

RG003 – Review of Data permissions**Relevant extracts for use by the Review Group****iGT UNC****Part K****23 Information and confidentiality**

23.1 Each party shall secure that Protected Information is not:

- (a) disclosed to any person other than (strictly in accordance with Clause 24) the Permitted Categories;
- (b) used by it for any purpose other than the Permitted Purpose.

23.2 For the purposes of the Pipeline Operator's obligations under Clause 23.1:

- (a) **"Protected Information"** means any information relating to the affairs of a Pipeline User which is obtained by the Pipeline Operator pursuant to or in the course of the negotiation, implementation or performance of the Code, the Framework Agreement or any Ancillary Agreement to which that Pipeline User is party. For the sake of clarity this includes invoice supporting data and Portfolio Extracts sent between the Pipeline User and Pipeline Operator. When the Pipeline Operator or User sends such data either by email or CD/DVD they must use password protection as detailed in the iGT UNC Ancillary Document "Password Protection Protocols";
- (b) **"Permitted Categories"** means an officer or employee of the Pipeline Operator or any Party on whose behalf the Pipeline Operator acts as an agent who is engaged in the Permitted Purposes or a professional adviser of or consultant to the Pipeline Operator or (but without prejudice to any requirement under the Pipeline Operator's Licence) any Affiliate (other than an Affiliate which is the holder of a Shipper's Licence or a gas Suppliers licence) of the Pipeline Operator;
- (c) **"Permitted Purposes"** means the carrying on of the transportation business (as defined in the Pipeline Operator 's Licence) the operation administration, maintenance and development of the Pipeline facilitation of connections to the Pipeline and the implementation and performance of the Code, the Framework Agreement, any Ancillary Agreement and any Siteworks Contract;

23.3 For the purposes of the Pipeline User's obligations under Clause 23.1:

- (a) **"Protected Information"** means any information relating to the affairs of the Pipeline Operator or of another Pipeline User which is obtained by the Pipeline User pursuant to or in the course of the negotiation, implementation or performance of the Code, the Framework Agreement or any Ancillary Agreement to which that Pipeline User is party;
- (b) **"Permitted Categories"** means an officer or employee of the Pipeline User whose province it is to know the same in the proper execution of their duties and responsibilities, or a professional adviser of or consultant to or any Affiliate of that Pipeline User (provided that such persons are not the holder of a Gas Transporter's Licence) or (subject to Clause 23.4) a Consumer or a Supplier;
- (c) **"Permitted Purposes"** means any purpose expressly contemplated by the Code or any Ancillary Agreement or Siteworks Contract to which such Pipeline User is party

23.4 Protected Information relating to a Supply Point may be disclosed to the Supplier or Consumer to the extent reasonably necessary to enable the conclusion and implementation of a contract of sale to the Supplier (where relevant) and a contract of supply to the Consumer.

23.5 For the purposes of Clause 23.2 and 23.3:

- (a) information obtained by a Party in the course of the negotiation of the Code or the Framework Agreement shall be Protected Information only insofar as such information was obtained in writing;
- (b) the following information shall be treated as information relating to the affairs of a Pipeline User:

- (i) the identity, address and any other details of a Supplier or Consumer, or any representative thereof, insofar as disclosed by the Pipeline User to the Pipeline Operator pursuant to or for the purposes of the Code;
- (ii) information provided by the Pipeline User to the Pipeline Operator pursuant to Parts C and H, the Pipeline User's Code Credit Limit (if any) and record of payment of charges under the Code;
- (c) the terms of the Code and the Framework Agreement are not Protected Information.

23.6 The Pipeline Operators are authorised to disclose such data as is set out within Annex V-10 of the UNC to the holder of the "smart meter communications licence" as defined by the Statutory Instrument 2012 No.2400: The Electricity and Gas (Smart Meters Licensable Activity) Order 2012. Such data may relate to all Supply Meter Points regardless of status. Pipeline Operators are authorised to appoint a third-party agent (i.e. Xoserve) to manage the collation and transmission of the data set out within Annex V-10 of the UNC on to the holder of the "smart meter communications licence".

23.7 Confidentiality as between a Party or Parties and the CDSP is governed by the DSC and not the Code.

23.8 The Pipeline Operators are authorised to disclose such data as is required for the reports as are specified in the Performance Assurance Report Registers Schedules 1A, 1B, 2A and 2B in accordance with paragraph 16.5 of Section V of the UNC. (To be implemented in a release on the 22nd March 2018 – Mod 104)

23.9 Disclosure of Meter Asset Provider Information

23.9.1 For the purposes of this Clause 23.9 the Pipeline Operators are authorised to disclose such data as is set out within Annex V-9 of the UNC to a Meter Asset Provider subject to the provisions of Section V5.16 of the UNC. (To be implemented in a release on the 22nd March 2018 – Mod 105 legal text needs to change from 23.8 to 23.9 because of introduction of 23.8 by iGT104)

24 Terms of permitted disclosure

24.1 For the purposes of this Clause 24 "**Disclosing Party**" and "**Protected Party**" shall be construed as follows;

- (a) for the purposes of the Pipeline Operator's obligations under Clause 23.1, the Disclosing Party is the Pipeline Operator and the Protected Party is the Pipeline User to whose affairs any Protected Information directly relates;
- (b) for the purposes of a Pipeline User's obligations under Clauses 23 to 25 the Disclosing Party is such Pipeline User and the Protected Party is the Party (either the Pipeline Operator or another Pipeline User) to whose affairs any Protected Information directly relates.

