

To: Smart DCC Limited

**Gas Act 1986 – Section 23(2)
Electricity Act 1989 – Section 11A(2)**

Notice of statutory consultation on a proposal to modify the conditions of the smart meter communication licence

1. The Gas and Electricity Markets Authority ('the Authority')¹ proposes to modify the conditions of the smart meter communication licence (the Licence) granted or treated as granted under section 7AB(2) and (4) of the Gas Act 1986 and section 6(1A) and (1C) of the Electricity Act 1989 ('the DCC Licence') by amending Licence Condition 15 (Incorporation, delivery and provision of the Centralised Registration Service) and the consequential amendments made within this document.
2. We are proposing these modifications because of the reasons set out in the following documents:
 - a) Switching Programme: Regulation and Governance - way forward and statutory consultation on licence modifications – 15 October 2018.
 - b) Switching Programme: Proposed modifications to regulation and governance – 5 June 2018.
 - c) Switching Programme: Outline Business Case and Blueprint phase decision – 12 February 2018.
 - d) Delivering Faster and More Reliable Switching: proposed new switching arrangements – 21 September 2017.
3. The effect of these modifications is to extend DCC's role within the Switching Programme in relation to the Centralised Registration Service through design, build, test and early years of operations. These modifications are described in detail in the documents referred to in paragraph 2 of this Notice and, in particular, the following documents:
 - a) Switching Programme: Regulation and Governance - way forward and statutory consultation on licence modifications – 15 October 2018.
 - b) Switching Programme: Proposed modifications to regulation and governance – 5 June 2018.
4. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, they are available from foi@ofgem.gov.uk.
5. Any representations with respect to the proposed licence modifications must be made on or before 16 November to: Rachel Clark, Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London, E14 4PU or by email to switchingprogramme@ofgem.gov.uk.
6. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We

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

prefer to receive responses in an electronic form so they can be placed easily on our website.

7. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.

.....
Rob Salter-Church
Director, Retail Systems Transformation
Duly authorised on behalf of the
Gas and Electricity Markets Authority

15 October 2018

For the avoidance of doubt, proposed additions are shown as double underlined and proposed deletions are shown as strikethrough. We have only shown those licence conditions where modifications are proposed.

PART 2 : TERMS IN RESPECT OF REVOCATION

Introduction

1. The Authority may at any time revoke this Licence by giving the Licensee:
 - (a) at least 24 hours' Notice in the case of any of the Emergency Revocation Events set out in Section A below;
 - (b) at least seven days' Notice in the case of the Grant Revocation Event set out in Section B below; and
 - (c) at least 30 days' Notice in the case of any of the Other Revocation Events set out in Section C below.
 2. The Authority's powers of revocation under this Part 2 include a power to direct the Licensee to cease carrying on any or all of its activities under this Licence, while still remaining the holder of the Licence, in either of the following cases:
 - (a) for purposes connected with a handover of the Licensee's business, as provided for by Condition 43 (Arrangements for the handover of business) of this Licence, provided that three months' Notice of the Authority's direction is given; or
 - (b) for purposes arising from an occurrence of any Revocation Event however described under these Terms.
- 2A Where a Revocation Event occurs solely in respect of Part B of Condition 15 then the Authority's powers of revocation under this Part 2 shall be limited to the power to direct the Licensee to cease carrying on all or part of the Centralised Registration Service while still remaining the holder of the Licence.

Section A: Emergency Revocation Events

3. Emergency Revocation Events (to which the Authority's power of revocation under paragraph 1(a) relates) are as follows.
4. Emergency Revocation Event 1 is if the Licensee is unable to pay its debts (within the meaning of section 123(1) or (2) of the Insolvency Act 1986, but subject to paragraph 5 below) or has any voluntary arrangement proposed in relation to it under section 1 of that Act or enters into any scheme or arrangement (other than for the purpose of reconstruction or amalgamation on such terms and within such period as may previously have been approved by the Authority).
5. For the purposes of paragraph 4:
 - (a) section 123(1)(a) of the Insolvency Act 1986 has effect as if for "£750" there was substituted "£250,000" or such higher figure as the Authority may from time to time determine by Notice to the Licensee; and
 - (b) the Licensee will not be deemed to be unable to pay its debts if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986: (i) is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures, or (ii) is satisfied before the expiry of such period as may be stated in any Notice given by the Authority under paragraph 1(a).
6. Emergency Revocation Event 2 is if the Licensee has a receiver (which expression includes an administrative receiver within the meaning of section 251 of the Insolvency Act 1986) appointed in respect of the whole or any material part of its assets or undertaking.

7. Emergency Revocation Event 3 is if the Licensee has an administration order made in relation to it under section 8 of the Insolvency Act 1986.
8. Emergency Revocation Event 4 is if the Licensee passes any resolution for winding-up other than a resolution previously approved by the Authority.
9. Emergency Revocation Event 5 is if the Licensee becomes subject to an order for winding-up by a court of competent jurisdiction.

Section B: Grant Revocation Event

10. The Grant Revocation Event (to which the Authority's power of revocation under paragraph 1(b) relates) is if the Authority is satisfied that a material mis-statement of fact was made by, or on behalf of, the Licensee during or in connection with the Licence Application Process.

Section C: Other Revocation Events

11. The Other Revocation Events (to which the Authority's power of revocation under paragraph 1(c) relates) are as follows.
12. Other Revocation Event 1 is if the Licensee agrees in Writing with the Authority that this Licence should be revoked.
13. Other Revocation Event 2 is if any amount payable under Condition 4 of this Licence (Licensee's payments to the Authority) is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee Notice that the payment is overdue (but no such Notice may be given earlier than the sixteenth day after the day on which the amount payable became due).
14. Other Revocation Event 3 (subject to paragraph 15) is if the Licensee:
 - (a) fails to comply with a Final Order or a Provisional Order that has been confirmed and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after it has given Notice of such failure to the Licensee; or
 - (b) fails to pay any Financial Penalty by the due date for such payment and such payment is not made to the Authority within three months after it has given Notice of such failure to the Licensee.
15. No Notice under paragraph 14 may be given by the Authority before the expiry of the period within which a Validity Application could be made by the Licensee or before the proceedings relating to any such application are finally determined.
16. Other Revocation Event 4 is if the Licensee fails to comply with:
 - (a) an order made by the court under section 34 of the Competition Act 1998; or
 - (b) an order made by the Authority under section 158 or 160 of the Enterprise Act 2002; or
 - (c) an order made by the Competition Commission under section 76, 81, 83, 84, or 161 of the Enterprise Act 2002; or
 - (d) an order made by the Secretary of State under section 66, 147, 160, or 161 of the Enterprise Act 2002; or
 - (e) an enforcement notice served on it by the Information Commissioner under section 40 of the Data Protection Act 1998.

17. Other Revocation Event 5 is if the Authority considers that the Licensee has breached, or is breaching, any condition of this Licence, or any statutory requirement imposed on the Licensee in consequence of or in connection with this Licence, in a manner or to an extent that is so serious as to make it inappropriate for the Licensee to continue to hold this Licence.
18. Other Revocation Event 6 occurs if the Licensee breaches any of the requirements of Part F of Condition 8 (Security controls for the Authorised Business) with respect to the legal and operational location of the Licensee.
19. Other Revocation Event 7 is if the Licensee:
 - (a) itself breaches; or
 - (b) fails to take all appropriate steps within its power to prevent some other person from causing it to breach:
 - (i) any of the requirements of Part C of Condition 9 (Independence and autonomy of the Licensee) in respect of corporate independence; or
 - (ii) the requirements of any alternative arrangements in respect of corporate independence to which the Authority may have consented under Part D of that condition.
20. The appropriate steps mentioned in paragraph 19(b) include a duty on the Licensee to notify the Authority forthwith if the Licensee is or becomes aware that a breach has occurred or is likely to occur despite such steps as have been taken to prevent such breach.
21. Other Revocation Event 8 is if the Authority is satisfied (whether having regard to the conduct of the Licensee under this Licence or otherwise) that the Licensee no longer is, or never was, a fit and proper person to carry on the Authorised Activity.
22. Other Revocation Event 9 is if the Licensee has ceased (other than as directed by the Authority under paragraph 2 of these Terms) to carry on any part of the Authorised Activity.
23. Paragraphs 14 and 15 are to be read in accordance with the provisions of paragraphs 24 and 25 respectively.

Section D: Interpretation

24. For the purposes of paragraph 14:
 - (a) a Final Order is a final order within the meaning of section 28 of the 1986 Act or section 25 of the 1989 Act;
 - (b) a Provisional Order is a provisional order within the meaning of section 28 of the 1986 Act or section 25 of the 1989 Act; and
 - (c) a Financial Penalty is a financial penalty within the meaning of section 30A of the 1986 Act or section 27A of the 1989 Act.
25. For the purposes of paragraph 15, a Validity Application is an application made to the court by the Licensee:
 - (a) under section 30 of the 1986 Act or section 27 of the 1989 Act in the case of a Final Order or Provisional Order; or

(b) under section 30E of the 1986 Act or section 27E of the 1989 Act in the case of a Financial Penalty,

for the purpose of questioning the validity or effect of the order or the penalty, as the case may be, in accordance with law.

26. Words and expressions used in this Part 2 that are defined terms for the purposes of any of the Conditions of this Licence have, for the purposes of this Part 2, the meaning that is given to them in this Licence in the form in which it was in force at Licence Commencement Date.

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

CONDITIONS OF THIS LICENCE

	page
Chapter 1: Interpretation, contact details, and payments	15
Condition 1: Definitions for the Conditions of this Licence	16
Condition 2: Rules of interpretation for this Licence	30
Condition 3: Addresses for the purposes of this Licence	34
Condition 4: Licensee’s payments to the Authority	35
Chapter 2: Nature and conduct of the Licensee’s business	37
Condition 5: General Objectives of the Licensee	38
Condition 6: Authorised Business of the Licensee	41
Condition 7: General controls for the Authorised Business	45
Condition 8: Security controls for the Authorised Business	48
Chapter 3: Arrangements for the Licensee’s independence	52
Condition 9: Independence and autonomy of the Licensee	53
Condition 10: Protection of Confidential Information	58
Condition 11: Duties arising from Licensee’s special position	60
Condition 12: Appointment and duties of Compliance Officer	63
Chapter 4: Start-up and future development obligations	66
Condition 13: Arrangements relating to the Transition Objective	67
Condition 14: Licensee’s future development objectives	72
Condition 15: Incorporation, <u>delivery and provision</u> of the Centralised Registration Service	75
Chapter 5: General arrangements for Services	78
Condition 16: Procurement of Relevant Service Capability	79
Condition 17: Requirements for the provision of Services	87
Condition 18: Charging Methodology for Service Charges	95
Condition 19: Charging Statement for Service Charges	100
Condition 20: Determination of disputes by the Authority	103
Chapter 6: Arrangements for Industry Codes	105
Condition 21: Roles in relation to Core Industry Documents	106
Condition 22: The Smart Energy Code	108

Condition 23: Change control for the Smart Energy Code	118
Chapter 7: Financial and ring-fencing provisions	122
Condition 24: Availability of all necessary resources	123
Condition 25: Undertakings from an Ultimate Controller	128
Condition 26: Financial stability and financial security	130
Condition 27: Indebtedness and transfers of funds	134
Condition 28: Disposal of Relevant Business Assets	140
Chapter 8: Provision of regulatory information	143
Condition 29: Provision of Information by the Licensee	144
Condition 30: Requirements for the Regulatory Accounts	148
Condition 31: Reporting of Quality of Service Information	152
Condition 32: Reporting of Price Control Information	154
Condition 33: Regulatory Instructions and Guidance	157
Condition 34: Annual Service Report to the Authority	159
Chapter 9: Price Control Conditions of this Licence	162
Condition 35: Definitions for the Price Control Conditions	163
Condition 36: Determination of Licensee's Allowed Revenue	169
Condition 37: Assessment of Mandatory Business costs	179
Condition 38: Determination of the BMP Adjustment	182
Condition 39: Determination of External Contract Gain Share	190
Condition 40: Determination of the VAS Contribution	194
Condition 41: Disapplication of Price Control Conditions	195
Chapter 10: Arrangements for intervention and continuity	198
Condition 42: Management Orders for the Licensee	199
Condition 43: Arrangements for the handover of business	202
Condition 44: Treatment of Intellectual Property Rights	207
Chapter 11: Other Provisions	210
Condition 45: Provision of Market Share Information to the Central Delivery Body	211

CHAPTER 1 : CONDITIONS 1 TO 4
Interpretation, contact details, and payments

Condition 1. Definitions for the Conditions of this Licence

Introduction

- 1.1 Part A of this condition sets out most of the defined words and expressions (all of which begin with capital letters) that are used in the Conditions of this Licence.
- 1.2 But:
- (a) where defined words and expressions are used only in a particular condition, their definitions are included in that condition; and
 - (b) some defined words and expressions that are used only in the Price Control Conditions in Chapter 9 of this Licence are set out, with their definitions, at Condition 35 (Definitions for the Price Control Conditions).
- 1.3 References in this Licence to “premises” (whether as such or as “Premises” as part of a defined term) include any land, building, or structure.

Part A: Definitions arranged in alphabetical order

- 1.4 In the Conditions of this Licence, unless the context otherwise requires:

1986 Act	means the Gas Act 1986.
1989 Act	means the Electricity Act 1989.
Additional Licence Term	has the meaning that is given to that term in paragraph 6 of Part 1 of this Licence (Terms in Respect of Grant).
Alt HAN Arrangements	has the meaning that is given to that term in paragraph 22.20(e) of Condition 22 (The Smart Energy Code).
Affiliate	means, in relation to any person, any Holding Company of that person, any Subsidiary of that person, or any Subsidiary of a Holding Company of that person.
Agreement for Services	means an agreement with the Licensee under or pursuant to Condition 17 (Requirements for the provision of Services) for the provision of Services, whether on terms as prescribed by or determined in accordance with the provisions of the SEC <u>or the REC</u> , or otherwise.
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 this Licence.
Authorised Business of the Licensee	means the whole of the business carried on by the Licensee under this Licence, comprising the Mandatory Business (see below) and the Permitted Business (see also below), as is

set out with further detail in Parts A to C of Condition 6 (Authorised Business of the Licensee).

Authority	means the Gas and Electricity Markets Authority that is established under section 1 of the Utilities Act 2000.
Centralised Registration Service	has the meaning given to that term in Part C of Condition 15 (Incorporation, <u>delivery and provision</u> of the Centralised Registration Service)
Charging Methodology for Service Charges	means the methodology of that name that is designated by the Secretary of State for the purposes of Condition 18 (Charging Methodology for Service Charges) and has been incorporated into the SEC <u>or the REC (as applicable)</u> for the purpose of determining the charges payable for Mandatory Business Services provided by the Licensee under or pursuant to the SEC.
Charging Statement for Service Charges	means the statement of that name that sets out the basis on which charges are made for the provision by the Licensee of Mandatory Business Services under or pursuant to the SEC <u>or the REC (as applicable)</u> and is in a form that is approved for the purposes of Condition 19 (Charging Statement for Service Charges).
Commercial Activities	includes, in particular, Energy Efficiency Services, Energy Management Services, Energy Metering Services, and Energy Price Comparison Services, in each case in relation to the Supply of Energy (or its use) under the Principal Energy Legislation.
Communications Hub	means a component, forming a part of the Smart Metering System installed at an Energy Consumer’s premises, which as a minimum: (a) consists of the devices or other apparatus identified in; and (b) has the functional capability specified by and complies with the other requirements of, a Version of the CH Technical Specification which on the date on which those devices or apparatus are provided by the DCC to a SEC Party pursuant to Part E of Condition 17 (Requirements for the provision of Services) and in accordance with the provisions of the SEC is within its Installation Validity Period.
Communications Hub Technical Specification	means the Communications Hub Technical Specification (which may be referred to as the “CH Technical Specification” in this Licence), being the document (or part of a document) which:

- (a) identifies itself as such; and
- (b) applies in respect of a Communications Hub installed or provided for the purposes of the Supply of Energy.

Compatible	in respect of a Version of a Technical Specification, means compatible, in accordance with the meaning given to that expression in Section F2.12 of the Smart Energy Code, with a Version of any other Technical Specification as identified in the matrix created and published by the SEC Panel pursuant to Section F2.11 of the Smart Energy Code.
Competition Commission	means the body of that name established by section 45 of the Competition Act 1998 [but see note on page 24].
Compliance Statement	means the statement of that name that is approved by the Authority for the purposes of Condition 10 (Protection of Confidential Information).
Confidential Information	means information that is provided to the Licensee (whether directly or indirectly) by any person in connection with the Authorised Business of the Licensee, including information that is provided under or pursuant to the Smart Energy Code, <u>Retail Energy Code</u> or the provisions of any External Service Provider Contract to which the Licensee is a party (and includes any personal data and sensitive personal data within the meaning of the Data Protection Act 1998).
Conditions	means all of the Conditions of this Licence, including any Price Control Conditions and any other condition however described that has effect in it, and includes any Schedule to this Licence (but does not include any of the Terms in Respect of Grant or Terms in Respect of Revocation set out in Parts 1 and 2 respectively of this Licence).
Core Communication Services	means communication services (as specified and defined in the SEC) that relate solely to the Supply of Energy (or its use) under the Principal Energy Legislation and that are provided by the Licensee in accordance with Part B of Condition 17 (Requirements for the provision of Services).
Designated Premises	has the meaning that is given to that term on 10 February 2016: <ul style="list-style-type: none">(a) in relation to the supply of electricity, in standard condition 1 (Definitions for standard conditions) of the licences granted, or treated as granted, under section 6(1)(d) of the 1989 Act; and(b) in relation to the supply of gas, in standard condition 1 (Definitions for standard conditions) of the licences

granted, or treated as granted, under section 7A(1) of the 1986 Act.

Domestic Energy Supplier	means an Energy Supplier that is authorised by its Energy Supply Licence to supply Energy to Domestic Premises and that supplies Energy to such premises in accordance with that licence.
Domestic Premises	means premises at which a Supply of Energy is or will be taken wholly or mainly for domestic purposes (and is to be read in accordance with and subject to the provisions of standard condition 6 of the Energy Supply Licence).
Elective Communication Services	means communication services (excluding Core Communication Services) that relate solely to the Supply of Energy (or its use) under the Principal Energy Legislation and that are provided by the Licensee in accordance with Part C of Condition 17 (Requirements for the provision of Services).
Electricity Distribution Licence	means a licence granted, or treated as granted, under section 6(1)(c) of the 1989 Act.
Electricity Meter	means any meter that conforms to the requirements of paragraph 2 of Schedule 7 to the 1989 Act and is used for the purpose of measuring the quantity of electricity that is supplied to premises (and includes a Smart Meter).
Enabling Services	means services forming part of the Mandatory Business of the Licensee that fulfil an enabling role with respect to the provision of Core Communication Services and Elective Communication Services, and that consist of: (a) the Enrolment Service; (b) the Communications Hub Service; and (c) Other Enabling Services.
Energy	means either or both of gas (as supplied to premises under or pursuant to the 1986 Act) and electricity (as supplied to premises under or pursuant to the 1989 Act).
Energy Consumer	means a person who is supplied or requires to be supplied with Energy at any premises in Great Britain.
Energy Efficiency Services	means, in relation to any premises, services (which may include the supply or installation of products) provided to an Energy Consumer in order to improve efficiency and reduce wastage in the use of Energy at the premises.
Energy Licence	means any licence (including this Licence) that is granted, or treated as granted, under section 7, 7A, or 7AB of the 1986 Act or under section 6 of the 1989 Act.

Energy Management Services	means, in relation to any premises, services (which may include the supply or installation of products) provided to an Energy Consumer in order to measure, monitor, and manage the consumption of Energy at the premises with a view to ensuring that such consumption is cost-effective for and consistent with that consumer's requirements (and may include Energy Efficiency Services, Energy Metering Services, and Energy Price Comparison Services).
Energy Meter	means a Gas Meter or an Electricity Meter (and in either case may include a Smart Meter).
Energy Metering Services	means any or all of the services of commissioning, testing, installing, repairing, maintaining, removing, and replacing Energy Meters.
Energy Networks	means any or all of a pipe-line system within the meaning of section 7 of the 1986 Act, a distribution system as defined in section 4(4) of the 1989 Act, and a transmission system as defined in section 4(4) of the 1989 Act.
Energy Network Licence	means a licence granted, or treated as granted, under section 7 of the 1986 Act or section 6(1)(b) or (c) of the 1989 Act.
Energy Network Licensee	means a person who holds an Energy Network Licence and is either transmitting or distributing electricity, or conveying gas through pipes, in accordance with that licence.
Energy Price Comparison Services	means, in relation to any premises, services provided to an Energy Consumer for the purpose of enabling him to compare on a standardised basis the charges levied, or to be levied, by different Energy Suppliers in respect of the Supply of Energy by them to the premises.
Energy Supplier	means a person who holds an Energy Supply Licence and supplies Energy to premises in accordance with it.
Energy Supply Licence	means a licence granted, or treated as granted, under section 7A(1) of the 1986 Act or section 6(1)(d) of the 1989 Act.
Enrolment Service	means the service that is operated by the Licensee pursuant to Part D of Condition 17 (Requirements for the provision of Services) for the purpose of enrolling a Smart Metering System under the SEC.
External Electronic Communication Network <i>continued</i>	means a network used for communicating information to and from a Smart Meter that meets both of the following conditions: (a) it is an electronic communications network within the meaning given to that term in section 32 of the Communications Act 2003; and

	(b) it does not form part of a Smart Meter.
External Service Provider	means any person from whom Relevant Service Capability is procured by the Licensee (including a person from whom such capability is being procured by virtue of paragraph 6 of Condition 16) for the purpose of enabling the provision of Mandatory Business Services under or pursuant to the Smart Energy Code or Retail Energy Code.
External Service Provider Contract	means, as between the Licensee and an External Service Provider, any arrangement (however described) that has been entered into for the provision by the External Service Provider to the Licensee of Relevant Service Capability (and includes every Legacy Procurement Contract for the provision of Fundamental Service Capability).
Fundamental Registration Service Capability	means Relevant Service Capability that is provided in respect of the Centralised Registration Service <u>to deliver the Address Management Service and the Registration Service (described in Condition 15)</u> and that should be procured by the Licensee in accordance with Condition 16.
Fundamental Service Capability	has the meaning given to that term in Part J of Condition 16 (Procurement of Relevant Service Capability), as amplified by reference to the particulars set out in Schedule 1 to this Licence (Details of Fundamental Service Capability).
Gas Meter	means a meter that conforms to the requirements of section 17(1) of the 1986 Act for the purpose of registering the quantity of gas supplied through pipes to premises (and includes a Smart Meter).
Gas Supply Licence	means a licence granted, or treated as granted, under section 7A(1) of the 1986 Act.
Gas Transporter Licence	means a licence granted, or treated as granted, under section 7(1) of the 1986 Act.
General Objectives of the Licensee	means the objectives established by Condition 5 (General Objectives of the Licensee) for the Licensee's activities under this Licence, consisting of (i) the Interim General Objective and (ii) the Enduring General Objectives, as set out in Parts A and B respectively of that condition.
General SEC Objectives	means the objectives that the Smart Energy Code (or SEC) is designed to achieve, as listed in Part D of Condition 22 (The Smart Energy Code).
HCALCS	has the meaning that is given to that term in standard condition 1 (Definitions for standard conditions) of the licences granted, or treated as granted, under section 6(1)(d) of the 1989 Act.

HCALCS Technical Specification	has the meaning that is given to that term in standard condition 1 (Definitions for standard conditions) of the licences granted, or treated as granted, under section 6(1)(d) of the 1989 Act.
Holding Company	means, in relation to any person, a holding company as it is defined in section 1159 of the Companies Act 2006.
IHD Technical Specification	has the meaning that is given to that term in standard condition 1 (Definitions for standard conditions) of the Energy Supply Licences.
In-Home Display	has the meaning that is given to that term in standard condition 1 (Definitions for standard conditions) of the Energy Supply Licences.
Information	in relation to information requested by the Authority or the Secretary of State, has the meaning given to that term in Part I of Condition 29 (Provision of Information by the Licensee).
Installation Validity Period	has the meaning that is given to that term in the Smart Energy Code.
Legacy Procurement Contract	means any arrangement relating to the procurement by the Licensee of Fundamental Service Capability that falls within the definition and other particulars set out in Schedule 1 to this Licence (Details of Fundamental Service Capability).
Licence	means this Smart Meter Communication Licence.
Licence Application Process	means the competitive tender process, as undertaken by the Secretary of State, that determined the grant of this Licence to the Licensee in accordance with the Electricity and Gas (Competitive Tenders for Smart Meter Communication Licences) Regulations 2012.
Licence Commencement Date	means (except where the Secretary of State has otherwise directed) 23 September 2013.
Licence Term	means (subject to the provisions of Part 1 and Part 2 of this Licence with respect to continuation and revocation) the period that begins on Licence Commencement Date and ends on 22 September 2025 during which this Licence remains in force and is held by and applies to the Licensee.
Licensee	means Smart DCC Ltd, a company registered in England and Wales under number 08641679, whose registered office is at 17 Rochester Row, London SW1P 1QT, and who is the person that holds this Licence.

Maintenance Validity Period	has the meaning that is given to that term in the Smart Energy Code.
Mandatory Business	means that part of the Authorised Business of the Licensee that consists of the operation or provision, on behalf of or to SEC Parties <u>or REC Parties</u> (or other persons eligible to receive Mandatory Business Services, as described in Condition 17 (Requirements for provision of Services)), of Mandatory Business Services under or pursuant to the SEC <u>or the REC</u> .
Mandatory Business Services	means the services comprising the Mandatory Business of the Licensee, namely (i) the Core Communication Services, (ii) the Elective Communication Services, and (iii) the Enabling Services, (iv) <u>Incorporation, delivery and provision of the preparation for the Centralised Registration Service (Condition 15)</u> in each case as operated or provided by the Licensee in accordance with the relevant provisions of Condition 17 (Requirements for provision of Services), or in respect to the preparation for the <u>Incorporation, delivery and provision of the</u> Centralised Registration Service, these may also be services provided by the Licensee in accordance with a direction given by the Authority in accordance with Condition 15.
Master Registration Agreement	means the document of that name maintained in a form approved by the Authority in accordance with standard condition 23 of the Electricity Distribution Licence.
Minimal Services	means services forming part of the Permitted Business of the Licensee that: (a) are not provided to any material extent from within capability or resources available to the Mandatory Business of the Licensee; and (b) do not exceed the limitation as to value imposed by paragraph 8(b) of Condition 6 (Authorised Business of the Licensee).
Notice	means prior notice given directly to a person in Writing (and includes a notification).
Other Enabling Services	means any Enabling Services forming part of the Mandatory Business of the Licensee (other than the Communications Hub Service and the Enrolment Service) that are specified and defined as such, whether in this Licence or the SEC.
Permitted Business	means that part of the Authorised Business of the Licensee that consists of the operation or provision, whether to SEC Parties, <u>REC Parties</u> or otherwise, of Permitted Business Services.

Permitted Business Services	means the services operated or provided by the Permitted Business of the Licensee, consisting of (i) any Value Added Services approved by the Authority in accordance with Part D of Condition 6 (Authorised Business of the Licensee) and (ii) any Minimal Services.
Permitted Purpose	means a purpose of any or all of the following things: <ul style="list-style-type: none">(a) the Authorised Business of the Licensee;(b) any business or activity of the Licensee to which the Authority has given its consent under paragraph 6(c) of Condition 9 (Independence and autonomy of the Licensee); and(c) any payment or transaction made or undertaken by the Licensee in accordance with Part C of Condition 27 (Indebtedness and transfers of funds).
PPMID	has the meaning that is given to that term: <ul style="list-style-type: none">(a) in relation to the supply of electricity, in standard condition 1 (Definitions for standard conditions) of the licences granted, or treated as granted, under section 6(1)(d) of the 1989 Act; and in relation to the supply of gas, in standard condition 1 (Definitions for standard conditions) of the licences granted, or treated as granted, under section 7A(1) of the 1986 Act.
PPMID Technical Specification	has the meaning that is given to that term in standard condition 1 (Definitions for standard conditions) of Energy Supply Licences.
Price Control Condition	means a condition the purpose of which, whether on its own or in combination with any other Price Control Condition, is to limit or control the charges of, or the revenue of, the Licensee (and the Conditions contained in Chapter 9 are the Price Control Conditions of this Licence).
Principal Energy Legislation	means the 1986 Act and the 1989 Act, read together so far as they apply for the purposes of this Licence in respect of the Supply of Energy under those Acts.
Procurement Strategy for Relevant Service Capability	means the statement of that name that sets out the strategy to be followed by the Licensee in procuring Relevant Service Capability and that was approved by the Secretary of State for the purposes of Condition 16 (Procurement of Relevant Service Capability).
<u>REC</u>	<u>means the Retail Energy Code [as to which, see below].</u>

Regulatory Accounts	means the accounts of the Licensee produced in accordance with the provisions of Condition 30 (Requirements for the Regulatory Accounts).
Regulatory Instructions and Guidance	means the document of that name (which may be referred to as “the RIGs” in this Licence) issued by the Authority under Condition 33 (Regulatory Instructions and Guidance) for purposes relating to the obligations of the Licensee under Condition 31 (Reporting of Quality of Service Information) and Condition 32 (Reporting of Price Control Information).
Regulatory Year	means a period of twelve months beginning on 1 April in any calendar year and ending on 31 March of the next calendar year (and the Licensee’s first Regulatory Year is deemed to have begun on 1 April 2013).
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.
Relevant Business Assets	has the meaning that is given to that term in paragraph 4 of Condition 28 (Disposal of Relevant Business Assets) in respect of assets required to be identified in the Register of Relevant Business Assets maintained by the Licensee in accordance with that condition.
Relevant Service Capability	means capability procured (or provided from within the Licensee’s own resources) in accordance with Condition 16 (Procurement of Relevant Service Capability) for the purposes of securing the provision of Mandatory Business Services under or pursuant to the Smart Energy Code <u>or the Retail Energy Code (as applicable)</u> .
<u>Retail Energy Code</u>	<u>means the document designated by the Authority pursuant to standard condition 11 of gas supply licence and 11B of the electricity supply licence, as may be modified from time to time</u>
<u>Retail Energy Code Parties</u>	<u>means persons (excluding the Licensee) who have acceded to the Retail Energy Code on such terms and conditions of accession as are set out in the Retail Energy Code, and includes every holder of an Energy Licence who is required by a condition of that licence to be a party to and comply with the Retail Energy Code.</u>
SEC	means the Smart Energy Code [as to which, see below].
SEC Arrangements	means such arrangements (including all necessary systems, contracts, processes, procedures, resources, products, and facilities) as the Licensee is required to establish, procure, or otherwise have in place under or pursuant to the Smart Energy Code in connection with the provision of Services, whether on behalf of or to SEC Parties or otherwise.

