RETAIL ENERGY CODE

Main Body

RETAIL ENERGY CODE

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RETAIL ENERGY CODE

Dated 28 February 2019

The Retail Energy Code

Version Control

Version	Date of Release	Change Proposal Number	Change Proposal Title	Affected Clauses /Schedules	Effective Date
1.0	28/02/2019	REC v1.0 – Designated Version			28/02/2019
1.1	15/01/2021	REC v1.1			15/01/2021
1.2	n/a	Further Consultation			N/A
2.0	01/09/2021	Further consultation Updates			01/09/2021
2.1	04/11/2021	• R0003	• Market-wide Half Hourly Settlement Implementation	• Main Body (Clause 5.24)	04/11/2021
3.0	18/07/2022	• R0041	• Switching SCR Modification	•	18/07/2022

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1 Definitions and Interpretation

1.1. The defined terms and other rules of interpretation used in this Code are set out in the Interpretation Schedule.

2 Categories of Parties

2.1. The following categories of person are eligible to become a Party: (a) the DCC; (b) RECCo (c) Energy Suppliers; (d) Gas Transporters; (e) Distribution Network Operators; and (f) Metering Equipment Managers.

2.2. The DCC is primarily a Party for the purpose of providing the Centralised Registration Service in accordance with Condition 15 (Incorporation, delivery and provision of the Centralised Registration Service) of the DCC Licence, in which context the DCC is referred to as the CRS Provider. The CRS Provider encompasses the following roles:

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the CSS Provider, the SI Provider and the Switching Operator and, until the end of the Post Implementation Period only, the Core Systems Assurance Provider and CSS Systems Integrator (as such roles are defined in the Interpretation Schedule).

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2.3. The Switching Data Service Providers other than the DCC (in its role as CSS Provider, and also in respect of services under the Smart Energy Code) cannot become a Party, but Electricity Suppliers, Gas Transporters and Distribution Network Operators should note their respective responsibilities in respect of Switching Data Service Providers, as described in paragraph 2 of the Interpretation Schedule.

2.4. REC Service Providers (other than Switching Data Service Providers) cannot become a Party, but RECCo is responsible for ensuring their compliance with this Code, as described in paragraph 2 of the Interpretation Schedule.

2.5. Other organisations cannot become a Party, but:

(a) Energy Suppliers should note their responsibilities in respect of Shippers, Supplier Agents and Meter Asset Providers under and in relation to the Transition Schedule, as described in paragraph 2 of the Interpretation Schedule; and

(b) some organisations which are not Parties are able to obtain access to REC Services by entering into an Access Agreement, as further described in the Qualification and Maintenance Schedule.

3 Becoming a Party

3.1. The Original Parties entered into the Original Accession Agreement on or before the effective date of this Code.

3.2. A person wishing to be admitted as a New Party shall apply to the Code Manager for admission on the application form issued by the Code Manager from time to time, and shall deliver such form to the Code Manager together with any other documents referred to in the form.

3.3. Within 5 Working Days of receipt of the application, the Code Manager shall notify the applicant, the REC Board and the Authority that either: (a) the applicant is to be admitted as a Party; or (b) that the applicant is not eligible to become a Party (as described in Clause 3.1), or that further information is required from the applicant in order to complete the information referred to in the application form.

3.4. Where the Code Manager notifies the applicant that further information is required, as specified in Clause 3.3, the application will be considered to be on hold until such information is provided. Following the provision of further information by the applicant, Clause 3.3 shall apply again.

3.5. If no response is received from the applicant within 20 Working Days after the Code Manager's request for information under Clause 3.3, the application shall lapse. This does not prevent the applicant submitting a new application at a later date.

3.6. If the Code Manager decides that the applicant is not to be admitted as a New Party, then the Code Manager shall provide the applicant with the reasons for the decision. If the applicant considers that it has made all reasonable efforts to comply with the request for information and that it would be unable to provide further information as

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part of a new application, the applicant may appeal the matter to the Authority for determination. Any such appeal is subject to Clause 22.8.

3.7. Where:

(a) the Code Manager issues a notice in accordance with Clause 3.3 that the applicant is to be admitted as a New Party; or

(b) the Authority determines that the applicant shall be admitted as a New Party pursuant to Clause 3.6,

then the Code Manager shall, within 3 Working Days, send to the applicant Accession Agreement for the applicant executed by RECCo on behalf of all the Parties.

3.8. Each Party hereby authorises and instructs RECCo to execute each Accession Agreement on the Party's behalf. Each Party undertakes not to withdraw, qualify or revoke any such authority or instruction at any time.

3.9. Upon the execution and delivery of an applicant's Accession Agreement by RECCo and the applicant, the applicant shall become a Party for all purposes of this Code from the date specified in such Accession Agreement.

3.10. The Code Manager shall promptly notify all Parties and the Authority of the execution and delivery of each Accession Agreement.

4 Mandatory and Voluntary REC Schedules

4.1. Not all REC Schedules apply to all Parties.

4.2. Each REC Schedule is identified for each Party Category as being Mandatory, Voluntary or not applicable.

4.3. If a REC Schedule is Mandatory for a Party Category, each Party in that Party Category shall be obliged to comply with that REC Schedule.

4.4. If a REC Schedule is Voluntary for a Party Category, each Party in that Party Category should take note of the REC Schedule as outlining recognised best practice, but the Parties in that Party Category are not obliged by this Code to comply with that REC Schedule.

4.5. The status of a REC Schedule as Mandatory or Voluntary for a Party Category may change as part of a Change Proposal.

5 RECCo and the REC Board

RECCo

5.1. RECCo shall be established in accordance with the Company Governance Schedule.

5.2. RECCo is a Party to this Code, but is not entitled to become a REC Service User.

5.3. RECCo is responsible for procuring the REC Services (including the Centralised

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Registration Services) from the REC Service Providers (including the CRS Provider). RECCo is then responsible for supplying the REC Services (including the Centralised Registration Services) to the REC Service Users in accordance with this Code. Any and all provision of services by the REC Service Providers to the REC Service Users under this Code is undertaken solely as procured by RECCo under this Code. It is acknowledged that the REC Services are supplied to RECCo and used for the purposes of its business as the central administrator of this Code and the REC Services. Acting via the REC PAB, RECCo will take action against the REC Service Providers where they fail to provide the REC Services in accordance with this Code.

REC Board Objectives

5.4. The REC Board shall, in all its activities, always act in a manner designed to achieve the following objectives:

(a) that this Code is given full and prompt effect in accordance with its provisions, in a manner consistent with the REC Objectives, and without undue discrimination between Parties or Users or any classes of Party or User; and

(b) that the REC Board conducts its affairs in an open and transparent manner.

5.5. The REC Board shall have the power to do anything necessary for, or reasonably incidental to, the governance, management, operation or other purposes of this Code.

REC Board Appointments

5.6. The REC Board shall initially comprise those willing individuals designated by the Authority at or around the date of this Code's designation.

5.7. Thereafter, the size and composition of the REC Board shall be determined by the Nominations Committee, subject to approval of individual's appointment in accordance with Clause 5.9.

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5.8. The REC Board shall establish the Nominations Committee as a Sub-Committee. The Nomination Committee shall be responsible for:

(a) determining (in consultation with the Authority) the skill sets, capabilities and areas of specialism required for each REC Board appointment, including so as to reflect the interests of different classes of User and Consumers and so as to enable the REC Board to deliver its strategy and business plan;

(b) determining whether it is necessary to pay remuneration for the role;

(c) leading the process for REC Board appointments, including the selection and evaluation of candidates; and

(d) making recommendations on REC Board appointments.

5.9. An individual shall be appointed as a REC Board Member if the individual is recommended for appointment by the Nominations Committee, and:

(a) until the first point in time following this Code's designation that the majority of the REC Board Members are not employees of Parties (or employees of Affiliates of

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Parties), the individual's appointment is approved by the Authority; or

(b) following the first point in time following this Code's designation that the majority of the REC Board Members are not employees of Parties (or employees of Affiliates of Parties), the individual's appointment is approved by the Parties via a simple majority of the Parties who cast a vote, on the basis that each Party gets one vote (such vote to be held within 3 months of the Nominations Committee's recommendation); and pending such vote pending such vote, the individual's appointment is approved by the REC Board.

Vacation of Office by a REC Board Member

5.10. Each REC Board Member shall retire 2 years after his or her appointment (plus or minus up to 2 months, as determined by the REC Board at the time of their appointment). A retiring REC Board Member may be re-appointed in accordance with Clause 5.9.

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5.11. Each REC Board Member may resign his or her office by notice in writing to the REC Board.

5.12. Each REC Board Member:

(a) may be removed from office by a REC Board decision if he or she fails to attend two consecutive REC Board meetings without good reason;

(b) may be removed from office in accordance with any contract entered into by the REC Board Member with RECCo;

(c) shall be removed from office as the result of a vote of no-confidence by the Parties, which shall require the support of at least 75% of the Parties who cast a vote, on the basis that each Party gets one vote (such vote to be organised by the Code Manager where requested by a Party);

(d) shall be removed from office where so directed by the Authority; and

(e) shall automatically be removed from office if he or she becomes prohibited by Law from being a director of a company.

REC Board Chair

5.13. The REC Board Chair shall be the REC Board Member identified as such at the time of his or her appointment.

5.14. The REC Board Chair shall preside at every meeting of REC Board. If the REC Board Chair is unable to be (or is not) present at a meeting, a person selected by a simple majority of the attending REC Board Members shall act as the REC Board Chair for that meeting.

REC Board Procedure

5.15. The REC Board shall determine its procedure as it sees fit, subject to the express requirements of this Code.

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5.16. The REC Board Chair may exclude a REC Board Member from part of a REC Board meeting where the REC Board Chair considers that the matters under discussion present a conflict of interest for the REC Board Member.

