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SECTION E: BSC AGENTS

1. GENERAL

1.1 Introduction

1.1.1 This Section E sets out:

(a) requirements that certain services be provided by BSC Agents;

(b) the role of BSCCo in contracting with BSC Agents;

(c) provisions relating to the relationship between BSCCo, Parties, and BSC Agents; and

(d) provisions relating to the BSC Services Manager.

1.1.2 It is a requirement of the Code that a person or persons should be appointed at all times by BSCCo for the purposes of providing certain services, necessary for giving effect to the Code, which are to be provided centrally (and not by Parties individually).

1.1.3 The services which are so required to be provided are specified in BSC Service Descriptions.

1.1.4 In this Section E references to Parties do not include BSCCo or the BSC Clearer.

1.2 BSC Agents

1.2.1 The person (or persons) for the time being appointed for the purposes of providing the services specified in a BSC Service Description is a BSC Agent. This does not include:

(a) BSCCo where BSCCo provides the Profile Administration Services;

(b) a person appointed pursuant to paragraph 1.2.7.

1.2.2 Subject to paragraph 1.2.3, a person may be appointed to act in the capacity of more than one BSC Agent.

1.2.3 The same person may be appointed to act as BSC Auditor and as BSCCo's agent (if any) in relation to the Qualification Process (or any part thereof), but subject thereto the person appointed as BSC Auditor and the person appointed as BSCCo's agent in relation to the Qualification Process (or any part thereof) shall not be appointed in the capacity of another BSC Agent.

1.2.4 A Party shall not be appointed as a BSC Agent.

1.2.5 The names by which each BSC Agent service is known in the Code, are set out below:

BSC Agent Service	Abbreviation
Settlement Administration Agent	SAA
Funds Administration Agent	FAA
Balancing Mechanism Reporting Agent	BMRA
Energy Contract Volume Aggregation Agent	ECVAA
Central Data Collection Agent	CDCA
Technical Assurance Agent	TAA
Central Registration Agent	CRA
Supplier Volume Allocation Agent, provided by	SVAA
SVA Core Services Agent	SVA CSA
SVA Supporting Services Agent	SVA SSA
SVA Industry Standing Data Manager Services Agent	SVA ISA
Teleswitch Agent	-
BSC Auditor	-
Profile Administrator	-
Transmission Loss Factor Agent	TLFA
Supplier Volume Allocation Agent	SVAA

1.2.6 It is acknowledged that:

(a) BSCCo may appoint multiple persons to deliver each BSC Agent service and, subject to paragraph 1.2.7, each person so appointed shall be a BSC Agent; and

(b) where BSCCo has appointed more than one person to deliver a single BSC Agent service, it shall:

(i) reconfigure the relevant BSC Service Description to reflect the allocation of responsibilities between each person appointed pursuant to paragraph 1.2.6(a); and/or

(ii) divide the relevant BSC Service Description into separate documents to reflect the allocation of responsibilities between each person appointed pursuant to paragraph 1.2.6(a),

in each case in accordance with paragraph 1.5,

provided that BSCCo must undertake a SAF Consultation ~~consult with the Panel~~ prior to taking any of the steps referred to in paragraph 1.2.6 (a) or (b).

1.2.7 For the purposes of Section E:

(a) **BSC Agent Services** means the services specified in a BSC Service Description or otherwise pursuant to the Code;

(b) **Related Technology Services** means any Technology Services that are, or may be, a BSC Agent Service but which are ancillary to the performance of Settlement processes, assurance services or audit services by a BSC Agent including, inter alia, data retention and help-desk services;

(c) **Technology Services** means technology services and products used by BSCCo in the performance of its functions including data and application hosting, service management, systems development, systems support and maintenance, infrastructure management and other related activities;

(d) **Technology Services Provider** means a person, not being a BSC Agent, who provides Technology Services.

1.2.8 Where BSCCo has appointed a Technology Services Provider to provide Related Technology Services for which a BSC Agent would otherwise be responsible:

(a) the relevant BSC Agent Contract may include provisions relieving the BSC Agent from the obligation to perform those Related Technology Services and relieving that BSC Agent from liability for breaches that, as a consequence, are beyond its reasonable control; and

(b) the provisions of this Section E shall not apply in respect of those Related Technology Services or the Technology Services Provider.

1.3 BSC Service Descriptions

1.3.1 With respect to each BSC Agent service, the BSC Service Description shall specify the services which are required to be provided by each person appointed as the BSC Agent for the purposes of the Code.

1.3.2 A BSC Service Description shall to the extent practicable specify the services to be provided by the BSC Agent by reference to those provisions of the Code and of any other Code Subsidiary Document which relate to the functions to be carried out by the relevant BSC Agent.

1.3.3 A BSC Agent Contract may provide for the BSC Agent to provide services (necessary for or reasonably incidental to giving effect to the Code) in addition to those set out in the BSC Service Description.

1.3.4 Subject to and in accordance with Section F23 (and subject also to paragraph 1.5), ~~the Panel~~BSCCo may from time to time, ~~upon the recommendation of BSCCo or otherwise,~~ amend a BSC Service Description (including adding or removing requirements thereunder).

