Tests;
- (n) the process by which the technical environments will be managed with the Hosting and Service Management Service Provider and Prime DSP;
- (o) the sourcing of Test Data (including confirmation of agreement from the sourcing party where this is not the responsibility of the Prime DSP/SI);
- (p) the process by which Test Data management will be undertaken; and
- (q) adherence to all applicable data security regulations in all test environments and handling of data, including use of tools, shared storage and any Test Incident Management Logs.

3. TEST APPROACH

- 3.1 The Contractor shall develop and maintain Test Approaches as listed in paragraph 1.5 of this Part B in so far as it is the owner of those Test Approaches. The Contractor shall ensure such Test Approaches relate to all Test Activities in the applicable Test Phases and Test Stages and comply with all Test Requirements, DCC Requirements and the description of Test Phases at Appendix 2 to this Schedule 6.2. The Contractor shall ensure all Test Approaches that are Contractor's Test Documents comply with the DCC Test Strategy and the Joint Test Approach (where applicable).

- 3.2 The Contractor shall review and at all times keep up-to-date (in accordance with the process described in paragraph 6 of this Part B of this Schedule 6.2) each Test Approach it was required to develop and maintain in accordance with paragraph 1.5 of this Part B so as to ensure that they are kept fully up-to-date and accurately reflect the then current status of the relevant Testing Activities, programme re-planning approached in accordance with this Agreement and any applicable Implementation Plan and otherwise continue to comply with the requirements of this Schedule 6.2.
- 3.3 Each Contractor's Test Approach shall include, as a minimum, the details set out below in relation to the applicable Test Phase:
- (a) an overview of Test and Risk Management;
 - (b) an overview of the Governance Model applicable to the Test Phases / Stages;
 - (c) an overview of the Testing to be undertaken;
 - (d) the start date for the Testing;
 - (e) the Testing procedure, including the type of Test and the scope of the Test in accordance with Appendix 2;
 - (f) the Test objectives;
 - (g) a detailed list of dependencies the Contractor proposes the DCC consider for inclusion as DCC Responsibilities;
 - (h) the Stage Entry Criteria and Stage Exit Criteria for each Test Stage including the number of Test Incidents permitted listed by Test Incident Severity;
 - (i) a high-level overview of the scope of OAT;
 - (j) details of scope of functional and non-functional testing, including security;
 - (k) the intended volume and management of Test Data, and the dates by which any externally provided Test Data are required by the Contractor;
 - (l) the timetable for each Test Phase;
 - (m) procedures for maintaining the Test Traceability Matrix, where it is the specific responsibility of the Contractor to own the Test Traceability Matrix;
 - (n) procedures for maintaining the Requirements Traceability Matrix, where it is the specific responsibility of the Contractor to own areas of the Requirements Traceability Matrix;
 - (o) the approach to Regression Testing and Test Incident (including any defects) management for the Contractor's PIT Phase and subsequently working collaboratively with the Prime DSP/SI;

- (p) the names of the relevant representatives from the DCC (if applicable) and the Contractor and relevant DCC Services Providers and the plan to make the resources available for Testing;
- (q) identification of the resources required for Testing, including facilities, infrastructure, Test personnel, third party involvement, DCC involvement and the plan to make the resources available for Testing within the lead times;
- (r) the environments required to support the Test Approach and working collaboratively with the Prime DSP/SI and Hosting and Service Management Service Provider to provide support;
- (s) how the Test Stubs it intends to use will allow sufficiently accurate simulation of relevant SMETS equipment during testing at the volumes of devices to be tested using such Test Stubs (including Testing by other DCC Service Providers);
- (t) the procedure for managing the configuration of the Test Environments including the release management process; and
- (u) use of testing and test management tools and the interaction with the Prime DSP/SI tools for SIT Phase onwards.

4. TEST PLANS

4.1 The Contactor shall develop and maintain the Test Plans for each Test Stage identified in paragraph 1.5 of this Part B in so far as it is the owner of those Test Plans. The Contractor shall ensure all Test Plans that are Contractor's Test Documents comply with the DCC Test Strategy and relevant Test Approach. The Contractor shall ensure each such Test Plan shall include, as a minimum, the details set out below in relation to the applicable Test Stage:

- (a) details of the Test Phase from the Test Approach to which the Test Plan is aligned;
- (b) details of how the Contractor intends to apply Test and Risk Management;
- (c) details of the Testing, confirmation of any applicable Milestones to which the Testing may relate, the requirements being Tested and, for each Test, the specific Test Success Criteria to be met;
- (d) the use cases that will be tested as part of a Release;
- (e) a detailed procedure for the Tests to be carried out, including:
 - (i) Test Stage Entry and Exit Criteria;
 - (ii) the timetable for the Tests including start and end dates (in accordance with this Agreement and any applicable Implementation Plan);
 - (iii) a full list of the Test Specifications applicable to each Test Stage;

- (iv) dates and methods by which the DCC can inspect Test results or witness the Tests in order to establish that the applicable Stage Exit Criteria and Test Success Criteria have been met;
- (v) dates agreed with the DCC to allow them to conduct identified acceptance activities;
- (vi) the mechanism for ensuring the quality, completeness and relevance of the Tests;
- (vii) the format and an example of Test progress reports and the process with which the DCC can assess daily Test schedules and progress;
- (viii) the process with which the DCC will review Test Incidents and progress on a timely basis;
- (ix) the schedule of Tests;
- (x) the specification of the Test Data, including its source, scope, volume and management, a request (if applicable) for relevant Test Data to be provided by another person (which may include the DCC acting on behalf of the DCC Service Users) with agreed dates at which it shall be provided and the extent to which it is equivalent to live operational data;
- (xi) the information required by paragraph 4.1(c) (under the heading Test Data) of Part C (Testing);
- (xii) a plan to make the resources available for Testing including any environments, facilities, model offices, infrastructure, Test personnel, third party and/or DCC involvement;
- (xiii) the re-Test procedure, the timetable and the resources which would be required for re-Testing;
- (xiv) a Traceability Matrix to map Test Specifications to DCC Requirements; and
- (xv) the decision-making process for escalation from a re-test situation to specific remedial action to resolve the problem / defect / Test Incident.

4.2 The Contractor shall review and at all times keep up-to-date (in accordance with the process described in paragraph 6 of this Part B of this Schedule 6.2) each Test Plan it was required to develop and maintain in accordance with this Agreement so as to ensure that they are kept fully up-to-date and accurately reflect the then current status of the relevant Testing Activities and otherwise continue to comply with the requirements of this Schedule 6.2.

4.3 The Contractor recognises that Test Plans developed by the Contractor are anticipated to include, as a minimum, details equivalent to those referred to in paragraph 4.1 of this Part and that support from the Contractor may be required to create and maintain such plans.

5. TEST SPECIFICATIONS

- 5.1 The Contractor shall produce a Test Specification for each Test and shall ensure this complies with the relevant Test Plan for the relevant Test Stage.
- 5.2 The Contractor shall provide all relevant Test Specifications required by no later than twenty (20) Business Days before the start date for any Testing for the relevant Test Stage (as set out in the Implementation Plan, Test Plan or otherwise agreed pursuant to this Agreement). Each Test Specification shall then be agreed with the DCC in accordance with the process set out in paragraph 6 of this Part.
- 5.3 The Contractor shall consider the ability of the DCC to review a large volume of Test Specifications at one time and agree in advance with the DCC a detailed plan to bundle Test Specifications up so as to allow effective review, in line with the Test Stage plans.
- 5.4 Save as otherwise agreed:
- (a) the Contractor shall be responsible for creating Test Specifications showing traceability of Tests to the functional and the non-functional requirements for each Release as set out in this Agreement and the Contractor Solution Design Documents and Service Management Framework and Communications Hub Documents as defined in Schedule 6.3 (*Development Process*);
 - (b) there shall be Test Specifications for each Test Stage (and each Test); and
 - (c) Tests Specifications shall contain, as a minimum, the following:
 - (i) objective(s) and description of the relevant Test;
 - (ii) Test reference ID;
 - (iii) the date the Test Specification was created;
 - (iv) traceability of the Test Specification to specific Requirements via the Traceability Matrix;
 - (v) agreed prioritisation of the Test Specification;
 - (vi) the Smart Metering Devices and other equipment and / or Test Stubs to be used in the Test;
 - (vii) execution status including a record of all dates the Test Specification was run;
 - (viii) details of the testing conditions including pre-requisites;
 - (ix) Test execution steps, including negative tests of exception and error conditions;
 - (x) expected Test results;
 - (xi) the Test Success Criteria; and

- (xii) Contractor tester name or identifier, excluding individual supplier personal names.

6. APPROVAL OF THE CONTRACTOR'S TEST DOCUMENTS

6.1 Within ten (10) Business Days after receipt of a draft (or updated draft) of a Contractor's Test Document from the Contractor, the DCC shall notify the Contractor if it (acting reasonably) considers that the draft Contractor's Test Document:

- (a) is inconsistent with the DCC Test Approach Documents (or in the case of the DCC Test Approach Documents is inconsistent with this Agreement, including the Implementation Plan;
- (b) in the case of a Test Plan is inconsistent with the relevant Test Approach;
- (c) in the case of any other Test Document (other than the Test Approach) is inconsistent with the relevant Test Plan;
- (d) is insufficiently detailed to be properly evaluated;
- (e) does not comply with any of the requirements set out in this Agreement (including Schedule 6.2); or
- (f) is otherwise not sufficient to ensure Testing will result in the achievement of all relevant Stage Exit Criteria (and in respect of the DCC Test Strategy / Test Approach, the Phase Exit Criteria),

(each, for the purposes of this paragraph 6, a "non-conformity").

6.2 By no later than ten (10) Business Days after receipt of a notice from the DCC (or from) under paragraph 6.1 above, the Contractor shall:

- (a) make any amendments to the draft Contractor's Test Document that are necessary to address the non-conformities notified by the DCC under paragraph 6.1 above; and
- (b) re-submit the revised draft Contractor's Test Document to the DCC.

6.3 Within five (5) Business Days after receipt of the revised draft Contractor's Test Document from the Contractor pursuant to paragraph 6.2 above, the DCC shall notify the Contractor of any new or outstanding non-conformities.

6.4 The process in this paragraph 6 will then be repeated until the DCC notifies the Contractor that the relevant Contractor's Test Document is approved. Any dispute relating to the existence of non-conformities in a draft Contractor's Test Document shall be referred to the Dispute Resolution Procedure.

6.5 The Contractor recognises that approval by the DCC of any Joint Test Document to be prepared by the Systems Integrator shall be subject to substantially similar terms as set out in the preceding sub-paragraphs of this paragraph 6 and shall:

- (a) ensure that it provides the Systems Integrator with all information reasonably required by the Systems Integrator in connection with the production of any Joint Test Document; and
- (b) be responsible (as between the parties) for ensuring that there is no non-conformity (as described in paragraph 6.1 above) in any Joint Test Document submitted to the DCC by the Systems Integrator in so far as such Joint Test Document relates to testing of the Contractor Solution and/or as a result of any inaccuracy or incompleteness (or delay in provisions of) any information or assistance provided or to be provided by the Contractor to the Systems Integrator.

PART C – TESTING

1. PRE-TESTING OBLIGATIONS OF THE CONTRACTOR

- 1.1 The Contractor shall submit the relevant Deliverables, the Contractor Solution or (in either case) any relevant part for Testing (or, where applicable, re-Testing) to the DCC by or before the date set out in the Implementation Plan, Test Plan (or otherwise agreed pursuant to this Agreement) for the commencement of Testing in respect of the relevant Test Stage.
- 1.2 Before submitting any Deliverable, the Contractor Solution or (in either case) any relevant part for Testing under this Schedule 6.2, the Contractor shall subject the relevant Deliverables, the Contractor Solution or (in either case) any relevant part to its own internal quality control measures.
- 1.3 Any Test Incidents (including any defects) found by the Contractor during its own Pre Integration Testing for a Release which are still outstanding at the time of planning handover of said Release must be declared and part of triaging with DCC and its Service Providers to determine whether it can be accepted as part of the PIT Exit. Any defects will require a Work-off Plan and be included within the Prime DSP/SI defect management process and reporting to track until closed off.
- 1.4 Any Test Incidents (for clarity, this includes any defects as set out in the definition of Test Incidents below) found by the Contractor during Operational Acceptance Testing for a Release shall be added to the Test Incidents at UAT for that Release and shall be counted in determining whether the number of Test Incidents for UAT for that Release are within acceptable thresholds (as described in paragraph 6 of Part D of this Schedule 6.2) for the UAT Test Success Criteria and/or Stage Exit Criteria for that Release to be achieved.
- 1.5 The Contractor shall not submit any Deliverables, the Contractor Solution or (in either case) any relevant part for Testing under this Schedule 6.2:
 - (a) until the parties have agreed the Contractor's Test Documents relating to the Deliverables, the Contractor Solution or (in either case) any relevant part;
 - (b) unless it is confident (acting reasonably) that they will successfully satisfy all relevant Stage Exit Criteria; and
 - (c) unless it has provided the DCC with at least ten (10) Business Days' advance notice in writing, certifying that the relevant Deliverable, the Contractor Solution or (in either case) any relevant part is ready for Testing under this Schedule 6.2.
- 1.6 Unless otherwise expressly stated the Phase Entry Criteria for each Test Phase shall include:
 - (a) the relevant Test Approach for the relevant Test Phase having been agreed by the DCC in accordance with this Agreement; and
 - (b) Test Phase Complete Certificates having been issued by the DCC in respect of the preceding Test Phases and

- (c) Approval to Proceed Certificates having been issued by the DCC, which certificates may apply to subsets of systems or solution elements that shall be introduced into testing in a respect of the Test Phase/Stage.
- 1.7 Unless otherwise expressly stated the Stage Entry Criteria for each Test Phase (including for the avoidance of doubt all Test Stages forming part of any Test Phase for a Release) shall include:
- (a) the relevant Test Plans (and all other Test Documents) for the relevant Test Stage having been agreed by the DCC in accordance with this Agreement and which comply with the DCC Test Strategy and Test Approach;
 - (b) Test Specifications having been prepared for the Test Stage with traceability to design specifications and functional and non-functional DCC Requirements as described in the Traceability Matrix;
 - (c) Smart Metering Devices (and Smart Metering Systems as provided by the DCC), Test Stubs, Test Environments and Test Data being ready (and populated in the relevant Test Environments) for all relevant Test Stages of the relevant Test Phase; and
 - (d) the DCC (or the relevant member of the DCC Group) and all relevant third parties to be involved in the Test Stage having confirmed they have resources to support (and are otherwise ready to commence) the Test Stage.
- 1.8 The Contractor shall ensure that Contractor Personnel and personnel of the DCC and/or any other relevant DCC Service Provider participating in a Test (including as Test Witnesses) have all training (e.g. in the use of Test Tools), information, access to equipment and other resources necessary to ensure it can design, execute and verify all Testing as agreed in the applicable Test Plan.

2. TEST ENVIRONMENTS

- 2.1 The Contractor's Test Environments shall be as described in the table below and shall meet the requirements of the DCC Test Strategy and all Test Approaches, the requirements of the DCC Design Authority and DCC Security, and shall be aligned with the Test Environments of the Hosting and Service Management Service Provider and Prime DSP.

DCC-L Test Environment Name	Testing Capability Supported
PIT-A	<p>PIT-A is a functional and non-functional test environment intended to support the; Pre-Integration Testing (PIT) of Maintenance Releases and defect fixes into live Production, Non-Functional Testing (NFT) of Maintenance Releases and defect fixes into live Production</p> <p>The following PIT test stages can be supported:</p> <ul style="list-style-type: none"> I. Unit Testing; II. Link Testing; III. System Testing; IV. Factory Acceptance Testing (FAT) <p>PIT-A is a stand-alone environment. Integration with other DCC Service Providers is emulated using Test Stubs and will be managed and controlled by the Contractor</p>
PIT-B	<p>PIT-B is a functional test environment intended to support the Contractor's Pre-Integration Test (PIT) of DCC's Production +1 Releases.</p> <p>The following PIT test stages can be supported:</p> <ul style="list-style-type: none"> I. Unit Testing II. Link Testing III. System Testing IV. Factory Acceptance Testing (FAT) <p>PIT-B is a stand-alone environment. Integration with other DCC Service Providers is emulated using Test Stubs and will be managed and controlled by the Contractor.</p>

DCC-L Test Environment Name	Testing Capability Supported
PIT-TO-SIT (PTS)	<p>The following PIT test stages can be supported:</p> <ul style="list-style-type: none"> V. System Testing VI. Factory Acceptance Testing (FAT) <p>PIT-TO-SIT is a stand-alone environment. Integration with other DCC Service Providers is emulated using Test Stubs but shall also be connected to other systems in SIT-B as a part of the PIT exit phase prior to SIT phase entry.</p> <p>PIT-TO-SIT will be built by the Hosting and Service Management Service Provider using the required documentation and other artefacts supplied by the Contractor.</p>
SIT-A	<p>SIT-A is a functional test environment intended to support DCC System Integration Test (SIT) of Maintenance Releases and defect fixes into live Production.</p> <p>The following SIT test stages can be supported:</p> <ul style="list-style-type: none"> I. Solution Testing II. UAT <p>SIT-A is integrated with the following other DCC Service Providers: Prime DSP, DCC Enterprise system and TSP.</p>
SIT-B	<p>SIT-B is a functional test environment intended to support DCC System Integration Test (SIT) of Production + 1 releases:</p> <p>The following SIT test stages can be supported:</p> <ul style="list-style-type: none"> I. Solution Testing II. UAT <p>SIT-B is integrated with the following other DCC Service Providers: Prime DSP, DCC Enterprise system and TSP</p>

DCC-L Test Environment Name	Testing Capability Supported
UIT-A	<p>UIT-A is a functional test environment intended to support DCC User Integration Test (UIT) of Maintenance Releases and defect fixes into live Production.</p> <p>The following UIT test stages can be supported:</p> <ul style="list-style-type: none"> I. UEPT; and II. Regression Testing III. Device & User System Testing. <p>UIT-A is integrated with the following other DCC Service Providers: Prime DSP, DCC Enterprise system and TSP</p>
UIT-B	<p>UIT-B is a functional test environment intended to support DCC User Integration Test (UIT) of its Production + 1 releases</p> <p>The following UIT test stages can be supported:</p> <ul style="list-style-type: none"> I. UEPT; and II. UIT Service User Regression Testing; and III. Device & User System Testing, including DCC User regression testing for a new Release. <p>UIT-B is integrated with the following other DCC Service Providers: Prime DSP, DCC Enterprise system and TSP</p>

The Contractor Test Environments have been allocated specific roles to support the Test Phases as referenced in the table above.

The Contractor Test Environments have been implemented to support the ability to do testing on two streams of activity:

- a) "A Stream" will be used to test production defects (fix on fail) and Maintenance Releases on the Contractor Test Environments and promote through to Production.
- b) "B Stream" will be used to test production +1 functionality on Contractor Solution and subsequent Releases and promote through to production.

Usage of Test Environments in a manner other than described above can be permitted by exception through the Test Approach by approval of DCC.

2.2 Unless specifically agreed otherwise with the DCC, the Contractor shall for (and in advance of) each Test Stage:

- (a) establish and provide all relevant Test Lab support, Test Stubs, Test Environments and Test Data needed to execute the specific Test Specifications, as described in detail in the relevant Test Approaches and / or Plans (this will include the load and configuration of software code and the creation of databases and transaction files);
 - (b) specify and build all such Test Stubs, Test Environments for the Contractor Solution in time for each of the relevant Tests as set out in the Test Approach, including procuring and/or installing such Communications Hubs and/or other Smart Metering Devices or other Hardware as may be required;
 - (c) provide the number of Test Environments required in order to complete all necessary Testing within the timetable agreed between the parties;
 - (d) provide all reasonably required assistance to the DCC (and all other DCC Service Providers in the analysis and resolution of Test Incidents during the System Integration Test Phase;
 - (e) provide all reasonably required assistance to all relevant DCC Eco-System Entities (including DCC Service Users) and any other parties participating in User Integration Testing, in the analysis and resolution of Test Incidents during the User Integration Test Phase; and
 - (f) provide all reasonably required assistance to DCC Service Users to ensure the efficient conduct of any User Entry Process Tests.
- 2.3 Unless specifically agreed otherwise with the DCC, the Contractor shall for any UIT Testing, provide all reasonably required assistance to DCC Service Users to ensure the efficient conduct of testing in a Test Lab, in so far as it is within operating parameters for the Contractor.
- 2.4 The Contractor shall support the Systems Integrator, Hosting and Service Management Service Provider and DCC in maintenance and release management:
- (a) within the Test Environment used during the System Integration Test Phase for a Release; and
 - (b) within the Test Environments used for UIT Testing for a Release as agreed with the Systems Integrator from time to time (both Parties acting reasonably); and
 - (c) within the Contractor's Test Environments used for Pre-System Integration and Early Integration Testing for a Release as agreed with the DCC and Systems Integrator from time to time (all Parties acting reasonably).
- 2.5 The Contractor shall comply with the maintenance and release management policies and instructions of the DCC in respect of its Test Environment (other than any Test Environment used solely in the Pre-Integration Test Phase for a Release) as agreed with the Systems Integrator (both parties acting reasonably).

3. TEST STUBS/EMULATORS

- 3.1 Unless otherwise agreed, the Contractor shall be responsible for and shall bear all the costs for developing and utilising the Test Stubs required for Testing wherever such Test Stubs are appropriate mechanisms to simulate functions performed by systems, services or equipment that are external to the Contractor Solution that are not being developed or provided by the Contractor or the DCC.
- 3.2 The Contractor shall comply with its obligations to design, develop and support (including at all times maintaining) the Test Stubs listed in the applicable Test Approach. The DCC may, at its discretion, seek verification that the Test Stubs are appropriate mechanisms to simulate functions performed by systems, services or equipment as described in the appropriate Stage Test plans that are external to the Contractor System as appropriate for each Test Phase and Test Stage. The Contractor shall provide reasonable verification of the Test Stubs it is providing. As part of the verification activities, the DCC shall have the right to conduct physical testing against the Test Stubs.
- 3.3 The Contractor shall create the Test Stubs identified in the applicable Test Approach early in the build stage and make them available to other parties in reasonable time to allow that party to conduct testing to achieve DCC delivery objectives.
- 3.4 The Contractor shall support (including at all times maintaining) the Test Stubs for the period indicated in the applicable Test Approach.
- 3.5 Any shared Test Stubs or tools must meet with the DCC governance standards.

4. TEST DATA

- 4.1 Unless otherwise agreed (including as expressly set out in the applicable Test Approach):
 - (a) the Contractor, working together with the DCC, shall utilise software tools to generate “realistic” Test Data for the purposes of Testing;
 - (b) for UIT Testing, Test Data shall be derived from live-like data, provided by DCC Service Users or by the DCC, that has been anonymised and randomised for testing purposes by the party responsible for the preparation of Test Data for that Test Stage as identified in the applicable Test Approach;
 - (c) the Contractor shall inform the DCC as soon as it has identified the need for DCC Service Users or other parties (other than the Prime DSP (which the Contractor shall manage under relevant Co-operation Agreements)) to provide Test Data and in sufficient time to allow the DCC to liaise with the applicable party to provide said data;
 - (d) subject to (b) and (c) above, it shall be the responsibility of the Contractor to generate or procure, prepare and create Test Data whenever it is required for Pre-Integration Testing;
 - (e) subject to (b) and (c) above, it shall be the responsibility of the Contractor and the DCC to support the Systems Integrator with the

procurement, preparation and creation of Test Data for all Integrated Test Phases; and

- (f) the Contractor and the DCC shall ensure that all necessary Test Data is prepared and ready to populate each Test Environment in time for each of the Tests as set out in the Contractor's Test Approach for PIT as approved by the DCC..
- (g) any data storage or handling of data between DCC Service Providers must meet with DCC governance standards.

5. **TEST MANAGEMENT TOOL**

- 5.1 The Contractor shall provide a Test Management Tool for use by the Contractor and DCC for the purposes of holding and recording all Test Documents, the Traceability Matrix, Test Data, test scripts, guides, results, defects and outcomes throughout each Pre-Integration Test Phase and any Contractor led Joint Integration Testing. The Contractor shall ensure the Test Management Tool holds, manages and permits and controls access to the Traceability Matrix.
- 5.2 The Contractor shall provide the DCC read only access via 2 (two) concurrent licences for DCC staff to its Test Management Tool for each Pre-Integration Test Phase as specified in the Test Approach.
- 5.3 The Contractor shall provide updates on Test Incidents raised from SIT and UIT Test Phases directly to the Systems Integrator controlled Test Management Tool.
- 5.4 Any handling of shared Test Data within Test Management Tools must meet with DCC governance standards.

6. **NOT USED**

7. **NOT USED**

8. **TEST RESULTS**

- 8.1 Unless otherwise agreed:
 - (a) the Contractor shall document all Test results with suitable evidence (including screen shots, file dumps, message prints, images of data sets and evidence of the state of devices e.g. logs and photographs) to demonstrate that the relevant Test has been Achieved where required for each Test Phase.
 - (b) the Contractor shall record the outcome of the Tests conducted during that day and shall notify the DCC in writing of the success or failure of each Test, the Test Incident Severity of any Test Incidents (including any defects), and the status and age of all open Test Incidents (if applicable) as part of the Test execution reports in accordance with paragraph 8.3(a).
 - (c) in respect of any defects, Test results must record root cause.

- 8.2 Without prejudice to paragraphs 8.1 or 8.3, the Contactor shall also notify the DCC and other parties that are involved in the Test Phase as soon as reasonably practicable of any failures or errors (other than those that have no material effect on the Testing, the Contractor Solution and/or the Services) of which the Contractor or any Contractor Person becomes aware during the course of any Test. Upon receipt of any such notice of a failure or error, the DCC may inspect the element of the Contractor Solution and/or the Services to which the failure or error relates (including any associated Software and/or underlying materials) at such time as it shall require.
- 8.3 Throughout (and in respect of) each Test Stage, the Contractor shall:
- (a) provide Test execution reports as follows:
 - (i) in respect of any Testing which takes place in a Pre-Integration Test Phase, provide a daily update report to the DCC summarising the outcome of tests planned and undertaken during that day; and
 - (ii) in respect of any Testing which takes place in a Pre-Integration Test Phase, provide a weekly progress report to the DCC summarising the outcome of tests planned and undertaken during that week; and
 - (iii) subject to agreement with DCC, the reporting frequencies detailed in 8.3(i) and (ii) above may be amended; and
 - (b) provide a weekly readiness report for each Test Stage(s) (starting twenty (20) Business Days prior to the date on which the Test Phase to which such Test Stage(s) relate is due to occur); and
 - (c) maintain risk, assumptions, issues and dependencies logs.

9. REGRESSION TESTING

- 9.1 The Contractor shall ensure that Regression Testing forms an integral part of all Test Plans (and all Test Stages for which it is responsible for developing Test Plans). Regression Testing will be specific to each test environment and the Test Stages being performed for each Release.
- 9.2 The Contractor shall establish a Regression Test method, Regression Test Packs (including Test Data and Test results) and implement a detailed approach for ensuring continued delivery of quality systems.
- 9.3 The Contractor shall carry out Regression Testing for all Deliverables, the Contractor Solution or (in either case) any relevant part where functionality is delivered in stages and as agreed under the Change Control Procedure.
- 9.4 A Regression Test Pack shall be run by the Contractor each and every time a change is applied to the Contractor Solution and before delivery to the DCC or into Live operation. The DCC shall agree with the Contractor which changes (including Emergency Releases) may be subject to a fast-track process.
- 9.5 The Contractor shall produce and deliver to the DCC by the end of each Test Stage, commencing from the end of any System Test Stage a Regression Test

Pack for the Contractor Solution and keep it updated throughout all subsequent Testing (such Regression Test Packs will be utilised, amongst others, by the Systems Integrator and DCC on an on-going basis). Where reasonably practical the Contractor shall ensure that these Regression Test Packs shall be automated.

- 9.6 The Contractor shall promptly (and in any event within two (2) Business Days always providing that the DCC shall not unreasonably withhold its consent to this period being extended to five (5) Business Days if the Contractor shall so request) rectify any omissions in any Regression Test Pack in the event that the receiving party (i.e. the DCC or Systems Integrator) identifies any faults or omissions.

10. TEST REPORTS

- 10.1 Not less than ten (10) Business Days (or such other period as the parties may agree) prior to the date on which the next Test Stage is due to commence, (including as set out in the applicable Implementation Plan or Test Plan), the Contractor shall provide the DCC with a draft Test Report.

- 10.2 On completion of all Testing relating to a Test Stage, the Contractor shall provide the DCC with the final Test Report for the applicable Test Stage.

- 10.3 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables and/or the Contractor(s) Solution(s) or (in either case) any relevant part, including:

- (a) an overview of the Testing conducted;
- (b) identification of the relevant Stage Exit Criteria that have been satisfied;
- (c) identification of the relevant Stage Exit Criteria that have not been satisfied together with the Contractor's explanation of why those Stage Exit Criteria have not been met;
- (d) the Tests that were not completed together with the Contractor's explanation of why those Tests were not completed;
- (e) the Tests that passed, failed or which were not tested, and any other relevant categories, in each case grouped by Test Incident Severity in accordance with paragraph 11 below;
- (f) a complete Test Incident Management Log together with a plan for resolution of all Test Incidents; and
- (g) the specification for any Hardware and software used throughout the Testing and any Changes (or other System Updates) that were applied to that Hardware and/or software during the Testing.

11. TEST INCIDENTS

- 11.1 Where a Test Report identifies a Test Incident, the parties shall agree the classification of the Test Incident using the criteria for Test Incident Severity specified and communicated by the DCC in the E-PDMS.

- 11.2 Unless otherwise agreed:
- (a) the Contractor's Test Incident Management Log shall log Test Incidents to reflect the Test Incident Severity classifications allocated to each Test Incident pursuant to paragraph 11.1 above;
 - (b) the Contractor shall be responsible for maintaining the Contractor's Test Incident Management Log and for ensuring that its contents accurately represent the current status of each Test Incident at all relevant times; and
 - (c) the Contractor shall make the Contractor's Test Incident Management Log available to the DCC upon request.
- 11.3 The DCC shall confirm the classification of any Test Incident unresolved at the end of a Test in consultation with the Contractor. If the parties are unable to agree the classification of any unresolved Test Incident, the matter shall be dealt with in accordance with the Dispute Resolution Procedure.
- 11.4 Prior to the issue of a Certificate, the DCC shall be entitled to review the relevant Test Reports and all relevant Test Incident Management Log(s).
- 11.5 Where the number of Test Incidents recorded by Test Incident Severity exceeds the Stage Exit Criteria for a Test Stage the Contractor shall remedy the defects to the Contractor Solution and run a new Test Cycle including any Regression Testing as required. The Contractor shall repeat this process until the number of Test Incidents recorded by Test Incident Severity is equal to or less than the Stage Exit Criteria for that Test Stage or as otherwise agreed by DCC.
- 11.6 Where Test Incidents are identified with Smart Metering Devices or Test Stubs supplied by the DCC or the Contractor, the Contractor shall provide all assistance required by the DCC and the parties responsible for such equipment to diagnose the cause of such Test Incidents.

PART D – OUTCOME OF TESTING

1. ACCEPTANCE ACTIVITIES

- 1.1 For each Test Stage the applicable Test Approach shall set out the Stage Entry Criteria and Stage Exit Criteria and acceptance procedures. This shall comply with this Agreement and may be subject to elaboration in the specific Contractor's Test Approaches and Contractor's Test Plans.
- 1.2 Unless expressly agreed otherwise, the DCC's acceptance methods shall include Test Witnessing, a full or partial Testing Quality Audit, a Product Inspection and/or Document Review of all Document Deliverables (the "**Acceptance Activities**").

2. TEST WITNESSING AND TEST OBSERVING

- 2.1 The DCC may, in its sole discretion, require the attendance at any Test in respect of any of the Test Stages of one or more Test Witnesses/Observers. Test Witnesses will be selected by the DCC, each of whom will have appropriate skills to fulfil the role of a Test Witness/Observer.
- 2.2 The Contractor shall give the Test Witnesses/Observers access to any documentation and Test Environments reasonably necessary and requested by the Test Witnesses/Observers to perform their role as a Test Witness/Observer in respect of the Tests for the relevant Test Stage.
- 2.3 The Test Witnesses/Observers may actively review the Contractor's Test Documentation and may attend the execution of any repeat Tests on behalf of the DCC so as to enable the DCC to gain an informed view of whether a Test Incident may be closed or whether the relevant Service Component should be re-Tested again.
- 2.4 The Test Witnesses/Observers may be required to verify that the Contractor has conducted the Tests in accordance with the Test Specifications and other relevant Test Documents for the relevant Test Stage.
- 2.5 The Test Witnesses/Observers may produce and deliver their own, independent reports on Testing, which may be used by the DCC to assess whether the Tests have been achieved.
- 2.6 The Test Witnesses/Observers may require the Contractor to raise (and close) Test Incidents on the Contractor's Test Incident Management Log in respect of any Test Stage.
- 2.7 The Test Witnesses/Observers may require the Contractor to demonstrate the modifications made to any defective Deliverables and/or (part of) the Contractor Solution before a Test Incident is closed.
- 2.8 Where required, the Test Witnessing may be achieved remotely.
- 2.9 The Contractor must ensure that any Test Data used or displayed during the Test Witnessing or observations sessions meets with DCC governance standards.

3. TESTING QUALITY AUDIT

- 3.1 Without prejudice to its rights pursuant to Clause 25 (Records and Audits), the DCC (or their nominated third party) may perform on-going quality audits in respect of any part of Testing (each a "**Testing Quality Audit**").
- 3.2 The focus of the Testing Quality Audits will be on:
- (a) adherence to an agreed methodology;
 - (b) adherence to the agreed Testing process;
 - (c) review of requirements traceability;
 - (d) adherence to the agreed Testing deliverables and quality of these deliverables;
 - (e) review of risk management processes and assessments;
 - (f) adherence to DCC governance standards;
 - (g) review of status and key development issues; and
 - (h) identification of key risk areas.
- 3.3 The Contractor shall allow sufficient time in each Test Plan it is required to produce under paragraph 1.5 of Part B for each applicable Test Stage to ensure that adequate responses to a Testing Quality Audit can be provided.
- 3.4 The DCC will give the Contractor at least ten (10) Business Days' written notice of the DCC's intention to undertake a Testing Quality Audit and the Contractor may request, following receipt of that notice, that any Testing Quality Audit be delayed by a reasonable time period, not to exceed ten (10) Business Days, if in the Contractor's reasonable opinion, the carrying out of a Testing Quality Audit at the time specified by the DCC will materially and adversely impact the Contractor's Test Plan.
- 3.5 A Testing Quality Audit may involve Document Reviews, interviews with the Contractor Personnel involved in or monitoring the activities being undertaken pursuant to this Schedule 6.2, the DCC witnessing Tests and demonstrations of the relevant Deliverables, the Contractor Solution or (in either case) any relevant part to the DCC. Any Testing Quality Audit shall be limited in duration to a maximum time to be agreed between the Contractor and the DCC on a case by case basis (such agreement not to be unreasonably withheld or delayed). The Contractor shall provide all reasonable, necessary assistance and access to all relevant documentation required by the DCC to enable it to carry out the Testing Quality Audit.
- 3.6 If the Testing Quality Audit gives the DCC concern in respect of the Testing procedures or any Test, the DCC will discuss the outcome of the Testing Quality Audit with the Contractor, giving the Contractor the opportunity to provide feedback in relation to specific activities, and subsequently prepare a written report for the Contractor detailing the same to which the Contractor shall, within a reasonable timeframe, respond in writing.

3.7 In the event of an inadequate response to the written report from the Contractor, the DCC (acting reasonably) may withhold the granting of the applicable Certificate until the issues in the report have been addressed to the reasonable satisfaction of the DCC.

4. **NOT USED**

5. **DOCUMENT REVIEW**

5.1 The DCC may require Document Review of any documents (including in particular design documents) to be delivered as part of the Services to which any Test Stage relates to form one of the Acceptance Activities for each Test Stage ("**Document Deliverables**").

5.2 The Contractor shall ensure that the Implementation Plans and Test Plans allow sufficient time for the DCC to carry out its review and for re-work, re-submission and re-review of Document Deliverables, subject to timing requirements described in Part A, paragraph 1.5 of this Schedule.

5.3 The Contractor shall provide an audit trail mechanism as part of any Document Review.

5.4 Where Document Review leads to further versions of a document, a clear version and quality control mechanism will be in place by the Contractor.

5.5 The Contractor shall provide the relevant Document Deliverable to the DCC as described in Part A, paragraph 1.5 of this Schedule.

6. **OUTCOME OF TESTING**

6.1 On receipt of a final Test Report for a Test Stage in accordance with this Agreement, the DCC will review the Test Report not more than ten (10) Business Days after receipt of the Test Report (or within any such other timeframe as may be expressly agreed by the parties in writing).

Completion of Test Stages

6.2 Unless otherwise agreed by the parties in writing, the Stage Exit Criteria for each Test Stage (or part thereof) undertaken in connection with any Testing shall include:

- (a) compliance with all DCC Requirements for the relevant Release;
- (b) all Tests in the relevant Test Stage as defined in the individual Test Plans have been run as required in order to deliver the required Contractor Solution and all relevant Test Success Criteria achieved, or any exceptions documented and agreed, and with the number of Test Incidents being within pre-defined acceptable thresholds which shall be agreed with DCC as a part of the Test Plans for each Test Phase
 - (i) it is acceptable for the Contractor to agree with DCC a rectification plan for prompt resolution of outstanding Test Incidents ("**Work-off Plan**") and the Contractor completes the

Work-off Plan in accordance with paragraph 6.2(g) below with agreed Work-off Deadlines;

- (c) test results documented and evidence captured, including:
 - (i) traceability to design specification and functional and non-functional Test Requirements; and
 - (ii) documentation of suitable evidence (including screen shots, file dumps, message prints, images of data sets and evidence of the state of devices e.g. logs and photographs) to show that the test condition has demonstrated that actual results are as expected;
- (d) a complete set of fault and issue logs applicable to the relevant Test Stage have been produced and provided to the DCC;
- (e) Regression Testing completed (having confirmed that the existing functionality of the Contractor Solution and any other System within the scope of such Testing is not affected by the addition of new and/or modified functionality);
- (f) a Regression Test Pack has been prepared and stored for future use and is made available to DCC. Where feasible, the Regression Test Pack will be automated and user guides shall be provided to DCC;
- (g) the completion of the Work-off Plan, which shall include the Contractor repeating all relevant tests (or such similar Testing Activities as the DCC may reasonably elect) in respect of the Test Incident at its own cost to prove (to the DCC's reasonable satisfaction) that such Test Incidents have been resolved. The Work-off Plan shall be completed (and all Test Incidents resolved) within a reasonable time period as agreed in the Work-off Plan (and in any event within:
 - (i) sixty (60) Business Days of the agreement of the Work-off Plan; or
 - (ii) any applicable Work-off Deadline (as defined in paragraph 6.2 (b)(iv) of this Part), whichever the earlier, unless the DCC otherwise agrees in its absolute discretion); and
- (h) an appropriate Test Stage Complete Certificate issued by the DCC.

6.3 The relevant Test Stage shall only be completed when all relevant Stage Exit Criteria have been achieved. When the relevant Test Stage has been completed (but for the issuing by the DCC of a Test Stage Complete Certificate), the DCC shall issue a Test Stage Complete Certificate in accordance with this paragraph 6 for the Test Stage.

6.4 Where a Test Stage has been completed and there is only one Stage for the relevant Test Phase (or all the other relevant Stages have been completed), the DCC may instead issue one Test Phase Complete Certificate pursuant to paragraph 6.6 of this part (which in such circumstances shall also be deemed to be the Test Stage Complete Certificate for the relevant Test Stage).

- 6.5 Without prejudice to any other rights or remedies, if the relevant Deliverable, the Contractor Solution or (in either case) any relevant part does not meet any relevant Stage Exit Criteria:
- (a) the DCC may issue a Test Stage Complete Certificate subject to completion of a Work-off Plan within the Work-off Deadlines set out in paragraph 6.2(b)(iv). As part of this process, the Contractor shall repeat all relevant Tests in respect of the relevant Test Incidents at its own cost to prove (to the DCC's reasonable satisfaction) that such Test Incidents have been resolved; or
 - (b) the DCC may, by written notice to the Contractor, at its sole discretion and without prejudice to any other rights or remedies it may have:
 - (i) require the Contractor to resolve the Test Incidents and fix a new date for carrying out repeat Tests on the relevant Deliverable, the Contractor Solution or (in either case) any relevant part on the same terms and conditions and at no cost to the DCC. If the relevant Deliverable, the Contractor Solution or (in either case) any relevant part fail such further Tests, the DCC shall be entitled to either repeat the process set out in this paragraph 6.5(b)(i) or proceed under paragraph 6.5(b)(ii) or 6.5(b)(iii) below;
 - (ii) conditionally accept the relevant Deliverable, the Contractor Solution or (in either case) any relevant part in its absolute discretion and subject to such conditions of acceptance as the DCC may reasonably determine. Conditional acceptance shall constitute acceptance of the relevant Deliverable, the Contractor Solution or (in either case) any relevant part provided that all the relevant conditions have been met within the period specified by DCC. If all the relevant conditions have not been met within the period specified by DCC, DCC may proceed under paragraph 6.5(b)(iii) below; or
 - (iii) reject the whole of the relevant Deliverable, the Contractor Solution or (in either case) any relevant part.

Completion of Test Phases

- 6.6 Unless otherwise agreed, the Phase Exit Criteria for each Test Phase undertaken in connection with any Testing shall include:
- (a) compliance with DCC Requirements and Test Requirements for any Pre-Integration Test Phase within a Release;
 - (b) the Stages that form part of that Test Phase and appropriate Test Phase Complete Certificate issued by DCC.
- 6.7 The relevant Test Phase will only be complete when all applicable Phase Exit Criteria for the Test Phase have been achieved.
- 6.8 The terms under which DCC will issue Test Phase Complete Certificates and Approval to Proceed Certificates shall be as set out in this paragraph 6.8:

- 6.8.1 When the relevant Test Phase has been completed (but for the issuing of a Test Phase Complete Certificate by the DCC), the DCC shall issue a Test Phase Complete Certificate in accordance with this paragraph for the relevant Test Phase as soon as reasonably practicable and in any event within five (5) Business Days; and
- 6.8.2 The DCC shall issue an Approval to Proceed Certificate when it is reasonably satisfied that functionality can be introduced into the next Test Stage or Phase without adversely impacting the Testing activities that are undertaken in that Test Stage or Test Phase.

Submission of Test Assets to the DCC

- 6.9 At the completion of each Test Phase the Contractor shall provide the DCC with a full copy of all functional and non-functional Test Specifications, Regression Test Packs, all Test Documents, evidence of test-runs, logs of Test Incidents and their resolution and any other materials produced in the performance of Testing (the "**Test Assets**") as described in Part C, paragraph 5 ('Test Management Tools') of this Schedule 6.2.
- 6.10 The Contractor shall ensure that all updated Test Assets are provided to the DCC upon any change and as part of Exit.

PART E – RISK

1. RISK

- 1.1 Subject to Schedule 3 (*DCC Responsibilities*), risk in the development and implementation of the Deliverables, the Contractor Solution or (in either case) any relevant part and/or the provision of the Services shall remain with the Contractor.
- 1.2 Failure of the Contractor to comply with any of its obligations set out in this Schedule 6.2 (including those set out in any Contractor's Test Plan), and/or any resultant Dispute, shall be referred to the Dispute Resolution Procedure.
- 1.3 The issue of a Certificate shall not operate to transfer any risk that the Deliverables, the Contractor Solution or (in either case) any relevant part will meet and/or satisfy the DCC's Requirements or that the relevant Milestone is complete or that it will satisfy the DCC's requirements for that Milestone.
- 1.4 Consequently, the grant of a Certificate shall not affect the DCC's right subsequently to reject:
 - (a) all or any element of the Deliverables, the Contractor Solution or (in either case) any relevant part to which a Certificate relates; or
 - (b) any Certificate.

PART F – DEFINITIONS

DEFINITIONS & INTERPRETATION:

In this Schedule 6.2 (including the definitions below) references to any Test Plan, Test Approach, DCC Test Strategy, Test Specification or other Test Document shall, unless the context otherwise requires, refer to the latest such document approved by the DCC from time to time and the following terms shall otherwise have the meanings given below:

"Acceptance Activities"	has the meaning given in paragraph 1.2 of Part D of this Schedule 6.2;
"Business Acceptance Testing"	means testing of applicable and agreed business processes to provide the DCC with confidence that the DCC Services have been implemented and maintained, are functionally fit for purpose and are fully supported by the business processes;
"Approval to Proceed Certificate"	means a certificate substantially in the form set out in Appendix 1 issued pursuant to paragraph 6.8 of Part D (<i>Outcome of Testing</i>);
"Certificate"	means (as appropriate) a Test Phase Complete Certificate (or part thereof) a Test Stage Complete Certificate (or part thereof) an Approval to Proceed Certificate (or part thereof) or a Milestone Achievement Certificate;
"Commodity Change"	means a change that is solely an Operational Change that: <ul style="list-style-type: none">(i) relates to a part of the Contractor Solution that is a Non-Exclusive Asset; and(ii) could not have any impact on the security of the Contractor Solution or End-to-end Smart Metering System or any Smart Appliance;
"Common Test Scenarios Document "	means the document that forms part of the Smart Energy Code that details which Tests need to be performed by a Service User based on their SEC Party Role in order to become a DCC User;
"Common Test Scenarios" or "CTS"	means, as set out in the Common Test Scenarios Document (CTSD), these are Test scenarios that prospective users must undertake for each specific user role that they intend to perform. The CTS will be specified at an appropriate level of detail to provide prospective users with the necessary information to develop test scripts against which they can complete UEPT;
"Component"	means the smallest part or element of a Sub-System
"Component Integration"	means the Integration Testing of Systems forming the

Testing”	Contractor Solution
"CSP"	has the meaning given in the SEC;
"Contractor’s Documents"	Test means the Test Documents to be provided by the Contractor as set out in Part B of this Schedule 6.2;
"Deliverable"	has the meaning given in Schedule 1;
"Document Deliverable"	has the meaning given in paragraph 5 of Part D of this Schedule 6.2;
"Document Review"	means a review of documentation by or on behalf of the DCC;
“Integrated Test Phases”	means any Test Phase where solutions of different Service Providers are connected for the purposes of Testing.
"Joint Test Document"	means the DCC Test Strategy and the other Test Documents listed in paragraphs 1.5(b) to (e) (inclusive) of Part B of this Schedule 6.2;
Lead Contractor	means the party responsible for developing of the Test Approach for an individual Test Stage and / or responsible for a Test Phase.
“Market Entry Testing”	means the Testing process that New Market Entrants and any DCC Service Users that do not enter via UIT Testing go through to test their processes and as described in this Schedule 6.2. For DCC Service Users this includes User Entry Process Testing;
"Material Test Incident"	means a Test Incident with a Test Incident Severity of levels 1 and 2, the criteria for which are set out in paragraph 11 of Part C of this Schedule 6.2;
"New Market Entrant"	means a potential DCC Service User that wishes to begin using the DCC Services following Market Entry Testing;
“Operational Acceptance Testing” or (OAT)	means testing of non-functional requirements conducted in parallel with the relevant PIT and SIT stages not covered in the scope of functional testing to provide the DCC with a sufficient level of information on the relevant operational non-functional areas of the Contractor Solution to make an informed decision as to the stability, suitability and capability of the DCC Eco-system to support the DCC solution at go-live of the relevant Release;
"Phase Entry Criteria"	means, in respect of each Test Phase, the criteria that must be satisfied before such Test Phase can commence (one such criteria will always be successful completion of all relevant Stage Exit

Criteria for all relevant Test Stages forming part of any previous Test Phase and the issue of a Test Phase Complete Certificate for each such previous Test Phase unless otherwise agreed in writing by the DCC);

"Phase Exit Criteria"	means, in respect of each Test Phase, the criteria that must be satisfied before such Test Phase is successfully complete (one such criteria will always be successful completion of all relevant Stage Exit Criteria for all relevant Test Stages unless otherwise agreed in writing with the DCC);
"Product Inspection"	shall be construed in accordance with paragraph 4 of Part D of this Schedule 6.2;
"Product Inspector(s)"	means each person(s) appointed by the DCC to conduct a Product Inspection from time to time;
"Regression Testing"	means Testing (including both functional and non-functional testing) to ensure that any existing functionality is not negatively affected by the addition of new and/or modified functionality (or any other change to any related part of any System) introduced at any point in the Service Period, including that the Contractor Solution shall continue to perform in accordance with all obligations under this Agreement (and "Regression Test" shall be construed accordingly);
"Regression Test Pack"	means a set of tools, configuration information, scripts and data to allow a set of tests to be re-run at a later date;
"SMS Test Set(s)"	has the meaning given in paragraph 6.8 of Part C of this Schedule;
"Stage Entry Criteria"	means in relation to each Test Stage the criteria that must be satisfied before such Test Stage can commence;
"Stage Exit Criteria"	means in relation to each Test Stage, the criteria that must be satisfied before such Test Stage is successfully complete (one such criteria will always be zero (0) Test Incident Severity 1 or Test Incident Severity 2);
"Sub-System"	means a smaller part or element of a System and or Service Component
"System Update"	means any proposed or actual Change (or series of connected Changes, including any Change or proposed change in any configuration) in or in part(s) of any of: <ul style="list-style-type: none">• the Consumer Access Devices and/or End-to-end

Smart Metering System; or

- the Systems used by any DCC Service User to interface or interact with any part of the End-to-end Smart Metering System,

including any Changes (or proposed Changes) to any software or Hardware or other Systems (or any part, code or element of them) and new SMS. System Updates will include the use of new System(s), use of new versions of any System(s) and maintenance release or replacements of Systems (including those to correct faults, add functionality or otherwise amend or upgrade any part of such Systems);

"Test"	means any test required to be carried out in accordance with this Schedule 6.2 (including Product Inspection and Document Review), and "Testing" and "Tested" shall be construed accordingly;
"Test Approach"	means the latest version from time to time of a document approved by the DCC describing how the Tests listed in the DCC Test Strategy shall be conducted (and otherwise in accordance with paragraph 3 of Part B of this Schedule 6.2);
"Test Assets"	has the meaning given in paragraph 6.12 of Part D of this Schedule 6.2;
"Test Cycle"	has the meaning given in paragraph 7.4 of Part C of this Schedule 6.2;
"Test Data"	means that data required for Testing as described in paragraph 4 of Part C of this Schedule 6.2;
"Test Document(s)"	means the DCC Test Strategy and each Test Approach, Test Plan and Test Specification and such variations to such Test Documents or additional test documentation as may be developed from time to time in accordance with this Agreement;
"Test Environment"	means the Systems against which a given Testing Activity is executed as further defined in paragraph 2 of Part C of this Schedule 6.2;
"Test Incident"	means any variance or non-conformity of a Deliverable and/or Contractor Solution or (in either case) any relevant part from its requirements as set out in the relevant Test Success Criteria. For avoidance of doubt, Test Incident shall include any defect that may occur during the Design, Build and Testing Phase (which shall be subject to the Performance Measures required for that Phase) in addition to any problems or live incidents that may arise and require the support of the Contractor during the Operational Phase (where a separate set of

	Performance Measures shall apply);
"Test Incident Management Log"	means a log for the recording of Test Incidents as described further in paragraph 11.2 of Part C of this Schedule 6.2;
"Test Incident Severity"	means the severity of a Test Incident categorized in accordance with paragraph 11.1 of Part C of this Schedule 6.2;
"Testing Activities"	has the meaning given in the section entitled "Purpose" of this Schedule 6.2;
"Testing Quality Audit"	has the meaning given in paragraph 3.1 of Part D of this Schedule 6.2;
"Test Management Tool"	means a test management tool that has the ability to log and track Test Incidents, store test cases, map tests to requirements, enable test execution and track test progress as further described in paragraph 5 of Part C of this Schedule 6.2;
"Test Observer"	means a DCC Test Assurance Resource that has the experience and skills to conduct formal test witnessing, informally observing System Testing (during each Pre-integration Test Phase) and Solution Testing (during each Systems Integration Phase).
"Test Observing"	means the process of DCC Test Assurance Personnel, informally observing System Testing (during each Pre-integration Test Phase) and Solution Testing (during each Systems Integration Phase). Observations of a successful test may result in a reduction in scope to respective Factory Acceptance Test and Service Provider User Acceptance Test Stages;
"Testing Participant"	means, in respect of each Testing Service, the persons (whether or not they are parties to this Agreement) who are entitled to undertake such tests, as described in Section SEC 4 section H14 (Testing Services), together with any other persons identified as such in SEC 4 Section T (Testing During Transition);
"Test Phase"	means each test phase as described in paragraph 1 of Part A of this Schedule 6.2;
"Test Phase Complete Certificate"	means a certificate substantially in the form set out in Appendix 1 issued pursuant to paragraph 6.8 of Part D (<i>Outcome of Testing</i>);
"Test Plan"	means the latest version of a document approved by the DCC from time to time explaining when, where

and with what resources the Testing will happen in a stage or phase and as described in paragraph 4 of Part B of Schedule 6.2;

"Test Report"	means a report setting out the results of any Tests which shall include without limitation the information set out in paragraph 10.3 of Part C of this Schedule 6.2;
"Test Requirements"	has the meaning given in paragraph 1.6 of Part A of this Schedule 6.2;
"Test Specification"	means the latest version of a detailed set of steps and requirements (documenting how each specific test will be conducted and the outcomes expected for each step against which the success shall be measured in order to determine if the Test Success Criteria have been satisfied, which shall include without limitation the information set out in paragraph 5 of Part B of this Schedule 6.2) that has been approved by the DCC;
"Test Stage"	means the latest version of each test stage as described in paragraph 1 of Part A of this Schedule 6.2 approved by the DCC;
"Test Stage Complete Certificate"	means a certificate substantially in the form set out in Appendix 1 issued pursuant to paragraph 6.3 of Part D (<i>Outcome of Testing</i>) of this Schedule 6.2;
"Test Stub"	means a system used to simulate another system for the purposes of Testing and as further described in paragraph 3 of Part C of this Schedule 6.2;
"Test Success Criteria"	means, in relation to a Test Specification, the criteria to be applied to determine whether the Test has passed or failed and as used to determine the Test Incident Severity as applicable;
"Test Witness"	means any person appointed by the DCC pursuant to paragraph 2.1 of Part D of this Schedule 6.2;
"Testing Baseline Requirements Document"	means the technical and procedural requirements for demonstrating the testing objectives under Section T of the Smart Energy Code, including the relevant versions of technical specifications and subsidiary documents for the purposes of Systems Integration, User Integration and SMKI and Repository Testing;
"Traceability Matrix"	has the meaning given in Schedule 6.3;
"TSP"	has the meaning given in the SEC;
"UIT Testing"	means the Testing processes during the User Integration Test Phase that (a subset) of DCC Service

Users go through to test their processes and systems. This includes an Interface Testing Test Stage incorporating the UEPT stage and Device & User System Test Stage as are described in this Schedule 6.2;

- "User Entry Process Testing (UEPT)"** means the scope of testing a Service User is obligated to undertake in order to become an eligible DCC User as set out in the Common Test Scenarios Document; and
- " Work-off Deadline(s)"** has the meaning given in paragraph 6.2 (b) (iv) of Part D of this Schedule 6.2;
- "Work-off Plan"** has the meaning given in paragraph 6.2 of Part D of this Schedule 6.2.

Appendix 1: Completion / Approval to Proceed Certificates

Test Phase / Test Stage Complete Certificate and Approval to Proceed Certificates

Test Phase / Test Stage Complete Certificate

To: [CONTRACTOR]

From: [DCC]

[Date]

Dear Sirs

[TEST PHASE] [TEST STAGE] COMPLETE CERTIFICATE

[TEST PHASE] [TEST STAGE]: *[insert description]*

We refer to the Agreement relating to the provision of ICT Services to the DCC ("**Agreement**") between [#] ("**DCC**") and [#] ("**Contractor**") dated [#].

[TEST STAGE COMPLETE]: We confirm that the relevant parts of the [Contractor Solution] have been tested in accordance with the relevant Test Documents. Subject to completion of any relevant Work-off Plan(s) for this Test Stage, we confirm that the relevant Stage Exit Criteria have been achieved.]

[TEST PHASE COMPLETE]: We confirm that the relevant parts of the [Contractor Solution] have been tested in accordance with the relevant Test Documents. We confirm that the relevant Stage Exit Criteria for each relevant Stage have been achieved and that the relevant Phase Exit Criteria for the Phase have also been achieved.]

The Contractor's Work-off Plan for this Test Stage is attached as an annex to this Test Stage Complete Certificate.

Accordingly, the Contractor is entitled to proceed on the basis of this Test [Phase / Stage] Complete Certificate in respect of the above-mentioned Test [Phase / Stage] in accordance with our Agreement.

Please note that the granting by the DCC of this Certificate shall not result in a transfer of risk to the DCC in respect of any part of the Contractor Solution and the Services.

Yours faithfully

[Name]

[Position]

acting on behalf of the DCC

Approval to Proceed Certificate

To: [CONTRACTOR]

From: [DCC]

[Date]

Dear Sirs

APPROVAL TO PROCEED CERTIFICATE

[TEST PHASE] [TEST STAGE]: *[insert description]*

We refer to the Agreement relating to the provision of ICT Services to the DCC ("**Agreement**") between [#] ("**DCC**") and [#] ("**Contractor**") dated [#].

[Approval to Proceed]: We confirm that the relevant parts of the [Contractor Solution] can enter into the next stage of Testing.

Accordingly, the Contractor is entitled to proceed on the basis of this Approval to Proceed Certificate in respect of the above-mentioned Test [Phase / Stage] in accordance with our Agreement.

Please note that the granting by the DCC of this Certificate shall not result in a transfer of risk to the DCC in respect of any part of the Contractor Solution and the Services.

Yours faithfully

[Name]

[Position]

acting on behalf of the DCC

Appendix 2: NOT USED

Appendix 3: NOT USED

Appendix 4: NOT USED

**SCHEDULE 6.3
DEVELOPMENT PROCESS**

This Schedule 6.3 (Development Process) comprises the following parts:

Part	Scope
Part A	Overview
Part B	Definitions
Part C	SEC Subsidiary Documents
Part D	Development of Product Descriptions
Part E	Development of Relevant Documents
Part F	Development of Other Documents
Appendix 1	Requirements for Product Descriptions
Appendix 2	Contractor Solution Design Documents
Appendix 3	Service Management Framework

PART A – OVERVIEW

1. SCOPE OF THIS SCHEDULE

- 1.1 This Schedule 6.3 sets out the process for the development of the following documents (together, the "**Relevant Documents**"):

Contractor Solution Design Documents (see Appendix 2)	
	<i>See Appendix 2 below</i>
...	...