SEC Commencement Date	means the date on which the Smart Energy Code has effect under this Licence (and, except where the Secretary of State may otherwise direct, is the same as the Licence Commencement Date).
SEC Modification Arrangements	means such arrangements established by the Smart Energy Code as are consistent with the requirements of Part B of Condition 23 (Change control for the Smart Energy Code) with respect to modifications of the SEC, but subject to the provisions of Part D of Condition 18 with respect to modifications of the Charging Methodology for Service Charges as incorporated into the SEC.
SEC Panel	means the panel established under the Smart Energy Code that is constituted in such manner and is responsible to such extent and for such activities and other matters (including the delegation of functions to committees of the panel) as may be specified in the SEC with respect to the governance and administration of the SEC.
SEC Parties	means persons (excluding the Licensee) who have acceded to the Smart Energy Code on such terms and conditions of accession as are set out in the SEC, and includes every holder of an Energy Licence who is required by a condition of that licence to be a party to and comply with the SEC.
SECCo Ltd	means the Smart Energy Code Company (being the joint venture company established pursuant to paragraph 26(c) of Condition 22 (The Smart Energy Code) for the purpose of acting as a corporate vehicle to assist the SEC Panel in exercising its powers, duties, and functions, including by entering into contracts for that purpose).
Services	means any or all of the Mandatory Business Services and Permitted Business Services the operation or provision of which comprises the Authorised Business of the Licensee (and “operation or provision” in this context includes the procurement of all necessary resources for that purpose).
Service Charges	means the charges levied by and payable to the Licensee in connection with the operation or provision of Mandatory Business Services under or pursuant to the SEC (and such charges may reflect, among other things, expenditure incurred for the purpose of investigating or securing the future operation or provision of such services, expenditure incurred in connection with the governance and administration of the Smart Energy Code, and expenditure incurred under, in connection with, or by virtue of the Alt HAN Arrangements).
Smart Energy Code	means the document of that name, as was designated by the Secretary of State under Condition 22 (The Smart Energy

Code), that is maintained for the purposes of that condition, that is subject to modification pursuant to Condition 23 (Change control for Smart Energy Code), and that may be referred to in this Licence as “the SEC”.

Smart Meter

means:

- (a) an Energy Meter that can both send and receive information using an External Electronic Communications Network; or
- (b) an Energy Meter and a device that is associated with or is ancillary to that meter and that enables information to be sent to and received by the meter using an External Electronic Communications Network,

and the related term “Smart Metering” when used as part of another defined term is to be read accordingly.

Smart Metering Equipment Technical Specification (or SME Technical Specification)

means the document set out in Schedule 9 of the Smart Energy Code.

Smart Metering System

has the meaning that is given to that term:

- (a) in relation to the supply of electricity, in standard condition 1 (Definitions for standard conditions) of the licences granted, or treated as granted, under section 6(1)(d) of the 1989 Act; and

in relation to the supply of gas, in standard condition 1 (Definitions for standard conditions) of the licences granted, or treated as granted, under section 7A(1) of the 1986 Act.

Subsidiary

means a subsidiary within the meaning given to that term in section 1159 of the Companies Act 2006.

Successor Licence

means a licence granted (or to be granted) by the Authority or the Secretary of State under section 7AB of the 1986 Act and section 6 of the 1989 Act for the purpose of authorising a person to carry on the Authorised Activity following the expiry or any revocation of this Licence.

Successor Licensee

means the person that is to succeed (or has succeeded) the Licensee 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 1986 Act and the supply of electricity pursuant to the 1989

	Act, in each case within the meaning that is given to the term “supply” in the respective Act.
Supply Point Administration Agreement	means the document of that name that is maintained in a form approved by the Authority in accordance with standard condition 30 of the Gas Supply Licence.
Terms in Respect of Grant	means all of the matters that are set out in Part 1 of this Licence.
Terms in Respect of Revocation	means all of the matters that are set out in Part 2 of this Licence.
Transition Objective	has the meaning that is given to that term in paragraph 1 of Condition 13 (Arrangements relating to the Transition Objective) as applied to activities to be undertaken by the Licensee and other persons leading to the Completion of Implementation within the meaning given to that term in Condition 5 (General Objectives of the Licensee).
Ultimate Controller	means any of the following: <ul style="list-style-type: none"> (a) a Holding Company of the Licensee that is not itself a Subsidiary of another company; and (b) subject to notes 1 and 2 set out below, any person who (whether alone or with any person or persons connected with him) is in a position to control, or exercise significant influence over, the policy of the Licensee or the policy of any Holding Company of the Licensee by virtue of: <ul style="list-style-type: none"> (i) rights under contractual arrangements to which he is a party or of which he is a beneficiary, or (ii) rights of ownership (including any rights attached to or deriving from securities or rights under a trust) which are held by him or of which he is a beneficiary.
<i>see also notes 1 and 2 that follow</i>	
<i>continued</i>	<p>note 1: for the purposes of sub-paragraph (b), a person is connected with another person if he is a party to any arrangement regarding the exercise of any such rights as are described or referred to in that sub-paragraph.</p> <p>note 2: sub-paragraph (b) does not include any director or employee of a corporate body in his capacity as such.</p>
Uniform Network Code	means the document of that name that is maintained in accordance with special condition A11 of the Gas Transporter Licence.

Value Added Services	means services forming part of the Permitted Business of the Licensee that: (a) are not Minimal Services; (b) are not related solely to the Supply of Energy (or its use) under the Principal Energy Legislation; (c) do not prejudice the Licensee’s ability to carry on the Mandatory Business in accordance with the General Objectives of the Licensee; and (d) have been approved by the Authority in accordance with Part D of Condition 6 (Authorised Business of the Licensee).
Version	has the meaning given to it in the Smart Energy Code.
Website	means a website controlled and used by the Licensee for the purposes of communicating and disseminating information as required by or for reasons relating to any of the provisions of this Licence.
Writing	includes writing that is sent or received by means of a public electronic communications network within the meaning given to that term in section 161 of the Communications Act 2003.

note: references throughout this Licence to the Competition Commission are to be treated, where the relevant provisions of the Enterprise and Regulatory Reform Act 2013 have come into force, as references to the Competition and Markets Authority (which is the Competition Commission’s successor body created by that Act).

Condition 2. Rules of interpretation for this Licence

Introduction

- 2.1 This condition sets out rules of interpretation, of both a general and a specific nature, that apply to the contents of this Licence.
- 2.2 The rules set out in this condition are additional to any general rules of interpretation that are stated in Part 1 of this Licence (Terms in Respect of Grant).

Part A: References within this Licence

- 2.3 Unless the context otherwise requires, any reference in the Conditions of this Licence to an industry code of any kind, or an agreement, or a statement, methodology, scheme, or plan, is a reference to it as modified, supplemented, transferred, novated, revised, or replaced from time to time.
- 2.4 The heading or title of any chapter, condition, part, appendix, schedule, or paragraph in the Conditions of this Licence is for convenience only and does not affect the interpretation of the text to which it relates.
- 2.5 Unless the context otherwise requires:
- (a) any reference in the Conditions of this Licence to a part, condition, appendix, schedule, or paragraph is a reference to it in the Conditions of this Licence;
 - (b) any reference in a condition of this Licence to a part, paragraph, or appendix is a reference to it in that condition; and
 - (c) any reference in the Conditions of this Licence to any natural or legal person includes that person's successors.
- 2.6 Any reference in the Conditions of this Licence to:
- (a) a provision of the Conditions of this Licence; or
 - (b) a provision of the conditions of any other type of Energy Licence,
- is to be read, if the Conditions of this Licence or the conditions of that other type of Energy Licence are subsequently modified, as a reference (so far as the context permits) to the corresponding modified provision of this Licence or of that other type of Energy Licence (as the case may be).
- 2.7 References in the Conditions of this Licence to persons include individuals, bodies corporate, unincorporated associations, firms, and partnerships.

Part B: Licensee's performance of obligations

- 2.8 Where any obligation in this Licence is required to be performed by a specified date or time or within a specified period and the Licensee has failed to do so, the obligation will continue to be binding and enforceable after the specified date or time or after the end of the specified period, but without prejudice to all rights and remedies that are available against the Licensee in relation to its failure.

- 2.9 The Licensee must comply with a direction (and with any terms or conditions to which the direction may be subject) given to it by the Authority or the Secretary of State under any provision of this Licence that provides for such direction to be given.

Part C: Specific application of powers

- 2.10 Unless a contrary intention appears, any power of the Authority or of the Secretary of State under any provision of this Licence to give a direction, consent, derogation, approval, or designation, or to issue a statement, is a power:
- (a) to give or issue it to such extent, for such period of time, and subject to such terms or conditions as the Authority or the Secretary of State thinks will be appropriate in all the circumstances of the case; and
 - (b) to revoke or amend it (after consulting with the Licensee) or to give or issue it again under that power.
- 2.11 Unless a contrary intention appears, any power of the Authority or of the Secretary of State under any provision of this Licence to make a determination or a decision is a power:
- (a) to make it subject to such terms and conditions as the Authority or Secretary of State thinks will be appropriate in all the circumstances of the case; and
 - (b) to make it again under that power.
- 2.12 Any direction, consent, derogation, approval, designation, determination, decision, or other instrument given or made by the Authority or the Secretary of State under this Licence will be given or made in Writing.
- 2.13 Where any consent, derogation, approval, designation, determination, decision, or other instrument given or made by the Secretary of State or Authority under any provision of this Licence is given or made subject to any terms or conditions, he (or it) may also direct the Licensee to comply with such terms or conditions.

Part D: Specification or determination of dates

- 2.14 In each case in which the Authority or the Secretary of State may specify a date under any provision of this Licence, either the date or the means by which that date is to be determined may be specified.

Part E: Calculation of periods of time

- 2.15 Periods of time under this Licence are to be calculated as follows:
- (a) where an act is required to be done within a specified period after or from a specified date, the period begins on the day immediately after that date;
 - (b) any day that is a Saturday or Sunday is to be included in the calculation of the period; but
 - (c) where the period would include Christmas Day, Good Friday, or a day that under the Banking and Financial Dealings Act 1971 is a bank holiday in England and Wales or, as the case may be, in Scotland, that day is to be excluded from the calculation.

Part F: Reading of words without limitation

- 2.16 The words “include”, “includes”, “including”, and “in particular” where they appear in any provision of this Licence are to be read without limitation to the generality of the preceding words.

Part G: Particular interpretation of breach

- 2.17 In this Licence, “breach” (and any related expression) in relation to a condition, order, direction, or requirement (including a contractual requirement) includes a failure to comply with it, and is to be read as equivalent for all purposes to “contravene” (and any related expression) as that term is used in the Principal Energy Legislation.

Part H: Requirements to provide or publish documents

- 2.18 Any requirement under this Licence for the Licensee to give a copy of a document to any person (including the Authority or the Secretary of State) may be satisfied by giving that person an electronic copy in an intelligible form.
- 2.19 Any requirement under this Licence for the Licensee to publish a document on its Website is a requirement to do so in a manner that ensures that the document is readily accessible from the home page of that Website.

Part I: Things done are to have continuing effect

- 2.20 Anything done under or because of a condition of this Licence, which is in effect immediately before that condition is modified, has continuing effect for so long as it is permitted or required by or under the modified condition.
- 2.21 Without prejudice to the generality of paragraph 2.20, every direction, derogation, consent, approval, designation, determination, decision, or other instrument given or made by the Authority or the Secretary of State in relation to a condition of this Licence, which is in effect immediately before that condition is modified, will have continuing effect for so long as it is permitted or required by or under that modified condition.

Part J: Authority's determination of disputes

- 2.22 Section 4B(2)(a) of the 1986 Act and section 3D(3)(a) of the 1989 Act apply to any determinations of disputes made by the Authority under this Licence.

Part K: References to the Licensee

- 2.23 References to “the Licensee” in this Licence are references to the person to whom this Licence has been granted (see Part 1 of this Licence) and include any person to whom the whole or any part of this Licence has been transferred under section 8AA of the 1986 Act and section 7A of the 1989 Act.

Part L: References to Licensee's functions

- 2.24 References in this Licence to the Licensee's exercise of functions under or by virtue of the Principal Energy Legislation, this Licence, the Retail Energy Code or the Smart Energy Code include the exercise of any powers, rights, or permissions conferred, as well as the performance of any requirements or duties imposed, on the Licensee.

CHAPTER 2 : CONDITIONS 5 TO 8

Nature and conduct of Licensee's business

Condition 5. General Objectives of the Licensee

Introduction

- 5.1 The purpose of this condition is to establish the General Objectives of the Licensee under this Licence and the Licensee's duties with respect to them.

- 5.2 This condition has effect in accordance with, and subject to, the provisions of Parts A and B of Condition 13 (Arrangements relating to the Transition Objective).
- 5.3 Subject to any variation that may be directed by the Secretary of State under Condition 13, the General Objectives of the Licensee:
- (a) initially comprise the Interim General Objective (as set out in Part A below) and the Enduring General Objectives (as set out in Part B below), taken as a whole, during the period running from Licence Commencement Date to the Completion of Implementation; and
 - (b) thereafter comprise the Enduring General Objectives only.

Part A: Interim General Objective of the Licensee

- 5.4 The Interim General Objective of the Licensee is to contribute (taking all reasonable steps for that purpose) to the achievement of a full, timely, efficient, economical, and secure Completion of Implementation in accordance with such requirements as may be imposed on the Licensee under or by virtue of Parts D to F of Condition 13.
- 5.5 For the purposes of paragraph 5.4, the Interim General Objective includes a duty:
- (a) to co-ordinate the activities, systems, and procedures of SEC Parties and, if applicable, SECCo Ltd in such manner and to such extent as may be necessary with respect to the requirements to which that paragraph refers; and
 - (b) to undertake or sponsor such investigation or research (at the Licensee's own cost unless expressly specified to the contrary) as the Secretary of State may from time to time direct for purposes connected with those requirements.
- 5.6 This Part A will be of no further effect in, and may be treated as omitted from, this condition as from the Completion of Implementation (but see paragraph 5.7).
- 5.7 Despite paragraph 5.6, paragraph 5.5(b) remains in operation until 31 December 2020 even if the Completion of Implementation occurs before that date (and all costs that are economically and efficiently incurred by the Licensee acting pursuant to that paragraph are to be recoverable through Service Charges).

Part B: Enduring General Objectives of the Licensee

- 5.8 The Enduring General Objectives of the Licensee are to consist of the First Enduring General Objective and the Second Enduring General Objective.
- 5.9 The First Enduring General Objective of the Licensee is to carry on the Mandatory Business in the manner that is most likely to ensure the development, operation, and maintenance of an efficient, economical, co-ordinated, and secure system for the provision of Mandatory Business Services under the Smart Energy Code and where relevant the Retail Energy Code.
- 5.10 The Second Enduring General Objective of the Licensee is to carry on the Mandatory Business in the manner that is most likely to facilitate:
- (a) effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy under the Principal Energy Legislation;

- (b) such innovation in the design and operation of Energy Networks as will best contribute to the delivery of a secure and sustainable Supply of Energy under the Principal Energy Legislation; and
- (c) the reduction (by virtue of benefits arising from the provision of Value Added Services) of the charges payable for Mandatory Business Services.

Part C: Paramount position of the Mandatory Business

- 5.11 It is the duty of the Licensee under this Licence to carry on the Mandatory Business at all times in accordance with the General Objectives of the Licensee.
- 5.12 In discharging that duty, the Licensee must have regard to the General Objectives in the round, weighing them as appropriate in each particular case.
- 5.13 The Licensee must not carry on any activity, or any combination of activities, under or pursuant to the Permitted Business in a manner that prejudices or impairs, or would be likely to prejudice or impair, its ability to carry on the Mandatory Business at all times in accordance with the General Objectives of the Licensee.

Part D: Interpretation

- 5.14 For the purposes of this condition:

Completion of Implementation is to be read in accordance with the meaning that is given to that term in the Smart Energy Code, and will be deemed to have been achieved on whichever of the following dates occurs first:

- (a) the date designated for such purpose by the Secretary of State (or by a person appointed by him for that purpose) pursuant to the relevant provisions of the Smart Energy Code (provided that all of the Conditions of this Licence are in full force and operation at that date and that the Licensee is reasonably able to comply with them with effect from that date); or
- (b) where the proviso to sub-paragraph (a) is not satisfied, such later date (being the date on which that proviso is in fact satisfied) as is designated for such purpose under this condition by the Secretary of State (or the person appointed by him under that sub-paragraph); or
- (c) 31 December 2020.

Enduring General Objectives has the meaning given to that term in paragraph 5.8.

Interim General Objective has the meaning given to that term in paragraph 5.4.

First Enduring General Objective of the Licensee has the meaning given to that term in paragraph 5.9.

Second Enduring General Objective of the Licensee has the meaning given to that term in paragraph 5.10.

Condition 6. Authorised Business of the Licensee

Introduction

- 6.1 This condition sets out the composition of the Authorised Business of the Licensee and the Licensee's functions in relation to it (see Part A below), describes each of the Services that together comprise the Authorised Business (see Parts B and C below), and establishes a procedure by which the Licensee can ask the Authority to approve the enlargement of that business (see Part D below).

Part A: Authorised Business and the Licensee's functions

- 6.3 The Authorised Business of the Licensee consists of the following two businesses:
- (a) the Mandatory Business (as to which, see Part B below); and
 - (b) the Permitted Business (as to which, see Part C below).
- 6.4 The functions of the Licensee with respect to the Authorised Business are:
- (a) a duty to carry on the Mandatory Business at all times in accordance with this Licence; and
 - (b) a power to carry on the Permitted Business in accordance with this Licence and subject to such requirements of this Condition 6 as apply.

Part B: Services forming the Mandatory Business of the Licensee

- 6.5 The Mandatory Business of the Licensee comprises the provision, for and on behalf of parties to the Smart Energy Code and, where relevant, the Retail Energy Code, of the following Mandatory Business Services:
- (a) Core Communication Services, being communication services (as specified and defined in the SEC) that relate solely to the Supply of Energy (or its use) under the Principal Energy Legislation, and that are provided by the Licensee under or pursuant to an Agreement for Services in accordance with Part B of Condition 17 (Requirements for the provision of Services);
 - (b) Elective Communication Services, being communication services (excluding Core Communication Services) that relate solely to the Supply of Energy (or its use) under the Principal Energy Legislation, and that are provided by the Licensee under or pursuant to an Agreement for Services in accordance with Part C of Condition 17;
 - (c) Enabling Services (as to which, see paragraph 6.6), being services that fulfil an enabling role (including making provision for the testing of services and equipment, and for ensuring the security of services) relating to the provision of Core Communication Services and Elective Communication Services, and the procurement and utilisation of all such resources (including, in particular, the Fundamental Service Capability that is detailed at Schedule 1 to this Licence) as may be necessary or expedient for the purposes of securing such provision; and
 - (d) The incorporation, delivery and provision of ~~preparation for~~ the Centralised Registration Service, in accordance with Condition 15.

- 6.6 The Enabling Services to which paragraph 6.5(c) refers are these:
- (a) the Enrolment Service, being the service operated by the Licensee under an Agreement for Services in accordance with Part D of Condition 17;
 - (b) the Communications Hub Service, being the service provided by the Licensee under or pursuant to an Agreement for Services in accordance with Part E of Condition 17; and
 - (c) Other Enabling Services, being any Enabling Services that are specified and defined as such in this Licence or the SEC (other than the Communications Hub Service and the Enrolment Service) and that are provided by the Licensee under or pursuant to an Agreement for Services in accordance with Part F of Condition 17.
- 6.7 In providing as a Mandatory Business Service any service that has not previously been provided as such, the Licensee must ensure that its provision of that new or amended service does not materially prejudice or impair its continuing ability to provide other Mandatory Business Services that it is obliged to provide pursuant to the requirements of this Licence and the Agreements for Services that it has entered into under it.

Part C: Services forming the Permitted Business of the Licensee

- 6.8 The Permitted Business of the Licensee comprises the provision, whether for and on behalf of parties to the Smart Energy Code or otherwise, of the following Permitted Business Services:
- (a) such Value Added Services as the Authority may from time to time approve in accordance with the provisions of Part D below, and as may be provided by the Licensee under or pursuant to an Agreement for Services in accordance with Part G of Condition 17; and
 - (b) Minimal Services (which need not be approved by the Authority but must not, in total, exceed a turnover value of £500,000 in any Regulatory Year).

Part D: Procedure for authorising any Value Added Services

- 6.9 Where the Licensee wishes to provide a particular service as a Value Added Service (including Centralised Registration Service Value Added Service) forming part of its Permitted Business, it must first by Notice to the Authority, and subject to the provisions of this Part D, propose that the service should be so provided by the Licensee with effect from a date (“the Value Added Service Date”) that is specified in the Notice.
- 6.10 In addition to specifying the Value Added Service Date, a Notice to the Authority under paragraph 6.9 must:
- (a) describe in appropriate detail the nature, scope, and content of the proposed Value Added Service;
 - (b) confirm (with supporting evidence) that the Licensee has notified the nature, scope, and content of the proposed Value Added Service to any Relevant Regulator that should be so notified;

- (c) explain how, in formulating the proposed Value Added Service, the Licensee has taken account of any advice, consent, or other representation received in response to a notification made under sub-paragraph (b);
 - (d) set out the Licensee's assessment of the impact of the proposed Value Added Service on the operating costs, technical efficiency, and security of all such aspects of the SEC Arrangements as would be affected by it;
 - (e) explain why, in the Licensee's opinion, the provision of the proposed Value Added Service (taking account of any benefits likely to accrue to the Mandatory Business of the Licensee from such provision) would be consistent with the General Objectives of the Licensee; and
 - (f) contain any other analysis or information that the Licensee considers may be relevant to the Authority's consideration of its proposal.
- 6.11 For the purpose of identifying any Relevant Regulator that should be notified under paragraph 6.10(b), the Licensee must have due regard to the substance of the proposed Value Added Service and the characteristics of the market or other environment in which that service (if approved) would be wholly or mainly provided.
- 6.12 The Licensee may only provide the proposed service as a Value Added Service forming part of its Permitted Business if the Authority gives the Licensee a direction approving its proposal, with or without amendment of the Value Added Service Date, and on the basis of such terms or conditions as the Authority may specify in that direction.
- 6.13 The terms or conditions mentioned in paragraph 6.12 may include requirements relating to the provision by the Licensee of additional financial security, pursuant to Part C of Condition 26 (Financial stability and financial security).
- 6.14 The Licensee may at any time before the Value Added Service Date withdraw a proposal that was the subject of a Notice under paragraph 6.9.

Part E: Authority's guidance and directions under this condition

- 6.15 The Authority may issue, and may from time to time revise, guidance regarding the procedure that it will follow and the criteria that it will take into account in considering whether and to what extent to exercise its power to give a direction under paragraph 6.12 allowing the Licensee to provide a Value Added Service.
- 6.16 A direction under paragraph 6.12 may require the Licensee to promptly initiate such modification procedures as may be applicable under the Smart Energy Code (or Retail Energy Code where applicable) with respect to the incorporation of a new Value Added Service into the Permitted Business of the Licensee with effect from the Value Added Service Date.

Part F: Interpretation

- 6.17 For the purposes of this condition:

Relevant Regulator means any person (excluding the Authority) that would have a statutory or other legal power to exercise any regulatory functions in relation to the provision (if approved) of the Value Added Service, and includes:

- (a) the Office of Communications established by section 1 of the Communications Act 2003;
- (b) the Information Commissioner appointed by section 6 of the Data Protection Act 1998; and
- (c) the Water Services Regulation Authority established by section 1A of the Water Industry Act 1991.

Value Added Services Date has the meaning given to that term in paragraph 6.9.

Condition 8. Security controls for the Authorised Business

Introduction

- 8.1 This condition requires the Licensee to install, operate, and maintain adequate and proportionate security controls that are designed to protect the integrity of the physical, organisational, and information assets of the Authorised Business.
- 8.2 The requirements of this condition are without prejudice to the obligations imposed on the Licensee by:
- (a) Condition 7 (General controls for the Authorised Business) in respect of corporate governance, internal control, and risk management;
 - (b) Condition 10 (Protection of Confidential Information) in respect of the duty to prevent unauthorised disclosure of Confidential Information; and
 - (c) such requirements or other provisions of the SEC and / or REC as may apply in respect of security controls relating to the conduct of the Authorised Business.

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

- 8.3 The Licensee must at all times have in place a system of controls that is designed to ensure the security of all equipment, networks, processes, procedures, and data used in or for the purposes of carrying on the Authorised Business so as to minimise opportunities for theft, fraud, or other unauthorised interference or misuse that whether directly or indirectly could cause any interruption or cessation of Services.
- 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;
 - (e) data processed by the Licensee for the purposes of the Authorised Business is not held outside the European Economic Area; and
 - (f) where data is to be transferred, it is transferred in a secure manner.

Part B: Requirements for Licensee's control of organisational security

- 8.5 The Licensee must verify (by such means as may be appropriate in each case) the backgrounds of its existing and all new personnel engaged in or for the purposes of carrying on the Authorised Business.

- 8.6 Without prejudice to its obligations under Part E below, the Licensee's duty under paragraph 8.5 includes a requirement to take all appropriate steps within its power to ensure that any agents and contractors of the Licensee (including, in particular, its External Service Providers) establish and maintain arrangements that are equivalent in their effect to those established and maintained by the Licensee for the purposes of that paragraph.
- 8.7 The Licensee must have in place an appropriate framework for security management that provides for an appropriately qualified Chief Information Security Officer to be directly responsible to the Licensee's board of directors for ensuring that:
- (a) the Licensee's security policies are communicated to all of its staff;
 - (b) training that is tailored to the security roles and responsibilities of different staff within the Licensee's organisation is provided on a regular basis;
 - (c) each person engaged in or for the purposes of the Authorised Business is (and remains) (i) a fit and proper person to be so engaged, and (ii) suitably qualified and appropriately trained to be so engaged; and
 - (d) the Licensee is at all times compliant with the requirements of this condition and (to the extent applicable) of the SEC and / or REC with respect to security controls for the Authorised Business.
- 8.8 This paragraph applies if, in premises that are occupied by (i) the Licensee or an External Service Provider and (ii) some other person, there is any area that must be kept secure in order to maintain the security of the Authorised Business.
- 8.9 Where paragraph 8.8 applies, the Licensee must ensure that:
- (a) the area to which that paragraph refers (which may be the whole or any part of the area occupied by the Licensee or an External Services Provider within the premises in question) is designated as a Secure Area; and
 - (b) an appropriate level of security in relation to the Secure Area is maintained (in particular, by ensuring that no person gains access to such area unless it is a person whose name is on a register maintained by the Licensee or the External Service Provider for that purpose, or who is supervised by such a person).

Part C: Requirements for Licensee's control of information security

- 8.10 The Licensee must, within 12 months after it first provides Core Communication Services under or pursuant to the SEC, hold appropriate certification by a body that is accredited by the United Kingdom Accreditation Service in relation to the following standards of the International Organisation for Standards ("ISO") with respect to the resilience, reliability, and security of information assets, processes, and systems used for the purposes of carrying on the Authorised Business:
- (a) ISO/IEC 27001:2005 (under the title of *Information Technology – Security Techniques – Information Security Management Systems*); and
 - (b) any equivalent standard of the ISO that updates or replaces that standard.

Part D: Requirement to maintain a Register of Security Incidents

- 8.11 The Licensee must:
- (a) maintain a register of every incident (as may be defined in accordance with such provisions of the SEC as are applicable) arising from a failure (whether actual or apparent) or an absence of any of the security controls established, operated, and maintained by the Licensee pursuant to this condition ("the Register of Security Incidents");
 - (b) record each such incident in the Register of Security Incidents immediately upon becoming aware of it;
 - (c) immediately inform such body as is required by the provisions of the SEC to be so informed of the incident as soon as the Licensee has become aware of it; and
 - (d) within such timescale as is specified by the Authority, provide the Authority with a report that details:
 - (i) the nature, cause, and impact (or likely impact) of the incident,
 - (ii) the action taken by the Licensee to remedy or minimise the immediate or expected consequences of the incident, and
 - (iii) the action taken (or proposed to be taken) by the Licensee to ensure that the incident does not recur, or that the risk of recurrence is minimised.
- 8.12 The Licensee must also:
- (a) make the Register of Security Incidents available to the Authority for its inspection at all times; and
 - (b) provide the Authority with a copy of the Register of Security Incidents on the expiry or any revocation of this Licence, or where and to the extent applicable, pursuant to direction by the Authority under Condition 15.6.

Part E: Requirements in respect of the Licensee's contracts

- 8.13 The Licensee must not enter into any contractual arrangement with any person (including, in particular, any External Service Provider) that does not contain appropriate provisions requiring such steps to be taken as may be necessary to facilitate the Licensee's fulfilment of its obligations under this condition and under or pursuant to the SEC in respect of the ongoing security of its physical, organisational, and information assets.
- 8.14 The provisions mentioned in paragraph 8.13 include, in relation to the expiry or any termination of an External Service Provider Contract:
- (a) requirements for an External Service Provider to return or provide to the Licensee any equipment or other physical or organisational assets and any information assets that are essential to the ongoing secure conduct of the Authorised Business; and
 - (b) requirements for the Licensee to revoke any security credentials that are held by the External Services Provider pursuant to that contract.

Part F: Legal and operational location of the Licensee

- 8.15 The Licensee must at all times:
- (a) remain a company that is incorporated in the European Economic Area;
 - (b) procure the SMKI Service (within the meaning that is given to that term in Schedule 5 to this Licence), except to such extent as is otherwise permitted by the SEC, from Relevant Service Capability the provision and management of which are carried on within the United Kingdom; and
 - (c) ensure that all sites and systems that the Licensee relies upon to detect and prevent events that:
 - (i) appear to be anomalous; and
 - (ii) may have the potential to impact on the Supply of Energy to Energy Consumers,are configured, operated, and maintained within the United Kingdom.

Part G: Interpretation

- 8.16 For the purposes of this condition:

Chief Information Security Officer means the person having the duties set out at paragraph 8.8 and who is qualified as a senior security manager.

Register of Security Incidents has the meaning that is given to that term in paragraph 8.11(a).

Secure Area has the meaning that is given to that term in paragraph 8.9(a).