Meetings

5.17. The REC Board shall hold meetings at such times as it may decide. Each meeting of the REC Board shall be convened by the Code Manager on at least 5 Working Days' notice (or such shorter period as the REC Board Chair may approve).

5.18. Each REC Board meeting shall be held at the venue and/or via the electronic means determined by the REC Board from time to time.

5.19. A representative of the Authority shall be entitled to attend and speak (but not vote) at each REC Board meeting.

Voting and Quorum

5.20. Each REC Board Member shall be entitled to attend and speak at every meeting of the REC Board.

5.21. The quorum for a REC Board meeting shall be 50% of the total number of REC Board Members, but excluding from such number any and all who have been are excluded from the meeting by the REC Board Chair due to a conflict of interest.

5.22. Each decision of the REC Board shall be by simple majority of those REC Board Members attending the relevant meeting.

Minutes

5.23. The Code Manager shall circulate copies of the minutes of each REC Board meeting to each REC Board Member and the Authority as soon as practicable (and in any event within 5 Working Days) after the relevant meeting has been held.

5.24. The Code Manager shall publish on the REC Portal a summary of the business conducted at each REC Board meeting.

Market-wide Half-Hourly Settlement Implementation

5.25. RECCo shall (and the REC Board shall ensure that RECCo shall) comply with the obligations expressed to apply to RECCo (either specifically or generically as a category of participant) under section C12 (Market-wide Half-Hourly Settlement Implementation) of the Balancing and Settlement Code.

6 Change Panel and Other Sub-Committees

6.1. The REC Board may establish such sub-committees from time to time and consisting of such persons as it considers desirable (referred to as Sub-Committees).

6.2. The Change Panel and the REC Performance Assurance Board are Sub-Committees. The REC Board shall, at a time it considers appropriate, establish the Change Panel and the REC Performance Assurance Board. Until those Sub-Committees have been established, the functions, duties and powers assigned to them under this Code shall

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be performed and exercised by the REC Board.

6.3. The REC Board may establish a Sub-Committee on a standing basis or for a fixed period or a finite purpose. The REC Board may decide that a Sub-Committee is to be dissolved (save for those expressly required by this Code).

6.4. Each Sub-Committee expressly required by this Code, shall perform the functions and duties have the powers expressly assigned to it by this Code.

6.5. Each Sub-Committee shall be subject to such written terms of reference and such procedures as the REC Board may determine (as long as those terms of reference do no conflict with the other requirements of this Code).

6.6. The Authority shall be entitled to send a representative to any meeting of any Sub-Committee, who shall be entitled to speak but not to vote on any issue.

7 Code Manager

7.1. The REC Board shall (subject to Clause 7.7) from time to time appoint, and may from time to time remove, a person or persons to be known as the Code Manager.

7.2. In no event shall the Code Manager be a Party, an Affiliate of a Party, or an employee of a Party or an Affiliate of a Party.

7.3. The Code Manager shall, in all its activities, always act in a manner designed to achieve the following objectives:

(a) that this Code is given full and prompt effect in accordance with its provisions, in a manner consistent with the REC Objectives, and without undue discrimination between the Parties or any classes of Party; and

(b) that the Code Manager conducts its affairs in an open and transparent manner.

7.4. Regarding the Code Administration Code of Practice, the Code Manager shall:

(a) at all times, comply with the Code Administration Code of Practice and perform its tasks and functions in a manner consistent with the Code Administration Code of Practice Principles;

(b) in conjunction with the other persons named as code administrators in the Code Administration Code of Practice, review and where appropriate propose to the Authority that amendments be made to the Code Administration Code of Practice (subject always to the Authority's approval of those amendments); and

(c) report to the REC Board on any inconsistencies between this Code and the requirements of the Code Administration Code of Practice.

7.5. The Code Manager shall perform those tasks and functions expressly ascribed to it under this Code, and any other tasks and functions as the REC Board (or any Sub-Committee) may assign to the Code Manager from time to time. Without limitation, the Code Manager shall (subject to Clause 7.7):

(a) manage applications from potential New Parties to become a Party in accordance

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with Clause 3;

(b) convene and minute meetings of the REC Board (and its Sub-Committees) in accordance with Clauses 5 and 6;

(c) circulate all relevant notices, papers and minutes of the REC Board (and its Sub-Committees) in accordance with Clauses 5 and 6; and

(d) manage the process for progressing Change Proposals in accordance with the Change Management Schedule.

7.6. The REC Board shall be responsible for ensuring that the Code Manager undertakes its tasks and functions in respect of this Code. In particular, the REC Board shall (subject to Clause 7.7) ensure that the arrangements under which the Code Manager is appointed oblige the Code Manager to undertake such tasks and functions on terms no less onerous than those provided for by this Code.

7.7. The REC Board may, where consistent with the REC Objectives, decide not to outsource some or all of the Code Manager functions to a service provider, and may instead decide that some or all of those functions shall instead be performed by RECCo. Where this is the case, the relevant references in this Code to the Code Manager will be interpreted as references to RECCo.

7.8. Until such time as the REC Board appoints a Code Manager in accordance with Clause 7.1 and/or decides that some or all of the Code Manager's functions shall instead be performed by RECCo in accordance with Clause 7.7, such functions may on an interim basis be performed by the Authority or a person nominated by the Authority.

8 Protections for REC Board and Sub-Committees

8.1. RECCo shall indemnify, and keep indemnified:

(a) each director on the REC Board;

(b) the REC Board Chair;

(c) each REC Board Member and each of their alternates;

(d) each person who serves on a Sub-Committee; and

(e) each Party, or an Affiliate of a Party, as employer of any person referred to in Clauses (a) to (d) above,

from and against any and all costs (including legal costs), charges, expenses, damages or other liabilities incurred or suffered by that person or employer in relation to the exercise of that person's powers duties or responsibilities under this Code, including where such powers duties or responsibilities are exercised negligently (but subject to Clause 8.2).

8.2. The indemnity under Clause 8.1 shall not apply to:

(a) costs and expenses which are expressly stated to be incapable of recovery in the

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relevant approved budget under Clause 9;

(b) costs, charges, expenses, damages or other liabilities suffered or incurred or occasioned by the wilful default or fraud of the relevant person, or in breach of a contract entered into by the relevant person with RECCo; and/or

(c) costs, charges, expenses, damages or other liabilities which are recovered under any policy of insurance in favour of RECCo.

9 Annual Budget and Cost Recovery

Strategy

9.1. The REC Board shall, in advance of each Financial Year, prepare a strategy setting out the key activities which RECCo expects to carry out during that Financial Year and, to the extent reasonably foreseeable, in each of the two subsequent Financial Years. Such strategy shall be prepared on the basis of the functions and duties assigned to RECCo and/or the REC Board under or pursuant to this Code, and other activities considered by the REC Board to further the REC Objectives.

9.2. By no later than 15 January in advance of each Financial Year, the REC Board shall publish on the REC Portal a draft of the RECCo strategy, including indicative costs for the key activities for the new Financial Year and, to the extent reasonably foreseeable, the two subsequent Financial Years. The REC Board shall invite comments on the draft strategy from Parties and other interested stakeholders, including the Authority. The REC Board shall allow at least 15 Working Days from publication for comments.

9.3. After considering all comments received within the specified period, and with particular regard to any that may be submitted by the Authority, the REC Board shall determine its final strategy for the Financial Year. The REC Board shall use the strategy to help determine its budget for the next Financial Year in accordance with Clause 9.5.

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Recoverable Costs

9.4. RECCo shall be entitled to recover, in accordance with the procedures set out in this Clause 9, all the reasonable costs and expenses RECCo properly incurs pursuant to this Code (save to the extent covered by the charges recovered under Clause 10 or the Performance Assurance Schedule). Without limitation, RECCo shall be entitled to recover:

(a) the charges and other costs and expenses under or in relation to each of its contracts with the REC Service Providers and the Code Manager;

(b) any general administration costs and expenses associated with the REC Board (including its Sub-Committees), including any costs incurred in holding meetings;

(c) the charges and other costs and expenses of any consultant or adviser retained by the REC Board;

(d) RECCo's costs under Clause 8; and

(e) any costs and expenses associated with projects approved by the REC Board.

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Preparation and Approval of Budgets

9.5. By no later than the 15th Working Day of February, before the commencement of each Financial Year, the REC Board shall circulate to all Parties its agreed budget for that Financial Year, which shall set out the REC Board's good faith estimate of the costs that are anticipated to be incurred in delivering the strategy determined pursuant to Clause 9.3 for that Financial Year.

9.6. In preparing the budget the REC Board shall adopt a zero-based budgeting methodology, which clearly distinguishes between those costs items which the REC Board consider at its discretion will further the REC Objectives, and costs that are necessary in order to comply with legally binding obligations to which RECCo is committed in accordance with this Code.

9.7. Any Party may appeal the decision of the REC Board to approve the budget to the Authority within 10 Working Days of the publication of the budget pursuant to Clause 9.5. Any appeal brought under this Clause 9.7 shall be specific to one or more individual cost items, not to the budget as a whole.

9.8. The Authority may allow an appeal where the Authority is satisfied that the cost item in question:

(a) was not consulted upon in accordance with Clause 9.2 or the REC Board failed to have reasonable regard to the consultation responses submitted;

(b) is not a legitimate item of expenditure for the REC Board;

(c) is a manifestly inappropriate provision for the activity in question, and there are insufficient safeguards in place to ensure that the actual costs incurred will be efficient; or

(d) will, or is likely to, prejudice unfairly the interests of one or more Parties, or cause them to be in breach of this Code, the Energy Licences and/or Law.

