

SECTION C – GOVERNANCE

C1 **SEC OBJECTIVES**

General SEC Objectives

C1.1 The objectives of this Code otherwise than in respect of the Charging Methodology are set out in Condition 22 of the DCC Licence (such objectives being the **General SEC Objectives**). For ease of reference, the General SEC Objectives are set out below using the terminology of this Code (but in the case of any inconsistency with the DCC Licence, the DCC Licence shall prevail):

- (a) the first General SEC Objective is to facilitate the efficient provision, installation, and operation, as well as interoperability, of Smart Metering Systems at Energy Consumers' premises within Great Britain;
- (b) the second General SEC Objective is to enable the DCC to comply at all times with the General Objectives of the DCC (as defined in the DCC Licence), and to efficiently discharge the other obligations imposed upon it by the DCC Licence;
- (c) the third General SEC Objective is to facilitate Energy Consumers' management of their use of electricity and gas through the provision to them of appropriate information by means of Smart Metering Systems;
- (d) the fourth General SEC Objective is to facilitate effective competition between persons engaged in, or in Commercial Activities connected with, the Supply of Energy;
- (e) the fifth General SEC Objective is to facilitate such innovation in the design and operation of Energy Networks (as defined in the DCC Licence) as will best contribute to the delivery of a secure and sustainable Supply of Energy;
- (f) the sixth General SEC Objective is to ensure the protection of Data and the security of Data and Systems in the operation of this Code;
- (g) the seventh General SEC Objective is to facilitate the efficient and transparent

administration and implementation of this Code;

- (h) the eighth General SEC Objective is to facilitate the establishment and operation of the Alt HAN Arrangements.

Transition Objective

- C1.2 As provided for in Condition 22 of the DCC Licence, during the period prior to the Completion of Implementation, the General SEC Objectives must be read and given effect (so far as it is possible to do so) in a way that is compatible with achieving the Transition Objective.

Charging Objectives

- C1.3 The objectives of this Code in respect of the Charging Methodology only (such objectives being the **Charging Objectives**) comprise the “**First Relevant Policy Objective**”, the “**Second Relevant Policy Objective**” and the “**Third Relevant Policy Objective**” as set out in Condition 18 of the DCC Licence. For ease of reference, the First Relevant Policy Objective, the Second Relevant Policy Objective and the Third Relevant Policy Objective are set out in Sections C1.4, C1.5 and C1.6 using the terminology of this Code (but in the case of any inconsistency with the DCC Licence, the DCC Licence shall prevail).

- C1.4 The First Relevant Policy Objective:

(a) applies in ~~relation to Smart Metering Systems installed (or to be installed) at Domestic Premises~~respect of Charges (other than Charges for Elective Communications Services); and

(b) requires the Charging Methodology to ensure that such Charges (other than Charges for Elective Communication Services) in respect of such Smart Metering Systems do not distinguish (whether directly or indirectly):

(i) between Energy Consumers at Domestic Premises in different parts of Great Britain; or

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

C1.5 The Second Relevant Policy Objective applies in relation to SMETS1 Meters. The Second Relevant Policy Objective is that, subject to compliance with the First Relevant Policy Objective, the Charging Methodology must (other than in respect of Elective Communication Services) (in each of the following cases, as far as is reasonably practicable in all of the circumstances of the case, having regard to the costs of implementing the Charging Methodology):

- (a) result in Charges that are the same for SMETS1 Meters as they are for Smart Metering Systems, save that no Charges for Communications Hub Services will apply to SMETS1 Meters;
- (b) notwithstanding (a) above (where the Costs of Communications for a SMETS1 Meter exceeds the Costs of Communications for a Smart Metering System, and where an Original Supplier for the Energy Supplier Contract relating to that SMETS1 Meter is (and has at all times since the adoption of the Energy Supplier Contract been) a supplier of electricity and/or gas to the premises at which that SMETS1 Meter is installed), result in Charges that ensure that the excess Costs of Communications are recovered from the Original Supplier from time to time (in addition to the Charges referred to in (a) above),

and, for the purposes of this Section C1.5, the terms “**SMETS1 Meters**”, “**Costs of Communications**”, “**Original Supplier**” and “**Energy Supplier Contract**” shall have the meaning given to those terms in the DCC Licence.