24.2 Where Protected Information is disclosed as permitted under Clause 23.1 the Disclosing Party shall (without prejudice to its obligations under Clause 23.1) take all reasonable steps to secure that the person to whom the information is disclosed:

- (a) is aware of the Disclosing Party's obligations under Clause 23.1 in relation thereto, and
- (b) does not use or disclose the information other than as is permitted of such party in accordance with Clause 23.1.

24.3 Nothing in Clause 23.1 shall apply:

- (a) to the disclosure or use by the Disclosing Party of Protected Information to which the Protected Party has consented in writing;
- (b) to any Protected Information which;
 - (i) before it is obtained by the Disclosing Party is in the public domain; or
 - (ii) after it is obtained by the Disclosing Party enters the public domain, in either case otherwise than as a result of a breach by the Disclosing Party of its obligations under Clause 23.1;

- (c) to the disclosure of any Protected Information to any person if and to the extent that the Disclosing Party is required to make such disclosure to such person;
- (i) in compliance with the duties of the Disclosing Party under the Act or any other requirement of a Competent Authority; or
- (ii) in compliance with the conditions of the Pipeline Operator's Licence or (as the case may be) Shipper's Licence held by the Disclosing Party or any document referred to in such licence with which the Disclosing Party is required by virtue of the Act or such licence to comply; or
- (iii) in compliance with any other Legal Requirement; or
- (iv) in response to a requirement of any stock exchange or regulatory authority or the Panel on Takeovers and Mergers; or
- (v) pursuant to any provision of Clauses 8 to 17 or pursuant to any judicial or other arbitral process or tribunal having jurisdiction in relation to the Disclosing Party; or
- (d) to any Protected Information to the extent that the Disclosing Party is expressly permitted or required to disclose that information under the terms of any agreement or arrangement made with the Protected Party or to which it is party (including the Code, the Framework Agreement and any Ancillary Agreement to which the Protected Party is party);
- (e) to the disclosure of Protected Information to any lending or other financial institution proposing to provide or arrange the provision of finance to the Disclosing Party, where and to the extent that the disclosure of such information is reasonably required for the purposes of the provision or arrangement of such finance, and provided that the person to whom the information is disclosed undertakes in writing to and in terms reasonably satisfactory to the Protected Party to maintain the confidentiality of such information;
- (f) to the disclosure of any Protected Information to the Authority, where the Disclosing Party considers in good faith that the Protected Party may be in breach of a condition of the Pipeline Operator's Licence or (as the case may be) the Shipper's Licence, to the extent reasonably necessary to draw such possible breach to the attention of the Authority;
- (g) to any person pursuant to the Modification Rules;
- (h) to the disclosure of any Protected Information to any person proposing to make a connection directly or indirectly to the Pipeline where and to the extent that the disclosure of such information is reasonably required for the purposes of supporting the Pipeline Operator's charges or requirement to allow such proposed connection to the Pipeline to be made and provided that the person to whom the information is to be disclosed is informed in writing of the confidentiality of such information and that prior to disclosure such person has entered into a confidentiality agreement with the Pipeline Operator which prohibits use or disclosure of such Protected Information in terms no less onerous than those contained in Clauses 23 and 24;
- (i) to an Upstream System Operator or Downstream System Operator to the extent required to enable such Operator to fulfil its Gas Transporter Licence requirements, the requirements of its Network Code or its duties under any Legal Requirement;
- (j) The CDSP are authorised to disclose the following data items: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier, meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone to a Price Comparison Website where the Price Comparison Website has received consent from the domestic consumer associated with the Supply Point and where they have entered into confidentiality and service agreements (on terms no less onerous than those in paragraph 23) and reasonable access conditions.
 - (i) The CDSP shall, by 31 March each year, produce a report to identify the service recipients who have signed up to the confidentiality and service agreements;
 - (ii) **"Price Comparison Website"** (PCW) shall mean an internet-based price comparison service or other internet based TPI that provides comparisons between, and/or access to, personalized quotes for retail energy to domestic customers, and may carry out, on behalf of the domestic customer an instruction to change the domestic customer's retail energy supplier, tariff or both;

(iii) “**Third Party Intermediary**” (TPI) shall mean an organisation or individual acting as a third party intermediary between a domestic customer and a retail energy supplier;

(k) to the Performance Assurance Framework Administrator, provided the terms of the relevant PAFA Contract require the Performance Assurance Framework Administrator to maintain the confidentiality of such information on terms no less onerous than those of paragraph 23.2 or 23.3, save to the extent disclosure of such information is necessary to comply with the terms of the PAFA Contract; **(To be implemented in a release on the 22nd March 2018 – Mod 104 and renumbered to (k) as (j) was added by iGT095 in the 15th December 2017 release)**

(l) The CDSP are authorised to disclose the following data items: Supply Meter Point Reference Number, supply point address, Meter Post Code, Current Supplier id, meter mechanism code, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone to a Supplier where the Supplier has received consent from the domestic consumer associated with the Supply Point and where they have entered into confidentiality and service agreements (on terms no less onerous than those in paragraph 23) and reasonable access conditions.

(i) The CDSP shall, by 31 March each year, produce a report to identify the Suppliers who have signed up to the confidentiality and service agreements. **(Introduced by Mod 106 and to be implemented in a release still to be agreed to coincide with the implementation date for UNC 640S. Text needs to be from (j) to (l) as (k) and (j) were added by Mods iGT095 and iGT104 (respectively – see above)**

24.4 The provisions of Clauses 23 to 24.3 shall continue, for a period of 3 years after the User Discontinuance Date, to bind a Discontinuing User and (as respects the Discontinuing User) the Pipeline Operator and each other Pipeline User, notwithstanding that the Discontinuing User has ceased to be a Pipeline User and irrespective of the reason for such cessation.