9.9. Where the Authority allows an appeal of the budget, the Authority may:

(a) refer the particular cost item back to the REC Board for further consideration and, if appropriate, to pursue a revision to the prevailing budget;

(b) revise the provision for that budget item to a figure which it reasonably considers to be a better forecast of the cost likely to be incurred, whether that is higher or lower that the REC Board budgeted figure; or

(c) direct the REC Board to remove that cost item entirely, and make suitable revision to its annual budget and strategy.

9.10. Pending resolution of any appeal, RECCo shall not be entitled to incur costs in respect of the cost item that is subject to appeal, except insofar as necessary in order to comply with legally binding obligations which it has previously incurred in accordance with this Code (which includes RECCo's obligation to pay for the Centralised Registration Service in accordance with Clause 9.25).

Amendments to Budgets

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9.11. The REC Board may make revisions to the approved budget for a Financial Year within the limits defined in the approved budget. For revisions to the approved budget of greater than those limits, the REC Board shall consult with Parties and the Authority, and the appeal process set out in Clauses 9.7 to 9.10 shall apply.

Publication of Annual Budget

9.12. The REC Board shall publish on the REC Portal the approved annual budget from time to time for each Financial Year; provided that the REC Board shall remove or redact any information which the REC Board considers would be prejudicial to the interests of one or more Parties (including RECCo).

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Payment of Costs Incurred

9.13. Following receipt of an invoice or other statement relating to costs which are provided for in an approved budget, RECCo shall pay the amount stated in such invoice within 5 Working Days (or such longer payment terms as may have been agreed with the payee).

Recovery of Costs from Parties

9.14. Each Energy Supplier shall be liable to fund the costs incurred by RECCo in respect of each Financial Year as follows:

$$\text{Energy Supplier's Contribution} = \frac{MP \; x \; C}{TMP}$$

Where:

MP = the average number of RMPs for which the Energy Supplier was the Registered Supplier on the 15th day of each month of the Financial Year;

C = the costs incurred by the REC Board in accordance with the approved budget (to the extent not covered by the charges recovered under Clause 10 or the Performance Assurance Schedule); and

TMP = the average number of RMPs across all Registered Suppliers that existed on the 15th day of each month of the Financial Year.

9.15. It is acknowledged that neither the final costs incurred in respect of, nor the market share of each Energy Supplier during, a Financial Year will be known until after the end of the Financial Year. RECCo shall invoice each Energy Supplier for RECCo's estimate of the Energy Supplier's contribution to the expected costs to be incurred in accordance with the most recent approved budget, pursuant to Clause 9.14. Such invoices shall be raised in the first month of each calendar quarter, using an estimate based on the costs expected to be incurred in accordance with the approved budget for that quarter and the most recent data on each Energy Supplier's registrations provided to RECCo pursuant to Clause 9.23

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9.16. Each Energy Supplier shall pay the amounts invoiced under Clause 9.15 (including VAT, if applicable) within the time period prescribed by the REC Board.

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9.17. For the avoidance of doubt, a failure to make a payment in accordance with Clause 9.16 may be treated as an Event of Default under Clause 16.

9.18. RECCo shall, without prejudice to any other right or remedy, charge (and the relevant Energy Supplier shall pay) interest on any payment not duly made in accordance with this Clause 9, calculated from day to day at an annual rate equal to the Default Interest Rate from the day after the date on which payment was due up to and including the date of payment, together with an administration charge as notified by the Code Manager to the Parties from time to time.

9.19. Within 30 Working Days after the end of each Financial Year, RECCo shall calculate each Energy Supplier's total contribution for that Financial Year in accordance with the proportions set out in Clause 9.14, and shall reconcile them against the aggregate amount invoiced to that Energy Supplier under Clause 9.15. Where the aggregate amount invoiced to an Energy Supplier is more than (or less than) the amount calculated in accordance with this Clause 9.19 in respect of that Energy Supplier, RECCo shall include a credit (or additional charge) for the difference in the next invoice to be raised pursuant to Clause 9.15 after the financial statements for the Financial Year have been audited in accordance with Clause 9.23 and approved by the REC Board.

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Bad Debt

9.20. Where amounts owed to RECCo under this Clause 9 or Clause 10 are determined to be a bad debt (by the REC Board or by the Code Manager in accordance with a policy approved by the REC Board), then the debt shall be recovered from other Energy Suppliers under the next round of invoices produced under Clause 9.15. This is without prejudice to the liability of the original debtor, and any amounts subsequently recovered from the original debtor will be applied so as to reduce the future Recoverable Costs payable by Energy Suppliers.

Annual Report

9.21. The REC Board shall, following the end of each Financial Year, prepare and publish on the REC Portal a report summarising the implementation and operation of the Code and the activities of the REC Board and its Sub-Committees during that Financial Year. Such annual report shall include:

(a) a review of the mobilisation and/or subsequent performance of the Code Manager;

(b) a review of the Change Management Schedule procedures and the changes that have been subject to those procedures, including where appropriate the impact of changes that have been implemented;

(c) a summary of the key risks identified by the REC PAB and progress made in mitigating those risks, and/or in improving key industry metrics as may be identified by the REC PAB;

(d) a review of progress made in delivering the RECCo strategy and performance against budget; and

(e) details of operational issues that have been identified as requiring, or otherwise expected to contribute to, improvements in RECCo's delivery of REC Services to

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REC Service Users, and the actions being taken to make such improvements, to the extent these are not a feature of the RECCo strategy.

9.22. Notwithstanding the publication of such an annual report, the REC Board Chair will write to and offer to meet with the chair of the Authority highlighting any aspect of the annual report which the REC Board Chair considers to be of particular relevance to the Authority.

Audit

9.23. The REC Board shall arrange for the costs it incurs (as referred to in Clause 9.4) to be audited by a firm of chartered accountants on an annual basis. The REC Board shall publish the audited financial statements including the auditor's report, on the REC Portal, within 15 Working Days of the financial statements being approved by the REC Board.

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Provision of Data on Registrations

9.24. The CSS Provider shall notify the Code Manager of: (a) the number of RMPs (separately for gas and electricity) for which each Energy Supplier is the Registered Supplier and; (b) the number of RMPs associated with each Network Party's network, (in each case) at such intervals and in respect of such periods as the Code Manager may reasonably request for the purposes of this Clause 9 and/or Clause 10. Until such time as this information is available via the Central Switching Service, Gas Retail Data Agent and the Electricity Retail Data Agents shall ensure that this information is made available to the Code Manager.

Invoicing CRS Charges

9.25. The CRS Provider shall submit monthly invoices to RECCo for the Centralised Registration Service. For each Financial Year, the amount of each such monthly invoice will be equal to one twelfth (1/12th) of the CRS Provider budget (excluding VAT) for that Financial Year agreed or determined under Clause 9.27 to 9.34 (inclusive). Each such monthly invoice shall set out the charges for the prior month (plus VAT). RECCo shall pay each invoice within 5 Working Days of receipt.

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9.26. The CRS Provider shall, without prejudice to any other right or remedy, charge (and RECCo shall pay) interest on any payment not duly made in accordance with Clause 9.25, calculated from day-to-day at an annual rate equal to the Default Interest Rate from the day after the date on which payment was due up to and including the date of payment.

Budgeting for CRS Charges

9.27. The CRS Provider shall present its rough order of magnitude forecast charges for the following Financial Year to REC Board by the end of November. The first submission of the forecast charges shall be by the end November 2022 for the Financial Year ending 31 March 2024. Such forecast charges shall be evidenced and reflect the CRS Provider's reasonable forecast costs of providing the Centralised Registration Service and permitted under the DCC Licence. The forecast costs shall include relevant internal costs, external costs, adjustments to account for under or

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over recovery of costs in the previous year approved by the Authority and margin permitted under its licence but shall not include any contingency costs. The forecast charges shall exclude VAT.

9.28. Where the REC Board provides comments to the CRS Provider by the end of December each year, the CRS Provider shall take account of these comments and shall respond to the REC Board, including where appropriate, by providing updated forecast charges, by the end of January.

9.29. Where the REC Board considers that the CRS Provider has not taken sufficient account of its comments, it may refer the CRS forecast charges to the Authority.

9.30. The Authority may consider a referral under Clause 9.29 where it agrees that the CRS Provider may not have taken sufficient account of REC Board's comments and that, in not doing so, this may have a material impact of the charges that would otherwise become due to the CRS Provider in the following Financial Year.

9.31. Where the Authority has considered a referral under Clause 9.29, it may:

a) refer the forecast charges back the CRS Provider for further consideration; or,

Deleted: ,

b) revise the forecast charges to a figure which it reasonably considers to be a better forecast of the cost likely to be incurred, whether that is higher or lower than the CRS Provider's figure.

9.32. Pending resolution of any such referral to the Authority, the CRS Provider shall charge RECCo based on the undisputed amount of the forecast Centralised Registration Service charges.

9.33. Once the budget for Centralised Registration Service charges in a Financial Year has been agreed or determined under this Clause 9, it shall only be amended if such amendment is approved under the Change Management Schedule as if the amendment was an amendment to this Code.

9.34. RECCo shall only become responsible for Centralised Registration Service charges from 01 April 2023 onwards. It shall not be responsible for any charges incurred prior to that date.

10 Charges Dependent on Usage

REC Charging Methodology

10.1. The REC Board shall develop a draft REC Charging Methodology and raise a Change Proposal to have such REC Charging Methodology incorporated into this Code.

10.2. The REC Board shall periodically review the REC Charging Methodology and (where the REC Board considers it necessary to do so) raise a Change Proposal to propose amendments to the REC Charging Methodology. This is without prejudice to the ability of other interested parties to raise Change Proposals in respect of the REC Charging Methodology.