C1.6 The Third Relevant Policy Objective is that, subject to compliance with the First and Second Relevant Policy Objectives, the Charging Methodology must result in Charges that:

- (a) facilitate effective competition in the Supply of Energy (or its use) under the Electricity Act and the Gas Act;
- (b) do not restrict, distort, or prevent competition in Commercial Activities that are connected with the Supply of Energy under the Electricity Act and the Gas Act;
- (c) do not deter the full and timely installation by Energy Suppliers of Smart Metering Systems at Energy Consumers’ premises in accordance with their

obligations under the Energy Supply Licence; and

- (d) do not unduly discriminate in their application and are reflective of the costs incurred by the DCC, as far as is reasonably practicable in all of the circumstances of the case, having regard to the costs of implementing the Charging Methodology.

C1.7 The Charging Methodology will achieve the Third Relevant Policy Objective if it is compliant with the provisions of Section C1.6 in the round, weighing them as appropriate in each particular case.

C2 PANEL

Establishment of the Panel

C2.1 The Panel is hereby established. The Panel shall:

- (a) pursue the objectives, undertake the duties, and have the powers, set out in Sections C2.2 to C2.4;
- (b) be composed of the Panel Members described in Section C3 (Panel Members), some of whom will be elected in accordance with Section C4 (Elected Members); and
- (c) conduct its activities in accordance with the procedures set out in Section C5 (Proceedings of the Panel).

Panel Objectives

C2.2 The Panel shall, in all its activities, always act in a manner designed to achieve the following objectives (the **Panel Objectives**):

- (a) that this Code is given full and prompt effect in accordance with its terms and conditions;
- (b) that this Code is given effect in such a manner as will facilitate achievement of the SEC Objectives;
- (c) that this Code is given effect in a fair manner without undue discrimination between the Parties or any classes of Party; and
- (d) that the Panel conducts its affairs in an open and transparent manner.

Panel Duties

C2.3 Without prejudice to any other tasks, duties or obligations imposed on the Panel in this Code, the Panel shall, subject to and in accordance with the other provisions of this Code:

- (a) oversee the process by which Applicants apply to become a Party, as set out in Section B (Accession);

- (b) manage the Code Administrator and Secretariat, and oversee their performance;
- (c) develop, consult upon, and report upon its performance against three-year budgets and work plans in accordance with Section C8 (Panel Costs and Budgets);
- (d) oversee and co-ordinate the process for assessing Modification Proposals, and implement successful Modification Proposals, each as set out in Section D (Modification Process);
- (e) manage and co-ordinate arrangements for the resolution of certain Disputes under or in relation to this Code, as set out in Section M7.3 (Reference to the Panel or its Sub-Committees);
- (f) manage and co-ordinate the suspension of Parties' rights under this Code, as set out in Section M8 (Suspension, Expulsion and Withdrawal);
- (g) manage and co-ordinate the withdrawal or expulsion of Parties from this Code, as set out in Section M8 (Suspension, Expulsion and Withdrawal);
- (h) by no later than 30 Working Days following the end of each Regulatory Year prepare and publish a report on the implementation of this Code and the activities of the Panel during that Regulatory Year, including so as to evaluate whether this Code continues to meet the SEC Objectives (and in respect of the Alt HAN Arrangements the Panel shall be entitled to rely on and report any information provided to it by the Alt HAN Forum for that purpose);
- (i) at the written request of the Authority at any time, undertake a review of such parts of this Code as the Authority may specify to evaluate whether this Code continues to meet the SEC Objectives;
- (j) at the written request of the Authority, collect and provide to the Authority (or publish in such manner as the Authority may direct) such information regarding the SEC Arrangements as the Authority may reasonably request (and each Party shall provide to the Panel such information as the Panel reasonably requires in order to enable the Panel to comply with any such

request of the Authority);