Service Management Framework (see Appendix 3)	
	<i>See Appendix 3 below</i>
...	...

- 1.2 The parties acknowledge that other documentation will need to be developed by the Contractor, and reviewed by the DCC, in accordance with the other relevant provisions of this Agreement, including (in particular):
- (a) the Contractor Security Documents under Schedule 2.5 (*Security Management Plan*);
 - (b) the Implementation Plan under Schedule 6.1 (*Implementation Planning*);
 - (c) the Contractor's Test Documents under Schedule 6.2 (*Testing and Acceptance*);
 - (d) the Exit Plan under Schedule 8.5 (*Exit*); and
 - (e) the BCDR Plan under Schedule 8.6 (*Business Continuity and Disaster Recovery Plan*).

2. OBLIGATION TO DEVELOP

- 2.1 The Contractor shall develop each of the Relevant Documents in accordance with the process set out in this Schedule 6.3.
- 2.2 The Contractor's development activities under this Schedule 6.3 shall form part of the Services.

3. OVERVIEW OF DEVELOPMENT PROCESS

Development stages

ECoS Schedule 6.3 (Development Process) (Critical Software)

- 3.1 The development of each Relevant Document shall be conducted in accordance with the following stages:
- (a) **Draft Product Descriptions:** The Contractor will deliver draft Product Descriptions for each of the Relevant Documents in accordance with the timescales in the Implementation Plan Product Description; and
 - (b) **Product Description Relevant Documents:** once the draft Product Description for any Relevant Document has been agreed by the parties, the Contractor shall develop the final Relevant Document (in accordance with Part E).
- 3.2 The Contractor acknowledges that all draft Product Descriptions must comply with the relevant requirements of this Agreement, including the applicable DCC Requirements.

Iterative approach

- 3.3 The development of the Relevant Documents under Part E will be an iterative process, including as a result of:
- (a) the need to ensure that, where applicable, the Relevant Documents are consistent with any equivalent specifications, deliverables or other documents being developed by other DCC Service Providers; and
 - (b) the outcome of any testing procedures under Schedule 6.2 (*Testing and Acceptance*) which may require an amendment to the Relevant Documents.
- 3.4 As a result of this iterative process, the Contractor will need to prepare a number of iterations of each Relevant Document (each, a "**Document Iteration**").

4. COMPLIANCE WITH IMPLEMENTATION PLAN

- 4.1 The Contractor shall ensure that each of the Relevant Documents is developed and finalised under this Schedule 6.3 in accordance with:
- (a) the applicable timescales, and other relevant requirements, set out in the Implementation Plan; and
 - (b) the applicable requirements of this Agreement.

PART B – DEFINITIONS

In this Schedule 6.3:

"Applicable Content Requirements"	has the meaning given in paragraph 11.2 of Part E (as amended, in respect of a Document Iteration, by paragraph 11.3 of Part E);
"Authority to Proceed Notice"	means the notice which may be issued by the DCC under paragraph 13.1 of Part E, as further described in paragraphs 13.2 and 13.3 of Part E;
"Conditional Authority to Proceed Notice"	means the notice which may be issued by the DCC under paragraph 13.1 of Part E, as further described in paragraphs 13.4 to 13.7 of Part E;
"Contractor's Service Management Framework"	means the documents identified as "Service Management Framework" in paragraph 1 of Part A, as further described in Appendix 3;
"Contractor Solution Design Documents"	means the documents identified as "Contractor Solution Design Documents" in paragraph 1 of Part A, as further described in Appendix 2;
"Document Iteration"	means an individual iteration of a Relevant Document to be prepared in accordance with Part E, as further described in paragraph 3.4 of Part A;
"Non-Conformity"	has the meaning given, for the purposes of this Schedule 6.3, in paragraph 13.10 of Part E, and " Non-Conformities " shall be construed accordingly;
"Product Description"	means the product description in relation to a Relevant Document;
"Rejection Notice"	means the notice which may be issued by the DCC under paragraph 13.1 of Part E, as further described in paragraphs 13.8 to 13.10 of Part E;
"Related Document"	has the meaning given in Appendix 1;
"Relevant Documents"	means the documents listed in paragraph 1 of Part A, and " Relevant Document " means any one of them;
"SEC Subsidiary Documents"	has the meaning given in the SEC;
"Validity Period"	has the meaning given in paragraph 13.5(b) of Part E.

PART C – SEC SUBSIDIARY DOCUMENTS

5. GENERAL

The parties acknowledge that the Relevant Documents are required to comply with one or more of the SEC Subsidiary Documents (as updated from time to time).

6. CHANGES TO THE SEC SUBSIDIARY DOCUMENTS

If there is a change to any of the SEC Subsidiary Documents which may require a change to any of the Relevant Documents and/or the Contractor Solution, such change to the relevant SEC Subsidiary Document shall be deemed to be a Specific Change in Mandatory Requirements and the parties shall comply with their respective obligations, and may exercise their respective rights, under Schedule 8.2 (*Change Control*).

PART D – DEVELOPMENT OF PRODUCT DESCRIPTIONS

7. CONTRACTOR OBLIGATIONS

The Contractor shall develop a Product Description for each of the Relevant Documents in accordance with this Part D.

8. REQUIREMENTS FOR DETAILED PRODUCT DESCRIPTIONS

The Contractor shall ensure that each Product Description:

- (a) complies with the relevant requirements of this Agreement, including the applicable DCC Requirements);
- (b) is sufficient and appropriate to:
 - (i) enable the Relevant Document to which it relates to be developed and finalised in accordance with the requirements of this Schedule 6.3; and
 - (ii) enable the Contractor to perform the Services, and otherwise deliver the Contractor Solution, in accordance with the requirements of this Agreement;
- (c) is consistent with the product description of any Related Document; and
- (d) complies with the specific requirements set out in Appendix 1.

9. DEVELOPMENT AND REVIEW PROCESS

9.1 Each Product Description shall be subject to the review and approval of the DCC.

9.2 The DCC may reject any Product Description if the DCC (acting reasonably and in good faith) believes that:

- (a) any aspect of the Product Description is insufficiently detailed to enable the Relevant Document to be properly developed and reviewed in accordance with the requirements of this Schedule 6.3;
- (b) the Product Description does not comply with some or all of the requirements referred to in paragraph 8;
- (c) Product Description and of the Applicable Content Requirements set out in the Product Description are inappropriate or insufficient to ensure that:
 - (i) the Relevant Document will comply with the applicable SEC Subsidiary Documents and the relevant requirements of this Agreement; and/or
 - (ii) the Contractor will be able to perform the Services, and deliver the Contractor Solution, in accordance with the requirements of this Agreement; and/or

- (d) any of the timescales proposed in the Product Description:
 - (i) are unlikely to enable the Relevant Document to be properly developed and finalised in accordance with the applicable Milestones and other timescales set out in the Implementation Plan; or
 - (ii) do not provide sufficient time for the parties to perform their respective obligations under this Schedule 6.3.

9.3 If the DCC rejects any Product Description under paragraph 9.2, it shall provide reasonable details regarding the reason(s) for such rejection.

9.4 Subject to paragraph 9.6, if the DCC rejects any Product Description under paragraph 9.2, the Contractor shall:

- (a) make any amendments to the Product Description that are necessary to address the issues identified by the DCC; and
- (b) re-submit a revised version of the Product Description to the DCC for review,

as soon as reasonably practicable, and in any event, within ten (10) Business Days.

9.5 The process in paragraphs 9.1 to 9.4 will then be repeated until the DCC notifies the Contractor that it approves the Product Description.

9.6 The Contractor shall not be entitled to reject any issues raised by the DCC under paragraph 9.2, except where (in the Contractor's reasonable opinion):

- (a) the DCC has made a manifest error in relation to the reason(s) for rejecting the Product Description; or
- (b) the DCC has failed to comply with its obligation under paragraph 9.2 to act reasonably and in good faith.

Any Dispute regarding the matters referred to in this paragraph 9.6 shall be resolved in accordance with the Fast Track Dispute Resolution Procedure

9.7 If the DCC approves the Product Description, it shall be binding on the Contractor from the date of DCC's notice of approval.

PART E – DEVELOPMENT OF RELEVANT DOCUMENTS

10. CONTRACTOR OBLIGATIONS

- 10.1 The Contractor shall develop each of the Relevant Documents in accordance with this Part E.
- 10.2 Each Relevant Document shall be prepared in accordance with the applicable timescales, and other relevant requirements, set out in the applicable Product Description.
- 10.3 For the avoidance of doubt, the Contractor shall not start the development of any Relevant Document until the applicable Product Description has been agreed by the parties in accordance with Part D.

11. REQUIREMENTS FOR RELEVANT DOCUMENTS

- 11.1 The Contractor shall ensure that each Relevant Document:
 - (a) complies with the requirements set out in the applicable Product Description;
 - (b) complies with the relevant requirements of this Agreement, including the applicable DCC Requirements;
 - (c) is sufficient and appropriate to enable the Contractor to perform the Services, and otherwise deliver the Contractor Solution, in accordance with the requirements of this Agreement; and
 - (d) is consistent with any Related Documents.
- 11.2 Without limiting paragraph 11.1, the Contractor shall ensure that each Relevant Document:
 - (a) complies with the specific content requirements applicable to that Relevant Document;
 - (b) is consistent with the pro-forma template for the Relevant Document;
 - (c) is written in clear and plain English;
 - (d) includes adequate definitions of all key terms, words and symbols;
 - (e) is written to a reasonable and appropriate level of detail;
 - (f) is otherwise presented in a clear, complete and accurate manner; and
 - (g) is provided to the DCC in a non-proprietary and editable format,

(together, the "**Applicable Content Requirements**").
- 11.3 If the Contractor (acting reasonably) believes that there is a conflict or inconsistency between any of the individual Applicable Content Requirements for any Relevant Document, then the Contractor shall notify the DCC accordingly as soon as reasonably practicable (providing an explanation, in

reasonable detail, of the nature of the relevant conflict and/or inconsistency) and shall comply with any reasonable direction notified by the DCC in response to such request.

12. INITIAL SUBMISSION BY THE CONTRACTOR

12.1 In relation to each Relevant Document, the Contractor shall prepare, and submit to the DCC, each Document Iteration in accordance with the timescales specified in the timescales Implementation Plan.

12.2 The Contractor shall ensure that each Document Iteration:

- (a) complies with the requirements of this Schedule 6.3 (including paragraphs 11.1 and 11.2);
- (b) complies with the requirements set out in the applicable Product Description in relation to that individual Document Iteration, including the Applicable Content Requirements (as defined in paragraph 11.2);
- (c) clearly identifies any material differences to the previous Document Iteration of the same Relevant Document (and explains the rationale for such differences).

13. REVIEW BY THE DCC

13.1 Following receipt of the initial draft of each Document Iteration, the DCC shall issue to the Contractor:

- (a) an Authority to Proceed Notice (in accordance with paragraphs 13.2 and 13.3);
- (b) a Conditional Authority to Proceed Notice (in accordance with paragraphs 13.4 to 13.7); or
- (c) a Rejection Notice (in accordance with paragraphs 13.8 to 13.11).

Authority to Proceed Notice

13.2 The DCC shall issue an Authority to Proceed Notice where the DCC believes (subject to paragraph 19) that the Document Iteration complies with all of the requirements referred to in paragraph 12.2 (and that none of the other circumstances referred to in paragraph 13.10 apply).

13.3 If the DCC issues an Authority to Proceed Notice, the Contractor may continue with the further development of the Relevant Document (or any Related Document) in accordance with this Schedule 6.3.

Conditional Authority to Proceed Notice

13.4 The DCC may issue a Conditional Authority to Proceed Notice where:

- (a) DCC believes that some or all of the circumstances referred to in paragraph 13.10 apply in relation to the relevant Document Iteration; but

- (b) despite such circumstances, the Contractor may, subject to paragraph 13.7, continue with the further development activities referred to in paragraph 13.3.

13.5 Any Conditional Authority to Proceed Notice issued by the DCC:

- (a) shall include reasonable details regarding the nature of, and the rationale for, any Non-Conformities notified to the Contractor by the DCC; and
- (b) specify the validity period of the Conditional Authority to Proceed Notice (the "**Validity Period**").

13.6 Following receipt of a Conditional Authority to Proceed Notice by the Contractor, the parties shall comply with the process set out in paragraphs 14 and 15 during the Validity Period in order to rectify the Non-Conformities notified by the DCC.

13.7 If, by the end of the Validity Period:

- (a) any of the Non-Conformities notified by the DCC in the Conditional Authority to Proceed Notice have not been rectified; and
- (b) accordingly, the DCC has not issued an Authority to Proceed Notice under paragraph 13.2,

then the DCC may revoke the Conditional Authority to Proceed Notice and issue a Rejection Notice to the Contractor instead.

Rejection Notice

13.8 The DCC may issue a Rejection Notice in the circumstances set out in paragraph 13.7 or 13.10.

13.9 If the DCC issues a Rejection Notice, the Contractor shall not be entitled to continue with the further development activities referred to in paragraph 13.3.

13.10 The DCC shall be entitled to issue a Rejection Notice to the Contractor if the DCC (acting reasonably) considers that:

- (a) the Document Iteration is insufficiently detailed to be properly reviewed by the DCC;
- (b) the Document Iteration does not comply with some or all of the requirements referred to in paragraph 12.2; and/or
- (c) any of:
 - (i) the proposed obligations on the DCC and/or the proposed requirements for the DCC Environment;
 - (ii) the proposed obligations on any other DCC Service Providers; and/or

- (iii) the proposed obligations on any DCC Service User and/or the proposed requirements for any Other Energy Industry Systems,

specified by the Contractor in the Document Iteration are unreasonable or impractical for any reason (taking account of the relevant resources available to the entities referred to above and the reasonable technical capabilities of the systems referred to above),

(each, "**Non-Conformity**").

- 13.11 The DCC shall provide reasonable details regarding the nature of, and the rationale for, any Non-Conformities notified to the Contractor in any Rejection Notice.

14. AMENDMENT BY THE CONTRACTOR

- 14.1 Subject to paragraph 17.1, within ten (10) Business Days after receipt of a Conditional Authority to Proceed Notice or a Rejection Notice from the DCC, the Contractor shall :

- (a) make any amendments to the relevant Document Iteration that are necessary to address the Non-Conformities specified in the relevant Conditional Authority to Proceed Notice or Rejection Notice (as applicable); and
- (b) re-submit a revised version of the Document Iteration to the DCC for review.

15. FURTHER REVIEW BY THE DCC

- 15.1 Following receipt of the revised Document Iteration from the Contractor:

- (a) the DCC shall issue an Authority to Proceed Notice to the Contractor in relation to the Document Iteration where the circumstances referred to in paragraph 13.2 apply;
- (b) if the DCC previously issued a Conditional Authority to Proceed Notice in relation to the Document Iteration, the DCC shall either:
 - (i) if the Non-Conformities notified by the DCC have been rectified, issue an Authority to Proceed Notice to the Contractor; or
 - (ii) otherwise, subject to paragraph 13.7, require the Contractor to prepare a further revised version of the Document Iteration in accordance with paragraph 14.
- (c) if the DCC has previously issued a Rejection Notice to the Contractor in relation to the Document Iteration, the DCC shall either:
 - (i) if the Non-Conformities notified by the DCC have been rectified, issue an Authority to Proceed Notice to the Contractor;

- (ii) issue a Conditional Authority to Proceed Notice to the Contractor in accordance with paragraphs 13.4 (in which case, paragraphs 13.5 to 13.7 shall apply); or
- (iii) issue a further Rejection Notice to the Contractor where the DCC (acting reasonably) considers that there are:
 - (A) outstanding Non-Conformities from the previous draft of the Document Iteration which have not been resolved; and/or
 - (B) new Non-Conformities in the revised draft of the Document Iteration.

16. FINALISATION OF PROCESS

- 16.1 Subject to paragraphs 17.1 and 18, the process in paragraphs 14 and 15 will then be repeated until the DCC issues an Authority to Proceed Notice to the Contractor in relation to the relevant Document Iteration.
- 16.2 If the DCC approves the relevant Document Iteration, it shall be binding on the Contractor from the date of DCC's Authority to Proceed Notice.

17. DISPUTE RESOLUTION

- 17.1 Any dispute relating to the existence of Non-Conformities in any Document Iteration shall be referred to the Fast Track Dispute Resolution Procedure, comprising:
 - (a) the Escalation Process referred to in Part B of Schedule 8.3 (Dispute Resolution Procedure); and
 - (b) where the relevant dispute has not been resolved in accordance with the Escalation Process, the expert determination procedure referred to in Part D of Schedule 8.3 (*Dispute Resolution Procedure*).

18. FAILURE TO ACHIEVE MILESTONES

For the avoidance of doubt, the relevant provisions of this Agreement shall apply where the Contractor fails to Achieve a Milestone as a result of any of the Relevant Documents not being successfully developed in accordance with this Schedule 6.3 (including where any of the Product Descriptions are not agreed in accordance with Part D).

19. NON-ENDORSEMENT BY THE DCC

- 19.1 The Contractor acknowledges and accepts that (i) the issue of any Authority to Proceed Notice or Conditional Authority to Proceed Notice by the DCC under this Schedule 6.3, or (ii) any agreement by the DCC of any Product Description under Part D, shall:
 - (a) not act as an endorsement of any matter;

- (b) not relieve the Contractor of its responsibility for ensuring that the Document Iteration (and the Relevant Documents generally) comply with the requirements of this Schedule 6.3;
- (c) not give rise to any rights of estoppel or waiver; and
- (d) not relieve the Contractor of any other obligation under this Agreement, including the obligation to deliver the Services in accordance with the Agreement.

19.2 The Contractor acknowledges and accepts that any further development activities referred to in paragraph 13.3 which are carried out by the Contractor following the issue of a Conditional Authority to Proceed Notice by the DCC are conducted at the Contractor's sole risk. The issue of a Conditional Authority to Proceed Notice shall not prejudice the DCC's right to subsequently issue a Rejection Notice in accordance with this Part E.

PART F – DEVELOPMENT OF OTHER DOCUMENTS

20. DEVELOPMENT OF OTHER DOCUMENTS

20.1 The development process in this Schedule 6.3 shall also apply to the development of other documents by the Contractor where:

- (a) expressly stated in this Agreement; or
- (b) otherwise agreed by the parties in writing,

provided that a draft Product Description for such document has, or will be developed, by the Contractor and/or the DCC.

20.2 The development activities referred to in paragraph 20.1 (including the development of a draft Product Description) may be conducted:

- (a) in accordance with the Change Control Procedure; or
- (b) on any other basis agreed by the parties in writing.

**APPENDIX 1
REQUIREMENTS FOR PRODUCT DESCRIPTIONS**

Requirements for Product Descriptions	
1.	<p>General</p> <p>The Product Description shall specify:</p> <ul style="list-style-type: none"> (a) the title of the Relevant Document; (b) a unique reference number for the Relevant Document; (c) the principal author of the Relevant Document; and (d) the purpose and objectives of the Relevant Document.
2.	<p>Document Iterations</p> <p>The Product Description shall include a summary of the purpose and content of each Document Iteration, including by identifying the reason(s) for requiring the preparation of each Document Iteration (for example, the need to update the Relevant Document following the provision by the DCC of an updated version of a SEC Subsidiary Document).</p>
3.	<p>Template</p> <p>The Product Description shall include a pro-forma template for the Relevant Document (including an amendment history and record of approvals).</p>
4.	<p>Detail requirements</p> <p>For each Document Iteration, the Product Description shall specify the level to which the content of the Document Iteration will be detailed.</p>
5.	<p>Applicable Content Requirements</p> <p>The Product Description shall specify:</p> <ul style="list-style-type: none"> (a) the specific content requirements for the Relevant Document (including compliance with the applicable SEC Subsidiary Documents and the applicable requirements of this Agreement); and (b) where applicable, any specific requirements, or modifications to such content requirements, in respect of an individual Document Iteration.
6.	<p>Timescales</p> <p>The Product Description shall specify the timescales relating to the development, review, amendment and finalisation of each Document Iteration under this Schedule 6.3. Such timescales shall:</p> <ul style="list-style-type: none"> (a) be consistent with the timescales set out in the Implementation Plan (as further described in paragraph 4 of Part A); and (b) provide sufficient time for the parties to perform their respective obligations under this Schedule 6.3. <p>In particular, any review of a Document Iteration by the DCC (including under paragraph 13 or 15 of Part E) shall require a minimum of ten (10) Business Days, provided that the DCC may require a longer review period where it is</p>

	necessary for the DCC to consult with any third parties (including other DCC Service Providers, DCC Eco-System Entities, relevant SEC Parties and/or Regulatory Bodies).
7.	<p>Dependencies</p> <p>The Product Description shall specify any dependencies between the Relevant Document and:</p> <ul style="list-style-type: none"> (a) any other Relevant Document to be developed by the Contractor under this Schedule 6.3; (b) any other Deliverable to be developed by the Contractor under this Agreement; and/or (c) any equivalent specifications, deliverables or other documents to be prepared by any other DCC Service Provider, <p>(each, a "Related Document").</p> <p>In respect of any Related Document under paragraph (c) above, the Product Description shall include a summary of the proposed approach to manage and resolve such dependencies (including in accordance with the procedures set out in the relevant Co-operation Agreement between the Contractor and the relevant DCC Service Provider). A dependency shall not be a DCC Responsibility unless set out expressly in Schedule 3 (<i>DCC Responsibilities</i>).</p>
8.	<p>Review by the Contractor</p> <p>The Product Description shall specify the Contractor Personnel responsible for ensuring that each Document Iteration is complete and accurate before submission to the DCC.</p>
9.	<p>Other requirements</p> <p>The Product Description shall:</p> <ul style="list-style-type: none"> (a) be written in clear and plain English; (b) include adequate definitions of all key terms, words and symbols; (c) be written to a reasonable and appropriate level of detail; (c) otherwise be presented in a clear, complete and accurate manner; and (d) be provided to the DCC in a non-proprietary and editable format.

**APPENDIX 2
CONTRACTOR SOLUTION DESIGN DOCUMENTS**

The Contractor Solution Design Documents (including reference, name and description) are set out at Appendix 1 of Schedule 4.1 (Contractor Solution).

APPENDIX 3 SERVICE MANAGEMENT FRAMEWORK

The Service Management Framework Documents (including reference, name and description) are set out at Appendix 2 of Schedule 4.1 (Contractor Solution).

SCHEDULE 7.1 CHARGES AND PAYMENT

OVERVIEW

This Schedule 7.1 (Charges and Payment) sets out:

- (a) the Charges to be invoiced by the Contractor to the DCC in consideration of the provision of the Services;
- (b) the method of calculation of Service Credits;
- (c) the method of calculation of Retention and Delay Payments;
- (d) the charging methodology in relation to any Changes;
- (e) the application of indexation; and
- (f) the process for invoicing.

This Schedule 7.1 (Charges and Payment) comprises the following parts:

Part	Scope
Part A	General principles
Part B	Retention, Milestone Payments, and Delay
Part C	Operational Charges and Service Credit regime
Part D	Termination Assistance Charges
Part E	Pricing for Catalogue Services and Changes
Part F	Invoicing
Part G	Pass-Through Expenses and Financing
Part H	Licence, Support and Maintenance Charges on Exit
Appendix 1	Worked examples
Appendix 2	Financial Model
Appendix 3	Rate Card
Appendix 4	Financial Model



PART A – GENERAL PRINCIPLES

1. PRINCIPLES

- 1.1 The principles which underpin the calculation of Charges are that Charges should, as far as practicable:
 - 1.1.1 take account of the Objectives and seek to give the fullest possible effect to the Objectives;
 - 1.1.2 be clear, well-defined, unambiguous and straight-forward to administer;
 - 1.1.3 provide predictable pricing with no unanticipated or hidden charges;
 - 1.1.4 align to the overall smart meters funding model, be consistent with and facilitate DCC's charging methodology;
 - 1.1.5 only be made following the delivery of operational services or Achievement of any Milestone;
 - 1.1.6 if applicable, recover the cost of assets including the costs of financing through monthly service charges;
 - 1.1.7 seek to optimise financing charges in order to deliver value for money for consumers;
 - 1.1.8 allocate financial risk to those parties best placed to mitigate those risks in the context of the overall DCC charging and risk model;
 - 1.1.9 be based on incurred costs of delivering individual services and support a sustainable funding model over the life of the contract;
 - 1.1.10 remain market competitive throughout the Term;
 - 1.1.11 be capable of accommodating changes in the DCC's business and property policies and requirements during the Term (including where required as a result of the divestiture or acquisition of businesses); and
 - 1.1.12 incentivise service performance – a proportion of payments will be at risk to poor performance.
- 1.2 The Charges payable by the DCC for the Services shall comprise the following, in each case developed in line with the principles detailed above:
 - 1.2.1 Milestone Payments in consideration of the Achievement of certain Milestones and Incentivised Milestones, respectively;
 - 1.2.2 Operational Charges in consideration of the on-going provision of Services;
 - 1.2.3 Termination Assistance Charges in consideration of the provision of Termination Assistance Services; and

- 1.2.4 any other Charges (including, without limitation, the costs of financing where applicable) pursuant to the terms of this Agreement.
- 1.3 Any future changes to the Charges as well as the pricing of any future services, through the mechanisms detailed below, shall be tested by the DCC against the principles set out in paragraphs 1.1 and 1.2 and agreed by the relevant governance groups as detailed in Schedule 8.1 (Governance) and implemented through Change Control.
- 1.4 All Charges shown in this Schedule are exclusive of VAT which shall be applied at the prevailing rate and all Service Credits will be calculated on a basis that excludes VAT.
- 1.5 The Contractor shall indemnify the DCC on a continuing basis against any liability, including any interest, penalties or costs incurred, which are levied, demanded or assessed on the DCC at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under this Agreement. Any amounts due under this Agreement shall be paid in cleared funds by the Contractor to the DCC not less than five (5) Business Days before the date upon which the tax or other liability is payable by the DCC.
- 1.6 Notwithstanding any provision of this Agreement to the contrary, the impact of any change in:
- 1.6.1 any Taxes applicable to any Contractor Entity or the Services (other than VAT);
- 1.6.2 any Taxes applied outside the United Kingdom (or applicable due to any non-UK residence or tax status of any Contractor Entity); and/or
- 1.6.3 currency exchange rates,
- shall be at the sole cost and expense of the Contractor.
- 1.7 Unless and to the extent expressly set out in this Schedule 7.1, neither the Charges nor any other costs, expenses, fees or charges shall be adjusted to take into account inflation, change in exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Contractor or Sub-contractors of the performance of their obligations.
- 1.8 Where any Charge or limit which is expressed in this Schedule in monthly terms ("monthly" and "month" both referring to calendar months) applies for any reason for part of a month, rather than a whole month, the Charge or limit for such part of a month shall be pro-rated in proportion to the ratio of the days of the month during which the Charges or limit applies to the overall number of days in the month and any remaining days of the month may either have no or different Charges applied to them on a similar pro-rated basis, as the case may be.
- 1.9 The Contractor acknowledges that the figures set out in the tables in this Schedule are a true and accurate representation of the Charges set out in the

Financial Model included as Appendix 4 and the payment profiles set out in the Appendices to this Schedule.

- 1.10 The DCC shall have the right at any time to carry out a verification and reconciliation process of the Charges set out in this Schedule. This process shall include verification and reconciliation with the Financial Model and the Implementation Plan. In the event that the process shows that any Charges should have been higher or lower, the DCC shall immediately adjust the relevant Charges in accordance with the DCC's findings (the DCC acknowledges that the Charges as at the Commencement Date have been verified and reconciled). Any dispute between the parties arising out of or in connection with such a reduction shall be referred to the Dispute Resolution Procedure.
- 1.11 Subject to paragraph 5 of Schedule 5.1 (*Intellectual Property Rights*), the Charges are inclusive of a licence to use Contractor IPR which is required to operate the Services for the Term.

2. INDEXATION

- 2.1 No element of the Charges shall be adjusted to reflect the effects of inflation unless it is expressly referred to in this Agreement as being "subject to indexation" where any adjustment for inflation shall be measured by changes in the relevant index, as calculated in accordance with the following formula:

$$\text{Amount or Sum} \times \left(\frac{\text{Index}_o}{\text{Index}_d} \right)$$

Where:

"Index" means the consumer price index;

"Index_d" is the value of Index on the Commencement Date; and

"Index_o" is the value of Index published or determined with respect to the period immediately preceding 1st April in each Contract Year.

- 2.2 The application of indexation will apply from 1st April in each Contract Year for the following twelve (12) months.
- 2.3 A worked example of how to calculate the maximum adjustment for indexation of any eligible Charges is provided in Appendix 1.

3. CHARGES DISPUTES

- 3.1 If either party (acting in good faith) disputes all or any part of the Charges invoiced under this Agreement, or any other amount that the other party Claims is payable to it under this Agreement, then:
- 3.1.1 the undisputed portion of the Charges or other amount shall be paid by the relevant party in accordance with this Agreement;

- 3.1.2 the relevant party shall be entitled to retain the disputed portion of the Charges or other amount pending resolution of the Dispute;
 - 3.1.3 the Parties shall use all reasonable endeavours to resolve the Dispute within ten (10) Business Days of the Dispute arising; and
 - 3.1.4 if the Parties are unable to resolve the Dispute within such period, either party may refer the matter to the Fast Track Dispute Resolution Procedure.
- 3.2 Following resolution of the Dispute in accordance with this Paragraph 3, any amount agreed or determined to have been payable shall be paid by the relevant party within thirty (30) days, together with interest on such amount calculated in accordance with Paragraph 3.3.
- 3.3 Each Party shall be entitled, without prejudice to any other right or remedy, to receive interest on any payment not made in accordance with the terms of this Agreement by the final date for payment calculated from day to day at a rate equal to the per annum equivalent of the Default Interest Rate from the day after the original final date for payment (as opposed to the date of judgment or resolution of a Dispute in accordance with Schedule 8.3 (Dispute Resolution Procedure)) up to and including the date of payment (whether before or after judgment or resolution of a Dispute in accordance with Schedule 8.3 (Dispute Resolution Procedure)).

PART B – RETENTION, MILESTONE PAYMENTS AND DELAY

4. RETENTION ACCOUNT

Lot 1 Retention Account

4.1

[REDACTED]

4.2 On approval of such statement by the DCC, but subject always to any provisions regarding the deferral of payment, the Contractor shall submit an invoice to the DCC in accordance with this Schedule 7.1 representing the approved statement (being the relevant monthly Charges LESS the Lot 1 Retained Amount). The DCC will either accept or reject a monthly statement within five (5) Business Days of receipt of such statement.

4.3

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4.4 If there is a Warranty Claim in any Warranty Month, the Contractor shall not be entitled to invoice (and DCC shall have no obligation to pay) the Lot 1 Final Retained Amount related to the Warranty Month within which the Warranty Claim arose. For the avoidance of doubt, a Warranty Claim in one Warranty Month shall not preclude the Contractor from invoicing the DCC for payment following successful completion of subsequent or previous Warranty Months. Any Warranty Claim is without prejudice to any other rights or remedies pursuant to this Agreement or otherwise howsoever arising.

[REDACTED]

5. **MILESTONE PAYMENTS**

- 5.1 Milestone Payments shall be identified for the successful deployment of an activity determined to be of demonstrable value to the DCC as evidenced by the Achievement of the Contractor of a Certificate for the relevant Milestone, but payment of such accrued Milestone Payments shall only commence upon Achievement of the Milestone itself following the receipt by the Contractor of the Milestone Achievement Certificate. Milestone Payments shall not be subject to indexation.
- 5.2 Upon Achievement of the Milestones set out in paragraph 5.4 and subject to paragraphs 4 and 6, the Contractor shall be entitled to invoice the DCC for the corresponding Milestone Payment. In accordance with the provisions of this Schedule 7.1, the Contractor shall be entitled to invoice for a Milestone Payment upon receipt of the relevant Milestone Achievement Certificate. The Milestone Payment LESS any Retained Amount should be included in the Charges payable in the Contractor's invoice for the next Payment Month following the date on which the DCC issues the relevant Milestone Achievement Certificate. If the Contractor fails to include the Milestone Payment in the aforementioned invoice for the next Payment Month, the Contractor shall be allowed to include the Milestone Payment in the invoice for the subsequent Payment Month, and failure to do so will result in the loss of the Milestone Payment.
- 5.3 The details of the Milestone Payment for each Milestone are shown below in Tables 1 (from the Financial Model, Milestone view tab), where:
 - 5.3.1 Milestone: is the Milestone included in the Implementation Plan, the Achievement of which has certain Milestone Payments associated with it in recognition of the demonstrable value to the DCC of such Milestone; and
 - 5.3.2 Milestone Value: is the amount of the Milestone Payment associated with the delivery of the relevant Milestone subject to paragraph 6 below.
- 5.4 The Milestones for each Lot, including the associated Milestone Value (Milestone Dates are set out in Schedule 6.1 (Implementation Planning)), are as follows:

Table 1: Milestone Payments for Lot 1 (DBT):



[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

5.5 Subject to paragraph 6.1, if an Incentivised Milestone is not Achieved by the relevant Milestone Date, the Milestone Payment may be reduced (including to zero) in accordance with paragraphs 6.1 to 6.3.

6. **DELAY DEDUCTIONS**

6.1

[REDACTED]

[REDACTED]

[Redacted]

6.2

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

6.3

[Redacted]

7. DELAY PAYMENTS

7.1

[Redacted]

[Redacted]	[Redacted]
[Redacted]	[Redacted]

7.2

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

7.3

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

7.3.2.4 in the circumstances set out in Clause 45.2; and

7.3.3

[Redacted]

[Redacted]

PART C – OPERATIONAL CHARGES AND SERVICE CREDIT REGIME

8. OPERATIONAL CHARGES

- 8.1 The Operational Charges for each Service shall be payable monthly in arrears. The Operational Charges are subject to indexation.
- 8.2 Operational Charges in respect of a Service shall become payable from the Commencement Date.
- 8.3 The Operational Charges shall comprise:
 - 8.3.1 Fixed Operational Charges.

9. FIXED OPERATIONAL CHARGES

- 9.1 The Fixed Operational Charges shall consist of a fixed monthly charge payable in respect of the provision of the Services after the Commencement Date for each month in line with the Fixed Operational Charge profile set out in Table 9: Fixed Operational Charges below.

Table 9: Fixed Operational Charges

The Monthly charge is subject to efficiency savings in accordance with Schedule 7.3 (Value for Money).

The above charges are subject to indexation. For the avoidance of doubt, Efficiency Gains will be calculated after the application of indexation.

- 9.2 The Fixed Operational Charge will be subject to review prior to each Break Point as part of the Break Point Review to be conducted in accordance with Part F of Schedule 7.3 (Value for Money).

10. CALCULATION OF SERVICE CREDITS

- 10.1 The Contractor will be liable for Service Credits in accordance with Schedule 2.2 (Performance Measures and Monitoring) with effect from Service Commencement Date.



10.2 The Service Credits payable by the Contractor under this Agreement in respect of each month shall be calculated by reference to the number of Service Points accrued by the Contractor in relation to that month, as determined in accordance with Schedule 2.2 (Performance Measures and Monitoring).

10.3 [REDACTED]

10.4 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10.5 The Contractor shall notify the DCC of the amount of any Service Credits payable by the Contractor in respect of each month within ten (10) Business Days after the date of the Performance Review Meeting at which the Performance Monitoring Report for that month is agreed.

10.6 Subject to any adjustment of the amount of Service Credits payable by the Contractor in respect of any month (whether such adjustment is made by agreement of the parties at the relevant Performance Review Meeting or in accordance with the Dispute Resolution Procedure), the Contractor shall:

10.6.1 deduct the Service Credits payable by the Contractor in respect of the relevant month from the next invoice for the monthly Operational Charges that are issued by the Contractor under this Agreement; or

10.6.2 if no further invoices for the monthly Operational Charges are to be issued by the Contractor under this Agreement, pay an amount equal to those Service Credits to the DCC in cleared funds into the bank account nominated by the DCC from time to time within thirty days (30) days after the end of the month to which those Service Credits relate.

[REDACTED]

PART D – TERMINATION ASSISTANCE CHARGES

11. TERMINATION ASSISTANCE CHARGES

- 11.1 Termination Assistance Charges shall be payable to the Contractor for providing the Termination Assistance Services during the Termination Assistance Period in accordance with Schedule 8.5 (Exit).
- 11.2 The parties shall negotiate in good faith to agree the Termination Assistance Charges for the assistance requested by the DCC pursuant to any Termination Notice. The Termination Assistance Charges shall be calculated by the Contractor in accordance with the principles set out in this Schedule 7.1

PART E – PRICING FOR CATALOGUE SERVICES AND CHANGES

12. INTRODUCTION

12.1 In addition to the Services being paid for using the mechanisms described in Parts B and C of this Schedule 7.1, the parties may from time to time agree:

12.1.1 Catalogue Services; and

12.1.2 Changes.

13. CATALOGUE SERVICES

13.1 Schedule 2.7 (Catalogue Services) describes the Catalogue Services which the Contractor shall provide to DCC at any time during the Term, subject to the provisions around initiation of new Catalogue Services as described in Schedule 2.7 (Catalogue Services).

13.2 The Charges associated with the Services contained within Schedule 2.7 (Catalogue Services), shall be detailed in Schedule 2.7 (Catalogue Services).

13.3 The Charges for Catalogue Services shall be subject to indexation.

14. AMENDMENTS TO CHARGES FOR CHANGE CONTROL

14.1 The Contractor shall apply the methodology detailed in paragraph 14.2 to determine any additional Charges, or Changes to the Charges contained within this Schedule 7.1 which are implemented and may be recovered from the DCC by the Contractor under the Change Control Procedure.

14.2 For any Impact Assessment delivered as part of the Change Control Procedure, the Contractor shall prepare a quotation of the additional Charges associated with the Change or any change in the existing Charges associated with delivering the proposed Change and which shall:

14.2.1 comply with the provisions of paragraph 4 of Schedule 8.2 (Change Control);

14.2.2 be based on the principles, mechanisms and information contained within this Schedule 7.1 and, in particular, Part A and Appendix 4 (Financial Model);

14.2.3 include forecast numbers of each type of resource to be employed and the applicable monthly units costs in line with those detailed in the Financial Model;

14.2.4 include a detailed breakdown of any underlying assumptions and risks, including a list of all the relevant risks, the mitigating actions, and the associated costs included within the quotation for either mitigating the risk or for additional work required if the risk were to occur;

14.2.5 at DCC's request, shall be either on a time and materials basis, or a fixed-charge basis or a combination of both;

- 14.2.6 identify any benefit share arising from the Change; and
 - 14.2.7 include evidence of the cost of any assets required for the Change.
- 14.3 If the Change is adopted by the DCC in accordance with Schedule 8.2 (Change Control), then the Contractor shall update both this Schedule 7.1 and Financial Model in accordance with the provisions detailed in Appendix 2 (Financial Model) of this Schedule 7.1.



PART F – INVOICING

15. INTRODUCTION

This Part F of Schedule 7.1 sets out the method by which the Contractor shall raise invoices to the DCC for payment, together with the requirements which apply to such invoices, and the payment terms thereof.

16. SERVICE PROVIDER INVOICES

16.1 The Contractor shall prepare and provide to the DCC for approval a draft pro forma invoice within ten (10) Business Days of the Commencement Date which shall include, as a minimum, the details set out in paragraph 16.4 of this Schedule 7.1 together with such other information as the DCC may reasonably require. If the Contractor comments upon the draft pro forma invoice and it is not approved by the DCC then the Contractor shall make such amendments as may be reasonably required by the DCC.

16.2 The Contractor shall be entitled to raise an invoice in respect of any payment which falls payable to the Contractor pursuant to the Agreement.

16.3 The Contractor shall invoice the DCC in respect of Services in accordance with the timescales specified for issue of invoices for the Charges as detailed in Part A of this Schedule 7.1.

16.4 The Contractor shall ensure that each invoice contains the following information:

16.4.1 the date of the invoice;

16.4.2 a unique invoice number;

16.4.3 the Payment Month or other period(s) to which the relevant Charge(s) relate;

16.4.4 details of the correct Agreement reference;

16.4.5 the Purchase Order (PO) number, receipt number and release number to which it relates (if any);

16.4.6 the dates between which the Services subject of each of the Charges detailed on the invoice were performed;

16.4.7 the methodology applied to calculate the Charges;

16.4.8 the total Charges gross and net of any applicable deductions and, separately, the amount of any disbursements properly chargeable to the DCC under the terms of the Agreement, and, separately, any VAT or other sales tax payable in respect of the same;

16.4.9 details of any Service Credits, or Delay Payments or similar deductions that shall apply to the Charges detailed on the invoice;

16.4.10 details of any Pass-Through Expenses;

- 16.4.11 reference to any reports required by the DCC in respect of the Services to which the Charges detailed on the invoice relate (or in the case of reports issued by the Contractor for validation by the DCC, then to any such reports as are validated by the DCC in respect of the Services);
 - 16.4.12 a contact name and telephone number of a responsible person in the Contractor's finance department in the event of administrative queries; and
 - 16.4.13 the bank account details for payments to the Contractor via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number).
- 16.5 When invoicing the Charges, the Contractor shall provide separate invoices for:
- 16.5.1 Milestone Payments minus any applicable Retention, Delay Deduction and/or Delay Payment;
 - 16.5.2 Operational Charges minus amount of Service Credits and other credits (if any);
 - 16.5.3 Termination Assistance Charges; and
 - 16.5.4 Charges for other items.
- 16.6 Each invoice shall at all times be accompanied by sufficient information ("**Supporting Documentation**") to enable the DCC to reasonably assess whether the Charges detailed thereon are properly payable. Any such assessment by the DCC shall not be conclusive. The Contractor undertakes to provide to the DCC any other documentation reasonably required by the DCC from time to time to substantiate an invoice.
- 16.7 The Contractor shall submit all invoices and Supporting Documentation in such format as the DCC may specify from time to time to:

Smart DCC Limited

Accounts Payable

PO Box 202

Darlington

DL1 9HB

- 16.8 All Contractor invoices shall be expressed in sterling or such other currency as shall be permitted by the DCC in writing.
- 16.9 The DCC shall only regard an invoice as valid if it complies with the provisions of this Part F of this Schedule 7.1. Where any invoice does not conform to the DCC's requirements set out in paragraph 16.4 of this Schedule 7.1, the DCC



will promptly return the disputed invoice to the Contractor. The Contractor shall promptly issue a replacement invoice which shall comply with the same.

16.10 The final invoice relating to this Agreement shall only be sent to the DCC following agreement between the parties, such agreement not to be unreasonably withheld or delayed, of any Service Credits relating to either the Service Credit Regime, as detailed in paragraph 10 of this Schedule 7.1, or through the Gain Share mechanism, as detailed in Schedule 7.3 (Value for Money).

17. **PAYMENT TERMS**

17.1 The Contractor shall invoice monthly in arrears.

17.2 [REDACTED]

[REDACTED]

PART G – PASS-THROUGH EXPENSES AND FINANCING

18. PASS-THROUGH EXPENSES

- 18.1 Only expenses and costs (including any costs of third party materials and / or services and any Third Party Software licensing costs) incurred by the Contractor that are approved in advance and in writing by the DCC shall be separately chargeable as Pass-Through Expenses to the DCC. Such approval (or rejection) shall be provided by the DCC's authorised representative within three (3) Business Days of any request.
- 18.2 With respect to Pass-Through Expenses, the Contractor will:-
- 18.2.1 review the invoice charges to determine the validity and accuracy of the Pass-Through Expense before submitting the same to the DCC;
 - 18.2.2 provide the DCC with a reasonable opportunity to review the original invoice; and
 - 18.2.3 pay the amounts due to the Third Party and invoice the DCC, as part of an invoice, for the Pass-Through Expense, without mark-up, fees or overhead charges of any kind. Any rebates, commissions, revenue shares or the like received by the Contractor in respect of such amounts will be passed in full to the DCC.
- 18.3 With respect to services or materials paid for on a Pass-Through Expenses basis, the DCC reserves the right to:-
- 18.3.1 obtain such services or materials directly from a third party;
 - 18.3.2 designate the third party who will provide such services or materials;
 - 18.3.3 designate the particular services or materials (e.g., equipment make and model) that the Contractor will obtain;
 - 18.3.4 designate the terms for obtaining such services or materials (e.g., purchase or lease and one-off payment or payment over time);
 - 18.3.5 reasonably require the Contractor to identify and consider multiple sources for such services or materials, or to conduct a competitive procurement; and
 - 18.3.6 review and approve the Pass-Through Expense for such services or materials before entering into a contract for such services or materials.
- 18.4 The Contractor will use its reasonable endeavours to reduce the Pass-Through Expenses so that they are lower than (and in any event no more than) the then current market prices for equivalent goods or services.
- 18.5 Where the Contractor pays any incorrect amounts to a third party and claims such amount from the DCC as a Pass-Through Expense, the Contractor shall, as soon as becoming aware of such overpayment, reimburse the Pass-Through Expense with interest to the DCC. Interest shall be charged at the [REDACTED]

Default Interest Rate from the date of payment of the Pass-Through Expense by the DCC until the date of reimbursement of same (calculated on the basis of the actual number of days elapsed, over a 365 day year).

19. FINANCING

19.1 It is the intention of the DCC, if practicable and economically advantageous to the DCC (whether in terms of the amount of interest payable and / or in respect of the length of the finance term), to enter into financing arrangements in respect of refinancing of Milestone Payments and/or deferral of Charges, subject to agreeing appropriate financing terms. Each of the DCC and the Contractor shall, acting in good faith and in co-operation with the other, use its reasonable endeavours to:-

19.1.1 where economically advantageous to the DCC, identify and secure funding from a third party funder for financing arrangements in respect of refinancing of Milestone Payments and/or deferral of Charges;

19.1.2 agree commercial and contract terms with any such third party funder (which are economically advantageous to the DCC) as soon as reasonably practicable; and

19.1.3 execute any contractual documentation required to implement such commercial and contract terms as soon as reasonably practicable, subject to such contractual documentation being acceptable to it.

19.2 Any changes required to the Agreement to reflect any arrangements put in place with a third party funder that affect the provisions that apply to deferred payments shall be implemented in accordance with the Change Control Procedure.



PART H – LICENCE, SUPPORT AND MAINTENANCE CHARGES ON EXIT

20. NOT USED.



Appendix 1 - Worked Examples

Example 1: Calculation of the maximum adjustment of eligible Charges for Indexation

Suppose that the published value of the Index:

- in the period immediately preceding the Service Commencement Date is equal to 3; and
- in the period immediately preceding 1st April in the third Contract Year is equal to 3.15; then the maximum value of the indexation that could be applied to the eligible elements of the Charges during the Contract Year immediately following that third anniversary, would be equal to 1.05 as:

$$1.05 = 3.15 / 3$$

Appendix 2 – Financial Model

1. INTRODUCTION

- 1.1 The Financial Model shall be provided by the Contractor to enable the DCC to:
- (a) understand the major components of costs incurred by the Contractor in delivering the Services;
 - (b) understand the split between different elements underlying the Operational Charges;
 - (c) identify how the Contractor calculates the Charges; and
 - (d) enable the DCC to understand the proposed changes to any Charges due to a Change Request.

2. CONTENT AND CONSTRUCTION OF THE FINANCIAL MODEL

- 2.1 The Financial Model shall be constructed as to:
- (a) show the relevant Charges for the Services;
 - (b) provide a forecast of payments based on the associated payment types and Charges;
 - (c) quote all monetary values in pound sterling;
 - (d) quote all costs exclusive of VAT or any other sales taxes;
 - (e) describe any indexation assumptions;
 - (f) be laid out in a clear and logical manner;
 - (g) provide visibility of the calculation of any financing charges associated with outstanding balances (the difference between costs incurred and revenue received); and
 - (h) provide visibility of risk premium both as a value and as percentage;

3. DETERMINING CHANGES IN PRICES USING THE FINANCIAL MODEL

- 3.1 The Financial Model shall contain sufficient information to enable the DCC to understand the prices of implementing any proposed changes to the Operational Charges as part of a Contract Request.
- 3.2 Subject to Schedule 7.3 (Value for Money), at the request of the DCC, the Contractor shall demonstrate, through benchmarking, market testing or other methods, that the rate cards identified in Appendix 3 are in line with the market for such people and activities.
- 3.3 In producing its quotation, the Contractor shall base its quotation, where applicable, on the information provided in Appendix 3.

4. **CUSTODY OF THE FINANCIAL MODEL**

- 4.1 Following the execution of this Agreement and following agreement by both parties of any change to the Financial Model under paragraph 3 of this Appendix 2, the Contractor shall deliver two (2) soft copies of the Financial Model to the DCC.

5. **UPDATES TO THE FINANCIAL MODEL**

- 5.1 Unless otherwise agreed in writing between the parties, any updates to the Financial Model shall reflect, be consistent with and be made only in accordance with the provisions of this Agreement, and shall in all cases be subject to the prior written approval of the DCC (such approval not to be unreasonably withheld or delayed).

- 5.2 All changes to the Financial Model should be auditable and implemented and documented under formal version control.

- 5.3 The Contractor shall, inter-alia, revise the Financial Model in order to reflect any inputs, modifications or other amendments to the Financial Model which are effected pursuant to the Agreement, including but not limited to any amendments made to the Financial Model which arise from:

- (a) an actual or potential refinancing under Part C of Schedule 7.3 (Value for Money);
- (b) the implementation of a Change which affects the Charges;
- (c) any changes to the Contractor's accounting practices; and
- (d) any changes to the Contractor's budgets or cost forecasts.

- 5.4 Each Financial Model shall be constructed using the same methodology as that used for the then current Financial Model and shall be consistent with and made in accordance with the provisions of this Agreement.

- 5.5 On the occurrence of any event which requires the Financial Model to be updated, the Contractor shall effect the change on the latest version of the Financial Model and deliver the updated Financial Model to the DCC for approval. The Contractor shall ensure that each version of the Financial Model delivered to the DCC shall be certified by a director of the Contractor as being accurate and not misleading and in conformity with all generally accepted accounting principles within the United Kingdom.

- 5.6 Unless the DCC wishes to dispute the Financial Model in accordance with paragraph 6.1 of this Appendix 2, the DCC shall approve the updated Financial Model within thirty (30) days of receipt of the same (or such other period as the DCC advises the Contractor in writing).

- 5.7 If the DCC approves the updated Financial Model submitted by the Contractor it shall advise the Contractor of its decision in writing and the updated and approved Financial Model shall become, with effect from the date of such approval, the updated Financial Model in place for the purposes of the Agreement.

6. **DISPUTES**

- 6.1 If the DCC disputes any Financial Model, it may request such further information from the Contractor as it requires prior to delivering a decision on whether it accepts or rejects the relevant Financial Model.
- 6.2 In the event that the DCC and the Contractor are unable to reach agreement on any Financial Model, the matter shall be referred for determination in accordance with the Fast Track Dispute Resolution Procedure.

Appendix 3 – Rate Cards

This Appendix 3 contains the following rate cards.

For information only, the below Rate Card was used in the production of the Milestone Payments [REDACTED]

	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Table 1: Baseline Rate Card

[REDACTED]

	[REDACTED]	
	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

Rate Cards that apply to Change for subsequent periods will be subject to indexation in accordance with paragraph 1.1.2 below.

1.1 Unless otherwise agreed by the Parties in writing, the following will apply to Services charged on a time and materials basis:-

1.1.1 The Day Rates that apply to Services provided on a time and materials basis are specified in Appendix 3 to this Schedule 7.1 for the skill classifications of the Contractor Personnel performing the Services, or such other Day Rates as may be agreed;

1.1.2 The Day Rates shall be subject to indexation;

1.1.3 The Day Rate is calculated on the basis of seven and a half (7.5) working hours of Chargeable Time per day.

1.1.4 "Chargeable Time" will be actual time spent by the Contractor Personnel in performing the Services and will not include:-

- (a) lunch breaks, vacation, appraisals, sickness or training;
- (b) time spent performing any services (other than the Services);
or
- (c) time spent performing services for the Contractor or other Contractor customers.

1.1.5 The Contractor will perform the Services in an efficient manner (including using Contractor Personnel charged at a lower rate where appropriate and where such Contractor Personnel have sufficient capacity to perform the relevant Services).

1.1.6 Where expressly provided for in this Agreement, the DCC will not be charged for time spent by the Contractor in remedying the Contractor errors in performing the Services.

1.1.7 Overtime will only be considered in exceptional circumstances and where approved in advance in writing by the DCC.

[REDACTED]

- 1.2 The Day Rate for any Contractor Personnel will be pro-rated based upon hours actually worked and 1/7.5th of the applicable standard Day Rate shall be paid for each whole hour that is worked (rounded down).
- 1.3 If an estimate is agreed between the DCC and the Contractor for the performance of part of the Services that are charged on a time and materials basis, the Contractor will not charge the DCC more than such estimate for carrying out the relevant Services without first obtaining the DCC's written consent.
- 1.4 The Contractor shall maintain full and accurate records of the time spent by each of the Contractor Personnel, in providing the Services or complying with its obligations in accordance with this Agreement, on a day-by-day basis and the relevant Day Rate or proportion of the Day Rate and shall provide such records to the DCC with each relevant invoice in accordance with this Schedule 7.1.
- 1.5 The Day Rate is inclusive of all travel, accommodation and subsistence expenses incurred by the Contractor and Contractor Personnel in performing the Services.
- 1.6 All other expenses may be chargeable by the Contractor on a Pass-Through Expense basis subject to the prior written approval of the DCC.
- 1.7 All Day Rates will be subject to Market Testing and Benchmarking in accordance with Schedule 7.3 (Value for Money).

Appendix 4 – Financial Model

The spreadsheet DCCT0216 Financial Model v2.0 represents the Financial Model as at the date of signature of this Agreement.

The Parties have attempted to maintain the Financial Model in accordance with Part A - General Principles and Appendix 2 of this Schedule. Should any errors be found, they will be rectified, where applicable, by reference to Part A - General Principles and Appendix 2 of this Schedule.

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2. FULL AND FINAL SETTLEMENT

Without prejudice to amounts properly due up to the Termination Date, any Termination Payments paid in accordance with this Schedule 7.2 shall be in full and final settlement of any claim, demand and/or proceedings of the Contractor in relation to any termination by the DCC or the Contractor pursuant to any provision of this Agreement, and the Contractor shall be excluded from all other rights and remedies it would otherwise have in respect of any such termination in respect of such part of this Agreement as has been terminated.

3. MITIGATION OF BREAKAGE COSTS

3.1 The Contractor shall only be entitled to recover Breakage Costs and only to the extent that they are costs of the Contractor which are proven, reasonable and not capable of recovery or otherwise incurred with the approval of the DCC and the Contractor agrees to take all reasonable steps to minimise and mitigate Breakage Costs by:

- (a) the appropriation of Assets, employees and resources for other purposes. If such Assets, employees and resources can be used for other purposes then there shall be an equitable reduction in the Breakage Costs payable by the DCC or a third party to the Contractor; and
- (b) in relation to contracts entered into with third parties, termination by the Contractor of those contracts at the earliest possible date without breach or where contractually permitted, and, where required by the DCC, assigning such contracts to the DCC or a third party acting on behalf of the DCC.

4. INVOICING FOR THE PAYMENTS ON TERMINATION

Any Termination Payment payable under this Schedule 7.2 shall be due no earlier than the Termination Date (but otherwise subject to and payable in accordance with the terms and usual invoicing procedures for Charges set out in Clause 20 (Charging and Invoicing) and Schedule 7.1 (Charges and Payment)).

5. SET OFF

For the avoidance of doubt, the DCC shall be entitled to set off any outstanding liabilities of the Contractor under this Agreement against any amount it pays pursuant to this Schedule 7.2 and otherwise in accordance with its rights set out in Clause 20 (of this Agreement).

6. NO DOUBLE RECOVERY

6.1 The consideration for Transferable Assets is addressed in Part G of Schedule 8.5 (Exit).

6.2 The value of the Termination Payment shall be reduced or extinguished to the extent that the Contractor has already received the Charges or the financial benefit of any

other remedy given under this Agreement to the extent necessary in order to ensure that the Contractor is not compensated twice for the same loss.

- 6.3 The calculation of compensation on termination set out in this Schedule 7.2 represents the amount payable only where the Agreement is terminated in full. Where this Agreement is only partially terminated then the amount of compensation payable shall be calculated by the Contractor in accordance with the principles and assumptions set out in this Schedule 7.2, but only in respect of such part of this Agreement as has been terminated and subject to paragraph 3.2 . If the parties fail to agree the reduction then the matter shall be referred to the Fast Track Dispute Resolution Procedure.
- 6.4 The DCC may, at any time, but not more than twice every year, request the Contractor to provide a calculation of the payment the DCC would be liable to make pursuant to this Schedule 7.2 if the DCC were to terminate the Agreement under Clause 47.3 (Termination for Convenience by the DCC). The Contractor shall then provide such calculation within fourteen (14) days of such request. The Contractor shall include with such calculation detailed supporting information relating to the figures in the calculation, including a detailed analysis of all assets used in the performance of this Agreement. Such request shall not be deemed to constitute any notice of termination pursuant to this Agreement and shall not affect in any way the performance of the Services or the continuation of this Agreement. The DCC shall be entitled to monitor and audit the preparation of such calculation and the Contractor shall take account of the DCC's input and reasonable suggestions in relation to the preparation of the calculation.
- 6.5 On the receipt of notice of a termination for which the Contractor is entitled to compensation, the Contractor shall deliver to the DCC a calculation of the amount payable by the DCC pursuant to this Schedule 7.2. The DCC shall have thirty (30) days following the date of such delivery within which to audit the calculation and, for such purposes, the DCC shall have all rights of audit set out in this Agreement. If the DCC disputes the calculation and the parties fail to resolve such dispute, the dispute shall be referred to the Fast Track Dispute Resolution Procedure. No compensation payments shall be made by the DCC until such dispute is resolved. On such resolution, the amount of compensation payable shall be paid by the DCC in accordance with Schedule 7.1 (Charges and Payment).



SCHEDULE 7.3 VALUE FOR MONEY

PURPOSE

The purpose of this Schedule 7.3 (Value for Money) is to enable the DCC to ensure that the provision of the Services and the Charges continues to represent value for money for the SEC Parties and Consumers throughout the Service Period.