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10.3. In addition to the REC Objectives, the REC Charging Methodology shall be designed to result in charges which:

(a) do not unduly discriminate between REC Service Users (or classes of REC Service Users); and

(b) are reflective of the costs incurred by RECCo in procuring the service to which such charges apply (in so far as is reasonable, having regard to the costs of implementing such an approach, and recognising that such costs will otherwise be recovered under Clause 9).

REC Charging Statement

10.4. The REC Board shall, from time to time (including on first publication of, and each subsequent amendment to, the REC Charging Methodology), determine the REC Charging Statement, and publish that statement on the REC Portal. The REC Board shall determine the REC Charging Statement by applying the REC Charging Methodology.

10.5. The REC Board shall publish draft and final versions of the REC Charging Statement at the same time as it publishes draft and final versions of the Annual Budget (under Clause 9).

Invoicing and Payment

10.6. RECCo shall raise invoices at the times, and to cover the periods, provided for in the REC Charging Statement. RECCo may rely on usage forecasts or estimates where it is reasonable necessary to do so (subject to reconciliation once actuals are known).

10.7. Each REC Service User shall pay the amounts invoiced under Clause 10.6 (plus VAT, if applicable) within the time period prescribed by the REC Charging Statement.

10.8. RECCo shall, without prejudice to any other right or remedy, charge (and the relevant REC Service User shall pay) interest on any payment not duly made in accordance with this Clause 10, calculated from day-to-day at an annual rate equal to the Default Interest Rate from the day after the date on which payment was due up to and including the date of payment, together with an administration charge (if one is provided for in the REC Charging Statement).

10.9. For the avoidance of doubt, a failure to make a payment in accordance with Clause 10.7 may be treated as an Event of Default under Clause 16.

11 Change Control

11.1. Until Retail Code Consolidation (or such earlier date as the Authority may designate, including on the application of the REC Board), changes to this Code shall not be subject to the Change Management Schedule, and shall instead be subject to the Authority's approval:

(a) in accordance with the change control process applying to the Switching Programme generally; or

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(b) by giving effect to the published conclusions of a Significant Code Review and any direction of the Authority, pursuant to the Gas Supply Licences and the Electricity Supply Licences.

11.2. Notwithstanding Retail Code Consolidation, and until three months after Steady State Commencement Date (or such earlier or later date as the Authority may designate), the Authority may direct the Code Manager that any proposed changes to the Code which relate to the Switching Programme shall not be subject to the Change Management Schedule, and shall instead be subject to the Authority's approval as described in Clause 11.1. Where the Authority does not so direct, the proposed changes shall remain subject to the Change Management Schedule.

11.3. While (and to the extent that) the Switching Programme's change process applies under Clause 11.1 or 11.2, the REC Board and its Sub-Committees and the Code Manager shall each participate in that change process, and assist and support that change process. If requested by the Authority, such participation shall include undertaking impact assessments (including via Subject Matter Experts) and/or providing recommendations on proposed Switching Programme changes.

11.4. There may be instances where an inconsistency arises between the requirements of this Code and the requirements of an Energy Licence or other Energy Code. Where a Party identifies such an inconsistency, the Party shall notify the Code Manager. Following such a notification by a Party to the Code Manager, the Party shall not be considered to be in breach of this Code where such breach arises as a result of the Party complying with its obligations under an Energy Licence or other Energy Code.

Deleted: Notwithstanding Retail Code Consolidation and until such time as the Authority may designate:¶
changes to the Transition Schedule (and to the definitions in the Interpretation Schedule which are only used in the Transition Schedule) shall not be subject to the Change Management Schedule, and shall instead be subject to the Authority's approval as described in Clause 11.1; and,¶
changes to definition in the Interpretation Schedule which are used in the Transition Schedule and other parts of this Code may only be made via Authority-Approved Changes

12 RECCo Step-In Rights for CSS Provider Contracts

12.1. The DCC shall ensure that each External Service Provider Contract is capable of being novated to RECCo:

(a) at the DCC's request; and

(b) at the direction of the Authority.

12.2. The DCC shall ensure that RECCo can, pursuant to the Contract (Rights of Third Parties) Act 1999, directly enforce such right to have the contract novated to RECCo.

13 Intellectual Property Rights

REC Materials

13.1. Clauses 13.2 to 13.4 apply in respect of this Code and 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, and including Change Proposals) arising out of or in connection with the central administration, operation and development of this Code, including any and all associated drafts and working papers (collectively known as the REC Materials); provided that the REC Materials shall not include the CRS Services IPR, the RECCo Services IPR, or the Services Data.

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13.2. The Parties agree that, as between the Parties, any and all Intellectual Property Rights subsisting in the REC Materials and the whole of the title to the REC Materials will:

(a) be owned by RECCo; and

(b) automatically and immediately vest in RECCo upon their creation or acquisition.

13.3. Where a Party other than RECCo acquires (by operation of Law or otherwise) any Intellectual Property Rights in the REC Materials, then that Party:

(a) (as far as is permitted by Law) hereby assigns such Intellectual Property Rights to RECCo with full title guarantee, by way of present assignment of future Intellectual Property Rights; and

(b) (to the extent such assignment is not permitted by Law) shall (and shall procure that any of its employees, agents or contractors shall) do all acts and things and execute all documents that may be reasonably necessary to transfer such Intellectual Property Rights to RECCo with full title guarantee (and pending such assignment shall hold such rights on trust for RECCo).

13.4. RECCo hereby grants to each of the other Parties (for so long as they remain a Party) a royalty-free, non-exclusive, non-transferable licence to use the REC Materials for the sole purpose of participating as a Party (including exercising its rights and performing its obligations as a Party). Each licence granted to a Party under this Clause 13.4 includes the right of that Party to grant sub-licences to its agents, contractors and advisers provided that they are granted solely in respect of that Party's participation as a Party (and the REC Materials are used for no other purpose).

CRS Services IPR

13.5. Clauses 13.6 to 13.13 apply in respect of CRS Services IPR. CRS Services IPR refers to the Intellectual Property Rights which are essential for the CRS Provider (or its contractors) to provide the Centralised Registration Services and/or essential for the REC Service Users to receive the Centralised Registration Services (but excluding in both cases commercially available off-the-shelf software). The CRS Provider's obligations under this Code in relation to the Intellectual Property Rights essential for the REC Service Users to receive the Centralised Registration Services shall be limited to the software, communications networks and interfaces for which the CRS Provider is responsible as described in the Design Baseline. The CRS Services IPR which is not owned by the DCC is referred to as Third Party IPR.

13.6. As between the CRS Provider and each REC Service User, the CRS Services IPR shall be owned by the CRS Provider (and no User shall make any claims in respect of the CRS Services IPR).

13.7. The CRS Provider hereby grants to each REC Service User a royalty-free, non-exclusive, non-transferable licence to use the CRS Services IPR for the sole purpose of receiving the Centralised Registration Services (subject to Clause 13.9). Each licence granted by the CRS Provider under this Clause 13.7 includes the right of the REC Service User to grant sub-licences to its agents, and contractors provided that they are granted solely for the purpose of the REC Service User receiving the Centralised Registration Services (and that the CRS Services IPR is used for no other

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purpose).

13.8. The CRS Provider shall ensure that each REC Service User (and its agents and contractors) can use the CRS Services IPR in the manner envisaged by Clause 13.7, and shall indemnify each REC Service User in respect of any claims brought by persons alleging that the use of that CRS Services IPR in the manner envisaged by Clause 13.7 has infringed any Intellectual Property Rights.

13.9. If the CRS Provider cannot obtain the necessary Third Party IPR licensing rights in favour of REC Service Users and/or to enable REC Service Users to grant sub-licences of Third Party IPR (in each case as required by Clause 13.7), then the CRS Provider shall consult with the Authority, and the Authority may agree in writing that specified Third Party IPR does not need to be licensed to REC Service Users and/or capable of being sub-licensed by REC Service Users (as would in each case otherwise be required by Clause 13.7).

13.10. In procuring and developing the Centralised Registration Services, the CRS Provider must give due consideration, in so far as is relevant and possible, to the total costs to and impact on REC Service Users (including consideration of variances across REC Service Users, including size) in relation to Intellectual Property Rights, on the assumption that all REC Service Users design and operate their Systems in accordance with Good Industry Practice.

Use of CSS Services IPR by Successors

13.11. This Clause 13.11 applies to the CRS Provider in all of its activities of negotiating, entering into, managing and developing the External Service Provider Contracts. The CRS Provider must at all times carry on those activities with appropriate regard for the potential impacts of the ownership and licensing of Intellectual Property Rights on:

(a) the existing and future integration of the Centralised Registration Service; and

(b) the rights of any External Service Provider (or any successor) or any successor provider of the Centralised Registration Services to be able to use essential Intellectual Property Rights created or held by any of their respective predecessors.

13.12. In addition to, and without prejudice to the DCC's obligations under the DCC Licence, on the DCC ceasing to be the provider of some or all of the Centralised Registration Services in circumstances where the DCC remains the licensee under the DCC Licence:

(a) in respect of any and all CRS Services IPR relating to the services for which the DCC is no longer the provider and which the DCC owns, the DCC shall transfer such Intellectual Property Rights to (as directed by the Authority) RECCo or the successor CSS Provider with full title guarantee (and pending such assignment shall hold such rights on trust for RECCo); and

(b) in respect of any and all Third Party IPR relating to the services for which the DCC is no longer the provider and which the successor provider needs to continue provision of the relevant Centralised Registration Services, the DCC shall ensure that the successor provider is granted a licence to use such Intellectual Property Rights on the same terms as those that had applied to the DCC (but excluding

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Intellectual Property Rights which the Authority agrees in writing do not need to be subject to this Clause 13.12(b)).