CHAPTER 3 : CONDITIONS 9 TO 12

Arrangements for the Licensee's independence

Condition 9. Independence and autonomy of the Licensee

Introduction

- 9.1 This condition establishes prohibitions and restrictions (subject to certain exceptions) in relation to the Licensee's activities other than under this Licence, with a view to securing the independence and autonomy of the Licensee from other entities (including, in particular, SEC Parties, REC Parties and External Service Providers), whether inside or outside any wider corporate group to which the Licensee might belong.

Part A: General Prohibition of any unrelated business or activity

- 9.2 Subject to the provisions of Part B below, the Licensee must not carry on any business or undertake any activity other than a business or an activity of the Authorised Business ("the General Prohibition").
- 9.3 In paragraph 9.2, "activity" includes:
- (a) holding an Energy Licence (other than this Licence) under Part 1 of the 1986 Act or Part 1 of the 1989 Act; and
 - (b) holding investments:
 - (i) by way of shares, securities, members' interests, or other interests or rights in any body corporate, or
 - (ii) by way of securities, members' interests, or other interests or rights in any partnership or unincorporated association,that carries on a business or undertakes an activity that does not form part of the Authorised Business.

Part B: Permitted exceptions to the General Prohibition

- 9.4 The Licensee may, with the Authority's consent, hold or acquire:
- (a) shares or other investments in any wholly owned Subsidiary the sole activity of which is to carry on business for a Permitted Purpose; or
 - (b) shares or other investments in any wholly owned Subsidiary that has been incorporated by the Licensee solely for the purpose of raising finance for the Authorised Business; or
 - (c) (subject to paragraph 9.5) investments acquired in the usual and ordinary course of the Licensee's treasury management operations.
- 9.5 The Licensee may only rely on the exception permitted by paragraph 9.4(c) if it has in place a system of internal controls in relation to its treasury management operations that complies with such best corporate governance practice as is required (or, in the absence of that, is recommended) from time to time by the UK listing authority (or a successor body) for listed companies in the United Kingdom.
- 9.6 Nothing in Part A above or Part C below prevents the Licensee from:
- (a) performing the supervisory or management functions of a Holding Company in respect of any Subsidiary; or

- (b) holding shares as, or performing the supervisory or management functions of, an investor in respect of any body corporate in which it holds an interest consistent with the provisions of this condition; or
- (c) carrying on any business or conducting any activity to which the Authority has given its consent.

Part C: Restrictions relating to the Licensee's corporate structure

- 9.7 Neither the Licensee nor a Subsidiary of the Licensee may at any time hold or acquire any investments by way of shares, securities, or other financial rights or interests in:
- (a) any person (or any Affiliate or Related Undertaking of such person) to whom any Services are provided as part of the Licensee's Authorised Business; or
 - (b) any External Service Provider (or any Affiliate or Related Undertaking of such person) from whom Specified Service Capability is or is likely to be procured by the Licensee.
- 9.8 The Licensee must ensure that no director of the Licensee is or at any time becomes a director or an employee of, or holds or acquires investments by way of shares, securities, or other financial rights or interests in:
- (a) any person (or any Affiliate or Related Undertaking of such person) to whom any Services are provided as part of the Licensee's Authorised Business; or
 - (b) any External Service Provider (or any Affiliate or Related Undertaking of such person) from whom Specified Service Capability is or is likely to be procured by the Licensee.
- 9.9 The Licensee must take all appropriate steps within its power to ensure that it is not and does not at any time become a Related Undertaking of:
- (a) a SEC Party or any other person to whom any Services are provided as part of the Licensee's Authorised Business; or
 - (b) any External Service Provider from whom Specified Service Capability is or is likely to be procured by the Licensee; or
 - (c) any person who, whether by virtue of the investments he holds or otherwise, is able to exert a material influence over the conduct of the affairs of:
 - (i) any person to whom any Services are provided as part of the Licensee's Authorised Business, or
 - (ii) any External Service Provider from whom Specified Service Capability is or is likely to be procured by the Licensee.
- 9.10 The duty imposed on the Licensee by paragraph 9.9 includes, where the Licensee is aware that any person of a description within that paragraph has caused or is likely to cause the Licensee to breach its requirements, a duty to draw that person's attention to the substance of both that paragraph and paragraph 19 of Part 2 of this Licence (Terms in Respect of Revocation) and to notify the Authority forthwith.

- 9.11 The Licensee must not, for any purpose, provide to itself any of the Services that are provided (whether to SEC Parties, REC Parties or otherwise) as part of its Mandatory Business.

Part D: Alternative arrangements to secure independence

- 9.12 The Licensee may at any time in Writing to the Authority propose arrangements that do not conform in all respects with the restrictions imposed by Part C above, and the Authority may consent to such arrangements if it is satisfied that they will secure a sufficiently equivalent level of corporate independence for the Licensee.
- 9.13 A consent under this Part D may be given subject to such terms and conditions as the Authority considers appropriate in all of the circumstances of the case.

Part E: Appointment of Sufficiently Independent Directors

- 9.14 Except where the Authority otherwise consents, at least two of the persons at any time appointed as the Licensee's directors must be persons who are sufficiently independent from the Licensee and any of its Affiliates or Related Undertakings.
- 9.15 Those directors, who are to be known as the Sufficiently Independent Directors of the Licensee, must at all times be natural persons who:
- (a) have the skills, knowledge, experience, and personal qualities that are necessary for them to perform effectively as non-executive directors of the Licensee;
 - (b) are not required to perform any executive duties within the Authorised Business of the Licensee; and
 - (c) satisfy the requirements in respect of independence set out in this Part E ("the Independence Requirements").
- 9.16 The first Independence Requirement is that, except where and to the extent that the Authority otherwise consents, a Sufficiently Independent Director must not be, and must not at any time during the 12 months preceding his appointment have been:
- (a) a director or an employee of the Licensee; or
 - (b) a director or an employee of any Affiliate or Related Undertaking of the Licensee.
- 9.17 The second Independence Requirement is that a Sufficiently Independent Director must not have, and must not at any time during the 12 months preceding his appointment have had, any material business relationship with the Licensee or any Affiliate or Related Undertaking of the Licensee.
- 9.18 The third Independence Requirement is that a Sufficiently Independent Director must at no time during his service as such hold any remit to represent the interests of:
- (a) any particular shareholder or group of shareholders of the Licensee; or
 - (b) any Affiliate or Related Undertaking of the Licensee.
- 9.19 The fourth Independence Requirement is that a Sufficiently Independent Director must not receive any remuneration from the Licensee or any Affiliate or Related

Undertaking of the Licensee apart from a director's fee and reasonable expenses (but, where applicable, this is subject to paragraph 9.20).

- 9.20 Paragraph 9.19 does not preclude the receipt or retention by a Sufficiently Independent Director of any benefit that has accrued as a result of employment by or service with the Licensee or with any Affiliate or Related Undertaking of the Licensee before the appointment of that person as a Sufficiently Independent Director.
- 9.21 The Licensee must notify the Authority of the names of its Sufficiently Independent Directors within 14 days of each appointment (or reappointment).
- 9.22 The terms of appointment of each Sufficiently Independent Director must include a condition that requires both the Licensee and the appointee to take all appropriate steps to ensure that the appointee continues to satisfy the Independence Requirements contained in this Part E during his term of service.
- 9.23 A term of service for a Sufficiently Independent Director may not be longer than six years, but an individual may be reappointed as a Sufficiently Independent Director once (and once only) provided that he continues to satisfy the Independence Requirements of this Part E (excluding paragraph 9.16(a) in respect of his previous appointment as a Sufficiently Independent Director).
- 9.24 The Licensee must notify the Authority within 14 days if any Sufficiently Independent Director is removed from office or resigns, setting out the reasons for the removal or (as far as they are known to the Licensee) for the resignation.
- 9.25 If at any time because of a removal or resignation or other reason (including death or incapacity) the Licensee has fewer than two persons serving as Sufficiently Independent Directors, the Licensee must take all appropriate steps within its power to ensure that a new such director is, or new such directors are, appointed so as to maintain the Licensee's compliance with the duty imposed by paragraph 9.14.

Part F: Interpretation

- 9.26 For the purposes of this condition:

General Prohibition has the meaning given to that term in paragraph 9.2.

Independence Requirements are the requirements set out in paragraphs 9.16 to 9.19.

Specified Service Capability means Relevant Service Capability that is procured by the Licensee in accordance with Condition 16 (Procurement of Relevant Service Capability), but excluding any such capacity that is procured by virtue of paragraph 6 of that condition.

Sufficiently Independent Director has the meaning that is given to that term in paragraph 9.15.

Part G: Further relevant provision

- 9.27 See Condition 12 (Appointment and duties of Compliance Officer), which makes further provision in relation to the subject matter of this Condition 9.

Condition 10. Protection of Confidential Information

Introduction

- 10.1 This condition requires the Licensee to take appropriate action to detect and prevent disclosure of or unauthorised access to Confidential Information, to have in place a Compliance Statement describing how the Licensee will comply with that requirement, and to use Confidential Information only for the purposes of the Authorised Business.

Part A: General Prohibition with respect to Confidential Information

- 10.2 The Licensee must neither disclose Confidential Information to, nor authorise access to Confidential Information by, any person except in accordance with the provisions of this condition (“the General Prohibition”).
- 10.3 The Licensee must put in place and at all times maintain managerial and operational practices, systems, and procedures that ensure it complies with the General Prohibition.
- 10.4 The Licensee’s duties under this Part A include a duty to take all appropriate steps within its power (including where necessary by way of contractual requirement) to ensure that any Affiliate or Related Undertaking of the Licensee, and any agent, consultant, or contractor of the Licensee, complies with the General Prohibition.

Part B: Matters to which the General Prohibition does not apply

- 10.5 The General Prohibition established by Part A above does not apply to any disclosure of or authorisation of access to Confidential Information:
- (a) that is expressly permitted or required by any provision of this Licence; or
 - (b) that is necessary for the exercise of any of the functions of the Licensee under the Principal Energy Legislation, this Licence, the Retail Energy Code or the Smart Energy Code; or
 - (c) that is made or given with the prior consent of the Authority; or
 - (d) that is made or given to such employees of the Licensee or of any other person (as the case may be) as require to be so informed for the effective carrying on of the Mandatory Business and, where approved by the Authority, of the Permitted Business of the Licensee; or
 - (e) that is made or given to such of the agents, consultants, and contractors of the Licensee as require to be so informed for the effective carrying on of the Mandatory Business and, where approved by the Authority, the Permitted Business of the Licensee.
- 10.6 The General Prohibition also does not apply to any disclosure of or authorisation of access to Confidential Information that:
- (a) is made or given in compliance with any statutory duty of the Licensee, or with the rules of any recognised stock exchange or of any governmental, parliamentary, or regulatory authority having the force of law; or

- (b) is already available in the public domain other than as a result of a breach of the General Prohibition or of any other duty of confidentiality.

Part C: Requirement for Compliance Statement to be in place

- 10.7 Within three months after Licence Commencement Date, the Licensee must have in place a Compliance Statement that is approved by the Authority and that describes the practices, procedures, and systems that the Licensee has adopted (or intends to adopt) to ensure compliance with its duties under Part A above in relation to the security and protection of Confidential Information.
- 10.8 The Licensee may, with the Authority's approval, revise any Compliance Statement that is in place under this Part C.
- 10.9 Where the Authority does not direct the Licensee to amend any proposed revision of a Compliance Statement within 90 days after receiving it, the Licensee may treat the revised statement as approved by the Authority.
- 10.10 The Licensee must publish on its Website a copy of the Compliance Statement (or of any revision of it) that is in place under this Part C within 21 days after the Authority has approved it.
- 10.11 The Licensee must take all appropriate steps within its power to ensure that it complies with the terms of the Compliance Statement that is in place under this Part C.

Part D: No use of Confidential Information for improper purpose

- 10.12 The Licensee must not use Confidential Information for any purpose other than the effective carrying on of (i) the Mandatory Business of the Licensee and, where approved by the Authority, (ii) the Permitted Business of the Licensee, in each case subject to the General Prohibition imposed by Part A above and the exceptions to it that are permitted under Part B above.
- 10.13 Without prejudice to the requirements of paragraph 10.12, the Licensee must not use Confidential Information in any manner that might obtain for the Licensee, or for any other person, any unfair commercial advantage over any other person (whether before or after the expiry or any revocation of this Licence).

Part E: Interpretation

- 10.14 For the purposes of this condition, **General Prohibition** has the meaning given to that term in paragraph 10.2.

Part F: Further relevant provision

- 10.15 See Condition 12 (Appointment and duties of Compliance Officer), which makes further provision in relation to the subject matter of this Condition 10.

Condition 11. Duties arising from Licensee's special position

Introduction

- 11.1 The purpose of this condition is to ensure that the Licensee always acts in a manner that is consistent with its special position as the person that is licensed under the Principal Energy Legislation to carry on the Authorised Activity in Great Britain.
- 11.2 The arrangements to which paragraph 11.11 refers must include such procedures or other matters as may be necessary to ensure that revenues flow either:
- (a) from the Licensee to the Relevant Provider for and in connection with the provision of Fundamental Service Capability to the Licensee; and then from the Relevant Provider to persons engaged (indirectly pursuant to the Relevant Contract) in the business of financing, procuring, providing, or operating Communications Hubs; or
 - (b) from the Licensee (or, where the SEC so provides, from SEC Parties) to persons (other than the Relevant Provider) engaged (indirectly pursuant to the Relevant Contract) in the business of financing Communications Hubs,
- in such manner, at such times, and to such extent as will ensure that:
- (i) the Relevant Provider is able to fulfil its obligations under the Relevant Contract; and
 - (ii) the Licensee is able to be provided with the goods, services, and resources necessary to enable it to fulfil its obligations under this Licence.

Part A: General requirement in relation to competition

- 11.3 The Licensee must at all times manage and operate its Authorised Business in a way that is calculated to ensure that it does not restrict, prevent, or distort competition:
- (a) in any activity (other than the Authorised Activity) that is authorised by an Energy Licence under the Principal Energy Legislation; or
 - (b) in the provision of, or in any of the markets for, Commercial Activities that are connected with the Supply of Energy under the Principal Legislation.

Part B: Prohibition of provision or receipt of cross-subsidy

- 11.4 The Licensee must at all times ensure in carrying on its activities that:
- (a) the Authorised Business gives no cross-subsidy to, nor receives any cross-subsidy from, any Affiliate or Related Undertaking of the Licensee; and
 - (b) within the Authorised Business, the Mandatory Business gives no cross-subsidy to, nor receives any cross-subsidy from, the Permitted Business.
- 11.5 But anything done or incurred by the Licensee in a particular manner that is expressly required or permitted to be so done or incurred under or by virtue of any provision

of the Principal Energy Legislation, this Licence, the Retail Energy Code or the Smart Energy Code will not breach the requirements of paragraph 11.4.

Part C: Prohibition of undue preference and undue discrimination

- 11.6 This Part C applies (subject to paragraph 11.9) in relation to every activity that the Licensee is required or permitted to undertake by virtue of any of the provisions of the Principal Energy Legislation, this Licence, the Retail Energy Code or the Smart Energy Code.
- 11.7 In undertaking each such activity, the Licensee must not:
- (a) unduly prefer itself or any Affiliate or Related Undertaking over any person or any class or description of persons; or
 - (b) unduly discriminate between any person or any class or description of persons.
- 11.8 In particular, the Licensee must not make charges for providing Mandatory Business Services under or pursuant to the Smart Energy Code or Retail Energy Code to any person or class or description of persons that differ from the charges made for such provision to any other person or class or description of persons, except insofar as such differences reasonably reflect differences in the costs associated with such provision.
- 11.9 Anything done by the Licensee in a particular manner that is expressly required or permitted to be so done under or by virtue of any provision of the Principal Energy Legislation, this Licence, the Retail Energy Code or the Smart Energy Code will not constitute undue preference or undue discrimination (as the case may be) for the purposes of this condition.

Part D: Management of External Service Provider Contracts

- 11.10 The requirements of this Part D apply in relation to the provision of Fundamental Service Capability or Fundamental Registration Service Capability to the Licensee by an External Service Provider (“a Relevant Provider”) under or pursuant to an External Service Provider Contract (“a Relevant Contract”).
- 11.11 The Licensee must implement with each Relevant Provider arrangements (including appropriate monitoring and reporting arrangements with respect to the performance by each party of its rights and obligations under the Relevant Contract) that are designed to secure the good and effective management of the Relevant Contract in accordance with its terms.
- 11.12 The arrangements to which paragraph 11.11 refers must include such procedures or other matters as may be necessary to ensure that revenues flow:
- (a) from the Licensee to the Relevant Provider for and in connection with the provision of Fundamental Service Capability or Fundamental Registration Service Capability to the Licensee; and
 - (b) from the Relevant Provider to persons engaged pursuant to the Relevant Contract in the business of financing, procuring, providing, or operating Communications Hubs,
- in such manner, at such times, and to such extent as will ensure that:

- (i) the Relevant Provider is able to fulfil its obligations under the Relevant Contract; and
- (ii) the Licensee is able to be provided with the goods, services, and resources necessary to enable it to fulfil its obligations under this Licence.

Part E: Arrangements for securing compliance to be in place

- 11.13 Without prejudice to the specific requirements of Part D above, the Licensee must establish and maintain management systems, procedures, and arrangements that are designed to secure its compliance with the requirements of this condition.
- 11.14 The Licensee's obligation under paragraph 11.13 includes an obligation to take all appropriate steps within its power to ensure that any agents and contractors of the Licensee establish and maintain arrangements that are equivalent in their effect to those established and maintained by the Licensee for the purpose of complying with the requirements of this condition.

Part F: Interpretation

- 11.15 In this condition, any reference to an activity or business of the Licensee includes a reference to that activity or business if and to the extent that it is carried on by a third party acting on the Licensee's instruction or behalf.
- 11.16 For the purposes of this condition, **Relevant Contract** and **Relevant Provider** have the meaning given respectively to those terms in paragraph 11.10.

Part G: Further relevant provision

- 11.17 See Condition 12 (Appointment and duties of Compliance Officer), which makes further provision in relation to the subject matter of this Condition 11.

Condition 12. Appointment and duties of Compliance Officer

Introduction

- 12.1 This condition requires the Licensee to appoint a Compliance Officer for purposes relating to the Licensee's compliance with certain specified requirements under the Conditions of this Licence.
- 12.2 The Compliance Officer must produce an annual report for the Licensee's directors, which they must forward to the Authority along with a Compliance Report prepared by them, which must also be published on the Licensee's Website.

Part A: Purpose of the Compliance Officer's appointment

- 12.3 The Licensee must ensure, following appropriate consultation with the Authority, that a competent person (who is to be known as the Compliance Officer, and who must be fully independent of the interests of the Licensee) is appointed for the purposes of monitoring and facilitating the Licensee's compliance with the requirements specified at Part F below ("the Chapter 3 Requirements").
- 12.4 The functions of the Compliance Officer under this condition must be exercised with particular regard for the need of SEC Parties, REC Parties (where applicable) and External Service Providers to be fully and formally assured of the Licensee's compliance at all times with the Chapter 3 Requirements.

Part B: Particular functions of the Compliance Officer

- 12.5 The Licensee must at all times ensure that the Compliance Officer is engaged for the performance of such tasks and duties as the Licensee considers should be assigned to him for the purposes specified at Part A above.
- 12.6 In particular, those tasks and duties for the Compliance Officer must include:
- (a) providing relevant advice and information to the Licensee for the purpose of facilitating its compliance with the Chapter 3 Requirements;
 - (b) monitoring the effectiveness of the practices, procedures, and systems adopted by the Licensee in accordance with the Compliance Statement required under Part C of Condition 10 (Protection of Confidential Information);
 - (c) 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;
 - (d) investigating any complaint or representation that is made available to him in accordance with paragraph 12.9;
 - (e) recommending and advising on remedial action that any such investigation has shown to be necessary or desirable;
 - (f) providing relevant advice and information to the Licensee for the purposes of ensuring its effective implementation of the practices, procedures, and systems referred to at sub-paragraph (b), and of taking any remedial action recommended in accordance with sub-paragraph (e); and

- (g) reporting annually to the Licensee’s directors about his activities during the period covered by the report, including the fulfilment of any other duties assigned to him by the Licensee under this condition.

Part C: Licensee’s duties to the Compliance Officer

12.7 This Part C sets out the duties that the Licensee owes to the Compliance Officer.

12.8 The Licensee must ensure that the Compliance Officer:

- (a) is provided with such staff, premises, equipment, facilities, and other resources; and
- (b) has such access to the Licensee’s premises, systems, information, and documentation,

as he might reasonably expect to require for the fulfilment of the tasks and duties assigned to him.

12.9 The Licensee must give the Compliance Officer a copy of any complaint or other representation that it receives from any person about a matter arising under or because of the Chapter 3 Requirements.

Part D: Contents of the Licensee’s Compliance Report

12.10 The Licensee must, as soon as is reasonably practicable after receiving each annual report of the Compliance Officer under paragraph 12.6(g), produce a report (“the Compliance Report”) about:

- (a) its compliance during the reporting year with the Chapter 3 Requirements; and
- (b) its implementation during that year of the practices, procedures, and systems maintained pursuant to the Compliance Statement that the Licensee is required to have in place under Part C of Condition 10 (Protection of Confidential Information).

12.11 The Compliance Report produced under paragraph 12.10 must, in particular, do the things described in the following paragraphs of this Part D.

12.12 It must detail the activities of the Compliance Officer during the reporting year.

12.13 It must refer to such other matters as may be appropriate in relation to the Licensee’s implementation during the reporting year of the practices, procedures, and systems adopted in accordance with the Compliance Statement in place under Condition 10.

12.14 It must 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 Licensee in response to them.

- 12.15 It must state the Compliance Officer's opinion of the extent to which the Licensee has complied with the Chapter 3 Requirements during the reporting year.

Part E: Publication of the Licensee's Compliance Report

- 12.16 The Licensee must give the Authority and the SEC Panel a copy of each Compliance Report prepared by the Licensee in accordance with Part D above.
- 12.17 The Licensee's Compliance Report given under paragraph 12.16 must be accompanied by a copy of the relevant annual report submitted by the Compliance Officer to the Licensee's directors under paragraph 12.6(g).
- 12.18 The Licensee must, when sending any Compliance Report to the Authority and the SEC Panel, at the same time publish that report on its Website.

Part F: Interpretation

- 12.19 The requirement of paragraph 12.3 for a Compliance Officer to be fully independent of the interests of the Licensee does not preclude the appointment to that office of a person who may be paid by the Licensee for his services under this condition.
- 12.20 For the purposes of this condition:

Chapter 3 Requirements means the requirements (including such prohibitions as are associated with them) established and imposed by:

- (a) Condition 9 (Independence and autonomy of the Licensee);
- (b) Condition 10 (Protection of Confidential Information); and
- (c) Condition 11 (Duties arising from Licensee's special position).

Compliance Officer has the meaning that is given to that term in paragraph 12.3.

Compliance Report has the meaning given to that term in paragraph 12.10.

CHAPTER 4 : CONDITIONS 13 TO 15
Start-up and future development obligations

Condition 14. Licensee's future development objectives

Introduction

- 14.1 This condition requires the Licensee to establish and from time to time review and revise its future business development objectives, and set them out in a Development Plan that is available in the public domain.

Part A: Requirement to prepare and maintain the Development Plan

- 14.2 Subject to paragraph 14.4, the Licensee must by not later than 31 July in a Regulatory Year (“the Planning Year”) prepare a Development Plan in a form that is approved by the Authority.
- 14.3 The Development Plan must set out and explain in appropriate detail the Licensee's business development objectives for the five-year period consisting of the Planning Year and each of the four succeeding Regulatory Years.
- 14.4 Except where the Authority otherwise consents, the first Planning Year in respect of which the Licensee is required for the purposes of this condition to prepare and issue a Development Plan is the Regulatory Year beginning on 1 April 2014.
- 14.5 The Licensee must from time to time review, and where necessary revise without delay, the information set out in the Development Plan in order to ensure that it remains accurate and up-to-date in all material respects, and may alter the form of the plan with the Authority's consent.
- 14.6 In preparing, reviewing, and revising its Development Plan, the Licensee must take all reasonable steps to ascertain and take account of the views of SEC Parties (in particular) or REC Parties (where applicable) about the matters covered by Part B below.

Part B: Types of information to be included in the Development Plan

- 14.7 The Development Plan must include such information and evaluation in respect of the following matters as may affect the Licensee's determination of its business development objectives for the period covered by the plan:
- (a) the main trends and factors that are likely to affect the future development and performance of the Authorised Business, in whole or in part;
 - (b) the opportunities likely to be available to the Licensee for developing the infrastructure, systems, and processes in place for the provision of Services under or pursuant to the Smart Energy Code or Retail Energy Code;
 - (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 types of Core Communication Services, Elective Communication Services, and Value Added Services; and

- (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 requested by SEC Parties.
- 14.8 The Development Plan must also include such information and evaluation in respect of the following matters as may affect the Licensee's determination of its business development objectives for the period covered by the plan:
- (a) potential changes in the Licensee'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;
 - (b) the emergence of any specific new or evolving relevant technologies that could improve the Licensee's management and operation of the Authorised Business, in whole or in part; and
 - (c) the assessment criteria and cost-benefit analyses that are used by the Licensee to determine its business development objectives with due regard for the matters set out in this Part B.
- 14.9 The information and evaluation to which paragraphs 14.7 and 14.8 refer must include such commentary as is appropriate about any longer-term matters that in the opinion of the Licensee could materially affect the determination of its business development objectives beyond the end of the period covered by the Development Plan.
- 14.10 The business development objectives of the Licensee must at all times be consistent with the General Objectives of the Licensee.

Part C: General availability and publication of the Development Plan

- 14.11 The Licensee must give the Authority a copy of each Development Plan prepared in accordance with this condition.
- 14.12 The Licensee must also (subject to paragraph 14.13):
- (a) give a copy of its current Development Plan to any person who asks for it; and
 - (b) publish that current plan on its Website.
- 14.13 In complying with the requirements of paragraph 14.12, the Licensee must have due regard to the need for excluding from the statement, so far as is practicable, any matter that relates to the affairs of a person if the publication of that matter would or might seriously and prejudicially affect his interests.
- 14.14 Any question arising under paragraph 14.13 as to whether publication of some matter that relates to the affairs of a person would or might seriously and prejudicially affect his interests is to be resolved by the Authority following consultation with that person and the Licensee.

Part D: Interpretation

14.15 For the purposes of this condition:

Development Plan has the meaning given to that term in paragraph 14.3.

Planning Year has the meaning given to that term in paragraph 14.2.

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

Introduction

- 15.1 The purpose of this condition is to specify the Interim Centralised Registration Service Objective and the General Centralised Registration Service Objective of the Licensee and the Licensee's duties with respect to it.
- 15.2 ~~It~~ The Interim Centralised Registration Service Objective sets out the requirements of the Licensee under the Authority's Switching Programme ~~up to and including the point at which the Licensee procures~~ to procure and provide Relevant Service Capability to deliver ~~and operate~~ a Centralised Registration Service. up to the point when the Authority directs the commencement of Steady State operations. This covers the Design, Build and Test Phase and Post Implementation Period development phase of the Switching Programme.
- 15.2A The General Centralised Registration Service Objective sets out the requirements of the Licensee under the Authority's Switching Programme to provide Relevant Service Capability to operate a Centralised Registration Service through Steady State operations.
- 15.2B For the purposes of this condition the Licensee should fulfil its objective(s) with due consideration to the total cost to and impact on industry, taking into account, in so far as is relevant and possible, the likely impact on consumers.
- 15.3 The Transition Objective and/or General Objectives of the Licensee shall prevail in the event of a conflict between their provisions and the requirements imposed on the Licensee by the Interim Centralised Registration Service Objective.

Part A: Interim Centralised Registration Service Objective of the Licensee

- 15.4 Subject to paragraphs 15.6 and 15.7, the Licensee must comply with the Interim Centralised Registration Service Objective by:
- (a) contributing to the achievement of a full and timely design for an efficient, economical and secure Centralised Registration Service that ~~would~~will, if when implemented, provide a platform for fast and reliable switching for all Supply Points in the GB market;
 - (b) making all relevant preparations for the procurement and provision of Relevant Service Capability to deliver and operate a Centralised Registration Service; ~~and~~
 - (c) procuring Relevant Service Capability to deliver and operate a Centralised Registration Service that:

- (i) reflects the design of a Centralised Registration Service which has been designated by the Authority for this purpose (including any amendments to that designated design); and
 - (ii) ~~would~~will, ~~if~~when executed, ~~in all likelihood~~; give effect to an efficient, economical and secure Centralised Registration Service that ~~would~~will provide a platform for fast and reliable switching for all Supply Points in the GB market;
 - (iv) has appropriate provision for the economic transfer or novation of all Relevant Business Assets in relation to the Centralised Registration Service, including but not limited to, contracts and IPR, to a successor licensee or future operator of the Central Switching Service; and
 - (v) will, when executed, be capable of efficiently and economically adapting to future market requirements
- (d) entering into and maintaining agreement(s) for a secure and robust Switching Network that should meet the requirements as described in the REC, which can be changed from time to time subject to the change procedures set out within the REC;
- (i) where appropriate, and possible, this may be by entering into user agreement(s) with networks that meet the requirements set out within the REC on standard user terms and 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. These networks could include, but not be limited to, the Data Transfer Network and Information Exchange Network; or
 - (ii) where it is not appropriate or possible to enter into or maintain such arrangements, including where the requirements described in the REC can no longer be met, then the Licensee should secure access to the Switching Network pursuant to the REC and the relevant conditions of this licence including those relating to Relevant Service Capability
- (e) processing such personal data as is necessary to achieve the objective.

15.5 For the purposes of paragraph 15.4(a), the Interim Centralised Registration Service Objective includes, but is not limited to, a duty to contribute to the development and documentation of the design of the Centralised Registration Service.

Part AA: General Centralised Registration Service Objective of the Licensee

15.5AA Subject to paragraphs 15.6 and 15.7 the Licensee must comply with the General Centralised Registration Service Objective through:

- (a) the timely provision, delivery, management and upkeep of a reliable, efficient, economic and secure Centralised Registration Service that will improve consumers' experience of switching;
- (b) the management of the Relevant Service Capability of the Centralised Registration Service during Steady State operations with:
 - (i) maintenance of a Central Switching Service design baseline and design authority function in accordance with the requirements in the Retail Energy Code;
 - (ii) provision of a prompt and constructive approach to support change management that meets the process and service level agreements set out within the Retail Energy Code;
 - (iii) the provision of systems and services that can economically and efficiently adapt to meet future market requirements;
 - (iv) proactive data stewardship for the Retail Energy Location Address that will lead to a very high level of continually improving accuracy for registerable meter points that meets or exceeds the standards set out within the Retail Energy Code; and
 - (v) appropriate provision for the transfer or novation of all Relevant Business Assets in relation to the Centralised Registration Service, including but not limited to, contracts and IPR, to a Successor Licensee or future operator of the Central Switching Service.
- (c) entering into and maintaining agreement(s) for a secure and robust Switching Network that should meet the requirements as described in the REC, which can be changed from time to time subject to the change procedures set out within the REC;
 - (iii) where appropriate, and possible, this may be by entering into user agreement(s) with networks that meet the requirements set out within the REC on standard user terms and 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. These networks could include, but not be limited to, the Data Transfer Network and Information Exchange Network; or

- (iv) where it is not appropriate or possible to enter into or maintain such arrangements, including where the requirements described in the REC can no longer be met, then the Licensee should secure access to the Switching Network pursuant to the REC and the relevant conditions of this licence including those relating to Relevant Service Capability
- (d) processing such personal data as is necessary to achieve the objective.