1.3.5 Where a Code Modification is to be made, and/or ~~the Panel~~BSCCo decides to amend a BSC Service Description or other Code Subsidiary Document, BSCCo shall take all such steps (in accordance with the change management provisions in and otherwise in accordance with the BSC Agent Contract) as are available with a view to securing that the relevant BSC Agent Contract takes effect by reference to, and the BSC Agent is bound by, the Code as so modified or (as the case may be) the amended BSC Service Description or other Code Subsidiary Document, with effect from the date from which such modification or amendment is to take effect.

1.4 Data flows between certain BSC Agents

1.4.1 Where and for so long as the same person is appointed in the capacity of more than one BSC Agent:

(a) it is not necessary for Code Subsidiary Documents to contain data transfer provisions;

(b) such person in each such capacity of BSC Agent shall be assumed (for the purposes of the Code) to be in possession of all data and information of which it is in possession in any of such capacities, notwithstanding any data transfer provisions which are contained in the Code or any Code Subsidiary Document, but without prejudice to any requirements under the Code or any Code Subsidiary Document for validation of such data or information;

and for the purposes of this paragraph 1.4 data transfer provisions are provisions or procedures for the passing of data or information between one such BSC Agent and another.

1.4.2 Where paragraph 1.4.1 applies for the time being, but it is proposed that a BSC Agent Contract is to be entered into with a different person in the capacity of any such BSC Agent, ~~the Panel~~BSCCo shall first establish in Code Subsidiary Documents appropriate data transfer provisions (to the extent not already contained in the Code or Code Subsidiary Documents).

1.5 Reconfiguration and/or division of BSC Service Descriptions

1.5.1 If at any time BSCCo proposes to appoint multiple persons to deliver a BSC Agent service and to reconfigure or divide a BSC Service Description in accordance with paragraph 1.2.6 then, subject to paragraphs 1.5.2 and 1.5.3 (and notwithstanding Section F3):

(a) BSCCo shall reconfigure and/or divide the prevailing BSC Service Descriptions (including making minor consequential amendments in order to give effect to such reconfiguration and/or division) so as to reflect the allocation of responsibilities between the persons appointed to perform a BSC Agent service and to give effect to such proposal with effect from the amendment or execution of the relevant BSC Agent Contracts; and

(b) with effect from such reconfiguration and/or division:

(i) references to particular BSC Agents in the Code and Code Subsidiary Documents shall be construed consistent with such modified BSC Service Descriptions;

(ii) references to particular a BSC Agent in the Code and Code Subsidiary Documents shall be construed to be a reference to each person appointed to perform the relevant BSC Agent service (or part thereof); and

(iii) any reference to a particular BSC Service Description in the Code and Code Subsidiary Documents shall be construed to be a reference to the reconfigured BSC Service Description or to each separate document that comprises that BSC Service Description.

1.5.2 Except to the extent permitted by paragraph 1.5.1, any modification to a BSC Service Description shall be subject to the further provisions of the Code as to the amendment of BSC Agent Contracts and modification of BSC Service Descriptions, and subject to the requirements of Section F~~3.1.2~~23.1 being complied with in respect of all BSC Service Descriptions taken together.

1.5.3 As soon as possible after reconfiguring or dividing a BSC Service Description, BSCCo shall notify the ~~Panel~~SAF, each Party and the Authority, and shall promptly publish such BSC Service Description(s).

1.6 Interpretation of Code

1.6.1 The Code sets out or describes certain functions of BSC Agents as obligations of those Agents (to be reflected in the terms of BSC Agent Contracts in accordance with paragraph 2.1.3), but it is acknowledged that (as BSC Agents are not party to the Framework Agreement) the Code does not of itself directly impose obligations on any person appointed as BSC Agent.

1.6.2 The failure of a BSC Agent to perform and discharge any of its functions as provided for in the Code shall not affect the rights and obligations of the Parties in respect of Settlement under the Code (so far as such rights and obligations are capable of being construed and determined notwithstanding such failure), but subject to the express provisions of the Code as to:

(a) the effect of Volume Allocation Runs and Settlement Runs (as provided in Section U2.6);

(b) the resolution of Trading Disputes;

(c) the consequences of an incorrect determination that a Trading Party is in Credit Default (as provided in Section M); and

(d) the implementation of Settlement in any case where data is not available or is invalid or in the case of any omission or error on the part of a BSC Agent;

and to any other provision of the Code which expressly addresses the consequences for Parties of such a failure.

2. ROLE OF BSCCO

2.1 General

2.1.1 It shall be the responsibility of BSCCo to ensure that there is at all times a person appointed as BSC Agent for the purposes of providing all of the services under each BSC Service Description.