13.13. The DCC may not be party to any External Service Provider Contract which does not expressly provide for or permit the licensing envisioned by Clause 13.12(b), save where the Authority agrees in writing that the Intellectual Property Rights in question do not need to be subject to Clause 13.12(b).

RECCo Services IPR

13.14. Clauses 13.15 to 13.17 apply in respect of RECCo Services IPR. RECCo Services IPR refers to the Intellectual Property Rights (other than Services Data and commercially available off-the-shelf software) which are essential for REC Service Users to receive the REC Services (excluding those which form part of the Centralised Registration Services).

13.15. As between RECCo and each REC Service User, the RECCo Services IPR shall be owned by RECCo (and no REC Service User shall make any claims in respect of the RECCo Services IPR).

13.16. RECCo hereby grants to each REC Service User a royalty-free, non-exclusive, non-transferable licence to use the RECCo Services IPR for the sole purpose of receiving the relevant REC Services in accordance with this Code. Each licence granted by RECCo under this Clause 13.16 includes the right of the REC Service User to grant sub-licences to its agents, and contractors provided that they are granted solely for the purpose of the REC Service User receiving the relevant REC Services in accordance with this Code (and that the RECCo Services IPR is used for no other purpose).

13.17. RECCo shall ensure that each REC Service User (and its agents and contractors) can use the RECCo Services IPR in the manner envisaged by Clause 13.16, and shall indemnify each REC Service User in respect of any claims brought by persons alleging that the use of that RECCo Services IPR in the manner envisaged by Clause 13.16 has infringed any Intellectual Property Rights.

Services Data

13.18. Clauses 13.19 to 13.21 apply in respect of Services Data. Services Data is the data which is stored, accessed or exchanged pursuant to one or more REC Services.

13.19. Each Party acknowledges and agrees the following position with respect to ownership of Services Data:

(a) each REL Address is owned by Ordnance Survey and licensed to the CRS Provider, and shall (between the Parties) be owned by the CRS Provider and subject to the provisions that apply to CRS Services IPR (and not subject to Clauses 13.20 and 13.21);

(b) subject to sub-clause (a) above, all Services Data held within the Central Gas Register shall (as between the Parties) be owned by the relevant Gas Transporter;

(c) subject to sub-clause (a) above, all Services Data held within MPAS shall (as between the Parties) be owned by the relevant Distribution Network Operator;

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(d) subject to sub-clauses (a), (b) and (c) above, the Services Data which is provided by a REC Service User shall (as between the Parties) be owned by the REC Service User which provided the data; and

(e) subject to sub-clauses (a), (b), (c) and (d) above, the Services Data shall (as between the Parties) be owned by RECCo.

13.20. The relevant owner of the Services Data (as identified in Clause 13.19) hereby grants royalty-free, non-exclusive, non-transferable licences (including a right to grant sub-licences to contractors for the same purpose):

(a) to each REC Service Provider to use that Services Data for the sole purpose of providing its REC Service in accordance with this Code; and

(b) to each other REC Service User to use that Services Data for the purpose of receiving the relevant REC Service(s) in accordance with this Code and (in the case of REC Service Users which hold Energy Licences) and the purposes of the business authorised by its Energy Licence.

13.21. Each REC Service User, in respect of the Services Data provided by it, shall ensure that the licensees can use that Services Data in the manner envisaged by Clause 13.20, and shall indemnify each licensee in respect of any claims brought by persons alleging that the use of that Services Data in the manner envisaged by that Clause has infringed any Intellectual Property Rights.

General

13.22. The use by a User of Intellectual Property Rights licensed to it under this Clause 13 otherwise than in accordance with such licence shall constitute a breach of this Code, and the User breaching the Intellectual Property Rights shall indemnify the Party which granted the licence.

14 Limitation of Liability

14.1. Nothing in this Code shall exclude or limit a Party's liability:

(a) for death or personal injury resulting from the negligence of that Party;

(b) for fraud or fraudulent misrepresentation;

(c) to pay its share of RECCo's costs under and in accordance with Clause 9;

(d) to pay the charges under and in accordance with Clause 10;

(e) to pay amounts due under and in accordance with the Performance Assurance Schedule (but without prejudice to the financial limits set out in the Performance Assurance Schedule); or

(f) for any other type of liability which cannot by Law be excluded or limited.

14.2. A Party shall only be liable to another Party under or in relation to this Code for losses that arise as a direct result of a breach of this Code (being losses that were reasonably foreseeable as likely to occur in the ordinary course of events).

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14.3. The Liability of each Party (other than the DCC) under or in relation to this Code:

(a) for breach of Clause 18 (Confidentiality), shall be unlimited (subject to Clauses 14.2 and 14.5);

(b) for breach of Clause 13 (Intellectual Property Rights), shall be unlimited (subject to Clauses 14.2 and 14.5); and

(c) for any other breach of this Code shall be limited to £1,000,000 (one million pounds) in respect of each incident or series of related incidents.

14.4. The Liability of the DCC under or in relation to this Code:

(a) for breach of Clause 18 (Confidentiality), shall be unlimited (subject to Clauses 14.2 and 14.5);

(b) for breach of Clause 13 (Intellectual Property Rights), shall be unlimited (subject to Clauses 14.2 and 14.5); and

(c) for any other breach of this Code (unless expressly stated otherwise in this Code) shall be limited to the higher of: (A) £1,000,000 (one million pounds) in respect of each incident or series of related incidents; or (B) the amount which is recoverable by the DCC under the External Service Provider Contracts.

14.5. No Party shall be liable to another Party under or in relation to this Code for:

(a) loss of profit;

(b) loss of revenue;

(c) loss of use;

(d) loss of contract;

(e) loss of goodwill; or

(f) loss resulting from the liability of such other Party to a third party for any of the matters referred to in paragraphs (a) to (e) above.

14.6. The rights and remedies provided by this Code are exclusive and not cumulative, and exclude and are in place of all substantive (but not procedural) rights or remedies provided by common law or statute in respect of the subject matter of this Code. Subject to Clause 14.1, each Party hereby waives and releases to the fullest extent possible all such rights and remedies provided by common law or statute.

14.7. Nothing in this Clause 14 shall exclude or affect any of:

(a) the rights, powers, duties and obligations of any Party which are conferred or created by an Energy Licence or Law (save as described in Clause 14.6); or

(b) the rights, powers and duties of the Authority or the Secretary of State.

14.8. The Performance Assurance Schedule sets out each Party's exclusive remedy

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in respect of the poor performance of those matters which are subject to Performance Standards under the Performance Assurance Schedule.

14.9. Where the liability of a Party under or in relation to this Code would exceed the financial cap on liability set out in Clause 14.3(c) or 14.4(c) (as applicable to that Party), and that liability is in respect of loss or damage suffered by more than one other Party, each such other Party shall be entitled to recover a proportion of the capped liability calculated by reference to the amount of any loss and damage suffered by it expressed as a fraction of the total amount of loss and damage suffered by such other Parties collectively.

14.10. Each Party shall be under a duty to mitigate its loss.

14.11. Each Party hereby acknowledges and agrees that the provisions of this Clause 14 are fair and reasonable having regard to the circumstances.

15 Performance Assurance

15.1. The REC Performance Assurance Board shall be established in accordance with the Performance Assurance Schedule, and shall conduct its business in accordance with that REC Schedule.

15.2. Each Party shall potentially be subject to Performance Standards under and in accordance with the Performance Assurance Schedule, and shall potentially be liable to pay compensation payments in accordance with that REC Schedule.

16 Events of Default and Consequences Of Default

16.1. An "**Event of Default**" shall occur in respect of a Party (the "**Defaulting Party**") if one or more of the following occurs in respect of it:

(a) the Defaulting Party is in breach of any of the material terms or conditions of this Code and/or in persistent breach of any of the terms or conditions of this Code and, if the breach is or was capable of remedy, it fails to remedy the breach within 20 Working Days of receipt of a notice from another Party giving details of the breach, requiring the Defaulting Party to remedy the breach and stating that a failure to remedy the breach may give rise to consequences set out in this Clause 16;

(b) the Defaulting Party is determined to have committed an Event of Default under the Performance Assurance Schedule;

(c) the Defaulting Party passes a resolution for its winding-up, or a court of competent jurisdiction makes an order for the winding-up or dissolution of the Party;

(d) the Defaulting Party has an administration order is made in respect of it or a receiver is appointed over, or an encumbrancer takes possession of or sells, any substantial part or parts of the Party's assets, rights, or revenues;

(e) the Defaulting Party makes an arrangement or composition with its creditors generally or makes an application to a court for protection from its creditors generally;

(f) the Defaulting Party is unable to pay its debts within the meaning of Section 123 of

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the Insolvency Act 1986, but as if in that Section the sum of £10,000 was substituted for the sum of £750; and/or

(g) if the Defaulting Party holds an Energy Licence, the Defaulting Party has its Energy Licence revoked.

16.2. Any Party may report any suspected Event of Default to the REC Performance Assurance Board and upon receiving such report, the REC Performance Assurance Board shall notify the Party to whom the suspected Event of Default report relates.

16.3. Where the REC Performance Assurance Board has reason to believe that an Event of Default may have occurred in respect of a Party, then the REC Performance Assurance Board may investigate the circumstances relating to such potential Event of Default. Each Party shall provide all reasonable data and cooperation as the REC Performance Assurance Board may reasonably request in respect of any such investigation.