This Schedule 7.3 comprises the following parts:

Part	Scope
Part A	Benchmarking
Part B	Gainsharing
Part C	Refinancing Gainsharing
Part D	Revenue sharing from Non-Mandatory Activities
Part E	Financial audit
Part F	Break Point Review
Appendix 1	Benchmarker panel

PART A – BENCHMARKING

PURPOSE OF BENCHMARK REVIEWS

Purpose of Benchmark Reviews

- 1.1 The purpose of a Benchmark Review under this Part A of Schedule 7.3 will be to establish whether:
- (a) the Charges relating to the relevant Benchmarked Services, and/or all of the Benchmarked Services as a whole, represent Good Value (a "**Charges Benchmark Review**"); and
 - (b) the Performance Measures relating to the relevant Benchmarked Services, and/or all of the Benchmarked Services as a whole, represent Good Value (a "**Performance Measures Benchmark Review**").

Market Testing

- 1.2 The DCC may, at any time (irrespective of the timing and frequency of any benchmarking described in Part A of Schedule 7.3), conduct its own review of the cost and effectiveness of the Services including the Charges ("**Market Testing**"). This may include conducting meetings with third parties, including third parties that have procured similar services, sharing information (subject to Clause 37 (Confidentiality)) with such third parties, and inviting such third parties to give presentations to the DCC in order to understand market trends. Where as a result of Market Testing activities the DCC believes that elements of the Services do not represent Good Value then the parties shall discuss the Services impacted by the Market Testing activity with the intention of addressing the DCC's concerns in relation to the value of the Services and the Charges. If, following such discussion, the parties are not able to address the DCC's concerns in relation to the value of the Services and / or the Charges then the DCC may elect to carry out benchmarking pursuant to the remaining provisions of this Part A of Schedule 7.3.

Benchmarked Services

- 1.3 A Charges Benchmark Review and/or a Performance Measures Benchmark Review may be conducted by reference to any or all of the Services.
- 1.4 In this Part A of Schedule 7.3, the Services that the DCC elects to include in a Benchmark Review shall be the "**Benchmarked Services**".

2. FREQUENCY OF BENCHMARK REVIEW

- 2.1 Subject to paragraph 2.2, the DCC may instigate a Benchmark Review at any time by notifying the Contractor in writing of:
- (a) the scope of the Benchmarked Services (as determined by reference to paragraph 1.2 or 1.3, as applicable); and
 - (b) the purpose of the Benchmark Review (being either a Charges Benchmark Review or a Performance Measures Benchmark Review).

2.2 The DCC may not require a Benchmark Review to be carried out in the twelve (12) month period after the Commencement Date and then only one Benchmark Review may be carried out in any Contract Year during the remainder of the Service Period

3. **APPOINTMENT OF BENCHMARKER**

3.1 The DCC shall appoint a benchmarker (the "**Benchmarker**") to carry out the Benchmark Review from the list of organisations set out in Appendix 1 (Benchmark Panel).

3.2 The DCC shall, at the written request of the Contractor, require the Benchmarker to enter into an appropriate confidentiality undertaking with the Contractor (provided that any such undertaking shall not restrict the disclosure of information by the Benchmarker to the DCC in relation to the conduct of the Benchmark Review).

3.3 The costs and expenses of the Benchmarker in relation to the Benchmark Review shall be borne by the DCC.

3.4 Each party shall bear its own internal costs relating to the Benchmark Review.

4. **BENCHMARKING PROCESS**

4.1 The DCC shall require the Benchmarker to produce, and to send to each party for approval, a draft plan for the Benchmark Review within ten (10) Business Days after the date of the appointment of the Benchmarker, or such longer period as the Benchmarker shall reasonably request in all the circumstances. The plan must include:

- (a) a proposed timetable for the Benchmark Review;
- (b) a description of the information that the Benchmarker requires each party to provide;
- (c) a description of the benchmarking methodology to be used;
- (d) a description that demonstrates objectively and transparently that the benchmarking methodology to be used is capable of fulfilling the benchmarking objectives of assessing whether the relevant Benchmarked Services, and/or the Benchmarked Services as a whole, represent Good Value;
- (e) an estimate of the resources required from each party to underpin the delivery of the plan;
- (f) a description of how the Benchmarker will scope and identify the Comparison Group; and
- (g) details of any entities which the Benchmarker proposes to include within the Comparison Group (taking reasonable account of any entities suggested by the DCC and/or the Contractor).

- 4.2 Each party must give notice in writing to the Benchmarker and to the other party within ten (10) Business Days after receiving the draft plan from the Benchmarker, advising whether it approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan. Neither party may unreasonably withhold or delay its approval of the draft plan, and any suggested amendments must be reasonable.
- 4.3 Where a party suggests amendments to the draft plan under paragraph 4.2, the Benchmarker must, if it believes the amendments are reasonable, produce an updated and final version of the plan and issue it to the parties as soon as reasonably practicable (but, in any event, within ten (10) Business Days after receipt of the parties' comments under paragraph 4.2, such period starting from receipt of the last set of comments from the parties).
- 4.4 Failure by a party to give notice under paragraph 4.2 will be treated as approval of the draft plan by that party.
- 4.5 Once the plan has been finalised in accordance with paragraphs 4.2 and 4.3, the Benchmarker will carry out the Benchmark Review in accordance with the plan. Each party shall procure that all the information described in the plan, together with any additional information reasonably required by the Benchmarker, is provided to the Benchmarker without undue delay.
- 4.6 Each party shall co-operate fully with the Benchmarker, including by providing access to records, technical documentation, premises, equipment, systems and personnel at times reasonably requested by the Benchmarker, provided that the Benchmarker shall be instructed to minimise any disruption to the Services.
- 4.7 Either party may provide additional material to the Benchmarker to assist the Benchmarker in conducting the Benchmark Review.
- 4.8 Once it has received the information it requires, the Benchmarker shall:
- (a) finalise a sample of entities constituting the Comparison Group and collect data relating to the Comparable Services. The selection of the Comparison Group (both in terms of number and identity of entities) and Comparable Services shall be a matter for the Benchmarker's professional judgment using:
 - (i) survey information;
 - (ii) market intelligence;
 - (iii) the Benchmarker's own data and experience;
 - (iv) relevant published information; and
 - (v) information from consultancies and/or other vendors or purchasers of Comparable Services;
 - (b) derive the Equivalent Services Data by analysing the Comparable Services and applying the adjustment factors listed in paragraph 4.9;

- (c) using the Equivalent Services Data, calculate:
 - (i) the Average Price; and/or
 - (ii) the median performance measures,
 as applicable given the scope of the Benchmark Review;
- (d) compare (using the Equivalent Services Data):
 - (i) the Charges attributable to the Benchmarked Services (having regard in particular to the Performance Measures) with the Average Price; and/or
 - (ii) the Performance Measures attributable to the Benchmarked Services (having regard to the Charges) with the median performance measures,
 as applicable given the scope of the Benchmark Review; and
- (e) determine whether or not the relevant Benchmarked Services, and/or the Benchmarked Services as a whole, represent Good Value.

4.9 In carrying out the Benchmark Review, the Benchmarker shall have regard to the following matters when performing a comparative assessment of the outcomes of the Benchmarked Services and the Comparable Services in order to derive the Equivalent Services Data:

- (a) the contractual and business environment under which the Services are being provided (including the scope, scale, complexity and geographical spread of the Services);
- (b) any front-end investment and development costs of the Contractor;
- (c) the Contractor's risk profile including the financial, performance or liability risks associated with the provision of the Services as a whole;
- (d) the extent of the Contractor's management and contract governance responsibilities;
- (e) the relationship between the Services and any related services provided to the DCC by the DCC Service Providers;
- (f) any aspects of the Contractor's obligations under this Agreement which are bespoke to the Services, including the security requirements referred to in Schedule 2.5 (Security Management Plan); and
- (g) any other factors reasonably identified by the Contractor, which, if not taken into consideration, could unfairly cause the Contractor's pricing to appear non-competitive (such as erroneous costing or over-aggressive pricing).

4.10 Where the Benchmarked Services comprise a number of individual service categories, the Benchmarker shall be entitled to (where, acting reasonably, the Benchmarker considers that it is appropriate to do so):

- (a) select Comparable Services which are materially similar to the individual service categories of the Benchmarked Services (including in terms of scope, specification, volume and quality of performance); and/or
- (b) derive the Equivalent Services Data by reference to a combination of the Comparable Services referred to in paragraph 4.10(a).

5. **BENCHMARK REPORT**

5.1 The Benchmarker shall be required to prepare a Benchmark Report and deliver it simultaneously to both parties, at the time specified in the plan approved under paragraph 4, setting out its findings. Those findings shall be required to:

- (a) include a finding as to whether or not the relevant Benchmarked Services, and/or the Benchmarked Services as a whole, represent Good Value;
- (b) include other findings (if any) regarding the quality and competitiveness or otherwise of the Benchmarked Services; and
- (c) if any Benchmarked Services do not represent Good Value, or the Benchmarked Services as a whole do not represent Good Value, specify the changes that would be required to the Charges and/or Performance Measures (as applicable), that would be required to make the relevant Benchmarked Services, or the Benchmarked Service as a whole, represent Good Value. For the avoidance of doubt, if the Benchmark Report concludes a reduction in Charges, then such changes (subject to paragraphs 5.6 and 5.7) shall be implemented by the Contractor from the date of the Benchmark Report and not retrospectively.

5.2 The Benchmarker shall act as an expert and not as an arbitrator.

5.3 For the avoidance of doubt, Benchmark Reviews shall not result in any increase to the Charges or any decrease in the performance of any Services or Performance Measures.

5.4 If the Benchmark Report states that the relevant Benchmarked Services do not represent Good Value, or that the Benchmarked Services as a whole do not represent Good Value, then the Contractor shall (subject to paragraphs 5.6 and 5.7) implement the changes set out in the Benchmark Report within a timescale agreed with the DCC but in any event within no more than three (3) months.

5.5 Subject to the Contractor's right to dispute or reject the Benchmark Report under paragraph 5.6 or 5.7, if the Benchmark Report determines that any or all of the Benchmarked Services do not represent Good Value, any failure by the Contractor to implement the changes set out in the Benchmark Report in accordance with the timescales referred to in paragraph 5.4 shall (without prejudice to any other rights or remedies of the DCC) constitute an irremediable material breach for the purposes of Clause 47 (Termination Rights) of this Agreement.

5.6 The Contractor shall be entitled to reject the Benchmark Report if:

- (a) the Contractor (acting reasonably and in good faith) considers that the Benchmarking has not followed the procedure for the Benchmark Review as set out in this Schedule 7.3 (Value for Money) in any material respect; and/or
 - (b) there is a manifest error in the Benchmark Report.
- 5.7 The Contractor shall not be obliged to implement any Benchmark Report to the extent that the implementation of the recommended changes is not technically feasible in the opinion of the DCC (acting reasonably).
- 5.8 In the event of a Dispute or rejection of the Benchmark Report under paragraphs 5.6 or 5.7, the matter shall be referred to the Dispute Resolution Procedure. If any Dispute under paragraph 5.7 has not been resolved in accordance with the Escalation Process, the Dispute shall be referred to an Expert for determination in accordance with the procedure detailed in Schedule 8.3 (Dispute Resolution Procedure). For the avoidance of doubt, in the event of a Dispute between the parties, the DCC shall continue to pay the Charges to the Contractor in accordance with the terms of this Agreement pending the conclusion of the Expert determination process.
- 5.9 On conclusion of the Expert determination process, if the Expert determines that all or any part of the Benchmark Report recommendations regarding any reduction in the Charges shall be implemented by the Contractor, the Contractor shall immediately repay to the DCC the difference between the Charges paid by the DCC up to and including the date of the Expert's determination and the date upon which the recommended reduction in Charges should have originally taken effect.

PART B – GAINSHARING

1. OVERVIEW

- 1.1 Where the Contractor, either through the implementation of improvements under Schedule 2.4 (Continuous Improvement) or through the implementation of other Changes, reduces the costs of delivering the Services, the Contractor shall share such cost savings with the DCC.
- 1.2 This Part B of Schedule 7.3 sets out the mechanisms by which the Contractor shall share the gains associated with the implementation of improvements under Schedule 2.4 (Continuous Improvement) or other Changes.

2. RELATIONSHIP WITH SCHEDULE 2.4

- 2.1 The parties acknowledge that:
- (a) Schedule 2.4 (Continuous Improvement) contains procedures which are intended to ensure that the parties, together with the DCC Service Providers, are able to identify, assess and, where applicable, implement potential improvements in relation to (i) the Contractor Solution, (ii) the Relevant Service Provider Solutions and/or (iii) the Smart Metering Programme generally, which could, amongst other things:
 - (i) generate cost savings and/or other financial gains; and/or
 - (ii) otherwise offer increased value for money; and
 - (b) any improvement referred to in paragraph 2.1 (each, a "**Relevant Improvement**") may be implemented as a Change.

3. GAINSHARING ARRANGEMENTS

- 3.1 In determining the manner in which any Change is to be implemented (including any Change relating to the implementation of a Relevant Improvement), the parties shall, in conjunction with any of the DCC Service Providers (where applicable):
- (a) identify any cost savings and/or other financial gains which are intended to be achieved as a result of the implementation of the relevant Change;
 - (b) identify any Milestones to measure the achievement of such cost savings and/or other financial gains (each, a "**Benefit Milestone**"); and
 - (c) agree on the basis on which such cost savings and/or other financial gains are to be shared between the DCC, the Contractor and (if applicable) any of the DCC Service Providers (including, where applicable, by reference to the extent to which the Benefit Milestone(s) has or have been achieved).

- 3.2 Unless otherwise agreed in accordance with paragraph 3.1(c), all cost savings and/or other financial gains shall be shared equally between the DCC and the Contractor, respectively.
- 3.3 In determining the basis on which such cost savings and/or other financial gains are to be shared between the DCC, the Contractor and (if applicable) any of the DCC Service Providers under paragraph 3.1(c), the parties (and the relevant DCC Service Provider(s)) shall take appropriate account of:
- (a) the costs to be incurred by the DCC, the Contractor and/or (if applicable) any of the DCC Service Providers in relation to the implementation of the Change;
 - (b) any changes to the obligations of the Contractor under this Agreement (and/or the obligations of the relevant DCC Service Provider under the relevant DCC Service Provider Contract) as a result of the implementation of the Change;
 - (c) any change to the risk profile of the DCC as a result of the implementation of the Change;
 - (d) any changes to the Charges under this Agreement (or the charges under the relevant DCC Service Provider Contract) as a result of the implementation of the Change; and/or
 - (e) whether such cost savings and/or other financial gains were identified by the DCC or the Contractor.
- 3.4 In identifying and agreeing any Benefit Milestones under paragraph 3.1(b), the parties (and the relevant DCC Service Provider(s)) shall agree:
- (a) the manner in which the achievement of the Benefit Milestone(s) are to be assessed (and the respective obligations of the parties, and the relevant DCC Service Provider(s), regarding such assessment);
 - (b) the date(s) on which the achievement of the Benefit Milestone(s) are to be assessed;
 - (c) where applicable, how the extent to which the Benefit Milestone(s) are achieved shall be:
 - (i) reflected in the gainsharing arrangements agreed under paragraph 3.1(c); and
 - (ii) converted into a financial value to be shared between the DCC, the Contractor and the relevant DCC Service Provider(s) (the "**Benefit Milestone Financial Value**"); and
 - (d) the manner in which the respective shares of the Benefit Milestone Financial Value shall be paid or credited to the parties (which may include an appropriate adjustment to the next invoice payable by the DCC under this Agreement).

- 3.5 Without limiting the Contractor's obligations under this Agreement (including, where applicable, Part D of Schedule 2.4 (Continuous Improvement)) in relation to the implementation of the relevant Change:
- (a) the Contractor shall report within fourteen (14) days to the DCC on the full or partial Achievement of any Benefit Milestones applicable to the Contractor, providing reasonable detail of such matters; and
 - (b) when issuing a notice to the DCC under paragraph 3.5(a), notify the DCC of the amount of the relevant Benefit Milestone Financial Value and how it is to be shared between the DCC, the Contractor and the relevant DCC Service Provider(s) in accordance with gainsharing arrangements agreed under paragraph 3.1(c).
- 3.6 Subject to paragraph 3.7, each party's share of the Benefit Milestone Financial Value shall be paid or credited to that party in accordance with the arrangements agreed under paragraph 3.4(d).
- 3.7 Any dispute between the parties and/or the relevant DCC Service Provider(s) relating to:
- (a) the extent to which any Benefit Milestone has been achieved;
 - (b) the calculation of the Benefit Milestone Financial Value; and/or
 - (c) the allocation of the Benefit Milestone Financial Value between the parties and/or the relevant DCC Service Provider(s),
- shall be referred to the Dispute Resolution Procedure.
- 3.8 Where any Change proposed by the DCC relates to the reduction in scope or volume of any of the Services and, as a result, generates any related cost savings or other financial gains for the Contractor, such savings or gains shall not be subject to the gainsharing arrangements in this Part B of Schedule 7.3 but shall be reflected in their entirety in an appropriate reduction of the Charges.

PART C – REFINANCING GAINSHARING

NOT USED

PART D – REVENUE SHARING FROM NON-MANDATORY ACTIVITIES

NOT USED

PART E – FINANCIAL AUDIT

1. PURPOSE

This Part E describes the manner in which the DCC will be entitled, as part of any DCC Audit, to assess and identify opportunities to realise cost savings and/or other financial gains in relation to the performance of the Services (and verify the Contractor's compliance with other obligations under this Agreement relating to value for money requirements).

2. AUDITS AND VALUE FOR MONEY

2.1 The Contractor acknowledges that the DCC is entitled to conduct DCC Audits in accordance with Part A of Schedule 8.4 (Records and Audit Provisions).

2.2 As part of any DCC Audit, the DCC shall be entitled to:

- (a) assess and identify opportunities to realise cost savings and/or other financial gains in relation to the performance of the Services;
- (b) verify the Contractor's compliance with its obligations under Schedule 2.4 (Continuous Improvement) to identify, assess and, where applicable, implement potential improvements in relation to (i) the Contractor Solution, (ii) the Relevant Service Provider Solutions and/or (iii) the Smart Metering Programme generally which could:
 - (i) increase quality, efficiency or productivity;
 - (ii) improve utilisation of relevant assets and/or capacity;
 - (iii) reduce operational risks;
 - (iv) improve security;
 - (v) offer greater sustainability;
 - (vi) generate cost savings and/or other financial gains; and/or
 - (vii) otherwise offer increased value for money;
- (c) verify the Contractor's compliance with its obligations under Clause 20 (Charging and Invoicing) and Schedule 7.1 (Charges and Payment) regarding discrimination and cross-subsidisation; and/or
- (d) verify the Contractor's compliance with any initiatives, targets or other requirements under, or carried out pursuant to, this Schedule 7.3.

2.3 If the DCC (acting reasonably) identifies any opportunities and/or other financial gains in accordance with paragraph 2.1, it may notify the Contractor accordingly and such opportunities shall be implemented (as further analysed) in accordance with the procedures set out in Part D of Schedule 2.4 (Continuous Improvement) and Part B of this Schedule 7.3.

PART F – BREAK POINT REVIEW

1. PURPOSE

This Part F describes the manner in which the parties, as part of a Break Point Review, will assess and identify opportunities to realise cost savings and/or other financial gains in relation to the performance of the Services over the remainder of the Term.

2. REVIEW PROCESS

2.1 Not later than twelve (12) months prior to any Break Point, the parties will convene a meeting or a series of meetings in accordance with Schedule 8.1 (Governance) of the Service Improvement & Innovation Review OMB in accordance with Part E of Schedule 2.4 (Continuous Improvement) to conduct a review of the Services (the “**Break Point Review**”).

2.2 The purpose of the Break Point Review will be to:

- (a) review the scope and parameters of the Services (including a review of the Performance Measures and/or DCC Requirements) to assess and identify opportunities to realise cost savings and/or other financial gains in relation to the performance of the Services over the remainder of the Term;
- (b) identify and assess any improvements identified under Schedule 2.4 (Continuous Improvements) which the DCC may wish to implement; and
- (c) identify any potential obstacles or other issues which may adversely affect the implementation of cost savings and/or other financial gains or any improvements identified under Schedule 2.4 (Continuous Improvement) (and determine appropriate causes of action to eliminate or mitigate such obstacles or other issues).

2.3 The Service Improvement & Innovation Review OMB shall deliver its final recommendations arising from the Break Point Review to the parties not later than seven (7) months before the relevant Break Point.

3. IMPLEMENTATION

3.1 If the DCC wishes to implement any Changes which have been identified in the Break Point Review, then:

- (a) the DCC shall issue a Change Request to the Contractor in accordance with Schedule 8.2 (Change Control) and the Parties shall comply with their respective obligations under the Change Control Procedure; and
- (b) any change to the pricing of any element of the Services shall be implemented in accordance with the Change Control Procedure.

3.2 Any Changes proposed by the DCC arising from a Break Point Review shall not be subject to the gainsharing arrangements in this Part B of this Schedule

7.3 (Value for Money) but shall be reflected in their entirety in an appropriate reduction of the Charges.

Appendix 1 – Benchmark Panel

1. Gartner, Inc;
2. Forrester Research, Inc; and
3. Information Services Group (ISG),

including, in each case, the Affiliates of such entities (or any successor to the business operated by such entities), together with any other persons agreed by the parties from time to time.

SCHEDULE 7.4 FINANCIAL DISTRESS

OVERVIEW

This Schedule 7.4 (Financial Distress) provides for:

- (a) the assessment of the financial standing of each of the Relevant Entities; and
- (b) the establishment of trigger events relating to changes in such financial standings which, if breached, will have specified consequences.

In this Schedule 7.4, a "**Relevant Entity**" means (i) the Contractor (ii) the Guarantor (if applicable) and (iii) each of the Key Sub-contractors, and "**Relevant Entities**" means all of them.

This Schedule 7.4 (Financial Distress) comprises the following parts:

Part	Scope
Part A	General definitions
Part B	Reporting obligations
Part C	Scope of Financial Distress Events
Part D	Provision of information to DCC
Part E	Financial Distress Service Continuity Plan
Part F	Ensuring payment of Key Sub-contractors
Part G	Financial distress of Key Sub-contractors
Part H	Termination rights
Appendix 1	Financial Distress Event definitions
Appendix 2	Financial Ratios
Appendix 3	Current financial position



PART A – GENERAL DEFINITIONS

In this Schedule 7.4:

"Applicable Accounting Standards"	means the accounting standards applied in the most recent audited consolidated accounts of the Relevant Entity (which shall be consistent with the Companies Act 2006 and generally accepted accounting principles in the United Kingdom);
"Credit Rated Relevant Entity"	has the meaning given in paragraph 2.1 of Part B of this Schedule 7.4;
"D&B"	means Dun & Bradstreet Limited and its Affiliates (or any successor to the ratings business operated by such entities);
"D&B Rating"	<p>means the rating issued by D&B incorporating both:</p> <ul style="list-style-type: none">(a) the D&B Financial Strength Indicator (determined by reference to the "tangible net worth" of the relevant entity from its latest financial accounts); and(b) the D&B Risk Indicator (which is derived from the "D&B Failure Score" and associated expert rules of D&B), <p>((a) and (b), as defined by D&B) and presented in the format of:</p> <ul style="list-style-type: none">(i) for the D&B Financial Strength Indicator, a rating ranging from 5A to O; and(ii) for the D&B Risk Indicator, a rating ranging from 1 to 4 (or "Undetermined" where D&B has been unable to collect or verify certain key data elements), <p>or any replacement for the above ratings or indicators issued by D&B from time to time;</p>
"Escrow Account Trigger Event"	has the meaning given in paragraph 1 of Part F of this Schedule 7.4;
"Financial Distress Escrow Account"	means an escrow account established in accordance with Part F of this Schedule 7.4 in the joint names of the Contractor and the DCC with a bank approved by the DCC;



"Financial Distress Event"	means a Level 1 Financial Distress Event or a Level 2 Financial Distress Event, as applicable;
"Financial Distress Service Continuity Plan"	means the service continuity plan to be developed and implemented by the Contractor (and, where applicable, a Key Sub-contractor) in accordance with Part E or Part G of this Schedule 7.4;
"Financial Ratios"	means the financial ratios set out in Appendix 2 and "Financial Ratio" means any of them;
"Fitch"	means Fitch, Inc and its Affiliates (or any successor to the ratings business operated by such entities);
"Level 1 Financial Distress Event"	has the meaning given in paragraph 1 of Part C of this Schedule 7.4;
"Level 2 Financial Distress Event"	has the meaning given in paragraph 2 of Part C of this Schedule 7.4;
"Moody's"	means Moody's Investors Services, Inc. and its Affiliates (or any successor to the ratings business operated by such entities);
"Rating Agencies"	means S&P, Moody's and Fitch;
"Rating Downgrade"	has the meaning given in paragraph 3 of Part C of this Schedule 7.4;
"Relevant Period"	means, for the purposes of Schedule 7.4, each six (6) month period during each accounting reference period of the Relevant Entity;
"S&P"	means Standard & Poor's Financial Services, LLC and its Affiliates (or any successor to the ratings business operated by such entities).



PART B – REPORTING OBLIGATIONS

1. REPORTING OF FINANCIAL RATIOS

Initial Financial Ratios

- 1.1 The Contractor warrants and represents to the DCC that, as at the Commencement Date, the Financial Ratios for each of the Relevant Entities are as specified in Table A of Appendix 3.

Provision of quarterly unaudited accounts

- 1.2 NOT USED.

Provision of annual, audited accounts

- 1.3 The Contractor shall provide to the DCC not later than ninety (90) Business Days after the end of each accounting reference period of the Relevant Entity (where part or all of such period occurs during the Service Period):

- (a) the audited accounts of each Relevant Entity; and
- (b) the consolidated, audited accounts of each Relevant Entity,

in respect of that period, prepared in accordance with the Companies Act 2006 and generally accepted accounting principles in the United Kingdom, together with copies of all related directors' and auditors' reports and all other notices/circulars to shareholders.

- 1.4 Each set of accounts delivered to the DCC by the Contractor under paragraph 1.2 or 1.3 shall be certified by a director or an officer of the Relevant Entity as giving a true and fair view of its financial condition as at the date at which those accounts were drawn up.

Financial Ratio certificates

- 1.5 At the same time as each set of accounts under paragraph 1.2 or 1.3 (as applicable) is delivered to the DCC, the Contractor shall supply to the DCC a letter, signed by two directors or a director and officer of each Relevant Entity certifying as being true and accurate, setting out (in reasonable detail) computations that demonstrate each of the Financial Ratios in respect of each Relevant Entity as at the last day of the applicable Relevant Period. Such letters shall comply with the requirements of paragraphs 1.6 and 1.7.

Testing of Financial Ratios

- 1.6 For the purposes of preparing the certificates to be delivered pursuant to paragraph 1.5 of this Part B, the Financial Ratios for any Relevant Entity shall be tested by reference to periods of twelve (12) months, each such period ending with the end of the applicable Relevant Period.



- 1.7 The Contractor shall ensure that all calculations of the Financial Ratios in respect of any Relevant Entity pursuant to paragraph 1.5 of this Part B shall be made in accordance with the Applicable Accounting Standards.
- 1.8 Without limiting the Contractor's other obligations under this Part B, the Contractor shall promptly notify the DCC in writing if any material adverse change in the financial condition of any Relevant Entity should occur:
- (a) after the date on which the last set of certificates was delivered to the DCC under paragraph 1.5 (but before the next set of certificates are delivered); and
 - (b) which could reasonably be expected to have a material adverse effect on any of the Financial Ratios of the Relevant Entity.

In any event, the Contractor shall ensure that such notification is made within five (5) Business Days of the date on which the Contractor first becomes aware of the relevant material adverse change in the financial condition of the applicable Relevant Entity.

2. CREDIT RATINGS

- 2.1 The Contractor warrants that:
- (a) as at the Commencement Date, none of the Relevant Entities has a credit rating issued by any of the Rating Agencies;
 - (b) accordingly, this paragraph 2 shall not apply to the Relevant Entities as at the Commencement Date; and
 - (c) however, this paragraph 2 shall apply if:
 - (i) any of the existing Relevant Entities start to have a credit rating issued by any of the Rating Agencies at any time after the Commencement Date (in which case, the Contractor shall promptly notify the DCC accordingly); and/or
 - (ii) any new Key Sub-contractor is appointed by the Contractor which has a credit rating issued by any of the Rating Agencies,
- (each, a "**Credit Rated Relevant Entity**"). For the avoidance of doubt, references to a Relevant Entity in this Schedule 7.4 shall be deemed to include any Credit Rated Relevant Entity.
- 2.2 In the circumstances referred to in paragraph 2.1(c)(i) or 2.1(c)(ii):
- (a) the parties shall amend Table B of Appendix 3 to reflect the credit rating(s) of the applicable Credit Rated Relevant Entity;
 - (b) the Contractor shall ensure that the applicable Credit Rated Relevant Entity maintains a credit rating with each of the relevant Rating



Agencies referred to in the amended Table B of Appendix 3 at all times during the Service Period; and

- (c) the Contractor shall at all times monitor the credit rating(s) of the applicable Credit Rated Relevant Entity with each of the relevant Rating Agencies referred to in the amended Table B of Appendix 3.

2.3 The Contractor shall notify the DCC in writing as soon as reasonably possible (and in any event within five (5) Business Days) after:

- (a) any of the Rating Agencies issuing a negative or developing (or equivalent) outlook in respect of any Credit Rated Relevant Entity; and/or
- (b) any of the Rating Agencies placing any Credit Rated Relevant Entity on:
 - (i) a negative or developing CreditWatch status (in respect of S&P);
 - (ii) a Watchlist status for a possible downgrade (DNG) or direction uncertain (UNC) (in respect of Moody's); or
 - (iii) a negative or evolving Rating Watch status (in respect of Fitch).

3. **REPORTING OF D&B RATINGS**

3.1 The Contractor warrants and represents to the DCC that, as at the Commencement Date, the D&B Rating for each of the Relevant Entities is as specified in Table C of Appendix 3.

3.2 NOT USED.



PART C – SCOPE OF FINANCIAL DISTRESS EVENTS

1. LEVEL 1 FINANCIAL DISTRESS EVENT

A Level 1 Financial Distress Event will be deemed to have occurred in relation to a Relevant Entity if any of the following circumstances occur:

No.	Level 1 Financial Distress Event
1.	One or more of the "Level 1" events set out in Table 1 of Appendix 1 occurs when the Financial Ratios are tested in accordance with: (a) paragraph 1.5 of Part B; or (b) paragraph 3.2 of this Part C.
2.	One or more of the "Level 1" events set out in Table 2 of Appendix 1 occurs.
3.	One or more of the "Level 1" events set out in Table 3 of Appendix 1 occurs.

2. LEVEL 2 FINANCIAL DISTRESS EVENT

A Level 2 Financial Distress Event will be deemed to have occurred in relation to a Relevant Entity if any of the following circumstances occur:

No.	Level 2 Financial Distress Event
1.	One or more of the "Level 2" events set out in Table 1 of Appendix 1 occurs when the Financial Ratios are tested in accordance with: (a) paragraph 1.5 of Part B; or (b) paragraph 3.2 of this Part C.
2.	One or more of the "Level 2" events set out in Table 2 of Appendix 1 occurs.
3.	One or more of the "Level 2" events set out in Table 3 of Appendix 1 occurs.

3. IMPACT OF RATING DOWNGRADE

3.1 The Contractor shall notify the DCC in writing as soon as reasonably possible (and in any event within five (5) Business Days) after it becomes aware of:

- (a) any downgrade in the credit rating of any Credit Rated Relevant Entity by any of the Rating Agencies;



- (b) any downgrade to either element of the D&B Rating in respect of any of the Relevant Entities; and/or
- (c) the D&B Risk Indicator in respect of any of the Relevant Entities having "Undetermined" status,

(each, a "**Rating Downgrade**").

- 3.2 Within ten (10) Business Days after a Rating Downgrade (of any type) in relation to any Relevant Entity, the Contractor shall supply to the DCC a certificate, signed by two directors of that Relevant Entity as being true and accurate, setting out (in reasonable detail) computations that demonstrate each of the Financial Ratios in respect of that Relevant Entity as at the last day of the immediately previous month (whether or not such month represents the end of a Relevant Period).
- 3.3 For the purposes of preparing the certificates to be delivered pursuant to paragraph 3.2 of this Part C, the Financial Ratios for the Relevant Entity shall be tested by reference to a period of twelve (12) months ending as at the last day of the immediately previous month.
- 3.4 The Contractor shall ensure that all calculations of the Financial Ratios under paragraph 3.2 of this Part C are made in accordance with the Applicable Accounting Standards.

4. **REPORTING OF FINANCIAL DISTRESS EVENTS**

- 4.1 The Contractor shall promptly notify the DCC in writing following the occurrence of a Financial Distress Event or an Escrow Account Trigger Event in respect of any Relevant Entity (and, in any event, shall ensure that such notification is made within five (5) Business Days after the date on which the Contractor first becomes aware of the Financial Distress Event or Escrow Account Trigger Event).
- 4.2 The Contractor shall promptly notify the DCC in writing following the occurrence of any fact, circumstance or matter which could reasonably be expected to cause a Financial Distress Event or an Escrow Account Trigger Event in respect of any Relevant Entity (and, in any event, shall ensure that such notification is made within five (5) Business Days of the date on which the Contractor first becomes aware of any fact, circumstance or matter which could reasonably be expected to cause a Financial Distress Event or Escrow Account Trigger Event).



PART D – PROVISION OF INFORMATION TO DCC

1. SCOPE OF PART D

This Part D of Schedule 7.4 shall apply if a Level 1 Financial Distress Event or a Level 2 Financial Distress Event occurs in relation to the Guarantor.

2. LEVEL 1 FINANCIAL DISTRESS EVENT

- 2.1 At any time following the occurrence of a Level 1 Financial Distress Event in relation to the Guarantor, the DCC may require the Contractor to provide such financial information relating to the Contractor and/or the Guarantor as the DCC may, from time to time, reasonably require. The Contractor shall ensure that such financial information is provided to the DCC as soon as reasonably possible (and, in any event, within ten (10) Business Days) after receipt of the DCC's notice under this paragraph 2.

3. LEVEL 2 FINANCIAL DISTRESS EVENT

At any time following the occurrence of a Level 2 Financial Distress Event in relation to the Guarantor, the DCC may require the chief financial officer (or equivalent person) of the Contractor and/or the Guarantor to:

- (a) update the DCC on the financial standing of the Contractor and/or the Guarantor on a monthly basis. The Contractor shall ensure that such update is provided to the DCC as soon as reasonably possible (and, in any event, within five (5) Business Days) after the end of each month; and/or
- (b) provide such other financial information relating to the Contractor and/or the Guarantor as the DCC may, from time to time, reasonably require. The Contractor shall ensure that such information is provided to the DCC as soon as reasonably possible (and, in any event, within five (5) Business Days) after receipt of the DCC's notice under this paragraph 3.

4. MEETING WITH THE DCC

If requested by the DCC, the Contractor shall (and, if requested by the DCC, shall procure that the Guarantor shall) meet with the DCC to review the effect of any Financial Distress Event in relation to the Contractor and/or the Guarantor on:

- (a) the continued performance and delivery by the Contractor of the Services in accordance with this Agreement;
- (b) the performance by the Contractor of any of its other obligations under this Agreement; and/or
- (c) the ability of the Guarantor to perform any of its obligations under the Guarantee.



Such meeting shall take place on the date specified in the DCC's request under this paragraph 4 (provided that such date shall be at least five (5) Business Days after the date of the DCC's request under this paragraph 4).

5. **IMPROVEMENT IN FINANCIAL DISTRESS**

Where the Contractor reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the DCC and the parties may agree (in writing) that the Contractor shall be relieved of its obligations under this Part D.



PART E – FINANCIAL DISTRESS SERVICE CONTINUITY PLAN

1. SCOPE OF PART E

This Part E of Schedule 7.4 shall apply if a Level 2 Financial Distress Event occurs in relation to the Guarantor.

2. PREPARATION BY CONTRACTOR

2.1 If, at any time following the occurrence of a Level 2 Financial Distress Event in relation to the Guarantor, the DCC (acting reasonably and taking appropriate account of any discussions under paragraph 4 of Part D of this Schedule 7.4) believes that the Level 2 Financial Distress Event could have an adverse impact on:

- (a) the continued performance and delivery by the Contractor of the Services in accordance with this Agreement;
- (b) the performance by the Contractor of any of its other obligations under this Agreement; and/or
- (c) the ability of the Guarantor to perform any of its obligations under the Guarantee,

it may, by notice in writing to the Contractor, require that the Contractor prepares a draft Financial Distress Service Continuity Plan.

2.2 As soon as reasonably possible (and, in any event, within ten (10) Business Days) after receipt of the DCC's notice under paragraph 2.1, the Contractor shall submit to the DCC a draft Financial Distress Service Continuity Plan which sets out:

- (a) the cause(s) of the Level 2 Financial Distress Event;
- (b) the steps to be taken by the Contractor (or, where applicable, by the other Relevant Entities) in order to:
 - (i) remedy the effects of the Level 2 Financial Distress Event in relation to the matters referred to in paragraphs 2.1(a) to 2.1(c) above;
 - (ii) ensure the continued performance and delivery by the Contractor of the Services in accordance with this Agreement;
 - (iii) ensure the performance by the Contractor of any of its other obligations under this Agreement which are affected by the Level 2 Financial Distress Event;
 - (iv) ensure the ability of the Guarantor to perform any of its obligations under the Guarantee; and



- (v) mitigate any other consequences of the Level 2 Financial Distress Event in relation to the matters referred to in paragraphs 2.1(a) to 2.1(c) above;
- (c) the proposed timescales for the implementation of such steps; and
- (d) the resources which the Contractor (or, where applicable, the other Relevant Entities) proposes to allocate to the implementation of such steps.

3. REVIEW AND APPROVAL BY DCC

3.1 Within ten (10) Business Days after receipt of the draft Financial Distress Service Continuity Plan from the Contractor, the DCC shall notify the Contractor if it (acting reasonably) considers that:

- (a) the draft is insufficiently detailed to be properly evaluated;
- (b) the steps detailed in the draft will not achieve some or all of the objectives set out in paragraph 2.2(b);
- (c) the proposed timescales set out in the draft are too long in order to achieve the objectives set out in paragraph 2.2(b) within a reasonable period; and/or
- (d) the proposed resources set out in the draft are insufficient to achieve the objectives set out in paragraph 2.2(b),

(each, for the purposes of this paragraph 3, a "**non-conformity**").

3.2 By no later than five (5) Business Days after receipt of a notice from the DCC under paragraph 3.1 or 3.3, the Contractor shall:

- (a) make any amendments to the Financial Distress Service Continuity Plan that are necessary to address the non-conformities notified by the DCC under paragraphs 3.1 or 3.3; and
- (b) re-submit the revised Financial Distress Service Continuity Plan to the DCC for approval.

3.3 Within five (5) Business Days after receipt of the revised Financial Distress Service Continuity Plan from the Contractor, the DCC shall notify the Contractor of any new or outstanding non-conformities.

3.4 The process in paragraphs 3.2 and 3.3 will then be repeated until the DCC notifies the Contractor that the Financial Distress Service Continuity Plan is approved. The Contractor acknowledges and accepts that the DCC's approval shall not act as an endorsement of the Financial Distress Service Continuity Plan and shall not relieve the Contractor of its responsibility for ensuring that the Services, and its other obligations, are performed in accordance with the requirements of this Agreement.



3.5 Any dispute relating to the approval of the Financial Distress Service Continuity Plan shall be referred to the Escalation Process.

4. **REVIEW AND IMPLEMENTATION BY CONTRACTOR**

Following approval of the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan submitted under paragraph 4(b)) by the DCC, the Contractor shall:

- (a) on a regular basis (which shall not be less than monthly), review the Financial Distress Service Continuity Plan and assess whether it remains up-to-date and adequate to achieve the objectives set out in paragraph 2.2(b);
- (b) where the Financial Distress Service Continuity Plan is not up-to-date or adequate in accordance with paragraph 4(a), submit an updated Financial Distress Service Continuity Plan to the DCC as soon as reasonably possible (and, in any event, within five (5) Business Days of such review) for its approval, and the procedure in paragraphs 2.2 and 3.1 to 3.5 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and
- (c) comply (and, where applicable, ensure that the other Relevant Entities comply) with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

5. **IMPROVEMENT IN FINANCIAL DISTRESS**

Where the Contractor reasonably believes that the relevant Level 2 Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the DCC and the parties may agree (in writing) that the Contractor shall be relieved of its obligations under this Part E.



PART F – ENSURING PAYMENT OF KEY SUB-CONTRACTORS

6. SCOPE OF PART F

This Part F of Schedule 7.4 shall apply if:

- (a) a Level 2 Financial Distress Event occurs in relation to the Guarantor; and/or
- (b) any Key Sub-contractor notifies the DCC that the Contractor has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute,

(each, an "**Escrow Account Trigger Event**").

7. ABILITY TO RECTIFY NON-PAYMENT

Where paragraph 1(b) applies, the DCC shall not exercise its rights under this Part F without first giving the Contractor at least ten (10) Business Days in which to:

- (a) rectify such late or non-payment; or
- (b) demonstrate to the DCC's reasonable satisfaction that there is a valid reason for such late or non-payment.

8. FINANCIAL DISTRESS ESCROW ACCOUNT

8.1 If requested by the DCC at any time following the occurrence of an Escrow Account Trigger Event, the Contractor shall (without cost to the DCC):

- (a) establish a Financial Distress Escrow Account on such terms as the DCC may reasonably require; and
- (b) consent to such actions as may be required to give effect to the provisions of this Part F.

The Contractor shall ensure that the Financial Distress Escrow Account is established as soon as reasonably possible (and, in any event, within fifteen (15) Business Days) after receipt of the DCC's notice under this paragraph 3.1.

8.2 Following the establishment of the Financial Distress Escrow Account by the Contractor, the DCC may (upon written notice to the Contractor):

- (a) elect to pay into the Financial Distress Escrow Account any Charges (less any deductions made in accordance with this Agreement and without double counting) which:
 - (i) are undisputed by the DCC; and
 - (ii) become payable after the occurrence of the relevant Escrow Account Trigger Event; and



- (b) require that any sums properly due to the Key Sub-contractors are paid (without set-off or deduction and without double counting) directly from the Financial Distress Escrow Account in accordance with paragraph 3.3.

The Contractor hereby consents to the arrangements set out in this paragraph 3.2 and shall carry out such actions as may be necessary from time to time to enable such direct payments under paragraph 3.2(b).

8.3 Monies paid into the Financial Distress Escrow Account by the DCC shall be held on trust by the approved bank and shall be paid out, without double counting, on the DCC's instruction, and with notice to the Contractor, in the following order:

- (a) the payment in full of any Key Sub-contractors;
- (b) the payment of any other liabilities of the Contractor that have a direct impact on the performance of this Agreement (as determined by the DCC); and
- (c) subject to paragraphs 3.4 and 3.5, payment of the balance to the Contractor.

8.4 The Contractor shall demonstrate its compliance with paragraphs 3.3(a) and 3.3(b):

- (a) by the production of valid invoices against which payments from the Financial Distress Escrow Account have been made to the relevant Key Sub-contractors; or
- (b) at the DCC's sole discretion and only if notified in writing to the Contractor, by the certification by the Contractor that the relevant Key Sub-contractors have been paid from the Contractor's general account.

8.5 The parties shall instruct the bank to withhold an amount in the Financial Distress Escrow Account in respect of:

- (a) any amount invoiced by a Key Sub-contractor under its Key Sub-contract that is subject to a dispute between that Key Sub-contractor and the Contractor until the resolution of that dispute; or
- (b) which the DCC requires further details of the satisfaction of any relevant Key Sub-contractor's invoice and/or any other liability.

9. **IMPROVEMENT IN FINANCIAL DISTRESS**

9.1 Where an Escrow Account Trigger Event relates to:

- (a) paragraph 1(a) of this Part F, then where the Contractor reasonably believes that the relevant Level 2 Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) has ceased to exist for a period of at least six (6) consecutive months; or



- (b) paragraph 1(b) of this Part F, then if the relevant Key Sub-contractor withdraws its claim that the Contractor has not satisfied any material sums properly due and invoiced, or the Contractor demonstrates to the DCC's reasonable satisfaction that there is a valid reason for non-payment,

then, it shall notify the DCC accordingly and the parties may agree (in writing) that:

- (iii) the DCC shall pay the Charges direct to the Contractor;
- (ii) the Financial Distress Escrow Account shall be closed; and
- (iii) the Contractor shall be entitled to withdraw any sums standing to the credit of the Financial Distress Escrow Account.



PART G – FINANCIAL DISTRESS OF KEY SUB-CONTRACTORS

1. SCOPE OF PART G

This Part G of Schedule 7.4 shall apply if a Level 1 Financial Distress Event or a Level 2 Financial Distress Event occurs in relation to any Key Sub-contractor.

2. PROVISION OF INFORMATION TO DCC

At any time following the occurrence of any Financial Distress Event in relation to a Key Sub-contractor, the DCC may require the Contractor to provide such financial information relating to the relevant Key Sub-contractor as DCC may, from time to time, reasonably require. The Contractor shall ensure that such financial information is provided to the DCC as soon as reasonably possible (and, in any event, within ten (10) Business Days) after receipt of the DCC's notice under this paragraph 2.

3. MEETING WITH THE DCC

If requested by the DCC, the Contractor shall (and, if requested by the DCC, shall procure that the relevant Key Sub-contractor shall) meet with the DCC to review the effect of any Financial Distress Event in relation to the relevant Key Sub-contractor on:

- (a) the continued performance and delivery of the Services in accordance with this Agreement; and/or
- (b) the performance of any of the Contractor's other obligations under this Agreement (whether or not sub-contracted to the relevant Key Sub-contractor).

Such meeting shall take place on the date specified in the DCC's request under this paragraph 3 (provided that such date shall be at least ten (10) Business Days after the date of the DCC's request under this paragraph 3).

4. FINANCIAL DISTRESS SERVICE CONTINUITY PLAN

- 4.1 If, at any time following the occurrence of a Level 2 Financial Distress Event in relation to a Key Sub-contractor, the DCC (acting reasonably and taking appropriate account of any discussions under paragraph 3) believes that the Level 2 Financial Distress Event could have an adverse impact on:

- (a) the continued performance and delivery of the Services in accordance with this Agreement; and/or
- (b) the performance of any of the Contractor's other obligations under this Agreement (whether or not sub-contracted to the Sub-contractor),

it may, by notice in writing to the Contractor, require that the Contractor prepares a draft Financial Distress Service Continuity Plan in respect of the relevant Key Sub-contractor.



- 4.2 As soon as reasonably possible (and, in any event, within ten (10) Business Days) after receipt of the DCC's notice under paragraph 4.1, the Contractor shall submit to the DCC a draft Financial Distress Service Continuity Plan in respect of the relevant Key Sub-contractor. The Financial Distress Service Continuity Plan shall comply with the requirements of paragraph 2.2 of Part E, except that it shall apply in relation to the Level 2 Financial Distress Event affecting the relevant Key Sub-contractor and shall reflect the steps to be implemented, and the resources to be allocated, by both the Contractor and the relevant Key Sub-contractor. The Financial Distress Service Continuity Plan shall be reviewed and approved by the parties in accordance with the procedure set out in paragraphs 2 and 3 of Part E.
- 4.3 The Contractor shall (and shall procure that the relevant Key Sub-contractor shall):
- (a) review and update the Financial Distress Service Continuity Plan in accordance with paragraphs 4(a) and 4(b) of Part E; and
 - (b) comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

5. **IMPROVEMENT IN FINANCIAL DISTRESS**

Where the Contractor reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists in relation to relevant Key Sub-contractor, it shall notify the DCC and the parties may agree (in writing) that the Contractor shall be relieved of its obligations under this Part G.



PART H – TERMINATION RIGHTS

The DCC shall be entitled to terminate this Agreement under Clause 47.1 if:

- (a) the parties fail to agree a Financial Distress Service Continuity Plan (or an updated Financial Distress Service Continuity Plan) in respect of any Relevant Entity (including a Key Sub-contractor under Part G) in accordance with the procedure set out in paragraph 3 of Part E. For the avoidance of doubt, the DCC's right to terminate under this paragraph (a) shall only apply once the Escalation Process referred to in paragraph 3.5 of Part E has been exhausted;
- (b) the Contractor fails to comply (or, where applicable, fails to ensure that the other Relevant Entities or the relevant Key Sub-contractor complies) in a material way with the requirements of a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in respect of any Relevant Entity (including a Key Sub-contractor under Part G);
- (c) the Contractor fails to establish the Financial Distress Escrow Account when requested by the DCC in accordance with paragraph 3.1 of Part F (and then subsequently fails to establish the Financial Distress Escrow Account within ten (10) Business Days after receipt of a further notice from the DCC requiring the establishment of the Financial Distress Escrow Account); and/or
- (d) the Contractor otherwise fails to comply in a material way with its obligations under paragraph 3 of Part F.



Appendix 1 – Financial Distress Event definitions

Relevant event	Level 1	Level 2
The Net Total Interest Cover Ratio of the Relevant Entity falls below:	1.5	1.0
The Total Net Debt to EBITDA Ratio of the Relevant Entity exceeds:	3	5
The Free Cash Flow Debt Service Cover Ratio falls below:	1.5	1.0
The Current Ratio falls below:	1.0	0.8

Table 1: Financial Ratios (as defined in Appendix 2)

Level 1	Level 2
The Relevant Entity issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects.	n/a
There being any public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Relevant Entity.	n/a
n/a	The Relevant Entity committing a material breach of any financial covenants to its lenders.
n/a	The Guarantee becoming invalid for any reason, except where:



	<ul style="list-style-type: none"> (a) the Contractor has provided a replacement Guarantee, in substantially the form set out in Schedule 10 (Guarantee) (or other form acceptable to the DCC), executed by an alternative Guarantor; and (b) the DCC has notified the Contractor that such replacement Guarantee is acceptable to the DCC (such notice not to be unreasonably delayed).
n/a	<p>The auditors of the Relevant Entity or its Affiliates issue a qualified opinion in respect of the Relevant Entity's accounts (or any consolidated accounts of the Relevant Entity and any of its Affiliates):</p> <ul style="list-style-type: none"> (a) on the basis that the Relevant Entity (or, where appropriate, its Affiliates) have not made appropriate disclosures regarding the going concern status of the Relevant Entity; and/or (b) as a result of any other issue or concern regarding the going concern status of the Relevant Entity.

Table 2: General events



Relevant event	Level 1 Financial Distress Event	Level 2 Financial Distress Event
Commencement of litigation	The commencement of any litigation against the Relevant Entity with respect to any financial indebtedness or obligations under a service contract with a potential value in excess of £5 million (£5,000,000).	The commencement of any litigation against the Relevant Entity with respect to any financial indebtedness or obligations under a service contract with a potential value in excess of £10 million (£10,000,000).
Non-payment of indebtedness	Non-payment by the Relevant Entity of any financial indebtedness in excess of £1 million (£1,000,000).	Non-payment by the Relevant Entity of any financial indebtedness in excess of £5 million (£5,000,000).
Event of default causing indebtedness to become due	Any financial indebtedness of the Relevant Entity in excess of £1 million (£1,000,000) becoming due as a result of an event of default.	Any financial indebtedness of the Relevant Entity in excess of £5 million (£5,000,000) becoming due as a result of an event of default.
Cancellation or suspension of indebtedness	n/a	The cancellation or suspension of any material financial indebtedness in respect of the Relevant Entity.
<p>Note: Each of the above events shall only be deemed to constitute a "Financial Distress Event" if the DCC (acting reasonably) believes it could have a material adverse impact on:</p> <p>(a) where the Contractor, Guarantor or the Key Sub-contractor is the Relevant Entity: (i) the continued performance and delivery of the Services in accordance with this Agreement and/or (ii) the performance by the Contractor of any of its other obligations under this Agreement; or</p> <p>(b) where the Guarantor is the Relevant Entity, the ability of the Guarantor to perform any of its obligations under the Guarantee.</p>		

Table 3: Other relevant events



Appendix 2 – Financial Ratios

6. FINANCIAL RATIOS

6.1 In this Schedule 7.4, "**Financial Ratios**" means, in respect of each Relevant Entity, each of the following (and "**Financial Ratio**" shall mean any one of them):

Financial Ratio	Definition
"Net Total Interest Cover Ratio"	The ratio of EBITDA in the relevant period (after deducting Capital Expenditure in the same period) to Net Total Interest in the same period.
"Total Net Debt to EBITDA Ratio"	The ratio of Total Net Debt at the end of the relevant period to EBITDA in the same period.
"Free Cash Flow Debt Service Cover Ratio"	The ratio of Free Cash Flow in the relevant period to Total Debt Service in the same period.
"Current Ratio"	The ratio of Current Assets at the end of the relevant period to Current Liabilities at the end of the same period.

6.2 Each of the Financial Ratios is further described below.

7. NET TOTAL INTEREST COVER RATIO

7.1 Key concepts

Relevant term	Definition
EBITDA	<p>means, for any period, the profits of the Relevant Entity on ordinary activities (before the deduction of Net Total Interest and tax (or their equivalents in any jurisdiction) on the overall income of the Relevant Entity for that period):</p> <p>(a) excluding any gain or loss realised on the disposal of assets (other than trading stock) and investments whether tangible or intangible, but not so that any amount is excluded twice; and</p> <p>(b) adding back any amounts charged in respect of depreciation of fixed assets and amortisation of goodwill and/or know-how or other intangible assets.</p>
Net Total Interest	means, for any period, the aggregate of:

	<p>(a) interest, commitment or non-utilisation fees, and non-reduction fees in respect of Gross Debt accrued during that period (including capitalised interest and the interest element of finance leases); and</p> <p>(b) consideration given by the Relevant Entity during that period whether by way of discount or otherwise in connection with any acceptance credit, bill discounting, debt factoring or other like arrangement.</p>
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7.2 Other relevant definitions

Relevant term	Definition
Capital Expenditure	means capital expenditure of the Relevant Entity (as that term is determined in accordance with the Applicable Accounting Standards).
Gross Debt	is defined in paragraph 3 below.

8. TOTAL NET DEBT TO EBITDA RATIO

8.1 Key concepts

Relevant term	Definition
Total Net Debt	means Gross Debt at the end of the relevant period less Total Cash at the end of the same period.
EBITDA	is defined in paragraph 2 above.

8.2 Other relevant definitions

Relevant term	Definition
Gross Debt	<p>means, at any time, the aggregate financial indebtedness of the Relevant Entity and shall include:</p> <p>(a) monies borrowed or raised from a bank or other financial institution (whether or not for cash) (calculated net of applicable credit balances where such monies are borrowed as part of netting arrangements with the relevant bank or other financial institution);</p> <p>(b) the capitalised value of obligations under any hire purchase agreements, finance leasing</p>



	<p>agreements or capital leasing agreements (as determined in accordance with the Applicable Accounting Standards);</p> <p>(c) indebtedness evidenced by bonds, debentures, loan stock, notes, commercial paper or similar instruments;</p> <p>(d) the nominal amount of any share capital expressed to be redeemable; and</p> <p>(e) indebtedness (including contingent liabilities) arising under or by virtue of:</p> <ul style="list-style-type: none"> (i) acceptance credits; (ii) debt factoring, invoice or bill discounting or note purchase facilities (save to the extent that there is no right of recourse against the Relevant Entity); (iii) deferred payment for assets or services (other than normal trade credit) save when such payment is, in any way, conditional; (iv) guarantees, indemnities or other assurances against financial loss in respect of any indebtedness specified in this definition of any third party; (v) counter-indemnities in respect of letters of credit, bonds, guarantees, indemnities or similar obligations issued or created in favour of any third party; and (vi) any other transaction having substantially the same commercial effect as any of the foregoing, including those where liabilities are not shown as borrowings on a balance sheet by reason of being contingent, conditional or otherwise.
Total Cash	<p>means, at any time, the aggregate of:</p> <p>(a) credit balances of any account with any bank or other financial institution and whether on current, deposit or term deposit account (provided that such credit balance is payable on demand or not later than twelve (12)</p>



	months following demand) which are freely available to the Relevant Entity; and
	(b) cash in hand beneficially owned by the Relevant Entity.

9. **FREE CASH FLOW DEBT SERVICE COVER RATIO**

9.1 **Key concepts**

Relevant term	Definition
Free Cash Flow	means, for any period, the Operating Cash Flow of the Relevant Entity in that period less the sum of all of the Capital Expenditure made in that period.
Total Debt Service	means, for any period, the aggregate of Net Total Interest and scheduled repayments of principal which fell due in respect of that period (whether or not paid).

9.2 **Other relevant definitions**

Relevant term	Definition
Operating Cash Flow	means, for any period, the cash flow from operating activities of the Relevant Entity in that period calculated in accordance with the Applicable Accounting Standards.
Capital Expenditure	is defined in paragraph 2 above.
Net Total Interest	is defined in paragraph 2 above.

10. **CURRENT RATIO**

Relevant term	Definition
Current Assets	means the total value, at any time, of the assets of the Relevant Entity that are treated as current assets under the Applicable Accounting Standards.
Current Liabilities	means the total value, at any time, of the liabilities of the Relevant Entity that are treated as current liabilities under the Applicable Accounting Standards.



Appendix 3 – Current Financial Position

Relevant Entity	Net Total Interest Cover Ratio	Total Net Debt to EBITDA Ratio	Free Cash Flow Debt Service Cover Ratio	Current Ratio
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Table A: Financial Ratios

Relevant Entity	S&P Long-Term Issuer Credit Rating	Moody's Long-Term Issuer Credit Rating	Fitch Long-Term Issuer Credit Rating
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Table B: Credit Ratings

Relevant Entity	D&B Financial Strength Indicator	D&B Risk Indicator
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Table C: D&B Ratings

SCHEDULE 8.1 GOVERNANCE

INTRODUCTION

This Schedule 8.1 describes:

- (i) **Part A:** the governance framework that shall apply as between the DCC and the Relevant Providers (as defined in paragraph 1.5) in relation to the operation and management of this Agreement and the Smart Metering Programme generally (the "**Relevant Provider Governance Framework**"); and
- (ii) **Part B:** the support and co-operation obligations of the Contractor in relation to the governance framework under the SEC, the DCC Licence and any cooperation agreements or other agreements relevant to the ECoS Programme and the relationship between the Relevant Providers in force from time-to-time (the "**SEC Governance Framework**").

Additional governance provisions can be found in Schedules 2.2 (Performance Measures and Monitoring), 2.4 (Continuous Improvement), and 6.1 (Implementation Planning).