2.1.2 BSCCo shall, subject to and in accordance with the further provisions of this Section E:

(a) select the person to be appointed as each BSC Agent;

(b) enter into (or accept an assignment or novation of) a contract with each person appointed as a BSC Agent;

(c) perform its obligations under and manage and enforce each BSC Agent Contract;

(d) monitor, inspect and supervise the performance of the BSC Agent under each BSC Agent Contract;

(e) amend or vary each BSC Agent Contract as necessary or appropriate for the purposes of giving effect to the Code, the Code Manager Licence or in accordance with paragraph 1.3.5;

(f) where appropriate, exercise any rights of termination of each BSC Agent Contract; and

(g) upon expiry or termination of a BSC Agent Contract, extend or renew the contract or (in accordance with paragraphs (a) and (b)) select and appoint a different person as the BSC Agent.

2.1.3 Without prejudice to anything contained in a BSC Service Description, (and subject to the application of the change management procedures in that contract upon any Code Modification or change to a Code Subsidiary Document, and subject to paragraph 2.1.4):

(a) subject to paragraph 1.5, that the BSC Agent undertake all of the functions and responsibilities described:

(i) in the Code, and

(ii) any Code Subsidiary Document

as being functions and responsibilities of that BSC Agent (or which have been allocated to that BSC Agent pursuant to paragraphs 1.2.6 and 1.5);

(b) each BSC Agent Contract shall require the BSC Agent to:

(i) undertake the functions and responsibilities described in the Code as being functions and responsibilities applicable to BSC Agents generally; and

(ii) to the extent (if any) to which the Code provides any standard for or requirement as to the quality of such performance, that the BSC Agent performs its functions and responsibilities in accordance with such standard or requirement.

2.1.4 If a person proposed to be appointed as BSC Agent does not agree to enter into a BSC Agent Contract whose terms comply with paragraph 2.1.3, or seeks to introduce into a proposed BSC Agent Contract a term which in BSCCo's reasonable opinion would qualify any such standard or requirement as is referred to in paragraph 2.1.3(b)(ii):

(a) BSCCo shall not enter into such BSC Agent Contract with such person without ~~approval of the Panel~~having undertaken a SAF Consultation; and

(b) ~~the Panel~~BSCCo ~~–~~shall consult with Parties if and to the extent it considers appropriate (having regard to the significance of the matter to which the prospective BSC Agent objects)~~ before giving such approval~~; and ~~the Panel~~BSCCo shall, where it considers it appropriate, deal with the matter as a modification to the relevant BSC Service Description;

(c) ~~the Panel~~BSCCo shall not in any event ~~give such approval~~enter such BSC Agent Contract where the prospective BSC Agent objects to any material term of the proposed BSC Agent Contract included to comply with paragraph 2.1.3(a)(i).

2.1.5 Subject to paragraph 1.2.3, a single BSC Agent Contract may relate to services to be provided (by the person entering into such contract) in the capacity of more than one BSC Agent.

2.1.6 In accordance with Section C7.1.1, a BSC Agent Contract may be entered into by a Subsidiary of BSCCo (other than the BSC Clearer, save that this shall not prevent the BSC Clearer from being a party to a contract with the FAA).

2.1.7 Not used.

2.1.8 Nothing in this paragraph 2.1 requires that a BSC Agent Contract should prevent the relevant BSC Agent from sub-contracting the provision of any of the services to be provided thereunder, but without prejudice to paragraph 2.3.4.

2.2 Management of BSC Agent Contracts

2.2.1 BSCCo shall establish and from time to time amend and shall implement arrangements for the proper and efficient management of each BSC Agent Contract, and shall provide a copy of such arrangements (upon establishing or amending the same) to the ~~Panel~~SAF.

2.2.2 Without prejudice to the generality of paragraph 2.1.2(c), BSCCo shall:

(a) if under a BSC Service Description the BSC Agent may be required to provide on an ad-hoc or non-routine basis any service to or for the benefit of a Party individually (rather than Parties or any class of Parties collectively), order the provision of that service in accordance with the reasonable requests of any such Party but subject to that Party's compliance with any relevant procedural requirements, and account for the costs of ordering that service in accordance with any applicable provisions of Section D;

(b) where it is aware of circumstances in which such right or remedy has arisen, but only ~~with the approval of the Panel~~having undertaken a SAF Consultation and subject to recovery (from the individual Party or otherwise) of its costs of so doing on such basis as ~~the Panel~~it may decide, take reasonable steps to enforce any provision of a BSC Agent Contract which provides any right or remedy for or for the benefit of a Party individually (rather than Parties or any class of Parties collectively), keep that Party reasonably informed as to the steps being taken for such enforcement, and account to that Party for any amount recovered pursuant to such enforcement.

2.2.3 Nothing in paragraph 2.2.2 shall prevent a Party from ordering the provision of any service (under a BSC Agent Contract) directly from a BSC Agent in a case in which BSCCo has, ~~with the Panel's approval~~ having undertaken a SAF Consultation, made arrangements with the BSC Agent under which:

(a) Parties (or Parties of any class) may directly order such services; and

(b) all of the charges of the BSC Agent referable to the provision of such service are to be met directly by (or charged as Specified BSC Charges to) the Party ordering the service.