Part B: Requirement in respect of Authority direction

- 15.6 The Licensee must comply with any direction issued to it by the Authority for the purposes of meeting the Interim Centralised Registration Service Objective or the General Centralised Registration Service Objective in respect of the Licensee's obligations in this condition.
- 15.7 The Authority's power under paragraph 15.6 includes a power to direct that any or all of paragraphs 15.4 to 15.5 shall cease to have effect in this licence on such date and for such period as the Authority may specify.

15.7A Where the Authority issues a direction under Condition 15.6:

- (a) it shall vary the Interim Centralised Registration Service Objective or the General Centralised Registration Service Objective, as the case may be, to the extent necessary in order to reflect the ceasing to have effect of obligations of the Licensee in accordance with Condition 15.7;
- (b) the Licensee may recover its economic and efficient costs: (i) properly incurred, and/or (ii) previously committed to through a legally binding obligation to a third party entered into for the purposes of the Licensee fulfilling all or part of an obligation which is the subject of a direction under Condition 15.7;
- (c) DCC may recover its economic and efficient costs properly incurred in fulfilling its obligations under Condition 43; and
- (d) in respect of Condition 15.7A (b) and 15.7A(c) in both cases such costs shall be recovered as a Centralised Registration Service External Cost and shall be subject to Chapter 9 (Price Control Conditions of this Licence).

Part C: Interpretation

- 15.8 For the purposes of this condition:

Centralised Registration Service means a the services provided by DCC to achieve the design designated by the Authority, and set out within the REC, and the licensee's role as set out with the REC. This includes, but is not limited to, provision of the Central Switching Service (including the Address Management Service and the Registration Service), CSS Systems Integrator and Core Systems Assurance functions pursuant to the Retail Energy Code pursuant to the Smart Energy Code which:

- (1) includes (but is not limited to) the provision of services equivalent to those which are were, prior to designation of the Retail Energy Code, currently included within:
 - (a) such services relating to the supply of gas under the 1986 Act that fall within:
 - (i) the supply point information service provided under standard condition 31 of the Gas Transporter Licence as relate directly to (i) the provision of supply point information and (ii) the maintenance of a register of technical and other data required by Gas Shippers and Gas Suppliers for change of supplier purposes; and
 - (ii) the supply point administration service provided under or pursuant to the Supply Point Administration Agreement.
 - (b) such services relating to the supply of electricity under the 1989 Act that fall within the metering point administration services as defined in standard condition 18 of the Electricity Distribution Licence and that are provided under or pursuant to the Master Registration Agreement.
 - (c) where required, arrangements for the secure communication and exchange of data between parties and the Centralised Registration Service, and
- (2) supports any further or alternative arrangements as may be identified as being required of the Centralised Registration Service by the Authority for the purposes of the Switching Programme.

Address Management Service has the meaning given to it within the Retail Energy Code

Central Switching Service has the meaning given to it within the Retail Energy Code

Core Systems Assurance means the functions carried out by the Core Systems Assurance Provider with the meaning given to it within the Retail Energy Code

CSS Systems Integrator has the meaning given to it within the Retail Energy Code

Data Transfer Network means the electronic network provided as part of the Data Transfer Service referred to in Section B, Condition 37 of the Electricity Distribution Licence

Design, Built and Test Phase has the meaning given to it within the Retail Energy Code

Domestic Gas Supplier means a Gas Supplier in whose supply licence section B of the standard conditions incorporated into such a licence has effect

Existing Industry Networks include the network provided by the Gas Transporter licence (and holders of that licence) or their agent pursuant to obligation in licence and/or industry code; and the electronic network provided as part of the Data Transfer Service referred to in Section B, Condition 37 of the Electricity Distribution Licence

Gas Shipper and Gas Supplier mean, respectively, a person who holds a licence under section 7A(2) of the 1986 Act and a person who holds a licence under section 7A(1) of that Act

Interim Centralised Registration Service Objective has the meaning given to that term in Part A of this condition

General Centralised Registration Service Objective has the meaning given to that term in Part AA of this condition

Information Exchange Network means the network provided by the Gas Transportation licensees or their agent pursuant to obligation in licence and/or industry code

Interim Centralised Registration Service Objective has the meaning given to that term in Part A of this condition

Post Implementation Period has the meaning given to it within the Retail Energy Code

Registration Service has the meaning given to it within the Retail Energy Code

Retail Energy Location Address has the meaning given to it within the Retail Energy Code

Steady State operations means, for the purpose of this licence condition, the period directly following the Steady State Commencement Date as defined in the Retail Energy Code and designated by the Authority that all exit criteria, as defined within the designated programme documents, have been met and until such point that the Authority directs the end of steady state operations

~~Switching Programme means the Authority's programme to amend the services listed in part 1(a) and (b) of the definition of the Centralised Registration Service, for the purpose of providing fast and reliable switching~~

Supply Point means, for the purpose of this licence condition, Meter Points as defined in the Master Registration Agreement, Supply Meter Points as defined in the Uniform Network Code and any points where a supply of gas or electricity is taken, or where electricity is exported, as defined within the scope of the Switching Programme

Switching Network has the meaning given to it within the Retail Energy Code

Switching Programme means the Authority's programme to amend the services listed in part 1 of the definition of the Centralised Registration Service, for the purpose of providing fast and reliable switching

CHAPTER 5 : CONDITIONS 16 TO 20

General arrangements for Services

Condition 16. Procurement of Relevant Service Capability

Introduction

- 16.1 This condition sets out requirements (Part A below) and principles (Part B below) that are to apply to the Licensee's procurement of Relevant Service Capability.
- 16.2 Relevant Service Capability is capability that is used (or is to be used) for the purposes of securing the provision of Mandatory Business Services under or pursuant to the Smart Energy Code or Retail Energy Code (and includes Fundamental Service Capability and Fundamental Registration Service Capability).
- 16.3 This condition also requires the Licensee:
- (a) to take account of any guidance issued by the Secretary of State under Part C below in the form of a Public Interest Statement;
 - (b) to have in place a Procurement Strategy for Relevant Service Capability, in a form designated by the Secretary of State, that takes account of the principles established by this condition and of any guidance issued pursuant to it; and
 - (c) to comply with the provisions of Appendix 1 to this condition with respect to any Energy Supplier Contracts adopted by the Licensee.

Part A: Requirements that are imposed on procurement activities

- 16.4 The Licensee must (subject to paragraph 16.6) procure Relevant Service Capability from External Service Providers on a competitive basis and under arrangements to be known as External Service Provider Contracts that are compliant with the principles established by Part B below ("the Part B Principles").
- 16.5 The duty imposed by paragraph 16.4 applies without exception to the procurement by the Licensee of such Relevant Service Capability as is specified as:
- (a) Fundamental Service Capability in Schedule 1 (which has effect as part of this condition) to this Licence; or
 - (b) Fundamental Registration Service Capability.
- 16.6 Relevant Service Capability that is not so specified may be provided by the Licensee from its own resources, or be procured from an Affiliate or Related Undertaking, or from elsewhere, if the Licensee, having had regard to the Part B Principles (excluding Principle 2), is satisfied that the procurement of such capability by that means:
- (a) would be the most economical and efficient option; or
 - (b) would be immaterial in terms of its value or use of resources within the overall context of the Mandatory Business of the Licensee.

Part B: Principles that are applicable to procurement activities

- 16.7 This Part B establishes principles:

- (a) that are to apply to the Licensee’s procurement of Relevant Service Capability; and
 - (b) taking account, except in respect of the Fundamental Registration Service Capability, of any guidance contained in a Public Interest Statement issued under Part D below.
- 16.8 Principle 1 is that Relevant Service Capability must be procured with due regard for the Licensee’s ability (and the ability of any Successor Licensee) at all times to fully exercise the functions it has under or by virtue of the Principal Energy Legislation, this Licence, the Retail Energy Code and the Smart Energy Code (“the Relevant Functions”).
- 16.9 Principle 2 is that Relevant Service Capability must be procured competitively wherever practicable and proportionate, and with due regard for (i) the principles of equality and non-discrimination between economic operators and (ii) the employment of transparent and objective procurement processes.
- 16.10 Principle 3 is that Relevant Service Capability must be procured from suitable and appropriate organisations, having due regard to:
 - (a) the good standing, conduct, and financial capacity of such organisations; and
 - (b) the capability and capacity of such organisations to deliver the Relevant Service Capability.
- 16.11 Principle 4 is that Relevant Service Capability must be procured in a manner that:
 - (a) secures value for money in terms of the combination of quality and cost over the lifetime of the contract;
 - (b) delivers the required goods, services, or works to the appropriate standards according to the needs of service users;
 - (c) takes account of the potential need to replace from time to time the persons engaged in providing the capability; and
 - (d) incorporates (at a cost that is not disproportionate to any expected benefit) sufficient flexibility to adapt to changing service user requirements over the duration of the contract.
- 16.12 Principle 5 is that Relevant Service Capability must be procured under contractual arrangements that make provision for the full and enduring protection of business continuity, including:
 - (a) appropriate provision to secure the Licensee’s ability to exercise all of the Relevant Functions in the event of any material financial default of an External Service Provider;
 - (b) appropriate provision to secure the Licensee’s ability to exercise all of the Relevant Functions in the event of any operational failure of an External Service Provider; and

- (c) appropriate provision to secure the transfer or novation of the contract in the circumstances of a handover of the business of the Licensee to a Successor Licensee following the expiry or any revocation of this Licence or where applicable, pursuant to direction by the Authority under Condition 15.6 (as to which, see paragraph 14 of Condition 43 (Arrangements for the handover of business) for further relevant provision).

Part C: Public Interest Statement relating to procurement activities

- 16.13 In applying the provisions of Parts A and B above to its procurement activities with respect to Fundamental Service Capability, the Licensee must take account of any guidance contained within a Public Interest Statement issued by the Secretary of State in accordance with this Part C.
- 16.14 Before issuing a Public Interest Statement, the Secretary of State must consult the Authority and the Licensee about the contents of the statement.
- 16.15 The purpose of a Public Interest Statement under this Part C is to provide guidance to the Licensee with respect to the public interest considerations that may need to be reflected in the scope and functionality of Fundamental Service Capability procured by the Licensee pursuant to the provisions of Parts A and B above.
- 16.16 Such guidance may, in particular, indicate how and to what extent the procurement of Fundamental Service Capability might be expected to contribute towards the achievement of any one or more of such energy policy outcomes as are set out in any strategy and policy statement designated by the Secretary of State for the purposes of Part 5 of the Energy Act 2013.
- 16.17 A Public Interest Statement issued in accordance with this Part C may be revised at any time by the Secretary of State following consultation with the Authority and the Licensee.
- 16.18 The Licensee must publish and maintain a Public Interest Statement (including any amended statement following a revision under paragraph 16.17) on its Website.

Part D: Procurement Strategy for Relevant Service Capability

- 16.19 Except where the Secretary of State otherwise consents, the Licensee must within twelve months after the Licence Commencement Date have in place a statement of its Procurement Strategy for Relevant Service Capability.
- 16.20 That statement must have been approved by the Secretary of State for the purposes of this condition following consultation (subject to paragraph 16.23) with the Licensee and with the Authority, SEC Parties, and any other persons who are likely to be materially affected by the strategy.
- 16.21 The statement of the Procurement Strategy for Relevant Service Capability must explain the Licensee's conclusions with respect to the nature and extent of its procurement activities, in such detail and by including such information as may be appropriate for the purpose, with particular reference to:
 - (a) the determination of the Relevant Service Capabilities necessary to enable the Licensee to exercise its Relevant Functions;

- (b) the determination of which of those capabilities are to be procured from External Service Providers by means of a competitive process (having due regard to paragraph 16.6);
 - (c) the determination of how and to what extent the required Relevant Service Capabilities reflect the guidance contained in any Public Interest Statement issued under Part C above;
 - (d) the determination of how the required Relevant Service Capabilities are to be assembled into discrete contracts; and
 - (e) the determination of a forward plan of the procurement activities necessary to secure those contracts.
- 16.22 The Licensee must take all appropriate steps within its power to comply with the provisions of any Procurement Strategy for Relevant Service Capability that is for the time being in force under this condition.
- 16.23 The consultation process that is required by virtue of paragraph 16.20 may be subject to the provisions of Part G below.

Part E: Procedure for reviewing the procurement strategy

- 16.24 The Licensee must, for the purposes of ensuring that its Procurement Strategy for Relevant Service Capability at all times continues to be a document that accurately reflects the requirements of this condition:
- (a) review that strategy at least once in each full Regulatory Year following the Secretary of State's designation of it under Part D above; and
 - (b) propose to the Authority such revisions (if any) of the strategy as the Licensee thinks are appropriate or necessary for the purpose of better complying with those requirements.
- 16.25 The Authority may at any time, after consulting the Licensee and such other persons as it considers should be consulted in relation to the matter (subject to paragraph 16.26), direct the Licensee to revise its Procurement Strategy for Relevant Service Capability in such manner, with effect from such time, and to such extent as may be specified in the direction.
- 16.26 The consultation process that is required by virtue of paragraph 16.25 may be subject to the provisions of Part G below.

Part F: Availability of statement of the procurement strategy

- 16.27 The Licensee must promptly and properly reflect every revision of its Procurement Strategy for Relevant Service Capability in a corresponding revision of the statement of that strategy that is in place by virtue of paragraph 16.19.
- 16.28 The Licensee must give the Authority and, where requested, the Secretary of State a copy of the statement of its Procurement Strategy for Relevant Service Capability and of each revision of that statement.

- 16.29 The Licensee must also (subject to paragraph 16.30) give a copy of the statement of its Procurement Strategy for Relevant Service Capability (or the most recent revision of it) to any SEC Party or REC Party who requests a copy.
- 16.30 In discharging its duties under paragraph 16.29, the Licensee must comply with such restrictions or requirements (if any) with respect to the manner in which it does so as appear to the Authority to be necessary for the purpose of protecting the legitimate commercial interests of any person.

Part G: Undertakings required in respect of confidentiality

- 16.31 This Part G applies where the Secretary of State or the Authority (as the case may be) is consulting, or proposing to consult:
- (a) persons under paragraph 16.20 with respect to the preparation and designation of a statement of the Licensee's Procurement Strategy for Relevant Service Capability; or
 - (b) persons under paragraph 16.25 with respect to any proposed revision of that strategy.
- 16.32 Where this Part G applies, the Secretary of State or the Authority (as the case may be) may require any person (including the Licensee) that is taking part, or that wishes to take part, in the relevant consultation process to enter into such undertakings to maintain the confidentiality (in whole or in part) of the document that is the subject of the consultation as appear to the Secretary of State or the Authority to be necessary for the purpose of protecting the legitimate commercial interests of any person.
- 16.33 An undertaking under paragraph 16.32 may be expressed to survive the expiry or any revocation of this Licence.

Part H: Retention of procurement strategy particulars and records

- 16.34 The Licensee must maintain, for the full duration of the Licence Term, records and particulars of:
- (a) all Relevant Service Capability offered to it under or pursuant to its Procurement Strategy for Relevant Service Capability; and
 - (b) all contractual arrangements that it has entered into under or pursuant to its Procurement Strategy for Relevant Service Capability.
- 16.35 The Licensee must supply the Authority with any information that it reasonably asks for about the Licensee's procurement and use of Relevant Service Capability.

Part I: Arrangements for the adoption of Energy Supplier Contracts

- 16.36 The Licensee must contribute to, implement, and give effect to such provisions of the SEC Adoption Process as are applicable to it.
- 16.37 The SEC Adoption Process comprises those provisions of the SEC that will apply by virtue of Part H of Condition 22 (The Smart Energy Code) to:

- (a) the process of assessing and determining Energy Supplier Contracts for the purpose of providing Relevant Service Capability to the Licensee pursuant to its procurement obligations under this condition; and
- (b) the adoption by the Licensee of any Energy Supplier Contracts that may be required to be so adopted as a consequence of that process.

16.38 Appendix 1 (which has effect as part of this condition) makes further provision with respect to matters arising from the SEC Adoption Process.

Part J: Interpretation

16.39 References to “capability” in this condition do not include capability required for the purpose of facilitating any incidental administrative, co-ordination, or contract management services associated with or ancillary to the provision of any Services.

16.40 For the purposes of this condition:

Energy Supplier Contract means a contractual arrangement (in whatever form and however described) that an Energy Supplier has entered into, whether before or after Licence Commencement Date, with any person other than the Licensee for the purpose of procuring and providing communication or data services with respect to Smart Metering Systems.

Fundamental Service Capability:

- (a) means Relevant Service Capability that is provided under Legacy Procurement Contracts (as they are defined and from time to time identified and described in Schedule 1 (Details of Fundamental Service Capability) to this Licence), including the provision of all such capability (including goods and products) as is necessary to enable the Licensee to provide, or arrange for the provision of, the Communications Hub Service pursuant to Part E of Condition 17 (Requirements for the provision of Services); and
- (b) is deemed to have been procured by the Licensee under this Condition 16, and not by any other person acting by or under any other means, despite anything to the contrary in Schedule 1 to this Licence.

Part B Principles has the meaning given to that term in paragraph 16.4, and refers to the principles listed in Part B of this condition.

Public Interest Statement has the meaning given to that term in paragraph 16.15.

Relevant Functions has the meaning that is given to that term in paragraph 16.8.

SEC Adoption Process has the meaning given to that term in paragraph 16.37.

Part K: Further relevant provision

16.41 Condition 44 (Treatment of Intellectual Property Rights) sets out and makes further provision relating to the Licensee’s management and development of the External Service Provider Contracts to which it is a party pursuant to this Condition 16.

16.42 Appendix 1 follows immediately below.

Condition 17. Requirements for the provision of Services

Introduction

- 17.1 This condition requires the Licensee to provide Services or, as the case may be, to offer terms for the provision of Services, whether at the request of SEC Parties, REC Parties or otherwise, in accordance with the requirements set out in this condition and subject to such exemptions or restrictions as the condition permits.

Part A: General provisions applicable to this condition

- 17.2 Where the Licensee is required by any part of this condition to provide Services under or pursuant to an Agreement for Services on terms prescribed by, or determined in accordance with, the provisions of the SEC or REC, such terms of the SEC or REC as are expressed by the SEC or REC to be contractually binding with respect to such provision will comprise the Agreement for Services that applies between the parties by virtue of the obligation of the Licensee to provide the Services.
- 17.3 The Licensee may, where it would be more economical, efficient, or effective to do so, offer to enter into an Agreement for Services under or pursuant to this condition on terms that relate to the Licensee's receipt of compliant requests from more than one person for the provision of Services, provided that the terms of that offer do not exclude an option for the Services to be provided to only one of the persons making those requests.
- 17.4 The Licensee may offer to enter into an Agreement for Services on terms that provide, in accordance with any relevant requirement of the Licensee's Charging Methodology for Service Charges, for the allocation and reimbursement of Service Charges among and between persons whose requests for such an agreement (whether because of the timing of those requests or otherwise) would reasonably justify such treatment.

Part B: Terms in respect of Core Communication Services

- 17.5 The Licensee must, on receiving a request from any SEC Party for the provision of any Core Communication Services that are specified and defined as such in the SEC, provide such services under or pursuant to an Agreement for Services on terms that are prescribed by, or determined in accordance with, the provisions of the SEC.
- 17.6 The Licensee's obligation to provide Core Communication Services under this Part B is subject to the provisions of Part D below.

Part C: Terms in respect of Elective Communication Services

- 17.7 The Licensee, on receiving a request from any SEC Party ("the Requester") for the provision of Elective Communication Services under or pursuant to the SEC, must deliver to the Requester as soon as is reasonably practicable, and in any event within 14 days after receiving the request, either:

- (a) an initial evaluation of the technical feasibility and the likely scale of the cost of satisfying that request for such provision; or
 - (b) notification that the initial evaluation indicates that a further and more detailed evaluation of the request is required.
- 17.8 Where paragraph 17.7(a) is applicable, and insofar as the Requester wishes to proceed with the request, the Licensee must offer within 28 days (except where the Requester agrees to a longer period, or where the Authority otherwise consents) to enter into an Agreement for Services with the Requester on such terms as may be agreed.
- 17.9 Where paragraph 17.7(b) is applicable and the Requester wishes to proceed with the request, the Licensee must undertake and complete the further and more detailed evaluation as soon as is reasonably practicable, and for that purpose may require the Requester to pay evaluation expenses to such extent as may be reasonable in all of the circumstances of the case.
- 17.10 In paragraph 17.9, “evaluation expenses” means expenses of a kind that:
 - (a) are specified in or are determined in accordance with the Licensee’s Charging Methodology for Service Charges; and
 - (b) have been reasonably incurred by the Licensee in carrying out the further and more detailed evaluation to which that paragraph refers.
- 17.11 Insofar as the Requester wishes to proceed with the request in the light of the further and more detailed evaluation under paragraph 17.9 and has paid to the Licensee any amount that is payable by virtue of that paragraph, the Licensee must offer within 28 days (except where the Requester agrees to a longer period, or where the Authority otherwise consents) to enter into an Agreement for Services with that person on such terms as may be agreed in respect of the provision.
- 17.12 Where a request received by the Licensee under paragraph 17.7 does not comply with such requirements as may be specified in the SEC in relation to the submission of requests for the provision of Elective Communication Services, the Licensee must take reasonable steps to ensure that the request does so comply before acting upon it.
- 17.13 The Licensee’s obligation to offer terms under this Part C is subject to:
 - (a) any controls or restrictions on the quantity of services that may be provided, or on the timing with which they are to be provided, that may be in force from time to time under the SEC with respect to the provision of Elective Communication Services; and
 - (b) the provisions of Part D below.

Part D: Terms for the operation of the Enrolment Service

- 17.14 The Licensee is not required to provide Core Communication Services under Part B above, or to offer terms for an Agreement for Services in respect of any Elective Communication Services under Part C above, if in either case the Smart Metering System to which such services would relate has not been enrolled (in accordance

with such rules and procedures for that purpose as are specified in the SEC) into such arrangements for enrolment as are maintained under the SEC.

- 17.15 The Licensee must carry on the activities of the Enrolment Service (which is the service to which paragraph 17.14 refers) under or pursuant to an Agreement for Services on terms that are prescribed by, or are determined in accordance with, the provisions of the SEC.
- 17.16 Subject to paragraph 17.17, the Licensee must, on receiving a request from any SEC Party for the enrolment of a Smart Meter or an Advanced Meter that does not comply with the requirements of the Enrolment Service and therefore does not qualify to be enrolled, offer to enter into an Agreement for Services, in accordance with such rules and procedures as may be specified in the SEC for dealing with such requests, and on such terms as may be agreed in all the circumstances of the case, for:
- (a) the provision of advice to the SEC Party with respect to such requirements for the reconfiguration or modification of that meter as must be satisfied to enable it to qualify for such enrolment; and
 - (b) where applicable, the carrying out of any reconfiguration or modification of systems operated by the Licensee that would be necessary to enable the enrolment of that meter.
- 17.17 The Licensee is not required to comply with paragraph 17.16 if and insofar as doing so would prejudice, or be likely to prejudice, its ability to comply with the Interim General Objective of the Licensee as set out in Condition 5 (General Objectives of the Licensee).
- 17.18 The Licensee may charge for services provided under paragraph 17.16 in accordance with and to the extent permitted by the provisions of its Charging Methodology for Service Charges.
- 17.19 Nothing in this Part D requires the Licensee to provide an Enrolment Service for the purposes of any Smart Metering System by means of which a Smart Meter Communication Service is proposed to be provided to any premises, or within any area containing premises, that falls within a category that is for the time being specified by the Licensee as a Service Exemption Category in any Statement of Service Exemptions in force under this condition.
- 17.20 Appendix 1 (which requires the Licensee to publish, maintain, and keep under review a Statement of Service Exemptions initially approved by the Secretary of State) has effect as part of this condition for the purposes of paragraph 17.19.

Part E: Terms for provision of the Communications Hub Service

- 17.21 The Licensee must, on receiving a request from any SEC Party for the provision of Communications Hubs:
- (a) arrange to provide such Communications Hubs, together with ancillary or associated devices or equipment as may be specified under or pursuant to the SEC;
 - (b) take all reasonable steps to ensure that each such Communications Hub which is installed as a component of a Smart Metering System continues

at all times to satisfy the requirements of a Version of the CH Technical Specification which is:

- (i) within its Maintenance Validity Period;
 - (ii) Compatible with the Version of the SME Technical Specification (being the part(s) of the SME Technical Specification identified as applying to 'Electricity Smart Metering Equipment' and to 'Gas Smart Metering Equipment') in accordance with which the Smart Metering System, of which it is a component, is maintained by the Energy Supplier; and
 - (iii) where at the premises at which the Smart Metering System is installed there is installed a HCALCS or a PPMID, Compatible with the Version of the HCALCS Technical Specification or the PPMID Technical Specification (as the case may be) in accordance with which that HCALCS or PPMID is maintained by the Energy Supplier; and".
- (c) make such other arrangements as to the ownership, delivery, installation, maintenance, repair, removal and replacement of Communications Hubs as may be specified under or pursuant to the SEC,

in accordance with an Agreement for Services on terms prescribed by, or determined in accordance with, the provisions of the SEC.

- 17.22 The Licensee must manage its duties under and pursuant to this Part E in a manner that is consistent with, and is designed to facilitate, the full and timely installation by Energy Suppliers of Smart Metering Systems at Energy Consumers' premises in accordance with such requirements of the Energy Supply Licence as apply to the activities associated with such installation.

Part F: Terms for the provision of Other Enabling Services

- 17.23 The Licensee must, on receiving a request from any person (whether or not a SEC Party) for the provision of any Other Enabling Service that is specified and defined as such, whether in Schedule 5 to this Licence (Matters associated with the grant of this Licence) or in the SEC, provide that service under or pursuant to an Agreement for Services on terms prescribed by, or determined in accordance with, the provisions of the SEC.
- 17.24 Where a request received by the Licensee under paragraph 17.23 does not comply with such requirements as may be specified in the SEC in relation to the submission of requests for the provision of Other Enabling Services, the Licensee must take reasonable steps to ensure that the request does so comply before acting upon it.

Part G: Terms for the provision of Value Added Services

- 17.25 The Licensee, on receiving a request from any person for the provision of Value Added Services or Centralised Registration Service Value Added Services that have been approved by the Authority in accordance with Part D of Condition 6 (Authorised Business of the Licensee), may offer to enter into an Agreement for Services with that person on such terms (subject to paragraph 17.26) as may be agreed in respect of such provision.

- 17.26 Except where the Authority otherwise consents, the terms offered by the Licensee for entering into an Agreement for Services under paragraph 17.25 must include terms providing for the novation of that agreement that are substantially the same as those contained within the SEC in relation to the novation of any Agreement for Services in place by virtue of Parts B to F of this condition
- 17.27 Paragraphs 24(a) of Condition 22 (The Smart Energy Code) and 15 of Condition 43 (Arrangements for the handover of business) are relevant to paragraph 17.26.

Part H: Charges and other terms in respect of Services

- 17.28 Paragraph 17.29 applies with respect to:
- (a) each Agreement for Services under or pursuant to this condition requiring the Licensee to provide Services on terms prescribed by, or to be determined in accordance with, the provisions of the SEC or REC as relevant; and
 - (b) each offer by the Licensee to enter into an Agreement for Services under or pursuant to this condition on such terms as may be agreed.
- 17.29 In each case to which paragraph 17.28 refers, the agreement or the offer proposing an agreement (as the case may be) must set out:
- (a) the Service Charges to be paid under or pursuant to the relevant agreement (having regard to the requirements of paragraph 17.30); and
 - (b) such other detailed terms as are appropriate or necessary for the purposes of the relevant agreement and are not otherwise prescribed.
- 17.30 The Service Charges referred to in paragraph 17.29(a) must:
- (a) unless clearly inappropriate, be consistent with the relevant provisions of the Charging Methodology in force under Condition 18 (Charging Methodology for Service Charges) at the time of the agreement or offer; and
 - (b) be presented so as to be directly referable to the provisions (if applicable) of the Charging Statement in force under Condition 19 (Charging Statement for Service Charges) at the time of the agreement or offer.

Part I: Exemption from obligations imposed by this condition

- 17.31 Paragraph 17.32 states the circumstances in which the Licensee is not obliged under the provisions of this condition:
- (a) to provide Services under or pursuant to an Agreement for Services on terms prescribed by, or determined in accordance with, the provisions of the SEC or the REC; or
 - (b) to enter into, or offer to enter into, an Agreement for Services with a person requesting terms for such an agreement.
- 17.32 The circumstances to which paragraph 17.31 refers are those arising if:
- (a) providing the Services or (as the case may be) entering into, or offering to enter into, an agreement to do so would cause, or would be likely to cause,

the Licensee to be in breach of (i) any of its functions under the Principal Energy Legislation, or (ii) any applicable provision of the SEC or REC, or (iii) any of the Conditions of this Licence; or

- (b) the person requesting the terms does not agree to be bound, to the extent applicable to him, by the provisions of the SEC or REC.

Part J: Determination of disputes between the parties

17.33 Any dispute arising between the Licensee and any person that relates to the terms offered by the Licensee for entering into an Agreement for Services under or pursuant to any provision of this condition that requires the Licensee to make such an offer may be referred by either party to the Authority for determination in accordance with such of the provisions of Condition 20 (Determination of disputes by the Authority) as may be applicable to the dispute.

Part K: Interpretation

17.34 For the purposes of this condition:

Advanced Meter has the meaning that is given to that term in standard condition 12 of the Energy Supply Licence.

Enrolment Service has the meaning given to that term in Part D of this condition, but subject to any further definition or other relevant provision that may be set out in the SEC.

Requester has the meaning that is given to that term in paragraph 17.7.

Service Exemption Category means either Service Exemption Category 1 or Service Exemption Category 2 (as the case may be), as described respectively at paragraph A3(a) and paragraph A3(b) of Appendix 1.