The content of the Appendices to this Schedule 8.1 shall be completed by the DCC within thirty (30) days of the Commencement Date for the Contractor's approval (not to be unreasonably withheld or delayed) and the Contractor shall provide any information required from the Contractor for this purpose in accordance with the DCC's reasonable requests.

PART A – RELEVANT PROVIDER GOVERNANCE FRAMEWORK

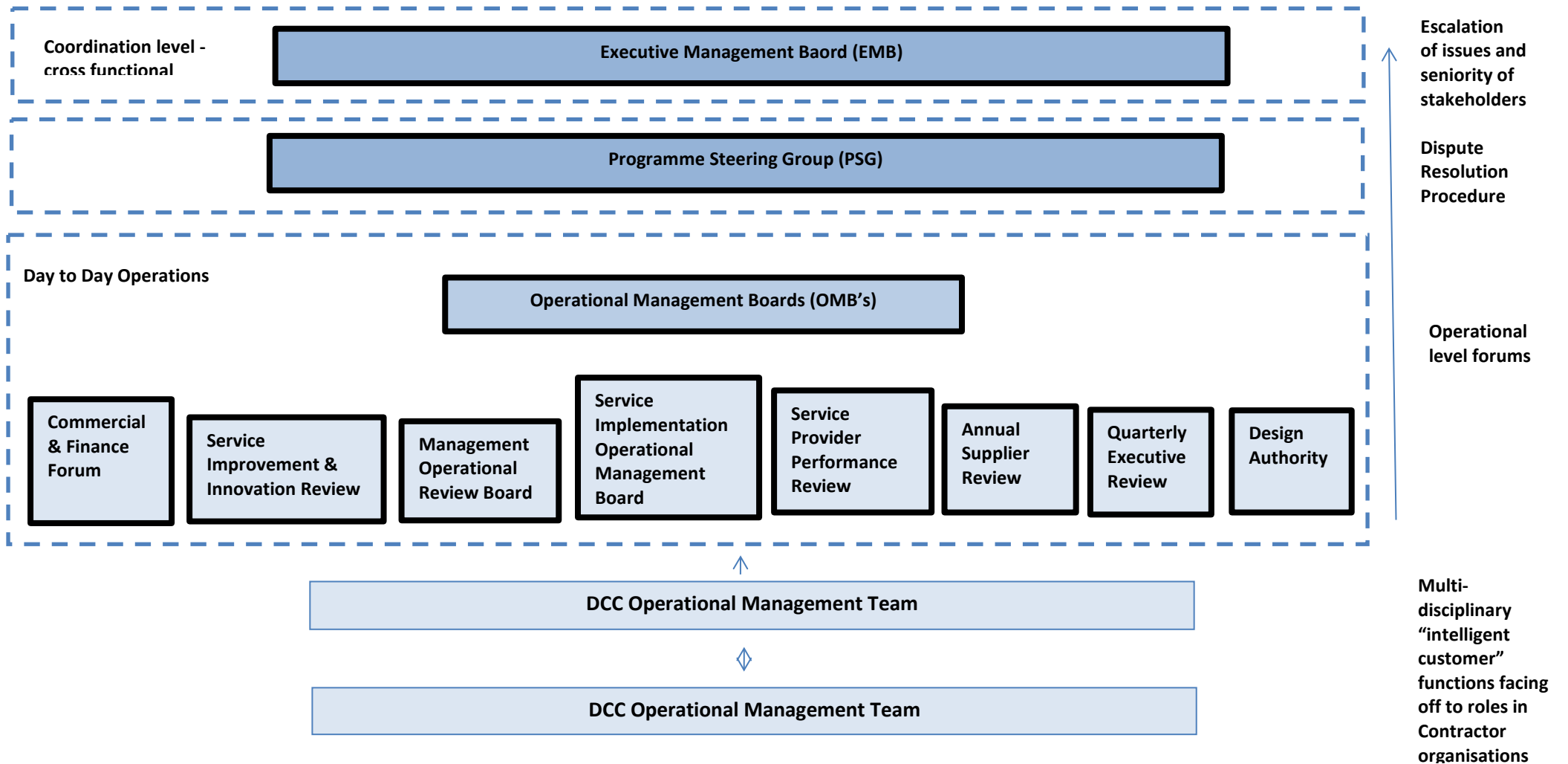
1. STRUCTURE

1.1 The Relevant Provider Governance Framework comprises the following:

- (a) the DCC Operational Management Team and the Contractor Operational Management Team, as further described in paragraph 4 (together, the "**Operational Management Team**" or "**OMT**");
- (b) the eight (8) operational management boards, as further described in paragraph 5 (each, an "**Operational Management Board**" or "**OMB**");
- (c) a Programme Steering Group, as further described in paragraph 6 ("**Programme Steering Group**" or "**PSG**"); and
- (d) an executive management board, as further described in paragraph 7 ("**Executive Management Board**" or "**EMB**"),

as illustrated in Table 1 (Overview of Relevant Provider Governance Framework) below:

Table 1: Overview of Relevant Provider Governance Framework



- 1.2 The OMBs, the PSG and the EMB shall each be referred to in this Schedule 8.1 as a "**Management Board**", and together, the "**Management Boards**".
- 1.3 The conduct of the Management Boards shall be subject to paragraph 8.
- 1.4 The structure of the Management Boards, and their relationship with each other and the Operational Management Team are summarised in Table 1 (Overview of Relevant Provider Governance Framework).
- 1.5 "**Relevant Provider(s)**" for the purposes of this Schedule 8.1 means:
- (a) the Contractor and any other ECoS Service Providers ; and
 - (b) any other DCC Service Provider that the DCC by notice to the Contractor elects:
 - (i) should be represented at any Management Board(s); or
 - (ii) should be deemed included in such definition for the purposes of any provision of this Schedule 8.1.
- 1.6 "**Relevant Contracts**" means each agreement in connection with which a Relevant Provider acts as a Provider to the DCC.

2. **PURPOSE**

The purpose of the Relevant Provider Governance Framework is to ensure the effective operation and management of this Agreement, the ECoS Programme and the Smart Metering Programme generally, including:

- (a) partnering and relationship management generally;
- (b) monitoring of the Contractor's performance under this Agreement;
- (c) management of the Services;
- (d) management of Change Requests;
- (e) ensuring continuing value for money under Schedule 7.3 (Value for Money);
- (f) ensuring effective co-operation, integration and interface management between the Relevant Providers;
- (g) management of technology change, innovation and future proofing;
- (h) management of security issues;
- (i) the management of Disputes in accordance with the Dispute Resolution Procedure;
- (j) management of the Termination Assistance Services; and

- (k) enabling DCC to maintain a balanced scorecard against which to measure the performance by the Parties (the "**Balanced Scorecard**"). The Balanced Scorecard shall be a standing agenda item for each meeting of the PSG as further described in paragraph 1.1(a).

3. **OBJECTIVES**

The objectives of the Relevant Provider Governance Framework are to:

- (a) facilitate formal management of this Agreement;
- (b) ensure that relevant discussions and decisions relating to this Agreement are carried out at appropriate levels of seniority and at nominated intervals;
- (c) distinguish clearly between the strategic and operational management activities and relationship levels;
- (d) ensure appropriate representation from the DCC and the applicable Relevant Providers (including the Contractor) in each governance forum described in this Schedule 8.1;
- (e) provide a mechanism for leadership, direction and control to activities within the scope of this Agreement;
- (f) provide effective decision making and escalation processes in the event of a disagreement or Dispute between the parties and/or Relevant Providers (including escalation of Disputes between the DCC and the Contractor, as well as disputes between different Relevant Providers);
- (g) facilitate the coordination and integration of the Relevant Providers to deliver a coherent end-to-end service for the ECoS Programme and a coherent and integrated End-to-end Smart Metering System, generally; and
- (h) enable the Relevant Providers to be engaged and focused on developing opportunities to provide additional benefits to the DCC.

3.2 NOT USED

3.3 The DCC shall maintain the Balanced Scorecard to measure the performance by the parties against it. The Balanced Scorecard shall be a standing agenda item for each meeting of the PSG as further described in paragraph 6.4(j).

4. **OPERATIONAL MANAGEMENT TEAM**

Operational Management Teams in General

4.1 Appendix 2 (Operational Management Team) sets out the details of the Contractor's and the DCC's respective operational management teams (the

"Contractor Operational Management Team" or the "DCC Operational Management Team" as the case may be).

4.2 The Contractor and the DCC shall each ensure that each member of its Operational Management Team:

- (a) has the authority to represent it on all matters relating to the scope of that member's responsibilities (as set out in Appendix 2);
- (b) shall be sufficiently senior within their respective organisations, and granted sufficient authority, to ensure full co-operation between the DCC and the Contractor and, where applicable, the other Relevant Providers in relation to the operation and the management of this Agreement and the Smart Metering Programme generally;
- (c) dedicates a reasonable amount of their time and efforts to the performance of this Agreement; and
- (d) responds to any enquiries from the DCC's or Contractor's Operational Management Teams, and the operational management teams of the other Relevant Providers, as soon as reasonably practicable.

4.3 The members of the Contractor Operational Management Team shall be deemed to be Key Personnel for the purposes of this Agreement.

Role of the Operational Management Team

4.4 The collective role of the OMT is as follows (without limitation to any obligation or responsibility of the Contractor or the DCC as applicable or other provision of this Agreement (including Schedule 8.2 (Change Control) and Schedule 2.7 (Catalogue Services)):

- (a) ensuring that the Services are performed in such a manner as to enable the DCC to comply with the DCC Objectives;
- (b) arranging, where appropriate, and attending working level meetings and forums as necessary as identified in Schedule 2.1 (DCC Requirements);
- (c) attending and reporting to the Management Boards on issues including:
 - (i) progress against the Milestones and other delivery plans;
 - (ii) key aspects of the performance of the Services;
 - (iii) continuous improvement initiatives; and
 - (iv) technology, service and other developments which offer potential for improving the benefits arising from this Agreement;
- (d) commissioning, approving and implementing Changes;

- (e) assessing opportunities for Catalogue Services and Additional Services;
- (f) provision and updating of the Quality Plan;
- (g) receiving and reviewing reports from the Contractor on matters relating to delivery of the Services, including:
 - (i) performance against Performance Measures; and
 - (ii) progress against the Milestones and other delivery plans; and
- (h) providing an overarching delivery assurance and direction-setting function to ensure that the Contractor (and, where applicable, the DCC) successfully performs its obligations under this Agreement.

5. OPERATIONAL MANAGEMENT BOARDS

- 5.1 The OMBs will be focused on the day-to-day operation of the policies, procedures, processes, tools and techniques required to deliver the services and performance requirements (including the Performance Measures and the Milestones (including Incentivised Milestones)) under the Relevant Contracts. Each OMB shall within sixty (60) days of the Commencement Date develop written terms of reference to further define its scope with the intention of identifying and remedying any gaps and overlaps in this Schedule 8.1. If changes to this Schedule 8.1 are recommended as a result, the Parties shall use the Change Control Procedure to memorialize and implement the changes.
- 5.2 Appendix 3 (Operational Management Boards) sets out the details of each of the OMBs and the initial frequency of scheduled meetings of each OMB. The Parties shall exchange contact information for their respective designees to each OMB prior to the first meeting of the relevant OMB, and shall update that information promptly whenever required. For the avoidance of doubt, the DCC Operational Management Team may, on reasonable prior notice, convene additional meetings of one (1) or more of the OMBs (and/or any sub-committee of any OMB) where necessary to promptly achieve any objective(s) of the OMB, including resolving any issues or Disputes escalated to it (or them), either under this Schedule 8.1 or in accordance with the Dispute Resolution Procedure.
- 5.3 The OMB shall be entitled to establish sub-committees focused on delivery of specific functions, activities or tasks of that OMB (which sub-committees may involve different personnel to the OMB). In general sub-committees will be disbanded after completion of their assigned tasks. The decisions and acts of such sub-committee(s) shall, as between the DCC and the Contractor, be deemed to be recommendations to the OMB (and not binding decisions and/or acts of the OMB unless such authority has been delegated in advance by the OMB). Any such sub-committee(s) so established shall be subject to the provisions in paragraph 8 (Conduct of Management Boards) unless otherwise agreed by the OMB.
- 5.4 The individual role of each of the OMBs is set out in Appendix 3 (Operational Management Boards). At a high-level, the role of the OMBs collectively is as

follows (without limitation to any obligation or responsibility of the Contractor or other provision of this Agreement):

- (a) monitoring and reviewing the delivery of the services under the Relevant Contracts and the operation of the Relevant Contracts generally;
- (b) monitoring and reviewing service satisfaction and the relationship between the DCC and the Contractor generally;
- (c) management of Changes;
- (d) seeking to resolve any Disputes, or other contractual or performance issues, that are escalated to it by the DCC Operational Management Team in accordance with the Dispute Resolution Procedure or otherwise;
- (e) the conduct of any audits in respect of the Relevant Contracts, including under Schedule 8.4 (Records and Audit Provisions) or otherwise;
- (f) the operation of any value for money provisions in the Relevant Contracts, including under Schedule 7.3 (Value for Money);
- (g) reviewing risks to and issues with the Services;
- (h) receiving and reviewing reports from the OMTs;
- (i) issuing reports to the PSG which address progress against the Milestones (including Incentivised Milestones) and other delivery plans, key aspects of the performance of the Services, continuous improvement initiatives, quality management, and technology, service and other developments which offer potential for improving the benefits arising from this Agreement; and
- (j) issuing reports to the EMB on particular issues or matters where it considers that a strategic decision or guidance is required from the EMB, with the DCC to have discretion to decide whether such reports should be issued.

6. PROGRAMME STEERING GROUP

6.1 The PSG will be primarily focused on:

- (a) addressing issues which relate to the roles of more than one of the OMBs, including clarifying and coordinating the roles of each OMB as may be needed to achieve efficient governance; and
- (b) seeking to resolve any issues or Disputes escalated to it by any of the OMBs, either under this Schedule 8.1 or in accordance with the Dispute Resolution Procedure.

6.2 Appendix 4 (Programme Steering Group) sets out the details of the PSG, including the members of the PSG and the frequency of scheduled meetings

of the PSG. The DCC or any of the OMBs may, on reasonable prior notice, convene additional meetings of the PSG (and/or any sub-committee of the PSG) where necessary to promptly achieve any objective(s) of the PSG, including resolving any issues or Disputes escalated to it, either under this Schedule 8.1 or in accordance with the Dispute Resolution Procedure.

- 6.3 The PSG shall be entitled to establish sub-committees focused on delivery of specific functions, activities or tasks of the PSG (but the decisions and acts of such sub-committee(s) shall, as between the DCC and Contractor, be deemed to be recommendations to the PSG (and not binding decisions and/or acts of the PSG unless such authority has been delegated in advance by the PSG)). Any such sub-committee(s) so established shall be subject to the provisions in paragraph 8 (Conduct of Management Boards) unless otherwise agreed by the PSG and its activities shall be limited to a defined scope so that the sub-committee is disbanded after the activity is completed.
- 6.4 The role of the PSG shall be as follows:
- (a) providing a escalation point for the day-to-day operations of the DCC and the Relevant Providers;
 - (b) ensuring that the policies and procedures applicable to each of the Relevant Contracts remain adequate and relevant (and proposing changes where necessary);
 - (c) seeking to resolve such Disputes as are escalated to it by any of the OMBs in accordance with the Dispute Resolution Procedure;
 - (d) escalating any Disputes referred to it under paragraph 6.4(c) to the EMB which:
 - (i) cannot be resolved by the PSG in accordance with the Dispute Resolution Procedure (or otherwise within a reasonable period); or
 - (ii) are of sufficient gravity, complexity or importance that escalation to the EMB is appropriate;
 - (e) reviewing the operation of this Agreement, including the Contractor's performance against the Performance Measures, Milestones (including Incentivised Milestones) and other performance criteria;
 - (f) reviewing the interaction of this Agreement and the Relevant Contracts, including to ensure that the Performance Measures, Milestones (including Incentivised Milestones) and other performance criteria (including convening Performance Review Meetings among the DCC, Contractor and any other Relevant Provider as provided for in Schedule 2.2) to ensure that delivery of the end-to-end solution is as required by the DCC (including the DCC Objectives);
 - (g) predicting business demand forecasts for the Service, in liaison with the DCC Service Users;

- (h) in relation to any risks and issues which arise across more than one of the operational areas covered by the OMBs:
 - (i) identifying and assessing such risks and issues;
 - (ii) commissioning work by the DCC and/or the applicable Relevant Providers to address such risks and issues;
 - (iii) monitoring such work in order to ensure that it is completed in a timely fashion and to an adequate standard; and
 - (iv) ensuring that any recommendations arising from such work are implemented by the DCC and/or the applicable Relevant Providers;
- (i) reviewing the adequacy and effectiveness of the Relevant Provider Governance Framework from time to time in the light of any relevant practical implications arising from management, operational and audit reports or issues;
- (j) implementing and evaluating the Balanced Scorecard;
- (k) ensuring that all senior management of the DCC and the Contractor have a complete and accurate understanding of the requirements of this Agreement and its operation;
- (l) ensuring that each Relevant Provider and Party maintains appropriate skills and resources in order to ensure the successful delivery of the DCC Requirements;
- (m) receiving and reviewing reports from the OMBs or the OMT, and issuing reports to the PSG and EMB, which address:
 - (i) progress against the Milestones (including Incentivised Milestones) and other delivery plans;
 - (ii) key aspects of the performance of the Services;
 - (iii) continuous improvement initiatives;
 - (iv) quality management, including the production and updating of the Quality Plan; and
 - (v) technology, service and other developments which offer potential for improving the benefits arising from this Agreement or the Smart Metering Programme generally; and
- (n) providing such support to the EMB as is required from time to time.

7. EXECUTIVE MANAGEMENT BOARD

- 7.1 The EMB shall comprise the most senior forum within the Relevant Provider Governance Framework and shall be primarily focused on strategic and future

planning issues. The EMB shall also seek to resolve any issues or Disputes escalated to it by the PSG, either under this Schedule 8.1 or in accordance with the Dispute Resolution Procedure.

7.2 Appendix 5 (Executive Management Board) sets out the details of the EMB, including the members of the EMB and the frequency of scheduled meetings of the EMB. For the avoidance of doubt, the DCC or the PSG may, on reasonable prior notice, convene additional meetings of the EMB where necessary to resolve any issues or Disputes escalated to it, either under this Schedule 8.1 or in accordance with the Dispute Resolution Procedure.

7.3 The role of the EMB shall be as follows (without limitation to any obligation or responsibility of the Contractor or other provision of this Agreement):

Agreement objectives

- (a) facilitating the achievement of the DCC Objectives;
- (b) reviewing and assessing the success of this Agreement and the relationship between the DCC and the Contractor generally;
- (c) providing guidance to the OMTs and/or OMBs and/or PSG on the impact of the DCC's business strategy on the conduct of the Services or any Catalogue Services or Additional Services;
- (d) providing guidance for reviews or audits in relation to the Contractor's performance of its obligations under this Agreement (such reviews and audits to be conducted in accordance with Schedule 8.4 (Records and Audit Provisions));
- (e) seeking to resolve such Disputes as are escalated to it by the PSG in accordance with the Dispute Resolution Procedure;
- (f) receiving and reviewing reports from the PSG which address the strategic direction of:
 - (i) progress against the Milestones (including Incentivised Milestones) and other delivery plans;
 - (ii) key aspects of the performance of the Services;
 - (iii) continuous improvement initiatives;
 - (iv) quality management, including the production and updating of the Quality Plan; and
 - (v) technology, service and other developments which offer potential for improving the benefits arising from this Agreement or the Smart Metering Programme generally;
- (g) receiving and reviewing reports from the OMBs issued pursuant to paragraph 5.4(i);

Industry and market issues

- (h) reviewing developments in the business and operations of the DCC and each of the Relevant Providers, and in the marketplace generally, and assessing the implications (if any) of such developments for the DCC Requirements, the DCC Services, the Services and this Agreement in general;
- (i) promoting participation by the DCC and/or the Relevant Providers in governmental or industry energy initiatives which have a bearing on, or should be informed by, the Services or the Smart Metering Programme generally;

Co-ordination and resourcing

- (j) ensuring co-ordination and consistency between the practices, processes and procedures across all or any of the Relevant Contracts;
- (k) ensuring that the DCC and each of the Relevant Providers are performing their respective obligations under the Relevant Contracts (including this Agreement); and
- (l) ensuring that the DCC and each of the Relevant Providers maintains appropriate resources in relation to the performance of the Relevant Contracts (including this Agreement).

Annual Partnership Review Meeting

7.4 During each Contract Year, the EMB shall hold an annual partnership review meeting ("**Annual Partnership Review Meeting**"). The purpose of the Annual Partnership Review Meetings shall be to:

- (a) review the performance of the Contractor during the previous Contract Year;
- (b) report on any substantive financial or value for money issues arising;
- (c) evaluate and agree plans relating to continuous improvement initiatives under Schedule 2.4 (Continuous Improvement), including the additional governance provisions set out in that Schedule;
- (d) provide the DCC and the Contractor with an opportunity to identify any strategic changes which may affect the future delivery of the Services; and
- (e) to address any other matter reasonably proposed by either party.

7.5 Each Annual Partnership Review Meeting may contain separate parts, being:

- (a) a meeting between the EMB representatives of the DCC and the Contractor only (e.g. to discuss the performance of the Contractor during the previous Contract Year); and

(b) a meeting involving the EMB representatives of other Relevant Providers.

7.6 The arrangements regarding joint meetings of the DCC, the Contractor and other Relevant Providers are further described in paragraph 8 (Conduct of Management Boards) below.

7.7 Each Party shall ensure that at least one (1) member of its board of directors (or a member of senior management of an equivalent level) attends each Annual Partnership Review Meeting.

8. CONDUCT OF MANAGEMENT BOARDS

Management Boards as joint forums

8.1 The Parties acknowledge that, as a general principle and subject to paragraphs 8.2 and 8.3, each of the Management Boards are intended to be a joint forum comprising members of the DCC, the Contractor and the other Relevant Providers.

8.2 The DCC (acting reasonably) shall determine, in respect of individual issues or disputes, the required attendees at any meeting of the Management Boards. In particular, where an issue or dispute relates solely to the DCC and an individual Relevant Provider, only the representatives of those entities shall be required to attend any required meetings of the Management Boards.

8.3 The Contractor shall be entitled to require that representatives of the other Relevant Providers:

(a) do not attend any meetings of the Management Boards dealing solely with any Contractor's Confidential Information that cannot be disclosed by the DCC to the Relevant Provider pursuant to clause 37 (Confidentiality); or

(b) leave any such meeting for the period during which any Contractor's Confidential Information that cannot be disclosed by the DCC to the Relevant Provider pursuant to clause 37 (Confidentiality) is discussed.

Where a meeting of any Management Board is being held for the purposes of the Escalation Process under Part B of Schedule 8.3 (Dispute Resolution Procedure), the attendees of such meeting shall be limited to the representatives of the DCC and the Contractor only, except for Multi-Party Disputes where the terms of paragraph 26 of Schedule 8.3 (Dispute Resolution) shall apply.

Role of the Management Boards

8.4 The Parties acknowledge and agree that any decisions of the Management Boards:

(a) for the purposes of the Escalation Process under Part B of Schedule 8.3 (Dispute Resolution), shall, if unanimous, be adopted as resolution

of the matter under Escalation. If not unanimous, the Escalation Process will continue; and

- (b) otherwise, shall be made by simple majority, provided that the DCC has approved the decision.

8.5 Each Party shall use all reasonable endeavours to ensure that any decisions of the Management Boards are implemented in accordance with the Change Control Procedure (where applicable) as soon as reasonably practicable (provided that there will be no obligation on the Contractor to implement any decisions of the Management Boards solely relating to another Relevant Provider).

Attendance at meetings and quorum

8.6 Each Party shall use all reasonable endeavours to ensure that their respective representatives attend each meeting of the Management Boards. If any representative is unable to attend a Management Board meeting, the relevant party shall use all reasonable endeavours to ensure that:

- (a) a suitable delegate attends the relevant Management Board meeting in his or her place; and
- (b) that he or she is debriefed by such delegate after the relevant Management Board meeting.

8.7 Subject to paragraph 8.2, Management Board meetings shall be quorate as long as attended by at least one (1) representative from each of (i) the DCC, (ii) the Contractor, and (iii) each relevant Relevant Provider (as determined by the DCC in accordance with paragraph 8.2). The DCC may request that additional individuals from any of the Contractor or relevant Relevant Provider attend where DCC considers such attendance to be appropriate and useful.

8.8 The DCC shall be entitled to invite its professional advisers, stakeholders or other third parties to any Management Board meetings, subject to such persons being subject to appropriate confidentiality obligations

8.9 The Contractor may request that its professional advisers, stakeholders or other third parties attend any Management Board meetings, subject to such persons being subject to appropriate confidentiality obligations Such request shall be subject to the prior written consent of the DCC (such consent not to be unreasonably withheld or delayed).

Conduct of Management Board meetings

8.10 The chairperson of each Management Board (as specified in Appendix 3 (Operational Management Boards), 4 (Programme Steering Group) or 5 (Executive Management Board), as applicable) shall be responsible for:

- (a) scheduling Management Board meetings;
- (b) setting the agenda for Management Board meetings and circulating to all attendees in advance of such meeting;

- (c) chairing the Management Board meetings;
- (d) monitoring the progress of any actions and activities agreed to be carried out following Management Board meetings;
- (e) ensuring that minutes for Management Board meetings are recorded and circulated electronically to the relevant attendees within five (5) Business Days after the Management Board meeting; and
- (f) facilitating the process or procedure by which any decision agreed at any Management Board meeting is given effect in the appropriate manner.

If either Party has any comments on the minutes circulated under paragraph 8.10(e), it shall notify these to the relevant Management Board chairperson within five (5) Business Days after the date of receipt. The chairperson of the relevant Management Board shall file such comments with the minutes and distribute them to the relevant Management Board members within a reasonable time after their receipt.

PART B – SEC GOVERNANCE FRAMEWORK

9. PURPOSE

- 9.1 The Contractor acknowledges that:
- (a) the DCC is subject to the SEC Governance Framework (which is further described in the SEC and the DCC Licence);
 - (b) the following entities (as further described in the SEC) will be involved in the SEC Governance Framework:
 - (i) the SEC Panel, which shall be responsible for the governance and administration of the SEC and which may establish various sub-committees from time to time;
 - (ii) the Secretariat, which shall be responsible for providing services to the SEC Panel in connection with certain governance and administration matters relating to the SEC;
 - (iii) the Code Administrator, which shall advise and assist the SEC Panel, SEC Parties and other interested parties with respect to the policy and administration of the SEC; and
 - (iv) any sub-committee of the SEC Panel which is responsible for security issues; and
 - (c) while the Contractor is not required to directly participate in the SEC Governance Framework, it shall support, and otherwise co-operate with, the DCC in relation to the DCC's participation in the SEC Governance Framework, including as further described in this Part B of Schedule 8.1.
- 9.2 Without limiting the Contractor's other obligations or responsibilities under this Agreement, the Contractor shall:
- (a) provide any information or assistance requested by the DCC from time to time in relation to the DCC's participation in the SEC Governance Framework, including impact assessments and/or cost benefit analyses (in the form requested by the DCC from time to time);
 - (b) ensure that appropriate representatives of the Contractor (and, where applicable, any Key Sub-contractor), including any representatives specifically identified by the DCC, attend any meetings requested by the DCC from time to time in relation to the DCC's participation in the SEC Governance Framework (including meetings with any of the entities referred to in paragraph 9.1(b) above);
 - (c) without limiting paragraph 9.2(b), ensure that an appropriately skilled and experienced security professional representative of the Contractor (and, where applicable, any Key Sub-contractor) attends such meetings of the SEC Panel (or an appropriate sub-committee), together with

representatives of the DCC, as may be requested by the DCC from time to time;

- (d) comply with any procedural rules relating to the SEC Governance Framework that are applicable to the Contractor (as notified to the Contractor by the DCC);
- (e) notify the DCC in writing of any security matter which the Contractor believes should be escalated to the SEC Panel (or an appropriate sub-committee) and, where the DCC elects to escalate such matter to the SEC Panel (or an appropriate sub-committee), provide any information or assistance requested by the DCC in relation to such escalation process;
- (f) provide any information or assistance requested by the DCC from time to time in relation to the development of security requirements relating to the End-to-end Smart Metering System by the DCC and the SEC Panel (or an appropriate sub-committee); and
- (g) otherwise promptly comply with any reasonable instructions from the DCC from time to time in relation to the DCC's participation in the SEC Governance Framework.

9.3 To the extent that compliance by the Contractor with paragraph 9.2 requires the Contractor to incur any material additional costs (being costs which it would not have otherwise incurred under this Agreement), then 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.

9.4 Any Change under paragraph 9.3 shall be deemed to be a Specific Change in Mandatory Requirements.

9.5 The Contractor shall use reasonable endeavours to provide the information and assistance requested under paragraph 9.2 above within the timescales specified by the DCC (as determined by the DCC acting reasonably and taking appropriate account of the DCC's obligations under the SEC and the DCC Licence regarding the provision of such information and assistance).

9.6 Where the Contractor (acting reasonably and in good faith) considers that it would be beneficial to the provision of the DCC Services and/or the Smart Metering Programme generally, it may suggest to the DCC items for discussion at meetings of the SEC Panel (or other relevant entities within the SEC Governance Framework). The DCC shall be entitled to determine, in its sole discretion, whether to propose such items as part of the SEC Governance Framework.

Appendix 1 – Not Used

Appendix 2 – Operational Management Team

Contractor Operational Management Team

The roles and responsibilities set out below are without limitation to any other provision of the Agreement (or responsibility or obligation of the Contractor).

Role	Responsibilities
Operational Management Lead	<ul style="list-style-type: none"> • Providing day to day leadership of the operational functions and activities of the Contractor; • ensuring the effective delivery of the Services according to the performance requirements and measures in this Agreement; • liaising with and reporting to the DCC on all matters affecting the operation of the Services; • ensuring appropriate delegation of operational responsibilities and arrangement of suitable deputies when required; • ensuring that the Contractor maintains an understanding of best practice in the market and provides recommendations for continuous improvement; and • ensuring the effective management and timely completion of Change Requests.
Commercial Management Lead	<ul style="list-style-type: none"> • Providing day to day leadership of the commercial functions and activities of the Contractor; • ensuring that the Contractor delivers its obligations in relation to Schedule 7.1 (Charges and Payments); Schedule 7.3 (Value for Money); and Schedule 7.4 (Financial Distress); • liaising with and reporting to the DCC on all matters affecting the commercial management of the Services; • ensuring appropriate delegation of commercial responsibilities and arrangement of suitable deputies when required; • maintaining appropriate documentation and financial models to ensure that the DCC's and the Contractor's audit requirements can be satisfactorily executed in line with Schedule 8.4 (Records and Audit Provisions); and • ensuring the effective management and timely completion of change requests.
Quality Manager	<ul style="list-style-type: none"> • Ensuring the effective development, implementation, maintenance and operation of the Quality Plan by the Contractor; • auditing the Contractor's quality management systems at regular intervals and reporting the findings of such audit to the DCC;

Role	Responsibilities
	<ul style="list-style-type: none"> • reviewing all quality management systems at intervals agreed with the DCC to ensure their continued suitability and effectiveness; and • liaising with, and reporting to, the DCC on all matters relating to quality management.
Risk and Issues Manager	<ul style="list-style-type: none"> • Managing the Contractor's process for identifying and quantifying the effects and mitigations of risks and issues during the period of this Agreement; • maintaining and updating of the Contractor's risk and issues log for the Services and any projects commenced in relation to Schedule 8.8 (Projects); • modelling and estimating the impact of risks using suitable industry tools and techniques (in accordance with Good Industry Practice); • escalating risks and issues to appropriate levels of management and governance; and • working with the Quality Manager to identify and monitor use of best practice processes.
Improvement Manager	<ul style="list-style-type: none"> • Ensuring compliance with Schedule 2.4 (Continuous Improvement) and relevant aspects of Schedule 7.3 (Value for Money); • production, updating and reporting of the Continuous Improvement Plan (CIP); • liaising with other Contractor Improvement Managers as necessary to identify joint improvements; • coordinating activity to review market developments and innovations; • developing and reporting on Innovation improvements and opportunities; and • liaising with, and reporting to, the DCC on all matters relating to continuous improvement.
Contractor's Change Manager	As described in Schedule 8.2 (Change Control).
Contractor's Head of Implementation	As described in Schedule 6.1 (Implementation Planning).

Appendix 3 – Operational Management Boards

Item	Description
Title:	Commercial & Finance Forum
Scope:	<ul style="list-style-type: none"> • Contractual & commercial change management • Performance of the services and related obligations under this Agreement • Performance management and monitoring exceptions with commercial ramifications • Change management • Monitoring compliance with contractual obligations • Management of commercial risk and issues • Charges, invoicing and payment arrangements • Resolution of commercial and budgetary issues • Financial health of account • Review of business pipeline • Escalated issues from feeder meetings
Chairperson:	DCC Contract and Commercial Manager
DCC members:	Contract and Commercial Manager, Finance Controller (at least a minimum of two (2) representatives from each party)
Contractor members:	Contractor personnel as required (e.g. Account General Manager, Contract and Commercial Manager, Finance Lead))
Other Relevant Provider members:	As applicable
Frequency of scheduled meetings:	Monthly
Location of scheduled meetings:	As mutually agreed between the parties.
Inputs:	Inputs may be decided by either party. Examples include; Finance reports; billing summaries; Changes pipeline updates; bad debt and work at risk
Outputs:	Outputs to be decided by both parties. Examples include; Agreed Changes resolutions; commercial & finance issues; any other issues to be escalated to senior management

Item	Description
Title:	Service Improvement & Innovation Review
Scope:	<ul style="list-style-type: none"> • Review service strategy and roadmap • Review, agree and publish changes to technology standards, roadmaps and strategy • End-to-end service and technology issues and risks • Enterprise and systems integration between the DCC and the Contractor • Assess the impact of major technology changes on operations and programmes • Technology innovation and future forecasting (in conjunction with the OMB) to enhance business performance • Continuous improvement
Chairperson:	DCC's Chief Technology Officer (CTO)
Attendees:	DCC's chief technology officer & executive members as required. Contractor's technology directors as appropriate (at least a minimum of two (2) representatives from each party);
Other Relevant Provider members:	As applicable
Frequency of scheduled meetings:	Quarterly
Location of scheduled meetings:	As mutually agreed between the parties.
Inputs:	Inputs to be decided by both parties. Examples include; DCC and Contractor's technology roadmaps; escalated issues; technical risks and issues log (from design, architecture and testing)
Outputs:	Inputs to be decided by both parties. Examples include; Actions for DCC and Contractor; escalations to Quarterly Executive Review; communications to Annual Supplier Review; enterprise reports and logs on architecture, design and risks; innovation opportunities; technology solution ownership

Item	Description
Title:	Management Operational Review Board
Scope:	<ul style="list-style-type: none"> • Steering function for day-to-day operations (and held after the Service Provider Performance Review) • To provide a steering function for the day-to-day operations of the DCC and Contractor • Ensuring the policies and procedures in place are adequate and relevant. To propose changes where necessary • To address risks or issues escalated by Contractor's performance reviews. Escalating to operational executive review as necessary • To produce a single set of consistent, party wide reporting on delivery. • Risk management to inform decision making • Improve cross-functional communication and encourage a wider perspective in existing governance bodies • To review and recommend service improvements and innovation • Predicting business demand forecasts • To support executive review by providing initiatives and data as required for consideration and approval where required • To review the current security and safety position and allocate appropriate actions to mitigate any risks arising with escalation to the operational executive review where necessary • Review and agree updates to Schedule 3 (DCC Responsibilities) to ensure that this remains a 'living document' that operates effectively for both parties throughout the life of this Contract
Chairperson:	DCC's service delivery director
DCC members:	DCC (at least a minimum of two (2) representatives from each party);
Contractor members:	Account General Manager, Contractor's service desk manager and such other Contractor personnel as Contractor deems reasonable or necessary from time to time (at least a minimum of two (2) representatives from each party)
Other Relevant Provider members:	As applicable
Frequency of scheduled meetings:	Monthly
Location of scheduled meetings:	As mutually agreed between the parties.

Inputs:	All outputs (and systemic risks, issues and escalations) from: demand & capacity management forum; operation service review; maintenance release scheduling; operational acceptance; change advisory board; problem review forum, service provider performance review; table discussion on the transition of services into operations
Outputs:	Operational executive review (monthly), supplier relationship manager meeting (monthly), feedback to Service Provider Performance Review

Item	Description
Title:	Systems Integration Operations Board (or “ SIOB ”)
Scope:	<p>Ensuring compliance by the Parties with the provisions of this Agreement relating to the implementation, testing and release schedule(s) of the Services</p> <p>Coordinating delivery of services in line with rollout plans</p> <p>Managing releases of new software and upgrades</p> <p>Ensuring there is a cooperative, co-ordinated and managed approach to the implementation, testing and release schedule(s) under each of the Relevant Contracts.</p> <p>Agreeing integrated implementation, testing and release schedule(s) across Relevant Contracts which are acceptable to DCC Service Users.</p> <p>Facilitating systems integration activities by Relevant Providers (including the DSP).</p> <p>Coordination of joint planning events, common reporting methods and tools, management of joint risks and issues.</p> <p>Agreeing readiness activities, progress of implementation, testing, release schedule(s) and acceptance of services.</p> <p>Participation in the review and agreement of ongoing transition arrangements (including migration) between environments and test phases.</p> <p>Contributing to the progress reports and other activities as required by the SIOB.</p>
Chairperson:	A representative from the Systems Integrator (SI)
DCC attendees:	Service Transition Manager, Test Assurance Lead and other members of the DCC team (as required)
Contractor attendees:	Technical, Testing and Service Transition Leads and Programme Manager from the Contractor team (as required)
Other Relevant Contractor members:	ECoS Hosting and Service Management Service Provider, DSP, SI, and as applicable
Frequency of scheduled meetings:	Weekly
Location of scheduled meetings:	As mutually agreed between the parties.

Item	Description
Title:	Service Provider Performance Review
Scope Summary:	Ensure Contractor delivers in accordance with the contract
Objectives:	<ul style="list-style-type: none"> ▪ To manage the operational relationship between DCC and the Contractor ▪ Purpose is to review and agree service performance measures for the month just complete, and quarterly and annual reviews as appropriate ▪ Agree correction plans for service failures ▪ To address risks or issues and escalate as necessary to the Operations Management Review. ▪ These are usually within 5 working days of the 10th working day of the month (Contractor is contractually obliged to provide its performance monitoring report) ▪ Service Review to take place ahead of Operational Management Review to allow for actions etc. to be rolled up. ▪ The meeting will have the following reports available: <ul style="list-style-type: none"> ○ Contractor's monthly/quarterly/annual performance management review ○ key volume performance indicators and metrics including current installation figures (from Contractor) ○ key risks from Contractor ○ continuous improvement initiatives.
Chairperson:	DCC's service delivery manager
Attendees:	DCC & Contractor's service desk manager ; DCC logistics (optional); DCC's supplier relationship manager and contract manager; Contractor's Account General Manager (at least a minimum of two representatives from each party);
Frequency of scheduled meetings:	Monthly
Decision Making Authority:	Authority to agree all items to be escalated to operational executive review and all systemic risks and issues; Agree exemptions for performance measures
Location of scheduled meetings:	As mutually agreed between the parties.
Inputs:	All outputs (and systemic risks, issues and escalations logs) from service delivery, Operations Management Review and contract management, service statistics; service credit summary; minutes/actions from previous performance review meetings; reports from

	objectives; changes to DCC and Contractor's operations organisations, including key personnel
Outputs:	Inputs for Operational Management Review; remedial actions; agreed service management report; agreed KPI RAG; improvement plans; agreed exemptions from performance measures;

Title:	Annual Supplier Review
Scope Summary:	A forum for open dialogue between Contractor and DCC in relation to current challenges and future strategies and plans.
Objectives:	<ul style="list-style-type: none"> • Communicate progress made in the past year • Communicate DCC strategies and future planning for the year ahead • Share and facilitate achievement of DCC objectives • Review business and market place development • Highlight current DCC challenges • Discuss innovation opportunities • Promote supplier collaboration and alignment
Chairperson:	Head of DCC's supplier relationship management
Attendees:	DCC CEO, relevant DCC executive members, senior Contractor's executives (at least a minimum of two (2) representatives from each party);
Frequency of scheduled meetings:	Annual
Decision Making Authority:	Authority to define and communicate over-arching strategic objectives and set future priorities
Location of scheduled meetings:	As mutually agreed between the parties.
Inputs:	DCC strategies / plans; overall DCC performance; DCC objectives, challenges, market place developments, innovation activities.
Outputs:	Actions (followed up at the supplier relationship management executive review meetings)

Item	Description
Title:	Design Authority
Scope:	<ul style="list-style-type: none"> • Design of new services or changes to the design of existing services. • Ensuring the Changes comply with the DCC's strategy. • Ensuring that the components of the programmes and projects are consistent in accordance with standards and policies. • Ensuring that the interfaces (communications) between programmes, projects and the DCC's standards and policies, are adequate. • Reviewing risks and issues to mitigate impacts on standards and policies. • Advising the PSG and/or the Executive Board on any changes to Standards and policies that will be needed to support the implementation or delivery of changes. • Advising the PSG and/or the Executive Board on any changes to standards and policies that will be needed due to external influences (e.g. changes in legislation).
Chairperson:	DCC
DCC members:	Design Authority Chair or any such person appointed to the role by DCC management / Head of Design Authority or designated delegate
Contractor members:	[Contractor Solution Architect]
Other External Service Provider members:	As applicable
Frequency of scheduled meetings:	Monthly
Location of scheduled meetings:	As mutually agreed between the parties.

Item	Description
Title:	Quarterly Executive Review
Scope Summary:	Holistic assessment of the supplier relationship
Objectives:	<ul style="list-style-type: none"> • Assess overall supplier performance • Review external factors which may impact the DCC – supplier relationship • Review and agree the overall RAG status from the latest dashboard • Resolve escalated risks and issues. • Set priorities for relationship development • Assure strategic alignment between parties
Chairperson:	Head of DCC’s supplier relationship management
Attendees:	DCC’s supplier relationship manager; other relevant DCC executive members; Contractor’s executives (at least a minimum of two (2) representatives from each party);
Frequency of scheduled meetings:	Quarterly
Decision Making Authority:	Authority to agree supplier monthly RAG score (for Annual Supplier Review); set supplier overall direction / priorities and instigate actions to resolve escalated risks / issues
Location of scheduled meetings:	TBC
Inputs:	Latest monthly supplier dashboard; escalated risks and issues from all other contractual governance meetings; new opportunities; outstanding actions from prior meetings.
Outputs:	Agree dashboard RAG status into Annual Supplier Review; agreed actions (progress to be followed up in subsequent supplier relationship management meetings).

Appendix 4 – Programme Steering Group

Item	Details
Chairperson:	DCC
DCC members:	As Applicable
Contractor members:	As Applicable
Other Relevant Provider members:	As applicable
Frequency of scheduled meetings:	Quarterly (except prior to the Operational Service Commencement Date when it shall be held monthly)
Location of scheduled meetings:	As mutually agreed between the parties.

Appendix 5 – Executive Management Board

Item	Details
Chairperson:	DCC
DCC members:	As Applicable
Contractor members:	As Applicable
Other Relevant Provider members:	As applicable
Date of first scheduled meeting:	TBD
Frequency of scheduled meetings:	Starting with the first meeting at Service Period Commencement Date, the second meeting at a date six (6) months from that date, and subsequently once a year on or near the anniversary of the Commencement Date until the expiry of the Agreement.
Location of scheduled meetings:	Rotating locations, at direction of Chairperson

SCHEDULE 8.2

CHANGE CONTROL

1. DCC CHANGE

- 1.1. The DCC may issue a Change Request to the Contractor at any time during the Term. The DCC shall use its reasonable endeavours to include the information set out in Paragraph 4.1 of this Schedule in such Change Request. The DCC shall specify if such Change Request is urgent and may request that the Contractor does not perform a Preliminary Assessment and commences preparation of the Impact Assessment). The Change Request shall be substantially in the form set out in the Appendix to this Schedule.
- 1.2. The Contractor shall prepare a Preliminary Assessment within ten (10) Business Days or such time as is agreed by the parties (acting reasonably) given the nature of the Change Request (and whether the DCC has specified that it is urgent). The Contractor shall use its reasonable endeavours to include the information set out in Paragraph 4.3 of this Schedule in such Preliminary Assessment. The Preliminary Assessment shall be substantially in the form set out in the Appendix to this Schedule.
- 1.3. Subject to Paragraph 1.5, the DCC shall notify the Contractor within ten (10) Business Days of receipt of the Preliminary Assessment whether it requires the Contractor to prepare an Impact Assessment. Such Impact Assessment shall comply with the requirements of Paragraph 4.4 of this Schedule and the Contractor shall provide such Impact Assessment in the time specified in the Preliminary Assessment or as otherwise agreed by the parties (acting reasonably) given the nature and urgency of the Change Request. The Impact Assessment shall be substantially in the form set out in the Appendix to this Schedule.
- 1.4. Subject to Paragraph 1.5, within twenty (20) Business Days of receipt of the Impact Assessment or where applicable twenty (20) Business Days of receiving any additional information or modification from the Contractor requested pursuant to the DCC's rights under Paragraph 4.7, the DCC shall notify the Contractor whether it requires the Contractor to implement the DCC Change and the provisions of Paragraph 4.5 shall apply.
- 1.5. The Contractor shall only be entitled to reject a DCC Change by notifying the DCC in writing if such DCC Change:
 - 1.5.1. would materially and adversely affect (or materially increase the risks to) the health and safety of any person;
 - 1.5.2. would require the Services to be performed in a way that infringes any Laws that bind the Contractor;
 - 1.5.3. would result in the Contractor being in breach of this Agreement, provided that the Contractor has notified the DCC accordingly (in either the Preliminary Assessment or the Impact Assessment), and the parties (acting reasonably and in good faith) are unable to agree on an appropriate amendment to this Agreement to resolve such

issue;

1.5.4. would result in any material Consent being revoked and incapable of reinstatement within a reasonable period or would require an additional Consent which cannot be obtained by the Contractor;

1.5.5. where the DCC Change relates to a Change in Mandatory Requirements, would not give effect to or comply with the Change in Mandatory Requirements; or

1.5.6. is not technically feasible.

1.6. Notwithstanding any other provision of this Schedule 8.2, if the DCC (acting reasonably) regards any DCC Change as urgent then:

1.6.1. the DCC shall specify such in the Change Request issued pursuant to paragraph 1.1 above; and

1.6.2. the Parties (acting reasonably and in good faith) shall attempt to agree appropriate methods for expediting the obligations and procedures set out in this Schedule 8.2 to effect the DCC Change.

1.7. If the DCC (acting reasonably) regards a DCC Change as affecting one or more DCC Service Providers other than the Contractor then the Contractor shall cooperate with any DCC Service Provider affected by the DCC Change (as notified to the Contractor by the DCC). If the Contractor has a Co-operation Agreement with such DCC Service Provider then such DCC Change shall be deemed within the scope of the Co-operation Agreement. If the Contractor does not have a Co-operation Agreement in place with such DCC Service Provider then the DCC reserves the right to direct the Contractor to enter into such Co-operation Agreement subject to and in accordance with the provisions of Schedule 8.7 (*Co-operation*).

2. CONTRACTOR CHANGE

Operational Change

2.1. Subject to Paragraph 2.2, the Contractor may make any Operational Change to the Services provided that the Contractor notifies the DCC not less than twenty (20) Business Days prior to the proposed date for the introduction of such Operational Change and such Operational Change is not implemented until the twenty (20) Business Days specified in Paragraph 2.2 has expired.

2.2. The DCC shall notify the Contractor within twenty (20) Business Days of any notice received by it pursuant to Paragraph 2.1 if the DCC regards such Change (acting reasonably) as not within the definition of Operational Change.

2.3. If the Contractor receives any notification pursuant to Paragraph 2.2 then the Contractor shall suspend implementation of the proposed Change until the matter has been resolved in accordance with the Fast Track Dispute Resolution Procedure.

2.4. The Contractor shall not be relieved of any obligations under or in relation to this Agreement, and the DCC assumes no risk, responsibility or liability as a result of (or in connection with) any Operational Change.

Other Contractor Change

- 2.5. In respect of any Contractor Change other than an Operational Change, the Contractor shall submit the Change Request and a Preliminary Assessment to the DCC. The Contractor shall include the information set out in Paragraph 4.3 of this Schedule in such Preliminary Assessment. The Preliminary Assessment shall be substantially in the form set out in the Appendix to this Schedule.
- 2.6. The DCC shall notify the Contractor within ten (10) Business Days of receipt of the Preliminary Assessment whether the DCC:
 - 2.6.1. requires the Contractor to prepare an Impact Assessment. Such Impact Assessment shall comply with the requirements of Paragraph 4.4 of this Schedule; or
 - 2.6.2. subject to Paragraph 2.8, rejects the Change Request.
- 2.7. Within twenty (20) Business Days of receipt of the Impact Assessment or where applicable twenty (20) Business Days of receiving any additional information or modification from the Contractor requested pursuant to the DCC's rights under Paragraph 4.7, the DCC shall notify the Contractor whether it consents to the Contractor Change and the provisions of Paragraph 4.5 shall apply. Any failure by the DCC to provide consent within the specified time frame shall not be deemed as consent by the DCC. Subject to Paragraph 2.8, the DCC may (in its absolute discretion) reject any Contractor Change.
- 2.8. The DCC shall not reject a Contractor Change which is necessary for the Contractor or the Services to comply with any Change in Mandatory Requirements and the Contractor complies with this Agreement in respect of such Contractor Change unless the Contractor Change:
 - 2.8.1. would require the Services to be performed in a way that infringes any Mandatory Requirements or agreement that binds the DCC; or
 - 2.8.2. where the Contractor Change would not give effect to or comply with the Change in Mandatory Requirements.

3. CHANGE IN MANDATORY REQUIREMENTS

- 3.1. Either Party may issue a Change Request which is necessary in order for the DCC, the Contractor or any DCC Service User to comply with any Change in Mandatory Requirements.
- 3.2. The Contractor shall not be entitled to any relief from its obligations under this Agreement or any increase in Charges as a result of a General Change in Mandatory Requirements.
- 3.3. The Contractor shall be entitled to an adjustment to the Charges for any Specific Change in Mandatory Requirements in accordance with this Schedule 8.2 (*Change Control*) provided that and without prejudice to the Contractor's general obligation to comply with the terms of this Agreement:

- 3.3.1. the Contractor shall use all reasonable endeavours to mitigate the adverse effects, minimise the costs and/or maximise any reduction in costs of any Specific Change in Mandatory Requirements (and provide evidence of the same);
- 3.3.2. any adjustment to the Charges shall be calculated on the basis that the Contractor shall be placed in no better or no worse position than it would have been but for the Specific Change in Mandatory Requirements.

4. ADMINISTRATION OF CHANGE

- 4.1. All Changes shall be submitted using the DCC's change management system (the **CMS**). The forms provided in the Appendices to this Schedule provide the formats and information requirements for the documents to be uploaded onto the CMS. The DCC reserves the right to vary these formats from time to time and shall notify the Contractor of any changes to these documents.
- 4.2. **Change Requests** shall be in the form and include the information specified in Appendix 1.
- 4.3. **Preliminary Assessments** shall be in the form and include the information specified in Appendix 2 in reasonable and sufficient detail for DCC to inform the DCC's decision in respect of instructing an Impact Assessment.
- 4.4. **Impact Assessments** shall be in the form and include the information (as far as reasonably practicable) specified in Appendix 3.
- 4.5. **Change Authorisation Notices** shall be signed by the DCC and the Contractor prior to any Change being implemented by the Contractor. Change Authorisation Notice shall be in the form and include the information set out in Appendix 4. The process for issuing a Change Authorisation Notice is:
 - 4.5.1. the Contractor shall within three (3) Business Days of notification pursuant to Paragraph 1.4 deliver two (2) copies of a Change Authorisation Notice signed by the Contractor;
 - 4.5.2. following the receipt by the DCC of the signed Change Authorisation Notice from the Contractor, the DCC shall sign both copies and return one (1) copy to the Contractor within ten (10) Business Days; and
 - 4.5.3. with effect from the DCC's signature, the Change Authorisation Notice shall constitute a binding variation to this Agreement.
- 4.6. If the DCC does not countersign both copies of the Change Authorisation Notice pursuant to Paragraph 4.5.2 then the Contractor may refer the matter to the Fast Track Dispute Resolution Procedure provided that:
 - 4.6.1. prior to such referral the Contractor has notified the DCC of its intended referral and given the DCC not less than five (5) Business Days to rectify; and
 - 4.6.2. the DCC has not notified the Contractor that it does not intend to proceed with or consent to the Change.

4.7. Until such time as a Change Authorisation has been signed and issued by the DCC then (unless expressly agrees otherwise in writing) the Contractor shall continue to supply the Services in accordance with the terms of this Agreement as if the proposed Change did not apply.

4.8. **Additional Information and Modifications:** If the DCC (acting reasonably) requires any additional information from the Contractor in order to fully assess any Impact Assessment or any modification to any Impact Assessment, it shall notify the Contractor accordingly, detailing the information or modification (subject to Paragraph 1.5) that it requires. The Contractor shall issue a revised Impact Assessment containing such additional information within twenty (20) Business Days or modification within ten (10) Business Days. The DCC may only make one request for additional information provided that the information provided by the Contractor in the Impact Assessment (as amended by the additional information) is sufficient for the DCC (acting reasonably) to make a decision on the Change Request. Any modification that relates to a Charges Adjustment shall be limited to addressing any aspects of the Impact Assessment that do not comply with Paragraph 4.10.

4.9. Any discussions, negotiations or other communications which may take place between the DCC and the Contractor in connection with any proposed Contract Change, including the submission of any documents or other communications, shall be without prejudice to each party's other rights and remedies under this Agreement.

4.10. **Charges Adjustments:**

4.10.1. Charges adjustments for any Change shall be agreed in accordance with this Schedule 8.2 and shall include any information necessary to explain the basis of calculation and be calculated in accordance with the principles set out in Schedule 7.1 (**Charge and Payment**) and the Change Rate Card.

4.10.2. The Contractor acknowledges that the DCC is required to ensure that the Services and related Charges represent value for money to SEC Parties and Consumers and agrees that any Charges Adjustment shall be in all circumstances reasonable taking into account the nature and scope of the Change, the costs incurred by the Contractor in respect of the Change, and the change in the level of risk being taken by the Contractor pursuant to the Change.

4.10.3. Any Charges Adjustment shall be subject to the Contractor complying with the Charging Principles (defined in and set out in Appendix 3).

4.10.4. Subject to 4.10.5, if the parties are unable to agree on any Charges Adjustment in accordance with this Schedule 8.2 (Change Control) within ninety (90) days after the date of the relevant Change Request, then either party may invoke the Fast Track Dispute Resolution Procedure.

4.10.5. The DCC may (at its sole discretion) elect not to proceed with the implementation of the relevant Change following the conclusion of the Fast Track Dispute Resolution Procedure except where the relevant Change is necessary for the Contractor or the Services to comply with any Change in Mandatory Requirements.

4.11. **Costs:**

4.11.1. The DCC shall pay Contractor's reasonable costs in respect of the preparation of any Impact Assessment relating to any DCC Change (other than arising from a General Change in Mandatory Requirements) provided that the costs of the Impact Assessment are not more than the amount specified in the Preliminary Assessment.

4.11.2. If the Contractor incurs any material additional expense in respect of any additional information requested by the DCC in accordance with Paragraph 4.7 then the DCC shall reimburse such costs provided that they are in all circumstances reasonable and the Contractor has notified the DCC in advance of any such costs in excess of £1000 (including any VAT).

4.12. **Disputes:** Any dispute arising in respect of a Change shall be referred to the Dispute Resolution Procedure. For the avoidance of doubt, where any Change is subject to a Dispute Notice then nothing in this Schedule 8.2 shall be construed as preventing the DCC from requiring the Contractor to implement a Change pending the determination of the Dispute Resolution Procedure.

4.13. **Conformed Contract:** The Contractor shall at all times maintain a conformed copy of this Agreement showing in a clear, cumulative and easily comprehensible manner (without inaccuracy or omission and consistent with Good Industry Practice) all Changes made pursuant to this Change Control Procedure and all other duly authorised variations to this Agreement since the Commencement Date (the "**Conformed Contract**"). The Contractor shall ensure that within seven (7) Business Days of any Change Authorisation Notice having been signed by both parties that the Conformed Contract has been updated to reflect the same and shall make the Conformed Contract available to the DCC within three (3) Business Days of any request. The Conformed Contract shall be for mutual convenience and information only and both parties' rights and obligations shall be determined by this Agreement (as amended in accordance with its terms).

5. RELATED CHANGE CONTROL PROCEDURES

5.1. The Contractor acknowledges that the Change Control Procedure may need to be consistent with, and interoperate with, the Change and change control procedures of the DCC and other DCC Service Providers (each a "Related Change Control Procedure").

5.2. The Contractor shall promptly provide any co-operation (which may include attendance at workshops with the DCC and the relevant DCC Service Providers), documentation, data, information or other assistance reasonably requested by the DCC or any Relevant Service Provider in relation to the Change Control Procedures and Related Change Control Procedures and their alignment.

Appendix 1
Change Request Form

CR Title:			
CR No:		Date raised:	
SP ref.: (if applicable)		Date Preliminary Assessment required:	

Provider of Change Request:		Contact Email address:	
Organisation:		Contact Telephone number:	

Change Type	Contract Change/Operational Change/Common Change
Does the Change relate to a Change in Mandatory Requirements?	Y/N
Does the Change relate to the provision of Additional Services?	Y/N
Is the Change an Urgent Change?	Y/N

The Change request:	<i>A clear statement is required here, e.g. [Name of organisation] is requested to provide a Preliminary Assessment for moving milestone xyz123 from xx/xx/2014 to xx/xx/2014</i>
Brief description of the nature, scope and urgency of the Change: N.B.: the scope of the CR should include a specification of the requirement	

Reason(s) for the change:	
Consequences of non-approval of change:	

Does this CR contain any commercially sensitive information?	Y/N Any information provided to DCC which is commercially sensitive should be done so in a separate document.
Any other comments:	

Appendix 2
Preliminary Assessment Form

Title:			
CR No:		Date CR Received:	
SP ref: (if applicable)		Preliminary Assessment Submission Date:	

Provider of Preliminary Assessment:		Contact email address:	
Organisation:		Contact Telephone number:	

Preliminary Assessment:	
The preliminary assessment should include, as a minimum, the following information in sufficient detail to inform the DCC's decision making (acting reasonably).	
Brief description of the nature, scope and urgency of the Change.	
Technical feasibility of the Change	
Impact of the Change on Charges	
Timescales to implement Change	
Fixed price for Impact Assessment	
Timescales to deliver the Impact Assessment	
Impact of not progressing the proposed Change	
Any additional information reasonably required by the Contractor from the DCC.	
Any other information reasonably requested by the DCC given the nature, scope and urgency of the Change.	
List any supporting documentation appended to the Preliminary Assessment	
List any commercially sensitive documentation. This should be provided separately.	