16.4. Where an Event of Default occurs in respect of a Defaulting Party and while that Event of Default is continuing, the REC Performance Assurance Board may take one or more of the following steps (in each case to the extent and at such time as the REC Performance Assurance Board sees fit, having regard to all the circumstances of the Event of Default and any representations made by any Competent Authority or any Party):

(a) notify the Authority that such Event of Default has occurred in respect of the Defaulting Party;

(b) notify the Defaulting Party that such Event of Default has occurred in respect of it;

(c) notify each other Party that such Event of Default has occurred in respect of the Defaulting Party;

(d) require the Defaulting Party to give effect to a reasonable remedial action plan designed to remedy and/or mitigate the effects of the Event of Default within a reasonable timescale (a material breach of which plan shall in itself constitute an Event of Default);

(e) suspend the right of the Defaulting Party to exercise its rights in respect of Change Proposals pursuant to Clause 11;

(f) (in the case of an Energy Supplier) instruct the CSS Provider to suspend (in which case the CSS Provider shall suspend, with effect from the next following day) the right of the Defaulting Party to make new Registrations; and/or

(g) recommend to the REC Board that the Defaulting Party be expelled from this Code subject to and in accordance with Clause 17.

16.5. The suspension of any or all of the Defaulting Party's rights referred to in Clause 16.4 shall be without prejudice to the Defaulting Party's obligations and liabilities under and in relation to this Code (whether accruing prior to, during, or after such suspension).

16.6. Where the REC Performance Assurance Board has, pursuant to Clause 16.4,

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suspended a Party's rights, then the REC Board may at any time thereafter end such suspension.

16.7. Where the REC Performance Assurance Board resolves to suspend the rights of a Party pursuant to Clause 16.4, then that Party may at any subsequent time make an appeal to the Authority to have such suspension lifted (in accordance with Clause 22.8). The Parties and the REC Performance Assurance Board shall give effect to any decision of the Authority pursuant to such application, which shall be final and binding for the purposes of this Code.

17 Ceasing to Be A Party

17.1. A Party that holds an Energy Licence that requires that Party to be a party to this Code:

(a) cannot be expelled from this Code by the REC Board unless the Authority has approved such expulsion; and

(b) cannot voluntarily cease to be a Party while that Energy Licence remains in force.

17.2. The processes applying to Parties which are expelled from this Code or which wish to voluntarily withdraw from this Code are set out in the Market Exit Schedule.

17.3. Where the REC Board resolves to expel a Party from this Code, then that Party may at any subsequent time apply to the Authority to be reinstated as a Party. The Parties and the REC Board shall give effect to any decision of the Authority pursuant to such application, which shall be final and binding for the purposes of this Code.

17.4. Where a Party is expelled or withdraws from this Code in accordance with the Market Exit Schedule, then with effect from the time on the date at which such expulsion or withdrawal is effective (and subject to Clause 17.3):

(a) that Party's accession to this Code shall be terminated, and it shall cease to be a Party; and

(b) subject to Clause 17.5, that Party shall cease to have any rights or obligations under this Code.

17.5. The termination of a Party's accession to this Code shall be without prejudice to:

(a) those rights and obligations under this Code that may have accrued prior to such termination; or

(b) those provisions of this Code that are expressly or by implication intended to survive such termination.

18 Confidentiality

General

18.1. This Clause 18 imposes obligations on each REC Service Provider and each REC Service User (referred to in this Clause 18 as the "Receiving Entity") in respect

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of the Confidential Information of each other REC Service Provider and REC Service User (referred to in this Clause 18 as the "Disclosing Entity").

18.2. Each Receiving Entity hereby undertakes that it shall preserve the confidentiality of, and shall not directly or indirectly Disclose or use for its own purposes, each other Disclosing Entity's Confidential Information. The exceptions to this obligation are set out in Clause 18.3.

Exceptions to Confidentiality Obligation

18.3. A Receiving Entity shall be entitled to Disclose or use another Disclosing Entity's Confidential Information if and to the extent that one or more of the following apply:

(a) the Receiving Entity is required or permitted to Disclose or use the Confidential Information by its Energy Licence, this Code or another Energy Code, to the extent of such requirement or permission;

(b) the person to whose affairs the Confidential Information relates gives its prior written consent to the Disclosure or use, to the extent of such consent;

(c) the Confidential Information, before it is furnished to the Receiving Entity seeking to rely upon this Clause 18.3, is in the public domain or was acquired by that Receiving Entity in circumstances in which this Clause 18 does not apply;

(d) the Confidential Information, after it is furnished to the Receiving Entity seeking to rely upon this Clause 18.3:

(i) is acquired by that Receiving Entity in circumstances in which this Clause 18 does not apply;

(ii) is acquired by that Receiving Entity in circumstances in which this Clause 18 does apply and thereafter ceases to be subject to the restrictions imposed by this Clause 18; or

(iii) enters the public domain,

and in any such case otherwise than as a result of: (A) a breach by that Receiving Entity of its obligations in this Clause 18; or (B) a breach by the person who disclosed the Confidential Information of that person's confidentiality obligation and that Receiving Entity is aware of such breach;

(e) the Receiving Entity is required to Disclose Confidential Information:

(i) in compliance with Law;

(ii) in response to a requirement of any recognised stock exchange; or

(iii) pursuant to any judicial or arbitral process or tribunal having jurisdiction in relation to the Receiving Entity; or

(f) the Receiving Entity Discloses the Confidential Information to its Affiliates, or its or

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its Affiliates' employees, directors, agents, consultants and professional advisers (subject to Clause 18.5).

18.4. Confidential Information which a Receiving Entity is permitted to Disclose or use pursuant to Clause 18.3 shall not cease to be regarded as Confidential Information in all other circumstances by virtue of such Disclosure or use.

Internal Procedures

18.5. Each Receiving Entity shall adopt procedures within its organisation for ensuring the confidentiality of the Confidential Information which it is obliged to preserve as confidential under Clause 18.2. These procedures include the following:

(a) the Confidential Information will be disseminated within the Receiving Entity only on a "need to know" basis;

(b) employees, directors, agents, consultants and professional advisers of the Receiving Entity in receipt of Confidential Information will be made fully aware of the Receiving Entity's obligations of confidence in relation thereto; and

(c) any copies of the Confidential Information, whether in hard copy or computerised form, will clearly identify the Confidential Information as confidential.

18.6. Each Receiving Entity shall take all reasonable steps to ensure that any person referred to in Clause 18.3(f) and 18.5(b) to whom the Receiving Entity Discloses the Confidential Information does not use that Confidential Information for any purpose other than that for which it is provided and does not Disclose that Confidential Information otherwise than in accordance with this Clause 18.

Affiliate or Related Undertaking

18.7. Each Receiving Entity shall procure that each of its Affiliates observes the restrictions in Clauses 18.2 to 18.6 as if in each such Clause there was substituted for the name of the Receiving Entity the name of the Affiliate.

Confidentiality and the REC Bodies

18.8. The Parties acknowledge that, for the REC Board, and the Sub-Committees to properly carry out their duties and responsibilities under this Code, the REC Board may decide or be obliged to keep confidential to it (and may instruct the Sub-Committees to keep confidential) matters, reports, data and other information produced by or for, or made available to or held by it (or them). In any such case, the REC Board shall neither Disclose the same to the Parties nor be required by such Parties to Disclose. Each of the Parties agrees to respect the position of the REC Board (and the Sub-Committees) accordingly.

18.9. The REC Board, the Sub-Committees and the Code Manager shall each comply with Clauses 18.2 to 18.6 as if they were a Party.

18.10. Each Party agrees, subject to any relevant confidentiality provision binding on it, to provide the REC Board or the Code Manager with all data and other information reasonably requested by and necessary for the REC Board or the Code Manager to properly carry out their duties and responsibilities under this Code.

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19 Data Controller Obligations

19.1. The words and expressions used in this Clause 19 and not defined elsewhere in this Code shall be interpreted in accordance with any meaning given to them in the Data Protection Legislation.

19.2. It is acknowledged that the CSS Provider, RECCo and each Energy Supplier, Gas Transporter and Distribution Network Operator is likely to process personal data in the course of its business, including personal data concerning Consumers. It is further acknowledged that each such Party is likely to process such personal data as an independent controller, and in some limited cases as joint controllers with one or more other Parties.

19.3. In respect of particular REC Services, there may also be other REC Service Users (in addition to those referred to in Clause 19.2) who act as controllers in respect of the processing of particular personal data pursuant to this Code. Where this is the case, these REC Service Users will be identified in the relevant REC Schedule or Service Definition.

19.4. This Clause 19 sets out the obligations of the CSS Provider, RECCo and each REC Service User when they are acting as a controller in respect of the processing of personal data pursuant to this Code.

19.5. Each controller confirms that it has effected, and undertakes that it shall maintain, all such notices and registrations as it is required to effect and maintain under the Data Protection Legislation to enable it lawfully to perform the obligations imposed on it by this Code, and exercise the rights granted to it by this Code.

19.6. Each controller undertakes to comply with the Data Protection Legislation in the performance of this Code, including ensuring, in respect of personal data to be shared pursuant to this Code, that the controller has a lawful basis for such sharing.

19.7. Each Energy Supplier shall provide to its Consumers, and each Gas Transporter and Distribution Network Operator shall provide to the Consumers connected to its network, the information required by the Data Protection Legislation to be provided by them in respect of the processing to be undertaken under this Code.

19.8. Each controller shall comply with the Data Protection Legislation as regards the exercise of rights by data subjects for which it is the controller. In particular, each controller shall designate its own contact point responsible for dealing with data protection queries raised by data subjects for which it is the controller. Unless agreed otherwise in writing at the relevant time, and to the extent any Parties or other REC Service Users are joint controllers:

(a) each controller shall independently comply with the Data Protection Legislation, regarding the rights of Consumers under Data Protection Legislation; and

(b) each controller shall independently inform Consumers about its processing activities and shall refer to the other joint controller in such notices.

19.9. Without limiting any other basis for processing which may be available in accordance with the Data Protection Legislation, each controller undertakes that, in any case where information to be disclosed by it under this Code may lawfully be

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Disclosed only with the prior consent of the person to whom the information relates, it will obtain such prior valid consent so as to enable it to lawfully Disclose the information.