Statement of Service Exemptions means the document of that name containing the matters set out at Part A of Appendix 1.

Condition 18. Charging Methodology for Service Charges

Introduction

18.1 This condition requires the Licensee to have in force, and comply with, a Charging Methodology for Service Charges that is designed to achieve certain specified policy objectives; that has been incorporated into the Smart Energy Code on or following its designation by the Secretary of State for the purposes of this condition; and that may be modified from time to time as provided for in the SEC and by reference to policy objectives that are different from the General SEC Objectives.

18.1A With effect from the date of designation of the charging methodology within the Retail Energy Code then the charging methodology within the REC will apply with respect to costs incurred by the Licensee in relation to the economic and efficient meeting of the Centralised Registration Service obligations in Condition 15.

Part A: General requirements for the Charging Methodology

- 18.2 The Licensee must at all times have in force a Charging Methodology for Service Charges (“the Charging Methodology”).
- 18.3 The Charging Methodology is required to be a complete and documented explanation, presented in a coherent and consistent manner, of the methods, principles, and assumptions that apply for the purpose of determining the Service Charges payable for Mandatory Business Services provided under or pursuant to the SEC or REC.
- 18.4 The Charging Methodology in force under this Part A at the Relevant Incorporation Date (see Part D below) must have been designated by the Secretary of State for the purposes of this condition in accordance with Part B below on the basis that it achieves the Relevant Policy Objectives set out in Part C.
- 18.5 The Charging Methodology as designated by the Secretary of State for the purposes of this condition is to be incorporated into the Smart Energy Code in accordance with Part D below (which also makes special provision with respect to the modification of the Charging Methodology).
- 18.6 The Licensee, except where the Authority otherwise consents, must comply with the provisions of the Charging Methodology as modified from time to time in accordance with such provisions of this Condition 18 and the Smart Energy Code as are applicable to such modifications.
- 18.7 The Licensee must, for the purpose of ensuring that the Charging Methodology will continue to achieve the Relevant Policy Objectives:
- (a) review the methodology at least once in each Regulatory Year; and
 - (b) subject to the requirements of Part D below, propose such modifications (if any) of the methodology as it believes are appropriate or necessary for the purpose of enabling it to better achieve the Relevant Policy Objectives.

Part B: Matters relating to designation of the Charging Methodology

- 18.8 Subject to the provisions set out in this Part B, the Secretary of State may designate a Charging Methodology for the purposes of this condition if he is satisfied that it achieves the Relevant Policy Objectives.
- 18.9 Before designating a Charging Methodology for the purposes of this condition, the Secretary of State must consult:
- (a) the Licensee;
 - (b) the Authority;
 - (c) SEC Parties (or such persons as the Secretary of State reasonably believes will become SEC Parties); and
 - (d) such other persons as the Secretary of State considers it appropriate to consult.
- 18.10 For the purposes of consultation under paragraph 18.9, the Secretary of State must:
- (a) publish the terms of the Charging Methodology that he proposes to designate for the purposes of this condition;
 - (b) state the reasons why he proposes to so designate it; and
 - (c) allow a period of at least 28 days within which representations or objections may be made to him concerning the proposal.
- 18.11 The Secretary of State must have due regard to any representations or objections duly received under paragraph 18.10, and give reasons for his decisions in relation to them.
- 18.12 The Secretary of State may designate a Charging Methodology for the purposes of this condition subject to such conditions as he considers appropriate, having regard to:
- (a) the need for any further action to be taken by the Licensee to ensure that the Charging Methodology better achieves the Relevant Policy Objectives; and
 - (b) the time by which such action must be completed.
- 18.13 The requirements imposed by this Part B may be satisfied by consultation before, as well as consultation after, the Licence Commencement Date.

Part C: Relevant Policy Objectives of the Charging Methodology

- 18.14 The Relevant Policy Objectives of the Charging Methodology consist of the First Relevant Policy Objective, the Second Relevant Policy Objective and the Third Relevant Policy Objective.
- 18.15 The First Relevant Policy Objective:
- (a) applies in respect of Service Charges imposed under or pursuant to the SEC in respect of the operation of provision of Mandatory Business Services (excluding Elective Communication Services); and
 - (b) requires the Charging Methodology to ensure that such Service Charges do not distinguish (whether directly or indirectly):
 - (i) between Energy Consumers at Domestic Premises in different parts of Great Britain; and

- (ii) between Energy Consumers at Designated Premises in different parts of Great Britain.

- 18.16 The Second Relevant Policy Objective applies in relation to SMETS1 Meters. The Second Relevant Policy Objective is that, subject to compliance with the First Relevant Policy Objective, the Charging Methodology in respect of all of the Mandatory Business Services (excluding Elective Communication Services) must (in each of the following cases, as far as is reasonably practicable in all of the circumstances of the case, having regard to the costs of implementing the Charging Methodology):
- (a) result in Service Charges that are the same for SMETS1 Meters as they are for Other Smart Metering Systems, save that no Service Charges for Communications Hub Services will apply to SMETS1 Meters;
 - (b) notwithstanding (a) above (where the Costs of Communications for a SMETS1 Meter exceeds the Costs of Communications for an Other Smart Metering System, and where an Original Supplier for the Energy Supplier Contract relating to that SMETS1 Meter is (and has at all times since the adoption of the Energy Supplier Contract been) a supplier of Energy to the premises at which that SMETS1 Meter is installed), result in Service Charges that ensure that the excess Costs of Communications are recovered from the Original Supplier from time to time (in addition to the Service Charges referred to in (a) above).
- 18.17 The Third Relevant Policy Objective is that, subject to compliance with the First and Second Relevant Policy Objectives, the Charging Methodology in respect of all of the Mandatory Business Services provided under or pursuant to the SEC must result in Service Charges that:
- (a) facilitate effective competition in the Supply of Energy (or its use) under the Principal Energy Legislation;
 - (b) do not restrict, distort, or prevent competition in Commercial Activities that are connected with the Supply of Energy under that legislation;
 - (c) do not deter the full and timely installation by Energy Suppliers of Smart Metering Systems at Energy Consumers' premises in accordance with their obligations under the Energy Supply Licence; and
 - (d) do not unduly discriminate in their application and are reflective of the costs incurred by the Licensee, as far as is reasonably practicable in all of the circumstances of the case, having regard to the costs of implementing the Charging Methodology.";
- 18.18 The Charging Methodology will achieve the Third Relevant Policy Objective if it is compliant with the provisions of paragraph 18.17 in the round, weighing them as appropriate in each particular case.

Part D: Incorporation of the Charging Methodology into the SEC

- 18.19 For the purposes of this Part D, the Relevant Incorporation Date is the date on which the Charging Methodology is designated by the Secretary of State in accordance with Part B above.
- 18.20 By virtue of this Part D, and having full effect from the Relevant Incorporation Date:

- (a) the Licensee's Charging Methodology for Services, as designated by the Secretary of State, is to be incorporated into the Smart Energy Code as one of the matters that is required to be included in that document by virtue of the provisions of Part G of Condition 22 (The Smart Energy Code); and
 - (b) all of the SEC Modification Arrangements for which the Smart Energy Code is required to make provision under Condition 23 (Change control for the Smart Energy Code) are to be applied equally (to the extent that is relevant) to modifications under the SEC of the Charging Methodology for Services, subject to the requirements of paragraph 18.21.
- 18.21 Those requirements are that any proposal raised under the Smart Energy Code by the Licensee (or any other person) to modify the Charging Methodology:
- (a) must have as its purpose the better achievement of the Relevant Policy Objectives set out in Part C above, instead of the better achievement of the General SEC Objectives set out at Part D of Condition 22; and
 - (b) must be assessed by reference to those Relevant Policy Objectives, and not by reference to the General SEC Objectives.

Part E: General availability of the Charging Methodology

- 18.22 The Licensee must ensure that a copy of the Charging Methodology in force under this condition:
- (a) is published on its Website; and
 - (b) is also otherwise available to any person who requests it upon payment of an amount (if any) that does not exceed the reasonable costs of making and supplying that copy.
- 18.23 When any modification of the Charging Methodology is made, the Licensee must at the same time:
- (a) to such extent as may be necessary, revise the Charging Statement (or the most recent revision of it) published under Condition 19 (Charging Statement for Service Charges) so that the statement properly sets out the effect of the changes to the Charging Methodology and the date from which they will be implemented; and
 - (b) give the Authority a copy of that revised Charging Statement.
- 18.24 Further relevant provision in respect of the Charging Statement that is mentioned in paragraph 18.23 is set out in Condition 19, and this Condition 18 should be read and construed in conjunction with that condition.

Part F: Interpretation

- 18.25 For the purposes of this condition:

Charging Methodology has the meaning given to that term in paragraph 18.3.

Costs of Communications means:

- (a) in respect of those SMETS1 Meters that are subject to each Energy Supplier Contract adopted by the Licensee under the SEC Adoption Process, the annual costs per meter under or in connection with that contract of providing the SMETS1 Services to each category of SEC Party in respect of those SMETS1 Meters in each region covered by an Original Communications Contract (or the average such cost across all regions where required in order not to distinguish between Energy Consumers at Domestic Premises in different parts of Great Britain); or
- (b) in respect of an Other Smart Metering System, the annual costs per metering system in the same region (or the average such cost across all regions where required in order not to distinguish between Energy Consumers at Domestic Premises in different parts of Great Britain) under or in connection with the Original Communications Contracts of providing the Core Communication Services equivalent to the SMETS1 Services referred to in (a) above to the same categories of SEC Party as are referred to in (a) above in respect of the Other Smart Metering System (but always excluding the costs associated with the Communications Hub Service).

First Relevant Policy Objective has the meaning given to that term in paragraph 18.15.

Original Communications Contracts means the contracts for the provision of communications services referred to in paragraphs 1.5(1), (2) and (3) of Schedule 1 (or any replacement contracts).

Original Supplier means, in respect of an Energy Supplier Contract, the Energy Supplier which was party to that contract at the time of its adoption by the Licensee under the SEC Adoption Process (which shall include each and every Energy Supplier which is an Affiliate of the Energy Supplier which was party to that contract at the time of its adoption by the Licensee).

Other Smart Metering System means a Smart Metering System other than a Smart Metering System comprising of or including a SMETS1 Meter

Relevant Incorporation Date has the meaning given to that term in paragraph 18.19.

Relevant Policy Objectives means the objectives of the Charging Methodology as set out in Part C of this condition.

Second Relevant Policy Objective has the meaning that is given to that term in paragraph 18.16.

SMETS1 Meter means an Energy Meter that has (as a minimum) the functional capability specified by and complies with the other requirements of the SME Technical Specification that was designated on 18 December 2012 and amended and restated on 31 March 2014 (but not any subsequent version of the SME Technical Specification).

SMETS1 Services means, in respect of a type of SMETS1 Meter, those Core Communication Services which the DCC makes available to SEC Parties in respect of that type of SMETS1 Meter under the SEC.

Third Relevant Policy Objective has the meaning that is given to that term in paragraph 18.17

Condition 19. Charging Statement for Service Charges

Introduction

- 19.1 This condition requires the Licensee to prepare and comply with a Charging Statement for Service Charges that:
- (a) has been prepared in accordance with the Charging Methodology in force under Condition 18 (Charging Methodology for Service Charges); and
 - (b) will enable SEC Parties, REC Parties and any other persons to estimate the Service Charges that are payable for the provision by the Licensee of Mandatory Business Services (within the meaning of Part F below) under or pursuant to the SEC.
- 19.2 Every Service Charge levied by the Licensee for the provision of a Mandatory Business Service as defined in Condition 1 (Definitions for the Conditions of this Licence) must be formulated in compliance with the Charging Methodology.

Part A: Requirements in respect of the Charging Statement

- 19.3 The Licensee must, within three months after the Licence Commencement Date, make available a Charging Statement for Service Charges (“the Charging Statement”) that sets out the basis on which Service Charges will be payable to the Licensee for the provision of Mandatory Business Services under or pursuant to the SEC.
- 19.4 The Charging Statement available under this Part A must:
- (a) relate to each of the Mandatory Business Services (within the meaning of Part F below) operated or provided by the Licensee under or pursuant to the SEC;
 - (b) be prepared in accordance with and contain such information as is necessary to comply with the Charging Methodology in force under Condition 18 at the time at which the Charging Statement has effect; and
 - (c) be presented in such form and with such detail as will enable any SEC Party, or any other person entitled to receive Mandatory Business Services, to make a reasonable estimate of the Service Charges that he would be liable to pay under an Agreement for Services entered into with the Licensee under or pursuant to Condition 17 (Requirements for the provision of Services).

Part B: Maintenance of the Charging Statement in approved form

- 19.5 Subject to paragraph 19.6, the Licensee must maintain the Charging Statement in a form that is approved by the Authority.
- 19.6 The first Charging Statement of the Licensee must be in a form that is approved by the Secretary of State.

Part C: Charging in accordance with the Charging Statement

- 19.7 Except where the Authority otherwise consents, and subject to paragraph 19.8, every Agreement for Services must be so framed as to ensure that the Service Charges that are or become payable under it will comply with the Charging Statement in the form in which it is in force under this condition at each time at which such Service Charges are to be paid under or pursuant to that agreement.

- 19.8 The requirement imposed by paragraph 19.7:
- (a) does not apply to an Agreement for Services in respect of any Value Added Services; and
 - (b) applies only to such as extent as is practicable to any Agreement for Services in respect of:
 - (i) an Elective Communication Service, or
 - (ii) an Enrolment Service.

Part D: Procedure for amending any of the Service Charges

- 19.9 The Licensee must, not less than three months before the date on which it proposes to amend its Service Charges in respect of any Agreement for Services:
- (a) give the Authority a Notice that sets out those proposals, together with an explanation of them (which must include a statement of any assumptions on which the proposals are based); and
 - (b) send a copy of the Notice to any person with whom the Licensee has entered into an Agreement for Services.
- 19.10 Except if the Authority otherwise consents, the Licensee may only amend its Service Charges in respect of any Agreement for Services if:
- (a) it has given Notice of the proposed amendment in accordance with paragraph 19.9; and
 - (b) the amendment, when made, conforms to the proposals that were set out in that Notice (except for any necessary revisions resulting from the occurrence of a material change in any of the matters on which the assumptions set out in the statement to which the Notice refers were based, and then only to such extent as is necessary to reflect the change in such matters).
- 19.11 The Licensee may only amend Service Charges more than once in a Regulatory Year if:
- (a) the Licensee has first given the Authority a statement of the factors that have led it to conclude that an additional amendment is necessary, explaining in particular why it did not (or could not) take account of those factors when giving Notice under paragraph 19.9 with respect to the immediately preceding amendment of Service Charges; or
 - (b) the Authority has directed the Licensee to make an additional amendment as a consequence of a decision by the Authority under Part B of Condition 37 (Assessment of Mandatory Business costs) to exclude certain costs from any future calculations of the Licensee's revenues.
- 19.12 A direction under paragraph 19.11(b) may be given with effect from such date, and subject to such terms and conditions, as the Authority thinks appropriate to the case.
- 19.13 Before making any amendment of its Service Charges pursuant to this Part D, the Licensee must give the Authority a revised Charging Statement that sets out the amended Service Charges and specifies the date from which they will have effect.

Part E: Review and availability of the Charging Statement

- 19.14 Without prejudice to Part D above, the Licensee must periodically review information set out in a Charging Statement in force under this condition and, at least once in each Regulatory Year, make any changes that are necessary to the statement to ensure that such information continues to be accurate and reliable in all material respects.
- 19.15 The changes mentioned in paragraph 19.14 include, in particular, any changes that are necessary by virtue of the Licensee's duty under paragraph 23 of Condition 18 to ensure that the effects of any modification of the Charging Methodology in force under that condition are duly incorporated into the Charging Statement.
- 19.16 Every review of the Charging Statement under paragraph 19.14 must comply with such requirements of the SEC with respect to the timeframe and process for such reviews as are applicable at the relevant time.
- 19.17 The Charging Statement, as from time to time revised, must be published in such manner as the Licensee believes will ensure adequate publicity for it (including on the Licensee's Website).
- 19.18 The Licensee must give or send a copy of the Charging Statement (or of the most recent revision of it) to any person who requests a copy.

Part F: Interpretation

- 19.19 For the purposes of this condition:
- Charging Statement** has the meaning given to that term in paragraph 19.3.
- Mandatory Business Services** includes Elective Communication Services and Enrolment Services only to such extent as is practicable.
- 19.20 This condition should be read and construed in conjunction with Condition 18 (Charging Methodology for Service Charges).

Condition 20. Determination of disputes by the Authority

Introduction

- 20.1 This condition provides for the Authority to determine any dispute arising between the Licensee and any person about the terms on which certain Services are offered to be provided under or pursuant to the requirements of Condition 17 (Requirements for the provision of Services).
- 20.2 Provision is also made under Part C of this condition for certain other disputes arising between the Licensee and such a person to be determined by the Authority.

Part A: Disputes over failure to enter into an Agreement for Services

- 20.3 This Part A applies if, after a period that to the Authority appears reasonable for the purpose, the Licensee has failed to enter into an Agreement for Services with any person (“the Requester”) who is entitled, or claims to be entitled, to have such an agreement with the Licensee pursuant to a request made to the Licensee under:
- (a) Part C of Condition 17 (with respect to the Licensee’s provision of Elective Communication Services);
 - (b) paragraph 16 of Condition 17 (with respect to the Licensee’s provision of certain Enrolment Services); or
 - (c) paragraph 23 of Condition 17 in respect of those Other Enabling Services expressly identified in the SEC as being subject to the application of this paragraph 20.3(c).
- 20.4 Where this Part A applies, the Authority may, on the application of the Requester or the Licensee, either:
- (a) dismiss the application on the grounds that it is trivial or vexatious; or
 - (b) determine any terms of the Agreement for Services in dispute between them in such manner as appears to it to be reasonable in all the circumstances of the case, having regard to each of the considerations (where relevant) set out below.
- 20.5 The first consideration is that the charges payable by the Requester to the Licensee under the Agreement for Services should be determined in accordance with and by reference to the Charging Methodology and the Charging Statement in force under, respectively, Condition 18 (Charging Methodology for Service Charges) and Condition 19 (Charging Statement for Service Charges).
- 20.6 The second consideration is that the Licensee should not be required to enter into the Agreement for Services if the Requester does not undertake to be bound, so far as is applicable, by the provisions of the Smart Energy Code or Retail Energy code.
- 20.7 The third consideration is that the Licensee’s performance of its obligations under the Agreement for Services should be consistent with the General Objectives of the Licensee, and not cause the Licensee, or be likely to cause it, to be in breach of:
- (a) any of its functions under the Principal Energy Legislation; or
 - (b) any applicable provision of the SEC or REC; or

(c) any of the Conditions of this Licence.

20.8 The fourth consideration is that the terms of an Agreement for Services determined by the Authority, and those of any other agreements entered into by the Licensee pursuant to requests for those Services to which paragraph 20.3 applies, should be in as similar a form as is practicable.

Part B: Licensee's duty to implement a settled agreement

20.9 Insofar as the Requester wishes to proceed on the basis of an Agreement for Services as settled by the Authority under paragraph 20.4, the Licensee must enter into and implement such agreement without delay and in accordance with its terms.

Part C: Disputed consistency with methodology or statement

20.10 This Part C applies if the parties to an Agreement for Services for those Services to which paragraph 20.3 applies are in dispute as to whether the Service Charges levied, or to be levied, in accordance with that agreement comply with the Charging Methodology and Charging Statement in force under, respectively, Condition 18 and Condition 19 in relation to the period in respect of which the dispute arises.

20.11 Where this Part C applies, either party may refer the dispute to the Authority for it to either:

- (a) dismiss the referral on the grounds that it is trivial or vexatious; or
- (b) determine whether the charges to which the dispute relates did, or would, comply with the relevant Charging Methodology or Charging Statement

Part D: Procedure, provision for costs, and other matters

20.12 The practice and procedure to be followed in connection with the determination of a dispute under this condition are to be such as the Authority considers appropriate in all the circumstances of the case.

20.13 The Authority must send a copy of its determination, together with a full statement of the reasons for it, to both parties to the dispute.

20.14 The Authority may publish (in such manner as it considers appropriate) so much of any determination made under this condition as (having regard to the need to preserve commercial confidentiality) it considers should be published.

20.15 A determination under this condition may include such provision requiring either or both of the parties to the dispute to pay a sum in respect of the costs or expenses incurred by the Authority in making the determination as the Authority considers appropriate in all the circumstances of the case.

Part E: Interpretation

20.16 For the purposes of this condition, **Requester** has the meaning that is given to that term in paragraph 20.3.

CHAPTER 6 : CONDITIONS 21 TO 23
Arrangements for Core Industry Documents

Condition 21. Roles in relation to Core Industry Documents

Introduction

21.1 This condition sets out the Licensee's compliance duties (where applicable) in relation to the Core Industry Documents specified in Parts A to C and F below and the Licensee's rights (where applicable) to receive such information arising from activities carried on in accordance with those documents as it needs for the exercise of its functions.

Part A: Compliance duties relating to the Smart Energy Code

- 21.2 The Licensee must be a party to and comply with the Smart Energy Code that has been designated by the Secretary of State for the purposes of Condition 22 (The Smart Energy Code).
- 21.3 The Licensee must also take all appropriate steps within its power to ensure that the Smart Energy Code is maintained as a document in force under this Licence that is at all times consistent with the requirements of Condition 22.

Part B: Compliance with the provisions of the Fuel Security Code

- 21.4 The Licensee must comply with the provisions of the Fuel Security Code.
- 21.5 The Fuel Security Code has effect as a condition of this Licence.

Part C: Rights in relation to certain other Core Industry Documents

- 21.6 Where an arrangement of the kind mentioned in paragraph 31(b) of Condition 22 is in force in relation to a Core Industry Document that is listed in paragraph 7 of this Condition 21, the Licensee will be entitled to be supplied with such information arising from activities carried on in accordance with that document as it reasonably requires for the exercise of its functions under the Principal Energy Legislation, this Licence, the REC and the SEC.
- 21.7 The Core Industry Documents to which paragraph 21.6 refers are:
- (a) the Balancing and Settlement Code;
 - (b) the Distribution Connection and Use of System Agreement;
 - (c) the Master Registration Agreement;
 - (d) the Supply Point Administration Agreement; and
 - (e) the Uniform Network Code.
- 21.8 But, subject to the requirements of Part A above, the Licensee is not to be regarded as, and may not be required to become, a party to a Core Industry Document except with the consent of the Authority and then only to such extent as it may specify.

Part D: Consequential changes in Core Industry Documents

- 21.9 If any consequential change is required in a Core Industry Document to which the Licensee is a party, the Licensee must take all reasonable steps to secure, and not

take any unreasonable steps to prevent or delay, the making or implementation of that consequential change (but see paragraph 21.11).

21.10 For the purposes of paragraph 21.9, a consequential change is any modification that is required to be made to a Core Industry Document solely in order to give full and timely effect to a modification made to that or any other Core Industry Document.

21.11 Paragraph 21.9 is without prejudice to:

- (a) any rights of appeal that the Licensee may have in relation to decisions made by the Authority under a Core Industry Document; and
- (b) any rights of approval, veto, or direction that the Authority or the Secretary of State may have in relation to changes to a Core Industry Document.

Part E: Interpretation

21.12 For the purposes of this condition:

Balancing and Settlement Code means the document of that name that is maintained in a form approved by the Authority in accordance with standard condition C3 of the Electricity Transmission Licence.

Core Industry Document means:

- (a) any or all of the documents specified under Parts A to C above; and
- (b) any other document designated by the Authority for the purposes of this condition following consultation with the Licensee.

Distribution Connection and Use of System Agreement means the document of that name that is maintained in a form approved by the Authority in accordance with standard condition 22 of the Electricity Distribution Licence.

Electricity Transmission Licence means a licence granted, or treated as granted, under section 6(1)(b) of the 1989 Act.

Fuel Security Code means the document of that name designated by the Secretary of State under section 7(4)(b) of the 1989 Act as a condition of every licence of any type granted, or treated as granted, under section 6 of that Act.

Part F: Compliance duties relating to the Retail Energy Code

21.13 The Licensee must be a party to and comply with the Retail Energy Code

Part G: Duty to cooperate

21.14 The licensee will cooperate, as necessary, with the Authority and/or any person(s) appointed by the Authority or appointed pursuant to a direction of the Authority, to undertake any planning, project assurance and/or coordination/systems integration in order to give full effect to the conclusions of a “significant code review”.

21.15 Cooperation for the purposes of paragraph 3 may include but not be limited to:

- (a) the sharing of such information as reasonable, and constructive participation in industry engagement in order to undertake appropriate planning of changes to IT systems or industry standard operational processes system changes pursuant to the conclusions of a significant code review;
- (b) the provision of such data as may be identified and reasonably requested in order to undertake testing and/or the population of any new central systems;
- (c) the preparation and cleansing of such data as may reasonably be requested in order to facilitate live operation of the new central system;
- (d) the provision of test scripts and results of any testing as may be requested by any person appointed to assure the success of any testing;
- (e) taking all reasonable steps to:
 - (i) meet key programme milestones for the completion of any action(s) assigned to the licensee;
 - (ii) adhere to any remedial plan put in place to address any issues, delays or slippage that may impact the licensee's ability to meet programme milestones, to the extent that failure to do so may jeopardise the successful and timely implementation of the programme;
 - (iii) identify any dependencies that the licensee may have upon agents or other third-parties and secure the necessary support from such parties; and
 - (iv) promptly escalate and/or resolve any disputes that if unresolved may jeopardise the fulfilment of these obligations.

21.16 For this Part G Significant Code Review means a review of matters which the Authority considers are likely to relate to one or more of the documents referred to in this condition, or to which the licensee is required under this licence to be a party, and concerning which the Authority has issued a notice to the parties stating that the review will constitute a significant code review.

Condition 22. The Smart Energy Code

Introduction

- 22.1 This condition applies for the purpose of establishing (without limitation) the scope and contents of the Smart Energy Code (“the SEC”).
- 22.2 The Licensee must be a party to, comply with, and maintain and have in force the SEC by virtue of Part A of Condition 21 (Roles in relation to Core Industry Documents).

Part A: Mandatory features of the Smart Energy Code

- 22.3 The Smart Energy Code is the document of that name that:
- (a) has effect under this Licence from the SEC Commencement Date;
 - (b) has been designated by the Secretary of State for the purposes of this condition, (i) in accordance with Part B below, (ii) having due regard to the requirement imposed by Part C below, and (iii) on the basis that the SEC is appropriately designed to achieve the General SEC Objectives set out in Part D below;
 - (c) makes provision for the technical, commercial, and operational arrangements set out in Part E below;
 - (d) makes provision in respect of the matters relating to SEC governance and SEC administration set out in Part F below;
 - (e) makes provision for the other matters relating to the contents of the SEC that are set out in Parts G and H below; and
 - (f) may be modified on and after SEC Commencement Date in accordance with the provisions of Condition 23 (Change control for Smart Energy Code).

Part B: Designation of the Smart Energy Code

- 22.4 The Smart Energy Code has no effect under this Licence until it has been designated by the Secretary of State in a direction given for the purposes of this condition.
- 22.5 Before issuing a direction under paragraph 22.4, the Secretary of State must consult:
- (a) the Authority;
 - (b) every holder of an Energy Licence who is required by a condition of that licence to be a party to and comply with the Smart Energy Code; and
 - (c) such other persons as the Secretary of State considers it is appropriate to consult in relation to the matter.
- 22.6 For the purposes of consultation under paragraph 22.5, the Secretary of State must:
- (a) state that he proposes to designate the SEC and specify the date (or a method by which such date may be determined) on which he proposes that the SEC should have effect;
 - (b) set out the text of the SEC and his reasons for proposing to designate it; and

- (c) allow a period of at least 28 days within which representations or objections may be made to him concerning the proposal.
- 22.7 The Secretary of State must have due regard to any representations or objections duly received under paragraph 22.6, and give reasons for his decisions in relation to them.
- 22.8 The requirements imposed by this Part B may be satisfied by consultation before, as well as consultation after, the Licence Commencement Date.

Part C: Compatibility with Transition Objective under Condition 13

- 22.9 During the period prior to the Completion of Implementation, as defined in Part D of Condition 5 (General Objectives of the Licensee), the General SEC Objectives set out in Part D below must be read and given effect, so far as it is possible to do so, in a way that is compatible with achieving the Transition Objective in the terms set out in paragraph 1 of Condition 13 (Arrangements relating to the Transition Objective).

Part D: General Objectives of the Smart Energy Code

- 22.10 The General SEC Objectives that the Smart Energy Code must be designed to achieve are as follows.
- 22.11 The first General SEC Objective is to facilitate the efficient provision, installation, and operation, as well as interoperability, of Smart Metering Systems at Energy Consumers' premises within Great Britain.
- 22.12 The second General SEC Objective is to enable the Licensee to comply at all times with the General Objectives of the Licensee, and to efficiently discharge the other obligations imposed upon it by this Licence.
- 22.13 The third General SEC Objective is to facilitate Energy Consumers' management of their use of Energy through the provision to them of appropriate information by means of Smart Metering Systems.
- 22.14 The fourth General SEC Objective is to facilitate effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy under the Principal Energy Legislation.
- 22.15 The fifth General SEC Objective is to facilitate such innovation in the design and operation of Energy Networks as will best contribute to the delivery of a secure and sustainable Supply of Energy under the Principal Energy Legislation.
- 22.16 The sixth General SEC Objective is to ensure the protection of data and the security of data and systems in the operation of the SEC.
- 22.17 The seventh General SEC Objective is to facilitate the efficient and transparent administration and implementation of the SEC.
- 22.18 The eighth General SEC Objective is to facilitate the establishment and operation of the Alt HAN Arrangements.
- 22.19 For the purposes of this condition and those of Condition 23 (Change control for the Smart Energy Code), the order in which the General SEC Objectives are listed in this Part D is of no significance.