24.5 Nothing in the Code, the Framework Agreement or any Ancillary Agreement shall be construed as requiring the Pipeline Operator to disclose or use any information in breach of any requirement of the Pipeline Operator Licence.

25 Data ownership

25.1 Subject to Clause 25.2(a) the data, including metering data, which is

(a) processed by or recorded or maintained on the Computer System or any other computer system of the Pipeline Operator; and

(b) processed by, or recorded or maintained on any computer system of, a third party on behalf of the Pipeline Operator (including all intellectual property rights in such data) shall belong to the Pipeline Operator; and subject to Clause 25.2(b) the Pipeline Operator may, but without prejudice to Clause 23 or any other requirement of the Code, use and deal with such data as it thinks fit.

25.2 Where pursuant to the Code a Pipeline User provides or arranges for the provision of data to the Pipeline Operator:

(a) such data (as provided to the Pipeline Operator by the Pipeline User) shall belong to the Pipeline User:

(b) the Pipeline User hereby grants to the Pipeline Operator a perpetual, non-exclusive, royalty-free licence (which shall survive the User Discontinuance Date) in respect of such data and all intellectual rights therein to use, copy, adapt and deal with such data for the purposes of performance and implementation of the Code and for other purposes contemplated by the Code, but not otherwise:

(c) Clause 25.1 shall apply in respect of data derived (pursuant to any process) by the Pipeline Operator from such data and in all compilations created by or on behalf of the Pipeline Operator of such data.

25.3 Where pursuant to the Code the Pipeline Operator provides data to a Pipeline User or data which is recorded or maintained on the Computer System is available to a Pipeline User, the Pipeline User shall

(but without prejudice to Clause 25.2) be entitled without charge to use such data for the purposes of performance and implementation of the Code, and for other purposes contemplated by the Code, but not otherwise.

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5 INFORMATION AND CONFIDENTIALITY**5.1 Transporter obligations**

5.1.1 The Transporter shall secure that Protected Information is not:

- (a) disclosed to any person other than:
 - (i) an officer or employee of the Transporter whose province it is to know the same; or
 - (ii) a professional adviser of or consultant to the Transporter; or
 - (iii) without prejudice to any requirement under the Transporter's Licence, any 10% Affiliate (other than an Affiliate which is the holder of a Shipper's Licence or a gas supplier's licence) of the Transporter in any such case in accordance with the requirements of paragraph 5.4; or
- (b) used by the Transporter for any purpose other than carrying on the Transporter Activities.

5.1.2 "**Transporter Activities**" means the carrying on of transportation business (as defined in the Transporter's Licence), the operation, administration, maintenance and development of a relevant System and, the National Grid LNG Storage Facilities (in the case only of National Grid NTS), facilitation of connections to a relevant System, and the implementation and performances of the Code, the Framework Agreement, any Ancillary Agreement and any Siteworks Contract.

5.1.3 In this paragraph 5 references to Users include Trader Users and DNO Users.

5.2 User obligations

5.2.1 Each User shall secure that Protected Information is not:

- (a) disclosed to any person other than:
 - (i) an officer or employee of the User whose province it is to know the same; or
 - (ii) a professional adviser of or consultant to that User or a User Agent appointed by that User; or
 - (iii) a 10% Affiliate (other than an Affiliate which is the holder of a Gas Transporter's Licence) of that User; or
 - (iv) subject to paragraph 5.2.3, a consumer or a supplier in any such case in accordance with the requirements of paragraph 5.4; or
- (b) used by such User for any purpose other than one expressly contemplated by the Code or any Ancillary Agreement or Siteworks Contract to which such User is party.

5.2.2 GT Section B2.4.1 shall not apply in respect of this paragraph 5.

5.2.3 For the purposes of paragraph 5.2.1(a)(iv) Protected Information relating to a Supply Point may be disclosed to the supplier or consumer to the extent reasonably necessary to enable the conclusion and implementation of a contract of sale to the supplier (where relevant) and a contract of supply to the consumer.

5.3 Protected Information

5.3.1 In this Section "**Protected Information**" means:

- (a) for the purposes of the Transporter's obligations under paragraph 5.1:
 - (i) any information relating to the affairs of a User which is obtained by the Transporter pursuant to or in the course of the negotiation, implementation or performance of the Code, the Framework Agreement or any Ancillary Agreement to which that User is party;
 - (ii) the terms of any Ancillary Agreement;
- (b) for the purposes of a User's obligations under paragraph 5.2:
 - (i) any information relating to the affairs of the Transporter or of another User which is obtained by the User pursuant to or in the course of the negotiation, implementation or performance of the Code, the Framework Agreement or any Ancillary Agreement to which the User and (in relation to another User) that other User are party;
 - (ii) the terms of any Ancillary Agreement to which that User is party.