- (k) hold a general meeting during the month of July each year, which each Panel Member will (subject to unforeseen circumstances) attend, at which a representative of each Party shall be entitled to attend and speak, and at which the Panel will endeavour to answer any reasonable questions submitted to the Secretariat in advance of the meeting;
- (l) establish (and, where appropriate, revise from time to time) joint working arrangements with the panels, committees and administrators responsible for the governance and operation of other Energy Codes, in order to facilitate the timely:
 - (i) identification, co-ordination, making and implementation of changes to other Energy Codes consequent on a Modification Proposal (and vice versa); and
 - (ii) identification and coordinated resolution of Disputes and disputes under other Energy Codes (in circumstances where there is an interaction between the Dispute and one or more disputes under the other Energy Codes);
- (m) establish joint working arrangements with the Information Commissioner pursuant to which the Panel shall notify the Information Commissioner of matters in which the Panel believes the Information Commissioner may have an interest; and
- (n) periodically commission a review of the effectiveness of the End-to-End Technical Architecture and the Business Architecture by the Technical Architecture and Business Architecture Sub-Committee, as further described in Section F1 (Technical Architecture and Business Architecture Sub-Committee).

Panel Powers

- C2.4 Without prejudice to any other rights or powers granted to the Panel in this Code, the Panel shall, subject to and in accordance with the other provisions of this Code, have

the power to:

- (a) appoint and remove the Code Administrator and the Secretariat in accordance with Section C7 (Code Administrator, Secretariat and SECCo);
- (b) appoint and remove professional advisers;
- (c) consider, approve and authorise the entering into by SECCo of contracts in accordance with Section C7 (Code Administrator, Secretariat and SECCo);
- (d) constitute Sub-Committees in accordance with Section C6 (Sub-Committees);
- (e) consider, approve and authorise the licensing, sub-licensing, or any other manner of dealing with the Intellectual Property Rights in the SEC Materials, for any use which does not hinder, delay or frustrate, in any way whatsoever, the SEC Objectives;
- (f) direct SECCo to become a Subscriber for IKI Certificates, on behalf of the Panel and for the purpose of Digitally Signing the Certified Products List; and
- (g) do anything necessary for, or reasonably incidental to, the discharge of its duties under this Code.

C3 PANEL MEMBERS

Panel Composition

C3.1 The Panel shall be composed of the following categories of persons (each a **Panel Member**, and the Panel Members referred to in Sections C3.1(a) to (e) being the **Elected Members**):

- (a) two persons elected by the Large Supplier Parties;
- (b) two persons elected by the Small Supplier Parties;
- (c) one person elected by the Electricity Network Parties;
- (d) one person elected by the Gas Network Parties;
- (e) two persons elected by the Other SEC Parties;
- (f) one person nominated by the DCC in accordance with Section C3.3 (the **DCC Member**);
- (g) two persons nominated in accordance with Section C3.4 (the **Consumer Members**);
- (h) one person appointed in accordance with Section C3.5 (the **Panel Chair**); and
- (i) any additional person appointed by the Panel Chair in accordance with Section C3.6.

C3.2 Each Panel Member must be an individual (and cannot be a body corporate, association or partnership). No one person can hold more than one office as a Panel Member.

DCC Member

C3.3 The DCC Member shall be one person nominated by the DCC by notice to the Secretariat. The DCC may replace such person from time to time by prior notice to the Secretariat.

Consumer Members

C3.4 The Consumer Members shall be two persons nominated by Citizens Advice or Citizens Advice Scotland by notice to the Secretariat from time to time. Citizens Advice or Citizens Advice Scotland may replace each such person from time to time by prior notice to the Secretariat.