Part E: Principal contents within the Smart Energy Code

- 22.20 The SEC must include or make appropriate provision for or in connection with the following matters:
- (a) the terms on which the Licensee will arrange with each Energy Supplier to provide, in respect of a Smart Meter that is installed at premises supplied with Energy by that supplier, a service by means of which information may be communicated to and from that meter on behalf of the supplier, whether for the purposes of compliance with the conditions of its Energy Supply Licence or otherwise;
 - (b) the terms on which the Licensee will contract with any other SEC Party to provide that person with a service by means of which information may be communicated to and from any Smart Meter installed at premises by that person;
 - (c) arrangements designed to provide assurance that all Smart Metering Systems installed at Energy Consumers' premises for the purposes of the Supply of Energy consist of the apparatus identified in, have the functional capability specified by, and comply with the other requirements of the SME Technical Specification or CH Technical Specification (as the case may be) applicable at the date at which such systems are installed;
 - (d) the contractual and commercial arrangements necessary to secure the ownership, delivery, installation, repair, maintenance, and replacement of Communications Hubs pursuant to the Communications Hub Service; and
 - (e) arrangements for the governance, management and implementation of processes and procedures by means of which Relevant Suppliers shall be able, acting in conjunction and co-operation with each other, to ensure that the Alt HAN Activities are carried out and that the Alt HAN Services are made available to all Relevant Suppliers and are provided on reasonable terms to any Relevant Supplier which elects to acquire them (the "Alt HAN Arrangements").
- 22.21 The SEC must include or make appropriate provision for or in connection with the following matters:
- (a) of all of the Mandatory Business Services (clearly distinguishing between Core Communication Services, Elective Communication Services, the Enrolment Service, the Communications Hub Service, Other Enabling Services, and, as appropriate, the Incoportaion, deliver and provision of preparation for the Centralised Registration Service) that are to be provided by the Licensee under or pursuant to the SEC;
 - (b) procedures relating to any requirement for SEC Parties to make Smart Metering Systems available for use by other specified persons (including the Licensee) for specified purposes, whether under or pursuant to the SEC or otherwise;
 - (c) terms and procedures for the implementation of charging, billing, and payment arrangements in respect of (i) Services provided under or pursuant to the SEC for and on behalf of SEC Parties, and (ii) the recovery of the costs of ensuring that the Alt HAN Activities are carried on, that the Alt HAN Services are made available and provided, and that the Alt HAN Arrangements are administered; and

- (d) terms and arrangements relating to (i) the ownership, licensing, and protection of any intellectual property rights created by or arising by virtue of the operation of any of the SEC Arrangements, and (ii) the treatment and allocation of any royalty revenues resulting from the exercise of such rights.
- 22.22 The SEC must include or make appropriate provision for or in connection with the following matters:
- (a) requirements and procedures for the purposes of ensuring data protection and data and systems security in the operation of the SEC Arrangements; and
 - (b) terms providing for the limitation of the liability of the Licensee and SEC Parties in respect of loss or damage arising from the procurement, provision, or use of Services under or pursuant to the SEC.
- 22.23 The SEC must include or make appropriate provision for or in connection with the following matters:
- (a) provision for or in connection with the governance and administration of the SEC (as to which, see Part F below);
 - (b) provision for or in connection with the incorporation of documents into the SEC (as to which, see Part G below);
 - (c) provision for or in connection with other SEC matters (as to which, see Part H below); and
 - (d) arrangements for modifying the SEC after consultation with SEC Parties (as to which, see Condition 23 of this Licence).

Part F: Governance and administration of the Smart Energy Code

- 22.24 Without prejudice to such matters as are required to be included in the SEC by virtue of Part E above, the SEC must also include:
- (a) a SEC Framework Agreement, to which the Licensee, every holder of an Energy Licence that is required by that licence to be a party to the SEC, and Other SEC Participants will be required to be party with effect from the SEC Commencement Date on such terms and conditions of accession as are set out in the SEC;
 - (b) provision for other persons (being persons who accept the terms and fulfil all of the conditions on which accession to the SEC is offered) to be admitted subsequently as parties to the SEC by entering into an agreement (an "Accession Agreement") with SECCo Ltd acting for that purpose on behalf of all SEC Parties; and
 - (c) provision enabling any person who seeks to be admitted as a SEC Party pursuant to an Accession Agreement to request the Authority to determine any dispute as to whether that person has fulfilled the terms and conditions of accession.
- 22.25 Without prejudice to such matters as are required to be included in the SEC by virtue of Part E above, the SEC must also include:
- (a) arrangements providing for the novation to a Successor Licensee (upon either the expiry of the Licence Term (or of any Additional Licence Term) within the meaning of Part 1 of this Licence, or any revocation of this Licence pursuant to a

Revocation Event under its Part 2) of the whole of the Licensee's interest under the SEC, on terms that require the Successor Licensee to assume all accrued rights or obligations of the Licensee and all accrued liabilities of the Licensee, in each case in respect of any act or omission relating to the SEC Arrangements on or at any time before the date of the novation; and

- (b) terms providing for the Licensee and such SEC Parties as are specified in the SEC to be contractually bound by some or all of the provisions of the SEC.

22.26 Without prejudice to such matters as are required to be included in the SEC by virtue of Part E above, the SEC must also include:

- (a) arrangements for the establishment, in accordance with such procedures for the election of members as are specified in the SEC, of a representative body, the SEC Panel, which is to be responsible, by way of such proceedings as are so specified (which may include voting procedures), for the governance and administration of the SEC;
- (b) provision for the appointment of an independent chairperson of the SEC Panel who is approved by the Authority;
- (c) provision for the Citizens Advice or Citizens Advice Scotland to appoint to the membership of the SEC Panel two persons (neither of them being a SEC Party) to represent to the Panel the interests of Energy Consumers ("the Consumer Members");
- (d) arrangements for the establishment, in accordance with such procedures as are specified in the SEC, of a body, the SMKI Policy Management Authority, which is to be responsible, by way of such proceedings as are so specified (which may include voting procedures), for the oversight and implementation of documents to be known as the Certificate Policies (whether or not incorporated into the SEC by virtue of the provisions of Part G below) that set out the roles and duties of SEC Parties and other persons in the management of the Smart Metering Key Infrastructure; and
- (e) arrangements for the establishment, in accordance with such procedures as are specified in the SEC, of a body, the Alt HAN Forum, which is to be responsible, by way of such proceedings as are so specified (which may include voting procedures), for matters related to ensuring that the Alt HAN Activities are carried out and that the Alt HAN Services are made available and provided.

22.27 Without prejudice to such matters as are required to be included in the SEC by virtue of Part E above, the SEC must also include:

- (a) arrangements for the establishment and funding of a Secretariat to service the SEC Panel in connection with such matters of governance and administration as are specified in the SEC, including the maintenance of a conformed and up-to-date copy of the SEC as from time to time modified in accordance with such arrangements as are in place by virtue of Condition 23;
- (b) arrangements for the establishment and funding of a person to be known as the Code Administrator to advise and assist the SEC Panel (including, in particular, the Consumer Members), SEC Parties, and other interested persons with respect

to the policy and administration of the SEC, to such extent and in relation to such matters as are specified in the SEC;

- (c) provision for the establishment of a joint venture company, SECCo Ltd, (i) the shareholders of which are to be such SEC Parties as may be specified for that purpose in the SEC, (ii) the sole business of which is to act as a corporate vehicle to assist the SEC Panel in exercising its powers, duties, and functions (including by entering into contracts where necessary or desirable in order to implement any decision of the SEC Panel), and (iii) the affairs of which are to be conducted in accordance with good business practice;
- (d) arrangements for the establishment and funding of one or more bodies that may be required to support the Certificate Policy Management Authority in the implementation of the Certificate Policy, including arrangements that provide for such bodies to become SEC Parties to such extent, for such purposes, and in such circumstances as may be specified in the SEC;
- (e) terms requiring the Code Administrator to act in accordance with any Code of Practice approved by the Authority that relates to the performance of their duties by persons or bodies responsible for administering documents of the kind that are described in Condition 21 (Roles in relation to Core Industry Documents); and
- (f) provision for the establishment of a joint venture company, AltHANCo Ltd, (i) the shareholders of which are to be Relevant Suppliers which are SEC Parties, (ii) the sole business of which is to act as a corporate vehicle to assist the Alt HAN Forum in exercising its powers, duties and functions (including by entering into contracts where necessary or desirable in order to implement any decision of the Alt HAN Forum), and (iii) the affairs of which are to be conducted in accordance with good business practice.

Part G: Incorporation of documents into the Smart Energy Code

22.28 Without prejudice to any of the matters set out in Parts E and F above, the contents of the SEC must also include:

- (a) provision for the incorporation into the SEC of the Charging Methodology for Service Charges as designated by the Secretary of State under Condition 18 (Charging Methodology for Service Charges) for the purposes of incorporation in accordance with the requirements of that condition;
- (b) provision for the incorporation into the SEC of one or more versions of the SME Technical Specification, the IHD Technical Specification, the PPMID Technical Specification, the HCALCS Technical Specification and the CH Technical Specification, in each case from a date designated by the Secretary of State under this condition;
- (c) provision for incorporation into the SEC of any Certificate Policy as designated by the Secretary of State under this condition;
- (d) provision for the incorporation into the SEC, in each case as designated by the Secretary of State under this condition, of such other technical specifications and procedural or associated documents as the Secretary of State believes are required to support the fulfilment of rights or obligations already specified in

the SEC, including, in particular, documents developed by the Licensee under Schedule 5 of this Licence with respect to the following matters:

- (i) the interface that is to be used to exchange Registration Data (within the meaning given to that term in the SEC) between the Licensee and the persons providing such data to the Licensee,
 - (ii) the specification for the interface (or the interfaces) by means of which requests (or other communications) with respect to Services are to be sent between the Licensee and SEC Parties, and vice versa,
 - (iii) the matters with which SEC Parties have to demonstrate compliance in order to become eligible to receive or use Services,
 - (iv) the application of appropriate security controls and security standards to business processes carried on under or pursuant to the SEC,
 - (v) the detailed policy for managing incidents relating to the provision of Services, and the associated business continuity and disaster recovery procedures, and
 - (vi) the procedures and arrangements required to support the trialling and testing programmes to be undertaken pursuant to the provisions of Condition 13 (Arrangements relating to the Transition Objective); and
- (e) provision for the incorporation into the SEC, in each case as designated by the Secretary of State under this condition, of such other procedural or associated documents as the Secretary of State believes are required to support the Alt HAN Arrangements.

22.29 A document may:

- (a) be designated under this condition by the Secretary of State for incorporation into the SEC as part of his general designation of the SEC by way of direction under Part B above, or in any circumstances and at any time thereafter up to (but not later than) 31 December 2020;
- (b) where it is a document of a type described in sub-paragraphs 22.28(b), 22.28(c), 22.28(d) or 22.28(e) of this condition and has first been designated under this condition by the Secretary of State, be re-designated by him on one or more occasions subject to such amendments as he considers requisite or expedient,

and where any document is re-designated by the Secretary of State in accordance with sub-paragraph (b) above, the other provisions of this Part G shall apply in relation to it in the same manner as if it were being designated for the first time, and references in those provisions to the document being designated shall be read as referring to it being re-designated.

22.30 The power of the Secretary of State under this condition to designate a document for incorporation into the SEC includes:

- (a) power to make such supplementary, incidental or consequential provision with respect to the SEC as he considers necessary or expedient for the purposes of, in consequence of, or for giving full and timely effect to the incorporation of that document; and

- (b) power to make such provision for the application of that document to SEC Parties, and for the subsequent governance of the document, as he believes is necessary or expedient for the purpose of facilitating the achievement of the General SEC Objectives.

22.31 The incorporation into the SEC of a document designated for such purpose under this condition is not to be treated as, and does not constitute, a modification of the SEC pursuant to any of the modification arrangements established for the SEC by virtue of the provisions of Condition 23 (Change control for the Smart Energy Code).

Part H: Other necessary matters for the Smart Energy Code

22.32 Without prejudice to any of the matters set out in Parts E to G above, the contents of the SEC must also include:

- (a) provision enabling such SEC Parties (or categories of SEC Party) as are specified in the SEC to appoint agents (in accordance with such requirements regarding the eligibility of such persons as are so specified) for the purpose of exercising such functions under or in connection with the SEC, in such circumstances and subject to such restrictions, as are so specified;
- (b) provision requiring SEC Parties who are also parties to one or more of the other Core Industry Documents mentioned in Condition 21 to establish arrangements for the purpose of ensuring that such information arising from activities carried on in accordance with those documents as the Licensee may reasonably require for the exercise of its functions under the Principal Energy Legislation, this Licence, and the SEC will be supplied to the Licensee at such times and in such form and manner as may be specified in the SEC;
- (c) provision for the establishment and operation of the SEC Adoption Process to facilitate the activities described at Part I of Condition 16 (Procurement of Relevant Service Capability) with respect to the adoption by the Licensee of Energy Supplier Contracts within the meaning that is given to that term in Part J of that condition;
- (d) provision for the Licensee to receive, from such SEC Parties as are specified in the SEC, such services or resources, for such purposes and on such terms, as are so specified;
- (e) provision for the vesting, ownership, and novation of intellectual property rights in SEC Materials within the meaning of Condition 44 (Treatment of Intellectual Property Rights) to be compliant with the requirements of that condition with respect to those matters;
- (f) provision for a copy of the SEC that is compliant with paragraph 22.27(a) to be published on behalf of the SEC Panel on its website;
- (g) provision for information about the operation of the SEC Arrangements to be supplied on request to the Authority or to be published by it or the SEC Panel;
- (h) provision for the SEC Panel to secure the compliance of any SEC Party with the requirements of sub-paragraph (g); and

- (i) provision for such other matters as may be appropriate, having regard to the requirement for the SEC to be maintained as a document that is designed to achieve the General SEC Objectives.

Part I: Relief from obligations under the Smart Energy Code

22.33 The Authority may (after consulting with the Licensee and, where appropriate, any other person likely to be materially affected) give a direction (“a derogation”) to the Licensee that relieves it of any one or more of its obligations under the Smart Energy Code to such extent, for such period of time, and subject to such conditions as may be specified in the direction.

Part J: Interpretation

22.34 Any reference in this condition to a matter that the SEC must include or for which it must make appropriate provision is a reference to that matter whether as included or provided for in the SEC on the SEC Commencement Date or as so included or provided for at any time between that date and the Completion of Implementation (within the meaning that is given to that term in Part D of Condition 5).

22.35 For the purposes of this condition:

Accession Agreement has the meaning that is given to that term in paragraph 22.24(b).

Alt HAN Activities has the meaning that is given to that term in standard condition 55 of the electricity supply licence and standard condition 49 of the gas supply licence (Smart Metering – The Alt HAN Arrangements).

Alt HAN Services has the meaning that is given to that term in standard condition 55 of the electricity supply licence and standard condition 49 of the gas supply licence (Smart Metering – The Alt HAN Arrangements).

Certificate Policies has the meaning that is given to that term in paragraph 22.26(d).

Code Administrator has the meaning that is given to that term in paragraph 22.27(b).

Consumer Members has the meaning that is given to that term in paragraph 22.26(c).

Other SEC Participants means every party to the SEC who is neither the Licensee nor the holder of an Energy Licence that requires that person to be a party to the SEC.

Relevant Supplier has the meaning that is given to that term in standard condition 55 of the electricity supply licence and standard condition 49 of the gas supply licence (Smart Metering – The Alt HAN Arrangements).

SEC Adoption Process has the meaning that is given to that term in paragraph 37 of Condition 16 (Procurement of Relevant Service Capability).

SEC Framework Agreement has the meaning given to that term in paragraph 22.24(a).

Secretariat has the meaning that is given to that term in paragraph 22.27(a).

Smart Metering Key Infrastructure means the arrangements in place under the SEC that govern the creation, management, distribution, use, storage, and revocation of digital certificates.

SMKI Policy Management Authority has the meaning that is given to that term in paragraph 22.26(d).

CHAPTER 7 : CONDITIONS 24 TO 28

Financial and ring-fencing provisions

Condition 24. Availability of all necessary resources

Introduction

24.1 This condition applies for the purpose of ensuring that the Licensee will at all times have at its disposal all of the resources necessary to enable it to carry on its Authorised Business in accordance with the functions it exercises under or by virtue of the Principal Energy Legislation, this Licence, the Retail Energy Code and the Smart Energy Code.

Part A: General obligations under this condition

24.2 The Licensee must at all times act in a manner designed to ensure that it has available to itself, either directly or under appropriate contractual arrangements, such 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:

- (a) properly and efficiently carry on its Authorised Business; and
- (b) properly and efficiently exercise the functions it has under or by virtue of the Principal Energy Legislation, this Licence, the Retail Energy Code and the Smart Energy Code, including, in particular, its duty to carry on the Mandatory Business at all times in accordance with the General Objectives of the Licensee.

Part B: Certificates for the Authority in relation to financial resources

24.3 The Licensee must by the Due Date each year give the Authority a certificate that:

- (a) has been approved by a resolution of the Licensee's board of directors;
- (b) is signed by a director of the Licensee pursuant to that resolution; and
- (c) is in one of the three forms of certificate (that is to say, Certificate B1, or Certificate B2, or Certificate B3) prescribed for the purposes of this Part B in Appendix 1 (which has effect as part of this condition).

Part C: Statement of relevant factors and report by the auditors

24.4 The Licensee must ensure that the certificate given to the Authority under Part B above is accompanied by a statement of the main factors that the Licensee's directors have taken into account in giving that certificate, including reference to:

- (a) the main financial resources and financial facilities that are available to the Licensee; and
- (b) the most recent cashflow statement prepared for the Licensee.

24.5 The certificate must also be accompanied, in the Regulatory Year beginning on 1 April 2014 and in each subsequent Regulatory Year, by a report prepared by the Licensee's auditors and addressed to the Authority that states whether or not the auditors are aware of any inconsistencies between (i) the certificate given by the Licensee's directors and the statement submitted with it, and (ii) any information that they have obtained during their audit work under Condition 30 (Requirements for the Regulatory Accounts) in relation to the Licensee's Regulatory Accounts.

Part D: Certificates for the Authority in relation to operational resources

24.6 The Licensee must by the Due Date each year give the Authority a certificate that:

- (a) has been approved by a resolution of the Licensee's board of directors;
- (b) is signed by a director of the Licensee pursuant to that resolution; and
- (c) is in one of the three forms of certificate (that is to say, Certificate D1, or Certificate D2, or Certificate D3) prescribed for the purposes of this Part D in Appendix 2 (which has effect as part of this condition).

24.7 The Licensee must ensure that the certificate given to the Authority under this Part D is accompanied by a statement of the main factors that the Licensee's directors have taken into account in giving that certificate.

Part E: Certificates for the Authority in relation to Licence compliance

24.8 The Licensee must by the Due Date each year give the Authority a certificate that:

- (a) has been approved by a resolution of the Licensee's board of directors;
- (b) is signed by a director of the Licensee pursuant to that resolution; and
- (c) is in one of the two forms of certificate (that is to say, Certificate E1 or Certificate E2) prescribed for the purposes of this Part E in Appendix 3 (which has effect as part of this condition).

Part F: Obligation to report in respect of adverse circumstances

24.9 The Licensee must inform the Authority in Writing immediately if the directors of the Licensee:

- (a) become aware of any circumstance that causes them no longer to have the reasonable expectations expressed in the most recent Certificate B1 or Certificate B2 given to the Authority; or
- (b) become aware of any circumstance that causes them no longer to have the reasonable expectations expressed in the most recent Certificate D1 or Certificate D2 given to the Authority; or
- (c) consider that any of the adverse circumstances that caused them to give the Authority a certificate in the form of Certificate B3 or Certificate D3 have materially worsened.

Part G: Certificates for the Authority in relation to dividends

24.10 The directors of the Licensee must not declare or recommend a dividend, and the Licensee must not make any other form of distribution within the meaning of sections 829, 830, 849, and 850 of the Companies Act 2006 or redeem or repurchase any of its share capital, unless before declaring, recommending, or making the distribution, redemption, or repurchase (as the case may be) the Licensee has given the Authority a certificate that complies in all respects with the three requirements set out below.

- 24.11 The first requirement is that the certificate must be in the following form:
- “After making enquiries, the directors of the Licensee are satisfied:
- (a) that the Licensee is in compliance in all material respects with all of the obligations imposed on it by Condition 9 (Independence and autonomy of the Licensee), Condition 24 (Availability of all necessary resources), Condition 25 (Undertakings from an Ultimate Controller), Condition 26 (Financial stability and financial security), Condition 27 (Indebtedness and transfers of funds), and Condition 29 (Provision of Information by the Licensee); and
 - (b) that the making of a distribution, redemption, or repurchase of [*value*] on [*date*] will not, either alone or when taken in conjunction with any other circumstances that are reasonably foreseeable at the date of this certificate, cause the Licensee to be in breach to a material extent of any of those obligations in the future.”
- 24.12 The second and third requirements are that the certificate:
- (a) must have been approved by a resolution of the Licensee’s board of directors passed not more than 14 days before the date on which the declaration, recommendation, or payment is to be made; and
 - (b) must be signed by a director of the Licensee.
- 24.13 Where the certificate given under paragraph 24.10 relates to the declaration or the recommendation of a dividend, the Licensee is under no obligation to issue a further certificate before paying that dividend so long as such payment is made within six months of the date on which the certificate was given.

Part H: Interpretation

- 24.14 For the purposes of this condition, **Due Date** means:
- (a) within seven days of the Licence Commencement Date in the Regulatory Year beginning on 1 April 2013; and
 - (b) 31 July in each subsequent Regulatory Year.
- 24.15 Appendices 1, 2, and 3 follow immediately below.

Condition 25. Undertakings from an Ultimate Controller

Introduction

25.1 This condition requires the Licensee to obtain and provide the Authority with legally enforceable undertakings given by persons who ultimately control the Licensee that they will refrain from taking any action that might cause the Licensee to breach or fail to discharge any of the functions that it is required to exercise under or by virtue of the Principal Energy Legislation, this Licence, the Retail Energy Code or the Smart Energy Code.

Part A: General obligation to procure undertakings

25.2 The Licensee must procure a legally enforceable undertaking in favour of itself, in a form specified by the Authority with effect from the grant of this Licence, from each company or other person that the Licensee knows or should reasonably know is at any time an Ultimate Controller of the Licensee.

25.3 The terms that must be given full and binding effect by virtue of the undertaking to which paragraph 25.2 refers are that the Ultimate Controller (in this condition only, “the Covenantor”):

- (a) will refrain from any action; and
- (b) will procure that any person (including a corporate body) that is a Subsidiary of, or is controlled by, the Covenantor (other than the Licensee itself and any Subsidiary of the Licensee) will refrain from any action,

that would be likely to cause the Licensee to breach or fail to discharge any of the functions it exercises under or by virtue of the Principal Energy Legislation, this Licence, the REC or the Smart Energy Code.

25.4 The undertaking that is to be procured under paragraph 25.2:

- (a) must have been obtained before the end of seven days after the date on which the corporate body or person in question becomes an Ultimate Controller of the Licensee; and
- (b) must be stated to remain in full force and effect for as long as the Licensee remains the holder of this Licence and the Covenantor remains an Ultimate Controller of the Licensee.

Part B: Evidence of compliance and the duty to enforce

25.5 Whenever the Licensee has obtained an undertaking in accordance with paragraph 25.4(a), it must:

- (a) give the Authority evidence of its compliance without delay, including a certified copy of the undertaking;
- (b) at all times comply with any direction from the Authority to enforce the undertaking; and

- (c) immediately inform the Authority in Writing if it becomes aware that the undertaking has ceased to be legally enforceable or that there has been any breach of its terms.

Part C: Restriction of arrangements with an Ultimate Controller

- 25.6 Except where the Authority otherwise consents, the Licensee must not enter (directly or indirectly) into any agreement or arrangement with any Ultimate Controller of the Licensee or, where the Ultimate Controller is a corporate body, with any of the Subsidiaries of such an Ultimate Controller (other than a Subsidiary of the Licensee itself) at any time when:
- (a) an undertaking procured under paragraph 25.2 is not in place in relation to the Ultimate Controller; or
 - (b) there is an unremedied breach of any undertaking that is in place in relation to that Ultimate Controller; or
 - (c) the Licensee is in breach of the terms of any direction given by the Authority under paragraph 25.5(b).

Part D: Provision of an annual schedule of undertakings

- 25.7 The Licensee must, on or before 31 July each year, provide the Authority with a schedule specifying every undertaking that has been obtained from an Ultimate Controller in accordance with paragraph 25.2 and that is in force at the date of the schedule, together with confirmation that the Licensee has in Writing formally reminded each such Ultimate Controller, within the previous 12 months, of the terms of the undertaking that such person has given.

Part E: Interpretation

- 25.8 For the purposes of this condition, **Covenantor** has the meaning that is given to that term in paragraph 25.3.

Condition 26. Financial stability and financial security

Introduction

- 26.1 This condition applies for the purposes (i) of providing assurance that the Licensee will have sufficient financial stability to enable it to access sources of liquidity and capital on reasonable terms, and (ii) of requiring the Licensee to provide financial security in such form as the Authority may approve.

Part A: Requirement to provide assurance of financial stability

- 26.2 For the purpose of providing assurance as to its continuing financial stability, the Licensee must, with effect from three months after the Licence Commencement Date, have in place and maintain arrangements with respect to that purpose that it has proposed to the Authority and to which the Authority has consented on the basis that they provide a level of assurance that is sufficient to protect the interests of Energy Consumers.
- 26.3 Any proposal submitted by the Licensee in accordance with paragraph 26.2 must contain sufficient information to enable the Authority to consider and decide whether it would be appropriate for the Authority to consent to the proposal in all the circumstances of the case.
- 26.4 A consent under paragraph 26.2 may be subject to such terms and conditions as the Authority considers appropriate, having particular regard to the purpose that the arrangements that are proposed to be put in place are required to fulfil.

Part B: Additional arrangements in respect of financial security

- 26.5 Within three months after Licence Commencement Date, the Licensee must propose to the Authority, and obtain its consent to, an arrangement in respect of financial security that is additional to such arrangements as the Licensee may have in place under Part A above in respect of financial stability.
- 26.6 Any proposal for which consent is sought under this Part B must include:
- (a) provision requiring the Licensee to notify the Authority forthwith should any element of the proposed arrangement for whatever reason cease to be legally effective; and
 - (b) sufficient information to enable the Authority to consider and decide whether in all the circumstances of the case it would be appropriate for it to consent to the proposal.
- 26.7 Any arrangement in place under this Part B must be in a form and substance that is approved by the Authority and that contains or is otherwise supported by express provision for the Authority at any time on reasonable Notice to direct:
- (a) that sums of such amount and on such terms as are specified in the direction are to be released from the arrangement; and
 - (b) that those sums are to be applied by the Licensee, to such an extent, in such manner, and at such times as may be so specified, for either or both of the purposes referred to in paragraph 26.8.

- 26.8 Those purposes are:
- (a) the purpose of ensuring that any financial liabilities of the Licensee that remain or fall due to be met during a Handover Period within the meaning of Condition 43 (Arrangements for the handover of business) may be discharged, so far as is possible, before the expiry or any revocation of this Licence, or where applicable, pursuant to direction by the Authority under Condition 15.6 and
 - (b) the purpose of securing the Licensee's compliance with any requirement with respect to the application of funds imposed on it by virtue of a direction given by the Authority under Condition 42 (Management Orders for the Licensee).
- 26.9 Arrangements arising under this Part B may include (for example only, and subject always to paragraphs 26.10 and 26.11) a Financial Security Instrument, such as:
- (a) a parent company guarantee procured in favour of the Licensee in respect of the Relevant Sum from a Holding Company of the Licensee that has an Investment Grade Issuer Credit Rating; or
 - (b) an unconditional and irrevocable letter of credit, or a performance bond, or an insurance policy, in each case issued in favour of the Licensee in respect of the Relevant Sum by a financial institution that has an Investment Grade Issuer Credit Rating; or
 - (c) an escrow account containing the Relevant Sum that has been opened with a financial institution that has an Investment Grade Issuer Credit Rating.
- 26.10 References in paragraph 26.9 to an Investment Grade Issuer Credit Rating are to be read in accordance with the explanatory provisions of Appendix 1 (which has effect as part of this condition).
- 26.11 A Financial Security Instrument under paragraph 26.9, whether of a type mentioned in that paragraph or otherwise, must be expressed to be exercisable in Great Britain under English law.
- 26.12 The Authority's consent to a proposal under this Part B may be subject to such terms and conditions as it considers appropriate in all the circumstances of the case.
- 26.13 An arrangement that is in place in accordance with this Part B must, from the date on which it was put in place, be maintained by the Licensee for the full remaining duration of the Licence Term or (where applicable) of the Licence Term as extended by an Additional Licence Term.

Part C: Authority's powers with respect to Part B arrangements

- 26.14 This Part C applies where it appears to the Authority that there have been changes (or that changes are proposed):
- (a) in the Authorised Business of the Licensee (whether by way of an enlargement of the activities of that business or otherwise); or
 - (b) in the external environment in which that business is or will be carried on,

that are or are likely to be so significant as to materially affect the basis on which the Relevant Sum mentioned in Part B above was determined.

- 26.15 If this Part C applies, the Authority, where it considers that it is necessary to do so in all the circumstances of the case, may require the Licensee:
- (a) to increase (or reduce, as the case may be) the Relevant Sum by such amount as the Authority thinks would be appropriate; or
 - (b) to propose a variation of any arrangement in respect of financial security to which the Authority has already consented under Part B above.
- 26.16 Before requiring the Licensee to do anything under paragraph 26.15, the Authority must consult the Licensee and SEC Parties and have regard to such views as may be expressed in relation to the matter.

Part D: Interpretation

- 26.17 For the purposes of this condition:

Financial Security Instrument has the meaning given to it in paragraph 26.9.

Relevant Sum means a monetary amount that:

- (a) was determined by the Secretary of State for the purposes of Part B above during or as a consequence of the Licence Application Process; and
- (b) has been notified to the Licensee and the Authority in a direction issued by the Secretary of State for the purposes of that Part B with effect from the Licence Commencement Date,

and the determination may include an index or other means or method by reference to which the amount of the Relevant Sum may be adjusted (whether upwards or downwards) in such manner and at such intervals of time as may be specified in the determination.

- 26.18 Appendix 1 follows immediately below.

Appendix 1: Investment Grade Issuer Credit Ratings

Introduction

- A1. This Appendix 1 has effect under this Condition 26 with particular reference to the provisions of paragraph 26.9.
- A2. The provisions of this Appendix 1 are also relevant for the purposes of paragraph 5 of Condition 27 (Indebtedness and transfers of funds).

Part A: Meaning of Issuer Credit Rating (by specific rating agency)

- A3. For the purposes of paragraph 26.9, an Issuer Credit Rating is any of the following:
- (a) an issuer credit rating by Standard & Poor's Ratings Group or any of its Subsidiaries; or

- (b) an issuer credit rating by Moody's Investors Services Inc or any of its Subsidiaries; or
- (c) an issuer credit rating by Fitch Ratings Ltd or any of its Subsidiaries; or
- (d) an issuer credit rating by DBRS Ratings Ltd or any of its Affiliates.