5.3.2 For the purposes of paragraph 5.3.1:

- (a) information obtained by a Party in the course of the negotiation of the Code or a Framework Agreement shall be Protected Information only insofar as such information was obtained in writing;
- (b) the fact that a Party receives information from the CDSP does not prevent such information being Protected Information for the purposes of that Party's obligations under paragraph 5.3.1;
- (c) the following information shall (without prejudice to the generality of paragraph 5.3.1(a)(i)) be treated as information relating to the affairs of a User:
 - (i) the identity, address and any other details of a supplier or consumer, or any representative thereof, insofar as disclosed by the User to the Transporter pursuant to or for the purposes of the Code;
 - (ii) (without prejudice to paragraph 5.5.2(e)) information provided by the User to the Transporter pursuant to Sections L and O and details of the User's Code Credit Limit and record of payment of charges under the Code;
- (d) information which (pursuant to the terms of the DSC) belongs to the CDSP is not Protected Information.

5.3.3 The terms of the Code and a Framework Agreement are not Protected Information.

5.3.4 For the avoidance of doubt, the provisions of the Code are without prejudice to the requirements of the Data Protection Act 1998.

5.3.5 Confidentiality as between a Party or Parties and the CDSP is governed by the DSC and not the Code.

5.4 Terms of permitted disclosure

Where Protected Information is disclosed by the Transporter as permitted under paragraph 5.1.1(a) or by a User as permitted under paragraph 5.2.1(a), the Disclosing Party shall (without prejudice to its obligations under paragraph 5.1.1 or 5.2.1) take all reasonable steps to secure that the person to whom the information is disclosed:

- (a) is aware of the Disclosing Party's obligations under paragraph 5.1.1 or 5.2.1 in relation thereto; and
- (b) does not use or disclose the information other than as is permitted of such Party in accordance with paragraph 5.1.1 or 5.2.1.

5.5 Exceptions

5.5.1 For the purposes of this paragraph 5.5, "**Disclosing Party**" and "**Protected Party**" shall be construed as follows:

- (a) for the purposes of the Transporter's obligations under paragraph 5.1, the Disclosing Party is the Transporter and the Protected Party is the User to whose affairs any Protected Information relates;
- (b) for the purposes of a User's obligations under paragraph 5.2, the Disclosing Party is such User and the Protected Party is the Party (either the Transporter or another User) to whose affairs any Protected Information relates.

5.5.2 Nothing in paragraph 5.1 or 5.2 shall apply:

- (a) to the disclosure or use by the Disclosing Party of Protected Information to which the Protected Party has consented in writing;
- (b) to any Protected Information which:
 - (i) before it is obtained by the Disclosing Party is in the public domain; or
 - (ii) after it is obtained by the Disclosing Party enters the public domain
 - (iii) in either case otherwise than as a result of a breach by the Disclosing Party of its obligations under paragraph 5.1 or 5.2;
- (c) to the disclosure of any Protected Information to any person if and to the extent that the Disclosing Party is required to make such disclosure to such person:
 - (i) in compliance with the duties of the Disclosing Party under the Act or

any other requirement of a Competent Authority; or

(ii) in compliance with the conditions of the Transporter's Licence or (as the case may be) Shipper's Licence held by the Disclosing Party or any document referred to in such licence with which the Disclosing Party is required by virtue of the Act or such licence to comply; or

(iii) in compliance with any other Legal Requirement; or

(iv) in response to a requirement of any stock exchange or regulatory authority or the Panel on Takeovers and Mergers; or

(v) pursuant to any provision of GT Section A or pursuant to any judicial or other arbitral process or tribunal having jurisdiction in relation to the Disclosing Party;

(d) to the disclosure of any Protected Information (whether pursuant to an Agency Function or a Direct Function) by the CDSP (and no disclosure of information by the CDSP shall be treated as disclosure by a Party).

(e) to any Protected Information to the extent that the Disclosing Party is expressly permitted or required to disclose that information:

(i) under the terms of any agreement or arrangement made with the Protected Party or to which it is party (including the Code, the relevant Framework Agreement and any Ancillary Agreement to which the Protected Party is party or bound);

(ii) under the terms of the DSC;

(f) to the disclosure of Protected Information to any lending or other financial institution proposing to provide or arrange the provision of finance to the Disclosing Party, where and to the extent that the disclosure of such information is reasonably required for the purposes of the provision or arrangement of such finance, and provided that the person to whom the information is disclosed undertakes in writing to and in terms reasonably satisfactory to the Protected Party to maintain the confidentiality of such information;

(g) to the disclosure of any Protected Information to the Authority, where the Disclosing Party considers in good faith that the Protected Party may be in breach of a condition of the Transporter's Licence or (as the case may be) the Shipper's Licence, to the extent reasonably necessary to draw such possible breach to the attention of the Authority;

(h) to the disclosure of any Protected Information to any person proposing to make a connection directly or indirectly to a System, where and to the extent that the disclosure of such information is reasonably required for the purposes of supporting the Transporter's charges or requirement to allow such proposed connection to a System to be made and provided that the person to whom the information is to be disclosed is informed in writing of the confidentiality of such information and that prior to disclosure, such person has entered into a confidentiality agreement with the Transporter which prohibits use or disclosure of such Protected Information in terms no less onerous than those contained in this paragraph 5;

(i) to the disclosure of Protected Information to the CDSP to the extent such disclosure is required or permitted under Code or necessary for the purposes of the undertaking by the CDSP of its functions under the Code or is required under the DSC.