Appendix 3

Impact Assessment Form

Title:			
RFC No:		Impact Assessment Submission Date:	
SP ref.: (if applicable)			

Provider of Impact Assessment:		Contact email address:	
Organisation:		Contact Telephone number:	

Impact Assessment:	
<ul style="list-style-type: none"> The impact assessment must address, as a minimum, the topics set out below. The Contractor shall provide comprehensive and detailed responses in respect of each topic. If any topic is not relevant to the Change then the Contractor should insert “not applicable”. Any commercially sensitive information provided to DCC should be done so in a separate document(s). 	
1.	General overview of the proposed Contract Change (including the reasons for the Change)
2.	Impact of the Change on the Services (including impact on the processing, storage and/or transmission of DCC Data)
3.	Impact of the Change on the Agreement (detail any terms or schedules (e.g. DCC Requirements, Contractor’s Solution, Performance Measures, IPR) that will need to be changed and summarise the proposed changes)
4.	Impact of the Change on Smart Metering Programme (including the DCC Environment, the DCC Services, the End-to-End Smart Metering System, any DCC Eco-System Entity (or systems used by the same) and/or Consumers)
5.	Proposed Charges Adjustments and justification in respect of the Charging Principles (as detailed below)
6.	Proposed implementation timetable for the Change
7.	Identification of any dependencies on DCC, other DCC Service Providers or SEC Parties
8.	Mandatory Requirements – Identify relevant Mandatory Requirements for this Change and provide information regarding compliance with them
9.	Comprehensive risk assessment - Identification of risks (including without limitation information security, data privacy, health and safety, environmental) and associated risk treatment plan.
10.	Other

Charging Principles

All Charges Adjustments must demonstrate compliance with the following principles. The Contractor shall:

1. take all reasonable steps to minimise any increase in its costs (and, where applicable, maximise any reduction in its costs) arising from the Change, including by ensuring that, where possible:
 - a) existing resources are used in relation to the implementation and/or ongoing operation of the Change; and
 - b) any existing or new resources used in relation to the Change are used in a reasonably efficient manner and in accordance with Good Industry Practice;
2. take all reasonable steps to mitigate any risks or other adverse effects of the Change (and, where applicable, to take advantage of any positive or beneficial effects of the Change); and
3. provide reasonable evidence to the DCC (as part of the relevant Impact Assessment) in relation to:
 - a. where applicable, how the Change has affected the costs of providing any Services affected by the Change;
 - b. any alteration in the resources used to provide the Services (including any new resources to be used in relation to the Change);
 - c. how the Contractor has minimised any increase in its costs (and, where applicable, maximised any reduction in its costs) arising from the Change in accordance with paragraph 4.3.1 above;
 - d. how the Contractor has mitigated any risks or other adverse effects of the Change (and, where applicable, taken advantage of any positive or beneficial effects of the Change) in accordance with paragraph 4.3.2 above; and
 - e. how any expenditure that has been avoided as a result of the Change has been taken into account in adjusting the Charges.

Appendix 4 – Change Authorisation Note

Smart DCC Limited and XXX Limited - Agreements for the provision of SMETS1 services in relation to the Smart Metering Programme, signed XXX			
Contract(s) covered by this change		[]	
CAN Number:			
Part A: Initiation			
Title:			
Originator:		Contact Number:	
Date of Initiation:		Required by date:	
Related Change Request: (and SP ref. if applicable)		Urgency: (routine, normal, urgent)	
Type of Change (Common Change, Contract Change):		(If Common Change CAN Number of associated CANs)	
Brief description of Change:			
Reason(s) for proposed Change and benefit to DCC/impact if not Changed:			
Contractual only?		If so go direct to "Changes to the Agreement"	
Preliminary Assessment required?		N/A /Reference of assessment	
Authorised by:			
Impact Assessment required?		N/A /Reference of assessment	
Authorised by:			
Summary of Change			
(identify any attachments) Changes to Services requirements, terms of this Agreement, personnel to be provided, charging structure, payment profile, documentation, training, Service Levels, Exit Plan, Exit obligations, Administrative Change, and component working arrangements and any other contractual issue.			
Deliverables (if any):			
Timetable:			

Charges for implementation (if any): (including a schedule of payments. If not applicable, mark "Not Applicable")	
Changes to this Agreement: <ul style="list-style-type: none"> • detailed drafting changes to be set out below • separate attachments marked as "B1" etc may be appended to this Change Authorisation Notice • Documents must not be embedded in this Change Authorisation Notice 	
<u>Clause/Paragraph</u>	<u>Amendment</u>
Other Relevant Information: (including value-added and acceptance criteria)	
For SMART DCC Limited	For Contractor
Signature	Signature
Name	Name
Title	Title
Date	Date

SCHEDULE 8.4

RECORDS AND AUDIT PROVISIONS

OVERVIEW

This Schedule 8.4 comprises the following parts:

Part	Scope
Part A	DCC Audits
Part B	Regulatory requirements
Part C	Record-keeping
Appendix 1	Records to be kept by the Contractor

The parties' rights and obligations under this Schedule 8.4 are without prejudice to:

- a) the parties' rights and obligations under Part E (Security Audits) of Schedule 2.5 (Security Management Plan);
- b) the parties' rights and obligations under Schedule 8.10 (Enhanced Scrutiny and Step-in);
- c) any other audit, inspection or access rights of the DCC under this Agreement;
and
- d) any other data retention requirements under this Agreement, including Schedule 2.1 (DCC Requirements).

PART A – DCC AUDITS

1. SCOPE OF DCC AUDITS

- 1.1. Without prejudice to any rights to audit pursuant to Schedule 2.5 (Security Management Plan) or any other provision of this Agreement, the DCC may conduct an audit under this Part A of Schedule 8.4 (each, a "**DCC Audit**") for the following purposes:
- 1.1.1. to verify the accuracy of the Charges (and proposed or actual variations to them in accordance with this Agreement), including all invoices issued by the Contractor under this Agreement;
 - 1.1.2. to verify the Contractor's compliance with its obligations under this Agreement, including any obligations under or relating to:
 - i. Clause 13 (Contractor Cooperation and Assistance);
 - ii. Clause 31 (Health and Safety);
 - iii. Clause 32 (Equality and Diversity);
 - iv. Clause 36 (Protection of Personal Data);
 - v. Clause 55 (Prevention of Corruption);
 - vi. Schedule 2.1 (DCC Requirements);
 - vii. Schedule 2.2 (Performance Measures and Monitoring);
 - viii. Schedule 2.4 (Continuous Improvement);
 - ix. Schedule 2.6 (Insurance);
 - x. Schedule 4.3 (Sub-contractors);
 - xi. Schedule 7.3 (Value for Money);
 - xii. Schedule 7.4 (Financial Distress);
 - xiii. Schedule 8.6 (Business Continuity and Disaster Recovery Plan); and/or
 - xiv. Schedule 9.2 (Personnel and Key Personnel);
 - 1.1.3. to verify the Contractor's performance against any Milestones imposed under this Agreement from time to time;
 - 1.1.4. to verify the Contractor's compliance with any initiatives, targets or other requirements under, or carried out pursuant to, Schedule 2.4 (Continuous Improvement);
 - 1.1.5. to verify the Contractor's compliance with applicable Law and any obligations of the Contractor under this Agreement which are

intended to enable or support the DCC's compliance with the DCC Obligations;

- 1.1.6. to verify that the Contractor has maintained accounts and records as are required under this Agreement (including this Schedule 8.4) and review the same;
- 1.1.7. to carry out any internal or statutory audit and/or certification of the DCC's accounts;
- 1.1.8. to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the DCC has used its resources;
- 1.1.9. to verify the accuracy and completeness of any information or reports delivered by the Contractor under this Agreement;
- 1.1.10. to verify that the Contractor's risk and other controls and operating procedures (as such matters relate to the Services) are operating effectively;
- 1.1.11. to inspect the Contractor System (or any part of it) and any other Assets to verify compliance with the requirements of this Agreement; and/or
- 1.1.12. to review the accuracy and completeness of the Asset Register.

2. OBLIGATIONS OF THE CONTRACTOR

- 2.1. The Contractor shall provide the DCC and its agents (being any internal or external auditors of the DCC or professional services providers) with all reasonable co-operation and assistance in relation to each DCC Audit, including:
 - 2.1.1. access to all accounts, records and reports maintained by the Contractor or any other Contractor Person in relation to this Agreement (provided that, in relation to any Sub-Contractor other than a Key Subcontractor, the Contractor shall use all reasonable endeavours to procure such access), including the ability to take copies of such accounts, records and reports;
 - 2.1.2. reasonable access to any Sites (or other premises) and other resources (including the Contractor System and other Assets) used by any Contractor Person (whether exclusively or non-exclusively) in relation to the performance of the Services (provided that, in relation to any Sub-Contractor other than a Key Subcontractor, the Contractor shall use all reasonable endeavours to procure such access); and
 - 2.1.3. reasonable access to Contractor Personnel.
- 2.2. The Contractor shall procure that any Contractor Person shall promptly provide any co-operation, documentation, data, information or other

assistance reasonably requested by the DCC from time to time in relation to any DCC Audit under this Part A (provided that, in relation to any Sub-Contractor other than a Key Subcontractor, the Contractor shall use all reasonable endeavours to procure such co-operation, documentation, data, information or other assistance).

2.3. Notwithstanding anything to the contrary in this Schedule, the Contractor shall not be required to provide access to any of the following to the DCC or any of its agents:

2.3.1. information, data, systems or personnel relating exclusively to:

- i. the performance of services for other customers of the Contractor or the relevant Sub-contractors; and/or
- ii. the internal operations of the Contractor or the relevant Sub-contractors, which do not relate to the performance of the Services or the Contractor's other obligations under this Agreement;

2.3.2. information protected by legal professional privilege;

2.3.3. drafts or preparatory documents (but only where the final form document has been made available under this Schedule 8.4); and/or

2.3.4. except as provided in this Agreement, including in Schedules 8.5 (Exit), 9.1 (TUPE) or 9.2 (Personnel and Key Personnel), any personal data of the Contractor Personnel where such access is prohibited by applicable Laws (in which case the Contractor will redact the relevant personal data and provide the redacted version of the relevant document to the DCC and its agents).

3. FREQUENCY OF DCC AUDITS

3.1. Subject to the limitations set out in paragraph 3.2, the DCC may conduct DCC Audits at any time during the Term and for up to twenty-four (24) months after the Termination Date.

3.2. Except as set out in paragraph 3.3:

3.2.1. the DCC shall provide at least fifteen (15) Business Days' written notice of its intention to conduct a DCC Audit, specifying in reasonable detail the purpose and scope of the DCC Audit and the estimated duration;

3.2.2. the DCC may not conduct a DCC Audit more than once in any Contract Year during the Term;

3.2.3. the DCC may not conduct a DCC Audit more than once in any twenty-four (24) month period after the Termination Date; and

3.2.4. the DCC shall use reasonable endeavours to conduct a DCC Audit

within the Contractor's normal working hours.

- 3.3. The limitations set out in paragraph 3.2 shall not apply where a DCC Audit is to be conducted by the DCC in connection with:
- 3.3.1. any actual or suspected fraud or criminal activity by the Contractor or any other Contractor Person;
 - 3.3.2. any actual or suspected breach of applicable Law by the Contractor or any other Contractor Person; and/or
 - 3.3.3. any actual or suspected material breach by the Contractor or any other Contractor Person of this Agreement, or any Work Package.

4. DCC OBLIGATIONS

- 4.1. The DCC shall use reasonable endeavours to ensure that the conduct of any DCC Audit does not unreasonably delay or disrupt the provision of the Services or unreasonably disrupt the operations of the Contractor generally and shall, in undertaking any DCC Audit, comply with such reasonable policies as the Contractor may notify in advance and in writing as generally applicable in respect of access to its Sites.
- 4.2. The DCC shall ensure that any third party conducting a DCC Audit on behalf of the DCC shall, prior to commencing that DCC Audit, be subject to confidentiality obligations in favour of the DCC on terms which provide substantially equivalent protection in relation to the Contractor's Confidential Information as the provisions of Clause 37 (Confidentiality) of this Agreement.

5. COST OF DCC AUDITS

- 5.1. The parties shall bear their own respective costs and expenses incurred in respect of this Part A of Schedule 8.4, unless any DCC Audit identifies any material breach by the Contractor or any other Contractor Person of this Agreement or any Work Package, in which case, the Contractor shall reimburse the DCC for the reasonable costs incurred by the DCC in relation to the relevant DCC Audit.

6. OUTCOME OF DCC AUDITS

- 6.1. If any DCC Audit identifies any overcharging by the Contractor in relation to any invoice issued by the Contractor under this Agreement, the Contractor shall pay to the DCC, within twenty (20) Business Days after the date of a notice from the DCC requesting repayment of such overcharge:
 - 6.1.1. the amount of the overcharge; and
 - 6.1.2. interest (calculated at the Default Interest Rate) in respect of the period between the date on which the overcharged amount was originally received by the Contractor until the date of its repayment to the DCC.



- 6.2. If any DCC Audit identifies any undercharging by the Contractor in relation to any invoice issued by the Contractor under this Agreement, the DCC shall issue a notice to the Contractor identifying such undercharge and the Contractor shall invoice the DCC the amount of the undercharge within twenty (20) Business Days after the date of the relevant notice from the DCC.
- 6.3. If any DCC Audit identifies:
 - 6.3.1. any material breach by the Contractor or any other Contractor Person as further described in Clause 47 (Termination Rights), the DCC shall be entitled to exercise its applicable rights and remedies under this Agreement (including, where applicable, requiring the Contractor to comply with Clause 10 (Rectification Plan)); or
- 6.4. Where the DCC, in its sole discretion, considers that it would be useful for the Contractor to review and comment on the draft findings of a DCC Audit, the Contractor shall provide such comments within a reasonable period as requested by the DCC.

PART B – 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

- 1.1.1. the DCC must prepare Regulatory Accounts for each Regulatory Year;
- 1.1.2. 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);
- 1.1.3. the Regulatory Accounts are to be prepared on a consistent basis derived from the accounting records and other records referred to in paragraph 1.1.2 in respect of each Regulatory Year;
- 1.1.4. the Regulatory Accounts must have the contents specified in, and must otherwise comply with the requirements specified in, the DCC Licence;

Audit requirements

- 1.1.5. 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;
- 1.1.6. 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
- 1.1.7. 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:
 - 1.2.1. 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

- 1.2.2. 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 a 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:

- 2.1.1. Condition 9 (Independence and autonomy of the Licensee);

- 2.1.2. Condition 10 (Protection of Confidential Information); and

- 2.1.3. Condition 11 (No abuse of the Licensee's special position),

(the "**Chapter 3 Requirements**").

- 2.2. The tasks and duties of the Compliance Officer shall include:

- 2.2.1. providing relevant advice and information to the DCC for the purpose of facilitating its compliance with the Chapter 3 Requirements;

- 2.2.2. monitoring the effectiveness of the practices, procedures and systems adopted by the DCC in accordance with the Compliance Statement (as further described in Schedule 8.9 (Operations Manual));

- 2.2.3. advising whether, to the extent that the implementation of such practices, procedures and systems requires the co-operation of any other person, they are designed so as reasonably to allow the required co-operation;

- 2.2.4. investigating any complaint or representation that is made available to him by the DCC about a matter arising under or because of the Chapter 3 Requirements;

- 2.2.5. recommending and advising on remedial action that any such investigation has shown to be necessary or desirable;

- 2.2.6. providing relevant advice and information to the DCC for the purposes of ensuring its effective implementation of the practices, procedures, and systems referred to in paragraph 2.2.2, and of taking any remedial action recommended in accordance with subparagraph 2.2.5; and
- 2.2.7. reporting annually to the DCC's directors about his activities during the period covered by the report, including the fulfilment of any other duties assigned to him by the DCC.

Contractor's obligations

- 2.3. Without limiting the Contractor's other obligations under this Agreement, the Contractor shall:
 - 2.3.1. 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 (including those set out in paragraph 2.2 above); and
 - 2.3.2. 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 (including those set out in paragraph 2.2 above).

3. COMPLIANCE REPORT

DCC's obligations under the DCC Licence

- 3.1. The Contractor acknowledges that, under the DCC Licence:
 - 3.1.1. 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 3 Requirements; and
 - ii. its implementation during that year of the practices, procedures and systems maintained pursuant to the Compliance Statement (as further described in Schedule 8.9 (Operations Manual));
 - 3.1.2. 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 3 Requirements during the reporting year.

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

- 3.2.1. 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
- 3.2.2. 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:
 - 4.1.1. Quality of Service Information (as defined in the DCC Licence); and
 - 4.1.2. Price Control Information (as defined in the DCC Licence),(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:
 - 4.2.1. a complete statement of the information that is to comprise the Specified Information;
 - 4.2.2. instructions and guidance on the Authority's requirements with


- respect to the collection, recording, and provision of Specified Information;
- 4.2.3. 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);
 - 4.2.4. a timetable for the development of such systems, processes, and procedures as are required to achieve such standards for the Specified Information;
 - 4.2.5. provision with respect to the meaning of words and phrases used in defining the Specified Information;
 - 4.2.6. requirements as to the form and manner in which, or the frequency with which, the Specified Information must be provided to the Authority; and
 - 4.2.7. provision about how the Authority may monitor and assess the DCC's compliance with the RIGs.
- 4.3. The Contractor acknowledges that:
- 4.3.1. 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
 - 4.3.2. 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:
- 4.4.1. the DCC must at all times act in accordance with RIGs issued by the Authority in accordance with the DCC Licence; and
 - 4.4.2. 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:
- 4.5.1. 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
 - 4.5.2. 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:
- 4.6.1. 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;
 - 4.6.2. 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:
- 5.1.1. 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;
 - 5.1.2. subject to paragraph 5.1.5, 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;


- 5.1.3. 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;
- 5.1.4. 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
- 5.1.5. 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 Part C of this Schedule 8.4 on request.
- 5.3. The Contractor's obligation to assist the Authority or a Reviewer under paragraph 5.2 includes the obligation:
 - 5.3.1. 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
 - 5.3.2. 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:
 - 6.1.1. the DCC must, by not later than 31 July in each Regulatory Year (commencing on and after 1 April 2018), prepare and submit to the Authority a report (the "**Annual Service Report**") about overall service performance during the previous Regulatory Year (the "**Performance Year**");
 - 6.1.2. the concept of overall service performance to which paragraph 6.1.1 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 DCC Service Provider in providing such Relevant Service Capability (as defined in the DCC Licence) as it was contracted to provide to the DCC (the "**Provider Performance**") during the Performance Year;
- 6.1.3. 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;
- 6.1.4. 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;
- 6.1.5. any statistical record that is required to be presented in the Annual Service Report by virtue of paragraph 6.1.4 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);
- 6.1.6. 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 (as defined in the DCC Licence);
 - 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;
- 6.1.7. in complying with the requirements referred to in paragraphs 6.1.6ii and 6.1.6iii, 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
- 6.1.8. any question arising under paragraph 6.1.7 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:
- 6.2.1. 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 6.1.5; and
- 6.2.2. 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 6.2.1 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. CONTRACTOR PERSONS

- 7.1. Without limiting the Contractor's other obligations under this Agreement, the Contractor shall procure that any Contractor Person shall promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by the DCC from time to time to the extent necessary



for the DCC and/or the Contractor to comply with their respective obligations as further set out in this Part B.


8. CHARGING FOR ADDITIONAL COSTS

- 8.1. Where compliance with the provisions in this Part B 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 8 shall be deemed to be a Specific Change in Mandatory Requirements.

PART C – RECORD-KEEPING

1. The Contractor shall (and, where applicable, shall procure that its Key Sub-contractors shall), during the Term and, save as where expressly provided otherwise under this Agreement, for a period of at least seven (7) years following the Termination Date, maintain, or cause to be maintained, complete and accurate documents and records in relation to the provision of the Services (including all records referred to in Appendix 1) (together, the "**Records**").
2. The Contractor shall retain and maintain the Records (including superseded versions of the Records):
 - 2.1. in accordance with the requirements of Good Industry Practice;
 - 2.2. in accordance with the data retention requirements under this Agreement, including Schedule 2.1 (DCC Requirements);
 - 2.3. in accordance with any reasonable instructions of the DCC from time to time (and the Contractor acknowledges that any instructions of the DCC which are intended to ensure compliance with any Mandatory Requirements shall be deemed to be reasonable);
 - 2.4. in chronological order;
 - 2.5. in a form that is capable of audit; and
 - 2.6. at its own expense.
3. Without limiting the DCC's rights under Part A of this Schedule 8.4, the Contractor shall make the Records available for inspection by the DCC on request subject to the DCC giving reasonable notice to the Contractor.
4. Without limiting the Contractor's obligations under Part B of this Schedule 8.4, the Contractor shall make the Records available for inspection by the Authority or the Reviewer on request giving reasonable notice.
5. Original records shall be retained and maintained in an electronic format agreed by the parties (acting reasonably). True copies of the original records may be kept by the Contractor where it is not practicable to retain original records.


Appendix 1 – Records to be kept by the Contractor

1. This Agreement, its Schedules and all amendments to such documents.
2. All formal notices, reports or submissions made by the Contractor to the DCC in connection with the provision of the Services.
3. All Quality Plans, Rectification Plans or similar prepared by the Contractor under this Agreement.
4. Documents prepared by the Contractor or received by the Contractor from a third party relating to a Force Majeure Event.
5. All certificates, licences, registrations or warranties in each case obtained by the Contractor in relation to the provision of the Services.
6. Documents evidencing any Change of Control in relation to the Contractor and/or the Guarantor (if applicable).
7. Records that relate to the Services and/or the performance of any of the Contractor's obligations under this Agreement required to be maintained by the Contractor by Law, the DCC Licence and SEC (and related Guidance), including in relation to health and safety matters and health and safety files and all consents.
8. All documents, records and other information required to be prepared by the Contractor under this Agreement in relation to compliance with the SEC and/or the DCC Licence.
9. Detailed, accurate and up to date records and books of account showing all payments made by the Contractor and other Contractor Persons in connection with this Agreement and the steps taken by the Contractor and Contractor Persons to comply with the Relevant Requirements and Clause 55.1.
10. Records and books of accounts that are sufficient to enable the DCC to verify the Contractor's and other Contractor Persons compliance with its obligations under Clauses 25 (Records and Audits) and 55 (Prevention of Corruption) (and any equivalent provisions under any Sub-contract).
11. All documentation and records to be prepared and/or maintained by the Contractor under Schedule 2.1 (DCC Requirements), Schedule 4.1 (Contractor Solution) and Schedule 4.2 (Technical Infrastructure).
12. All Performance Monitoring Reports, Quarterly Summaries, Annual Summaries, Service Failure Reports and other documentation required to be maintained under Schedule 2.2 (Performance Measures and Monitoring).
13. All documentation and records to be prepared and/or maintained by the Contractor relating to the compliance with any Standards.
14. All plans and reports to be prepared and/or maintained by the Contractor under Schedule 2.4 (Continuous Improvement), including all versions of the Continuous Improvement Plan and each of the Innovation Reports.
15. Records of the Contractor's compliance against the initiatives, targets or other 

requirements referred to in Schedule 2.4 (Continuous Improvement).

16. All versions of the Contractor Security Policy, all versions of the ISMS (together with evidence of the certification of the ISMS by a UKAS Entity), all versions of the Security Management Plan and any other documentation and plans referred to in Schedule 2.5 (Security Management Plan).
17. Records and other evidence relating to the Contractor's compliance with its obligations under Schedule 2.5 (Security Management Plan).
18. Details of the results of all Security Tests and DCC Security Tests under Schedule 2.5 (Security Management Plan).
19. Details of any Breach of Security or any potential or attempted Breach of Security of which the Contractor is aware having made reasonable enquiries and analysis (and the steps taken by the Contractor to remedy and/or prevent the same, as further described in Schedule 2.5 (Security Management Plan)).
20. Certificates (if any) confirming that the Insurances are held by the Contractor during the Term and for a period of at least six (6) years following the Termination Date, documents and records relating to any claims made in respect of the Insurances in respect of the Services and any other documentation and plans referred to in Schedule 2.6 (Insurance).
21. Details of all Sub-contractors (if any), as further described in Schedule 4.3 (Sub-contractors) including the information set out in Appendices 1 to 3 of Schedule 4.3.
22. Records relating to the appointment and termination of each Sub-contractor.
23. Details of all Software, as further described in Schedule 5.1 (Intellectual Property Rights).
24. All Implementation Plans and other documentation to be prepared and/or maintained by the Contractor under Schedule 6.1 (Implementation Planning).
25. Details of all Test Documents, Test Quality Audits and other documentation to be prepared and/or maintained by the Contractor under Schedule 6.2 (Testing and Acceptance).
26. Copies of all Certificates issued under Schedule 6.2 (Testing and Acceptance).
27. All Supporting Documentation and any other documents prepared by the Contractor in support of claims for the Charges.
28. Copies of all invoices submitted by the Contractor under this Agreement.
29. Records relating to VAT sought to be recovered by the Contractor under this Agreement.
30. Copies of all versions of the Financial Model under Schedule 7.1 (Charges and Payments).
31. Other documentation and records to be prepared and/or maintained by the Contractor under Schedule 7.1 (Charges and Payments).

ECoS Schedule 8.4 (Records and Audit Provisions) (Critical Software)

32. Financial records, including audited and unaudited accounts (as further described in Schedule 7.4 (Financial Distress)) of the Guarantor and the Contractor.
33. Details of any payments made to the Contractor under Schedule 7.2 (Payments on Termination).
34. Copies of each Benchmark Report under Schedule 7.3 (Value for Money).
35. Other documentation, reports and records to be prepared and/or maintained by the Contractor under Schedule 7.3 (Value for Money).
36. Copies of all Financial Distress Service Continuity Plans (as further described in Schedule 7.4 (Financial Distress)) and other documentation, reports and records to be prepared and/or maintained by the Contractor under Schedule 7.4 (Financial Distress).
37. The Change Log and any documents submitted by the Contractor to the DCC pursuant to and in accordance with the Change Control Procedure (as further described in Schedule 8.2 (Change Control)).
38. Documents submitted by the Contractor pursuant to invocation by it or the DCC of the Dispute Resolution Procedure, Fast Track Dispute Resolution Procedure and/or Escalation Process.
39. All documentation and records required to be prepared by the Contractor under Part B of this Schedule 8.4, including regarding Quality of Service Information and/or Price Control Information.
40. All plans, registers, records and other documentation required to be prepared by the Contractor under Schedule 8.5 (Exit), including the Asset Register and all versions of the Initial Exit Plan and the Final Exit Plan.
41. All versions of the BCDR Plan, all Review Reports and all reports relating to the results of any testing of the BCDR Plan (as further described in Schedule 8.6 (Business Continuity and Disaster Recovery Plan)).
42. All Co-operation Agreements and related documentation under Schedule 8.7 (Co-operation).
43. NOT USED.
44. All versions of the Operations Manual, as further described in Schedule 8.9 (Operations Manual).
45. All documentation and records required to be prepared by the Contractor under Schedule 9.1 (TUPE), including all versions of the Contractor's Staff List and the Staffing Information.
46. Details of all Key Personnel, as further described in Schedule 9.2 (Personnel and Key Personnel), including records relating to the appointment and succession of each member of the Key Personnel.
47. Evidence from Sub-contractors and (where available) third parties and manufacturers of equipment and systems used to provide the Contractor Solution


that the equipment and Contractor Solution satisfy all relevant security requirements as defined from time to time in this Agreement.

48. All other records, notices, documents or certificates required to be produced and/or maintained by the Contractor or any Contractor Person pursuant to this Agreement.

SCHEDULE 8.5 EXIT

PART A – GENERAL

1. OVERVIEW

- 1.1 This Schedule 8.5 sets out the key principles for the exit and service transfer arrangements that:
- (a) are intended to achieve an orderly transition of the Services from the Contractor to the DCC and/or any Replacement Contractor in the event of the expiry or termination (including partial termination) of this Agreement for any reason; and
 - (b) will form the basis of the Exit Plan.
- 1.2 This Schedule 8.5 comprises the following parts:

Part	Scope
Part A	General
Part B	Obligations during the Term and Service Period
Part C	Re-tendering obligations
Part D	Preparation of the Exit Plan
Part E	Continuation of the Services
Part F	Termination Assistance Services
Part G	Transfer of assets, contracts and personnel
Part H	Obligations after the Termination Assistance Period
Appendix 1	Relevant Agreements

2. APPLICATION OF THIS SCHEDULE

- 2.1 This Schedule 8.5 shall apply in the event of the expiry or termination (including partial termination) of this Agreement for any reason, including:
- (a) the expiry of the Initial Term or any Extension Period;
 - (b) termination by the DCC in connection with Clause 47.1;
 - (c) termination by the DCC for convenience in accordance with Clause 47.3;
 - (d) termination by the DCC as a result of a Change of Control in accordance with Clause 47.1;
 - (e) termination by the Contractor in accordance with Clause 47.4; and
 - (f) termination as a result of a prolonged Force Majeure Event in accordance with Clause 47.2.

2.2 In respect of a partial termination of this Agreement, this Schedule 8.5 and any relevant provision of the Exit Plan shall apply to the extent that they are relevant to the orderly transition from the Contractor to the DCC and/or any Replacement Contractor of the specific Services which are subject to the partial termination of this Agreement.

3. GENERAL OBLIGATIONS OF THE PARTIES

3.1 Subject to paragraph 3.2, the Contractor:

- (a) is required to ensure the orderly transition of the Services from the Contractor to the DCC and/or any Replacement Contractor in the event of the expiry or termination of this Agreement; and
- (b) shall be responsible for the overall management of the exit arrangements in this Schedule 8.5.

3.2 The DCC shall procure that any Replacement Contractor shall co-operate with the Contractor to such extent as is reasonably necessary to enable the Contractor to perform its obligations under this Schedule 8.5.

3.3 Without limiting the Contractor's obligations under paragraph 3.1, the Contractor shall co-operate with the DCC and, where applicable, any Replacement Contractor to ensure the orderly transition of the Services from the Contractor to the DCC and/or any Replacement Contractor.

3.4 The parties acknowledge that the transfer of the Services from the Contractor to the DCC and/or any Replacement Contractor may be phased, such that certain of the Services are handed over before others. Any such arrangements shall be described in detail in the Exit Plan.

4. TERMINATION OF THE TERMINATION ASSISTANCE PERIOD

4.1 The DCC shall have the right to terminate:

- (a) the provision of the Termination Assistance Services by the Contractor;
- (b) the continuation of the Services under Part E of this Schedule 8.5; and/or
- (c) any other activities being conducted by the Contractor or any Contractor Person under or in relation to this Schedule 8.5,

by serving not less than ninety (90) days' written notice upon the Contractor to such effect.

5. MITIGATION OF TERMINATION COSTS

5.1 Unless otherwise agreed by the parties in writing, during the period between (i) the service of a Termination Notice (including partial termination) of this Agreement and (ii) the Termination Date, the Contractor shall take all reasonable steps, which are necessary and consistent with its continuing obligations, to mitigate any Losses which the Contractor may incur as a result of the termination, including to:

- (a) cancel all capital and recurring cost commitments in connection with the Implementation Plan and/or the provision of Services on the most cost-effective terms;



- (b) terminate all relevant contracts or the relevant parts of relevant contracts with its Sub-contractors in connection with the provision of Services on the most favourable terms as can be achieved in the particular circumstances, having first ascertained from the DCC whether such contracts are required to be transferred to the DCC or any Replacement Contractor instead; and
- (c) reduce labour costs by the redeployment or release of Contractor Personnel other than Key Personnel to the extent possible in the circumstances.



PART B – OBLIGATIONS DURING THE TERM AND SERVICE PERIOD

1. ASSET REGISTER

- 1.1 The Contractor shall ensure that the Asset Register contains the following information (in addition to the requirements set out in Schedule 4.2 (Technical Infrastructure)):
- (a) a register of all of the Assets, detailing:
 - (i) whether each Asset is capable of being transferred to the DCC and/or any Replacement Contractor following the expiry or termination of this Agreement (each, a "**Transferable Asset**"). For the avoidance of doubt, all Exclusive Assets shall be deemed to be Transferable Assets;
 - (ii) if not, whether each Asset is otherwise capable of being made available by the Contractor for use by the DCC and/or any Replacement Contractor following the expiry or termination of this Agreement (each, an "**Ongoing Access Asset**");
 - (iii) the ownership status of each Transferable Asset and each Ongoing Access Asset;
 - (iv) the value of each Transferable Asset, calculated using the Net Book Value, remaining lease payments or such other valuation method as approved by the DCC in respect of specific Relevant Assets (as defined in paragraph 1.2 of this Part B) and, in any event, in compliance with the Applicable Accounting Standards of the Contractor (the "**Transferable Asset Value**");
 - (b) a register of all of the Software (in the format specified in Schedule 5.1 (Intellectual Property Rights));
 - (c) a register of all other Intellectual Property Rights relevant to the performance of the Services (including the Intellectual Property Rights referred to in Schedule 5.1 (Intellectual Property Rights)); and
 - (d) a register of all Sub-contracts and other agreements (including software licences, maintenance and support agreements and equipment, rental and lease agreements) required for the performance of the Services.
- 1.2 In this Schedule 8.5, "**Relevant Assets**" means the Transferable Assets and the Ongoing Access Assets.
- 1.3 The Contractor shall maintain the Asset Register in the format specified in Schedule 4.2 (Technical Infrastructure) (or such other format as is agreed by the parties from time to time).
- 1.4 The Contractor shall review and update the Asset Register in accordance with Schedule 4.2 (Technical Infrastructure).

2. OBLIGATIONS REGARDING THE RELEVANT ASSETS

- 2.1 The Contractor shall not, without the DCC's prior written consent, encumber any Relevant Assets in any way which would:
- (a) require the consent of a third party to the exercise by the DCC of any of its rights under this Schedule 8.5; or
 - (b) otherwise restrict the exercise by the DCC of any of its rights under this Schedule 8.5.

For the purposes of this paragraph 2.1, "**encumber**" shall include 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 Asset.

- 2.2 The Contractor shall ensure that all Exclusive Assets listed in the Asset Register are clearly marked to identify that they are exclusively used for the provision of the Services under this Agreement.

3. OBLIGATIONS REGARDING SUB-CONTRACTS ETC.

- 3.1 In this Schedule 8.5, "**Relevant Agreements**" means all Sub-contracts and other agreements with third parties (including software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services, including the Sub-contracts and other agreements referred to in Appendix 1 of this Schedule 8.5.
- 3.2 The Contractor shall (unless otherwise agreed by the DCC in writing) procure that all Relevant Agreements shall be capable of either (at the discretion of the DCC):
- (a) novation to the DCC (and/or its nominee) and/or any Replacement Contractor in accordance with a novation agreement in the form reasonably requested by the DCC; or
 - (b) assignment to the DCC (and/or its nominee) and/or any Replacement Contractor in accordance with an assignment agreement in the form reasonably requested by the DCC,

and without (i) any restriction (including any need to obtain the consent or approval of the relevant contract counterparty or any third party) or (ii) the payment of any amount by the DCC and/or any Replacement Contractor (except as expressly set out in Appendix 1 of this Schedule 8.5).

- 3.3 Where the Contractor is unable to procure that any Relevant Agreement which the Contractor proposes to enter into after the Commencement Date complies with the requirements of paragraph 3.2, the Contractor shall promptly notify the DCC of this and the parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the DCC so directs, may include the Contractor seeking an alternative Relevant Agreement, to be agreed with the DCC.
- 3.4 The Contractor confirms that each of the Relevant Agreements specified in Appendix 1 of this Schedule 8.5 complies with the requirements of paragraph 3.2.

4. APPOINTMENT OF EXIT MANAGERS

- 4.1 Each party will appoint an Exit Manager and provide written notification of such appointment to the other party within thirty (30) days after the Commencement Date.
- 4.2 The Contractor's Exit Manager will be responsible for ensuring that the Contractor and the relevant Contractor Persons comply with this Schedule 8.5. The Contractor shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor and the relevant Contractor Persons to comply with the requirements set out in this Schedule 8.5.
- 4.3 The Contractor's Exit Manager shall be deemed to be a member of the Key Personnel for the purposes of this Agreement.
- 4.4 The parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Agreement and all matters connected with this Schedule 8.5 and each party's compliance with it.
- 4.5 Either party may request a meeting of the Exit Managers by giving the other not less than five (5) days' written notice. Such meeting shall take place within thirty (30) days after the date of such notice at a mutually convenient time and venue. For the avoidance of doubt, this paragraph 4.5 does not limit the ability of the Exit Managers to meet on a day-to-day basis in accordance with paragraph 4.4 as agreed by the parties from time to time.
- 4.6 Where any of the Services are to be transferred to a Replacement Contractor, the DCC shall ensure that:
- (a) as soon as reasonably practicable (including, where practicable, not less than three (3) months before the start of the Termination Assistance Period), the Replacement Contractor appoints a transition manager, and prepares a transition plan, in relation to the transfer of the relevant Services from the Contractor to the Replacement Contractor; and
 - (b) such transition manager attends meetings with the Exit Managers in relation to the transfer of the relevant Services.

PART C – RE-TENDERING OBLIGATIONS

1. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 1.1 The Contractor shall provide the DCC with such information relating to the Services as is reasonably requested by the DCC from time to time in order to facilitate the preparation by the DCC of any invitation to tender for the provision of some or all of the Services. Such information may include:
- (a) details of the Services, including such information regarding the manner in which the Services are provided as is reasonably requested by the DCC;
 - (b) a general overview of the Contractor Solution;
 - (c) details of the Transferable Assets, including:
 - (i) make, model and asset number;
 - (ii) the Transferable Asset Value of each Transferable Asset; and
 - (iii) details of their condition and physical location;
 - (d) details of the Ongoing Access Assets, including:
 - (i) make, model and asset number; and
 - (ii) details of their condition and physical location;
 - (e) a general description of any other Assets;
 - (f) a general overview of the use of the Assets in relation to the Services (including high-level technical specifications);
 - (g) details of the Relevant Agreements (including the scope and purpose of such agreements);
 - (h) a general description of the DCC Confidential Information and other DCC Data in the Contractor's possession or control;
 - (i) details of all technical and operational interfaces between:
 - (i) the Contractor System; and
 - (ii) the Systems of any other DCC Eco-System Entity (including any DCC Service Provider Solution and the DCC Environment);
 - (j) a copy of the Asset Register, as updated by the Contractor up to the date of delivery to the DCC under this Part C; and
 - (k) summary versions of the Contractor's Staff List and Staffing Information (together with any other information required to be prepared by the Contractor under Schedule 9.1 (TUPE)), excluding any Personal Data.

- 1.2 The Contractor shall comply with any reasonable request from the DCC under paragraph 1.1 within a reasonable time (but, in any event, within twenty (20) Business Days after the date of the request).
- 1.3 The Contractor acknowledges and agrees that the DCC may provide any information requested by the DCC under paragraph 1.1, which is not Contractor's Commercially Sensitive Information, to any potential Replacement Contractors for the purposes of participating in any tender process contemplated by this Part C (including undertaking due diligence in relation to some or all of the Services). The DCC acknowledges that the rights of the DCC, and the obligations of the Contractor, under this paragraph 1.3 are subject to the DCC complying with its obligations under Clause 37 (Confidentiality).
- 1.4 The DCC shall be entitled to issue a request under paragraph 1.1 at any time prior to the Termination Date.
- 1.5 In the event of Termination for Convenience, the Contractor shall not be obliged to provide any information relating to any Services and/or Contractor Solution which has not been paid for by DCC on or before the Terminate Date.



PART D – PREPARATION OF THE EXIT PLAN

1. PREPARATION OF THE INITIAL EXIT PLAN

- 1.1 By no later than six (6) months after the Commencement Date, the Contractor shall deliver to the DCC an initial draft of the Exit Plan (the “**Initial Exit Plan**”) which:
- (a) sets out the Contractor's proposed methodology for achieving an orderly transition of the Services from the Contractor to the DCC and/or any Replacement Contractor in the event of the expiry or termination of this Agreement;
 - (b) complies with the requirements set out in this Schedule 8.5 (including paragraph 2 of this Part D); and
 - (c) contains an appropriate and reasonable level of detail, taking account of the information available to the Contractor (having given the matter reasonable consideration and analysis).
- 1.2 Within thirty (30) days after receipt of the draft Initial Exit Plan from the Contractor, the DCC shall notify the Contractor if it (acting reasonably) considers that:
- (a) the draft Initial Exit Plan is insufficiently detailed to be properly evaluated;
 - (b) the draft Initial Exit Plan does not comply with any of the requirements set out in this Schedule 8.5 (including paragraph 2 of this Part D);
 - (c) any of the obligations on the DCC and/or the Replacement Contractor specified by the Contractor in the draft Initial Exit Plan are unreasonable or impractical for any reason (taking account of the relevant resources likely to be available to the DCC and the Replacement Contractor); or
 - (d) the draft Initial Exit Plan is otherwise not sufficient to ensure an orderly transition of the Services from the Contractor to the DCC and/or any Replacement Contractor,
- (each, for the purposes of this paragraph 1, a “**non-conformity**”).
- 1.3 By no later than thirty (30) days after receipt of a notice from the DCC under paragraph 1.2 or 1.4, the Contractor shall:
- (a) make any amendments to the Initial Exit Plan that are necessary to address the non-conformities notified by the DCC under paragraph 1.2 or 1.4; and
 - (b) re-submit the revised Initial Exit Plan to the DCC for approval. For the avoidance of any doubt, new non-conformities shall only be admissible to parts or items of the revised plan not included in the Initial Exit Plan.
- 1.4 Within thirty (30) days after receipt of the revised Initial Exit Plan from the Contractor, the DCC shall, acting reasonably, notify the Contractor of:
- (a) any outstanding non-conformities from the previous draft of the Initial Exit Plan; and/or
 - (b) any new non-conformities appearing in the revised Initial Exit Plan.

- 1.5 The process in this paragraph 1 will then be repeated until the DCC notifies the Contractor that the Initial Exit Plan is approved. Any dispute relating to the existence of non-conformities in the Initial Exit Plan shall be referred to the Dispute Resolution Procedure.
- 1.6 The DCC shall provide any information or assistance reasonably requested by the Contractor in relation to the preparation of the Initial Exit Plan under this paragraph 1 (or any updates under paragraph 3).

2. REQUIRED CONTENT OF THE EXIT PLAN

General requirements

- 2.1 The Exit Plan shall:
- (a) address each of the issues set out in this Schedule 8.5 to facilitate an orderly transition of the Services from the Contractor to the DCC and/or any Replacement Contractor with the aim of ensuring that:
 - (i) there is no disruption in the supply of the Services; or
 - (ii) there is no degradation in the quality of delivery of the Services, during the Termination Assistance Period;
 - (b) address the matters set out in this paragraph 2 in relation to both:
 - (i) a full termination or expiry of the Services; or
 - (ii) a partial termination of this Agreement in relation to any of the Work Packages;
 - (c) contain a detailed description of any arrangements relating to the phased transfer of Services from the Contractor to the DCC and/or any Replacement Contractor (as further described in paragraph 3.4 of Part A); and
 - (d) contain the management structure and communication arrangements to be put in place and employed during the Termination Assistance Period.

Emergency Exit provisions

- 2.2 The Exit Plan shall contain separate mechanisms for dealing with an Ordinary Exit and an Emergency Exit, including:
- (a) a detailed description of how the management structure and the communication arrangements referred to in paragraph 2.1(d) will be amended in relation to an Ordinary Exit and an Emergency Exit;
 - (b) a detailed description of how any timetable contained in the Exit Plan will be amended in relation to an Ordinary Exit and an Emergency Exit; and
 - (c) a detailed description of any amendments to the activities (including the scope of the Termination Assistance Services), processes and arrangements set out in the Exit Plan in relation to an Ordinary Exit and an Emergency Exit.

Transfer of Services

- 2.3 The Exit Plan shall document how the Services will transfer to the DCC and/or any Replacement Contractor, including:
- (a) details of the activities to be undertaken by the Contractor, the DCC and/or any Replacement Contractor in relation to the transfer of the Services;
 - (b) a timetable for the transfer of the Services from the Contractor to the DCC and/or any Replacement Contractor;
 - (c) details of the processes, documentation, data transfer, systems migration, security and the segregation of the DCC's technology components from any technology components operated by the Contractor or any Contractor Person (where applicable); and
 - (d) a handover plan for all of the Contractor's responsibilities as set out in the Security Management Plan to be implemented under Schedule 2.5 (Security Management Plan).

Continuation of the Services during the Termination Assistance Period

- 2.4 The Exit Plan shall:
- (a) set out a detailed description of the continuing provision of the Services during the Termination Assistance Period (which complies with the requirements of Part E); and
 - (b) detail appropriate measures to minimise any disruption in the supply of the Services.

Termination Assistance Services

- 2.5 The Exit Plan shall:
- (a) set out details of the Termination Assistance Services to be provided by the Contractor;
 - (b) specify the estimated Charges that would be payable for the provision of the Termination Assistance Services (calculated in accordance with the charging methodology set out in Schedule 7.1 (Charges and Payment));
 - (c) describe how the Termination Assistance Services will be provided during the Termination Assistance Period; and
 - (d) contain details of the Contractor Personnel and other resources that will be required by the Contractor to provide the Termination Assistance Services.

Handover of Data

- 2.6 The Exit Plan shall contain a detailed description of the process and timetable for the transfer to the DCC and/or any Replacement Contractor of the DCC Data.

Transfer of assets, contracts and personnel

- 2.7 Without limiting the DCC's rights under Part G of this Schedule 8.5, the Exit Plan shall contain a detailed description of the process, timetable and documentation required for:
- (a) the transfer of the Transferable Assets to the DCC and/or any Replacement Contractor;
 - (b) the continued use of the Ongoing Access Assets by the DCC and/or any Replacement Contractor; and
 - (c) the assignment, novation or other transfer of the Relevant Agreements.
- 2.8 The Exit Plan shall set out procedures to deal with requests made by the DCC and/or a Replacement Contractor for the Contractor's Staff List and/or Staffing Information (or any other information required to be prepared by the Contractor under Schedule 9.1 (TUPE)).

3. UPDATES TO THE INITIAL EXIT PLAN

- 3.1 The Contractor shall review and update the Initial Exit Plan so as to ensure that it accurately reflects the then current Services and the manner in which they are provided, and otherwise continues to comply with the requirements of this Schedule 8.5:
- (a) on an annual basis by no later than each anniversary of the Commencement Date; and
 - (b) within thirty (30) days after the end of any Quarter in which:
 - (i) the commencement of operational use of any Catalogue Service took place or any Catalogue Service ceased to be provided (as the case may be);
 - (ii) any material Change was implemented.
- 3.2 In relation to any updated version of the Initial Exit Plan under paragraph 3.1(a) or 3.1(b), the parties shall comply with the procedure set out in paragraph 1 relating to the approval of the updated version of the Initial Exit Plan by the DCC.

4. PREPARATION OF THE FINAL EXIT PLAN

- 4.1 By no later than twenty (20) Business Days after the date of receipt by the Contractor of any Termination Assistance Notice issued by the DCC under Part F of this Schedule 8.5, the Contractor shall review and update the Initial Exit Plan so as to ensure that it:
- (a) accurately reflects the then current Services and the manner in which they are provided;
 - (b) is consistent with the reasonable transition requirements of the Replacement Contractor (as notified to the Contractor by the DCC);
 - (c) otherwise complies with the requirements of this Schedule 8.5; and

(d) is capable of being immediately implemented,

(the "**Final Exit Plan**") and provide a copy of the draft Final Exit Plan to the DCC. The DCC shall provide the Contractor with an updated version of the Replacement Contractor's transition plan as soon as reasonably practicable.

- 4.2 The parties shall use all reasonable endeavours to agree the contents of the Final Exit Plan as soon as reasonably practicable. If the parties are unable to agree the contents of the Final Exit Plan within fifteen (15) Business Days after receipt of the draft Final Exit Plan by the DCC under paragraph 4.1, then either party may refer the matter to the Fast Track Dispute Resolution Procedure.
- 4.3 Until such time as the Final Exit Plan has been agreed in accordance with paragraph 4.2, the Contractor shall provide the Termination Assistance Services in accordance with, and otherwise comply with, the requirements of the then current Initial Exit Plan.

PART E – CONTINUATION OF THE SERVICES

1. OBLIGATION TO CONTINUE TO PROVIDE THE SERVICES

- 1.1 Unless otherwise agreed by the parties, the Contractor shall continue to provide the Services in accordance with this Agreement at all times during the Termination Assistance Period.
- 1.2 Without limiting paragraph 1.1 but subject to paragraph 1.3, the Contractor shall provide the Services to meet the Performance Measures at all times during the Termination Assistance Period.
- 1.3 Where the Contractor demonstrates to the DCC's reasonable satisfaction that:
- (a) the performance of its obligations under this Schedule 8.5 during the Termination Assistance Period will have a material and unavoidable adverse effect on the Contractor's ability to meet a particular Performance Measure; and
 - (b) such adverse effect is not due to a failure by the Contractor to comply with its obligations under this Schedule 8.5 or any other applicable provisions of this Agreement,
- then the parties shall vary the relevant Performance Measure and/or the applicable Service Credits to take account of such adverse effect.
- 1.4 The Charges payable in relation to the provision of the Services during the Termination Assistance Period shall be determined in accordance with Schedule 7.1 (Charges and Payment).

PART F – TERMINATION ASSISTANCE SERVICES

1. GENERAL

- 1.1 During the Termination Assistance Period, the Contractor shall provide the Termination Assistance Services.
- 1.2 The charges payable for the provision of the Termination Assistance Services shall be calculated in accordance with the charging methodology set out in Schedule 7.1 (Charges and Payment) and shall be specified in the Exit Plan.
- 1.3 In addition to the Termination Assistance Services, the Contractor shall provide any assistance during the Termination Assistance Period that is reasonably requested by the DCC to:
- (a) ensure that there is no disruption in the supply of the Services during the Termination Assistance Period;
 - (b) ensure that there is no degradation in the quality of delivery of the Services during the Termination Assistance Period; and
 - (c) achieve an orderly transition of the Services from the Contractor to the DCC and/or any Replacement Contractor.
- 1.4 The Contractor shall use all reasonable endeavours to provide the assistance referred to in paragraph 1.3 without additional cost to the DCC. However, if this is not possible, any additional costs incurred by the Contractor in providing such assistance (which are not already in the scope of the Termination Assistance Services or the Exit Plan) will be subject to agreement in accordance with the Change Control Procedure (such agreement not to be unreasonably withheld or delayed by either party).

2. NOTIFICATION OF REQUIREMENTS

- 2.1 The DCC shall be entitled to require the provision of Termination Assistance Services by notice in writing to the Contractor ("**Termination Assistance Notice**") at any time prior to the expiry or termination (including partial termination) of this Agreement. The DCC shall issue any Termination Assistance Notice as soon as reasonably practicable (taking account of the circumstances of the expiry or termination of this Agreement).
- 2.2 The Termination Assistance Notice shall specify:
- (a) the scope of the Termination Assistance Services required;
 - (b) the date from which Termination Assistance Services are required (which shall be no earlier than twelve (12) months prior to the date of expiry or termination of this Agreement); and
 - (c) the period during which it is anticipated that the Termination Assistance Services will be required (which shall be no longer than twenty-four (24) months in total, including any period during which the Termination Assistance Services are provided prior to the date of expiry or termination of this Agreement).
- 2.3 The DCC may, from time to time, extend the Termination Assistance Period beyond the period originally specified in the Termination Assistance Notice, provided that:

- (a) the overall Termination Assistance Period does not extend beyond the period specified in paragraph 2.2(c); and
- (b) the DCC notifies the Contractor of such requirement no later than twenty (20) Business Days before the date on which the Termination Assistance Period is otherwise due to expire.

2.4 As part of the initial preparation and periodic updating of the Exit Plan in accordance with Part D of this Schedule 8.5, the parties shall discuss:

- (a) the likely exit scenarios under this Agreement (including each of the scenarios referred to in paragraph 2.1 of Part A of this Schedule 8.5); and
- (b) in relation to each such scenario:
 - (i) the duration of the Termination Assistance Period that is likely to be required; and
 - (ii) the manner in which the Termination Assistance Period may be optimally divided between the periods before and after the date of expiry or termination of this Agreement.

Any discussions between the parties under this paragraph 2.4 shall be without prejudice to the DCC's rights under paragraph 2.2 of this Part F (except where an amendment to paragraph 2.2 has been agreed in writing by the parties).

3. **COMPLIANCE WITH EXIT PLAN**

At all times during the Termination Assistance Period, each party shall comply with its obligations under the Exit Plan (and the DCC shall procure that any Replacement Contractor complies with its obligations under the Exit Plan).

4. **SCOPE OF TERMINATION ASSISTANCE SERVICES**

4.1 The Termination Assistance Services to be provided by the Contractor shall include such of the following services (insofar as they relate to the Services) as the DCC may specify in the Termination Assistance Notice:

- (a) ceasing all non-critical Software changes (by agreement with the DCC and subject, where applicable, to paragraph 1.3 of Part E of this Schedule 8.5);
- (b) notifying the Contractor Persons of the procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
- (c) providing an adequate explanation of the procedures, standards and operations used to provide the Services (where such information is not already detailed in the Operations Manual) to the extent reasonably necessary to enable a competent services provider to provide the Services following the expiry or termination of this Agreement;
- (d) providing reasonable support and assistance to enable the DCC and/or any Replacement Contractor to:



- (i) understand any operational and/or business processes and procedures used by the Contractor or any other Contractor Person in the provision of the Services and which will need to be replicated by the DCC and/or the Replacement Contractor and is not required to be known by a diligent and experienced Replacement Contractor;
 - (ii) re-write and implement such processes and procedures so that they are appropriate for use by the DCC and/or any Replacement Contractor in providing the Services after the end of the Termination Assistance Period;
- (e) delivering to the DCC the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports relating to the twelve (12) month period immediately before the start of the Termination Assistance Period;
- (f) providing details of work volumes and staffing requirements over the twelve (12) month period immediately before the start of the Termination Assistance Period;
- (g) with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition to the DCC and/or any Replacement Contractor;
- (h) providing the DCC with any problem logs which have not previously been provided to the DCC;
- (i) providing assistance and expertise as necessary to examine all external governance and reporting procedures in place for the provision of the Services and providing reasonable support and assistance to the DCC and/or any Replacement Contractor in re-writing and implementing such procedures so that they are appropriate for use by the DCC and/or any Replacement Contractor in providing the Services after the end of the Termination Assistance Period;
- (j) providing assistance and expertise as necessary to examine all relevant personnel roles and responsibilities in place for the provision of the Services;
- (k) reviewing all software libraries used in connection with the Services and providing details of these to the DCC and/or any Replacement Contractor;
- (l) assisting in establishing naming conventions for the new production site;
- (m) analysing and providing information regarding:
 - (i) historical performance data in relation to the Services (including performance against the Performance Measures) in relation to the twelve (12) month period immediately before the start of the Termination Assistance Period;
 - (ii) capacity and performance requirements;
 - (iii) processor requirements and bandwidth requirements; and



- (iv) known planned requirements for capacity growth in relation to the Services;
- (n) agreeing with the DCC a handover plan for all of the Contractor's responsibilities as set out in the Security Management Plan to be implemented under Schedule 2.5 (Security Management Plan). The Contractor will co-operate fully in the execution of the agreed plan, providing skills and expertise of a suitable standard;
- (o) assisting in the execution of a parallel operation of the Services at the same time as any Replacement Services;
- (p) assisting in the execution of a parallel operation of the maintenance and support of the Contractor System until the end of the Termination Assistance Period or as otherwise specified by the DCC (provided that these Services end on a date no later than the end of the Termination Assistance Period);
- (q) providing existing training materials directly relating to the Services to the DCC and/or any Replacement Contractor;
- (r) providing reasonable support and assistance to the DCC and/or any Replacement Contractor regarding their analysis of the training requirements of the DCC and/or any Replacement Contractor in relation to the provision of the Services following the end of the Termination Assistance Period;
- (s) providing up to two (2) "train the trainer" training events for those personnel of the DCC and/or any Replacement Contractor responsible for internal training in connection with the provision of Service components following the end of the Termination Assistance Period;
- (t) providing for transfer to the DCC and/or any Replacement Contractor of such knowledge related to the Services as reasonably required by the DCC and/or the Replacement Contractor for the provision of the Services following the end of the Termination Assistance Period, provided it is not required to be known by a diligent and experienced Replacement Contractor;
- (u) answering all reasonable questions from the DCC and/or its Replacement Contractor regarding the Services; and
- (v) agreeing with the DCC and/or the Replacement Contractor a plan for the migration of the DCC Data to the DCC and/or the Replacement Contractor. The Contractor will fully co-operate in the execution of the agreed plan by the DCC and/or the Replacement Contractor, providing skills and expertise of a reasonably acceptable standard.

5. **DISPUTES RELATING TO TERMINATION ASSISTANCE SERVICES**

Where there is any Dispute between the parties regarding the manner in which the Termination Assistance Services are to be performed, such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

PART G – TRANSFER OF ASSETS, CONTRACTS AND PERSONNEL

1. PROVISION OF UPDATED ASSET REGISTER

Within five (5) Business Days after receipt of a Termination Assistance Notice from the DCC, the Contractor shall provide the DCC with an up-to-date copy of the Asset Register.

2. RELEVANT ASSETS

No modifications or disposals by the Contractor

- 2.1 Following the service of a Termination Notice under this Agreement by either party and during the Termination Assistance Period, the Contractor shall not, without the DCC's prior written consent (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Relevant Assets or acquire any new Relevant Assets.

Notification by the DCC

- 2.2 Within thirty (30) days of receipt of the up-to-date Asset Register from the Contractor pursuant to paragraph 1, the DCC shall notify the Contractor:

- (a) which of the Transferable Assets the DCC requires to be transferred to the DCC or any Replacement Contractor; and
- (b) which of the Ongoing Access Assets the DCC requires to be made available by the Contractor for use by the DCC and/or any Replacement Contractor following the expiry or termination of this Agreement.