2.2.4 BSCCo shall ~~consult with the Panel~~ undertake a SAF Consultation before:

(a) commencing any proceedings or arbitration against a BSC Agent under a BSC Agent Contract, or

(b) agreeing a settlement in respect of any proceedings or arbitration (whether brought by BSCCo or the BSC Agent) or any claim by BSCCo or the BSC Agent which might otherwise lead to such proceedings or arbitration, or

(c) granting any waiver of any such claim against a BSC Agent.~~;~~

~~and where the amount subject to such proceedings or arbitration or of such claim exceeds (or in BSCCo's reasonable opinion is likely to exceed) such threshold amount as the Panel may~~

~~from time to time specify for the purposes of this paragraph 2.2.4, BSCCo shall obtain the approval of the Panel before doing any of the foregoing.~~

2.2.5 BSCCo shall:

(a) inform the ~~Panel~~ SAF of any proceedings or arbitration commenced or threatened by a BSC Agent against BSCCo; and

(b) without prejudice to paragraph 2.2.4, keep the ~~Panel~~ SAF informed as to the progress of and any settlement of any proceedings or arbitration with a BSC Agent (whether commenced by BSCCo or the BSC Agent);

(c) inform the ~~Panel~~ SAF of any substantial and abnormal occurrences in or circumstances affecting the performance of any BSC Agent Contract.

2.2.6 BSCCo shall:

(a) in discussion with the ~~Panel~~SAF, establish and from time to time amend arrangements for reporting periodically to the ~~Panel~~ SAF in respect of the management of each BSC Agent Contract and the performance of each BSC Agent thereunder;

(b) report to the ~~Panel~~ SAF in accordance with such procedures and arrangements.

2.3 Contract Principles

2.3.1 BSCCo shall, in consultation with the ~~Panel~~ SAF or any ~~Panel~~ Code Committee established for the purpose, establish and from time to time review and amend, a statement of the principles ("**Contract Principles**") by which BSCCo is to be guided in setting or agreeing the terms of BSC Agent Contracts or any amendments thereto.

2.3.2 Particular Contract Principles may apply in relation to one, some or all of the contracts entered or to be entered into with BSC Agents.

2.3.3 The Contract Principles shall be consistent with the Code Manager Objectives~~objectives in Section B1.2.1~~, with Good Industry Practice and with the further requirements of the Code and Code Manager Licence, and shall include principles as to at least the following matters:

(a) consistent with paragraph 2.4.1(a), the capacity of BSCCo (whether as principal, trustee or agent for the benefit of all or certain Parties, or otherwise) in entering into the contract, and the extent to which the Contracts (Rights of Third Parties) Act 1999 is to apply for the benefit of all or certain Parties;

(b) the principles and methods of pricing of services under the contract;

(c) liability and limitations or exclusions of liability for breach of the contract;

(d) the extent to which the BSC Agent is to be relieved from liability for breach resulting from circumstances beyond its reasonable control;

(e) the extent to which the terms of the contract, and information concerning the BSC Agent's performance, may be freely disclosed by BSCCo to Parties;

(f) the ownership of Intellectual Property Rights in materials produced by the BSC Agent pursuant to the contract;

(g) where a single person acts in the capacity of more than one BSC Agent, the extent to which the processes and systems employed by that person in each capacity are to be separated or capable of separation from each other;

(h) principles to apply where the BSC Agent sub-contracts performance of its obligations, and the extent (if any) to which the contract should restrict the ability of the BSC Agent to do so;

(i) appropriate controls in respect of BSCCo's compliance with the Code Manager Licence.

2.3.4 In setting or agreeing the terms of BSC Agent Contracts or any amendments thereto, BSCCo will seek to apply the applicable Contract Principles, and will ~~obtain the consent of the Panel~~undertake a SAF Consultation before knowingly departing in any material respect from the applicable Contract Principles.

2.4 Contract requirements

2.4.1 Each BSC Agent Contract shall contain terms which:

(a) give effect to the principle that Trading Parties should have the benefit of the main obligations of the BSC Agent under the contract, whether:

(i) by express provision to that effect in the contract, in which case the contract shall not contain provisions which would restrict the application of the Contracts (Rights of Third Parties) Act 1999 in relation to the relevant terms of the contract, but subject to paragraph 3.2.4;

(ii) by virtue of BSCCo entering into such contract (inter alia) as trustee for or agent for the benefit of Trading Parties;

or otherwise, save that, ~~following~~ BSCCo ~~'s request to the Panel, the Panel~~ may, having undertaken a SAF Consultation and, where it deems necessary a prior consultation with Parties, determine in its absolute discretion to ~~approve the exclusion of~~exclude the provisions of paragraph 2.4.1(a) (i) and (ii) above and further determine the extent to which (if any) paragraphs 3.3.1, 3.3.2 and 3.3.4 should apply or be excluded in respect of that BSC Agent and BSC Agent Contract. ~~The Panel:~~

~~(iii) shall, where it deems necessary, undertake a prior consultation with Parties; and~~