20 Data Processor Obligations

20.1. The words and expressions used in this Clause 20 and not defined elsewhere in this Code shall be interpreted in accordance with any meaning given to them in the Data Protection Legislation.

20.2. It is acknowledged that in providing the Central Switching Service for each REC Service User, the CSS Provider may act in the capacity of data processor on behalf of that REC Service User. The personal data which the CSS Provider will process as a data processor on behalf of REC Service Users will be the personal data which is included within messages sent and received via the Central Switching Service. The purpose of such processing is to provide the Central Switching Service. The full description of the subject matter, nature and purpose of the processing, and the type of personal data is described in the CSS Service Definition.

20.3. It is acknowledged that in providing some of the REC Services which are procured by RECCo pursuant to this Code, RECCo may act in the capacity of data processor on behalf of one or more REC Service Users. Where this is the case, the subject matter, nature and purpose of the processing, and the type of personal data that is being processed will be described in the relevant REC Schedule and/or Service Definition.

20.4. Where Clause 20.2 applies, the CSS Provider shall comply with the obligations of the 'REC Service Provider' under this Clause 20 for the benefit of each relevant REC Service User. Where Clause 20.3 applies, RECCo shall ensure that the applicable REC Service Provider shall comply with obligations of the 'REC Service Provider' under this Clause 20 for the benefit of each relevant REC Service User.

20.5. The applicable REC Service Provider undertakes, for the benefit of each REC Service User in respect of the personal data for which that REC Service User is the data controller (or a processor on behalf of the data controller), to:

(a) only process that personal data for the purposes permitted by this Code (subject to paragraph (c) below);

(b) undertake the processing of that personal data in accordance with this Code (which represents the documented instructions of the User), and not in a manner that the REC Service Provider knows (or should reasonably know) is likely to cause the REC Service User to breach its obligations under the Data Protection Legislation (subject to paragraph (c) below);

(c) if the REC Service Provider is aware that, or is of the opinion that, any requirement of paragraph (a) or (b) above breaches the Data Protection Legislation, the REC Service Provider shall immediately inform the REC Service User of this giving details of the breach or potential breach (unless the REC Service Provider is prohibited from doing so by any of its other obligations under Law);

(d) only process that personal data for so long as it is required to do so by this Code;

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(e) ensure that the REC Service Provider's personnel who are authorised to process personal data are under enforceable obligations of confidentiality and are required only to process that personal data in accordance with the REC Service Provider's obligations under this Code;

(f) (having regard to the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of data subjects) implement appropriate technical and organisational measures to protect that personal data against accidental or unlawful loss, destruction, damage, alteration or disclosure;

(g) not transfer or process that personal data outside the European Economic Area;

(h) (taking into account the nature of the processing) assist the REC Service User with its obligations to comply with data subjects' requests and data subjects' rights under the Data Protection Legislation in respect of that personal data through, insofar as is possible, the use of appropriate technical and organisational measures;

(i) (taking into account the nature of the processing and the information available to the REC Service Provider) assist the REC Service User in ensuring compliance with the REC Service User's obligations in Articles 32-36 of the General Data Protection Regulation;

(j) provide reasonable assistance to the REC Service User in complying with any enquiry made, or investigation or assessment initiated, by any Competent Authority in respect of the processing of that personal data pursuant to this Code;

(k) promptly notify the REC Service User in the event that the REC Service Provider processes any of that personal data otherwise than in accordance with this Code (including in the event of unauthorised access to such personal data); and

(i) permit the Code Manager (on behalf of REC Service Users collectively) to audit compliance with this Clause 20 in accordance with Clause 26.9.

20.6. Each REC Service Provider shall ensure that its sub-processors in respect of the personal data referred to in Clause 20.4 are subject to written contractual obligations in respect of the processing of personal data which are at least equivalent to the obligations imposed on the REC Service Provider under this Clause 20.

20.7. Each REC Service User hereby gives its general authorisation to the CSS Provider and RECCo to engage sub-processors who are appointed in accordance with the requirements of this Code (and, in the case of the CSS Provider, in accordance with the requirements of the DCC Licence). Each REC Service User hereby confirms that it does not object to the engagement of any sub-processors engaged in accordance with such requirements.

21 Force Majeure

21.1. If any Party (referred to as the Affected Party) shall be unable to carry out any of its obligations under this Code due to a circumstance of Force Majeure, then this Code shall remain in effect but:

(a) the Affected Party's obligations; and

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(b) any other obligations of the other Parties which a Party is unable to carry out directly as a result of the suspension of the Affected Party's obligations,

shall be suspended without liability for the period during which the circumstance of Force Majeure prevails (subject to Clause 21.2).

21.2. Relief under Clause 21.1 is subject to the following:

(a) the Affected Party shall give the other Parties prompt notice describing the circumstance of Force Majeure including the nature of the occurrence and its expected duration and where reasonably practicable, shall continue to furnish regular reports with respect thereto during the period of Force Majeure;

(b) the suspension of performance shall be of no greater scope and of no longer duration than is required by the circumstance of Force Majeure;

(c) the obligations of any Party that arose before the circumstance of Force Majeure causing the suspension of performance shall not be excused as a result of the Force Majeure;

(d) the Affected Party shall take all reasonable steps to mitigate the impact of the circumstance of Force Majeure and to remedy its inability to perform as quickly as possible; and

(e) immediately after the end of the circumstance of Force Majeure, the Affected Party shall notify the other Parties in writing of the same and resume performance of its obligations under this Code.

22 Disputes

22.1. Save where expressly stated in this Code to the contrary, and subject to any contrary provision of the Electricity Act, the Gas Act or any Energy Licence, any dispute or difference of whatever nature and howsoever arising under, out of or in connection with this Code (each a "Dispute") shall be resolved according to the provisions of this Clause 22. Where a REC Schedule provides for an escalation process, that escalation process must be followed before a Dispute can be raised under this Clause 22.

Contract Management

22.2. Any Party shall refer a Dispute to the Contract Managers, by notice in writing to all other Parties to the Agreement who are Party to the Dispute (the Party referring the Dispute and the other Parties to the Dispute each being a "Disputing Party"). The Contract Managers of the Disputing Parties shall endeavour to resolve the Dispute between them. The Contract Managers of the Disputing Parties shall have authority to negotiate in relation to and to resolve the Dispute including authority to bind the Party nominating them. The joint and unanimous decision of the Contract Managers of the Disputing Parties shall be binding upon the Parties to the Dispute.

Arbitration

22.3. If the Contract Managers of the Disputing Parties are not able to resolve the Dispute within 10 Working Days of the reference of a Dispute to them, then any

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Disputing Party may, within 20 Working Days of such reference, refer the Dispute to arbitration before an arbitral tribunal composed of a single arbitrator pursuant to the rules of the London Court of International Arbitration (subject to Clause 22.5).

22.4. Whatever the nationality residence or domicile of any Disputing Party and wherever the Dispute or any part thereof arose the laws of England and Wales shall be the proper law of any reference to arbitration hereunder and in particular (but not so as to derogate from the generality of the foregoing) the seat of any such arbitration shall be London and the provisions of the Arbitration Act 1996 shall apply to any such arbitration wherever the same or any part of it shall be conducted.

Claims by Third Parties

22.5. Subject to Clause 22.6, if any person who is not a Party to this Code brings any legal proceedings in any court against any Party and that Party considers such legal proceedings to raise or involve issues that are or would be the subject matter of a Dispute or potential Dispute that would (but for this Clause 22.5) be subject to arbitration, then (instead of arbitration) the court in which the legal proceedings have been commenced shall hear and determine the legal proceedings and the Dispute between such person and the Parties.

22.6. If any person who is not a Party to this Code brings any legal proceedings in any court against any Party and that Party considers such legal proceedings to raise or involve issues that are the subject matter of a Dispute that is already subject to an ongoing arbitration, then Clause 22.5 shall only apply where the arbitrator in that arbitration determines that such legal proceedings raise or involve issues that are the subject matter of the Dispute.

Determination by the REC Board etc

22.7. Any Dispute of a nature that is expressly stated in this Code to be subject to determination by the REC Board or a Sub-Committee shall be subject to determination by the REC Board or a Sub-Committee. The REC Board shall ensure that any such Dispute is determined within a reasonable period of time after its referral. Unless such determination is expressly stated in this Code to be subject to a further appeal, then the decision of the REC Board or the Sub-Committee (as applicable) shall be final and binding for the purposes of this Code.

Appeals to the Authority

22.8. Where this Code expressly states that a decision is capable of appeal to the Authority (and not otherwise), then such decision may be appealed to the Authority. Any such appeal will only be validly made if notified to the Authority within 10 Working Days after the appellant received notice of the decision or such longer period as may be prescribed by this Code (unless the Authority waives such requirement). The Authority's determination in respect of such appeal shall be final and binding for the purposes of this Code. The Authority may give notice that it dismisses the appeal where it considers that the appeal is trivial or vexatious or has no reasonable prospect of success.

Interim Relief

22.9. Notwithstanding the provisions of the rest of this Clause 22, any Party may

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apply at any time to any court of competent jurisdiction for any emergency interim interlocutory relief as may be necessary.

23 Derogations

Application for Derogation

23.1. A Party may, at any time, apply to the REC Performance Assurance Board for a derogation under this Clause 23 by notice in writing to the Code Manager.