- 2.3 Where requested by the DCC and/or any Replacement Contractor, the Contractor shall provide all reasonable assistance to the DCC and/or any Replacement Contractor to enable it to determine which Relevant Assets the DCC and/or its Replacement Contractor requires in order to provide the Services after the end of the Termination Assistance Period.

Transfer of Transferable Assets

- 2.4 In respect of any Transferable Assets identified by the DCC under paragraph 2.2, the Contractor shall, with effect from the expiry of the Termination Assistance Period, assign to the DCC (and/or its nominated Replacement Contractor), free from all liens, charges, options, encumbrances and third party rights, title to and all rights and interests in those Transferable Assets. Such Transferable Assets will be acquired:

- (a) at no cost to the DCC or its nominated Replacement Contractor where:
 - (i) such Transferrable Assets are transferred following the expiry of this Agreement; or
 - (ii) a Termination Payment under Schedule 7.2 (Payments on Termination) is payable by the DCC (in which case, payment for such Transferable Assets shall be deemed to be included within the Termination Payment); and

- (b) otherwise, for a consideration equal to their Net Book Value (which shall be payable by the DCC within thirty (30) days after (i) the expiry of the Termination Assistance Period or (ii) the transfer of the relevant Transferable Assets being completed, whichever is the later).

- 2.5 If the Contractor transfers any Transferable Assets under this paragraph 2 to the DCC or any Replacement Contractor which have not been maintained in accordance with Good Industry Practice such that they cannot reasonably be used by the DCC or any Replacement Contractor for the provision of the Services, then the Contractor shall indemnify the DCC against all reasonable costs incurred by the DCC or any Replacement Contractor in repairing or replacing those Transferable Assets.
- 2.6 Title and risk in any Transferable Assets transferred to the DCC or any Replacement Contractor under this paragraph 2 shall pass to the DCC or the Replacement Contractor (as applicable) upon completion of delivery.

Ongoing Access Assets

- 2.7 The parties (acting reasonably and in good faith) shall agree the basis on which the Ongoing Access Assets shall be made available to the DCC and/or any Replacement Contractor following the expiry or termination of this Agreement (and record such agreed terms in the Asset Register).

3. RELEVANT AGREEMENTS

No termination or variation by the Contractor

- 3.1 Following the service of a Termination Notice under this Agreement by either party and during the Termination Assistance Period, the Contractor shall not, without the DCC's prior written consent, terminate, enter into or vary any Relevant Agreement.

Notification by the DCC

- 3.2 Within thirty (30) days of receipt of the up-to-date Asset Register from the Contractor pursuant to paragraph 1, but subject to paragraph 3.3 of Part B, the DCC will notify the Contractor which of the Relevant Agreements the DCC requires to be assigned or novated to the DCC or any Replacement Contractor (the "**Transferring Agreements**").
- 3.3 Where requested by the DCC and/or any Replacement Contractor, the Contractor shall provide all reasonable assistance to the DCC and/or any Replacement Contractor to enable it to determine which Relevant Agreements the DCC and/or its Replacement Contractor requires in order to provide the Services after the end of the Termination Assistance Period.

Transfer of Transferring Agreements

- 3.4 In respect of any Transferring Agreements identified by the DCC under paragraph 3.2, the Contractor shall, with effect from the expiry of the Termination Assistance Period, assign or procure the novation to the DCC or a Replacement Contractor of such Transferring Agreements. The Contractor shall execute such documents and provide such other assistance as the DCC reasonably requires to effect this novation or assignment. Except as otherwise agreed by the parties:



- (a) a novation of a Transferring Agreement shall be on the terms of a novation agreement in the form reasonably requested by the DCC; and
- (b) an assignment of a Transferring Agreement shall be on the terms of an assignment agreement in the form reasonably requested by the DCC.

3.5 The DCC shall:

- (a) accept assignments from the Contractor or join with the Contractor in procuring a novation of each Transferring Agreement (as applicable); and
- (b) once a Transferring Agreement is novated or assigned to the DCC and/or any Replacement Contractor, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Agreement and exercise its rights arising under that Transferring Agreement, or as applicable, procure that a Replacement Contractor does the same.

3.6 The Contractor shall hold any Transferring Agreements on trust for the DCC until such time as the transfer of the Transferring Agreements to the DCC and/or the Replacement Contractor has been effected in accordance with this paragraph 3.

3.7 The Contractor shall indemnify the DCC (and/or any Replacement Contractor, as applicable) against each Loss arising out of any Claims made by a counterparty to a Transferring Agreement which has been assigned or novated to the DCC (and/or any Replacement Contractor) under this paragraph 3 in relation to any matters arising prior to the date of assignment or novation of such Transferring Agreement.

3.8 The DCC may notify the Contractor of any obligation under any Transferring Agreement which has been assigned or novated to the DCC (and/or any Replacement Contractor) under this paragraph 3 which it or the applicable Replacement Contractor is unable to carry out or perform without the assistance of the Contractor. The Contractor shall provide all reasonable assistance to the DCC or the applicable Replacement Contractor to enable it to comply with that obligation, provided that any costs directly incurred by the Contractor as a result of such assistance may be recovered in accordance with the Change Control Procedure (such agreement not to be unreasonably withheld or delayed by either party).

4. CONTRACTOR IPR

The parties acknowledge and agree that a perpetual licence of the Contractor Software in relation to the period following the expiry or termination of this Agreement is set out in paragraph 3.6 of Schedule 5.1 (Intellectual Property Rights).

5. CONTRACTOR PERSONNEL

The parties acknowledge and agree that in the event of the Contractor ceasing to provide the Services or part of them for any reason, Schedule 9.1 (TUPE) shall apply.

6. APPORTIONMENTS

6.1 All outgoings and expenses (including any remuneration due) and all rents, royalties and other periodical payments receivable in respect of the Transferable Assets and Transferring Agreements transferred to the DCC and/or any Replacement Contractor pursuant to paragraph 2 or 3 of this Part G shall be apportioned between the DCC and the Contractor and/or the Replacement Contractor and the Contractor, as applicable.

6.2 This apportionment will be carried out as follows:

- (a) the payments will be annualised and divided by three hundred and sixty-five (365) to reach a daily rate;
- (b) the DCC shall be responsible for (or shall procure that the Replacement Contractor shall be responsible for) or entitled to (as the case may be) an amount equal to the number of complete days during the period of the relevant invoice following the transfer pursuant to paragraph 2 or 3, multiplied by the daily rate; and
- (c) the Contractor shall be responsible for or entitled to (as the case may be) the rest of the invoice.

6.3 Each party shall pay and/or the DCC shall procure that the Replacement Contractor shall pay any monies due under paragraph 6.2 within thirty (30) days after receipt of an invoice from the relevant party. Any dispute relating to any invoice shall be resolved in accordance with the Dispute Resolution Procedure.

PART H – OBLIGATIONS AFTER THE TERMINATION ASSISTANCE PERIOD

1. PROVISION OF DCC DATA

At the end of the Termination Assistance Period (or earlier if this does not adversely affect the Contractor's performance of the Services and the Termination Assistance Services and its compliance with the other provisions of this Schedule 8.5), the Contractor shall provide the DCC and/or its nominated Replacement Contractor with a complete and uncorrupted version of the DCC Data in accordance with Clause 48.4.3, together with all relevant data schema and data definitions.

2. GENERAL

2.1 Without prejudice to the generality of Clause 37 (Confidentiality), if directed to do so by the DCC at any time in writing and promptly following the Termination Date (and in any event within twelve (12) months of the Termination Date), the Contractor shall:

(a) securely, confidentially and permanently destroy, delete and erase (in accordance with the NCSC's Secure Sanitation of Storage Media guidance (www.ncsc.gov.uk/guidance/secure-sanitation-storage-media) or such equivalent standard as the DCC may notify from time to time) all DCC Data (or procure such destruction, deletion and erasure) from any computers, storage devices and storage media that have been used, at any time, by any Contractor Person in relation to the Services and which are not being transferred to the DCC;

(b) securely and confidentially return to the DCC such of the following as is in the Contractor's possession or control:

(i) all copies of the DCC Software and any other software licensed by the DCC to the Contractor under this Agreement;

(ii) all materials created by the Contractor under this Agreement, the IPRs in which are owned by the DCC;

(iii) any parts of the Contractor System and any other equipment, Assets or Hardware which belong to the DCC;

(iv) any items that have been on-charged to the DCC, such as consumables; and

(v) all security credentials; and

(c) vacate any DCC Premises.

2.2 Except where this Agreement provides otherwise, all licences, leases and authorisations granted by the DCC to the Contractor in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

2.3 Each party will return to the other party all Confidential Information of the other party, as required by Clause 37 (Confidentiality).

3. **DELIVERY OF DOCUMENTS**

At the end of the Termination Assistance Period, the Contractor shall deliver up-to-date copies of the following documents:

- (a) the Asset Register;
- (b) the Operations Manual; and
- (c) any other documents identified in the Exit Plan as being delivered at the end of the Termination Assistance Period.

SCHEDULE 8.6

BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN

PURPOSE

This Schedule 8.6 (Business Continuity and Disaster Recovery Plan) sets out the DCC's requirements regarding:

- a) continuation of the DCC business processes and operations (including the provision of the DCC Services) supported by the Contractor Solution where a Service Disruption or Disaster occurs; and
- b) recovery of the DCC business processes and operations (including the provision of the DCC Services) supported by the Contractor Solution where a Service Disruption or Disaster occurs.

It also includes a requirement on the Contractor to develop, review, test, change and maintain as appropriate an effective business continuity and disaster recovery plan in respect of the Contractor Solution (the "**BCDR Plan**").

The BCDR Plan will form part of the E2E BCDR Plan owned by the DCC. The E2E BCDR Plan is a business continuity and disaster recovery plan which covers the whole of the End-to-End Smart Metering System. The E2E BCDR Plan will be formed of Contractor's BCDR Plan and the Related BCDR Plans (and any equivalent BCDR plans of the DCC).

This Schedule 8.6 (Business Continuity and Disaster Recovery Plan) comprises the following parts:

Part	Scope
Part A	Development of the BCDR Plan
Part B	Required content of the BCDR Plan
Part C	Review and amendment of the BCDR Plan
Part D	Testing of the BCDR Plan
Part E	Invocation
Appendix 1	Outline BCDR Plan

PART A – DEVELOPMENT OF THE BCDR PLAN

1. OVERVIEW OF BCDR PLAN

- 1.1. The BCDR Plan shall be divided into three sections:
 - 1.1.1. section 1 which shall set out the general principles applicable to the BCDR Plan, as further described in paragraph 1 of Part B below ("**General Principles**");
 - 1.1.2. section 2 which shall relate to business continuity, as further described in paragraph 2 of Part B below ("**Business Continuity Plan**"); and
 - 1.1.3. section 3 which shall relate to disaster recovery, as further described in paragraph 3 of Part B below ("**Disaster Recovery Plan**").
- 1.2. The BCDR Plan shall detail the processes and arrangements which the Contractor shall follow to ensure:
 - 1.2.1. continuation of the DCC business processes and operations (including the provision of the DCC Services) supported by the Contractor Solution where a Service Disruption or Disaster occurs; and
 - 1.2.2. recovery of the DCC business processes and operations (including the provision of the DCC Services) supported by the Contractor Solution where a Service Disruption or Disaster occurs.

2. OUTLINE BCDR PLAN

- 2.1. An outline BCDR plan ("**Outline BCDR Plan**") has been agreed between the DCC and the Contractor and is set out in Appendix 1. Subject to paragraph 2.2, the Outline BCDR Plan shall be binding upon the Contractor from the Commencement Date until the full BCDR Plan is agreed between the Parties in accordance with paragraph 4 (Development of BCDR Plan).
- 2.2. The Parties may agree certain amendments to the Outline BCDR Plan to reflect the outcome of the BCDR Alignment Workshops (as defined at paragraph 3.2.1) and other procedures referred to in paragraph 3 (Related BCDR Plans).

3. RELATED BCDR PLANS

- 3.1. The Contractor acknowledges that:
 - 3.1.1. in relation to certain operational matters, the BCDR Plan may need to be consistent with, and interoperate with, the disaster recovery and/or business continuity plans of the DCC and certain of the DCC Service Providers (as notified to the Contractor by the DCC from time to time) (each, a "**Related BCDR Plan**");
 - 3.1.2. this Schedule 8.6 (Business Continuity and Disaster Recovery Plan)

sets out certain procedures which are intended to ensure that the BCDR Plan complies with the requirements of paragraph 3.1.1; and

- 3.1.3. where applicable, the relevant DCC Service Providers shall be subject to equivalent procedures which are intended to ensure that the Related BCDR Plans also comply with the requirements of paragraph 3.1.1.
- 3.2. In order to facilitate compliance with the requirements of paragraph 3.1.1 by all relevant persons:
 - 3.2.1. the DCC shall organise one (1) or more workshops relating to the alignment of the BCDR Plan and the Related BCDR Plans (at the times and locations specified by the DCC, acting reasonably) (each, a **"BCDR Alignment Workshop"**);
 - 3.2.2. the Contractor shall ensure that appropriate representatives of the Contractor (or, where applicable, any Key Sub-contractor), including any representatives specifically identified by DCC, attend each of the BCDR Alignment Workshops; and
 - 3.2.3. the Contractor shall promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by the DCC and/or any of the DCC Service Providers identified by the DCC under paragraph 3.1.1 in relation to:
 - i. the conduct of any of the BCDR Alignment Workshops; and/or
 - ii. the preparation of the Related BCDR Plans and their alignment with the BCDR Plan.
- 3.3. The Contractor acknowledges and agrees that it shall be required to ensure that the BCDR Plan is consistent with, and interoperates with, the Related BCDR Plans in relation to certain operational matters, both in relation to the initial development of the BCDR Plan under this Part A and on an ongoing basis in accordance with Part C.

4. DEVELOPMENT OF THE BCDR PLAN

- 4.1. The Contractor acknowledges that, as a result of the alignment process referred to in paragraph 3 above, the development of the BCDR Plan may need to be conducted on an iterative basis in connection with one or more BCDR Alignment Workshops. Accordingly, the DCC (acting reasonably) may require the Contractor to deliver to the DCC a draft BCDR Plan (or, where applicable, an updated draft BCDR Plan) within ten (10) Business Days after one or more of the BCDR Alignment Workshops. The Contractor shall comply with each such request, and shall ensure that each draft of the BCDR Plan:
 - 4.1.1. complies with the requirements of this Schedule 8.6 (Business Continuity and Disaster Recovery Plan), including Part B below;
 - 4.1.2. complies with the requirements set out in Schedule 2.1 (DCC Requirements);

- 4.1.3. complies with, and has been developed in accordance with, the applicable Security Standards;
 - 4.1.4. complies with the agreed outcome of any BCDR Alignment Workshops and other procedures referred to in paragraph 3; and
 - 4.1.5. complies with the Outline BCDR Plan, unless otherwise agreed by the parties in writing (including to reflect the outcome of the BCDR Alignment Workshops and other procedures referred to in paragraph 3).
- 4.2. The Contractor shall ensure that the disaster recovery and business continuity plans of its Sub-contractors are consistent with, and integrated with, the BCDR Plan.
- 4.3. Within ten (10) Business Days after receipt of the draft BCDR Plan from the Contractor, the DCC shall notify the Contractor if it (acting reasonably) considers that:
- 4.3.1. the draft is insufficiently detailed to be properly evaluated;
 - 4.3.2. the draft does not comply with any of the requirements set out in paragraph 4.1;
 - 4.3.3. the procedures, activities, resources or other arrangements described in the draft are inadequate to ensure:
 - i. continuation of the DCC business processes and operations (including the provision of the DCC Services) supported by the Contractor Solution where a Service Disruption or Disaster occurs; and
 - ii. recovery of the DCC business processes and operations (including the provision of the DCC Services) supported by the Contractor Solution where a Service Disruption or Disaster occurs;
 - 4.3.4. any testing arrangements specified in the draft BCDR Plan are insufficient or impractical;
 - 4.3.5. any Recovery Time Objectives, Recovery Point Objectives or equivalent objectives set out in the draft BCDR Plan are insufficient, taking account of:
 - i. the relevant requirements set out in Schedule 2.1 (DCC Requirements), Schedule 2.2 (Performance Measures and Monitoring), this Schedule 8.6 (Business Continuity and Disaster Recovery Plan) and/or the Outline BCDR Plan; and/or
 - ii. the need for the BCDR Plan to be consistent with, and interoperate with, the Related BCDR Plans;
 - 4.3.6. any of:



- i. the proposed obligations on the DCC;
- ii. the proposed obligations on any DCC Service Providers; and/or
- iii. any other proposed dependencies,

specified by the Contractor in the draft BCDR Plan are unreasonable or impractical for any reason (taking account of the relevant resources available to the DCC, the DCC Service Providers or any applicable third parties);

- 4.3.7. the draft BCDR Plan is not consistent and/or does not interoperate with any Related BCDR Plan;
- 4.3.8. the BCDR Plan has been developed in a way which prevents, or substantially hinders, any Related BCDR Plan being consistent and/or interoperating with the BCDR Plan as required by the DCC; and/or
- 4.3.9. the BCDR Plan is not consistent with or aligned to the technical solution design,

(each for the purposes of this paragraph 4, a "**non-conformity**").

- 4.4. By no later than ten (10) Business Days (or such longer period as determined by the DCC, acting reasonably and taking appropriate account of both (i) the extent of the relevant amendments and (ii) the need to ensure that the BCDR Plan is approved in an expeditious manner) after receipt of a notice from the DCC under paragraph 4.3 or 4.5, the Contractor shall:

- 4.4.1. make any amendments to the BCDR Plan that are necessary to address any non-conformities notified by the DCC under paragraph 4.3 or 4.5; and

- 4.4.2. re-submit the revised BCDR Plan to the DCC for approval.

- 4.5. Within ten (10) Business Days after receipt of the revised BCDR Plan from the Contractor, the DCC shall notify the Contractor of any new or outstanding non-conformities.

- 4.6. The process in paragraphs 4.4 and 4.5 will then be repeated until the DCC notifies the Contractor that the BCDR Plan is approved (except that the timescales in paragraphs 4.4 and 4.5 may be adjusted in relation to any repetition of the process in such paragraphs by the DCC, acting reasonably and taking appropriate account of the extent of any amendments to be made to the BCDR Plan by the Contractor). Any dispute relating to the existence of non-conformities in the draft BCDR Plan shall be referred to the Dispute Resolution Procedure.

- 4.7. The DCC shall provide any information or assistance reasonably requested by the Contractor in relation to the preparation of the BCDR Plan under this paragraph 4 (or any updates under Part C).

- 4.8. The Contractor acknowledges and accepts that the DCC's approval of the



BCDR Plan shall not relieve the Contractor of its responsibility for ensuring that the BCDR Plan at all times complies with the requirements of this Schedule 8.6 (Business Continuity and Disaster Recovery Plan).



PART B – REQUIRED CONTENT OF THE BCDR PLAN

1. GENERAL PRINCIPLES AND REQUIREMENTS

- 1.1. The BCDR Plan shall:
 - 1.1.1. be consistent with the BCDR Solution Specification delivered as part of Schedule 6.3 (Development Process);
 - 1.1.2. set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 1.1.3. provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the Contractor Solution and any services provided to the DCC by DCC Service Providers;
 - 1.1.4. contain an obligation upon the Contractor to liaise with the DCC and (at the DCC's request) any DCC Service Providers and/or DCC Service Users with respect to issues concerning business continuity and disaster recovery. Liaison with the DCC Service Providers shall be conducted in accordance with the applicable Co-operation Agreement, Schedule 8.7 (Co-operation) and the Contractor's other obligations under this Agreement;
 - 1.1.5. provide reasonable detail regarding how the BCDR Plan is consistent with, and interoperates with, the Related BCDR Plans;
 - 1.1.6. provide reasonable details of how any failure of any of the services provided to the DCC by DCC Service Providers may impact on the provision of the Services (and how the Contractor shall respond to any such impact);
 - 1.1.7. provide reasonable details of how the invocation of any element of any Related BCDR Plan may impact upon the provision of the Services (and how the Contractor shall respond to any such impact);
 - 1.1.8. contain a communication strategy including details of an Incident and Problem management service;
 - 1.1.9. contain a risk analysis, including:
 - i. Service Disruption and Disaster scenarios and assessments and estimates of frequency of occurrence;
 - ii. identification of any single points of failure within the Contractor Solution and processes for managing and mitigating the risks arising from any such single points of failure;
 - iii. identification of risks arising from the interaction of the Contractor Solution with the services provided by any of the DCC Service Providers; and
 - iv. a business impact analysis (detailing the impact on business processes and operations) of different anticipated Service

Disruptions and Disasters;

- 1.1.10. provide for documentation of processes, including business processes, and procedures that are relevant to the Services;
 - 1.1.11. set out key contact details (including roles and responsibilities) for the Contractor (and any Key Sub-contractors) and for the DCC;
 - 1.1.12. identify the procedures for reverting to "normal service";
 - 1.1.13. set out method(s) of recovering or updating all DCC Data which is collected (or which ought to have been collected) during a Service Disruption or Disaster;
 - 1.1.14. identify the responsibilities (if any) that the DCC has agreed it will assume in the event of the invocation of the BCDR Plan;
 - 1.1.15. provide for the provision of technical advice and assistance to key contacts at the DCC (as notified by the DCC from time to time) regarding the BCDR Plan and/or its integration with the DCC's business continuity plans;
 - 1.1.16. specify the tests to be conducted by the Contractor in accordance with Part D of this Schedule 8.6 (Business Continuity and Disaster Recovery Plan) (which shall be sufficient to determine the extent to which the BCDR Plan complies with the requirements of this Schedule 8.6 (Business Continuity and Disaster Recovery Plan) and, accordingly, the extent to which the Contractor is able to comply with its applicable obligations under this Agreement); and
 - 1.1.17. specify the Recovery Time Objectives, Recovery Point Objectives and any other equivalent objectives applicable to the Services (which, as a minimum, shall be consistent with the requirements of this Agreement, including Schedule 2.2 (Performance Measures and Monitoring)).
- 1.2. The BCDR Plan shall be designed so as to ensure that:
- 1.2.1. the Services are provided in accordance with this Agreement (including each of the DCC Requirements) at all times during and after the invocation of the BCDR Plan;
 - 1.2.2. the adverse impact of any Disaster or Service Disruption on the operations of the DCC (including the provision of the DCC Services) is minimised as far as reasonably possible;
 - 1.2.3. it complies (and that the Contractor is able to comply with) with all relevant standards and guidelines specified in Schedule 2.3 (Standards) including:
 - i. BS ISO 27031;
 - ii. ISO 22301; and

- iii. the Business Continuity Institute (BCI) Good Practice Guidelines;
- 1.2.4. there is a process for the management of disaster recovery testing detailed in the BCDR Plan;
- 1.2.5. there will be no Breach of Security as a result of any Disaster or Service Disruption;
- 1.2.6. there will be no loss of any DCC Data as a result of any Disaster or Service Disruption in excess of the relevant Recovery Point Objective; and
- 1.2.7. the integrity of all DCC Data shall be preserved notwithstanding any Disaster or Service Disruption.
- 1.3. The BCDR Plan must be sufficiently flexible to support any changes to:
 - 1.3.1. the Contractor Solution;
 - 1.3.2. the DCC business processes facilitated by, and the DCC business operations (including the provision of the DCC Services) supported by, the Contractor Solution; and/or
 - 1.3.3. any of the Related BCDR Plans.

2. BUSINESS CONTINUITY – PRINCIPLES AND CONTENTS

- 2.1. The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure: (i) that the DCC business processes and operations (including the provision of the DCC Services) facilitated by the Contractor Solution remain supported; and (ii) continuation of the DCC business operations (including the provision of the DCC Services) supported by the Contractor Solution, including (unless DCC expressly states otherwise in writing):
 - 2.1.1. the alternative processes (including business processes), options and responsibilities that shall be adopted in the event of a Service Disruption; and
 - 2.1.2. the steps to be taken by the Contractor upon resumption of the Services in order to address any prevailing effect of the Service Disruption, including a root cause analysis of the Service Disruption and a plan to mitigate the cause(s) identified.
- 2.2. The Business Continuity Plan shall address the various possible levels of Service Disruptions and the services to be provided, and the steps to be taken, to remedy the different levels of Service Disruption.
- 2.3. The Business Continuity Plan shall set out details of how the Contractor shall ensure compliance with Security Standards (including those set out in Schedule 2.3 (Standards), Schedule 2.5 (Security Management Plan) and/or Schedule 2.1 (DCC Requirements)), ensuring that compliance is maintained for any period during which the Business Continuity Plan is invoked.

- 2.4. The Business Continuity Plan shall clearly set out the conditions and/or circumstances under which the Disaster Recovery Plan is invoked.
- 2.5. The Business Continuity Plan shall set out details of how the Contractor's Security Operations Centre(s) and Network Operations Centre(s) (including with respect to people and premises) will support DCC (and the DCC Group) in the event of a Service Disruption.
- 2.6. The Business Continuity Plan shall clearly set out Contractor's arrangements for testing any Services provided from the Contractor's SOC(s) and/or NOC(s).

3. DISASTER RECOVERY ELEMENT – PRINCIPLES AND CONTENTS

- 3.1. The Disaster Recovery Plan shall be designed so as to ensure that, upon the occurrence of a Disaster, the Contractor can ensure continuity of the business operations of DCC (including the provision of the DCC Services) supported by the Contractor Solution with, as far as reasonably possible, minimal adverse impact.
- 3.2. The Disaster Recovery Plan shall include the following:
 - 3.2.1. details of the Disaster Recovery Services;
 - 3.2.2. the technical design and build specification of the BCDR Solution;
 - 3.2.3. details of the procedures and processes to be put in place by the Contractor and any Key Sub-contractor in relation to the BCDR Solution and the provision of the Disaster Recovery Services and any testing of the same including:
 - i. data centre and disaster recovery site audits and processes to agree with the DCC to implement defects or issues identified as a result of the BCDR site audits;
 - ii. backup methodology and details of the Contractor's approach to data back-up and data verification;
 - iii. identification of all appropriate disaster scenarios (including all disaster scenarios required by Good Industry Practice and BCI Good Practice Guidelines);
 - iv. appropriate risk analysis (including analysis of logical and physical risk scenarios and organisational and operational risk scenarios);
 - v. documentation of processes and procedures;
 - vi. hardware configuration details;
 - vii. network planning including details of all relevant data networks and communication links;
 - viii. invocation rules;

- ix. Service recovery procedures;
 - x. steps to be taken upon Service resumption to address any prevailing effect of the Disaster; and
 - xi. the process for invoking the Disaster Recover Plan.
- 3.2.4. any applicable performance measures with respect to the provision of Disaster Recovery Services and details of any relaxation of the other Performance Measures specified in this Agreement during any period of invocation of the Disaster Recovery Plan (as agreed with the DCC);
- 3.2.5. details of how the Contractor shall ensure compliance with Security Standards (including those set out in Schedule 2.3 (Standards), Schedule 2.5 (Security Management Plan) and/or Schedule 2.1 (DCC Requirements)), ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 3.2.6. details of how the Contractor will ensure ongoing compliance with the DCC Requirements during any period of invocation of the Disaster Recovery Plan; and
- 3.2.7. access controls to any disaster recovery sites used by the Contractor or any Key Sub-contractor in relation to its obligations pursuant to this Schedule 8.6 (Business Continuity and Disaster Recovery Plan).

PART C – REVIEW AND AMENDMENT OF THE BCDR PLAN

1. REVIEW AND AMENDMENT PROCEDURES

- 1.1. The Contractor shall, at its own cost, review the BCDR Plan (and the risk analysis on which it is based):
 - 1.1.1. on a regular basis and, as a minimum, once every six (6) months;
 - 1.1.2. within ten (10) Business Days after the implementation of (i) any material Change to this Agreement or (ii) any Change;
 - 1.1.3. within ten (10) Business Days after the implementation of any material change to the Contractor Solution;
 - 1.1.4. within ten (10) Business Days after any material change to the DCC business processes facilitated by, and the DCC business operations (including the provision of the DCC Services) supported by, the Contractor Solution (as notified to the Contractor by the DCC from time to time);
 - 1.1.5. within ten (10) Business Days after any material change to known or identified vulnerabilities or risks;
 - 1.1.6. within ten (10) Business Days after any material change to the E2E BCDR Plan;
 - 1.1.7. within ten (10) Business Days after any material change to any Related BCDR Plan (as notified to the Contractor by the DCC from time to time); and
 - 1.1.8. within three (3) months after the BCDR Plan (or any part) having been invoked pursuant to Part E of this Schedule 8.6 (Business Continuity and Disaster Recovery Plan).

The parties (acting reasonably) may agree to consolidate or co-ordinate some of the above review requirements on a case-by-case basis where appropriate.

- 1.2. The DCC may, at any time, request an additional review of the BCDR Plan in addition to those referred to in paragraph 1.1, and the Contractor shall conduct any such review in accordance with DCC's written requirements, provided that:
 - 1.2.1. the DCC notifies the Contractor at least ten (10) Business Days before it requires such review to be completed by the Contractor; and
 - 1.2.2. the reasonable costs incurred by the Contractor in relation to such review (to be agreed by the parties prior to starting the review) shall be borne by the DCC.
- 1.3. Each review of the BCDR Plan under paragraph 1.1 or 1.2 shall:

- 1.3.1. be a review of the procedures and methodologies set out in the BCDR Plan;
- 1.3.2. assess their suitability having regard to any change to:
 - i. the Contractor Solution;
 - ii. any underlying DCC business processes and operations (including the provision of the DCC Services) facilitated by or supported by the Contractor Solution; and/or
 - iii. any of the Related BCDR Plans,which have taken place since the date which is later of (i) the original approval of the BCDR Plan or (ii) the last review of the BCDR Plan; and
- 1.3.3. have regard to any occurrence of any event since the date referred to in paragraph 1.3.2 (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan.
- 1.4. Each review of the BCDR Plan under paragraph 1.1 or 1.2 shall be completed by the Contractor within the period specified in paragraph 1.1 or, where paragraph 1.2 applies, within such period as DCC shall reasonably require.
- 1.5. The Contractor shall, within ten (10) Business Days after the conclusion of each review of the BCDR Plan under paragraph 1.1 or 1.2, provide to DCC a report ("**Review Report**") setting out:
 - 1.5.1. the findings of the review;
 - 1.5.2. any changes in the risk profile associated with the Contractor Solution; and
 - 1.5.3. the Contractor's proposals for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Contractor can reasonably be expected to be aware of the same) that the implementation of such proposals may have on:
 - i. the DCC business processes and operations (including the provision of the DCC Services) facilitated by or supported by the Contractor Solution;
 - ii. any services provided to the DCC by any DCC Service Providers; and/or
 - iii. any Related BCDR Plans,(the "**Contractor Proposals**").
- 1.6. The Contractor Proposals shall be reviewed and approved by the DCC in

accordance with the procedure set out in paragraph 4 (Development of the BCDR Plan) of Part A of this Schedule 8.6 (Business Continuity and Disaster Recovery Plan).

- 1.7. As soon as reasonably practicable (and, in any event, within ten (10) Business Days) after receiving the DCC's approval of the Contractor Proposals under paragraph 1.6, the Contractor shall update the BCDR Plan to incorporate the approved Contractor Proposals.



PART D – TESTING OF THE BCDR PLAN

1. GENERAL TESTING PROCEDURES

- 1.1. The Contractor shall test the BCDR Plan on a regular basis (and, in any event, not less than once in every Contract Year) in accordance with the testing arrangements set out in the BCDR Plan and the specific test plan approved by the DCC from time to time.
- 1.2. The Contractor acknowledges that its testing activities under this Part D shall, if requested by the DCC, be co-ordinated with the equivalent testing activities of certain DCC Service Providers relating to the applicable Related BCDR Plans and/or certain DCC Service Users.
- 1.3. Without limiting paragraph 1.1, at least once in every Contract Year, the Contractor shall carry out a full test, in accordance with the testing arrangements set out in the BCDR Plan, of the "fail over" arrangements relating to the Contractor Solution (as further described in the BCDR Solution specification delivered as part of Schedule 6.3 (Development Process)) ("**Fail Over**") in order to determine whether:
 - 1.3.1. the Fail Over can be successfully implemented within the applicable period specified in the BCDR Plan;
 - 1.3.2. the Services can be provided following a Fail Over in accordance with the requirements of this Agreement; and
 - 1.3.3. the Services can be successfully restored within the applicable period specified in the BCDR Plan.
- 1.4. Where the BCDR Solution is a High Availability System, the Contractor shall ensure that resilience testing: (i) forms part of the testing arrangements; and (ii) shall be detailed in the BCDR Plan.
- 1.5. For the purposes of paragraph 1.4, "High Availability System" means an Active/Active BCDR Solution that has multiple system components working together in an N+1 to ensure uninterrupted continuous operation for a 'higher than normal' period, as determined by the DCC.

2. ADDITIONAL TESTING

- 2.1. Subject to paragraph 2.2, the DCC may (acting reasonably) require the Contractor to conduct additional tests of some or all aspects of the BCDR Plan at any time where the DCC considers it necessary, including:
 - 2.1.1. where there has been any change to:
 - i. the Contractor Solution;
 - ii. the DCC business processes facilitated by, and the DCC business operations (including the provision of the DCC Services) supported by, the Contractor Solution; and/or
 - iii. any of the Related BCDR Plans;

- 2.1.2. on the occurrence of any event which may increase the likelihood of the need to invoke the BCDR Plan.
- 2.2. If the DCC requires an additional test of the BCDR Plan under paragraph 2.1:
 - 2.2.1. the DCC shall give the Contractor at least ten (10) Business Days' prior written notice of the date(s) on which such tests are to be conducted; and
 - 2.2.2. the Contractor shall conduct the test in accordance with the DCC's requirements and the relevant provisions of the BCDR Plan.
- 2.3. The Contractor's costs of the additional test shall be borne by DCC unless the BCDR Plan fails the additional test in which case the Contractor's costs of that failed test shall be borne by the Contractor.

3. TESTING REQUIREMENTS

- 3.1. The Contractor shall undertake and manage any testing of the BCDR Plan in full consultation with the DCC and shall liaise with the DCC in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the DCC in this regard (which shall include performing such testing activities in accordance with paragraph 1.2). Each test shall be carried out under the supervision of the DCC or its nominee.
- 3.2. The Contractor shall ensure that any use by it or any Sub-contractor of any DCC Confidential Information in such testing is first approved by the DCC in writing. Copies of any DCC Confidential Information used in any such testing shall be (if so required by DCC) destroyed or returned to DCC on completion of the test.
- 3.3. Following completion of each test, the Contractor shall provide to the DCC a written report summarising any circumstances revealed during the test that would (or may) result in a Severity Level 1 Incident, Severity Level 2 Incident, or Severity Level 3 Incident if a Service Disruption or Disaster occurred. In particular, the report shall set out:
 - 3.3.1. the reasons for the occurrence of such Incidents; and
 - 3.3.2. the Contractor's proposals for remedying any such Incidents.

The Contractor shall provide such report to the DCC within (i) five (5) Business Days after the completion of each test in relation to any Severity Level 1 Incidents and (ii) ten (10) Business Days after the completion of each test in relation to any Severity Level 2 Incidents or Severity Level 3 Incidents.

- 3.4. The Contractor shall, within twenty (20) Business Days after the conclusion of each test, provide to the DCC a written report summarising the full results of the test and, in particular, setting out:
 - 3.4.1. the outcome of the test;
 - 3.4.2. any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and



- 3.4.3. the Contractor's proposals for remedying any such failures.
- 3.5. Following each test, the Contractor shall promptly implement any actions or remedial measures reasonably requested in writing by the DCC (including requests for the re-testing of the BCDR Plan) to remedy any deficiencies in the BCDR Plan. Such remedial activity and re-testing shall be completed by the Contractor, at no additional cost to the DCC, by the date reasonably required by the DCC and set out in such notice.
- 3.6. For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Contractor of any of its obligations under this Schedule 8.6 (Business Continuity and Disaster Recovery Plan) or otherwise.

4. CO-OPERATION WITH DCC SERVICE PROVIDERS

- 4.1. The Contractor shall promptly provide any co-operation, documentation, data, information or other assistance reasonably requested by the DCC and/or any of the DCC Service Providers identified by the DCC under paragraph 3.1.1 of Part A in relation to the testing of any Related BCDR Plan.

PART E – INVOCATION

1. INVOCATION REQUIREMENTS

- 1.1. In the event of a Service Disruption or a Disaster, the Contractor shall:
 - 1.1.1. immediately take the appropriate steps as identified by the BCDR Plan (and shall inform the DCC promptly of such steps having been taken); and
 - 1.1.2. ensure that Services (and each relevant part thereof) and the Contractor Solution (and each relevant part thereof) are recovered in order to meet the Recovery Time Objective and Recovery Point Objective (as applicable).
- 1.2. In all other instances, the Contractor shall only invoke or test the BCDR Plan with the prior consent of the DCC.
- 1.3. The Disaster Recovery Plan shall only be invoked upon the occurrence of a Disaster.
- 1.4. A Disaster shall only be declared, and/or a Fail Over initiated, in accordance with the applicable rules and procedures set out in the Disaster Recovery Plan.
- 1.5. Any “fail back” of the Services following the occurrence of a Fail Over shall be subject to the prior written consent of the DCC and the applicable rules and procedures set out in the Disaster Recovery Plan.

Appendix 1 – Outline BCDR Plan

1. INTRODUCTION

2. PLAN STRATEGY

2.1. Assets

2.2. Disaster Definition

2.3. Expected Disruptions and Failures

2.4. Prevention and Mitigation Strategy

2.5. Related BCDR Plans

3. PLAN ACTIVATION

3.1. Initiation Plan

3.2. Disaster Recovery Team

3.3. Reviewing and Updating the BCDR Plan

3.4. Testing the BCDR Plan

4. PLAN TESTING

4.1. Testing Scenarios

4.2. Test Execution

4.3. Test Evaluation and Input

ANNEX A. DISASTER RECOVERY LOG

ANNEX B. TEST RESULTS TEMPLATE

ANNEX C. ANNUAL TEST RESULTS

SCHEDULE 8.7

CO-OPERATION

This Schedule 8.7 comprises the following parts:

Part	Scope
Part A	Overview
Part B	General co-operation obligations
Part C	Co-operation agreements

In this Schedule 8.7 (Co-operation):

"Co-operation Agreement"	means each co-operation agreement entered into by the Contractor in accordance with Schedule 8.7 (Co-operation) as further described in: <ul style="list-style-type: none">(a) paragraph 4.2;(b) paragraphs 4.4 and 4.5; and(c) paragraph 4.6, of Part C of Schedule 8.7 (Co-operation), each as may be amended from time to time;
"Co-operation Agreement Dispute"	means any dispute, difference or question of interpretation as between the Contractor and a Relevant Counterparty arising out of or in relation to a Co-operation Agreement or its subject-matter or formation (including non-contractual claims), and includes any failure to agree any of the terms of a Co-operation Agreement (or any amendment to a Co-operation Agreement);
"Co-operation Objectives"	has the meaning given in paragraph 2.1 of Part A of Schedule 8.7 (Co-operation);
"End Date"	has the meaning given in paragraph 4.3 of Part C of Schedule 8.7 (Co-operation);

"Irremediable Dispute Notice"	means: (a) a notice issued by the Contractor in accordance with paragraph 7.3 of Part C of Schedule 8.7 (Co-operation); or (b) a similar notice issued by a Relevant Counterparty in accordance with the equivalent provisions of the relevant DCC Service Provider Contract;
"New Counterparty"	has the meaning given in paragraph 4.4 (a) of Part C of Schedule 8.7 (Co-operation);
"Related Service Failure"	has the meaning given in paragraph 3 of Part B of Schedule 8.7 (Co-operation);
"Relevant Counterparty"	means each other person with whom the Contractor enters into a Co-operation Agreement in accordance with: (a) paragraph 4.2; (b) paragraphs 4.4 and 4.5; or (c) paragraph 4.6, of Part C of Schedule 8.7 (Co-operation) and includes, for the avoidance of doubt, any New Counterparty;
"Relevant Deadline"	has the meaning given in paragraph 4.4.2 of Part C of Schedule 8.7 (Co-operation).
"Service Failure"	has the meaning given in paragraph 5.2 of Part B of Schedule 2.2 (Performance Measures and Monitoring)

PART A – OVERVIEW

1. GENERAL

- 1.1 This Schedule 8.7 (Co-operation) sets out certain obligations on the Contractor to co-operate with the DCC and DCC Service Providers in order to ensure that the DCC is able to provide the DCC Services in a successful and timely manner and in accordance with the DCC Obligations.
- 1.2 The Contractor's obligations and the DCC's rights and remedies under this Schedule 8.7 (Co-operation) are in addition to any co-operation or other obligations of the Contractor (or rights or remedies of the DCC) under any other provision of this Agreement or any Co-operation Agreement.
- 1.3 The parties acknowledge and agree that:
- 1.3.1 to the extent necessary, the DCC shall use reasonable endeavours to ensure that each Relevant Counterparty shall comply with equivalent obligations regarding co-operation as those set out in this Schedule 8.7 (Co-operation); and
- 1.3.2 nothing in this Schedule 8.7 (Co-operation) or any Co-operation Agreement is intended to require the Contractor to perform any of the services or other obligations expressly imposed on a DCC Service Provider under the relevant DCC Service Provider Contract.
- 1.4 The Contractor shall perform its obligations under this Schedule 8.7 (Co-operation) at its sole cost and expense (and at no additional cost to the DCC).
- 1.5 The parties' respective rights and obligations under this Schedule 8.7 (Co-operation) (and any Co-operation Agreement) are without prejudice to any other rights or obligations set out elsewhere in this Agreement.
- 1.6 The Contractor shall comply at all times with its obligations under this Schedule 8.7 (Co-operation) and each Co-operation Agreement, and co-operate with the DCC and relevant DCC Service Providers, in a reasonable manner and in good faith.

2. CO-OPERATION OBJECTIVES

- 2.1 The parties agree that the objectives of this Schedule 8.7 (Co-operation) and each Co-operation Agreement are to ensure that:-
- 2.1.1 where applicable, the Services are consistent with, and interoperate with, the services provided to the DCC by the DCC Service Providers;
- 2.1.2 the DCC is able to provide the DCC Services in a successful and timely manner and in accordance with the DCC Obligations;
- 2.1.3 the DCC, the Contractor and each relevant DCC Service Provider is able to develop and maintain any necessary technical, operational and/or organisational interfaces between any and each of:
- i. the Contractor Solution;

- ii. the DCC Environment and/or the DCC Services; and
 - iii. the applicable services and Systems of the relevant DCC Service Providers;
- 2.1.4 any Changes and/or continuous improvement initiatives under this Agreement (including the preparation of Continuous Improvement Plans in accordance with Schedule 2.4 (Continuous Improvement)) which may have an impact on any services provided to the DCC by the DCC Service Providers are planned, managed and delivered in an efficient and co-ordinated manner;
- 2.1.5 any relevant activities under Schedule 6.1 (Implementation Planning) and/or Schedule 6.2 (Testing and Acceptance) are planned, managed and delivered in an efficient and co-ordinated manner with any related activities of the relevant DCC Service Providers, including that the Contractor and DCC Service Providers Achieve Milestones on time and at the first attempt;
- 2.1.6 any maintenance activities under this Agreement are planned, managed and implemented in an efficient and co-ordinated manner with any relevant maintenance activities of the DCC Service Providers;
- 2.1.7 the business continuity or disaster recovery plans under this Agreement and the relevant DCC Service Provider Contracts are developed, implemented and invoked:
- i. in a consistent manner which is intended to ensure a co-ordinated response to service interruptions and disasters; and
 - ii. in accordance with the applicable provisions of Schedule 8.6 (Business Continuity and Disaster Recovery Plan);
- 2.1.8 co-operative behaviour and overall cost efficiency are promoted, which shall include that the Contractor shall:
- i. consider which DCC Service Providers and other relevant DCC Eco-System Entities will be impacted by the Contractor's choices;
 - ii. ensure relevant DCC Service Providers and other relevant DCC Eco-System Entities are proactively and promptly informed of the options which the Contractor is considering, in sufficient detail to allow such parties to consider how they may be affected and, where reasonably requested, discuss such options with those relevant DCC Service Providers and other relevant DCC Eco-System Entities;
 - iii. where reasonably practicable, consider the time and cost impact of its choices on relevant DCC Eco-system Entities; and
 - iv. refrain from knowingly, or without due consideration, choosing options which would significantly and without justification increase the costs of any DCC Eco-system Entity or cause

delay (and where such cost increases may be justified, to promptly inform DCC as to the Contractor's rationale and justification, with the Contractor having regard to, inter alia, paragraph 2.1.5 above).

- 2.1.9 any dispute or claim between the DCC, the Contractor and/or any DCC Service Provider is resolved as quickly and cost effectively as possible, with appropriate input and assistance to achieve this objective being provided by the Contractor and the relevant DCC Service Provider(s);
- 2.1.10 the Contractor and each relevant DCC Service Provider use all reasonable endeavours to co-operate (in a reasonable manner and in good faith) to resolve problems and issues relating to this Agreement or any relevant DCC Service Provider Contract on a "fix first, discuss later" basis, notwithstanding the existence of any dispute or claim relating to the same subject matter (provided that nothing in this paragraph 2.1.10 shall require the Contractor to waive any rights in respect of any such dispute or claim);
- 2.1.11 on the expiry or termination of this Agreement and/or any relevant DCC Service Provider Contract, there is an orderly transfer of the services being terminated to a replacement service provider in a manner which is co-ordinated with the ongoing provision of any continuing services (whether under this Agreement or any DCC Service Provider Contract), and
- 2.1.12 the Contractor performs service management obligations (including the identification and resolution of incidents and problems) in an efficient and co-ordinated manner with the DCC Service Providers,

(together, the "**Co-operation Objectives**").

- 2.2 The Contractor shall at all times perform its obligations under this Agreement and each Co-operation Agreement in such a manner as to enable the Co-operation Objectives to be achieved to the fullest extent possible.

PART B – GENERAL CO-OPERATION OBLIGATIONS

3. GENERAL OBLIGATIONS

3.1 The Contractor shall perform the obligations set out in the table below at all times during the Term:-

Contractor Obligation	Description
General	The Contractor shall provide such co-operation and assistance as may be reasonably required from time to time by the DCC or any DCC Service Provider in relation to any of the Co-operation Objectives. The Contractor shall promptly and proactively inform DCC and any relevant DCC Service Provider of any risk that the Co-operation Objectives may not be met.
Notification of Contractor service failures	<p>The Contractor shall promptly notify the DCC and any DCC Service Providers if:</p> <ul style="list-style-type: none"> (a) the Contractor fails to perform any of the Services in accordance with the requirements of this Agreement; and (b) such failure may have an adverse impact on the performance of any services provided to the DCC by such DCC Service Providers. <p>This obligation shall not apply in relation to Relevant Counterparties, which shall be addressed in accordance with paragraph 6 of Part C of this Schedule 8.7 (Co-operation).</p>
Notification of Related Service Failures	<p>The Contractor shall promptly notify the DCC and the DCC Service Providers if:-</p> <ul style="list-style-type: none"> (a) the Contractor becomes aware of any failure by any DCC Service Provider to perform any element of the services under the DCC Service Provider Contract; and (b) such failure has had, or may have, an adverse impact on the performance of any of the Services under this Agreement, <p>(a "Related Service Failure").</p> <p>This obligation shall not apply in relation to Relevant Counterparties, which shall be addressed in accordance with paragraph 6 of Part C of this Schedule 8.7 (Co-operation).</p>
Mitigation of Related Service Failures	Wherever possible, the Contractor shall use all reasonable endeavours to mitigate the consequences of any Related Service Failure on the performance of the Services under this Agreement (including, where

Contractor Obligation	Description
	<p>applicable, by appropriate discussions and co-operation with the relevant DCC Service Provider(s)).</p> <p>For the avoidance of doubt, this obligation does not require the Contractor to perform any of the services or other obligations under the relevant DCC Service Provider Contracts on behalf of the relevant DCC Service Providers.</p> <p>This obligation shall not apply in relation to Relevant Counterparties, which shall be addressed in accordance with paragraph 6 of Part C of this Schedule 8.7 (Co-operation).</p>
Meetings	<p>The Contractor shall attend any meetings (including, where appropriate, by telephone or video conference) during normal working hours as reasonably requested by the DCC or any DCC Service Providers (on more than five (5) Business Days' notice or any shorter period where necessary) from time to time in relation to the Co-operation Objectives, including to attempt in good faith to resolve any actual, threatened or potential issues that may arise from time to time in relation to the Services, the DCC Services and/or any services provided to the DCC by such DCC Service Providers. Where such meetings are required but are not requested by others, the Contractor shall request them.</p>
Disruption	<p>The Contractor shall use all reasonable endeavours to ensure that the performance of the Services (and any other obligations of the Contractor under this Agreement) do not disrupt the operations of any DCC Service Providers (including the provision of services to the DCC), or, where disruption is unavoidable, that such disruption is minimised to the greatest extent possible.</p>
Access to premises etc.	<p>The Contractor shall provide the relevant DCC Service Providers with reasonable access to the premises, systems and equipment used in connection with the Services to the extent that such access is reasonably necessary in relation to the Co-operation Objectives.</p> <p>Such access shall be subject to the relevant DCC Service Provider:</p> <ul style="list-style-type: none"> (a) giving reasonable notice of the need and reasons for such access; (b) complying with the reasonable policies and procedures of the Contractor applicable to such access; and

Contractor Obligation	Description
	<p>(c) entering into a confidentiality agreement with the Contractor on reasonable terms (except where the relevant DCC Service Provider is already subject to applicable confidentiality obligations to the Contractor under a Co-operation Agreement or otherwise).</p> <p>This obligation does not require the Contractor to provide such access to the extent that it would have a material adverse effect on the Contractor's business operations (and such material adverse effect cannot be avoided by alternative access arrangements agreed with the relevant DCC Service Provider, both entities acting reasonably).</p>
Access to Contractor Personnel	<p>The Contractor shall provide the DCC and any relevant DCC Service Providers with reasonable access to appropriate members of the Contractor Personnel to the extent such access is reasonably necessary in relation to the Co-operation Objectives.</p>
Access to documentation etc.	<p>The Contractor shall provide such documentation, data and/or other information reasonably requested by the DCC or any of the DCC Service Providers, to the extent such documentation, data and/or other information is reasonably necessary in relation to the Co-operation Objectives.</p> <p>Such access by a DCC Service Provider shall be subject to the relevant DCC Service Provider entering into a confidentiality agreement with the Contractor on reasonable terms (except where the relevant DCC Service Provider is already subject to applicable confidentiality obligations to the Contractor under a Co-operation Agreement or otherwise).</p>
"Fix first, discuss later"	<p>The Contractor shall comply with the principle of "fix first, discuss later", requiring that the Contractor shall concentrate on solving a problem as expeditiously as possible and leave any Disputes with the DCC or any disputes with DCC Service Providers as to who is responsible and who should bear the cost of fixing the problem and any associated legal issues until after resolution of the relevant problem.</p>
Proactive communication	<p>The Contractor shall ensure that DCC, relevant DCC Service Providers and other relevant DCC Eco-System Entities are promptly and proactively informed of any matter relating to the Contractor's performance of this Agreement which could impact the performance of DCC or the relevant DCC Service Provider(s), in sufficient detail to allow such parties to consider how they may be affected.</p>

Contractor Obligation	Description
	Where reasonably requested, the Contractor shall discuss such options with those relevant DCC Service Providers and other relevant DCC Eco-System Entities.

- 3.2 The Parties shall comply with its respective obligations under Clause 37 (Confidentiality) in respect of any of the DCC's Confidential Information and/or the Contractor's Confidential Information disclosed pursuant to this Schedule 8.7 (Co-operation).
- 3.3 For the avoidance of doubt, nothing in this Schedule 8.7 (Co-Operation) or any Co-Operation Agreement shall be interpreted as requiring the Contractor, DCC, a relevant DCC Service Provider or other DCC Eco-System Entity to take a step or share information in circumstances which would risk a party being in breach of Laws. Where compliance with this Schedule 8.7 (Co-Operation) or any Co-Operation Agreement may carry such risk, the Contractor shall in good faith (save where prohibited by Laws) discuss the matter with DCC and DCC and the Contractor shall seek, in good faith to identify means of performing obligations in this Schedule 8.7 (Co-Operation) or any Co-Operation Agreement in a manner that would not be likely to cause a party to be in breach of Laws.

PART C – CO-OPERATION AGREEMENTS

4. OBLIGATION TO ENTER INTO CO-OPERATION AGREEMENTS

4.1 This paragraph 4 addresses the following categories of Co-operation Agreement:

- 4.1.1 the initial Co-operation Agreements (as further described in paragraph 4.2 below);
- 4.1.2 replacement Co-operation Agreements (as further described in paragraphs 4.4 and 4.5 below); and
- 4.1.3 additional Co-operation Agreements (as further described in paragraph 4.6 below).

The DCC shall provide reasonable levels of support and assistance to the Contractor in relation to compliance with its obligations under paragraphs 4.2, 4.4, 4.5 and/or 4.6, including, where appropriate, by facilitating discussions with the Relevant Counterparty or New Counterparty (as applicable).

Initial Co-operation Agreements

4.2 If the DCC (acting reasonably) believes that a Co-operation Agreement may be required between the Contractor and any DCC Service Provider or DCC Service Providers, it shall notify the Contractor accordingly. Following any such notice from the DCC, the Contractor agrees to participate (in good faith) in a reasonable level of discussions with the DCC and the applicable DCC Service Provider regarding the terms of any such Co-operation Agreement. Subject to the foregoing, the Contractor shall enter into a Co-operation Agreement (substantially in the form set out in Appendix 1) with relevant DCC Service Provider(s) within such time as may be reasonably required by the DCC to achieve the Co-operation Objectives.

Obligation to comply with Co-operation Agreements

4.3 The Contractor shall comply with each Co-operation Agreement at all times until:

- 4.3.1 the end of the Service Period; or
- 4.3.2 the date on which the Relevant Counterparty to such Co-operation Agreement ceases to be a DCC Service Provider,

whichever is the earlier (the "**End Date**").

For the avoidance of doubt, following the applicable End Date, each Co-operation Agreement shall have no further effect as between the Contractor and the Relevant Counterparty. This paragraph 4.3 is without prejudice to any rights or remedies of the DCC and/or the Contractor under this Agreement in respect of the relevant Co-operation Agreement (and/or the Contractor's compliance or non-compliance with such Co-operation Agreement).

Replacement Co-operation Agreements

- 4.4 If, at any time, a Relevant Counterparty ceases to be a DCC Service Provider, the DCC shall notify the Contractor accordingly as soon as reasonably practicable, specifying:
- 4.4.1 the DCC Service Provider(s) who will be responsible for performing any services in substitution for the services previously provided to the DCC by the Relevant Counterparty (each, a **"New Counterparty"**); and
 - 4.4.2 the date on which the New Counterparty shall commence the provision of the services referred to in paragraph 4.4.1 (the **"Relevant Deadline"**).
- 4.5 The Contractor shall use all reasonable endeavours to enter into a replacement Co-operation Agreement with the New Counterparty as soon as reasonably practicable and, in any event, by no later than the Relevant Deadline. Any replacement Co-operation Agreement shall:
- 4.5.1 be based on the terms of the existing Co-operation Agreement with the previous Relevant Counterparty, except where otherwise agreed by the Contractor and the New Counterparty (both acting reasonably); and
 - 4.5.2 be consistent with the Co-operation Objectives.

Additional Co-operation Agreements

- 4.6 If, at any time, the DCC (acting reasonably) believes that an additional Co-operation Agreement may be required between the Contractor and any DCC Service Provider, it shall notify the Contractor accordingly. Following any such notice from the DCC, the Contractor agrees to participate (in good faith) in a reasonable level of discussions with the DCC and the applicable DCC Service Provider regarding:
- 4.6.1 whether an additional Co-operation Agreement is in fact required; and
 - 4.6.2 if so, the terms of such additional Co-operation Agreement.

General requirements for Co-operation Agreements

- 4.7 The Contractor shall ensure that all Co-operation Agreements are consistent with the Co-operation Objectives and the other applicable terms of this Schedule 8.7 (Co-operation).

5. REQUIREMENTS REGARDING CO-OPERATION AGREEMENTS

Review and updating of Co-operation Agreements

- 5.1 The Contractor shall work together with each Relevant Counterparty (including by means of a joint review on a Quarterly basis) to:
- 5.1.1 identify any specific dependencies between the Contractor and such Relevant Counterparty in relation to:

- i. the proper performance by each such entity of their respective obligations under this Agreement or the relevant DCC Service Provider Contract (as applicable); and/or
 - ii. the Achievement of any Milestones,
- that have been previously unidentified;
- 5.1.2 identify any other areas relating to the Smart Metering Programme where the Contractor and such Relevant Counterparty need to co-operate with each other in order to ensure that the DCC is able to provide the DCC Services in a successful and timely manner and in accordance with the DCC Obligations;
 - 5.1.3 agree specific responsibilities of the Contractor and such Relevant Counterparty in relation to each of the dependencies and other areas of co-operation referred to in paragraphs 5.1.1 and 5.1.2; and
 - 5.1.4 identify and agree any amendments to the relevant Co-operation Agreement that are necessary from time to time as the result of:
 - i. any Change in relation to this Agreement (or an equivalent change or project in relation to the relevant DCC Service Provider Contract);
 - ii. where applicable, any Service Failure or other breach of the Contractor's obligations under this Agreement (or any equivalent obligation of the Relevant Counterparty under the relevant DCC Service Provider Contract); or
 - iii. any other relevant change in circumstances.

No conflict with this Agreement

- 5.2 The Contractor shall ensure that the terms of each Co-operation Agreement do not:
 - 5.2.1 conflict with any of the Contractor's obligations under this Agreement; or
 - 5.2.2 have an adverse impact on the Contractor's ability to comply with any of its obligations under this Agreement.

Requirements of clarity and certainty

- 5.3 The Contractor acknowledges and agrees that:
 - 5.3.1 the terms of the relevant Co-operation Agreement may, in certain circumstances, be a material factor in determining whether or not an Other Service Provider Cause has occurred for the purposes of Clause 12 (Relief Events) of this Agreement;
 - 5.3.2 accordingly, it is critically important to ensure that each Co-operation Agreement is sufficiently clear, unambiguous and provides an appropriate level of detail; and

- 5.3.3 accordingly, where the terms of a relevant Co-operation Agreement do not comply with paragraph 5.3.2, the Contractor may not be in a position to comply with Clause 12.1.1 (as applicable) and, as a result, may not be entitled to the relief and remedies referred to in Clause 12 (Relief Event).