Appointment of the Panel Chair

C3.5 The first Panel Chair to be appointed following the designation of this Code shall be appointed in accordance with the appointment process developed in accordance with Section X (Transition). Thereafter, each Panel Chair shall be appointed in accordance with the same process, as modified from time to time by the Panel; provided that such process as modified must be designed to ensure that:

- (a) the candidate selected is sufficiently independent of any particular Party or class of Parties;
- (b) the appointment is conditional on the Authority approving the candidate;
- (c) the Panel Chair is appointed for a three-year term (following which he or she can apply to be re-appointed);
- (d) the Panel Chair is remunerated at a reasonable rate;
- (e) the Panel Chair's appointment is subject to Section C3.8 and terms equivalent to those set out in Section C4.6 (Removal of Elected Members); and
- (f) provision is made for the Panel Chair to continue in office for a reasonable period following the end of his or her term of office in the event of any delay in appointing his or her successor.

Panel Chair Appointee

C3.6 Where at any time:

- (a) no person is currently appointed as a Panel Member pursuant to this Section C3.6; and
- (b) the Panel Chair (having consulted with the other Panel Members) considers that there is a class or category of person having an interest in the SEC

Arrangements whose interests are not adequately represented in the composition of the Panel at that time, and whose interests would be better represented if a particular person were appointed as an additional Panel Member,

the Panel Chair may (having consulted with the other Panel Members) appoint that particular person as a Panel Member by notice to the Secretariat. The Panel Chair may (having consulted with the other Panel Members), at any time thereafter by notice to the Secretariat, remove that person from the office of Panel Member.

Duties of Panel Members

C3.7 A person appointed as Panel Member, when acting in that capacity, shall:

- (a) act independently, not as a delegate, and without undue regard to the interests, of any Related Person;
- (b) exercise reasonable skill and care to the standard reasonably expected of a director of a company under the Companies Act 2006; and
- (c) act in a manner designed to facilitate the performance by the Panel of its duties under this Code.

Panel Member Confirmation

C3.8 Each Panel Member must confirm in writing to SECCo (for the benefit of SECCo and each Party) that that person:

- (a) agrees to act as a Panel Member in accordance with this Code, including the requirements of Section C3.7; and
- (b) agrees to accept appointment as a director of SECCo, and to act in such capacity in accordance with this Code; and
- (c) will be available as reasonably required throughout his or her term of office, both to attend Panel meetings and to undertake work outside those meetings as may reasonably be required,

and must further complete any and all forms required to be completed by law in order for that person to become a director of SECCo.

C3.9 The appointment of a person who would otherwise be a Panel Member shall lapse (and the relevant office shall become vacant) if that person does not comply with the requirements of Section C3.8 within 20 Working Days after a request from the Secretariat to do so.

Notification of Related Persons

C3.10 Each Panel Member shall, at the time of his appointment and upon any relevant change in circumstance, disclose, in writing to the Panel, the name of each Related Person who is a Party, a DCC Service Provider or is otherwise likely to be materially affected by the SEC Arrangements (other than in the capacity of Energy Consumer).

C3.11 Without prejudice to the generality of Section C3.10, where a Panel Member changes employer, the Panel Member shall (as soon as reasonably practicable after such change) notify the Secretariat of such change in writing. The Secretariat shall then notify the Parties of such change in employer.

Protections for Panel Members and Others

C3.12 SECCo shall indemnify, and keep indemnified:

- (a) each Panel Member (whether as a Panel Member or as a director of SECCo);
- (b) each Reserve (whether acting as an Alternate or otherwise);
- (c) each person who serves on a Sub-Committee or Working Group; and
- (d) each Party, or an Affiliate of a Party, as employer of any person referred to in Sections C3.12(a) to (c),

from and against any and all costs (including legal costs), charges, expenses, damages or other liabilities properly incurred or suffered by that person or employer in relation to the exercise of the person's powers duties or responsibilities under this Code, including where such powers duties or responsibilities are exercised negligently. The persons and employers shall be entitled to enforce their rights under this Section C3.12 pursuant to Section M11.5 (Third Party Rights).