5.5.3 Nothing in paragraph 5.1 shall apply to the disclosure by the Transporter of Protected Information:

(a) to any person to the extent such disclosure is required pursuant to the Modification Rules;

(b) to any User Agent where the disclosure by the Transporter of such Protected Information to the appointing User would not have infringed paragraph 5.1;

(c) referred to in paragraph 5.3.2(b)(i) where the supplier or consumer concerned has consented to such disclosure pursuant to a Siteworks Contract, Network Exit Provisions or other document contemplated by the Act, the Transporter's Transporter's Licence or the Code as being entered into by the Transporter and the consumer;

(d) to the Authority where (in connection with any Agency Function of the CDSP) such information is accessible by the Authority by or from the UK Link System to the extent of the access and in accordance with any function or facility thereof described in the UK Link Manual;

(e) to the Trading System Operator to the extent required pursuant to the provisions of Section D or to any person to the extent required pursuant to the Trading System Arrangements;

- (f) to a consumer or an appropriate person to the extent designated by the authority within Standard Special Condition A31 of the Transporter's Licence and a supplier shall be an appropriate person pursuant to Standard Special Condition A31((2)(d)(ii) where its application is for the receipt of data for change of supplier purposes;
- (g) to another Transporter to the extent such disclosure is required for the purposes of the Code or the Transporter's Licence;
- (h) to a contractor or agent of the Transporter where the contractor or agent has entered into a confidentiality agreement with the Transporter on terms no less onerous than those of this paragraph 5;
- (i) to any person pursuant to an application made in accordance with paragraph 7.3 ('Other User Access') of Schedule 23, version dated 7 November 2008, contained in the Supply Point Administration Agreement ('SPAA') 11th June 2004 made between the parties listed in Schedule 1 of the SPAA;
- (j) to the Performance Assurance Framework Administrator, provided the terms of the relevant PAFA Contract require the Performance Assurance Framework Administrator to maintain the confidentiality of such information on terms no less onerous than those of this paragraph 5, save to the extent disclosure of such information is necessary to comply with the terms of the PAFA Contract; or
- (k) to a person appointed pursuant to the SPAA to provide Energy Theft Tip-off Services ("**ETTOS**") when information is received by that person of an allegation of a potential theft of gas at a premises and the identity of the relevant Supplier is required. For the purposes of the Code ETTOS shall have the same meaning as contained within SPAA; or
- (l) to a person appointed pursuant to the SPAA to provide Theft Risk Assessment Service, on a quarterly basis, the following data items; Meter Point Reference Number, Meter Point Address and Postcode, and Meter Serial Number. For the purposes of Code TRAS shall have the same meaning as contained within SPAA; and
- (m) the CDSP are authorised to disclose the following data items: Supply Meter Point Reference Number, supply point address, Meter Post Code, supplier, meter mechanism, network operator, meter capacity, meter serial number, Annual Quantity, Local Distribution Zone to a Price Comparison Website where they have received consent from the domestic consumer and where they have entered into confidentiality and service agreements (on terms no less onerous than those in paragraph 5) and reasonable access conditions.
- (i) the CDSP shall, by 31 March each year, produce a report to identify the service recipients who have signed up to the confidentiality and service agreements;
- (ii) "**Price Comparison Website**" (PCW) shall mean an internet-based price comparison service or other internet based TPI that provides comparisons between, and/or access to, personalised quotes for retail energy to domestic customers, and may carry out, on behalf of the domestic customer and instruction to change the domestic customer's retail energy supplier, tariff or both;
- (iii) "**Third Part Intermediary**" (TPI) shall mean an organization or individual acting as a third party intermediary between a domestic customer and a retail energy supplier.

5.5.4 Where:

- (a) the Disclosing Party has complied with the data security requirements of the DSC; and
- (b) notwithstanding such compliance a person obtains any Protected Information by unauthorised access to any element of UK Link for the security of which the Disclosing Party is (in accordance with the DSC) responsible the Disclosing Party shall not be in breach of paragraph 5.1 or 5.2 by virtue of such person having so obtained such Protected Information.

5.6 Survival

The provisions of paragraphs 5.1 to 5.5 shall continue, for a period of 3 years after the User Discontinuance Date, to bind a Discontinuing User and (as respects the Discontinuing User) the Transporter and each other User, notwithstanding that the Discontinuing User has ceased to be a User and irrespective of the reason for such cessation.

5.7 Transporter's Licence

Nothing in the Code, a Framework Agreement or any Ancillary Agreement shall be construed as requiring the Transporter to disclose or use any information in breach of any requirement of the Transporter's Licence.

5.8 Data ownership

5.8.1 Subject to paragraph 5.8.2(a), the data, including metering data, which is processed by or recorded or maintained on the UK Link System by the CDSP pursuant to its Agency Functions (including all intellectual property rights in such data) shall belong for the purposes of the Code to the Transporter which owns or operates the System to which such data relates; and subject to paragraph 5.8.2(b) the Transporter may, but without prejudice to paragraph 5.1 or any other requirement of the Code, use and deal with such data as it thinks fit.

5.8.2 Where pursuant to the Code a User provides or arranges for the provision of data to a Transporter (including provision to the CDSP behalf of the Transporter pursuant to its Agency Functions):

- (a) such data (as provided to the Transporter by the User) shall belong to the User;
- (b) the User hereby grants to the Transporter (its successors, assigns, agents and contractors) a perpetual, non-exclusive, royalty-free licence (which shall survive the User Discontinuance Date) in respect of such data and all intellectual rights therein to use, copy, adapt and deal with such data for the purposes of performance and implementation of the Code and for other purposes contemplated by the Code, but not otherwise;
- (c) paragraph 5.8.1 shall apply in respect of data derived (pursuant to any process) by the Transporter from such data and in all compilations created by or on behalf of the Transporter of such data.

