

**To: Smart DCC limited**

**Gas Act 1986 – Section 23(1)(a)  
Electricity Act 1989 – Section 11A(1)(a)**

**Modification of the conditions of the smart meter communication licence**

1. The licensee to whom this document is addressed is the holder of a smart meter communication licence granted or treated as granted under section 7AB(2) and (4) of the Gas Act 1986 ('the Gas Act') and section 6(1A) and (1C) of the Electricity Act 1989 ('the Electricity Act') ('the DCC Licence').
2. Under section 23(2) of the Gas Act and section 11A(2) of the Electricity Act the Gas and Electricity Markets Authority ('the Authority')<sup>1</sup> gave notice on 30 June 2023 ('the Notice') that we propose to modify the conditions of the smart meter communication licence. We stated that any representations to the modification proposal must be made on or before 25 August 2023.
3. A copy of the Notice was sent to the Secretary of State in accordance with section 23(4)(b) of the Gas Act and section 11A(4)(b) of the Electricity Act, and we have not received a direction that the change should not be made.
4. We received 5 responses to the Notice, which we carefully considered. We have placed all non-confidential responses on our website. Our response to these comments is set out at in our accompanying decision document.
5. It is necessary to make a minor alteration to the modifications set out in the Notice. This alteration is shown in yellow highlight in the attached Schedule 1. The reason for this difference to the modification set out in the Notice and the modification reflected in Schedule 1 is a correction raised in a consultation response.
6. We are making these licence change(s) to reduce the scale of revenue over-recovery by DCC from its customers and facilitate a return of historic over-collected revenue back to customers.
7. The effects of the modifications will be:
  - A reduction from 110% to 105% to the over-recovery threshold of DCC's Allowed Revenue, at which DCC must justify any over-collected revenue in its Price Control submission.
  - A Licence amendment to introduce a backstop measure by which all outstanding over-recovered revenue must be returned by DCC to its customers.
8. Where an application for permission to appeal our decision is made to the Competition and Markets Authority (CMA) under section 11C of the Electricity Act and section 23B of the Gas Act, Rule 5.6 of the Energy Licence Modification Appeals:

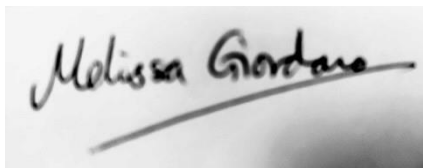
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<sup>1</sup> The terms "the Authority", "we" and "us" are used interchangeably in this document.

Competition and Markets Authority Rules<sup>2</sup> requires that the appellant must send to any relevant licence holders who are not parties to the appeal a non-confidential notice setting out the matters required in Rule 5.2. The attached Schedule 2 provides a list of the relevant licence holders in relation to this modification. Section 11A(10) of the Electricity Act and section 23(10) of the Gas Act sets out the meaning of 'relevant licence holder'.

Under the powers contained in section 23(1)(a) of the Gas Act and section 11A(1)(a) of the Electricity Act, the Authority hereby modifies the licence conditions of the smart meter communication licence in the manner specified in attached Schedule 1. This decision will take effect from 1 April 2024.

This document is notice of the reasons for the decision to modify the smart meter communications licence as required by section 38A(2) of the Gas Act and section 49A(2) of the Electricity Act.



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**Melissa Giordano**  
**Duly authorized on behalf of the**  
**Gas and Electricity Markets Authority**

**15 December 2023**

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<sup>2</sup> CMA70 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/655601/energy-licence-modification-appeals-rules.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655601/energy-licence-modification-appeals-rules.pdf)

## **Schedule 1 to Notice – Draft of proposed modifications to the conditions of the smart meter communication licence.**

We have included the sections of the conditions of the smart meter communication licence we are proposing to remove or amend below. Deletions are shown in ~~strike through~~, and new text is double underlined. Further changes made following the Notice are highlighted in yellow. We have only shown those licence conditions where modifications are proposed.