Provision of information to the DCC

- 5.4 The Contractor shall promptly provide the DCC with:
- 5.4.1 copies of all Co-operation Agreements, together with any copies of any amendments to any Co-operation Agreement;
 - 5.4.2 all information reasonably requested by the DCC from time to time to assist in its understanding of the background to, or impact of, any amendment to any Co-operation Agreement; and
 - 5.4.3 all information reasonably requested by the DCC from time to time relating to the negotiation or development of any Co-operation Agreement (or amendment to any Co-operation Agreement).

DCC involvement

- 5.5 The Contractor shall use all reasonable endeavours to perform its obligations under this Schedule 8.7 (Co-operation) and each Co-operation Agreement in a manner which is (to the extent reasonably practicable) intended:
- 5.5.1 to require the minimum level of involvement of the DCC in relation to the day-to-day operation of the Co-operation Agreements as is appropriate in the circumstances;
 - 5.5.2 to minimise the circumstances in which the DCC may need to invoke any part of the Dispute Resolution Procedure (or the equivalent procedure under the relevant DCC Service Provider Contracts).

6. NOTIFICATION OF FAILURES

- 6.1 If, at any time, the Contractor becomes aware (having given the matter reasonable consideration) that:
- 6.1.1 a Relevant Counterparty has failed to perform, or is likely to fail to perform, any obligation set out in any Co-operation Agreement (a "**Relevant Counterparty Failure**") and, as a result, the Contractor is or would be unable to comply with its obligations under any Co-operation Agreement and/or this Agreement; or
 - 6.1.2 the Contractor has failed to perform, or is likely to fail to perform, any obligation set out in any Co-operation Agreement (a "**Contractor Failure**") and, as a result, any Relevant Counterparty may be unable to comply with its obligations under any Co-operation Agreement and/or the relevant DCC Service Provider Contract,

then the Contractor shall promptly notify the DCC and the Relevant Counterparty accordingly, giving reasonable details of (i) the Relevant Counterparty Failure or Contractor Failure (as applicable) and (ii) the impact, or

likely impact, of such failure on the Contractor or the Relevant Counterparty (as applicable) (each, a "**Failure Notice**").

6.2 Following issue of a Failure Notice by the Contractor under paragraph 6.1 (or the issue by any Relevant Counterparty of a failure notice to the Contractor pursuant to the equivalent provisions of the relevant DCC Service Provider Contract), the Contractor shall co-operate and work together with the Relevant Counterparty to minimise the impact, or likely impact, of:

6.2.1 the Relevant Counterparty Failure on the ability of the Contractor to comply with its obligations under any Co-operation Agreement and/or this Agreement; or

6.2.2 the Contractor Failure on the ability of the Relevant Counterparty to comply with its obligations under any Co-operation Agreement and/or the relevant DCC Service Provider Contract.

For the avoidance of doubt, this paragraph 6.2 does not require the Contractor to perform any of the services or other obligations under the relevant DCC Service Provider Contract on behalf of the Relevant Counterparty.

7. **DISPUTES**

Obligation to seek to resolve disputes

7.1 If the Contractor considers that a Co-operation Agreement Dispute has arisen, it shall notify the Relevant Counterparty accordingly in writing ("**Co-operation Agreement Dispute Notice**"), setting out:

7.1.1 the particulars of the Co-operation Agreement Dispute;

7.1.2 the reasons why the Contractor believes that the Co-operation Agreement Dispute has arisen; and

7.1.3 the Contractor's proposed course of action to resolve the Co-operation Agreement Dispute.

7.2 Following issue of a Co-operation Agreement Dispute Notice by the Contractor (or by the Relevant Counterparty pursuant to the equivalent provisions of the relevant DCC Service Provider Contract), the Contractor shall use all reasonable endeavours to resolve any Co-operation Agreement Dispute in a prompt and efficient manner, including by invoking the escalation mechanism set out in Schedule 4 of the Co-operation Agreement.

Irremediable Disputes

7.3 The Contractor shall promptly notify the DCC if any Co-operation Agreement Dispute has not been resolved by the Contractor and the Relevant Counterparty:

7.3.1 following completion of the escalation mechanism set out in Schedule 4 of the Co-operation Agreement; and

7.3.2 in any event, within twenty (20) days after the date of the Co-operation Agreement Dispute Notice (or equivalent notice from the Relevant Counterparty).

- 7.4 The Contractor shall ensure that each Irremediable Dispute Notice issued by the Contractor under paragraph 7.3 shall include full details of:
- 7.4.1 the particulars of the Co-operation Agreement Dispute;
 - 7.4.2 the reasons why the Contractor believes that the Co-operation Agreement Dispute has arisen; and
 - 7.4.3 the reasons why the Contractor and the Relevant Counterparty have been unable to resolve the Co-operation Agreement Dispute.
- 7.5 Following receipt of an Irremediable Dispute Notice from the Contractor or any Relevant Counterparty, the DCC shall either:
- 7.5.1 invoke the Multi-Party Dispute procedure set out in Part G of Schedule 8.3 (Dispute Resolution Procedure) (and the equivalent provisions of the relevant DCC Service Provider Contract), in which case, any reference in Part G of Schedule 8.3 to:
 - i. a "Dispute" shall be deemed to be a reference to the relevant Co-operation Agreement Dispute;
 - ii. a "Relevant Provider" shall be deemed to be reference to the applicable Relevant Counterparty; and
 - iii. a "Relevant Contract" shall be deemed to be a reference to the relevant DCC Service Provider Contract.

The Contractor shall comply with its obligations under Part G of Schedule 8.3 in respect of the relevant Co-operation Agreement Dispute; or

- 7.5.2 give a determination regarding the relevant Co-operation Agreement Dispute which shall be binding on the Contractor and the Relevant Counterparty, unless, within ten (10) Business Days after receipt of the DCC's determination under this paragraph 7.5.2, either of those entities notifies the DCC (in accordance with paragraph 23 of Part G of Schedule 8.3 or the equivalent provisions of the relevant DCC Service Provider Contract) that it requests the relevant Co-operation Agreement Dispute to be treated as a Multi-Party Dispute, in which case, the DCC must invoke the Multi-Party Dispute procedure in accordance with paragraph 7.5.1 above.

Continued performance

- 7.6 Except where it is not practicable to do so, the Contractor and the Relevant Counterparty shall continue to comply with their respective obligations under the relevant Co-operation Agreement despite:
- 7.6.1 the existence of a Co-operation Agreement Dispute (and regardless of the nature of the Co-operation Agreement Dispute); and
 - 7.6.2 the referral of a Co-operation Agreement Dispute to any of the resolution procedures referred to in this paragraph 7.

Appendix 1
Template Co-operation Agreement

DATED

202[]

(1) [ENTER NAME OF PARTY] (acting as [---])

and

(2) [ENTER NAME OF PARTY] (acting as [----])

CO-OPERATION AGREEMENT

Insert a table of contents for agreement

THIS AGREEMENT is made on

20[]

BETWEEN:

- 1) **[INSERT NAME]**, a company registered in *[to be inserted]* under company number *[to be inserted]* whose registered office is at *[to be inserted]* ("**Party 1**"); and
- 2) **[INSERT NAME]**, a company registered in *[to be inserted]* under company number *[to be inserted]* whose registered office is at *[to be inserted]* ("**Party 2**"),

each a "**Party**" (and collectively the "**Parties**").

RECITALS

The following recitals (A to C inclusive) shall not have contractual or legal effect save as an aid to the background and interpretation of the remainder of this Co-operation Agreement.

A. On *[insert date]*, the DCC entered into an agreement with:

- i. the Party 1 regarding the provision of data services in relation to the Smart Metering Programme (the "**Party 1 Contract**"); and
- ii. the Party 2 regarding the provision of communications and related services in relation to the Smart Metering Programme (the "**Party 2 Contract**"),

each such agreement (as may be amended from time to time) being a "**DCC Contract**".

B. Under the relevant DCC Contract, each Party is required to co-operate with the DCC and the DCC Service Providers in order to ensure that the DCC is able to provide the DCC Services in a successful and timely manner and in accordance with the DCC Obligations. In particular, each Party is required to:

- i. perform its obligations under the relevant DCC Contract and each Co-operation Agreement in such a manner as to enable the Co-operation Objectives to be achieved to the fullest extent possible;
- ii. perform certain co-operation obligations, as set out in the relevant DCC Contract; and
- iii. enter into a Co-operation Agreement with the other Party, and comply with such Co-operation Agreement at all times during the Co-operation Period.

C. The Parties have agreed to enter into, and to perform their respective obligations under, this Co-operation Agreement.

1. **INTERPRETATION AND DEFINITIONS**

- 1.1 In this Co-operation Agreement, the definitions and rules of interpretation set out in Schedule 1 of this Co-operation Agreement shall apply.
- 1.2 If there is any conflict between any of the provisions of this Co-operation Agreement, the conflict shall be resolved in accordance with the following order of precedence:
- 1.2.1 the Clauses and Schedule 1 of this Co-operation Agreement;
 - 1.2.2 the Schedules (other than Schedule 1) of this Co-operation Agreement;
 - 1.2.3 any appendix or annex to any Schedule of this Co-operation Agreement; and
 - 1.2.4 any other document referred to in any Schedule of this Co-operation Agreement.
- 1.3 As between the DCC and the relevant Party only, if there is any conflict between any provision of this Co-operation Agreement and any provision of either DCC Contract, the relevant provision of the DCC Contract shall prevail to the extent of the conflict.

2. **SCOPE**

- 2.1 The Parties acknowledge that the proper performance by each Party of its obligations under the relevant DCC Contract is, to a certain extent, dependent on the other Party performing its obligations under:
- 2.1.1 this Co-operation Agreement; and
 - 2.1.2 Schedule 8.7 (Co-operation) of the other DCC Contract.
- 2.2 Nothing in this Co-operation Agreement shall relieve either Party from any obligation or liability under the DCC Contract to which it is a party.

3. **PURPOSE**

The purpose of this Co-operation Agreement is to:

General

- 3.1 enable the Co-operation Objectives to be achieved to the fullest extent possible;
- 3.2 where applicable, facilitate the performance by each Party of their respective obligations under the DCC Contracts;
- 3.3 avoid any unnecessary duplication of effort as between the Parties in relation to the performance of their respective obligations under the DCC Contracts;

Co-operation between the Parties

- 3.4 identify specific dependencies between the Parties in relation to:
 - 3.4.1 the proper performance by each Party of its obligations under the relevant DCC Contract; and
 - 3.4.2 the Achievement of the Shared Milestones;
- 3.5 identify other areas relating to the Smart Metering Programme where the Parties need to co-operate with each other in order to ensure that the DCC is able to provide the DCC Services in a successful and timely manner and in accordance with the DCC Obligations;
- 3.6 identify specific responsibilities of each Party in relation to each of the dependencies and other areas of co-operation referred to in Clauses 3.4 and 5.1.2;
- 3.7 assist either Party, for the purposes of Clause 12 (Relief Events) of the relevant DCC Contract, in:
 - 3.7.1 demonstrating the occurrence of an Other Service Provider Cause, and its effect on the performance of that Party's obligations under the relevant DCC Contract; and
 - 3.7.2 claiming relief and other remedies from the DCC; and
- 3.8 assist the DCC, for the purposes of Clause 12 (Relief Events) of the relevant DCC Contract, in:
 - 3.8.1 determining whether or not an Other Service Provider Cause has occurred (and its effect on the performance of the applicable Party's obligations under the relevant DCC Contract);
 - 3.8.2 where applicable, determining whether the applicable Party has complied with its obligations under Clause 12 (Relief Events) of the relevant DCC Contract regarding claiming relief and other remedies from the DCC;
 - 3.8.3 determining whether either Party has otherwise failed to comply with its obligations under the relevant DCC Contract (including the requirement to comply with this Co-operation Agreement); and
 - 3.8.4 where applicable, exercising its rights under the relevant DCC Contract in respect of any Additional Costs paid by the DCC to the other Party.

4. LEGAL EFFECT

- 4.1 Subject to Clauses 4.2 and 4.3, this Co-operation Agreement is not intended to be legally binding as between the Parties.
- 4.2 Clauses 4, 7, 9, 10, 11, 12 and 13 and Schedule 4 shall be legally binding on the Parties. The Parties acknowledge that the mutual promises set out in this Co-operation Agreement shall, to the extent necessary for the purposes of this Clause 4.2, constitute good and valuable consideration.

- 4.3 Clause 4.1 is without prejudice to:
- 4.3.1 each Party's obligations to the DCC, under the relevant DCC Contract, to comply with this Co-operation Agreement;
 - 4.3.2 the DCC's right to enforce any applicable rights and remedies under the relevant DCC Contract in respect of any failure by either Party to comply with its obligations under this Co-operation Agreement; and
 - 4.3.3 each Party's respective rights and obligations under any non-disclosure agreement entered into by the Parties pursuant to Clause 8.
- 4.4 The Parties acknowledge and agree that:
- 4.4.1 the DCC is not a party to this Co-operation Agreement; and
 - 4.4.2 accordingly, but without prejudice to the DCC's obligations under the relevant DCC Contracts, the DCC shall have no liability arising out of or in connection with this Co-operation Agreement.

5. **OBLIGATIONS OF THE PARTIES**

General obligations

- 5.1 Each Party shall provide such co-operation, support, assistance and information as may be reasonably required from time to time by the other Party in order to:
- 5.1.1 achieve any of the Co-operation Objectives; and/or
 - 5.1.2 comply with the requirements of this Co-operation Agreement.
- 5.2 Each Party shall perform its obligations under this Co-operation Agreement:
- 5.2.1 in accordance with Good Industry Practice; and
 - 5.2.2 in a pro-active, transparent and open manner and in a spirit of trust and mutual confidence.
- 5.3 To the extent necessary in relation to any of the Co-operation Objectives, each Party shall ensure that their respective Contractor Persons comply with that Party's obligations under this Co-operation Agreement.

Specific obligations

- 5.4 Without limiting Clauses 5.1 to 5.3, each Party shall ensure that the specific dependencies, areas of co-operation and responsibilities referred to in Clauses 3.4 to 3.6 are described (to an appropriate level of detail) in Schedule 5 of this Co-operation Agreement in a clear, unambiguous and complete manner, without inaccuracy or omission .

Review and updating of Co-operation Agreement

- 5.5 The Parties shall work together (including by means of a joint review on a quarterly basis) to:
- 5.5.1 identify any specific dependencies and/or areas of co-operation referred to in Clauses 3.4 and 5.1.2 which have been previously unidentified;
 - 5.5.2 agree specific responsibilities of the Parties in relation to each of the additional dependencies and/or areas of co-operation referred to in Clause 5.5.1; and
 - 5.5.3 identify and agree any amendments to this Co-operation Agreement that are necessary from time to time as the result of:
 - i. any Change in relation to either DCC Contract;
 - ii. where applicable, any Service Failure or other breach of either Party's obligations under the relevant DCC Contract; or
 - iii. any other relevant change in circumstances.

Changes to this Co-operation Agreement

- 5.6 Any changes to this Co-operation Agreement (whether under Clause 5.5 or otherwise) shall be agreed by the Parties in accordance with the process set out in Schedule 3 of this Co-operation Agreement.
- 5.7 The Parties shall ensure that a copy of all agreed changes to this Co-operation Agreement are provided to the DCC as soon as reasonably practicable (and, in any event, within five (5) Business Days after agreement of the relevant change in accordance with Schedule 3).

6. FINANCIAL ARRANGEMENTS

- 6.1 Neither Party shall be entitled to any fees nor other payment from the other Party in relation to the performance of its obligations under this Co-operation Agreement, except as otherwise agreed in writing by the Parties.

7. DISPUTES

- 7.1 Any Co-operation Agreement Dispute shall be subject to, and resolved in accordance with, paragraph 7 of Part C of Schedule 8.7 (Co-operation) of the DCC Contracts, including by invoking the escalation mechanism set out in Schedule 4 of this Co-operation Agreement (the "**Escalation Mechanism**").
- 7.2 Neither Party shall initiate any claim or proceedings in any court of law, arbitral tribunal or other forum against the other Party in connection with a Co-operation Agreement Dispute except in accordance with paragraph 7 of Part C of Schedule 8.7 (Co-operation) of the DCC Contracts.

8. **CONFIDENTIALITY**

- 8.1 Where necessary to protect any confidential information of either Party which is to be disclosed to the other Party in relation to this Co-operation Agreement, the Parties (acting in a reasonable manner and in good faith) shall enter into a binding non-disclosure agreement on reasonable terms which provide substantially equivalent protection to the disclosing Party as the protections under Clause 37 (Confidentiality) of the DCC Contracts in relation to the Contractor's Confidential Information.

9. **INTELLECTUAL PROPERTY RIGHTS**

- 9.1 Unless otherwise agreed by the Parties in writing:
- 9.1.1 nothing in this Co-operation Agreement shall operate to transfer, or operate as a grant of any licences to, any Intellectual Property Rights as between the Parties; and
- 9.1.2 any right of either Party to use any Intellectual Property Rights of the other Party shall be in accordance with the DCC's sub-licensing rights under Schedule 5.1 (Intellectual Property Rights) of the relevant DCC Contract.

10. **TERMINATION**

- 10.1 This Co-operation Agreement shall become effective once executed by both Parties and continue in force until the expiry of the Co-operation Period.
- 10.2 Neither Party may terminate this Co-operation Agreement without the prior written consent of both the DCC and the other Party. Each Party:
- 10.2.1 does not have, and expressly waives, any rights it may otherwise have to terminate this Co-operation Agreement; and
- 10.2.2 expressly acknowledges that a failure by the other Party to perform any obligation under this Co-operation Agreement will not entitle it to terminate this Co-operation Agreement.

11. **RELATIONSHIP OF THE PARTIES**

- 11.1 Nothing in this Co-operation Agreement is intended to create a partnership, or legal relationship of any kind that would impose liability upon one Party for the act or failure to act of the other Party, or to authorise either Party to act as agent for the other Party. Neither Party shall have authority to make representations, act in the name of, or on behalf of, or to otherwise bind the other Party.

12. **GOVERNING LAW**

- 12.1 This Co-operation Agreement and any dispute arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.

13. **COUNTERPARTS**

- 13.1 This Co-operation Agreement may be entered into by the Parties in any number of counterparts. Each counterpart shall, when executed and delivered,

be regarded as an original, and all the counterparts shall together constitute one and the same instrument. This Co-operation Agreement shall not take effect until it has been executed by both Parties.

IN WITNESS of which this Co-operation Agreement has been duly executed by the Parties:

SIGNED for and on behalf of)
[INSERT NAME for PARTY 1],)
in the presence of :)

.....
(signature)

Name of witness:
.....

Signature:
.....

Address:

.....

SIGNED for and on behalf of)
[INSERT NAME for PARTY 2],)
in the presence of :)

.....
(signature)

Name of witness:
.....

Signature:
.....

Address:

.....

SCHEDULE 1

INTERPRETATION AND DEFINITIONS

1. Interpretation

- 1.1 In this Co-operation Agreement, unless the context otherwise requires:
- 1.1.1 the singular includes the plural and vice versa;
 - 1.1.2 reference to a gender includes the other gender and the neuter;
 - 1.1.3 references to any agreement or document (including this Co-operation Agreement) include (subject to all relevant approvals and any other provisions of this Co-operation 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;
 - 1.1.4 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
 - 1.1.5 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 Co-operation Agreement shall be deemed not to be part of this Co-operation Agreement and shall not be taken into consideration in the interpretation of this Co-operation 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 Co-operation Agreement and references to Sections, Schedules, Annexes and Attachments (if any) are references to Sections, Schedules, Annexes and Attachments to or contained in this Co-operation 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 Co-operation 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 Co-operation Agreement are an integral part of this Co-operation Agreement and a reference to this "**Co-operation Agreement**" includes a reference to the Schedules, the Appendices and the Annexes.
- 1.6 References to a public organisation or regulatory body (including BEIS, the ICO, Ofgem, Ofcom, the SEC Panel, GEMA and all other "Regulatory Bodies" as

defined in the DCC Contract(s)) 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.

1.7 Each Party's obligations, duties and responsibilities under this Co-operation Agreement shall be construed as separate obligations, duties and responsibilities and, except where expressly stated otherwise, are to be performed at that Party's own cost and expense. Each Party shall bear its own costs in relation to the preparation and agreement of any change to this Co-operation Agreement.

2. Definitions

2.1 Unless the context otherwise requires, in this Co-operation Agreement the following expressions shall have the meanings set out below:

"Co-operation Change Manager" has the meaning given in paragraph 1 of Schedule 3 of this Co-operation Agreement;

"Co-operation Agreement" means the Clauses of this Co-operation Agreement together with any Schedules, Appendices and Annexes to it (and any documents referred to or attached to it);

"Co-operation Agreement Change" has the meaning given in paragraph 4 of Schedule 3 of this Co-operation Agreement;

"Co-operation Agreement Dispute" means any dispute, difference or question of interpretation as between the Parties arising out of or in relation to this Co-operation Agreement or its subject-matter or formation (including non-contractual claims), and includes any failure to agree any of the terms of this Co-operation Agreement (or any amendment to this Co-operation Agreement);

"Co-operation Period" means the period between the date of this Co-operation Agreement and the End Date;

"DCC" means Smart DCC Limited, a company registered in England and Wales with registration number 08641679 (or any Successor Licensee or any other person who is subsequently licensed to carry on the Authorised Activity);

"DCC Contract" has the meaning given in Recital (A) of this Co-operation Agreement;

"Escalation Mechanism" has the meaning given in Schedule 4;

- "Shared Milestones"** means the Milestones set out in Appendix 1 of Schedule 6.1 of the DCC Contracts that are deemed to be shared Milestones (as identified in Schedule 2 of this Co-operation Agreement);
- "Business Days"** means any day other than a Saturday, Sunday or public holiday in England and Wales.

2.2 Unless the context otherwise requires, the following expressions shall be construed in accordance with the DCC Contract:

- "Additional Costs"
- "Authorised Activity"
- "Intellectual Property Rights"
- "Other Service Provider Cause"
- "Co-operation Objectives"
- "DCC Licence"
- "DCC Obligations"
- "DCC Service Provider"
- "DCC Services"
- "End Date"
- "Good Industry Practice"
- "Programme Milestone"
- "Related Delay"
- "Relevant Counterparty"
- "SEC Party"
- "Smart Metering Programme"
- "Successor Licensee"

SCHEDULE 2

SHARED MILESTONES

[Insert list of the Milestones from Appendix 1 of Schedule 6.1 of the DCC Contracts that are deemed to be shared Milestones, as agreed between the Parties]

SCHEDULE 3

CO-OPERATION AGREEMENT CHANGE PROCEDURE

Co-operation Change Managers

1. Each Party has appointed the following individual to act as its "**Co-operation Change Manager**":

Co-operation Change Managers	
PARTY 1	
Name:	
Position:	
Email:	
Phone:	
PARTY 2	
Name:	
Position:	
Email:	
Phone:	

2. Each Party may change its Co-operation Change Manger (or the relevant contact details) from time to time by giving written notice to the other Party's Co-operation Change Manager.

Notices

3. All notices relating to this Schedule 3 shall be sent to the relevant Party's Co-operation Change Manager in accordance with the contact details set out in paragraph 1 (as may be amended in accordance with paragraph 4).

Co-operation Agreement Changes

4. Either Party (the "**Requesting Party**") may request a change to this Co-operation Agreement (each, a "**Co-operation Agreement Change**") by notifying the Co-operation Change Manager of the other Party (the "**Receiving Party**") accordingly in writing. Such notice shall include the following information (in reasonable detail):
 - 4.1 details of the nature, scope and urgency of the Co-operation Agreement Change;

- 4.2 the rationale for the Co-operation Agreement Change (including where it is necessary as a result of a Change in relation to either DCC Contract);
 - 4.3 details of the impact of the proposed Co-operation Agreement Change on the Requesting Party's obligations under this Co-operation Agreement; and
 - 4.4 where known to the Requesting Party (having given the matter reasonable consideration), details of the impact of the proposed Co-operation Agreement Change on the Receiving Party's obligations under this Co-operation Agreement.
5. Within ten (10) Business Days after receipt by the Receiving Party of a notice under paragraph 4, the Receiving Party shall notify the Requesting Party (in reasonable detail) in writing of:
 - 5.1 any issues or concerns of the Receiving Party (acting reasonably) regarding the technical feasibility of the Co-operation Agreement Change;
 - 5.2 where known to the Receiving Party (having made reasonable enquiries and analysis), details of the impact of the proposed Co-operation Agreement Change on the Receiving Party's obligations under this Co-operation Agreement, including where the Receiving Party's assessment of such impact differs from that of the Requesting Party under paragraph 4.4;
 - 5.3 an estimate (calculated on a reasonable basis) of the likely costs of the Receiving Party in relation to the implementation and/or ongoing operation of the Co-operation Agreement Change; and/or
 - 5.4 any other issues or concerns of the Receiving Party (acting reasonably) regarding the Co-operation Agreement Change.
6. Following receipt by the Requesting Party of a notice under paragraph 5, the Parties shall attempt (acting in a reasonable manner and in good faith) to agree:
 - 6.1 whether to proceed with the Co-operation Agreement Change; and
 - 6.2 if so, the terms on which the Co-operation Agreement Change will be implemented and operated (including how any costs relating to such implementation and ongoing operation will be allocated between the Parties).
7. If the Parties are unable to reach agreement on any issue under paragraph 6 within twenty (20) Business Days of receipt by the Receiving Party of the original notice under paragraph 4, then either Party may issue a Co-operation Agreement Dispute Notice (in which case, the Parties shall comply with their respective obligations under paragraph 7 of Part C of Schedule 8.7 (Co-operation) of the relevant DCC Contract, including by invoking the Escalation Mechanism).
8. Until such time as the Co-operation Agreement Change has been agreed by the Parties in writing, and a written amendment to this Co-operation Agreement

signed by each Party's Co-operation Change Manager, then (unless otherwise agreed by the Parties in writing), each Party shall continue to perform its obligations under this Co-operation Agreement in accordance with its then current terms.

9. Once agreed in accordance with paragraph 8, the Parties shall implement the Co-operation Agreement Change in accordance with the agreed terms (including timescales). For the avoidance of doubt, the Parties shall not seek to agree or implement any Co-operation Agreement Change which would amend or otherwise impact any of the DCC's rights and/or either Party's obligations under the relevant DCC Contract without the prior written consent of the DCC (and, where applicable, in accordance with the applicable Change Control Procedure).

Co-operation Agreement Change Log

10. Within thirty (30) days after the date of this Co-operation Agreement, the Parties (acting in a reasonable manner and in good faith) shall agree a process for:
 - 10.1 tracking the status of all pending Co-operation Agreement Changes; and
 - 10.2 recording all agreed Co-operation Agreement Changes.
11. The Parties shall ensure that any process agreed under paragraph 10 includes at least the following information in relation to all agreed and pending Co-operation Agreement Changes:
 - 11.1 a unique reference number for each Co-operation Agreement Change;
 - 11.2 the name of the Requesting Party;
 - 11.3 a brief description of the Co-operation Agreement Change, including its nature, scope, rationale and urgency;
 - 11.4 the current status of the Co-operation Agreement Change; and
 - 11.5 where applicable, the date on which the Co-operation Agreement Change was agreed.

Baseline Co-operation Agreement

12. Within thirty (30) days after the date of this Co-operation Agreement, the Parties (acting in a reasonable manner and in good faith) shall agree a process for:
 - 12.1 maintaining a conformed copy of this Co-operation Agreement showing (in a clear, unambiguous and complete manner, without inaccuracy or omission) all agreed Co-operation Agreement Changes since the Commencement Date (the "Baseline Co-operation Agreement"); and
 - 12.2 ensuring that the Baseline Co-operation Agreement is updated to reflect each agreed Co-operation Agreement Change within ten (10) Business Days of the Co-operation Agreement Changes being agreed in accordance with paragraph 8.

13. Either Party shall make an up-to-date version of the Baseline Co-operation Agreement available to the DCC within three (3) Business Days of a request to do so from the DCC from time to time.
14. Both Parties' rights and obligations shall be determined by this Co-operation Agreement (as amended in accordance with its terms) and the Baseline Co-operation Agreement shall be for mutual convenience and information only.

SCHEDULE 4

ESCALATION MECHANISM

1. GENERAL

- 1.1 Each Party shall ensure that its relevant representatives attend any meetings convened under this Schedule 4.
- 1.2 All meetings under this Schedule 4 shall be held at the times and locations (including, where appropriate, by telephone or video conference) agreed by the Parties (or, if the Parties have failed to agree such matters by the date which is two (2) Business Days before any meeting under this Schedule 4, at the times and locations specified by the DCC).
- 1.3 Subject to paragraph 1.4, each Party shall provide any information, data or documentation reasonably requested by the other Party in relation to the attempted resolution of a Co-operation Agreement Dispute under this Schedule 4.
- 1.4 Any communications between the Parties in relation to the Escalation Mechanism shall be:
 - 1.4.1 provided on a "without prejudice" basis and will not be admissible as evidence in any legal process unless the Party providing such communications has otherwise agreed in writing; and
 - 1.4.2 treated as confidential information of the disclosing Party for the purposes of any non-disclosure agreement entered into by the Parties under Clause 8.
- 1.5 If the Co-operation Agreement Dispute is resolved at any stage of the Escalation Mechanism, each Party shall ensure that the agreed resolution is:
 - 1.5.1 documented in a settlement agreement (or other appropriate document) which is signed by the authorised representatives of each Party; and
 - 1.5.2 implemented (including in accordance with Schedule 3 of this Co-operation Agreement, where applicable) as soon as reasonably practicable.

2. INITIAL REFERRAL TO LEVEL 1 REPRESENTATIVES

- 2.1 Each Party's Level 1 Representative shall meet by no later than five (5) days after the date of the Co-operation Agreement Dispute Notice.
- 2.2 Each Party shall ensure that its Level 1 Representative uses all reasonable endeavours to resolve the Co-operation Agreement Dispute within seven (7) days after the date of the Co-operation Agreement Dispute Notice.

3. ESCALATION TO LEVEL 2 REPRESENTATIVES

- 3.1 If the Co-operation Agreement Dispute is not resolved by the end of the period referred to in paragraph 2.2, it shall be referred to each Party's Level 2 Representative.

3.2 Each Party's Level 2 Representative shall meet by no later than ten (10) days after the date of the Co-operation Agreement Dispute Notice.

3.3 Each Party shall ensure that its Level 2 Representative uses all reasonable endeavours to resolve the Co-operation Agreement Dispute within twelve (12) days after the date of the Co-operation Agreement Dispute Notice.

4. ESCALATION TO LEVEL 3 REPRESENTATIVES

4.1 If the Co-operation Agreement Dispute is not resolved by the end of the period referred to in paragraph 3.3, it shall be referred to each Party's Level 3 Representative.

4.2 Each Party's Level 3 Representative shall meet by no later than fifteen (15) days after the date of the Co-operation Agreement Dispute Notice.

4.3 Each Party shall ensure that its Level 3 Representative uses all reasonable endeavours to resolve the Co-operation Agreement Dispute within twenty (20) days after the date of the Co-operation Agreement Dispute Notice.

5. DETAILS OF REPRESENTATIVES

5.1 The relevant representatives of each Party for the purposes of the Escalation Mechanism are as follows:

Level 1 Representatives	
PARTY 1	
Name:	
Position:	
Email:	
Phone:	
PARTY 2	
Name:	
Position:	
Email:	
Phone:	
Level 2 Representatives	
PARTY 1	
Name:	
Position:	

Email:	
Phone:	
PARTY 2	
Name:	
Position:	
Email:	
Phone:	
Level 3 Representatives	
PARTY 1	
Name:	
Position:	
Email:	
Phone:	
PARTY 2	
Name:	
Position:	
Email:	
Phone:	

- 5.2 Each Party may change its representatives (or the relevant contact details) under this Schedule 4 from time to time by giving notice to the other Party's Co-operation Change Manager.
- 5.3 Each Parties shall, at all times, ensure that:
- 5.3.1 its Level 2 Representative is a member of the Partnership Management Board under the relevant DCC Contract; and
 - 5.3.2 its Level 3 Representative is a member of the Executive Management Board under the relevant DCC Contract.

6. **IRREMIABLE DISPUTES**

6.1 The Parties shall comply with their respective obligations under the relevant DCC Contracts if any Co-operation Agreement Dispute has not been resolved by the Parties:

6.1.1 following completion of the Escalation Mechanism; and

6.1.2 in any event, within twenty (20) days after the date of the Co-operation Agreement Dispute Notice.

SCHEDULE 5
SPECIFIC CO-OPERATION OBLIGATIONS

OVERVIEW

Chapters

1. This Schedule 5 comprises the following chapters:

Chapter	Scope

Topics

2. Each Chapter addresses the following topics (except where indicated as being "Not applicable"):
 - 2.1 Roles and responsibilities – overview.
 - 2.2 Design work (including joint working arrangements to ensure that all Relevant Documents comply with the requirements of Schedule 6.3 (Development Process), taking account of the Contractor’s system integration responsibilities).
 - 2.3 Achievement of Milestones and implementation of Contractor Solution:
 - 2.3.1 Contractor Milestones and implementation of Contractor Solution; and
 - 2.3.2 Milestones.
 - 2.4 Testing, trialling and acceptance arrangements.
 - 2.5 E2E operational performance including:
 - 2.5.1 changes in usage/access rights (e.g. of DCC Service Users);
 - 2.5.2 routine maintenance arrangements (e.g. firmware updates); and
 - 2.5.3 exception maintenance and outage arrangements.
 - 2.6 E2E performance monitoring and measurement.
 - 2.7 Service desk arrangements.
 - 2.8 Security.

- 2.9 Arrangements and responsibilities with respect to adaptation, including:
 - 2.9.1 Changes (and Additional Services);
 - 2.9.2 NOT USED;
 - 2.9.3 Catalogue Services;
 - 2.9.4 continuous improvement initiatives; and
 - 2.9.5 SEC modifications, amendments to the DCC Licence and other Changes in Mandatory Requirements.

2.10 BCDR arrangements.

Sub-topics

- 3. Each topic set out above addresses the following sub-topics (except where indicated as being "Not applicable"):
 - 3.1 General overview of roles and responsibilities;
 - 3.2 Service management arrangements;
 - 3.3 Integration and management of services;
 - 3.4 Interfaces (process, system, operational and organisational) (other than Codes of Connection), including in each case:
 - 3.4.1 detailed description;
 - 3.4.2 management;
 - 3.4.3 problem, incident and major incident management processes;
 - 3.4.4 request fulfilment;
 - 3.4.5 event management;
 - 3.4.6 access arrangements;
 - 3.4.7 access management; and
 - 3.4.8 programme and project management;
 - 3.5 Other interoperation and coordination arrangements;
 - 3.6 Arrangements for problem identification and resolution;
 - 3.7 Schedules and timetables; and
 - 3.8 Responsibility as between the Parties for identifying issues that arise after the Commencement Date.

SCHEDULE 8.9

OPERATIONS MANUAL

1. PURPOSE

- 1.1. This Schedule 8.9 (Operations Manual) sets out the required content of the Operations Manual for the purposes of Clause 23 (Operations Manual) of this Agreement.

2. REQUIRED CONTENT

- 2.1. The Operations Manual shall, at a minimum, contain the following information:

Required Content	Description
General	<p>The Operations Manual shall include a description (to a reasonable level of detail) of:</p> <ul style="list-style-type: none">a) how the Services are to be performed and delivered by the Contractor so as to comply with the requirements of this Agreement, including the DCC Requirements;b) all quality assurance procedures relating to the Services;c) the security procedures and policies that will apply to the Services (which shall comply with Schedules 2.3 (Standards) and 2.5 (Security Management Plan));d) the supervision, monitoring, staffing, reporting, planning and oversight activities to be undertaken by the Contractor in relation to the Services;e) the Contractor's incident and problem management escalation procedures; andf) other relevant Contractor standards and procedures.
Design documentation	<p>The Operations Manual shall include up-to-date copies of the Contractor's Solution Design Documents (to the extent they exist for an agile project), together with other relevant architecture diagrams, functional specifications and/or technical specifications of all relevant networks, systems, hardware, software and platforms to be used by or on behalf of the Contractor in performing the Services (including the Contractor System).</p>
Interfaces	<p>To the extent not specified in the Interface Specifications (as further described in Schedule 6.3 (Development Process)), the Operations Manual shall include a detailed description of all technical and operational interfaces between:</p> <ul style="list-style-type: none">a) the Contractor Solution; andb) the Systems of other DCC Eco-System Entities, the systems of any DCC Service Provider or other third party (including any Other Energy Industry Systems), the Smart Metering Systems and/or the DCC Environment,

	including all interfaces referred to in Schedule 2.1 (DCC Requirements).
User manuals etc.	<p>The Operations Manual shall include up-to-date copies of:</p> <ul style="list-style-type: none"> a) the Continuous Improvement Plan; b) the Quality Plan; c) the Service Management Framework; d) the Service Portfolio (as further described in Schedule 2.1 (DCC Requirements)); e) all Service-specific training materials; f) details of working practices and process documentation (including documentation for Service Desk operations); g) incident and problem management processes; h) release and configuration management processes; i) system operator documentation; j) the BCDR Plan; k) Asset management plans; l) relevant RAID logs; m) the Exit Plan; n) any other Service-specific documentation or management information referred to in Schedule 2.1 (DCC Requirements) which is required as part of the Contractor's knowledge management system; and o) any other manuals, profiles, plans, processes or other documentation relevant to the provision and/or operation of the Services.
Security	<p>The Operations Manual shall include up-to-date copies of:</p> <ul style="list-style-type: none"> a) the Contractor Security Policy; b) the ISMS; and c) the Security Management Plan, <p>each as further described in Schedule 2.5 (Security Management Plan).</p>
Information Assets Register	<p>The Operations Manual shall include up-to-date copies of an "Information Assets Register" which describes the information held by the Contractor in relation to the Services, the way in which such information is used by the Contractor and related technical information (including file format). For the avoidance of doubt, this is separate to the Asset Register (as further described in Schedule 4.2 (Technical Infrastructure)).</p>
Internal Control Document	<p>The Contractor acknowledges that the DCC is required to prepare and maintain an "Internal Control Document" under the terms of the DCC Licence.</p> <p>Accordingly, the Operations Manual shall include an "Internal Control Document", which shall be consistent with the Internal Control Document prepared and issued to the Contractor by the DCC from time to time.</p> <p>The Contractor's Internal Control Document shall be sufficient to demonstrate that the Contractor has put in place and maintains:</p>

	<ul style="list-style-type: none"> a) an appropriate organisational structure within which activities are planned, executed, controlled, and monitored effectively to enable the achievement of the DCC Objectives; b) transparent and reliable audit trails for all processes, procedures, and internal financial controls relating to the Contractor's management and operation of the Services; c) a monitoring process that provides control procedures for all of the Contractor's activities in relation to this Agreement and ensures that those procedures are followed; and d) a formal procedure for identifying the lack of an effective system of internal control in any particular respect and for ensuring remedial action.
<p>Risk Management Strategy</p>	<p>The Contractor acknowledges that the DCC is required to prepare and maintain a "Risk Management Strategy" under the terms of the DCC Licence.</p> <p>Accordingly, the Operations Manual shall include a "Risk Management Strategy", which shall be consistent with the Risk Management Strategy prepared and issued to the Contractor by the DCC from time to time.</p> <p>The Contractor's Risk Management Strategy must represent a robust framework for the identification, evaluation, and management of risk. The Risk Management Strategy shall, in particular:</p> <ul style="list-style-type: none"> a) explain the Contractor's attitude to, capacity for, and tolerance of risk (which must be consistent with the DCC's attitude to, capacity for, and tolerance of equivalent risks, as defined in the DCC's own Risk Management Strategy); b) enable risks to be identified across all of the Contractor's activities under this Agreement along with an assessment of the materiality in each case; c) require the maintenance of a permanent risk register; d) contain risk evaluation criteria which are to be reviewed annually; and e) provide for the allocation of resources in respect of risks.
<p>Compliance Statement</p>	<p>The Contractor acknowledges that the DCC is required to prepare and maintain a "Compliance Statement" under the terms of the DCC Licence that is approved by the Authority and that describes the practices, procedures, and systems that the DCC has adopted (or intends to adopt) to ensure compliance with its duties under the DCC Licence in relation to the security and protection of "Confidential Information" (as defined in the DCC Licence).</p> <p>Accordingly, the Operations Manual shall include a "Compliance Statement", which shall be consistent with the Compliance Statement prepared and issued to the Contractor by the DCC from time to time.</p> <p>The Contractor's Compliance Statement shall describe the practices, procedures, and systems that the Contractor has adopted (or intends to adopt) to ensure compliance with its</p>



	obligations under this Agreement in relation to the security and protection of DCC Confidential Information.
<p style="text-align: center;">Contractor Development Plan</p>	<p>The Contractor acknowledges that the DCC is required to prepare and maintain a "Development Plan" under the terms of the DCC Licence.</p> <p>Accordingly, the Operations Manual shall include a "Contractor Development Plan", which shall be consistent with the Development Plan prepared and issued to the Contractor by the DCC from time to time.</p> <p>The Contractor Development Plan shall set out and explain in appropriate detail how the Contractor shall support, and contribute to, the DCC's business development objectives for the three (3) year period (consisting of the current Contract Year and each of the two succeeding Contract Years), as set out in the DCC's Development Plan.</p> <p>The Contractor Development Plan shall include such information and evaluation in respect of the following matters as may affect the DCC's business development objectives for the period covered by the Plan:</p> <ul style="list-style-type: none"> a) the main trends and factors that are likely to affect the future development and performance of the Services in whole or in part; b) the opportunities likely to be available to the Contractor and the DCC for developing the infrastructure, systems, and processes used for the provision of Services; c) the current condition of any of such infrastructure, systems, and processes in terms of the capacity, loading, and utilisation factors applicable to them and the interdependence between them; d) the loading and utilisation of such infrastructure, systems, and processes by different categories of the Services; e) the availability of spare capacity within any of such infrastructure, systems, and processes, and the scope for using it for the purpose of providing new or amended Services; f) potential changes in the Contractor's business processes or ways of working that would result in a more efficient provision of Services, or in overall productivity gains or the reduction of operational risk; g) the emergence of specific new or evolving relevant technologies that could improve the Contractor's management and operation of the Services in whole or in part; and h) the assessment criteria and cost-benefit analyses used by the Contractor to support the DCC's business development objectives with due regard for the matters set out in the DCC's Development Plan.



Appendix 1 – Operations Manual

The required documents are being prepared as part of the project requirements, and this set will be provided at the appropriate time in accordance with the Agreement.



SCHEDULE 8.10

ENHANCED SCRUTINY AND STEP-IN

OVERVIEW

This Schedule 8.10 (Enhanced Scrutiny and Step-In) comprises the following parts:

Part	Scope
Part A	General
Part B	Enhanced Scrutiny, including: <ul style="list-style-type: none">• Enhanced Monitoring;• Appointment of Observers;• Enhanced Scrutiny – costs; and• Enhanced Scrutiny – Disputes
Part C	Step-in/Step-out, including: <ul style="list-style-type: none">• General provisions;• Directive Action;• Management Action;• Step-out;• Step-in/Step-out – costs; and• Step-in/Step-out – Disputes
Appendix 1	Directive Action Restrictions
Appendix 2	Management Action Restrictions

PART A – GENERAL

1. INTRODUCTION

- 1.1. The Contractor acknowledges that this Agreement and the performance of the Services is of fundamental importance to the provision by the DCC of DCC Services and to the Smart Metering Programme. Consequently the DCC may wish to exercise its rights and/or remedies under this Schedule 8.10 to mitigate, remedy or prevent the reoccurrence of the circumstances giving rise to any Enhanced Scrutiny Trigger or Step-in Trigger (as defined in Part B and C) (a "**Legitimate Objective**"). As such, this Schedule 8.10 provides additional rights and remedies for the DCC that the DCC may (but in no case is obliged to) exercise and which are (in each case) without prejudice to any other rights or remedies of the DCC. In particular these rights and remedies are:
 - 1.1.1. those set out in Part B (collectively, "**Enhanced Scrutiny**"), including:
 - i. Enhanced Monitoring; and
 - ii. the appointment of Observers by the DCC; and
 - 1.1.2. those set out in Part C (collectively, "**Step-in**"), comprising:
 - i. Directive Action; and
 - ii. Management Action.
- 1.2. The DCC's rights and remedies under this Schedule 8.10 are cumulative and may, unless stated otherwise, be exercised successively, in any order or combination in respect of any occurrence of any Enhanced Scrutiny Trigger and/or Step-in Trigger.
- 1.3. No waiver of any previous circumstance in which the DCC may exercise any such rights or remedies (or waiver of any breach by the Contractor) shall operate as a waiver of any subsequent circumstance in which the DCC may exercise any such rights or remedies (or waiver of any subsequent breach by the Contractor).

2. GENERAL CONTRACTOR OBLIGATIONS

- 2.1. Without prejudice to any other obligation, for so long as and to the extent that any Enhanced Scrutiny or Step-in action continues in accordance with this Schedule 8.10 the Contractor shall:
 - 2.1.1. take all reasonable steps and co-operate fully and in good faith with the DCC and any third party supplier engaged by the DCC to undertake the Enhanced Scrutiny or Step-in actions; and
 - 2.1.2. promptly procure and provide all information, assistance and necessary documentation, Consents and access to Sites (or any other Contractor Person's premises) as may be necessary in order that the DCC may fully and promptly exercise and carry out its rights

and remedies granted under this Schedule 8.10.

- 2.2. The Contractor shall (and shall ensure that all Contractor Persons shall) act reasonably in mitigating the costs that the Contractor will incur as a result of the exercise of the DCC's rights and remedies under this Schedule 8.10.
- 2.3. The DCC's rights and remedies under this Schedule 8.10 shall not require the Contractor to act in any manner that:
 - 2.3.1. is in breach of Law, or health and safety regulations; or
 - 2.3.2. (having used all reasonable endeavours to remove or mitigate any restrictions imposed by such) would place the Contractor in breach of reasonable confidentiality or security obligations owed to third parties.

3. GENERAL DCC OBLIGATIONS

- 3.1. The DCC shall ensure that it complies with its obligations in Clause 37 (Confidentiality) in respect of any Contractor's Confidential Information made available to any Observer, DCC Appointed Manager or third party in connection with the DCC's exercise of its rights and remedies under this Schedule 8.10, in particular the DCC will ensure that any such person shall be subject to and will comply with equivalent confidentiality obligations to those set out in Clause 37 in respect of any Contractor's Confidential Information.
- 3.2. Following service of an Enhanced Scrutiny or Step-in Notice, as the case may be, the DCC shall:
 - 3.2.1. take the action set out in the relevant notice and any consequential additional action as it reasonably believes is necessary (together, the "**Required Action**");
 - 3.2.2. keep records of the Required Action taken and provide information about the Required Action to the Contractor;
 - 3.2.3. co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide and/or mitigate the impact on any Services not the subject of an Enhanced Monitoring or Step-in Notice;
 - 3.2.4. act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the DCC's rights under this Schedule 8.10;
 - 3.2.5. act with reasonable care and skill;
 - 3.2.6. procure that any third party appointed by it abides by such security and health and safety requirements applicable to the Sites and/or the Contractor System as the Contractor may reasonably require; and
 - 3.2.7. subject to paragraph 4 of Part B and paragraph 5 of Part C (as the case may be), pay to the Contractor the Charges applicable to the



Services.




PART B – ENHANCED SCRUTINY

1. ENHANCED SCRUTINY TRIGGERS

- 1.1. The occurrence of any of the following during the Term shall in each case be an "Enhanced Scrutiny Trigger":
 - 1.1.1. a Contractor Event of Default has occurred (regardless of whether DCC's rights to terminate in connection with the same are subject to compliance with the Rectification Plan Process, service of a notice or any other condition);
 - 1.1.2. the Contractor has committed any breach of its obligations under any of:
 - i. Clause 6.1.2 (Compliance with Mandatory Requirements)
 - ii. Clause 13 (Contractor Cooperation and Assistance);
 - iii. Clause 35 (DCC Data);
 - iv. Clause 36 (Protection of Personal Data);
 - v. Clause 37 (Confidentiality);
 - vi. Clause 42 (Security Requirements);
 - vii. Schedule 2.5 (Security Management Plan);
 - viii. the Contractor Security Documents; or
 - ix. any other security requirements set out in Schedule 4.1 (Contractor Solution);
 - 1.1.3. a Material Service Failure, Persistent Service Failure, Critical KPI Failure or Critical Service Failure has occurred;
 - 1.1.4. there is a breach by the Contractor of this Agreement that has a material adverse impact on the performance of the Services (which may include materially preventing or materially delaying the performance of the Services or any part of the Services);
 - 1.1.5. the Contractor has failed or the DCC reasonably anticipates the Contractor shall fail to Achieve a Milestone in respect of its Milestone Date (whether or not as a result of an actual or potential DCC Cause, Other Service Provider Cause or breach of this Agreement by the Contractor);
 - 1.1.6. a Force Majeure Event occurs which has a material adverse impact on the performance of the Services (which may include materially preventing or materially delaying the performance of the Services or any part of the Services);

- 1.1.7. the DCC is entitled to exercise its rights in Schedule 4.3 (Sub-contractors);
- 1.1.8. the Contractor has committed a breach of this Agreement that has placed the DCC in breach of the DCC Licence, SEC or Multi-Party Framework Agreement;
- 1.1.9. the circumstances are considered by the DCC, acting reasonably, to constitute an emergency;
- 1.1.10. on the occurrence of an Insolvency Event in respect of the Contractor, including a Level 1 or Level 2 Financial Distress Event;
- 1.1.11. without prejudice to the above, in accordance with the provisions of Schedule 2.5 (Security Management Plan); and/or
- 1.1.12. if there is, in the reasonable opinion of the DCC, a material risk of any of the circumstances listed in this paragraph 1 occurring.

2. ENHANCED MONITORING

- 2.1. On the occurrence of any Enhanced Scrutiny Trigger the DCC may by written notice to the Contractor increase the level of its monitoring of the Contractor or require the Contractor to increase the level of its monitoring and reporting of its own performance of its obligations under this Agreement ("**Enhanced Monitoring**") in respect of the Services (or relevant part thereof) to which the Enhanced Scrutiny Trigger relates until such time as the circumstances giving rise to the Enhanced Scrutiny Trigger no longer apply but in any event for not more than a period of six (6) months after the giving of such notice, unless the Contractor has failed to satisfy the requirements of this paragraph during that six (6) month period, in which case the DCC may, at its sole discretion and without prejudice to its other rights, elect to extend the period of Enhanced Monitoring by, at most, a further six (6) months.
- 2.2. Enhanced Monitoring that the DCC may require under paragraph 2.1 may include:
 - 2.2.1. increasing the frequency, depth or type(s) of any existing monitoring or reporting;
 - 2.2.2. adding new reporting and/or monitoring requirements; and/or
 - 2.2.3. requiring the Contractor to provide a reasonable number of appropriately qualified and senior staff to participate in a dedicated governance board or other focus group established by the DCC,in relation to the obligations which gave rise to the Enhanced Monitoring.
- 2.3. Any such notice to the Contractor (as referred to in paragraph 2.1) shall specify in reasonable detail the additional measures to be taken by the DCC or by the Contractor (as the case may be) in monitoring or reporting on the performance of the Contractor.
- 2.4. The Contractor shall notify the DCC within five (5) Business Days of receipt


of the notice referred to in paragraph 2.1 of any measures specified in such notice that the Contractor (acting reasonably) believes are excessive or may prejudice the Contractor's performance of its obligations under this Agreement, together with such alternative measures that the Contractor may propose.

- 2.5. Any Dispute arising out of or in connection with a notice referred to in paragraph 2.1 shall be resolved in accordance with paragraph 5 below.

3. DCC OBSERVERS

- 3.1. Before the DCC exercises its rights to appoint any Observers under this Part B of Schedule 8.10, the DCC shall permit the Contractor the opportunity to demonstrate to the DCC's reasonable satisfaction within five (5) Business Days of written notice to do so, that the Contractor is able to remedy the circumstances giving rise to the right to Enhanced Scrutiny without the requirement for the DCC to take action, unless in the DCC's reasonable but sole opinion it believes the circumstances are such that to afford the Contractor such opportunity would create an undue risk to the DCC, DCC Service Users, Energy Consumers or DCC Eco-System Entity, including that it considers there is insufficient time.

- 3.2. If the DCC is not satisfied with the Contractor's demonstration pursuant to paragraph 3.1 immediately above or if such demonstration is not required pursuant to that paragraph 3.1, the DCC may, on the occurrence of an Enhanced Scrutiny Trigger during the Term, by written notice to the Contractor appoint such reasonable number of people (each an "**Observer**") as may reasonably be required to observe, monitor, and/or review any matter related to:

3.2.1. any circumstances that have given rise to an Enhanced Scrutiny Trigger; and/or

3.2.2. the performance (or non-performance) by or on behalf of the Contractor of any obligations under this Agreement:

- i. in respect of the Services (or relevant part thereof) to which the Enhanced Scrutiny Trigger relates; and/or
- ii. to mitigate, remedy or prevent the reoccurrence of the circumstances that have given rise to an Enhanced Scrutiny Trigger,

until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the DCC that the circumstances giving rise to the Enhanced Scrutiny Trigger no longer apply.

- 3.3. The DCC may require that such Observers are granted the rights referred to in paragraph 3.1 either through such remote means as the DCC may request (provided such request is reasonably practicable) or at any Site or other relevant premise(s).

- 3.4. The Contractor shall notify the DCC within five (5) Business Days of having been informed of the actions the DCC proposes to take or require under this



paragraph 3 if it believes the DCC's action or proposed actions are excessive or may prejudice the Contractor's performance of its obligations under this Agreement, together with such alternative measures that the Contractor may propose.

- 3.5. Any Dispute arising out of or in connection with a notice referred to in paragraph 3.1 shall be resolved in accordance with paragraph 5 below.

4. ENHANCED SCRUTINY – COSTS

- 4.1. Subject to paragraph 4.2 and 4.3, the Contractor shall bear its own costs and shall reimburse the DCC in respect of any additional costs that are directly incurred by the DCC in respect of any measures and/or the appointment of any Observers or the taking of any other action under paragraph 2 or 3 (including Observers' reasonable incurred expenses, including travel and accommodation).
- 4.2. Each party shall bear its own costs incurred in accordance with this Agreement in respect of any action taken under paragraph 2 or 3 to the extent arising solely as a result of the circumstances set out in paragraph 1.1.6.
- 4.3. The DCC shall bear its own costs and shall reimburse the Contractor in respect of any reasonable additional costs that are directly incurred by the Contractor in accordance with this Agreement in respect of any action taken under paragraph 2 or 3 to the extent arising solely as a result of the circumstances identified in paragraph 1.1.5 insofar as these were caused by a DCC Cause or Other Service Provider Cause or paragraph 1.1.9, provided such circumstances did not arise as a result of any breach (or likely future breach) of this Agreement by the Contractor.


5. ENHANCED SCRUTINY – DISPUTES

- 5.1. In the event of any Dispute relating to:
- 5.1.1. any Enhanced Monitoring;
 - 5.1.2. the appointment of any Observers; or
 - 5.1.3. otherwise in relation to any action taken by the DCC under this Part B of Schedule 8.10,

the Contractor shall comply with any measures specified by the DCC and/or appointment of Observers (and related obligations in connection with such paragraphs) at all times until such Dispute has been resolved in accordance with the Fast Track Dispute Resolution Procedure.

PART C – STEP-IN (AND STEP-OUT)

1. STEP-IN

- 1.1. For the purposes of this Agreement a "**Step-in Trigger**" means each circumstance that would be an Enhanced Scrutiny Trigger except that for the purposes of this definition:
 - 1.1.1. paragraph 1.1.2 of Part B shall refer to a "material breach" (as opposed to any breach) of one or more of the provisions listed in paragraph 1.1.2;
 - 1.1.2. paragraph 1.1.5 of Part B shall be construed with the words "(whether or not as a result of an actual or potential DCC Cause, Other Service Provider Cause or breach of this Agreement by the Contractor)" replaced with the words "(provided the same is due to an actual or reasonably likely breach of this Agreement by the Contractor)";
 - 1.1.3. each of paragraphs 1.1.6 and 1.1.9 of Part B shall be deemed to include the following words in quotation marks immediately before the end of such paragraph: "which the DCC (by invoking any right under this Schedule 8.10) will (or would have an ability to) mitigate or remedy (or prevent the re-occurrence of) in a more efficient, timely or cost effective manner than the Contractor";
 - 1.1.4. in 1.1.8 of Part B, the words "the Contractor has committed a breach of this Agreement" shall be deemed replaced with the words "the Contractor has committed a material breach of this Agreement"; and
 - 1.1.5. the circumstance referred to in paragraph 1.1.12 of Part B shall not constitute a Step-in Trigger.
- 1.2. Before the DCC exercises its rights of Step-in under this Part C of Schedule 8.10, the DCC shall permit the Contractor the opportunity to demonstrate to the DCC's reasonable satisfaction within ten (10) Business Days of written notice to do so, that the Contractor is able to remedy the circumstances giving rise to the right to Step-in without the requirement for the DCC to take action, unless:
 - 1.2.1. in the DCC's reasonable but sole opinion it believes the circumstances are such that to afford the Contractor such opportunity would create an undue risk to the DCC, DCC Service Users, Consumers or DCC Eco-System Entity, including that it considers there is insufficient time; or
 - 1.2.2. the DCC is, at that time, already exercising its Enhanced Scrutiny rights under Part B of this Schedule 8.10 for or in connection with the same circumstances.
- 1.3. If the DCC (acting reasonably) is not satisfied with the Contractor's demonstration pursuant to paragraph 1.2 immediately above or if such demonstration is not required pursuant to that paragraph 1.2, the DCC may,


on the occurrence of a Step-in Trigger during the Term, take action under paragraphs 2 and/or 3 of this Part C.