5.8.3 Where pursuant to the Code the Transporter provides data to a User or data which is recorded or maintained on the UK Link System is available to a User, the User shall (but without prejudice to paragraph 5.2) be entitled without charge to use such data for the purposes of performance and implementation of the Code, and for other purposes contemplated by the Code, but not otherwise.

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5.11 Disclosure of Supply Meter Point Information (Annex V-5)

5.11.1 Where in respect of any Supply Point the CDSP is requested by a Registered Metering Applicant to disclose to such Registered Metering Applicant the information detailed in Annex V-5 ("**Supply Meter Point Information**") then the Registered User of such Supply Point agrees that any such request will be regarded as made on behalf of such Registered User and accordingly the CDSP is (pursuant to the DSC) authorised by such Registered User to disclose such Supply Meter Point Information to the Registered Metering Applicant in accordance with such request.

5.11.2 For the purposes of paragraph 5.11.1, "**Registered Metering Applicant**" is any person who is registered to request and receive Supply Meter Point Information from the CDSP or any person who is not currently registered to request and receive Supply Meter Point Information but such request relates to a period when they were previously registered to request and receive Supply Meter Point Information pursuant to an appropriate registration scheme administered by the CDSP.

5.11.3 Where in respect of any Supply Point for which details of the relevant Meter Asset Manager are not populated in the Supply Point Register the CDSP is requested by an Accredited Meter Asset Manager to disclose information in relation thereto to such Accredited Meter Asset Manager, then provided the Accredited Meter Asset Manager notifies the relevant meter point reference number for each relevant Supply Meter Point comprised within such Supply Point to the CDSP the Registered User of such Supply Point agrees that any such request will be regarded as made on behalf of such Registered User and accordingly the CDSP shall be authorised by such Registered User to disclose the following items of information in respect of each Supply Meter Point comprised in the Supply Point Registration for such Supply Point to the Accredited Meter Asset Manager in accordance with such request:

- (a) meter serial number;
- (b) supplier; and
- (c) model (meter).

5.11.4 For the purposes of paragraph 5.11.3, “**Accredited Meter Asset Manager**” is a Meter Asset Manager that is listed on the Supply Point Administration Agreement MAM Registration Scheme listing of accredited Meter Asset Managers published by Lloyds Register.

5.15 Disclosure of Historic Supply Meter Point Asset and Read Information (Annex V- 8)

5.15.1 Where in respect of any Supply Point, the CDSP is requested by the Registered User to disclose such historic Supply Meter Point Asset and Read data (the information detailed in Annex V-8 “**Historic Supply Meter Point Asset and Read information**”) then the Registered User of such Supply Points agree that any such request will be regarded as made on behalf of such Registered User and accordingly the CDSP is (pursuant to the DSC) authorised to disclose such Information in accordance with such request.

5.15.2 Upon a request by any Registered User, the CDSP shall as soon as reasonably practicable provide the Registered User with the details specified in paragraph Annex V-8 in respect of each Supply Point (other than an NTS Supply Point) for which the User is the Registered User (relevant Supply Point) at the date on which the CDSP is in receipt of the User’s Request.

5.15.3 For the purposes of paragraph V5.15.1 and V5.15.2 the period of data provision is three (3) years historical data.

5.16 Disclosure of MAP Information (Annex V-9)

5.16.1 For the purposes of this paragraph 5.16, “**Meter Asset Provider**” shall mean the provider of the Supply Meter, not having any responsibility for the maintenance of such Supply Meter; and “MAP” shall be construed accordingly.

5.16.2 For the purposes of this paragraph 5.16, “**Meter Point Request Information**” shall include the following information in respect of each Supply Meter Point:

- (a) meter point reference number;
- (b) meter serial number; and
- (c) meter model where the meter capacity is above 11m3.

5.16.3 For the purposes of this paragraph 5.16, “**Meter Point Information**” shall mean the information as detailed in Annex V-9.

5.16.4 Subject to paragraphs 5.16.6 and 5.16.7 below, where the CDSP is requested by a MAP to provide information in respect of a given Supply Meter Point and provided the MAP notifies the CDSP of the Meter Point Request Information for each relevant Supply Meter Point comprised within such Supply Point, then, subject to paragraph 5.16.5, any such request shall be regarded as made on behalf of the Registered User and the CDSP is (pursuant to the DSC) authorised by such Registered User to disclose the Meter Point Information to the MAP for each Supply Meter Point comprised in the Supply Point Registration for such Supply Point.

5.16.5 Meter Point Information shall only be provided in respect of a given Supply Meter Point where the Meter Point Request Information matches the records on the Supply Point Registration. Where the Meter Point Request Information fails to match the records on the Supply Point Registration the CDSP shall:

- (a) provide a response to the MAP indicating that the Meter Point Request Information supplied by the MAP has failed to match the records on the Supply Point Registration; and
- (b) provide no further information in respect of this Supply Meter Point.

5.16.6 A Meter Asset Provider shall only be entitled to receive the information pursuant to paragraph 5.16.4 where it has not already received such information (or any part thereof) from data flows between suppliers, Meter Asset Managers and MAP.

5.16.7 The MAP and the CDSP shall enter into a confidentiality agreement (on terms no less onerous than those of this paragraph 5) for the purposes of receiving the information pursuant to paragraph 5.16.4. Such confidentiality agreement shall detail the permitted purpose for such information and shall include an expressed benefit on Registered Users and each Registered User shall be entitled to enforce the agreement (pursuant to the Contract (Rights of Third Parties) Act 1999) as if it were the CDSP.