23.2. Where the Code Manager receives such an application, it shall ensure that the matter is considered by the REC Performance Assurance Board within 10 Working Days after receipt of such application, and shall give notice to all the Parties and to the Authority, at least 5 Working Days before the meeting in question:

(a) setting out the identity of the Party by whom the application has been made and the terms of the derogation sought;

(b) specifying the date on which the REC Performance Assurance Board is due to consider the matter;

(c) inviting representations or objections with respect to the derogation before that time; and;

(d) where appropriate, bringing to the REC Performance Assurance Board's attention any relevant circumstances, previous derogations and views that may have been expressed by the Authority

23.3. The REC Performance Assurance Board may (subject to Clause 23.5) resolve, on the application of any Party, to grant a derogation to any Party or Parties in relation to any obligation or obligations contained in this Code. In resolving to grant such derogation, the REC Performance Assurance Board may impose such conditions as it sees fit, and shall specify the term, scope and application of such derogation.

23.4. The REC Performance Assurance Board may, from time to time and as it sees fit (subject to Clause 23.5), resolve to retract any derogation, or to amend or add to the conditions applicable to any derogation.

23.5. A derogation granted to any Party by the REC Performance Assurance Board, or any retraction, amendment or addition under Clause 23.4, shall, in each case, only be effective if made in conformity with any representations received from the Authority pursuant to Clause 23.2, and if not vetoed by the Authority within 10 Working Days after notification of the REC Performance Assurance Board's decision and the rationale for it.

Effect of Derogation

23.6. Where a Party is granted a derogation by the REC Performance Assurance Board in accordance with this Clause 23, that Party shall, for the period provided for in the derogation:

(a) be excused from complying with the obligations specified in the terms of that derogation;

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(b) be deemed not to be in breach of this Code for failing to comply with the relevant obligations; and

(c) be required to comply with any modified obligations which are specified as a condition of the derogation.

23.7. A Party may, by notice in writing to the REC Performance Assurance Board at any time, reject any derogation then applying to the Party, in which case the derogation shall cease to apply from the date specified in the Party's notice.

23.8. The coming into effect of a derogation under this Clause 23 shall (unless otherwise stated in the derogation) be without prejudice to liabilities that arose prior to the derogation coming onto effect. The ending of a derogation under this Clause 23 shall be without prejudice to any liabilities in respect of compliance with conditions of the derogation that arose prior to the derogation ending.

Code Manager's Role in respect of Derogations

23.9. In relation to each derogation request, the Code Manager shall consider whether there is an issue of general application, which would better be addressed by a Change Proposal, and shall report to the REC Performance Assurance Board on the same. If, having considered the responses of the REC Performance Assurance Board, the Code Manager is of the view that a Change Proposal is appropriate, then:

(a) the Code Manager shall develop a draft Change Proposal, for discussion at a future meeting of the REC Performance Assurance Board; and

(b) the REC Performance Assurance Board may instruct the Code Manager to submit the Change Proposal into the change management process, with or without any revision that the Performance Assurance Board may require.

24 Contract Managers, Operational Contacts and Party Details

24.1. Each Party shall appoint one or more individuals as Contract Manager to monitor and manage general matters arising under or in connection with this Code on behalf of that Party.

24.2. Each Party shall also appoint one or more individuals as Operational Contacts to manage operational issues on behalf of that Party, in respect of such operational aspects as the Code Manager may specify.

24.3. Each Party can rely upon the authority of each other Party's Contract Manager in relation to this Code generally, and the authority of each other Party's Operational Contacts in relation to the REC Services in connection with which they are appointed.

24.4. A Party can appoint the same (or different) individuals as its Contract Manager and as its Operational Contacts. Each Party's Contract Manager and Operational Contacts form part of that Party's Party Details.

24.5. Each Party's original Party Details will have been provided as part of its Accession Agreement or Original Accession Agreement (as applicable).

24.6. Each Party may amend its Party Details by notice to the Code Manager from

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time to time. Each Party shall ensure that its Party Details remain up-to-date.

24.7. The Code Manager shall maintain a record of each Party's Party Details, and shall publish that record on the REC Portal.

24.8. The Code Manager shall take reasonable steps to identify any errors or omissions in each Party's Party Details, and shall notify the relevant Party of any such errors or omissions.

24.9. Any Party (being a natural person) who is not resident in the United Kingdom or (not being a natural person) which is not incorporated in the United Kingdom shall, as part of its Party Details, provide an address in the United Kingdom for service of process on its behalf in any proceedings under or in relation to this Code. Where any such Party fails at any time to provide such address, such Party shall be deemed to have appointed RECCo as its agent to accept such service of process on its behalf.

25 Notices

25.1. This Code requires certain communications to be sent via certain specified means. Where this is the case, such communications must be sent via the specified means, unless the sender and the recipient have bilaterally agreed a different means by which the communication is to be sent. In respect of any such bilateral agreements, the sender and recipient must still adhere to the requirements of this Code concerning confidentiality and security.

25.2. Save as referred to in Clause 25.1, any notice or other communication to be made by one Party to another Party under or in connection with this Code shall be in writing and shall be sent by email.

25.3. All notices and communications as described in Clause 25.2 shall be sent to the email address specified for such purpose in the relevant Party's Party Details.

25.4. Subject to Clause 25.5, all notices and communications as described in Clause 25.2 shall be deemed to be received by the recipient if sent by email, one hour after being sent, unless an error message is received by the sender in respect of that email before that hour has elapsed.

25.5. Any notice that would otherwise be deemed to be received on a day that is not a Working Day, or after 17.30 hours on a Working Day, shall be deemed to have been received at 9.00 hours on the next following Working Day.

25.6. Notices or other communications under or in connection with this Code from or to the REC Board, a Sub-Committee or Code Manager shall also be subject to this Clause 25. Where such notices or other communications are being sent to the REC Board, a Sub-Committee or Code Manager, they shall be sent to the relevant address from time to time given for such purpose on the REC Portal.

26 General

Commencement and Duration

26.1. This Code shall take effect from the effective date specified by the Authority in its designation of this Code.

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26.2. Once this Code comes into effect, it shall remain in effect in respect of each Party, until such Party ceases to be a Party in accordance with Clause 17.

Entire Agreement

26.3. This Code and any document referred to herein represents the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the Parties with respect thereto and without prejudice to the generality of the foregoing excludes any warranty, condition or other undertaking implied at law or by custom.

26.4. Each Party confirms that, except as provided in this Code and without prejudice to any liability for fraudulent misrepresentation, it has not relied on any representation, warranty or undertaking which is not contained in this Code or any document referred to herein.

Severability

26.5. If any provision of this Code shall be held to be invalid or unenforceable by a judgement or decision of a Competent Authority, the same shall be deemed to be severable and the remainder of this Code shall remain valid and enforceable to the fullest extent permitted by Law. In such circumstances, the Code Manager shall promptly raise a Change Proposal to provide an alternative means of preserving the intent of the original provision, whilst addressing the issues which led the provision being held to be invalid or unenforceable.

Waivers

26.6. The failure by any Party to exercise, or the delay by any Party in exercising, any right, power, privilege or remedy provided by this Code or by Law shall not constitute a waiver thereof nor of any other right, power, privilege or remedy. No single or partial exercise of any such right, power, privilege or remedy shall preclude any further exercise thereof or the exercise of any other right, power, privilege or remedy.

Assignment and Sub-contracting

26.7. No Party shall assign any of its rights under this Code without the Authority's written consent.

26.8. Any Party may sub-contract or delegate the performance of all or any of its obligations under this Code to any appropriately qualified and experienced third party, but shall at all times remain liable to any other Parties in relation to all sub-contracted or delegated obligations.

Audit and Records

26.9. Subject to receiving reasonable prior notice, each Party shall permit an auditor appointed by the REC Board to audit that Party's compliance with this Code (or any part of this Code). The REC Board may not audit a Party more frequently than once every Financial Year. Each Party shall provide reasonable co-operation to any such auditor, and shall permit such auditor (during normal business hours) to access that Party's premises, records and Systems (in each case) to the extent relevant to the performance of this Code.

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Counterparts

26.10. The Original Accession Agreements and Accession Agreements may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts together shall constitute the same document.

Contract (Rights of Third Parties) Act 1999

26.11. Subject to Clause 26.12, no provision of this Code is enforceable under the Contract (Rights of Third Parties) Act 1999 by a person who is not a party to this Code.

26.12. The following persons shall be entitled to enforce the following rights under and in accordance with the Contract (Rights of Third Parties) Act 1999:

(a) any person identified in a REC Schedule as having rights under this Clause 26.12;

(b) the individuals stated to benefit from the indemnity under Clause 8 shall be entitled to enforce their rights under that Clause; and

(c) each REC Service User that is not a Party shall be entitled to enforce its rights under the REC Schedules with which it has agreed to comply in its Access Agreement and under Clauses 13 (Intellectual Property Rights), 18 (Confidentiality), 19 (Data Controller Obligations) and 20 (Data Processor Obligations).

26.13. This Code shall be capable of amendment and termination in accordance with its provisions without the consent of the persons who benefit under Clause 26.12.

Anti-bribery

26.14. Each Party undertakes that it has complied, and undertakes that it will continue to comply with, all anti-bribery and anti-corruption legislation applicable to it, including the Bribery Act 2010, and shall use reasonable endeavours to procure that its officers, employees, directors, agents and representatives comply with all such laws.

26.15. Each Party shall maintain policies and procedures dealing with bribery and corruption which that Party (acting reasonably) believes are proportionate to the risks or bribery and corruption to which that Party is exposed. Each Party shall supply a copy of all such written policies and procedures, and (if practicable) a written summary of any that are not in writing, to the Code Manager on request.

Governing Law

26.16. This Code and any dispute or claim arising out of or in connection with it (including non-contractual claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

26.17. In relation to any dispute or claim arising out of or in connection with this Code (including in respect of non-contractual claims), each Party submits to the exclusive jurisdiction of the courts of England and Wales (subject to Clause 22). This does not limit a Party's right to enforce a judgment or order in any other jurisdiction.

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