### **Cover, page 2 of the Licence**

The Company Secretary  
Smart DCC Ltd  
17 Rochester Row 65 Gresham Street  
London  
SW1P 1QTE C2V 7NQ

## **PART 3 OF THIS LICENCE: THE CONDITIONS**

### **CHAPTER 2: CONDITIONS 5 TO 8**

#### **Nature and conduct of Licensee's business**

#### **Condition 8. Security controls for the Authorised Business**

##### **Part A: Requirements for Licensee's control of physical security**

- 8.4 In particular, the system of controls to which paragraph 8.3 refers must include measures designed to ensure that:
- (a) equipment transported, installed, or operated by the Licensee for the purposes of the Authorised Business is protected against unauthorised access;
  - (b) the supply, repair, and maintenance of such equipment, and the supply of spare parts for it, are at all times under the control of the Licensee;
  - (c) all premises used for or in connection with the conduct of the Authorised Business are physically secured and monitored;
  - (d) equipment and data that are no longer required for any of the purposes of the Authorised Business are securely disposed of or deleted; and
  - (e) ~~data processed by the Licensee for the purposes of the Authorised Business is not held outside the United Kingdom and/or the European Economic Area~~ Not used; and
  - (f) where data is to be transferred, it is transferred in a secure manner.

## **CHAPTER 4: CONDITIONS 13 TO 15**

### **Start-up and future development obligations**

#### **Condition 15. Incorporation, delivery and provision of the Centralised Registration Service**

##### **Part A: Interim Centralised Registration Service Objective of the Licensee**

##### **Condition 15.4 (d)**

- (d) maintaining Interfaces for the secure, efficient and economical exchange of information with the Centralised Registration Service that meet the communication standards as described in the Retail Energy Code, which can be changed from time to time subject to the change procedures set out within the Retail Energy Code. If, after the commencement of the Post Implementation Period, it is determined necessary (in accordance with the Retail Energy Code) for the Licensee to enter into new arrangements and/or agreements to enable the secure, efficient and economical exchange of information with the Centralised Registration Service then, where appropriate and possible, the Licensee may enter into and maintain a user agreement(s) on standard user terms with a third party network(s) to achieve this purpose. In this event, the conditions of this Licence that relate to Relevant Service Capability and Fundamental Registration Service Capability will not apply to such user agreement(s) or to the services or capabilities provided under them;

## **CHAPTER 7: CONDITIONS 24 TO 28**

### **Financial and ring-fencing provisions**

#### **Condition 27. Indebtedness and transfers of funds**

##### **Part B: Restricted Transactions Category 1**

- 27.3A The Licensee must ensure that it returns the over-recovery of Allowed Revenue to any person to whom such amount is payable, as soon as is reasonably practicable, and by no later than the Transfer Date within the meaning of Condition 43.7.
- 27.3B The Licensee must, by no later than three months after this condition takes effect, prepare and submit to the Authority, for approval, a plan for the return of any over-recovery that has been accrued. This plan must include a timetable to demonstrate the return of the over-recovery of Allowed Revenue in a phased manner. Pursuant to Condition 32, the Licensee must report progress against this plan to the Authority at the end of each Regulatory Year as part of its Price Control Information.
- 27.3C For the avoidance of doubt, any residual amount of over-recovery once the Licensee has complied with Condition 27.3A, will remain subject to Condition 43.16

## CHAPTER 9: CONDITIONS 35 TO 41

### Price Control Conditions of this Licence

#### Condition 35. Definitions for the Price Control Conditions

##### Part B: The Chapter 9 Particular Definitions

Centralised Registration Service External Contract Gain Share	<del>means in relation to each Regulatory Year the actual amount of the costs that were economically and efficiently incurred by the Licensee in provision of Fundamental Registration Service Capability and meeting its obligation in relation to the Switching Network and CSS Systems Integrator (as defined in Condition 15) during that period.</del> <u>means the component of the Allowed Revenue for the Centralised Registration Service (Condition 15) that is determined in accordance with the provisions of Condition 39 (Determination of External Contract Gain Share) so as to secure the effect set out in Part A of that condition and in accordance with the provision set out in the Retail Energy Code.</u>
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#### Condition 36. Determination of the Licensee's Allowed Revenue