~~(iv) shall, where it has given an approval under this paragraph, determine the extent to which paragraphs 3.3.1, 3.3.2 and 3.3.4 should apply in respect of that BSC Agent and BSC Agent Contract, and may exclude any part of those paragraphs as a condition of its approval;~~

(b) provide that such contract may be assigned or novated, without consent of the BSC Agent, to any company acting as successor to BSCCo ~~(and having no lesser financial standing than BSCCo)~~ for the purposes of the Code;

(c) provide that the BSC Agent shall not make claims under or in respect of breaches of the BSC Agent Contract against any Party other than BSCCo; ~~and~~

(d) reflect the requirement in paragraph 3.2.1;

(e) where such contract includes the supply of services in support of Permissible Activities pursuant to Sections C10 or C11:

(i) prevent the BSC Agent from terminating any part of a BSC Agent Contract that relates to the performance of BSC Agent services as a result solely of any breach by BSCCo of provisions relating to the supply of services by the BSC Agent in respect of Permissible Activities; and

(ii) to the fullest extent permitted by law, restrict BSCCo's liability to the BSC Agent for any claim in damages or any other claim of a financial nature relating solely to the supply of services by the BSC Agent in support of Permissible Activities to the amounts payable under that BSC Agent Contract for those services.

2.5 Scottish Trading Arrangements

2.5.1 This paragraph 2.5 applies in relation to any BSC Agent Contract where under the terms of such contract the BSC Agent grants any licence to or otherwise confers any rights on BSCCo (for itself or for the benefit of Parties or otherwise) in respect of Intellectual Property Rights ("**relevant IPRs**") of the BSC Agent.

2.5.2 The BSC Agent Contract shall provide that, upon the request of the Authority, the BSC Agent will grant an equivalent licence or confer equivalent rights, or that BSCCo may grant a sub-licence or otherwise confer equivalent rights, in or to the relevant IPRs, to a designated person (for itself or for the benefit of Scottish Trading Parties) for the approved purposes in Scotland, on terms (as to payment, duration and otherwise) approved by the Authority.

2.5.3 For the purposes of paragraph 2.5.2:

(a) "**Scottish Trading Parties**" are persons who participate (in capacities equivalent to the capacity of any Party or class of Party under the Code) in any such arrangements as are described in Section F2.12;

(b) a designated person is a person designated by the Authority as fulfilling, in relation to such arrangements, a role equivalent to that of the BSC Agent or BSCCo;

(c) approved purposes are purposes in relation to such arrangements equivalent to the purposes for which the relevant IPRs are used in connection with the arrangements provided for in the Code.

2.6 Termination of BSC Agent Contracts

2.6.1 If BSCCo proposes:

(a) to exercise any right or take any other steps to terminate a BSC Agent Contract before its expiry;

(b) where BSCCo is aware that any such right has arisen, to waive such right;

(c) to give notice of termination of a BSC Agent Contract which continues until terminated by such notice; or

(d) not, upon the expiry of a BSC Agent Contract, to extend or renew the contract

BSCCo shall so notify the ~~Panel~~SAF~~Panel~~, and provide an explanation of its reasons for its proposal.

2.6.2 Where the exercise of a right or the taking of steps to terminate a BSC Agent Contract would, or (in BSCCo's view, after taking legal advice) might, result in BSCCo being liable:

(a) to pay any amount (by way of fixed compensation or damages, or increases in fees or charges, or otherwise) which would not have been payable but for the exercise of such right or the taking of such steps, and/or

(b) to pay or continue to pay fees, charges or other amounts under the contract in respect of any period after the effective cessation of the provision of services thereunder

in an aggregate amount exceeding such threshold amount as ~~the Panel~~BSCCo may from time to time specify for the purposes of this paragraph 2.6.2, BSCCo shall not exercise such right or take such steps without ~~the approval of the Panel~~having undertaken a SAF Consultation.

2.7 Appointment of BSC Agents

2.7.1 Before commencing the procurement of a BSC Agent Contract, BSCCo will, having undertaken a SAF consultation, prepare~~, in discussion with the Panel, and obtain the Panel's approval of~~ a statement ("**Procurement Approach Statement**") of the approach to be adopted by BSCCo in the procurement and the criteria (consistent with the applicable Contract Principles and contract requirements as set out in paragraph 2.4 above) to be applied in competitively selecting the person to whom the contract will be awarded.

2.7.2 ~~The Panel~~BSCCo may ~~(and if BSCCo so wishes, will)~~ establish as a ~~Panel~~ Code Committee, or appoint a ~~Panel~~ SAF Member as an observer, and set terms of reference (consistent with this paragraph 2.7) for, a committee ("**Procurement Committee**") or observer ("**Procurement Observer**") to advise BSCCo in connection with the conduct of the procurement and the award of the contract.