5.17 Smart Meter Data Provision to Data Communications Company

The CDSP is authorised to disclose such data as is set out within Annex V-10 to the holder of the “smart meter communications licence” as defined by Statutory Instrument 2012 No.2400: The Electricity and Gas (Smart Meters Licensable Activity) Order 2012. Such data may relate to all Supply Meter Points regardless of status and includes Supply Meter Points which are located on the network of an Independent Gas Transporter where provided to the CDSP.

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14 THEFT OF GAS

14.1 Reporting

14.1.1 The Transporters shall publish a report (at the end of each reporting month) on theft of gas detection performance for Shippers containing the information referred to in Annex V-6 in respect of each Shipper (on an attributable basis) (“**Shipper TOG Report**”).

14.1.2 The Transporters shall publish a report (at the end of each reporting month) on theft of gas detection performance for Transporters containing the information in Annex V-7 in respect of each Transporter (on an attributable basis) (“**Transporter TOG Report**”).

14.1.3 For the purposes of this paragraph 14, “**reporting month**” shall mean each calendar month for which a report pursuant to paragraph 14.1.1 and 14.1.2 shall be published.

15 GAS SAFETY VISITS

15.1.1 Notwithstanding any other provision, throughout this paragraph 15 the following meanings shall apply:

The “**Gas Safety Reports**” are: (i) a report detailing the information referred to in Annex V-11 (“**Industry Gas Safety Report**”); and

(ii) a report detailing the information referred to in Annex V-12 (“**Shipper User Gas Safety Report**”), together “**the Gas Safety Reports**” in respect of a Primary Meter;

(b) “**Primary Meter**” has the meaning given in the Regulations from time to time;

(c) the “**Regulations**” means the Gas Safety (Installation and Use) Regulations 1998.

15.1.2 Where, following the removal of a Primary Meter, the Transporter performs a Supplier’s obligations under Regulation 16(3)(b) of Regulations 1998, the Transporter shall publish Gas Safety Reports in accordance with paragraph 15.1.3 below.

15.1.3 After a period of eighteen months from the removal of the relevant Primary Meter, the Transporter shall publish the Gas Safety Reports in respect of each calendar month.

16 PERFORMANCE ASSURANCE

16.1 Interpretation

16.1.1 For the purposes of the Code:

(a) **“LDZ Settlement Related Obligations”** means obligations under the Code, including obligations undertaken by the CDSP by way of Direct Functions on behalf of the DNOs, the standard of performance of which (including any delays or failures in the performance of which) has, or may have, a material impact on the following matters:

- (i) the quantities of gas treated as offtaken from Local Distribution Zones;
- (ii) the quantities of gas treated as delivered at LDZ System Entry Points; or
- (iii) reconciliations and adjustments in respect of gas offtaken from Local Distribution Zones and/or delivered to LDZ System Entry Points. For the avoidance of doubt, LDZ Settlement Related Obligations shall not include any obligations relevant to the determination of the quantities of gas delivered or treated as delivered to the NTS or from the NTS to any LDZ;

(b) **“Performance Assurance Scheme”** means a scheme for monitoring and reporting on the performance by Shipper Users, DNOs and the CDSP, of LDZ Settlement Related Obligations;

(c) **“Performance Assurance Framework Administrator”** or **“PAFA”** means the person from time to time appointed and engaged to act as such pursuant to paragraph 16.3; and

(d) **“Performance Assurance Framework Document”** or **“PAF Document”** means the document entitled “Guidelines for Energy Settlement Performance Assurance Regime” published by the DNOs, as such document is amended from time to time pursuant to paragraph V12, setting out:

- (i) the scope of the Performance Assurance Scheme, including requirements with respect to the establishment and maintenance of a register of risks associated with LDZ Settlement Related Obligations, and a registry of reports on the standards of performance of DNOs, the CDSP and Shipper Users’ collectively and individually with respect to specific LDZ Settlement Related Obligations;
- (ii) the procedure for appointment of the PAFA and for the establishment by the Performance Assurance Committee of:

- (1) the qualifications and competencies required of any person to be appointed as the PAFA;
- (2) the criteria for selection of a person to act as PAFA;
- (3) certain terms of appointment of the PAFA, including with respect to the duration of the appointment of the PAFA, the scope of services to be provided by the PAFA and the basis on which such appointment may be extended in terms of duration and/or scope; and
- (4) requirements as to re-tendering the appointment of the PAFA from time to time; and
- (iii) any other matters (consistent with paragraph 16.1.1(d)(i) the Performance Assurance Committee decides and the DNOs agree should be included.

(e) **“PAFA Contract”** means the contract of engagement of a person as PAFA as provided in paragraph 16.3.1;

(f) subject to paragraph 16.2.1, the **“Performance Assurance Committee”** or **“PAC”** is the Uniform Network Code Committee or any relevant subcommittee.

16.1.2 In the event of any inconsistency between the provisions of this paragraph 16 and the terms of the PAF Document or any terms of reference for the PAC, the terms of this paragraph 16 shall prevail.

16.2 Performance Assurance Committee

16.2.1 Where paragraph 12, this paragraph 16 or the PAF Document provides for any decision to be taken by the PAC such decision shall be taken by the affirmative vote of a simple majority of the members of the committee who are appointed to represent DNOs and Shipper Users (and subject to such other procedures as the committee may establish) and the representatives of National Grid NTS who are members of the UNC Committee or any relevant sub-committee will not vote on any such matter.