##### Part C: Determination of the Allowed Revenue (AR) term

36.8 In the Principal Formula above:

- |                   |   |
|-------------------|---|
| AR <sub>t</sub>   | means the amount of the Allowed Revenue in Regulatory Year t.   |
| EC <sub>t</sub>   | means the actual amount of the Licensee's External Costs, as calculated for Regulatory Year t by the Licensee, except to such extent (if any) as may be otherwise directed by the Authority acting under Part B of Condition 37.  |
| IC <sub>t</sub>   | means the actual amount of the Licensee's Internal Costs, as calculated for Regulatory Year t by the Licensee, except to such extent (if any) as may be otherwise directed by the Authority acting under Part B of Condition 37.  |
| CRSR <sub>t</sub> | means the amount of the Licensee's Centralised Registration Services Revenue, as calculated for Regulatory Year t in accordance with Part D below.  |
| PTC <sub>t</sub>  | means the total amount of Pass-Through Costs incurred by the Licensee in Regulatory Year t, and is the sum of: <ul style="list-style-type: none"><li>(i) the amount that is equal to the total annual fee paid by the Licensee to the Authority during Regulatory Year t as determined in accordance with Part A of Condition 4 (Licensee's payments to the Authority);</li></ul> |

- (ii) the amount that is equal to the payments made by the Licensee during Regulatory Year t to SECCo Ltd for purposes associated with the governance and administration of the SEC; and
- (iii) the amount that is equal to the payments made by the Licensee during Regulatory Year (t) to AlthANCo Ltd for purposes associated with the Alt HAN Arrangements.

**BM<sub>t</sub>** means the amount of the Licensee's Baseline Margin that is specified for the Regulatory Year; t in Appendix 1 (which has effect as part of this condition) (or such other amount as may have been determined for that Regulatory Year pursuant to the provisions of Part E below), as multiplied by the price index adjuster (PIBM) for that year, which in the Regulatory Year 2013/14 shall have the value of 1 and in each subsequent Regulatory Year is derived from the following formula:

$$PIBM_t = \left[ 1 + \frac{RPI-CPIH_t}{100} \right] \times PIBM_{t-1}$$

where RPI-CPIH<sub>t</sub> means the percentage change (whether it is positive or negative) between (i) the arithmetic average of the ~~Retail Prices Index~~ Consumer Prices Index (including owner occupiers' housing costs) numbers published or determined with respect to each of the six months from July to December (inclusive) in Regulatory Year t-2, and (ii) the arithmetic average of the ~~Retail Prices Index~~ Consumer Prices Index (including owner occupiers' housing costs) numbers published or determined with respect to the same months in Regulatory Year t-1 (and "~~Retail Prices Index~~" "Consumer Prices Index (including owner occupiers' housing costs)" has the meaning given to that term in Part H below).

**BMPA<sub>t</sub>** means the Baseline Margin Performance Adjustment, as calculated for the Regulatory Year t in accordance with Part F below.

**ECGS<sub>t</sub>** means the amount of revenue adjustment in respect of External Contract Gain Share, as calculated for Regulatory Year t in accordance with Condition 39 (Determination of External Contract Gain Share).

**VASC<sub>t</sub>** means the amount of the Value Added Services Contribution, as calculated for Regulatory Year t in accordance with Condition 40 (Determination of the VAS Contribution).

**K<sub>t</sub>** means the correction factor, whether positive or negative, as calculated for Regulatory Year t in accordance with the formula set out in Part G below.

## Part G: Calculation of the correction factor (K)

36.19 In the formula for the K term above:

**AR<sub>t-1</sub>** means the amount of Allowed Revenue in Regulatory Year t-1.

**BDC<sub>t-1</sub>** means the contribution to bad debt within the Licensee's Internal Costs and as appropriate, Centralised Registration Service Internal Costs in Regulatory Year t-1, and will be zero except where the Licensee has

failed to comply fully with its obligations under or pursuant to the SEC in relation to the management of SEC Parties' credit cover and the recovery of bad debt, in which event it will have such value as may be determined by the Authority.

- $RR_{t-1}$  means the Regulated Revenue in Regulatory Year  $t-1$ .
- $ASR_t$  means the Average Specified Rate, as defined in Condition 35 (Definitions for the Price Control Conditions), in Regulatory Year  $t$ .
- $F_t$  means the factor determined in accordance with paragraph 36.19
- $INT_t$  means the interest rate adjustment in Regulatory Year  $t$  made in respect of the relevant amount of over-recovery of Regulated Revenue as determined in accordance with paragraph 36.1720.