Part B: Meaning of Investment Grade (by specific rating agency)

- A4. Subject to Part C below, an Investment Grade, in relation to any Issuer Credit Rating within the meaning of Part A of this Appendix, is any of the following:
- (a) an issuer credit rating of at least A- by Standard & Poor's Ratings Group or any of its Subsidiaries; or
 - (b) an issuer credit rating of at least A3 by Moody's Investors Services Inc or any of its Subsidiaries; or
 - (c) an issuer credit rating of at least A- by Fitch Ratings Ltd or any of its Subsidiaries; or
 - (d) an issuer credit rating of at least A (low) by DBRS Ratings Ltd or any of its Affiliates.

Part C: Variation of Investment Grade by any rating agency

- A5. If a credit rating higher than a particular rating set out in Part B of this Appendix is at any time specified by the credit rating agency in question as its lowest investment grade credit rating, that higher rating is to be taken as the relevant Investment Grade for the purposes of that Part B.

CHAPTER 8 : CONDITIONS 29 TO 34

Provision of regulatory information

Condition 30. Requirements for the Regulatory Accounts

Introduction

- 30.1 This condition applies to the Licensee in respect of each separate Regulatory Year of this Licence (the first of which is deemed to run from 1 April 2013 to 31 March 2014) and has effect for the purpose of ensuring that the Licensee:
- (a) prepares and publishes Regulatory Accounts so as to ensure the provision to the Authority of annual regulatory accounting information that will enable it to assess the financial position of the Licensee on a consistent basis; and
 - (b) maintains (and ensures that any Affiliate or Related Undertaking of the Licensee maintains) such accounting records, other records, and reporting arrangements as are necessary to enable the Licensee to comply with that obligation.

Part A: Preparation of the Regulatory Accounts

- 30.2 For the purposes of this condition, but without prejudice to the requirements of Part C below, the Licensee must prepare Regulatory Accounts for each Regulatory Year.
- 30.3 Except and so far as the Authority otherwise consents, the Licensee must comply with the obligations imposed by the following paragraphs of this Part A in relation to the preparation of Regulatory Accounts.
- 30.4 The Licensee 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 Licensee are separately identifiable in those records (and in those of any Affiliate or Related Undertaking of the Licensee).
- 30.5 The Regulatory Accounts are to be prepared on a consistent basis derived from the accounting records and other records referred to in paragraph 30.4 in respect of each Regulatory Year, and must have the contents specified in Part B below.

Part B: Required contents of the Regulatory Accounts

- 30.6 The Regulatory Accounts prepared for each Regulatory Year must comprise:
- (a) the matters set out in paragraph 30.7; supported by
 - (b) the matters set out in paragraph 30.8.
- 30.7 The matters to which paragraph 30.6(a) refers are these:
- (a) an income statement and a statement of comprehensive income (or, as appropriate, a profit and loss account and a statement of total recognised gains and losses);
 - (b) a statement of changes in equity, if appropriate;
 - (c) a statement of financial position (or, as appropriate, a balance sheet);

- (d) a statement of cash flows (or, as appropriate, a cash flow statement);
- (e) the Corporate Governance Statement prepared by the Licensee in accordance with Part A of Condition 7 (General controls for the Authorised Business);
- (f) a Directors' Report in respect of the Authorised Business of the Licensee; and
- (g) a Business Review in respect of the Authorised Business of the Licensee.

30.8 The matters to which paragraph 30.6(b) refers are explanatory notes that:

- (a) provide a summary of the accounting policies adopted by the Licensee for the purpose of producing its Regulatory Accounts; and
- (b) disclose, in relation to the matters to which paragraph 30.7(a) refers, the Segmental Information for each of the Authorised Business Activities.

Part C: Consistency required with the statutory accounts

30.9 The Licensee must ensure, so far as is reasonably practicable and except where the Authority otherwise consents, that Regulatory Accounts and information prepared in accordance with Parts A and B above:

- (a) have the same content and format as the most recent or concurrent statutory accounts of the Licensee prepared under Part 15 of the Companies Act 2006, subject to the inclusion of Segmental Information as specified under paragraph 30.8(b); and
- (b) comply with the requirements applicable to a Quoted Company, whether or not the Licensee is such a company, in Chapter 4 of the Companies Act 2006 with respect to the preparation of annual accounts and the requirements of the applicable accounting framework under which it prepares them.

Part D: Audit and delivery of the Regulatory Accounts

30.10 Except where the Authority otherwise consents, the Licensee must:

- (a) procure an audit by an Appropriate Auditor of such parts of its Regulatory Accounts and the Directors' Report and Business Review as would be specified in the Companies Act 2006 as being required to be so audited if the Licensee were a Quoted Company and those accounts were the statutory accounts of the Licensee drawn up to 31 March and prepared under Part 15 of the Companies Act 2006;
- (b) procure a report by that auditor, addressed to the Authority, that states whether in the auditor's opinion those accounts fairly present the financial position, financial performance, and cash flows of, or that are reasonably attributable to, each of the Authorised Business Activities in accordance with the requirements of Part A above; and
- (c) deliver those accounts and the auditor's report required under sub-paragraph (b) to the Authority as soon as is reasonably practicable, and in any event before their publication under Part G below and not later than 31 July after the end of the Regulatory Year to which the Regulatory Accounts relate.

Part E: Terms of appointment of the Appropriate Auditor

30.11 For the purposes of Part D above, the Licensee must, at its own expense, enter into a contract of appointment with an Appropriate Auditor that includes a term requiring that the audit of the Licensee's Regulatory Accounts must be conducted by that person in accordance with all such relevant auditing standards in force on the last day of the Regulatory Year to which the audit relates as would be appropriate for accounts prepared in accordance with the provisions of Part 15 of the Companies Act 2006.

Part F: Agreed Upon Procedures for the Appropriate Auditor

30.12 The Licensee must, at its own expense, enter into a contract of appointment with an Appropriate Auditor for the completion of Agreed Upon Procedures that are to apply for the purposes of enabling that person to review the Licensee's compliance with the requirements of Condition 11 (Duties arising from Licensee's special position) with respect to the prohibition of cross-subsidy and discrimination.

30.13 The contract of appointment must require that the Agreed Upon Procedures are to be conducted in relation to each Regulatory Year and that the Licensee will arrange for the Appropriate Auditor to address a report to the Authority by 31 July after the end of each such year that:

- (a) states that he has, in a manner consistent with the relevant auditing standards, completed the Agreed Upon Procedures issued by the Authority in respect of the Regulatory Year under report; and
- (b) sets out his findings for the Authority's attention.

Part G: Publication and provision of the Regulatory Accounts

30.14 Except where the Authority after consulting with the Licensee otherwise directs, the Licensee must publish its Regulatory Accounts (excluding any information agreed by the Authority to be confidential):

- (a) as a stand-alone document in accordance with this condition;
- (b) by 31 July after the end of the Regulatory Year to which the accounts relate;
- (c) on the Licensee's Website; and
- (d) in any other manner which, in the opinion of the Licensee, is necessary to secure adequate publicity for the accounts.

30.15 A copy of the Regulatory Accounts must be provided free of charge to any person who requests a copy.

Part H: Interpretation

30.16 The requirement under paragraph 30.7 of this condition for the Licensee to include a Directors' Report and a Business Review in its Regulatory Accounts is to be read as if the requirement applied to the Licensee as a Quoted Company, whether or not it is such a company, such that:

- (a) the Directors' Report has the coverage and content of the directors' report that a Quoted Company is required to prepare under section 415 of the Companies Act 2006; and
- (b) the Business Review has the coverage and content of the business review that a Quoted Company is required to prepare under section 417 of that Act.

30.17 For the purposes of this condition:

Agreed Upon Procedures means procedures from time to time agreed between the Authority, the Appropriate Auditor, and the Licensee for the purpose of enabling the Appropriate Auditor to review and report to the Authority on matters relating to the requirements to which Part F of this condition refers.

Appropriate Auditor means:

- (a) if the Licensee is a company within the meaning of section 1 of the Companies Act 2006, a person appointed as auditor under Chapter 2 of Part 16 of that Act; or
- (b) in any other case, a person who is eligible for appointment as a company auditor under Part 42 of that Act.

Authorised Business Activities means each of the following activities carried on within the Authorised Business of the Licensee:

- (a) as part of the Mandatory Business:
 - (i) the procurement and provision of Core Communication Services,
 - (ii) the procurement and provision of Elective Communication Services,
 - (iii) the operation of the Enrolment Service,
 - (iv) the procurement and provision of the Communications Hub Service,
 - (v) the procurement and provision of Other Enabling Services; and
 - (vi) the preparation, delivery and provision for the Centralised Registration Service.
- (b) as part of the Permitted Business:
 - (i) the procurement and provision of Value Added Services,
 - (ii) the procurement and provision of Minimal Services; and

Quoted Company has the meaning given in section 385 of the Companies Act 2006.

Segmental Information means such financial and descriptive information about the Authorised Business Activities of the Licensee as would be disclosable under International Financial Reporting Standard 8 (or Statement of Standard Accounting Practice 25) if each of those activities was an operating segment (or a reportable segment) of the Licensee within the meaning of those respective standards.

CHAPTER 9 : CONDITIONS 35 TO 41
Price Control Conditions of this Licence

Condition 35. Definitions for the Price Control Conditions

Introduction

- 35.1 This condition has effect on and after 23 September 2013 as one of the Price Control Conditions of this Licence.
- 35.2 In this Licence, a Price Control Condition is any condition the purpose of which, whether on its own or in combination with any other Price Control Condition, is to limit or control the charges of, or the revenue of, the Licensee.

Part A: Defined terms used in the Price Control Conditions

- 35.3 Part B below sets out most of the defined words and expressions (all of which begin with capital letters) that are used in the Price Control Conditions of this Licence, and gives their definitions next to them (“the Chapter 9 Particular Definitions”).
- 35.4 But words and expressions used in the Price Control Conditions that are defined for any of the purposes of this Licence in Condition 1 (Definitions for the Conditions of this Licence) have in this Chapter 9 the meaning given to them in that condition.

Part B: The Chapter 9 Particular Definitions

- 35.5 In the Price Control Conditions, unless the context otherwise requires:

Allowed Revenue	means the total amount of revenue determined on an accruals basis in relation to each Regulatory Year in accordance with the Principal Formula set out at Part C of Condition 36 (Determination of the Licensee’s Allowed Revenue) after the deduction of value added tax (if any) and any other taxes based directly on the amount concerned.
Average Specified Rate	means the rate that is equivalent to the average value of the Official Bank Rate of the Bank of England during the period in respect of which the calculation falls to be made.
Baseline Margin	means in relation to each Regulatory Year an amount of additional revenue, over and above the sum of the Licensee’s Internal Costs and External Costs, that the Secretary of State has agreed shall be included (subject to the operation of the Baseline Margin Performance Adjustment) in the Licensee’s Allowed Revenue, and is determined in accordance with the provisions of Part C of Condition 36.

Baseline Margin Implementation Performance Adjustment	means the amount (if any) of reduction in the Baseline Margin determined in accordance with the provisions of Part B of Condition 38 so as to secure, with respect to the applicable period, the effect set out in Part A of that condition.
Baseline Margin Implementation Total	means the Licensee’s Baseline Margin, in total, for the period running from 23 September 2013 until the end of the Regulatory Year 2015/2016 (and, arising from the Licence Application Process, is calculated for the purposes of Schedule 3 to this Licence to have the value of £7.687 million, subject to adjustments for inflation as set out in paragraph 35.6.
Baseline Margin Performance (BMP) Adjustment	means the component of the Licensee’s Allowed Revenue that is determined in accordance with Part F of Condition 36 and subject to the operation of the provisions of Condition 38 (Determination of the BMP Adjustment).
Baseline Margin Operational Performance Adjustment	means the amount (if any) of reduction in the Baseline Margin determined in accordance with the provisions of Part C of Condition 38 so as to secure, with respect to the applicable period, the effect set out in Part A of that condition.
Centralised Registration Service Cost Adjustment	means in relation to each Regulatory Year a cost adjustment to Centralised Registration Service Revenue that may be directed by the Authority. In the absence of a direction, this shall take the value of zero.
<u>Centralised Registration Service External Contract Gain Share</u>	<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 to the provision set out with in the Retail Energy Code.</u>
Centralised Registration Service External Cost	means in relation to each Regulatory Year the actual amount of the costs that were economically and efficiently incurred by the Licensee in <u>procuring 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)</u> during that period.
Centralised Registration Service Internal Cost	means in relation to each Regulatory Year the sum of the costs (excluding Internal Costs, External Costs, Pass-through Costs, Centralised Registration Service External Costs and Centralised Registration Service Pre-Agreed Costs) that were economically and

efficiently incurred by the Licensee for the purposes of the provision of Mandatory Business Services.

**Centralised
Registration Service
Pass-Through Costs**

means in relation to each Regulatory Year the sum of the amounts that are or that will be directed by the Authority as Centralised Registration Service Pass-Through Costs. In the absence of a direction, this shall take the value of zero.

**Centralised
Registration Service
Performance
Adjustment**

means in relation each Regulatory Year a Performance Adjustment to Centralised Registration Service Revenue that may be directed by the Authority. In the absence of a direction, this shall take the value of zero.

**Centralised
Registration Service
Pre-Agreed Cost**

means in relation each Regulatory Year cost that will be directed by the Authority. In the absence of a direction, this shall take the value of zero.

**Centralised
Registration Service
Revenue**

means in relation to each Regulatory Year, revenue for Centralised Registration Services calculated in accordance with Part D of Condition 36.

**Centralised
Registration Service
Value Added Service
(VAS) Contribution**

means the component of the Allowed Revenue of the Centralised Registration Service (Condition 15) that is determined in accordance with the provisions of Condition 40 (Determination of the VAS Contribution) so as to secure the effect set out in Part A of that condition.

**External Contract
Gain Share**

means the component of the Allowed Revenue of the Licensee 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.

External Costs

means in relation to each Regulatory Year the actual amount of the costs that were economically and efficiently incurred by the Licensee in procuring Fundamental Service Capability during that period.

Internal Costs

means in relation to each Regulatory Year the sum of the costs (excluding Centralised Registration Service External Costs, Centralised Registration Internal Costs, Centralised Registration Service Pre-agreed Costs, External Costs and Pass-Through Costs) that were economically and efficiently incurred by the Licensee for the purposes of the provision of Mandatory Business Services under or pursuant to the SEC (and may include costs incurred in respect of the governance and administration of the SEC that are not included in Pass-Through Costs).

Pass-Through Costs means in relation to each Regulatory Year the sum of the amounts that are specified as Pass-Through Costs in paragraph 8 of Condition 36.

Project means an activity, or group of related activities, that is:

(a) being undertaken, or planned to be undertaken, by the Licensee;

(b) intended to support a change to the nature or scope of the Services; and

(c) identified as being a 'Project', for the purposes of the Price Control Conditions, in a direction given by the Secretary of State to the Licensee, and:

(i) constitutes an activity, or group of related activities, specified in that direction;

(ii) takes place during such period of time as is specified in that direction; and

(iii) is undertaken for any such purpose as may be specified in that direction,

and any individual project shall be represented by the subscript n.

Regulatory Year t means the particular Regulatory Year for the purposes of which any calculation is required to be made under the Price Control Conditions.

Regulatory Year t-1 means the Regulatory Year immediately preceding the Regulatory Year t (and any similar expressions are to be read accordingly).

Regulated Revenue means in relation to each Regulatory Year the actual revenue, measured on an accruals basis:

(a) received by the Licensee through Service Charges that are levied in accordance with the provisions of Condition 18 (Charging Methodology for Services) and Condition 19 (Charging Statement for Services); including any interest earned on Service Charges; or

- (b) otherwise received by the Licensee in relation to the carrying on of the Mandatory Business,

after the deduction of value added tax (if any) and any other taxes based directly on the amount concerned. Paragraph (a) above shall be deemed to include any and all amounts paid by SEC Parties under the SEC to persons (other than the External Service Provider) engaged (indirectly pursuant to an External Service Provider Contract) in the business of financing Communications Hubs.

Value Added Service (VAS) Contribution

means the component of the Allowed Revenue of the Licensee that is determined in accordance with the provisions of Condition 40 (Determination of the VAS Contribution) so as to secure the effect set out in Part A of that condition.

35.6 The value of the Baseline Margin Implementation Total shall be the sum of:

- (a) £1.769 million;
- (b) £3.194 million multiplied by the value of PIBM in Regulatory Year 2014/15; and
- (c) £2.724 million multiplied by the value of PIBM in Regulatory Year 2015/16,

where PIBM is the price index adjuster applied to the Baseline Margin in each Regulatory Year and calculated in accordance with Part C of Condition 36 (Determination of the Licensee's Allowed Revenue).

Part C: Matters agreed by the Secretary of State

35.7 A reference in this condition or in any of the other Price Control Conditions to a value or amount agreed by the Secretary of State is a reference to that value or amount as agreed by the Secretary of State during or as a consequence of the Licence Application Process.

Part D: Guide to abbreviated price control terms

35.8 Most of the defined terms in the Chapter 9 Particular Definitions set out above appear in formulas embedded in the Price Control Conditions in the following abbreviated forms:

Allowed Revenue	AR
Average Specified Rate	ASR
Baseline Margin	BM
Baseline Margin Implementation Performance Adjustment	BMIPA
Baseline Margin Implementation Total	BMIT

DEPARTMENT OF ENERGY AND CLIMATE CHANGE : SMART METER COMMUNICATION LICENCE

Baseline Margin Operational Performance Adjustment	BMOPA
Baseline Margin Performance Adjustment	BMPA
Baseline Margin Project Performance Adjustment	BMPPA
Centralised Registration Service Cost Adjustment	CRSCA
Centralised Registration Service External Cost	CRSEC
<u>Centralised Registration Service External Contract Gain Share</u>	<u>CRSECGS</u>
Centralised Registration Service Internal Cost	CRSIC
<u>Centralised Registration Service Pass-Through Costs</u>	<u>CRSPTC</u>
Centralised Registration Service Performance Adjustment	CRSPA
Centralised Registration Service Pre-Agreed Cost	CRSPC
Centralised Registration Service Revenue	CRSR
<u>Centralised Registration Service Value Added Service Contribution</u>	<u>CRSVASC</u>
External Contract Gain Share	ECGS
External Costs	EC
Internal Costs	IC
Pass-Through Costs	PTC
Project Activity Amount	PAA
Project Activity Performance Factor	PF
Project Activity Weighting Factor	WF
Project Baseline Margin	PBM
Project Performance Adjustment	PPA
Regulated Revenue	RR
Value Added Service Contribution	VASC

Condition 36. Determination of the Licensee's Allowed Revenue

Introduction

- 36.1 This condition has effect on and after 23 September 2013 as one of the Price Control Conditions of this Licence.
- 36.2 The purpose of this condition is to establish the mechanism for determining the amount of Allowed Revenue that may be recovered by the Licensee through Service Charges levied in respect of its provision of Mandatory Business Services.

Part A: Conditions supplementary to this condition

- 36.3 This condition is supplemented by:
- (a) Condition 37 (Assessment of Mandatory Business costs), which provides for the Authority to determine the treatment of any costs associated with the provision of Mandatory Business Services that the Authority considers were not economically and efficiently incurred;
 - (b) Condition 38 (Determination of the BMP Adjustment), which provides for the Allowed Revenue to be adjusted upwards or downwards to reflect the Licensee's performance against certain specified incentives; and
 - (c) Condition 39 (Determination of External Gain Share) and Condition 40 (Determination of the VAS Contribution), which provide for the Allowed Revenue to be varied to reflect benefits arising from, respectively, the Licensee's management of External Service Provider Contracts and its provision of Value Added Services.

Part B: Duty of the Licensee with respect to Regulated Revenue

- 36.4 The Licensee, in setting Service Charges for its Mandatory Business Services, must take all reasonable steps to secure that, in Regulatory Year t, its Regulated Revenue does not exceed a prudent estimate of its Allowed Revenue for that Regulatory Year.
- 36.5 For the purposes of paragraph 36.4, and subject to paragraph 36.6, a prudent estimate of Allowed Revenue is the Licensee's best estimate of Allowed Revenue as adjusted to ensure that (disregarding any within-year adjustments that may be permitted in circumstances prescribed by the Charging Methodology of the Licensee) the Service Charges as they apply for Regulatory Year t will not need to be amended in the course of that year except in response to a reasonably unlikely contingency.
- 36.6 The adjustment to which paragraph 36.5 refers must not be such as to result in an expectation that Regulated Revenue will significantly diverge from the Allowed Revenue in Regulatory Year t.

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

- 36.7 The amount of the Licensee's Allowed Revenue in relation to Regulatory Year t is to be determined in accordance with the following formula (in this condition, the Principal Formula):

$$AR_t = EC_t + IC_t + CRSR_t + PTC_t + BM_t + BMPA_t + ECGS_t - VASC_t + K_t$$

36.8 In the Principal Formula above:

- AR_t means the amount of the Allowed Revenue in Regulatory Year t.
- EC_t 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_t 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.
- $CRSR_t$ means the amount of the Licensee's Centralised Registration Services Revenue, as calculated for Regulatory Year t in accordance with Part D below.
- PTC_t means the total amount of Pass-Through Costs incurred by the Licensee in Regulatory Year t, and is the sum of:
- (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);
 - (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_t 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:

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

where RPI_t means the percentage change (whether it is positive or negative) between (i) the arithmetic average of the Retail Prices Index 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 numbers published or determined with respect to the same months in Regulatory Year t-1 (and "Retail Prices Index" has the meaning given to that term in Part H below).

$BMPA_t$ means the Baseline Margin Performance Adjustment, as calculated for the Regulatory Year t in accordance with Part F below.

$ECGS_t$ 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).

$VASC_t$ 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_t 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 D: Centralised Registration Service Revenue term

36.9 For the purposes of the Principal Formula, the total amount of the Centralised Registration Service Revenue (CRSR) will be calculated for Regulatory Year t in accordance with the following Formula:

$$CRSR_t = CRSEC_t + CRSIC_t + CRSPC_t + CRSCA_t + CRSPA_t + \underline{CRSPTC_t} + \underline{CRSECGS_t} + \underline{CRSVASC_t}$$

36.10 In the formula above:

$CRSEC_t$ means the actual amount of the Licensee's Centralised Registration Service 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.

$CRSIC_t$ means the actual amount of the Licensee's Centralised Registration Service 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.

$CRSPC_t$ (a) means in relation to each Regulatory Year Centralised Registration Service Pre-Agreed Cost

(b) the value of the $CRSPC_t$ term will be zero unless otherwise directed by the Authority, following consultation with the Licensee, the SEC Panel, ~~and~~ SEC Parties and REC Parties as appropriate.

$CRSCA_t$ (a) means in relation to each Regulatory Year a cost adjustment to the pre-agreed cost or correction factor

(b) the value of the term $CRSCA_t$ will be zero unless directed by the Authority, as set out in (c).

(c) $CRSCA_t$ will be determined in accordance with provisions developed and populated by the Authority in a direction to be given to the Licensee following consultation with the Licensee, the SEC Panel, ~~and~~ SEC Parties and REC Parties as appropriate.

$CRSPA_t$ (a) means in relation to each Regulatory Year a performance adjustment.

(b) the value of the term $CRSPA_t$ will be zero unless directed by the Authority, as set out in (c).

(c) $CRSPA_t$ will be determined in accordance with provisions developed and populated by the Authority in a direction to be given to the Licensee following consultation with the Licensee, the SEC Panel, ~~and~~ SEC Parties and REC Parties as appropriate.

$CRSPTC_t$ (a) means in each Regulatory Year a Pass-Through Cost in relation to the Centralised Registration Service

(b) the value of the $CRSPTC_t$ term will be zero unless otherwise directed by the Authority, following consultation with the Licensee, the SEC Panel, SEC Parties and REC Parties as appropriate.

$CRSECGS_t$ (a) means in each Regulatory Year an External Contract Gain Share in relation to the Centralised Registration Service

(b) the value of the $CRSECGS_t$ term will be zero unless otherwise directed by the Authority, following consultation with the Licensee, the SEC Panel, SEC Parties and REC Parties as appropriate.

$CRSVASC_t$ (a) means in each Regulatory Year External Value Added Service Contribution in relation to the Centralised Registration Service

(b) the value of the $CRSPC_t$ term will be zero unless otherwise directed by the Authority, following consultation with the Licensee, the SEC Panel, SEC Parties and REC Parties as appropriate.

Part E: Adjustment mechanism for the Baseline Margin term

36.11 The amount of the Baseline Margin term as specified in Appendix 1 for any one or more of the Regulatory Years to which that Appendix applies may be varied in such manner and to such extent as may be directed by the Authority in accordance with and subject to the provisions of Appendix 2 (Adjustment mechanism for the BM term), which has effect as part of this condition.

Part F: Calculation of the BMP Adjustment (BMPA) term

36.12 For the purposes of the Principal Formula, the total amount of the Baseline Margin Performance Adjustment term (BMPA) will be calculated for Regulatory Year t in accordance with the following formula:

$$\text{BMPA}_t = \text{BMIPA}_t + \text{BMOPA}_t + \text{BMPPA}_t$$

36.13 For the purposes of paragraph 36.12, the value of the term BMIPA_t :

- (a) shall be determined in accordance with the provisions of Part B of Condition 38 (Determination of the BMP Adjustment) until the end of the Regulatory Year in which Completion of Implementation (within the meaning given to that term in Condition 5 (General Objectives of the Licensee)) is achieved (or such earlier date as the Authority may specify in a direction given to the Licensee under paragraph 36.15); and
- (b) thereafter shall be zero.

36.14 For the purposes of paragraph 36.12, the value of the term BMOPA_t :

- (a) shall be zero until the end of the Regulatory Year 2015/16 (or such later date as the Authority may specify in a direction given to the Licensee under paragraph 36.15); and
- (b) thereafter shall be determined in accordance with the provisions of Part C of Condition 38 (Determination of the BMP Adjustment).

36.15 A direction that is given for the purposes of paragraph 36.13 or 36.14 will be of no effect unless, before issuing it, the Authority has first:

- (a) by Notice given to the Licensee and published on the Authority's website, set out the revised date that it proposes to specify in the direction;
- (b) set out in that Notice a statement of the reasons why the Authority proposes to specify that date;
- (c) specified in the Notice the period (which may not be less than 28 days from the date of the Notice) within which representations may be made to the Authority about its proposals; and
- (d) considered any representations duly received in response to the Notice.

36.16 The Authority must have regard to any representations duly received in response to its Notice under paragraph 36.15 and must give reasons for its decisions in relation to them when giving the relevant direction.

36.17 For the purposes of paragraph 36.12, the value of BMPPA_t shall be determined in accordance with the provisions of Part D of Condition 38 (Determination of the BMP Adjustment).

Part G: Calculation of the correction factor (K)

- 36.18 For the purposes of the Principal Formula, the correction factor (K) shall in the Regulatory Year 2013/2014 have the value of 0, and in each subsequent Regulatory Year shall be calculated in accordance with the following formula:

$$K_t = \left[(AR_{t-1} - RR_{t-1} - BDC_{t-1}) \times \left(1 + \left(\frac{ASR_t}{100} \right) \right) \right] + \left[((AR_{t-1} - RR_{t-1} - BDC_{t-1}) \times F_t) \times \left(\frac{INT_t}{100} \right) \right]$$

- 36.19 In the formula for the K term above:

AR_{t-1} means the amount of Allowed Revenue in Regulatory Year t-1.

BDC_{t-1} 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 36.17.

- 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 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** means:
- (a) the general index of retail prices 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.
- 36.22 Appendices 1 to 3 follow immediately below.

Appendix 1: Values for the BM term (£ million and before adjustment for RPI) for each Regulatory Year (see Part E of this condition)

2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
1.769	3.194	2.724	2.041	2.008	2.059	2.443
2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
1.959	1.869	1.875	2.035	1.840	0.762	n/a

Appendix 2: Adjustment mechanism for the BM term

Introduction

A1. In accordance with Part E above, and recognising the uncertainty attaching to the BM values as specified in Appendix 1 (above) at the Licence Commencement Date, this Appendix 2 enables adjustments to be proposed to those amounts and provides for the Authority to assess and determine any such proposals.

Part A: Requirements for the proposal of Relevant Adjustments

A2. Subject to the following provisions of this Part A, the Licensee may, by Notice given to the Authority, and the Authority may, by Notice given to the Licensee, propose a Relevant Adjustment to any one or more of the BM values specified in Appendix 1 for any one or more of the Regulatory Years to which that Appendix applies.

- A3. A Relevant Adjustment proposed (whether by the Licensee or the Authority) under paragraph A2 must relate to any variation (whether occurring as an aggregation of incremental but non-material changes or as a discrete but material change) that has taken place, or is likely to take place, in any one or more of the following aspects of the Mandatory Business of the Licensee:
- (a) the total volume of the activities comprising that business;
 - (b) the characteristics of the activities comprising that business;
 - (c) the mixture (whether by category or volume) of the activities comprising that business;
 - (d) the risks (whether financial or operational) to which the Licensee is exposed in the carrying on of that business; and
 - (e) the timescales or deadlines that the Licensee is required to meet (whether under this Licence or otherwise) in the carrying on of that business.
- A4. Notice given under paragraph A2 of a proposed Relevant Adjustment must:
- (a) refer to relevant information about actual or forecast levels of expenditure, use of resources, or performance of activities in the carrying on of the Mandatory Business of the Licensee that could not have been available when the values of the BM term in Appendix 1 were first agreed;
 - (b) demonstrate why, to what extent, and in which respects the variation to which the proposed Relevant Adjustment relates is a material change within the overall context of the Mandatory Business of the Licensee;
 - (c) separately identify the value of any element of the proposed Relevant Adjustment that relates to a Project n (the **Project Baseline Margin**), so that it is clearly distinguishable both from:
 - (i) the value of any element of the proposed Relevant Adjustment that relates to any other Project n; and
 - (ii) the value of the elements of the proposed Relevant Adjustment that do not relate to a Project; and
 - (d) take account of any Relevant Adjustments previously determined under this Appendix 2.
- A5. Notice given under paragraph A2 of a proposed Relevant Adjustment must also:
- (a) detail the change (or changes) to the BM value (or values) that are proposed and the Regulatory Year (or Years) to which the change (or changes) would relate, in each case identifying separately the change (or changes) relating to the Project Baseline Margin for any Project n;
 - (b) set out the basis of the calculation of those proposed changes; and
 - (c) explain why, in the opinion of the person making the proposal, the Relevant Adjustment is justified in all the circumstances of the case.