2.7.3 BSCCo shall:

(a) not vary the Procurement Approach without ~~the approval of the Panel~~having undertaken a SAF Consultation;

(b) conduct the procurement in accordance with the Procurement Approach Statement, and in particular award the contract in accordance with the criteria in the statement;

(c) where ~~the Panel~~it has established a Procurement Committee or appointed an Procurement Observer, keep the committee or observer informed of the conduct and progress of the procurement (generally and by reference to the Procurement Approach Statement), and consult with and seek the advice of the committee or observer, at intervals (including before and awarding the contract) and otherwise in accordance with the committee's or observer's terms of reference; and

(d) report to the ~~Panel~~ SAF and (if appointed) Procurement Committee in respect of the outcome of the procurement and the award of the contract.

2.7.4 Without prejudice to any Legal Requirement, BSCCo shall not enter into a BSC Agent Contract except in compliance with this paragraph 2.7.

2.7.5 It is acknowledged that:

(a) pursuant to its obligations under Section C12.12, BSCCo appointed service providers to build new SVAA BSC Agent Systems that will, as part of MHHS Implementation transition activities, replace the legacy SVAA BSC Agent System (the "**relevant service providers**");

(b) it will reduce the risk to MHHS Implementation for the relevant service providers to deliver, during the MHHS Implementation transition period, the SVAA BSC Agent Services that have been implemented pursuant to MHHS Implementation (the "**new SVAA BSC Agent Services**"); and

(c) accordingly, and notwithstanding the provisions of this paragraph 2.7, it would be beneficial for the BSC Agent Contracts relating to new SVAA BSC Agent Services to be awarded to the relevant service providers.

2.7.6 Pursuant to paragraph 2.7.5, BSCCo may, ~~with the prior approval of the Panel~~having undertaken a SAF Consultation, directly award (without a competitive procurement) the initial BSC Agent Contracts relating to the new SVAA BSC Agent Services provided that such BSC Agent Contracts shall have a duration of no longer than 24 months following the completion of the MHHS Implementation transition (described as "M15" in the MHHS Implementation Timetable).

3. RELATIONSHIP BETWEEN PARTIES, BSCCO AND BSC AGENTS

3.1 General

3.1.1 The provisions of this paragraph 3 apply, inter alia, and the Parties agree that such provisions are desirable and appropriate, for the purposes of enabling BSCCo to conclude contracts with BSC Agents on reasonable terms and on an efficient basis, and ensuring that such contracts can be managed and enforced by BSCCo on a co-ordinated basis and in the interests of Parties collectively.

3.2 Status of BSC Agents

3.2.1 Unless expressly otherwise provided in the Code, a BSC Agent shall not, and BSCCo shall not authorise a BSC Agent to, act as agent for or make any commitment or incur any liability binding on any Party.

3.2.2 The rights and obligations of a BSC Agent shall be set out in the relevant BSC Agent Contract and nothing in the Code or any Code Subsidiary Document shall confer any rights or entitlements on any BSC Agent.

3.2.3 Without prejudice to the generality of Section H9.4, the Parties (including BSCCo and the BSC Clearer) do not intend:

(a) that any BSC Agent (or any agent, contractor or servant of a BSC Agent) shall have any rights, benefits, entitlements or privileges under the Code or any Code Subsidiary Document; and nothing in the Code or any Code Subsidiary Document shall be construed as conferring or purporting to confer any such right, benefit, entitlement or privilege on any such person; or

(b) that any term of the Code or any Code Subsidiary Document shall be enforceable by any BSC Agent (or any agent, contractor or servant of a BSC Agent) solely by virtue of the Contracts (Rights of Third Parties) Act 1999.

3.2.4 Each Party agrees that, in any case where by virtue of the Contracts (Rights of Third Parties) Act 1999 any term of a BSC Agent Contract is enforceable by or for the benefit of that Party, the consent of such Party shall not be required (and the BSC Agent Contract may provide that such consent is not required) to an amendment, variation or rescission of that BSC Agent Contract.

3.3 Role of BSCCo in contracting with BSC Agents

3.3.1 Where, whether by virtue of the application of the Contracts (Rights of Third Parties) Act 1999, or of BSCCo being party to any BSC Agent Contract as trustee for any Parties or agent (as to the benefit of such contract) for any Parties, or otherwise, any Party or Parties have any right, claim or entitlement against a BSC Agent pursuant to or in relation to any BSC Agent Contract:

(a) each Party hereby appoints and authorises BSCCo to act as its exclusive agent for the purposes of enforcing all rights, claims or entitlements which such Party may have pursuant to or in relation to any BSC Agent Contract, and agrees that BSCCo shall exclusively have the conduct of any proceedings in connection therewith, but subject to paragraphs 2.2.2(b) and 2.2.4;

(b) each Party agrees and undertakes with BSCCo and each other Party, and authorises BSCCo to commit as its agent and on its behalf to the BSC Agent, that such Party will not itself enforce or seek to enforce or take any action with a view to the enforcement of any such rights, claims or entitlements.

3.3.2 Each Party agrees and undertakes that BSCCo may contract with a BSC Agent on the basis that such Party waives and will not make or seek to enforce any claim in tort (including negligence, but not including any claim for fraud or in respect of liability for death or personal injury resulting from the BSC Agent's negligence) against any BSC Agent in relation to any BSC Agent Contract or any act or omission of the BSC Agent pursuant to or in relation to the BSC Agent Contract; provided that (without prejudice to paragraph 3.3.1) this shall not limit any such claim of a Party in a case in which a BSC Agent Contract is not made on such basis.