36.20 The value of the interest rate adjustment  $INT_t$  is determined as follows:

- (a) if, in respect of Regulatory Year  $t-1$ ,  $RR_{t-1}$  exceeds the threshold of ~~110~~ 105 per cent of  $AR_{t-1}$ , the Licensee must, by no later than 31 July of the Regulatory Year  $t$ , explain and demonstrate to the Authority in writing why that event is justified. After considering the explanation provided and after consulting with the Licensee and SEC Parties, the Authority may direct the Licensee to apply the value of 3 to  $INT_t$  for any proportion ( $F_t$ ) of the difference between  $RR_{t-1}$  and  $AR_{t-1}$  that the Authority determines has not been justified by the Licensee; or
- (b) if the Authority has not directed the Licensee to apply any value to  $INT_t$ , it will take the value of 0; and
- (c) the Authority may adjust the threshold percentage and the value of the interest rate adjustment  $INT_t$  that are set out in paragraph (a) above in respect of any Regulatory Year by direction, after consulting with the Licensee and SEC Parties

## Part H: Interpretation

36.21 For the purposes of this condition, ~~Retail Prices Index~~ Consumer Prices Index (including owner occupiers' housing costs) means:

- (a) the general index of ~~retail prices~~ consumer prices (including owner occupiers' housing costs) (CPIH) that is published by the Office for National Statistics each month in respect of all items; or
- (b) if that index in respect of any month that is relevant for the purposes of this condition has not been published on or before the last day of February, such price index as the Authority, after consultation with the Licensee, may determine to be appropriate; or

- (c) if there is a material change in the basis of that index, such other index as the Authority, after consultation with the Licensee, may determine to be appropriate.

## **Appendix 1: Values for the BM term (£ million and before adjustment for RPI relevant price index) for each Regulatory Year**

### **SCHEDULE 1**

#### **Appendix 1: Baseline Margin Project Performance Adjustment Scheme**

A17. Where this paragraph applies, the value of the PAA term shall be calculated in accordance with the following formula:

$$PAA_{PA,t} = WF_{PA} \cdot PF_{PA} \left( PBM_{n,t} + \sum_{All\ I} PBM_{n,I} \right)$$

Where:

$WF_{PA}$  means the Project Activity Weighting Factor of that Project Activity PA, in accordance with the BMPPA scheme.

$PF_{PA}$  means the Project Activity Performance Factor of that Project Activity PA, calculated in accordance with the provisions of the BMPPA Scheme (and in the circumstances described in paragraph A.16(b), its value shall be 1 (one)).

$PBM_{n,t}$  means the amount of the Project Baseline Margin in respect of Project n in Regulatory Year t (expressed in 2013/2014 prices) which has been (or is deemed to have been) determined for that Regulatory Year, multiplied by the price index adjuster (PIBM) for that Regulatory Year,

and for these purposes PIBM in the Regulatory Year 2013/14 shall have the value of 1 and in each subsequent Regulatory Year shall be derived from the following formula:

$$PIBM_t = \left[ 1 + \frac{RPI_{CPIH}_t}{100} \right] \times PIBM_{t-1}$$

where  $RPI_{CPIH}_t$  means the percentage change (whether it is positive or negative) between (i) the arithmetic average of the Retail Prices Index Consumer Prices Index including owner occupiers' housing costs numbers published or determined with respect to each of the six months from July to



December (inclusive) in Regulatory Year t-2 and (ii) the arithmetic average of the ~~Retail Prices Index~~ Consumer Prices Index including owner occupiers' housing costs numbers published or determined with respect to the same months in Regulatory Year t-1 (and ~~"Retail Prices Index"~~ "Consumer Prices Index including owner occupiers' housing costs" has the meaning given to that term in Part H of Condition 36 (Determination of the Licensee's Allowed Revenue)).

$PBM_{n,I}$  means the value of  $PBM_n$  in any preceding Regulatory Year, indexed up to Regulatory Year t by reference to the Average Specified Rate, so that:

(a) in relation to  $PBM_n$  for Regulatory Year t-1:

$$PBM_{n,I} = PBM_{n,t-1} \left[ 1 + \frac{(ASR_t)}{100} \right]$$

(b) in relation to  $PBM_n$  for Regulatory Year t-2:

$$PBM_{n,I} = PBM_{n,t-2} \left[ \left( 1 + \frac{(ASR_t)}{100} \right) \cdot \left( 1 + \frac{(ASR_{t-1})}{100} \right) \right]$$

(c) in Regulatory Year t-3 and any preceding Regulatory Year,  $PBM_{n,I}$  shall be calculated using the same method as in sub-paragraphs (a) and (b).

## **Schedule 2 to Notice – List of relevant Licence holders**

- Data Communications Company