- A6. Notice given under paragraph A2 of a proposed Relevant Adjustment:
- (a) may be served at any time during the month of July (“the Application Window”) in any Regulatory Year (excluding the Regulatory Year 2013/14) provided that it complies in all respects with the provisions of this Part A;
 - (b) must be served within the first Application Window after the date on which the grounds for proposing the Relevant Adjustment first arose; and
 - (c) must contain an Adjustment Date (being the date on which it is proposed that the Relevant Adjustment should take effect), which may not be earlier than 1 April of the Regulatory Year immediately following the Regulatory Year in which the Notice has been served.

Part B: Authority’s power to determine Relevant Adjustments

- A7. Where a proposal for a Relevant Adjustment has been duly made under paragraph A2, the Authority will, by direction given to the Licensee at any time before the end of the Determination Period, and subject to paragraphs A8 and A9, determine any adjustment that is to be made to any BM value specified in Appendix 1 for the Regulatory Year to which that BM value relates (excluding the BM value for the Regulatory Year 2013/14).
- A8. The Authority may, at any time within the Determination Period, by Counter-Notice given to the Licensee direct that the Determination Period is to be extended with effect from the date of its expiry by such a further period (which may not be longer than three months) as is specified in the Counter-Notice.
- A9. The Authority may, at any time within the Determination Period, direct the Licensee to supply any further information that the Authority considers is necessary to enable it to determine the proposed Relevant Adjustment.
- A10. In determining any adjustment under paragraph A7, the Authority will:
- (a) consult with the Licensee and with SEC Parties;
 - (b) have particular regard to the purposes the BM term is intended to serve within the Price Control Conditions and to the basis on which the values attributed to that term were agreed during the Licence Application Process with respect to the Licensee’s expected rate of return on its activities over time; and
 - (c) take no account of the general financial performance of the Licensee under the provisions, taken as a whole, of the Price Control Conditions.
- A11. A determination under paragraph A7 may:
- (a) confirm, reject, or amend the proposed Relevant Adjustment;
 - (b) include such additional or consequential adjustments (if any) as the Authority thinks appropriate to the BM value (or values) for any Regulatory Year (or Years) other than the Regulatory Year (or Years) set out in the proposed Relevant Adjustment; and
 - (c) separately identify the value of any Project Baseline Margin that relates to a Project n, so that it is clearly distinguishable both from:

- (i) the value of any element of the Relevant Adjustment that relates to any other Project n; and
- (ii) the value of the elements of the Relevant Adjustment that do not relate to a Project.

Part C: Licensee's right to make a Relevant Adjustment

A12. If the Authority has not determined a Relevant Adjustment proposed by the Licensee under paragraph A2 by the end of the Determination Period, and the proposal has not been withdrawn, the Relevant Adjustment will be deemed to have been made and Appendix 1 will have effect for all relevant purposes as if it had been amended accordingly with effect from the Adjustment Date.

Part D: Guidance for the purposes of this Appendix

A13. The Authority may issue, and from time to time revise, guidance on the procedure that it will follow and the matters that it will take into account in determining a proposed Relevant Adjustment under paragraph A7.

A14. Guidance under paragraph A13 may, in particular, set out the principles, methods of assessment, and types of criteria that are likely to be applied by the Authority in determining any proposed Relevant Adjustment.

Part E: Relationship to Baseline Margin Project Performance Adjustment Scheme

A15 For the purposes of:

- (a) Any proposal for a Relevant Adjustment under paragraph A2;
- (b) Any determination of a Relevant Adjustment under paragraph A7,

No account shall be taken of a Baseline Margin Project Performance Adjustment Scheme that has been, or may be, made by the Secretary of State under Appendix 1 of Condition 38; and

Part F: Interpretation

A16. For the purposes of this Appendix:

Adjustment Date has the meaning that is given to that term in paragraph A6(c)

Application Window has the meaning that is given to that term in paragraph A6(a).

Counter-Notice has the meaning that is given to that term in paragraph A8.

Determination Period means the period running from the close of the Application Window at the end of July until the end of the first month of November after that closure, or such later date as may be directed by the Authority in a Counter-Notice served under paragraph A8.

Project Baseline Margin has the meaning given to that term in paragraph A4 (c).

Relevant Adjustment means an adjustment that is proposed in accordance with the requirements of Part A of this Appendix.

Condition 39. Determination of External Contract Gain Share

Introduction

- 39.1 This condition has effect on and after 23 September 2013 as one of the Price Control Conditions of this Licence.
- 39.2 The purpose of this condition is to establish the mechanism for determining the amount of the External Contract Gain Share (ECGS) and Centralised Registration Service External Contract Gain Share (CRSECGS) term that applies for the purposes of the Principal Formula set out under Part C of Condition 36 (Determination of Licensee's Allowed Revenue) and Part D of Condition 36 (Centralised Registration Service Revenue term).

Part A: Intended effect of the application of the ECGS term

- 39.3 The effect of the application of the ECGS term in Condition 36 is to provide, where relevant, for an upward adjustment to the amount of the Licensee's Allowed Revenue that reflects some part of the reduction in External Costs that the Licensee has proposed to effect, or has effected, through amendments to the External Service Provider Contracts to which the Licensee is party.

Part B: Determination of the amount of the ECGS term

- 39.4 For the purposes of Part C of Condition 36, which establishes the determination of the Licensee's Allowed Revenue, the amount of the External Contract Gain Share term (ECGS) will (subject to the operation of the adjustment mechanism that is incorporated into this condition by virtue of paragraph 39.5) be zero.
- 39.5 The amount of the ECGS term for any one or more of the Regulatory Years from 2015/16 to 2024/25 may be varied in such manner and to such extent as may be directed by the Authority in accordance with and subject to the provisions of Appendix 1 (Adjustment mechanism for the ECGS term), which has effect as part of this condition.
- 39.6 Appendix 1 follows immediately below.

Appendix 1: Adjustment mechanism for the ECGS term

Introduction

- A1. In accordance with paragraph 39.5, this Appendix 1 enables the Licensee to propose adjustments to the amount of the ECGS term for one or more Regulatory Years and provides for the Authority to assess and determine any such proposals.

Part A: Requirements for the proposal of Relevant Adjustments

- A2. Subject to the following provisions of this Part A, the Licensee may, by Notice given to the Authority, propose a Relevant Adjustment to the value of the ECGS term for any one or more of the Regulatory Years from 2015/16 to 2025/26.
- A3. Notice given under paragraph A2 of a proposed Relevant Adjustment must:

- (a) take account of any Relevant Adjustments previously determined under this Appendix 1;
- (b) detail the change (or changes) to the ECGS value (or values) that are proposed and the Regulatory Year (or Years) to which the change (or changes) would relate; and
- (c) set out the particular activities that are the subject of the proposal under the relevant External Service Provider Contract (or Contracts).

A4. Notice given under paragraph A2 of a proposed Relevant Adjustment must also:

- (a) set out how the costs associated with the activities that are the subject of the proposal were included in the original External Service Provider Contract (or Contracts);
- (b) describe how such activities are to be, or are being, more efficiently carried out, and provide assurance that costs will not be, or have not been, increased for any other activity as a result;
- (c) describe the collaborative process associated with negotiation of the relevant contractual amendment, the amount by which External Costs are to be (or are expected to be) reduced by virtue of the amendment, and the amount of the gain that has been (or is expected to be) derived by the relevant External Service Provider (or Providers) as a consequence of the process;
- (d) set out the basis of the calculation of proposed changes to the amount of the ECGS term and justify them in relation to the amount of the reduction that has been, or is expected to be, achieved in External Costs; and
- (e) explain why, in the Licensee's opinion, the Relevant Adjustment is justified in all the circumstances of the case.

A5. Notice given under paragraph A2 of a proposed Relevant Adjustment:

- (a) may be served at any time in the month of July ("the Application Window") in any Regulatory Year (excluding Regulatory Years 2013/14 and 2014/15) provided that it complies in all respects with the provisions of this Part A;
- (b) must be served within the first Application Window after the date on which the grounds for proposing the Relevant Adjustment first arose; and
- (c) must contain an Adjustment Date (being the date on which it is proposed that the Relevant Adjustment should take effect), which may not be earlier than 1 April of the Regulatory Year immediately following the Regulatory Year in which the Notice has been served.

Part B: Authority's power to determine Relevant Adjustments

A6. Where a proposal for a Relevant Adjustment has been duly made under paragraph A2, the Authority will, by direction given to the Licensee at any time before the end of the Determination Period, and subject to paragraphs A7 and A8, determine any adjustment that is to be made to the amount of the ECGS term for the Regulatory Year or Years referred in the proposal (excluding the ECGS terms for Regulatory Years 2013/14 and 2014/15).

- A7. The Authority may, at any time within the Determination Period, by Counter-Notice given to the Licensee direct that the Determination Period is to be extended with effect from the date of its expiry by such a further period (which may not be longer than three months) as is specified in the Counter-Notice.
- A8. The Authority may, at any time within the Determination Period, direct the Licensee to supply any further information that the Authority considers is necessary to enable it to determine the proposed Relevant Adjustment.
- A9. In determining any adjustment under paragraph A6, the Authority will:
- (a) consult with the Licensee in such manner and to such extent as it considers appropriate;
 - (b) have particular regard to the purposes that the ECGS term is intended to serve within the Price Control Conditions; and
 - (c) take no account of the general financial performance of the Licensee under the provisions, taken as a whole, of the Price Control Conditions.
- A10. A determination under paragraph A6 may confirm, reject, or amend the proposed Relevant Adjustment.

Part C: Licensee's right to make a Relevant Adjustment

- A11. If the Authority has not determined a Relevant Adjustment proposed by the Licensee under paragraph A2 by the end of the Determination Period, and the proposal has not been withdrawn, the Relevant Adjustment will be deemed to have been made with effect from the Adjustment Date.

Part D: Application of other reporting requirements

- A12. The requirements of this condition are without prejudice to such requirements as may apply to the reporting by the Licensee to the Authority of matters relating to the composition, calculation, and presentation of External Costs and the ECGS term by virtue of:
- (a) the provisions of Condition 37 (Assessment of Mandatory Business Costs); and
 - (b) so much of any RIGs issued by the Authority under Condition 33 (Regulatory Instructions and Guidance) as apply to the Price Control Information that is provided by the Licensee to the Authority under Condition 32 (Reporting of Price Control Information).

Part E: Interpretation

- A13. For the purposes of this Appendix:
- Adjustment Date** has the meaning that is given to that term in paragraph A5(c)
- Application Window** has the meaning that is given to that term in paragraph A5(a).
- Counter-Notice** has the meaning that is given to that term in paragraph A7.

Determination Period means the period running from the close of the Application Window at the end of July until the end of the first month of November after that closure, or such later date as may be directed by the Authority in a Counter-Notice served under paragraph A7.

Relevant Adjustment means an adjustment that is proposed in accordance with the requirements of Part A of this Appendix.

Condition 40. Determination of the VAS Contribution

Introduction

- 40.1 This condition has effect on and after 23 September 2013 as one of the Price Control Conditions of this Licence.
- 40.2 The purpose of this condition is to establish the mechanism for determining the amount of the Value Added Services (VAS) Contribution term (VASC) and the Centralised Registration Service Value Added Services (VASC) term that applies for the purposes of the Principal Formula set out under Part C of Condition 36 (Determination of Licensee's Allowed Revenue) and Part D of Condition 36 (Centralised Registration Service Revenue term) (and that will be zero unless and until such time as the Authority determines otherwise).

Part A: Intended effect of the application of the VASC term

- 40.3 The effect of the application of the VASC term in Condition 36 is to provide, where relevant, that some part of the net benefit that arises as a result of the Licensee's provision of Value Added Services is reflected in a reduction in the price that would otherwise be payable for Mandatory Business Services by persons receiving them.

Part B: Determination of the amount of the VASC term

- 40.4 For the purposes of Part C of Condition 36, which establishes the determination of the Licensee's Allowed Revenue, the total amount of the VAS Contribution term (VASC) is determined in accordance with the following formula:

$$VASC_t = \sum_{\text{all } k} [CVAS_{k,t}]$$

- 40.5 In the formula for the VASC term above:

$CVAS_{k,t}$ means the share of the net benefit arising in Regulatory Year t from the Licensee's provision of Value Added Service k that was agreed with the Authority when it approved the provision of that service in accordance with Part D of Condition 6 (Authorised Business of the Licensee).

CHAPTER 10 : CONDITIONS 42 TO 44
Arrangements for intervention and continuity

Condition 43. Arrangements for the handover of business

Introduction

- 43.1 This condition imposes duties on the Licensee that are designed to ensure that the Authorised Business will be transferred without disruption and in an orderly manner to a Successor Licensee in the event of the revocation or expiry of this Licence or pursuant to direction by the Authority under Condition 15.6.
- 43.2 In accordance with paragraph 2 of Part 2 (Terms in Respect of Revocation) and Condition 15.6 of this Licence, a revocation for the purposes of this condition may include a direction from the Authority to the Licensee to cease carrying on any or all of its activities under this Licence even though it still remains the holder of the Licence.
- 43.3 Nothing in this condition prevents the Business Handover Plan of the Licensee from containing different provision for different cases or for different circumstances, in recognition of the factual, legal, and qualitative differences between an event of Licence expiry, direction by the Authority pursuant to Condition 15.6 and an act of Licence revocation.

Part A: Licensee's duties in respect of a business handover

- 43.4 Where a Handover Period is in force for the purposes of this condition under Part B below, the Licensee will by virtue of this Part A be under a general duty to arrange to cease carrying on the relevant part of the Authorised Business at the Transfer Date in a manner that:
- (a) is consistent with the Licensee's proper performance of its obligations under this Licence;
 - (b) will not prejudice or frustrate the ability of a Successor Licensee to commence carrying on the Authorised Business in accordance with its obligations under its licence; ~~and~~
 - (c) is most likely to ensure an effective business handover with, in particular, no adverse impact on the quality and efficiency with which Services are delivered; and
 - (d) will to the extent that any revocation or direction is in respect of part only of the Authorised Business, allow the Licensee to continue to provide the remainder of the Authorised Business under this Licence.
- 43.5 In discharging its general duty under this Part A, the Licensee must:
- (a) comply with and give effect to the Business Handover Plan as approved by the Authority under the provisions of Part C below;
 - (b) take no steps that would have the effect, directly or indirectly, of avoiding or circumventing any requirement or objective of that plan; and
 - (c) if so required by the Authority, 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.

Part B: Authority's power to bring a Handover Period into force

- 43.6 The Authority may at any time notify the Licensee that a Handover Period is in force, or will come into force, with effect from:
- (a) such date as the Authority considers to be appropriate for the purposes of this condition, having regard to the date on which the Licence Term (or any Additional Licence Term within the meaning given to that expression in Part 1 (Terms in Respect of Grant) of this Licence) will expire; ~~or~~
 - (b) the date on which (or any date after which) the Authority notifies the Licensee that it considers that a Revocation Event within the meaning of Part 2 of this Licence (Terms in Respect of Revocation) has arisen or is likely to arise; or
 - (c) the date on which (or any date after which) the Authority gives a direction to the Licensee pursuant to Condition 15.6.
- 43.7 A notification given under this Part B must specify a Transfer Date, being either:
- (a) the date on which the Licence Term (or Additional Licence Term) will expire; or
 - (b) any earlier date on which, by virtue of a direction to be given by the Authority, the Licensee will cease to carry on the Authorised Business although still remaining the holder of this Licence.
- 43.8 The Authority may withdraw or amend a notification relating to paragraph 43.7(b) at any time if it considers it appropriate to do so in all the circumstances of the case.

Part C: Requirement to have a Business Handover Plan in place

- 43.9 Within 12 months after the Licence Commencement Date, the Licensee must submit to the Authority a Business Handover Plan prepared for the purposes of this condition that details how the Licensee will fulfil its general duty under Part A above during a Handover Period, with particular reference to such matters as are mentioned in Parts D and E below with respect to the contents of the plan.
- 43.10 In preparing a Business Handover Plan for submission to the Authority, the Licensee must take all reasonable steps to ascertain and take account of the views of External Service Providers and SEC Parties in relation to the proposed contents of the plan.
- 43.11 The Authority, after consulting the Licensee with respect to the Business Handover Plan submitted to it, may direct the Licensee to modify the contents of that plan in such manner and to such extent as may be specified in the direction.
- 43.12 The Authority may approve the Business Handover Plan for all of the purposes of this condition where it is satisfied that the plan, as submitted to it under paragraph 43.9 or with any modifications directed by it under paragraph 43.11, will enable the Licensee to fulfil its general duty under Part A during a Handover Period.

Part D: Mandatory contents of the Business Handover Plan

- 43.13 The Business Handover Plan must contain commitments, objectives, or other suitable provision for or in connection with the following mandatory matters.

- 43.14 The first mandatory matter is provision for securing the novation (as directed by the Authority) to the Successor Licensee of the whole of the Licensee's interest under any agreement or arrangement that is an External Service Provider Contract on terms that are substantially the same as those set out in Schedule 2 to this Licence (Novation of External Service Provider Contracts) (which has effect as part of this condition).
- 43.15 The second mandatory matter is provision for securing the novation (as directed by the Authority) to the Successor Licensee of the whole of the Licensee's interest under the SEC (including, for the avoidance of doubt, every Agreement for Services that is in place in accordance with the provisions of Condition 17 (Requirements for the provision of Services)), on the terms required by virtue of paragraph 24(a) of Condition 22 (The Smart Energy Code) or the REC as applicable.
- 43.16 The third mandatory matter is provision for securing that payment will be made, by agreement between the parties on a legally enforceable basis, of such sum of money by the Licensee to the Successor Licensee, or vice versa, as is calculated to be necessary for the purpose of fairly reflecting the benefit or burden (as the case may be) of such accrued under-recovery or over-recovery of Allowed Revenue as is finally found to have arisen at the Transfer Date in accordance with the formula set out at Part F of Condition 36 (Determination of Licensee's Allowed Revenue).
- 43.17 The fourth mandatory matter is provision for securing the Licensee's ability at any time prior to the Transfer Date to have its interests fully and appropriately represented in the management, conduct, and settlement of any dispute arising as between the Successor Licensee and an External Service Provider, a SEC Party, a REC Party, or any other person that might reasonably be expected to affect the determination of the amount of any such under-recovery or over-recovery as is mentioned in paragraph 43.16.

Part E: Other appropriate contents of the Business Handover Plan

- 43.18 Without prejudice to the requirements of Part D above, the Business Handover Plan may, in particular, contain commitments, objectives, or other suitable provision for or in connection with the following matters:
- (a) the general co-operation of the Licensee with the Authority and the Successor Licensee in order to secure the continuity of, and an orderly handover of control of, the Authorised Business, the provision of supplies or services in connection with that business, and the effective operation of any asset in connection with it;
 - (b) the timetable, process and procedures, critical controls, contingency and risk management plans, transitional arrangements, and assistance services that are intended to be applicable for the purposes of facilitating and achieving the matters mentioned in sub-paragraph (a);
 - (c) the availability of appropriately skilled, qualified, and experienced members of the Licensee's staff for the purposes of attendance at such meetings with the Authority, the Successor Licensee, and other relevant parties as are necessary to facilitate and achieve the matters mentioned in sub-paragraphs (a) and (b);
 - (d) the treatment by the Licensee prior to the Transfer Date of all records, systems, documents, software, databases, information, and data held by it in connection

with the carrying on of the Authorised Business (including the prevention of any third-party access to such things or, where the Authority so directs, the permanent deletion of any or all of them);

- (e) the application or other appropriate treatment of any sums that are directed by the Authority to be released to the Licensee from such Financial Security Instrument as is in place under Part B of Condition 26 (Financial stability and financial security) for any of the purposes specified in that Part B, at such time or times as may be directed by the Authority; and
- (f) the ability of either or both of the Licensee and Successor Licensee to propose modifications of the Business Handover Plan, and the Licensee's duty to make such (if any) of those modifications as the Authority may require it to make following consideration of the matter.

Part F: Requirement to review the Business Handover Plan

43.19 The Licensee must, for the purpose of ensuring that the Business Handover Plan will at all times continue to be a document that accurately reflects the requirements of this condition:

- (a) review the plan at least once in each Regulatory Year; and
- (b) propose to the Authority such modifications (if any) of the plan as it thinks are appropriate or necessary for the purpose of better complying with those requirements.

43.20 The Authority may at any time, after consulting the Licensee, the External Service Providers, and SEC Parties, direct the Licensee to modify the Business Handover Plan in such manner and to such extent as may be specified in the direction.

Part G: Directions by the Authority during a Handover Period

43.21 Subject to paragraph 43.23, and after consulting with the parties, the Authority may issue directions to either or both of the Licensee and the Successor Licensee during a Handover Period with respect to the execution of the Business Handover Plan for the purpose of ensuring that the commitments and objectives of the plan are fulfilled and that the matters for which it makes provision in accordance with Parts D and E above are implemented in a full and timely manner.

43.22 Directions under paragraph 43.21 may require any or all of the following things to be done in such manner and to such extent as are specified in the direction in relation to the execution and implementation of the Business Handover Plan:

- (a) the transfer of property, rights, or liabilities from the Licensee to the Successor Licensee;
- (b) the creation of rights in relation to property, rights, or liabilities in favour of the Successor Licensee;
- (c) the creation of other rights and liabilities as between the Licensee and the Successor Licensee;

- (d) that the Licensee enters into a written agreement with the Successor Licensee, or executes an instrument of another kind in favour of him;
 - (e) that the Licensee must pay compensation to the Successor Licensee, or to any third party affected by any of the matters mentioned in this paragraph 43.22.
- 43.23 No direction under paragraph 43.21 will be effective unless the Authority has first complied with the requirements of section 7B(5E) of the 1986 Act and section 7(3F) of the 1989 Act with respect to the rights of any person who would potentially be affected by the direction to be consulted about its proposed contents.
- 43.24 The Authority may at any time from the beginning of a Handover Period direct that any one or more of the Conditions of this Licence shall cease to have effect if and to such extent as the Authority considers this necessary or expedient for the purpose of facilitating the Licensee's compliance with its general duty under Part A above.

Part H: Interpretation

- 43.25 See Condition 44 (Treatment of Intellectual Property Rights), which makes further provision in connection with the subject matter of this Condition 43.
- 43.26 For the purposes of this condition:

Business Handover Plan has the meaning given to that term in paragraph 43.9.

Handover Period means the whole of the period, beginning with the date notified to the Licensee by the Authority in accordance with paragraph 43.6 and ending on a date (which may not be earlier than the Transfer Date) that is specified in or is to be determined in accordance with that notification, during which the Licensee will be subject to the general duty and associated requirements set out in Part A of this condition.

Transfer Date has the meaning given to that term in paragraph 43.7.

Condition 44. Treatment of Intellectual Property Rights

Introduction

44.1 This condition sets out the general rules that are to apply to the treatment of rights in Intellectual Property (“Intellectual Property Rights” or “IPRs”) arising from or in consequence of any of the functions exercised by the Licensee under or by virtue of the Principal Energy Legislation, this Licence, the Retail Energy Code and the Smart Energy Code.

Part A: Consideration of IPR issues in contract management

44.2 This Part A applies to the Licensee in all of its activities of managing and developing the External Service Provider Contracts (including every Legacy Procurement Contract) to which it is a party under or pursuant to Condition 16 (Procurement of Relevant Service Capability).

44.3 The Licensee must at all times carry on those activities with appropriate regard for the potential impacts of IPR ownership and IPR licensing on:

- (a) the development of effective competition in the provision to the Licensee of Relevant Service Capability;
- (b) the existing and future integration of the Services provided by the Licensee under or pursuant to the Smart Energy Code; ~~and~~
- (c) the rights of:
 - (i) any External Service Provider, any successor to that person, or any Successor Licensee, and
 - (ii) any successor to either of those successors,to be able to use essential IPRs created or held by any of their predecessors; and
- (d) the relevant conditions set out within the REC.

Part B: Novation by the Licensee of IPRs to its successors

44.4 This Part B applies in relation to any IPRs of the Licensee that:

- (a) are used or have been created by the Licensee as part of its carrying on of the Mandatory Business; or
- (b) arise from and are held by or have been assigned to the Licensee, or that the Licensee has been licensed to use, under or pursuant to any External Service Provider Contract (including any Legacy Procurement Contract) to which the Licensee is party; or
- (c) have been novated, assigned, or otherwise transferred to the Licensee, or that the Licensee has been licensed to use, by any predecessor holding a licence to carry on the Authorised Activity.

- 44.5 The Licensee must, on the expiry or revocation of this Licence, or where and to the extent applicable, pursuant to direction by the Authority under Condition 15.6 novate all such IPRs (including any associated licences for their use) to a Successor Licensee:
- (a) in the case of any IPRs to which paragraph 44.4(a) refers, on a royalty-free, payment-free, and non-exclusive basis;
 - (b) in the case of any other IPRs to which paragraph 44.4 refers, on terms that are not materially disadvantageous relative to those that had applied to the Licensee in carrying on the Mandatory Business; and
 - (c) in all cases covered by paragraph 44.4, on terms designed to ensure that the IPRs in question can be novated on the same basis by the Successor Licensee to any person who is subsequently licensed to carry on the Authorised Activity.
- 44.6 The novation to which paragraph 44.5 refers relates only to the purposes for which the relevant IPRs and any associated licences for their use will be required in connection with the functions to be exercised by any Successor Licensee under or pursuant to its licence to carry on the Authorised Activity.

Part C: Other general requirements for the treatment of IPRs

- 44.7 Where the Licensee has created or relies on any IPRs as part of its carrying on of the Permitted Business, it must, upon the expiry or revocation of this Licence, grant a royalty-free, payment-free, and non-exclusive licence for their use to the Successor Licensee on terms ensuring that such licence may be novated in perpetuity.
- 44.8 The Licensee may not be party to any External Service Provider Contract under or pursuant to Condition 16 that does not expressly provide for the Licensee to license any successor to the External Service Provider to use such IPRs arising from that contract as are necessary to enable the successor to secure an orderly transfer of the effective provision of Relevant Service Capability under the contract on terms that are not materially disadvantageous relative to those applying previously.

Part D: Intellectual Property Rights arising under the SEC

- 44.9 This Part D applies in relation to any and all documents, materials, reports, charts and tables, diagrams, and specifications, and any and all other works, inventions, ideas, designs, or proposals (in whatever form), arising out of or in connection with the central administration, operation, and development of the Smart Energy Code under or pursuant to Condition 22 (The Smart Energy Code) and Condition 23 (Change control for the Smart Energy Code), including any and all associated drafts and working papers (collectively, “the SEC Materials”).
- 44.10 By virtue of this Part D, and subject to paragraph 44.11, all IPRs subsisting in the SEC Materials, and the whole of the title to the SEC Materials:
- (a) will be owned by SECCo Ltd (being the company established pursuant to paragraph 26(c) of Condition 22 (The Smart Energy Code));
 - (b) will immediately vest in SECCo Ltd upon their creation or acquisition; and

- (c) may be authorised by the SEC Panel to be licensed or sub-licensed for any use that does not hinder, delay, or frustrate the continuing achievement of the General SEC Objectives.
- 44.11 Paragraph 44.10 does not apply to any IPRs subsisting in the SEC Materials (as defined in paragraph 44.9) that have been created by or arise from or that are otherwise associated with:
- (a) the activities undertaken by the Licensee for the purpose of carrying on the Authorised Business in accordance with this Licence; or
 - (b) the performance, by the parties, of an External Service Provider Contract in accordance with its provisions.

Part E: Interpretation

44.12 For the purposes of this condition:

Intellectual Property Rights means:

- (a) patents, trade marks, trade names, service marks, rights in designs, copyright (including rights in computer software), logos, rights in internet domain names, and moral rights, database rights, rights in know-how, and other intellectual property rights,
- (b) in each case, whether registered or unregistered or subject to an application for registration,

and includes any and all rights or forms of protection having equivalent or similar effect anywhere in the world.

SEC Materials has the meaning given to that term in paragraph 44.9.

SCHEDULE 5 (continued) : ANNEXES 5 TO 12

Statements of Intent with respect to the Licensee's development of documents

Annex 11: Registration Interface-related documents

11A.1 The Licensee will, by not later than the date on which Implementation Milestone 5 is intended to be reached under Schedule 3 to this Licence, or by not later than such variation of that date as may be permitted pursuant to paragraph 8 of Condition 38, and in consultation with SEC Parties and registration data providers (including such of the Central Registration Bodies mentioned in Condition 15 of this Licence (Incorporation, delivery and provision of the Centralised Registration Service of Energy Registration Services) as are relevant for the purpose), develop in accordance with the Procedure for Document Development:

- (a) a Registration Interface Specification; and
- (b) a Registration Code of Connection.

11A.2 The Registration Interface Specification comprises:

- (a) a document with respect to Electricity Registration Data; and
- (b) a document with respect to Gas Registration Data,

in each case specifying technical details of the Registration Interface, including the protocols and technical standards for message exchanges across it.

11A.3 The Registration Code of Connection comprises:

- (a) a document with respect to Electricity Registration Data; and
- (b) a document with respect to Gas Registration Data,

in each case setting out the details of how a person's connection to the registration Interface will operate.

Annex 12: Intimate Communications Hub Interface Specification

12A.1 The Licensee will, by not later than the date on which Implementation Milestone 6 is intended to be reached under Schedule 3 to this Licence, or by not later than such variation of that date as may be permitted pursuant to paragraph 8 of Condition 38, and in consultation with SEC Parties, develop in accordance with the Procedure for Document Development (as varied by paragraph 12A.4) an Intimate Communications Hub Interface Specification ("ICHIS") for publication on the Licensee's Website.

12A.2 The ICHIS is the document that describes the specification for the physical, electrical, and data interface between:

- (a) the Communications Hub (which will incorporate the male components of the physical interface); and
- (b) either:

- (i) the Smart Meter, or
- (ii) the Communications Hub Hot Shoe,

which will (in either case) incorporate the female components of the physical interface.

12A.3 The specification described by the ICHIS:

- (a) must only require the use of such tangible and intangible property (including physical components and Intellectual Property Rights) as is readily available on a reasonable and non-discriminatory basis; and
- (b) must be initially developed (and may only be amended) in accordance with such prototype development and testing as the Licensee reasonably thinks necessary to ensure that the ICHIS is fit for the purposes envisaged for it by the SEC.

12A.4 In complying with sub-paragraph (e) of the Procedure for Document Development, the Licensee must also inform the Secretary of State of the costs and expenses that are likely to arise as a result of the position that it proposes to adopt with respect to the ICHIS, including the costs and expenses that are likely to result from the proposed initial design and any subsequent necessary development of Smart Meters, Communications Hubs, and Communications Hub Hot Shoes.

12A.5 The maintenance of ICHIS by the Licensee, in a form that can be readily accessed and used by SEC Parties on a royalty-free basis (whether for the purposes of the SEC or otherwise), will be an Other Enabling Service, such as is referred to in Part F of Condition 17 (Requirements for the provision of Services).