3.3.3 Where, under any provision of the Code, any Party or Parties expressly agree or undertake:

(a) to confer any permission, consent, approval, licence or right upon any BSC Agent, including without limitation in relation to access to or inspection of premises or Plant or Apparatus, or access to or the provision, use, copying or disclosure of any data, document or information; or

(b) (in accordance with paragraph 3.3.2 or pursuant to any other provision of the Code) to waive or release any BSC Agent from any possible liability (in tort including negligence or otherwise) to or claim by that Party or Parties

then BSCCo may confer, and is hereby authorised to act as agent of and on behalf of that Party or Parties in entering into the BSC Agent Contract for the purposes of conferring (subject to the express provisions of the Code in relation thereto) that permission, consent, approval, licence or right or waiver or release upon the BSC Agent (but in relation to paragraph (a), only for the purposes contemplated by the Code and subject to any restrictions or procedures provided for in or under the Code in relation thereto).

3.3.4 Each Party acknowledges that BSCCo may agree to indemnify a BSC Agent against any breach by the Party of its agreements and undertakings in paragraphs 3.3.1(b), 3.3.2 and 3.3.3; and each Party shall indemnify BSCCo in respect of any loss, liability, damages, costs (including legal costs), expenses, claims and proceedings which BSCCo may suffer or

reasonably incur (pursuant to such indemnity or otherwise) by reason of any breach by that Party of its agreements and undertakings in paragraphs 3.3.1(b), 3.3.2 and 3.3.3.

3.3.5 Without prejudice to paragraph 3.3.1, but subject to the provisions of this Section E, where BSCCo is party to a BSC Agent Contract as agent for any Parties, BSCCo is hereby authorised by each Party as its exclusive agent to exercise any right, take any step and do any other thing pursuant to such BSC Agent Contract necessary or in BSCCo's opinion appropriate for the purposes of carrying out its functions (in accordance with this Section E) in respect of such BSC Agent Contract; provided that BSCCo is not thereby authorised to make any commitment or incur any liability on behalf of and in the name of such Party except with the Party's consent or in accordance with any express provision of the Code.

3.3.6 The authorities (to act as agent on behalf of Parties) conferred on BSCCo in this paragraph 3.3 are unconditional and irrevocable.

3.3.7 Without prejudice to paragraph 2.2.2(b), where BSCCo obtains or recovers any amount by way of damages or otherwise from a BSC Agent in respect of a breach of the BSC Agent Contract, and ~~the Panel~~BSCCo (on the application of any Party or otherwise) determines that it would be inequitable for all Trading Parties to benefit (by reason of such amount being applied to reduce BSC Costs in accordance with Section D4.1.1(a)(ii)) therefrom in their Main Funding Shares, ~~the Panel~~BSCCo may ~~direct~~ decide that such amount shall be applied in payment to Parties or particular Parties in such proportions as ~~the Panel~~it may determine, and BSCCo shall make such adjustments (in respect of BSCCo Charges or otherwise, and including where necessary not applying such amount to reduce BSC Costs) as shall be appropriate to give effect to ~~the Panel's~~its determination.

4. BSC SERVICES MANAGER

4.1 General

4.1.1 Except as expressly stated in this paragraph 4, the preceding provisions of Section E shall not apply to the BSC Services Manager or the BSC Services Manager Contract.

4.1.2 In this paragraph 4 references to Parties do not include BSCCo or BSC Clearer.

4.2 Appointment

4.2.1 Subject to paragraph 4.2.8, BSCCo may, from time to time, appoint a person to act as its agent for the purposes of discharging some or all of BSCCo's powers, functions and responsibilities in accordance with Section C1.2 and as otherwise specified in the Code (the "**BSC Services Manager**"), provided that (notwithstanding the provisions of Section F) any amendments to the Code which seek to amend this paragraph 4.2.1 or paragraph 4.2.2 shall require the prior approval of the Board.

4.2.2 Without prejudice to paragraph 4.2.1, the BSC Clearer may discharge any of its powers, functions and responsibilities under the Code through (and by delegation to) the BSC Services Manager.

4.2.3 Subject to the provisions of this paragraph 4, BSCCo may do anything necessary for, or reasonably incidental to, the performance by the BSC Services Manager of the services under the relevant BSC Agent Contract ("**BSC Services Manager Contract**"), including the provision of such guarantees, indemnities or other assurances to or for the benefit of the BSC Services Manager or others under or in connection with any BSC Services Manager Contract as BSCCo considers appropriate.

4.2.4 Subject always to paragraphs 4.1.1 and 4.2.1, for the purposes of the Code:

(a) the BSC Services Manager shall be regarded as a BSC Agent;

(b) the BSC Services Manager Contract shall be regarded as a BSC Agent Contract;

(c) no person (or any Relevant Affiliate of such person) may perform the roles of the BSC Services Manager and any other BSC Agent at the same time; and

(d) a Party (and any Affiliate thereof) or a BSC Company shall not be appointed as the BSC Services Manager.