- 1.4. Any notice to be served by the DCC under paragraph 2.2 and/or 3.2 below (each a "**Step-in Notice**") shall set out the following (to the extent appropriate):
 - 1.4.1. the action the DCC wishes to take (or have undertaken) and in particular the Services (or part(s) thereof) it wishes to control;
 - 1.4.2. the reason for and the objective of taking the action and whether the DCC reasonably believes that the primary cause of the action is due to the Contractor's breach of this Agreement;
 - 1.4.3. the date it wishes to (or did) commence the Step-in action;
 - 1.4.4. the time period which it believes will be necessary for the Step-in action;
 - 1.4.5. whether the DCC will require access to the Contractor's premises and/or the Sites; and
 - 1.4.6. to the extent practicable, the effect on the Contractor and its obligations to provide the Services during the period in which the action is being taken.
- 1.5. If the exercise of any Step-in right by the DCC results in the degradation of any Services not subject to such Step-in rights or the non-Achievement of a Milestone beyond that which would have been the case had the DCC not taken the Step-in action, then (except to the extent such arose as a result of the Contractor's breach of any obligation under this Agreement) the Contractor:
 - 1.5.1. shall be entitled to an extension of time equal to the Delay directly caused by such Step-in action;
 - 1.5.2. have no liability for payments made by the DCC to third parties (other than Contractor Entities) in respect of the relevant Milestone to the extent that the Delay and such payments result directly from the Step-in action;
 - 1.5.3. shall not be treated as being in breach of this Agreement to the extent that non-performance or breach is due to the Step-in action; and
 - 1.5.4. in measuring the performance of any affected Service, shall be treated as though the relevant Service had met the relevant Service Measure to the extent that the Service Failure is due to any Step-in action,

provided in each case that the Contractor can demonstrate to the reasonable satisfaction of the DCC that the Step-in action has led to the degradation or non-Achievement and the consequences of the same as described immediately above.

2. DIRECTIVE ACTION

2.1. For the purposes of this Agreement "**Directive Action**" means the DCC taking over direction of the Services to the extent that the DCC considers necessary or expedient to mitigate, remedy or prevent the reoccurrence of the circumstances giving rise to the DCC's right to Step-in and/or to ensure the performance of all or part of the Services (including those provided by any Sub-contractor), the DCC may:

2.1.1. appoint such reasonably qualified (in the DCC's sole but reasonable judgement) person(s) as it may elect to:

- i. manage the prioritisation or allocation of resources used by or on behalf of the Contractor to perform any part(s) of the Services as set out in the Step-in Notice (including those resources provided by any Sub-contractor); and/or
- ii. manage any Contractor Personnel in performing all or any part(s) of the Services as set out in the Step-in Notice (including those provided by any Sub-contractor),

(each such person appointed by the DCC being a "**DCC Appointed Manager**");

2.1.2. require the Contractor to deploy such additional resources or assets (including staff) as the DCC may reasonably require (including those provided by any Sub-contractor); and/or

2.1.3. vary methodologies, processes or procedures applicable to Contractor Person(s) or their performance of any part(s) of the Services (to the extent such changes do not conflict with Law or the rights of staff enforceable at Law),

provided that Directive Action does not extend to the DCC exercising the Management Action rights referred to in paragraphs 3.2.1 to 3.2.3.

2.2. Subject to paragraphs 2 and 3 (inclusive) of Part A, at any time that the DCC has the right to Step-in in accordance with this Schedule 8.10 it may serve a notice requiring that the Contractor comply with the specified Directive Action.

2.3. The Contractor shall comply (and ensure that all Contractor Persons comply) with any direction given by the DCC pursuant to its Directive Action rights (including any direction or decision given by any DCC Appointed Manager) and shall ensure that all Contractor Persons co-operate fully and in good faith with the DCC and all DCC Appointed Managers in relation to the provision of the Services subject to the Directive Action.

2.4. The Contractor shall continue to provide the Services in accordance with the provisions of this Agreement other than to the extent of the Directive Action.

2.5. The DCC shall comply with the Directive Action Restrictions set out in Appendix 1 in taking any Directive Action.

3. MANAGEMENT ACTION

- 3.1. Before the DCC exercises its right to require Management Action, the DCC shall permit the Contractor the opportunity to demonstrate to the DCC's reasonable satisfaction within five (5) Business Days of written notice to do so, that the Contractor is able to remedy the circumstances giving rise to the DCC's right to Management Action without the requirement for the DCC to take action, unless:
 - 3.1.1. in the DCC's reasonable but sole opinion it believes the circumstances are such that to afford the Contractor such opportunity would create an undue risk to the DCC, DCC Service Users, Energy Consumers or DCC Eco-System Entity, including that it considers there is insufficient time; or
 - 3.1.2. the DCC is, at that time, already exercising its Directive Action rights under Part C of this Schedule 8.10 for or in connection with the same circumstances.
- 3.2. If the DCC is not satisfied with the Contractor's demonstration pursuant to paragraph 3.1 immediately above or if such demonstration is not required pursuant to that paragraph 3.1, the DCC may, on the occurrence of a Step-in Trigger during the Term, serve notice on the Contractor requiring the Contractor to take (or procure the taking) of those steps that the DCC considers necessary or expedient to achieve any Legitimate Objective ("**Management Action**"), encompassing:
 - 3.2.1. appointing any person to work with the Contractor in performing all or any part(s) of the Services (including those provided by any Sub-contractor);
 - 3.2.2. the DCC engaging a third party or its own staff to perform all or any part(s) of the Services (including those provided by any Sub-contractor); and
 - 3.2.3. the Contractor suspending its provision of any Services or part thereof.
- 3.3. The Contractor shall continue to provide the Services in accordance with the provisions of this Agreement other than to the extent of the Management Action.
- 3.4. The DCC shall comply with the Management Action Restrictions set out in Appendix 2 in taking any Management Action.

4. STEP-OUT

- 4.1. At any time whilst any Step-in action is occurring the Contractor may request the DCC to exercise its rights under paragraphs 4.2 to 4.5 (inclusive) ("**Step-out**") with effect from a date which is not less than twenty (20) Business Days after the request, provided the request is accompanied by a draft plan relating to the resumption by the Contractor of the Services (including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of this Agreement) for the DCC's

approval. The DCC shall not, however, be obliged to Step-out in any case unless:

- 4.1.1. it is satisfied, in its absolute discretion, that the issue or reason in relation to which it decided to Step-in has been resolved and that there are no other grounds on which it would be entitled to Step-in under this Schedule 8.10; or
 - 4.1.2. a period of six (6) months has elapsed since issuing the Step-in Notice provided that, if the Contractor has not remedied the cause of the event giving rise to the Step-in Notice, the DCC may, without prejudice to its other rights, including the DCC's right to termination under Clause 47 (Termination Rights), at its sole discretion, issue a further Step-in Notice to extend the Step-in period for a further period of up to six (6) months.
- 4.2. If the DCC approves such request and resumption plan referred to in paragraph 4.1 and serves a Step-out Notice specifying that it wishes the parties to use such plan then that plan shall be deemed the Step-out Plan for the purposes of paragraph 4.4.
- 4.3. Before ceasing to exercise its Step-in rights, the DCC shall deliver a written notice to the Contractor ("**Step-out Notice**"), specifying:
- 4.3.1. the Step-in action it has actually taken; and
 - 4.3.2. the date on which the DCC plans to end the Step-in action ("**Step-out Date**") subject to the DCC being satisfied with the Contractor's ability to resume the provision of the Services and the Contractor's plan developed in accordance with paragraph 4.4.
- 4.4. The Contractor shall, following receipt of a Step-out Notice (unless the circumstances in paragraph 4.2 apply) and not less than twenty (20) Business Days prior to the Step-out Date, develop for the DCC's approval a draft plan ("**Step-out Plan**") relating to the resumption by the Contractor of the Services, including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of this Agreement and removal of any circumstances giving rise to the relevant Step-in Trigger(s).
- 4.5. If the DCC does not approve the draft Step-out Plan, the DCC shall inform the Contractor of its reasons for not approving it. The Contractor shall then revise the draft Step-out Plan taking those reasons into account and shall re-submit the revised plan to the DCC for the DCC's approval. The DCC shall not withhold or delay its approval of the draft Step-out Plan unnecessarily.
- 4.6. The DCC shall notify the Contractor of its decision to approve or not to approve a draft Step-out Plan pursuant to paragraph 4.5 above within thirty (30) days of its receipt of such draft Step-out Plan.

5. COSTS OF STEP-IN/STEP-OUT

- 5.1. Subject to paragraphs 5.2 and 5.3:



- 5.1.1. the Contractor shall bear its own costs in connection with any exercise by the DCC of any Directive Action or Management Action right (or otherwise in connection with paragraphs 1 to 5 (inclusive)) and the Contractor's obligations in connection with the same;
 - 5.1.2. the Contractor shall reimburse the DCC on demand for all Losses incurred by the DCC (including Losses incurred to third parties) in relation to taking any Step-in action(s) and the DCC shall be entitled to deduct all such amounts from any amount payable to the Contractor under this Agreement (provided that if the DCC does not pay Charges in respect of suspended elements of the Services pursuant to paragraph 5.1.3 the Losses incurred by the DCC for the purposes of this paragraph 5.1.2 shall be deemed reduced by an amount equal to such Charges in respect of suspended elements of the Services); and
 - 5.1.3. while the Contractor's rights and obligations to provide any or all elements of the Services are suspended as a result of any Management Action, the DCC will not be obliged to pay the Charges that would otherwise have been payable in respect of the suspended elements of the Services.
- 5.2. In respect of any Step-in action taken solely under the Step-in Trigger based on paragraph 1.1.6 of Part B and without prejudice to Clause 44 (Force Majeure):
- 5.2.1. the provisions of paragraph 5.1 shall not apply; and
 - 5.2.2. each party shall bear its own costs in respect of any such action to the extent arising solely as a result of the circumstances set out in paragraph 1.1.6 of Part B.
- 5.3. If the DCC elects to exercise its rights to take Step-in action under the Step-in Trigger based on paragraph 1.1.5 insofar as this was caused by a DCC Cause or Other Service Provider Cause or paragraph 1.1.9 of Part B and such circumstances did not arise as a result of any breach of this Agreement by the Contractor then:
- 5.3.1. the provisions of paragraph 5.1 shall not apply;
 - 5.3.2. the DCC shall bear its own costs in respect of the Step-in action (and the costs of any party it engages to take those actions); and
 - 5.3.3. the DCC shall (subject to the Contractor's compliance with its obligations in connection with this Agreement (including paragraph 2 of Part A and any other rights or remedies available to the DCC under this Agreement)) pay the Contractor:
 - i. in respect of the Services provided by or on behalf of the DCC as part of any Management Action, the sums which the Contractor would be entitled to under this Agreement during such period if it were providing those Services in full over that period; and



- ii. in respect of all other Services, the amount which the Contractor is actually entitled to pursuant to the provisions of this Agreement after the application of any Service Credits and other adjustments (including Delay Deductions or Delay Payments) applicable to the provision of those Services.

6. DISPUTES

6.1. In the event of any Dispute relating to:

6.1.1. any Directive Action;

6.1.2. any Management Action; or

6.1.3. otherwise in relation to any action taken by the DCC under this Part C of Schedule 8.10,

the Contractor shall comply with any measures specified by the DCC and/or any persons on its behalf (including the DCC Appointed Manager) at all times until such Dispute has been resolved in accordance with the Fast Track Dispute Resolution Procedure.

Appendix 1 – Directive Action Restrictions

Introduction:

Where the exercise of any action, function, right or power by the DCC (or any representative appointed by it) in accordance with this Schedule 8.10 is dependent on any requirement to be provided or procured by the Contractor set out in this Appendix 1, the Contractor shall satisfy or procure the satisfaction of such requirement as soon as reasonably possible to ensure that the exercise of such action, function, right or power as envisaged by this Schedule 8.10 is not hindered in any material respect.

Asset or part of the Services	Directive Action Restriction
<p>All services provided from Contractor data centres and offices</p>	<p>If the DCC (or an appointed third party) wished to issue directives from a Contractor site rather than remotely then they would have to abide by applicable site regulations (health & safety, security, etc) and be escorted by a member of the Contractor staff at all times.</p> <p>For data centre working, a Permit To Work order would have to be generated when access to data rooms or secure areas is required.</p> <p>A working area would be provided for DCC or 3rd party staff and meetings with staff working in shared secure environments would be held in this area.</p> <p>They would also have to follow reasonable instructions to avoid them coming into contact with any hardware or data belonging to other programmes (i.e. programmes for other clients) as this is key to allowing the DCC to comply with the provisions of Schedule 8.10 Part A paragraph 2.3.2.</p> <p>In all cases of the DCC requesting / making changes to the Contractor's Solution, a formal change control process will be followed. This will ensure a full audit trail of decisions, actions and outcomes. The audit trail will be made available to the Contractor and updated following each change.</p> <p>Changes to shared services (described below) will be subject to approval in accordance with the change control processes of the other contracts sharing the service.</p>
<p>Secure Operations Centre (provided by Key Subcontractors)</p>	<p>If the DCC (or an appointed third party) wished to visit any Key Subcontractor site in order to issue directives then they would have to abide by applicable site regulations (health & safety, security, etc) and be escorted by a member of the Key Subcontractor staff at all times. They would also have to follow reasonable instructions to avoid them coming into contact with any hardware or data belonging to other programmes (i.e. programmes for other clients) as this is key to allowing the DCC to comply</p>



	with the provisions of Schedule 8.10 Part A paragraph 2.3.2.
Network Operation Centres	If the DCC (or an appointed third party) wish to visit or operate from Network Operation Centres then they would have to comply with site regulations, applicable security regulations and be fully escorted by an appropriate member of Network Operation Centre Network Operations Team.
Core Switching, Point of Presence and secure network locations	Access to these locations will be provided on a chaperoned basis and is likely access will only be allowed to qualified personnel.



Appendix 2 – Management Action Restrictions

Where the exercise of any action, function, right or power by the DCC (or any representative appointed by it) in accordance with this Schedule 8.10 is dependent on any requirement to be provided or procured by the Contractor set out in this Appendix 2, the Contractor shall satisfy or procure the satisfaction of such requirement as soon as reasonably possible to ensure that the exercise of such action, function, right or power as envisaged by this Schedule 8.10 is not hindered in any material respect.

Asset or part of the Services	Management Action Restriction
<p>Hosting Services (e.g. Hardware required for the DCC programme and hosted in datacentres).</p>	<p>If the DCC (or an appointed third party) wished to manage this part of the service from a Contractor site rather than remotely then they would have to abide by applicable site regulations (health & safety, security, etc) and be escorted by a member of the Contractor staff at all times.</p> <p>For data centre working, a Permit To Work order would have to be generated when access to data rooms or secure areas is required.</p> <p>A working area would be provided for DCC or third party staff and meetings with staff working in shared secure environments would be held in this area so that there is no contact with any hardware or data belonging to other programmes (i.e. programmes for other clients).</p> <p>This is key to allowing the DCC to comply with the provisions of Schedule 8.10 Part A paragraph 2.3.2.</p> <p>Contractor involvement is essential to ensuring that Contractor's confidentiality and security obligation to other clients is not compromised in any way.</p> <p>In all cases of the DCC requesting / making changes to the Contractor's Solution, a formal change control process will be followed. This will ensure a full audit trail of decisions, actions and outcomes. The audit trail will be made available to the Contractor and updated following each change.</p> <p>Changes to shared services (described below) will be subject to approval in accordance with the change control processes of the other contracts sharing the service.</p>
<p>Shared Communications Links</p>	<p>If the DCC (or an appointed third party) wished to manage this part of the service from a Contractor site rather than remotely then they would have to abide by applicable site regulations (health & safety, security, etc) and be escorted by a member of the Contractor staff at all times whilst on Contractor premises.</p>



	<p>They would not be able to manipulate such communication links themselves so action more akin to Directive Action rather than Management Action would be more appropriate in this area. They would have to follow reasonable instructions issued by Contractor.</p> <p>This is key to allowing the DCC to comply with the provisions of Schedule 8.10 Part A paragraph 2.3.2.</p>
<p>The toolset and team and Service Desk Team.</p>	<p>If the DCC (or an appointed third party) wished to manage this part of the service from a Contractor site rather than remotely then they would have to abide by applicable site regulations (health & safety, security, etc) and be escorted by a member of the Contractor staff at all times.</p> <p>A working area would be provided for DCC or third party staff and meetings.</p> <p>They would also have to follow reasonable instructions to avoid them coming into contact with any hardware or data belonging to other programmes (i.e. programmes for other clients).</p> <p>This is key to allowing the DCC to comply with the provisions of Schedule 8.10 Part A paragraph 2.3.2. Contractor involvement is essential to ensuring that Contractor's confidentiality and security obligations to other clients are not compromised in any way.</p>
<p>Secure Operations Centre</p>	<p>If the DCC (or an appointed third party) wished to manage this part of the service from a Contractor site rather than remotely then they would have to abide by applicable site regulations (health & safety, security, etc) and be escorted by a member of the Contractor staff at all times. They would also have to follow reasonable instructions to avoid them coming into contact with any hardware or data belonging to other programmes (i.e. programmes for other clients).</p> <p>This is key to allowing the DCC to comply with the provisions of Schedule 8.10 Part A paragraph 2.3.2 – it may be that access to the Secure Operations Centre is impractical and too restrictive for either Party, and therefore Directive Action rather than Management Action would be more appropriate in this area. Contractor involvement is essential to ensuring that Contractor confidentiality and security obligations to other clients is not compromised in any way.</p>
<p>Backup Data service</p>	<p>There will be a dedicated backup environment (for example dedicated SAN, virtualised tape library and shared offsite tape management service). Contractor will also have systems to monitor, adjust and recover backups and a Service Desk (backup incident and</p>

	<p>problem managers) within an end to end backup service. If this backup service is predominantly shared across other clients, then Directive Action rather than Management Action may be more appropriate as the best means of ensuring compliance with the provisions of Schedule 8.10 Part A paragraph 2.3.2.</p>
Offsite Storage service	<p>The DCC (or appointed third party) would have to comply with any applicable terms, conditions or instructions in force or notified at the time by Contractor's subcontract provider of this service.</p>
Service management toolset and infrastructure	<p>The infrastructure may be shared and so access to it would be subject to Contractor's reasonable instructions at the time and may be restricted or refused if necessary to comply with the provisions of Schedule 8.10 Part A paragraph 2.3.2.</p> <p>If the DCC (or an appointed third party) wished to manage this part of the service from a Contractor site rather than remotely then they would have to abide by applicable site regulations (health & safety, security, etc) and be escorted by a member of the Contractor staff at all times.</p> <p>For data centre working, a Permit To Work order would have to be generated when access to data rooms or secure areas is required.</p>
System Management toolsets which are managed centrally e.g. BMC tools, Blade Logic	<p>Where they are dedicated to DCC then access to such toolsets would be possible but where they are shared across other clients then Directive Action rather than Management Action would be more appropriate as the best means of ensuring compliance with the provisions of Schedule 8.10 Part A paragraph 2.3.2.</p>
Access to Core Managed Equipment	<p>If Contractor is unable to allow DCC access to core network equipment, including, but not limited to, routers and switches that provide services to other customers then access to the information held on these devices would be provided by Contractor personnel and information would be provided in a secure environment.</p>
Equipment on DCC Service User premises	<p>Access to equipment supplied by Contractor located on the DCC Service User premises would be allowed subject to DCC Service User's agreement. All relevant regulatory procedures must be followed.</p>



SCHEDULE 9.1

TUPE

1. PURPOSE OF THIS SCHEDULE

- 1.1. This Schedule 9.1 sets out the parties' respective rights and obligations in relation to the application of the Employment Regulations to this Agreement.

2. DEFINITIONS

- 2.1. In this Schedule 9.1 (except where the context otherwise requires) the following words and expressions have the following meanings:

"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;

"DCC Service User Providers" means: (a) any third party (other than the DCC) with whom a DCC Service User enters into a DCC Service User Provider Contract or its servants or agents; and (b) any third party (other than the DCC) with whom a DCC Service User Provider enters into a DCC Service User Provider Contract or its servants or agents (and so on);

"DCC Service User Provider Contract" means (excluding any Sub-contract or DCC Service Provider Contract and this Agreement) any contract or agreement or proposed contract or agreement between a DCC Service User or any DCC Service User Provider and any third party (other than the DCC) whereby that third party agrees to provide to the DCC or any DCC Service User Provider facilities, goods, services or other supply;

"Emoluments" means all pay, benefits, PAYE payments, national insurance contributions, pension contributions and other amounts payable to or in respect of the employment or engagement of any person;

"Employment Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Laws implementing the Council Directive 2001/23/EC as amended or replaced, and/or any equivalent or similar legislation relating to the transfer of employees or workers;

"Employee Liability Information"	Liability	shall have the meaning given to it in the Employment Regulations;
"Potential Returning Employees"	Returning	means any employee (as defined in the Employment Regulations) of the Contractor or any Contractor Person who are employed in relation to the Services;
"Returning Employees"		means any employee (as defined in the Employment Regulations) of the Contractor or any Contractor Person who are employed in relation to and is assigned to the organised grouping of employees whose principal purpose is the provision of the Services;
"Sensitive Claim"	TUPE	has the meaning given in paragraph 7.6 of this Schedule 9.1;
"Staffing Information"		<p>means, in relation to all persons named on the Contractor's Staff List, such information as the DCC may reasonably request (subject to Data Protection Laws), but including in an anonymised format:</p> <ul style="list-style-type: none"> (a) their ages, dates of commencement of employment or engagement, and gender; (b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise; (c) the identity of the employer or relevant contracting party; (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; (e) their wages, salary and any profit sharing arrangements; (f) details of other employment related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them; (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);



- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other Employee Liability Information;

"Subsequent Transfer Date" means the date on which the Services cease to be provided by the Contractor;

"TUPE Beneficiary" has the meaning given in paragraph 7.1 of this Schedule 9.1;

"TUPE Claim" has the meaning given in paragraph 7.2 of this Schedule 9.1; and

"TUPE Indemnifier" has the meaning given in paragraph 7.1 of this Schedule 9.1.

3. APPLICATION OF THE EMPLOYMENT REGULATIONS ON THE COMMENCEMENT OF THIS AGREEMENT

3.1. The DCC and the Contractor agree that it is the intention of the parties that at the Commencement Date and at all times during the Service Period, the Employment Regulations shall not apply in such a way so as to transfer the employment or engagement (or any associated or related liabilities) of any employees or workers (or former employees or workers) of the DCC, any DCC Service Provider, any DCC Service User or any DCC Service User Provider (or any former DCC Service Provider, DCC Service User or DCC Service User Provider) in whole or in part to the Contractor or any Contractor Person(s) in connection with the commencement or provision of the Services. Notwithstanding such a belief and on the basis that both Parties have agreed to be responsible for its own employees:

3.1.1. if the Employment Regulations are found to apply, or a Party reasonably suspects the Employment Regulations shall apply, in respect of the commencement of this Agreement, any Services or upon the Contractor ceasing to perform any or all of its obligations under this Agreement or following the expiry or termination of the whole or part of this Agreement, the Parties shall comply with their respective obligations, and may exercise their respective rights, under this Schedule 9.1 (TUPE); and

3.1.2. either Party may at any time during the Term review the position set out in this Schedule 9.1 and request that amendments are made to this Agreement to cover each Party's potential liability under the Employment



Regulations if that Party considers that the Employment Regulations may apply on the commencement of this Agreement, the commencement of any Services or expiry or termination of this Agreement or any part of it.

- 3.2. If any person who is or claims to be an employee or worker (or former employee or worker) of the DCC, any DCC Service Provider, any DCC Service User or any DCC Service User Provider (or any former DCC Service Provider, DCC Service User, or DCC Service User Provider) claims or it is determined that his/her contract of employment or engagement and/or any liabilities in connection with, associated with or arising from his/her employment or engagement or its termination or cessation howsoever arising has been transferred in whole or in part from the DCC, any DCC Service Provider, any DCC Service User or any DCC Service User Provider (as applicable) to the Contractor or a Contractor Person(s) pursuant to the Employment Regulations in connection with the commencement or provision of any Services, or claims that his/her employment would have so transferred had he/she not resigned, then:
 - 3.2.1. the Contractor will, within ten (10) Business Days of the earlier of the date on which:
 - (i) it becomes aware of that fact; or
 - (ii) a Contractor Person notifies the Contractor of that fact,give notice in writing to the DCC;
 - 3.2.2. the DCC may (or may request that the DCC Service Provider, DCC Service User or DCC Service User Provider (as applicable) may) offer employment to such person within fifteen (15) Business Days of the notification by the Contractor; and
 - 3.2.3. if such offer of employment is accepted, the Contractor or the relevant Contractor Person(s) shall immediately release the person from his/her employment; or
 - 3.2.4. if after that period has elapsed, no such offer of employment has been made or such offer has been made but not accepted, the Contractor or the relevant Contractor Person(s) may within ten (10) Business Days give notice to terminate the employment or engagement of such person.
- 3.3. Subject to the Contractor and each relevant Contractor Person (as applicable) acting in the way set out in paragraph 3.2 or in such other way as may be agreed between the Contractor and the DCC and subject always to paragraph 3.4, the DCC will indemnify the Contractor and each Contractor Person against:
 - 3.3.1. all Employee Liabilities arising out of such termination or otherwise arising out of the employment or engagement of such person by the Contractor or the relevant Contractor Person(s); and/or
 - 3.3.2. any direct employment/engagement costs (if any) associated with the employment or engagement of such person by the Contractor or the relevant Contractor Person(s) up to the date of termination of such person's employment or engagement.

3.4. The indemnity in paragraph 3.3 above will not apply:

3.4.1. to any claim by any person in respect of whom the notification given to the DCC under paragraph 3.2.1 is received by the DCC more than six (6) months after the earlier of:

(i) the date on which such person claims or it is determined that his/her employment (or any associated liabilities) transferred to the Contractor or the Contractor Person (as applicable); or

(ii) the date on which the Contractor or the Contractor Person (as applicable) ought reasonably to have been aware of such claim or transfer; and/or

3.4.2. if such person is neither re-employed by the DCC, DCC Service Provider, DCC Service User, or DCC Service User Provider (as applicable) nor dismissed or given notice of termination by the Contractor or the relevant Contractor Person within the timescales set out in paragraph 3.2,

in which case such person will be treated as having transferred to the Contractor or the relevant Contractor Person who shall be responsible for all liabilities arising in respect of any such person.

3.5. Further, and without prejudice to paragraph 3.4 above, the indemnity in paragraph 3.3 above will not apply to any claim for discrimination on the basis of any protected characteristic (as defined by the Equality Act 2010) in relation to any act or omission of the Contractor and/or any Contractor Person.

4. APPLICATION OF THE EMPLOYMENT REGULATIONS ON TERMINATION OR EXPIRY OF THIS AGREEMENT OR ANY SERVICES

4.1. The Contractor agrees, subject to compliance with the Data Protection Laws, that within twenty (20) Business Days of the earliest of:

4.1.1. receipt of the giving of notice of early termination of this Agreement or any part thereof; or

4.1.2. the date which is twelve (12) months before the end of the Termination Assistance Period; or

4.1.3. receipt of a written request of the DCC at any time (provided always that the DCC may not make more than one such request in any twelve (12) month period outside the Termination Assistance Period),

it will (and it will ensure that its sub-contractors will) provide the Contractor's Staff List and the Staffing Information to the DCC or, at the direction of the DCC, to a Replacement Contractor and it will provide an updated Contractor's Staff List and Staffing Information to take account of any material changes to the same at such intervals as are reasonably requested by the DCC.

- 4.2. Subject to compliance with the Data Protection Laws, the DCC shall be permitted to use and disclose the Contractor's Staff List and the Staffing Information for informing any tenderer or other prospective Replacement Contractor for any services which are substantially the same type of services (or any part thereof) as the Services, provided that the DCC imposes on such third party obligations of confidence that are no less onerous than the DCC has to the Contractor in relation to that information.
- 4.3. The Contractor warrants that, as at the date on which they are provided, the Contractor's Staff List and the Staffing Information will be true and accurate in all material respects.

5. TRANSFER OF EMPLOYEES ON EXIT

- 5.1. The Parties acknowledge and agree that where all or part of the Services cease to be provided by the Contractor for any reason and where all or part of the Services (or any Replacement Services) continue to be provided by the Replacement Contractor, the Returning Employees may be the subject of a relevant Transfer to the Replacement Contractor with effect from the Subsequent Transfer Date.
- 5.2. Without prejudice to paragraph 5.8, the Contractor agrees to provide the Employee Liability Information to the DCC (or, at the request of the DCC, Replacement Contractor) at such time or times as are required by the Employment Regulations, and, at the time of providing such Employee Liability Information, the Contractor shall warrant that the Employee Liability Information:
 - 5.2.1. is complete and accurate at the time it is provided to the DCC (or, where relevant, Replacement Contractor); and
 - 5.2.2. will be updated to take account of any changes to such information, as required by the Employment Regulations.
- 5.3. The DCC may assign the benefit of the warranties at paragraphs 4.3 and 5.2 to any Replacement Contractor.
- 5.4. At any time following notice of termination, the Contractor shall enable and assist the DCC and such other persons as the DCC may reasonably determine to communicate with and meet the Potential Returning Employees and their trade union or other employee representatives.
- 5.5. The DCC (and such other persons as the DCC may reasonably determine) shall be offered the opportunity to attend and participate in any meetings held prior to the Subsequent Transfer Date at which information is given to, or there is consultation with, the Potential Returning Employees or/and their trade union or other employee representatives.
- 5.6. The DCC (and such other persons as the DCC may reasonably determine) and the Contractor shall agree all communications sent to the Potential Returning Employees in relation to the transfer of their employment, using a notice in a form to be agreed between the Parties before the Subsequent Transfer Date.
- 5.7. The Contractor shall maintain current adequate and suitable records regarding the service of each of the Potential Returning Employees including the

information set out at paragraphs 4 and 5.2 (save to the extent prohibited by law) shall transfer the same or a complete copy of the same to the DCC or any Replacement Contractor within fourteen (14) days of the transfer of each Potential Returning Employee to whom the records refer by operation of the Employment Regulations.

- 5.8. The Contractor undertakes to the DCC that, during the twelve (12) months prior to the Subsequent Transfer Date, and in any event at any time following service of notice, and in respect of that part of the Services which will cease to be provided by the Contractor at the Subsequent Transfer Date (the "**Affected Services**" for the purposes of this paragraph), the Contractor shall not without the prior written consent of the DCC (such consent not to be unreasonably withheld or delayed):
- 5.8.1. amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement) (including, for the avoidance of doubt, pay) of any Potential Returning Employees (other than where such amendment or variation has previously been agreed between the Contractor and the Potential Returning Employees in the normal course of business, and where any such amendment or variation is not in any way related to the transfer of the Services);
 - 5.8.2. terminate or give notice to terminate the employment or engagement of any Potential Returning Employees (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
 - 5.8.3. transfer away, remove, reduce or vary the involvement of any of the Potential Returning Employees from or in the provision of the Affected Services other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Contractor, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
 - 5.8.4. recruit or bring in any new or additional individuals to provide the Affected Services who were not already involved in providing the Affected Services prior to the relevant period.
- 5.9. The Contractor shall be responsible for all Emoluments in respect of the Returning Employees which are attributable in whole or in part to the period up to, and including, the Subsequent Transfer Date (including any bonuses or commission which are payable after the Subsequent Transfer Date but attributable in whole or in part to the period on or before the Subsequent Transfer Date) and the Contractor will indemnify the DCC (both for itself and any Replacement Contractor) against any costs, claims, liabilities and expenses (including reasonable legal expenses) incurred or suffered by the DCC or any Replacement Contractor in respect of the same.
- 5.10. The DCC will be responsible for all Emoluments in respect of the Returning Employees which are attributable in whole or in part to the period after the Subsequent Transfer Date (including any bonuses, commission, premiums,

subscriptions and any other prepayments which are payable on or before the Subsequent Transfer Date but which are attributable in whole or in part to the period after the Subsequent Transfer Date), and will indemnify the Contractor against any costs, claims, liabilities and expenses (including reasonable legal expenses) incurred or suffered by the Contractor in respect of the same.

5.11. The Contractor shall indemnify the DCC (both for itself and a Replacement Contractor) against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred by the DCC and/or Replacement Contractor in connection with or as a result of:

5.11.1. any claim or demand by any Potential Returning Employee whether in contract, tort, under statute, pursuant to European law or otherwise including any claim or demand of any other nature, in each case arising directly from any act, fault or omission of the Contractor in respect of any Potential Returning Employee on or before the Subsequent Transfer Date;

5.11.2. any failure by the Contractor to comply with its or their obligations under Regulations 13 and 14 of the Employment Regulations, or any award of compensation under Regulation 15 of the Employment Regulations, save where such failure arises from the failure of a Replacement Contractor to comply with its or their duties under Regulation 13 of the Employment Regulations;

5.11.3. any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing the Potential Returning Employees arising from or connected with any failure by the Contractor to comply with any legal obligation to such trade union, body or person;

5.11.4. the provision of inaccurate or incomplete information pursuant to paragraphs 4 and 5.2;

5.11.5. any claim by any person who is transferred by the Contractor to Replacement Contractor or whose name is included in the list of Returning Employees where such person was not engaged wholly or substantially in providing the Services prior to the Subsequent Transfer Date; and

5.11.6. any claim for a protective award arising from an alleged failure to comply with the requirements for pre-transfer consultation under section 198A and/or section 198B of TULR(C)A.

5.12. The DCC shall indemnify the Contractor against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred in connection with or as a result of:

5.12.1. any claim or demand by any Returning Employee whether in contract, tort, under statute, pursuant to European law or otherwise including any claim or demand of any other nature, in each case arising directly or indirectly from any act, fault or omission of Replacement Contractor in respect of any Returning Employee on or after the Subsequent Transfer Date;



- 5.12.2. any failure by a Replacement Contractor to comply with its obligations under Regulation 13 of the Employment Regulations;
 - 5.12.3. any claim (including any individual entitlement of a Returning Employee under or consequent on such claim) by any trade union or other body or person representing the Returning Employees arising from or connected with any failure by Replacement Contractor to comply with any legal obligation to such trade union, body or person;
 - 5.12.4. any change or proposed change to the terms and conditions of employment or working conditions of the Potential Returning Employees on or after their transfer to Replacement Contractor on the Subsequent Transfer Date; and
 - 5.12.5. any change of identity of employer occurring by virtue of the Employment Regulations and/or this Agreement being significant and detrimental to any of the Potential Returning Employees.
- 5.13. The DCC may in its discretion assign the benefit of the indemnities set out in this paragraph 5 to the Replacement Contractor.

6. OTHER TRANSFERRING EMPLOYEES

- 6.1. If any person (other than a Returning Employee) claims to be an employee or worker (or former employee or worker) of the Contractor or any Contractor Person or it is determined that his/her contract of employment or engagement and/or any liabilities in connection with, associated with or arising from his/her employment or engagement or its termination or cessation howsoever arising has been transferred in whole or in part from the Contractor or any Contractor Person (as applicable) to the DCC and/or the Replacement Contractor(s) pursuant to the Employment Regulations or otherwise, or claims that his/her employment or engagement would have so transferred had he/she not resigned, then:
- 6.1.1. the DCC or the Replacement Contractor(s) (as applicable) will, within seven (7) Business Days of becoming aware of that fact, give notice in writing to the Contractor;
 - 6.1.2. the Contractor may (or may request that a Contractor Person) offer employment to such person within twenty-one (21) Business Days of the notification by the DCC or the Replacement Contractor(s) (as applicable); and
 - 6.1.3. if such offer of employment is accepted, the DCC or the Replacement Contractor(s) (as applicable) shall immediately release the person from his/her employment; or
 - 6.1.4. if after that period has elapsed, no such offer of employment has been made or such offer has been made but not accepted, the DCC or the Replacement Contractor(s) (as applicable) may within seven (7) Business Days give notice to terminate the employment or engagement of such person.
- 6.2. Subject to the DCC and/or the Replacement Contractor(s) (as applicable) acting

in the way set out in paragraph 6.1 or in such other way as may be agreed between the Contractor and the DCC and subject always to paragraph 6.4, the Contractor will indemnify the DCC and each Replacement Contractor against:

- 6.2.1. all Employee Liabilities arising out of such termination or otherwise arising out of the employment or engagement of such person by the DCC or the Replacement Contractor(s) (as applicable); and/or
- 6.2.2. any direct employment/engagement costs (if any) associated with the employment or engagement of such person by the DCC and/or the Replacement Contractor(s) (as applicable) up to the date of termination of such person's employment or engagement.

6.3. The indemnity in paragraph 6.2 above will not apply:

- 6.3.1. to any claim by any person in respect of whom the notification given to the Contractor under paragraph 6.1.1 is received by the Contractor more than six (6) months after the date of the termination or expiry of this Agreement (whether in whole or in part); and/or
- 6.3.2. if such person is neither re-employed by the Contractor or a Contractor Person (as applicable) nor dismissed by the DCC or the Replacement Contractor (as applicable) within the timescales set out in paragraph 6.1,

in which case such person will be treated as having transferred to the DCC or the Replacement Contractor (as applicable) who shall be responsible for all liabilities arising in respect of any such person's employment with the DCC or Replacement Contractor in question.

6.4. Further, and without prejudice to paragraph 6.3, the indemnity in paragraph 6.2 will not apply to any claim for discrimination on the basis of any protected characteristic (as defined by the Equality Act 2010) in relation to any act or omission of the DCC and/or a Replacement Contractor.

7. CONDUCT OF CLAIMS

7.1. This paragraph 7 shall apply to the conduct, by a party from whom an indemnity is sought under this Schedule 9.1, of claims made by a third person against a party having (or claiming to have) the benefit of the indemnity. The party having, or claiming to have, the benefit of the indemnity is referred to as the **"TUPE Beneficiary"** and the party giving the indemnity is referred to as the **"TUPE Indemnifier"**.

7.2. If the TUPE Beneficiary receives any notice, demand, letter or other document concerning any claim for which it appears that the TUPE Beneficiary is, or may become entitled to, indemnification under this Schedule 9.1 ("**TUPE Claim**"), the TUPE Beneficiary shall give notice to the TUPE Indemnifier as soon as reasonably practicable and in any event within ten (10) Business Days of receipt of the same.

7.3. Subject to paragraphs 7.4 and 7.5, on the giving of a notice by the TUPE Beneficiary pursuant to paragraph 7.2 above, where it appears that the TUPE Beneficiary is or may be entitled to indemnification from the TUPE Indemnifier in

respect of all (but not part only) of the liability arising out of the TUPE Claim, the TUPE Indemnifier shall (subject to providing the TUPE Beneficiary with a secured indemnity to its reasonable satisfaction against all costs and expenses that it may incur by reason of such action) be entitled to dispute the TUPE Claim in the name of the TUPE Beneficiary at the TUPE Indemnifier's own expense and take conduct of any defence, dispute, compromise or appeal of the TUPE Claim and of any incidental negotiations relating to the TUPE Claim. If the TUPE Indemnifier does elect to conduct the TUPE Claim, the TUPE Beneficiary shall give the TUPE Indemnifier all reasonable co-operation, access and assistance for the purposes of such TUPE Claim and, subject to paragraph 7.5, the TUPE Beneficiary shall not make any admission which could be prejudicial to the defence or settlement of the TUPE Claim without the prior written consent of the TUPE Indemnifier.

7.4. With respect to any TUPE Claim conducted by the TUPE Indemnifier pursuant to paragraph 7.3:

7.4.1. the TUPE Indemnifier shall keep the TUPE Beneficiary fully informed and consult with it about material elements of the conduct of the TUPE Claim;

7.4.2. the TUPE Indemnifier shall not bring the name of the TUPE Beneficiary into disrepute;

7.4.3. the TUPE Indemnifier shall not pay or settle such TUPE Claim without the prior written consent of the TUPE Beneficiary, such consent not to be unreasonably withheld or delayed; and

7.4.4. the TUPE Indemnifier shall conduct the TUPE Claim with all due diligence.

7.5. The TUPE Beneficiary shall be entitled to have conduct of the TUPE Claim and shall be free to pay or settle any TUPE Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Agreement if:

7.5.1. the TUPE Indemnifier is not entitled to take conduct of the TUPE Claim in accordance with paragraph 7.3 above;

7.5.2. the TUPE Indemnifier fails to notify the TUPE Beneficiary of its intention to take conduct of the relevant TUPE Claim within ten (10) Business Days of the notice from the TUPE Beneficiary under paragraph 7.2 above or if the TUPE Indemnifier notifies the TUPE Beneficiary that it does not intend to take conduct of the TUPE Claim; or

7.5.3. the TUPE Indemnifier fails to comply in any material respect with the provisions of paragraph 7.4 above.

Sensitive TUPE Claims

7.6. With respect to any TUPE Claim for which the DCC or any Replacement Contractor is the TUPE Beneficiary and the conduct of which the DCC, acting reasonably, considers is likely to have an adverse impact on the general public's perception of the DCC or any Replacement Contractor ("**Sensitive TUPE Claim**"), the TUPE Indemnifier shall only be entitled to take conduct of any

defence, dispute, compromise or appeal of the Sensitive TUPE Claim with the DCC's prior written consent. If the DCC withholds such consent and elects that it or the Replacement Contractor shall conduct the defence, dispute, compromise or appeal of the Sensitive TUPE Claim, it shall (or shall procure the Replacement Contractor shall) conduct the Sensitive TUPE Claim with all due diligence and if any failure to do so results in an increase in the amount recoverable by the TUPE Beneficiary in respect of an indemnity under this Agreement, the TUPE Indemnifier shall only be liable to indemnify the TUPE Beneficiary in respect of that amount which would have been recoverable by the TUPE Beneficiary had it conducted the Sensitive TUPE Claim with all due diligence.

- 7.7. The DCC or Replacement Contractor shall be free at any time to give written notice to the TUPE Indemnifier that it is retaining or taking over (as the case may be) the conduct of any TUPE Claim to which paragraph 7.3 above applies notwithstanding that it does not have the right to do so pursuant to paragraph 7.3 if, in the reasonable opinion of the DCC, the TUPE Claim is, or has become, a Sensitive TUPE Claim. In such cases, the provisions of paragraph 7.6 shall apply.

Recovery of sums

- 7.8. If the TUPE Indemnifier pays to the TUPE Beneficiary an amount in respect of an indemnity and the TUPE Beneficiary subsequently recovers (whether by payment, discount, credit, saving, relief or other benefit or otherwise) a sum which is directly referable to the fact, matter, event or circumstances giving rise to the TUPE Claim, the TUPE Beneficiary shall forthwith repay to the TUPE Indemnifier whichever is the lesser of:

7.8.1. an amount equal to the sum recovered (or the value of the discount, credit, saving, relief, other benefit or amount otherwise obtained) less any out-of-pocket costs and expenses properly incurred by the TUPE Beneficiary in recovering or obtaining the same; and

7.8.2. the amount paid to the TUPE Beneficiary by the TUPE Indemnifier in respect of the TUPE Claim under the relevant indemnity,

provided that there shall be no obligation on the TUPE Beneficiary to pursue such recovery and that the TUPE Indemnifier is repaid only to the extent that the amount of such recovery aggregated with any sum recovered from the TUPE Indemnifier exceeds any Loss sustained by the TUPE Beneficiary (including for this purpose any indirect Losses sustained by the TUPE Beneficiary which may be excluded by this Agreement from being recovered from the TUPE Indemnifier).

Insurance

- 7.9. Any person taking any of the steps contemplated by paragraphs 7.2 to 7.7 shall comply with the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement.

Mitigation

- 7.10. Each of the DCC and the Contractor (on behalf of itself and any Contractor Person) shall at all times take all reasonable steps to minimise and mitigate any Loss for which the relevant party is entitled to bring a claim against the other party

pursuant to the indemnities in this Schedule 9.1.

Taxation

- 7.11. If any payment by one party under an indemnity in this Agreement is subject to any tax, deduction or other withholding, including, without limitation, income tax or corporation tax, (or any tax replacing any such tax, deduction or other withholding) in the hands of the recipient (or a withholding made by the paying party in respect of tax), the recipient may demand in writing to the party making the payment that the payment shall be increased by such amount as would ensure that, after taking into account any such tax, deduction or other withholding in respect of such additional amount, the recipient receives and retains a net sum equal to the amount it would have otherwise received had the payment not been subject to any such tax, deduction or other withholding.

SCHEDULE 9.2

PERSONNEL AND KEY PERSONNEL

1. GENERAL OBLIGATIONS

1.1. The Contractor shall ensure that, at all times:-

- 1.1.1 each of the Contractor Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
- 1.1.2 there is an adequate number of Contractor Personnel to perform its obligations under this Agreement (including in relation to the supply of Services) in accordance with this Agreement;
- 1.1.3 only those people who are authorised by the Contractor (and who comply with the obligations on the Contractor and Sub-contractors under this Agreement) are involved in providing the Services;
- 1.1.4 without prejudice to Paragraph 2.2, it implements staff vetting procedures in accordance with Good Industry Practice in respect of all Contractor Personnel employed or engaged in the provision of the Services at any time; and
- 1.1.5 all of the Contractor Personnel comply with all of the Mandatory Requirements and the Contractor's other obligations in connection with this Agreement, including those that apply to persons who are allowed access to any of the DCC Premises.

1.2 The Contractor shall:

- 1.2.1 review each Contractor Personnel role on an annual basis to ensure their screening level is appropriate for their role and in compliance with Paragraph 2.2;
- 1.2.2 review Contractor Personnel screening levels on an annual basis to ensure the applicable clearance level of each individual member of Contractor Personnel does not expire;
- 1.2.3 have all Contractor Personnel cleared to the level their role requires prior to their access to (and at all times when they have access to):
 - (i) any Systems and/or Data used in connection with or relating to the End-to-end Smart Metering System; or
 - (ii) to any Data that is or contains any DCC Confidential Information; and
- 1.2.4 identify all Contractor Personnel that support the End-to-end Smart Metering System (or otherwise fall within the scope of Paragraph 2.1) and appropriately identify those users that would perform privileged operations where they have a high level of access to systems, operate

key controls and/or are technically skilled such that they can bypass key controls ("**Privileged Users**") versus those users that would perform normal operations ("**Normal Users**") and assign these Contractor Personnel into either of the two categories (a member of the Contractor Personnel cannot be allocated to both):

- (i) Privileged Users; and
- (ii) Normal Users,

and ensure such lists and the process and criteria for determining the level of screening to be applied to Contractor Personnel (including those pursuant to Paragraph 2.2) are agreed with the DCC prior to the Commencement Date.

1.2.5 enact measures that:

- (i) identify whether any persons (employees, workers, consultants, agents of the Contractor or any Sub-contractor) that it intends to use to deliver the Services have been involved in the development or customisation of Hardware or Software for the Transitional Change of Supplier on or after 29 January 2019;
- (ii) ensure that no person (employees, workers, consultants, agents of the Contractor or any Sub-contractor) shall be used to deliver the Services who has been involved in the development or customisation of Hardware or Software for the Transitional Change of Supplier on or after 29 January 2019 unless the Contractor has the prior written approval of the DCC;
- (iii) identify whether any person (employees, workers, consultants, agents of the Contractor or any Sub-contractor) that the Contractor proposes to be used to deliver the Services has family members or friends that are engaged in the delivery of other elements of the End-to-end Smart Metering System and, if any such person is identified, the extent to which this may give rise to a risk that such Contractor Personnel could introduce security vulnerability into such other elements of the End-to-end Smart Metering System;
- (iv) to the extent that any risk is identified pursuant to (iii) above then such person shall not be used to deliver the Services without the prior written consent of the DCC; and
- (v) ensure that Contractor Personnel are organisationally, logically and physically separated from any persons providing services under any other DCC Service Provider Contract (in particular but without limitation, the Prime DSP contract unless authorised in writing by the DCC).

2. PRIVILEGED USERS

2.1. Without prejudice to its other obligations under this Agreement, the Contractor shall, and shall ensure that its Sub-contractors shall, comply at all times with the



personnel security standard BS7858 in respect of all Contractor Personnel:

- 2.1.1. with access to any Systems and/or Data used in connection with or relating to any part(s) of the End-to-end Smart Metering System; and/or
 - 2.1.2. with any access to any Data that is or contains DCC Confidential Information.
- 2.2. Without prejudice to its other obligations under this Agreement, the Contractor shall, and shall ensure that its Sub-contractors shall, ensure that each Privileged User (as defined in Paragraph 1.2.4) is UK Security Check (SC) cleared (in accordance with the latest version of the HMG Cabinet Office Security Policy Framework as updated from time to time) based on an assessment using the following criteria:
- 2.2.1. the frequency that such Privileged User is required to access sensitive information;
 - 2.2.2. the extent to which such Privileged User could perform actions which could result in a material adverse impact upon the End-to-end Smart Metering System;
 - 2.2.3. the role (including associated responsibilities) held by such Privileged User;
 - 2.2.4. the extent/level of suitably security screened management supervision that such Privileged User is subject to;
 - 2.2.5. the extent to which a Privileged User is granted enduring access to sensitive information (for one-off short periods of access it may be appropriate to provide supervision by suitably screened personnel as an alternative to fully screening a user); and
 - 2.2.6. the breadth of privileged access granted to the Privileged User (such as the number of systems or components within the End-to-end Smart Metering System).
- 2.3. The Contractor shall, and shall ensure that all Sub-contractors shall, ensure that no Privileged User has or has had, within the six (6) months prior to such person becoming a Privileged User, the same or similar status to Privileged User in respect of any services provided by the Prime DSP to the DCC.

3. UNSUITABLE STAFF

3.1. The DCC may:-

- 3.1.1. require that any Unsuitable Staff shall not be (or shall cease to be) engaged or employed in the provision of the Services in any capacity; and/or
- 3.1.2. refuse admission to any of the DCC Premises to any Unsuitable Staff.

3.2. The Contractor shall comply (and shall ensure all Contractor Persons comply) with any such decision by the DCC except to the extent that doing so would



place any Contractor Person in breach of any Laws. The DCC shall provide the Contractor with the reasons for any decision under this Paragraph 3 within a reasonable time after a written request to do so from the Contractor.

- 3.3. Following the removal of any of the Contractor Personnel under Paragraph 3 or otherwise, the Contractor shall ensure that such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 3.4. For the purposes of Paragraph 3 "**Unsuitable Staff**" means any class of individuals generally or individual Contractor Personnel whom the DCC (acting reasonably) decides:-
 - 3.4.1. have failed to carry out their duties with reasonable skill and care;
 - 3.4.2. have placed or is reasonably likely to place the Contractor in breach of any obligation under this Agreement or any Co-operation Agreement;
 - 3.4.3. represents a security risk;
 - 3.4.4. does not have the required levels of training and expertise; or
 - 3.4.5. should be removed or denied admission to the DCC Premises for another reasonable reason.

4. KEY PERSONNEL

- 4.1. The Parties have agreed to the appointment of the Key Personnel as at the Commencement Date. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the DCC.
- 4.2. The Contractor shall:
 - 4.2.1. to the extent that it can do so without disregarding its statutory obligations, take all reasonable steps (but not requiring it to provide levels of compensation inconsistent with the Contractor's usual compensation policies) to ensure that it retains the involvement of the Key Personnel with the performance of the Contractor's obligations under this Agreement;
 - 4.2.2. ensure that each of the Key Personnel shall work for such period of time, and devote such level of their time and effort in the performance of the Services, as is required to properly perform that person's role in relation to this Agreement and, in any event, as set out in this Schedule 9.2 (*Personnel and Key Personnel*);
 - 4.2.3. promptly notify the DCC of the absence or likely future absence or replacement of any Key Personnel (including any period of leave in excess of ten (10) Business Days);
 - 4.2.4. obtain the DCC's prior consent to any absence by any Key Personnel in excess of twenty (20) Business Days in any three (3) month period; and

4.2.5. ensure that:

- (i) a permanent replacement (acceptable to the DCC) is provided as soon as is reasonably practicable for each permanent Key Personnel role that may become vacant;
- (ii) such replacement is as, or more, qualified and experienced than the previous incumbent of such role; and
- (iii) such replacement is otherwise fully competent to carry out the tasks assigned to the previous incumbent of such role.

4.3. The Contractor shall, and shall procure that each Sub-contractor shall, obtain the prior written consent of the DCC before removing or replacing any member of the Key Personnel from their role during the Service Period (including when carrying out any Exit Management activities and/or any Termination Assistance Services) and, where possible, at least three (3) months' prior written notice shall be provided by the Contractor of its or any Sub-contractor's intention to replace any member of Key Personnel.

4.4. The Contractor shall not be in breach of Paragraph 4.2 if the relevant individual resigns, retires, is absent due to long-term illness or parental or compassionate leave or their employment or contractual relationship with the Contractor (or other Contractor Person) is terminated for breach of contract.

4.5. If:

4.5.1. a member of Key Personnel is absent for a period of greater than five (5) Business Days (including during annual leave), the Contractor shall provide temporary cover by an individual ("**Temporary Cover**") who is fully competent to carry out the tasks assigned to the previous incumbent of such role and who has a level of qualifications and experience that is appropriate to such cover (notices and communications sent by the DCC to Key Personnel (at all times copying the Contractor's Service Desk) who is to be so covered shall (in addition to notices sent to the Temporary Cover in accordance with any details made known to the DCC) continue to be effective during such cover as if such Key Personnel was not absent and any person purporting to cover a member of Key Personnel shall as between the Parties be deemed authorised by the Contractor to fulfil any role or function of such Key Personnel); and

4.5.2. if Temporary Cover has been (or it is known will be) provided for a period of twenty (20) Business Days or more continuously, the DCC may elect to require the Contractor to:

- (i) provide a mutually agreed permanent Temporary Cover who is fully competent to carry out the tasks assigned to the previous incumbent of such role and whom the DCC agrees (agreement not to be unreasonably withheld or delayed) has a level of qualifications and experience that is appropriate to such interim role and who shall be deemed to occupy the relevant Temporary Cover role; and/or



- (ii) without prejudice to any other rights or remedy, require the Parties (acting reasonably) to use all reasonable endeavours to agree a permanent replacement in accordance with this Paragraph 4 as soon as reasonably possible.

4.6. The DCC shall not unreasonably delay or withhold its consent to the appointment of a replacement of any relevant member of Key Personnel by the Contractor or any Sub-contractor. The DCC may interview the candidates for Key Personnel roles (including any Temporary Cover but only if such person is providing cover for a period of fifteen (15) Business Days or more) before such candidate is appointed to such role.

4.7. The DCC may, from time to time, by written notice to the Contractor:

- 4.7.1. identify any role that is no longer required to be deemed to be Key Personnel; and/or
- 4.7.2. on at least two (2) months' prior notice, identify any of the roles performed by Contractor Personnel as being required to be deemed to be Key Personnel.

4.8. The relevant role and person will then be included on or removed from (as appropriate) the list of Key Personnel by the Contractor (without recourse to the Change Control Procedure). The DCC's right under this Paragraph 4.8 shall not oblige the Contractor to increase the total number of Key Personnel roles by more than twenty percent (20%) at any one time compared to their number at the Commencement Date.

4.9. The DCC shall not have any liability in relation to the replacement of any of the Contractor Personnel, whether such replacement is required by the DCC under this Agreement or otherwise. The Contractor shall indemnify the DCC against all Employee Liabilities that may arise in relation to any such replacement of any of the Contractor Personnel (save to the extent such Employee Liabilities arise directly from an unlawful act or omission by the DCC).

4.10. Details and responsibilities of the Key Personnel are set out in the table below.

Name	Role (in respect of this agreement)	Responsibilities / authorities	Phase of the Service Period during which they will be Key Personnel	Dedicated to Service (Yes/No)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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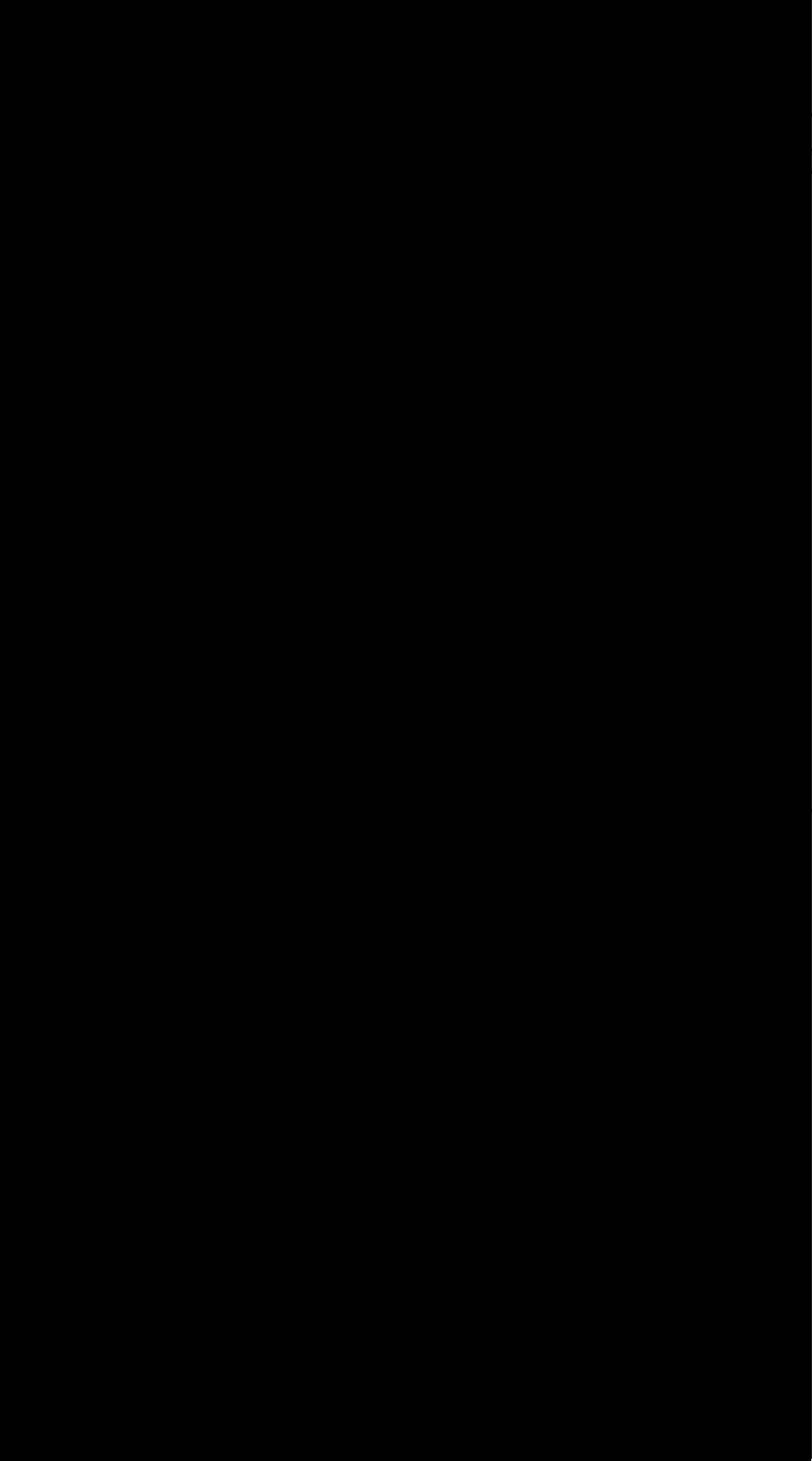
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