16.2.2 The PAC shall have the functions set out in this paragraph 16 and the PAF Document and shall conduct itself in accordance with such terms of reference as may be adopted by the UNC Committee.

16.2.3 No member of the Performance Assurance Committee shall be liable (whether in contract or tort including negligence or otherwise) to any DNO or any Shipper User or any Trader User for anything done when acting properly in or in connection with his office under the Code, or anything done in what such member in good faith believes to be the proper exercise and discharge of the powers, duties, functions

and discretions of that office in accordance with the Code; and each Transporter, Shipper User and Trader User waives any such liability that any such member may have and any claim in respect thereof.

16.2.4 Nothing contained in paragraph 16.2.3 shall exercise or limit the liability of a member of the Performance Assurance Committee:

- (a) for death or personal injury resulting from the negligence of such member; or
- (b) in any case where such member has in the exercise and discharge of its powers, duties, functions and discretions acted in bad faith or fraudulently.

16.3 Appointment of PAFA

16.3.1 A person shall be appointed by the CDSP, in accordance with this paragraph 16.3, for the purposes of conducting the functions ascribed to the PAFA by the PAF Document (as at the time of such appointment), including the preparation, maintenance and management of the registers referred to in paragraph 16.1.1(d)(i) and the determination of DNOs', the CDSP's and Shipper Users' levels of performance of specific LDZ Settlement Related Obligations.

16.3.2 The CDSP shall, subject to and in accordance with the PAF Document and (where consistent with the provisions of this paragraph 16 and the PAF Document) the requirements of the PAC, as soon as reasonably practicable:

- (a) prepare arrangements and documentation for a competitive tender for the appointment of a person as PAFA in accordance with relevant Legal Requirements;
- (b) conduct such tender on the basis of such arrangements and documentation, including with respect to any such pre-qualification and selection criteria as may be specified by the PAC;
- (c) review and assess the proposals made by persons tendering for appointment as the PAFA pursuant to the tender;
- (d) where appropriate for the purposes of determining which of such persons to appoint as PAFA, enter into discussions with one or more of them;
- (e) use reasonable endeavours to enter into an PAFA Contract with the person selected on the basis of the competitive tender process, such contract to commence as soon as reasonably practicable and to provide for the PAFA to act with all due skill, care and diligence and impartiality when performing of its duties thereunder and in so far as reasonably practicable to act equitably as between Shipper Users, DNOs and the CDSP in identifying, monitoring and reporting on material risks in connection with specific LDZ Settlement Related Obligations with respect to the matters specified at paragraph 16.1.1(a)(i) to (iii);
- (f) notify Shipper Users and Transporters of the appointment of the PAFA; and (g) perform the CDSP's obligations and exercise the CDSP's rights under the PAFA Contract.

16.3.3 Without prejudice to the requirements of the PAF Document, the CDSP may seek guidance from the PAC in relation to anything they propose to do or any other matter arising in connection with their activities under paragraph 16.3.2, and may act in accordance with such guidance.

16.3.4 Nothing in this paragraph 16 shall require the CDSP to enter into a PAFA Contract where in the CDSP's reasonable opinion:

- (a) it would be unlawful to do so; or
- (b) the contract could give rise to the CDSP incurring any liability, other than in respect of their own wilful misconduct, gross negligence or fraud.

16.3.5 This paragraph 16.3 shall apply where the PAC requires the PAFA to be appointed by the DNOs or, on expiry or termination of a PAFA Contract, replaced.

16.4 Terms of engagement of PAFA and cost recovery

16.4.1 The CDSP may enter into a PAFA Contract on terms which limit or exclude the liability (as to such matters as may be provided in such contract) of the PAFA.

16.4.2 For the avoidance of doubt, the CDSP shall not be the agent or trustee of any Party for the purposes of the PAFA, and the CDSP shall owe no duties or responsibilities to any Party in respect of the PAFA Contract other than as provided in this paragraph 16.

16.4.3 The CDSP shall provide the PAFA with such information as he reasonably requires for the purpose of performing his functions under the PAF Contract and such assistance as he may reasonably require in interpreting such information.

16.5 Monthly Reports

16.5.1 For the purposes of the Code the Performance Assurance Report Registers is the document so entitled, published by the DNOs, as amended pursuant to paragraph 16.5.2.

16.5.2 Any amendment to the Performance Assurance Report Registers shall be made in accordance with the Modification Rules and for such purposes the Performance Assurance Report Registers shall be deemed to be a part of the Code.

16.5.3 The DNOs shall publish such reports in accordance with their implementation dates and at the timeframes and intervals as are specified in the Performance Assurance Report Registers Schedules 1A, 1B, 2A and 2B. Reports produced pursuant to Schedules 1A and 2A will be made available to, Shipper Users. Where reports produced pursuant to Schedules 1A and 2A relate to the performance of individual Shipper Users the identity of individual Shipper Users shall be not be disclosed. Reports pursuant to Schedules 1B and 2B shall be made available only to a relevant sub-committee of the Uniform Network Code Committee. Where reports produced pursuant to Schedules 1B and 2B relate to the performance of individual Shipper Users such Shipper Users shall be identified using only the Shipper User's short codes assigned to them by the CDSP.

16.5.4 When the CDSP confirms that it can provide all the reports in the Performance Assurance Report Registers Schedules 2A and 2B, it shall no longer be required to produce the reports in Schedules 1A and 1B. When the CDSP produces the reports in Schedules 2A and 2B it shall produce them, as required by 16.5.3 using data from the Project Nexus Implementation Date.