4.2.5 Subject to any contrary provision in the Code, BSCCo or relevant BSC Company (as the case may be) may in its absolute discretion grant or transfer such rights or interests held by BSCCo or relevant BSC Company (in their capacity as BSCCo or relevant BSC Company) on such terms as those entities deem appropriate to the BSC Services Manager (or otherwise make available the benefit of such rights or interests) to enable the BSC Services Manager to discharge its powers, functions and responsibilities under the Code.

4.2.6 For the purposes of the Code, each Party, the ~~Panel~~ SAF and ~~Panel~~ Code Committees acknowledge and agree that the discharge of BSCCo's functions and responsibilities or the exercise of BSCCo's rights in accordance with the Code by the BSC Services Manager shall be treated as if such functions and responsibilities or rights had been discharged or exercised by BSCCo.

4.2.7 BSCCo shall, in its absolute discretion, be entitled to authorise the BSC Services Manager to act as agent, make any commitment and incur liabilities on behalf of BSCCo (including without limitation entering into contracts or other arrangements) to enable the BSC Services Manager to perform its functions and responsibilities subject to and in accordance with this paragraph 4 and the Code generally and in accordance with the BSC Services Manager Contract.

4.2.8 For the avoidance of doubt, BSCCo shall not delegate responsibility for the procurement and management of the BSC Services Manager Contract to a BSC Agent.

4.3 Role of BSCCo

4.3.1 Subject always to, any provision to the contrary in this paragraph 4, paragraph 4.2.1 and paragraph 4.3.2, the provisions of paragraphs 1.3, 1.5, 1.6 and 2 shall apply to the BSC Services Manager and the BSC Services Manager Contract.

4.3.2 BSCCo shall ensure that at all times it has sufficient resources (which in this paragraph 4.3.2 does not mean financial resources) to enable it to manage and administer any BSC Services Manager Contract and where it believes, from time to time, that it requires additional resources to meet its requirements it shall take such steps and procure such resources as are necessary as soon as is reasonably practicable.

4.4 Initial BSC Services Manager Contract

4.4.1 It is acknowledged that in respect of any initial contract between BSCCo and the BSC Services Manager ("**Initial BSC Services Manager Contract**") the provisions of paragraphs 2.3 and 2.7 shall not apply, provided that, notwithstanding any provision of Section F, paragraph 3, the Authority may, in its discretion, approve the creation of any new BSC Service Description related to the Initial BSC Services Manager Contract and/or the process to be adopted for such approval.

4.4.2 BSCCo shall, prior to the execution of any Initial BSC Services Manager Contract:

(a) without prejudice to paragraph 4.4.3, establish a statement of contract principles, to an appropriate level of detail to reasonably inform the ~~Panel~~ SAF and Parties, by which BSCCo shall be guided in agreeing the terms of any Initial BSC Services Manager Contract ("**the Initial BSC Services Manager Contract Principles**"), provided that in doing so BSCCo shall not be obliged to disclose confidential information and/or information of a commercially sensitive nature;

(b) conduct a consultation with the ~~Panel~~ SAF and Parties on the Initial BSC Services Manager Contract Principles and it shall have due regard to any representations made and not withdrawn during such consultations; and

(c) submit the terms of any proposed Initial BSC Services Manager Contract to the Authority and seek the Authority's confirmation that it is satisfied that such terms fulfil all of the BSC Services Manager Criteria, and in the absence of such confirmation BSCCo shall not execute any Initial BSC Services Manager Contract.

4.4.3 The Initial BSC Services Manager Contract Principles shall include principles as to at least the following matters:

(a) the principles governing the pricing of services under the contract;

(b) liability and limitations or exclusions of liability for breach of the contract;

(c) the ownership of Intellectual Property Rights;

(d) the grounds for termination of the contract;

(e) the treatment of assets; and

(f) the principles governing the term of the contract.

4.5 Relationship between Parties and BSC Services Manager

4.5.1 The provisions of paragraphs 3.1.1, 3.2.1 and 3.3 shall apply to the BSC Services Manager and the BSC Services Manager Contract, subject to, and in accordance with, the BSC Services Manager Contract.

AMENDMENT RECORD – SECTION E

Section E	Version 13.0	Effective Date: 22 September 2025

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Modification Proposal	Approval Date	Implementation Date	Version
P472	04/02/25	27/02/25	12.0
P482	26/11/24	28/11/24	11.0
P456	10/10/23	09/11/23	10.0
P450	12/01/23	23/02/23	9.0
P350	24/03/17	01/04/18	8.0
ORD005[1]	Secretary of State	01/08/14	7.0
P284	17/09/12	18/09/12	6.0
P257	20/09/10	04/11/10	5.0
P197	10/08/06	23/08/07	4.0
P133	23/12/03	02/01/04	3.0
P46	14/05/02	22/05/02	2.0

[1] ORD005 was Directed by the Secretary of State on 1 August 2014