C3.13 The indemnity set out in Section C3.12 shall not apply to any costs, charges, expenses, damages or other liabilities that are:

- (a) costs and expenses expressly stated to be incapable of recovery by the Panel under Section C8 (Panel Costs and Budgets); or
- (b) suffered or incurred or occasioned by the wilful default, fraud or bad faith of the relevant person.

C4 ELECTED MEMBERS

Elected Members

C4.1 The first Elected Members to be appointed on the designation of this Code shall be appointed in accordance with Section X (Transition). All other Elected Members shall be elected in accordance with the process set out in Section C4.2. Each Elected Member shall serve as a Panel Member until his or her retirement in accordance with Section C4.4, or until he or she is removed from office in accordance with Section C3.9, C4.5 or C4.6.

Election of Elected Members

C4.2 The process set out in this Section C4.2 shall apply in respect of the election of each Elected Member. This process shall apply in respect of Elected Member vacancies arising by virtue of a Panel Member's retirement in accordance with Section C4.4 (a **Scheduled Election**), or a Panel Member being removed from office in accordance with Section C3.9, C4.5 or C4.6 (an **Interim Election**). In each case, the following process shall apply:

- (a) each Elected Member is to be elected by a Party Category as described in Section C3.1;
- (b) each Voting Group within a Party Category is entitled to cast one vote in the election of the Panel Member(s) to be elected by that Party Category;
- (c) the Secretariat shall publish on the Website and send to each Party within the relevant Party Category an invitation for nominations for candidates for the role of Elected Member for that Party Category;
- (d) in the case of Scheduled Elections, the invitation for nomination of candidates shall be published and sent by the Secretariat at least 35 Working Days ahead of the date on which the relevant Panel Member's term of office expires;
- (e) in the case of Interim Elections, the invitation for nomination of candidates shall be published and sent by the Secretariat by no later than 5 Working Days after the date on which the relevant Panel Member was removed from office;

- (f) the invitation for nomination of candidates shall request nominations within 15 Working Days after the date of the invitation;
- (g) the eligible candidates for election shall be those persons who are (at the time of their nomination) capable of becoming and remaining Panel Members in accordance with Sections C3.2 and C4.6, and whose nominations (whether nominated by themselves or a third party) are received by the Secretariat within the period of time set out in the request for nominations;
- (h) where the Secretariat receives a nomination for a candidate that the Secretariat does not consider to be an eligible candidate in accordance with Section C4.2(g), the Secretariat shall notify that person that this is the case as soon as reasonably practicable after receipt of the nomination (and, in any event, by no later than 2 Working Days following the expiry of the period of time set out in the request for nominations);
- (i) where a candidate disputes the Secretariat's notification under Section C4.2(h), the candidate shall have 2 Working Days following receipt of such notification to refer the matter to the Panel Chair for final determination (which determination shall be made by the Panel Chair by no later than 5 Working Days following the expiry of the period of time set out in the request for nominations);
- (j) 6 Working Days following the expiry of the period of time set out in the request for nominations, the Secretariat shall give notice to each Party within the relevant Party Category of the names of each eligible candidate (together with any supporting information provided to the Secretariat with his or her nomination);
- (k) at the same time as the Secretariat issues such notice, where there are more eligible candidates for a Party Category than there are positions to be filled as Elected Members for that Party Category, the Secretariat shall invite the Voting Groups comprising that Party Category to vote for their preferred eligible candidate;
- (l) each such Voting Group shall be entitled to cast one vote, and shall cast such

vote by means of a system established by the Panel which ensures that each Voting Group casts only one vote, and which allows 10 Working Days following the invitation pursuant to Section C4.2(k) for such vote to be cast;

- (m) the successful candidate or candidates elected as a result of the votes cast in accordance with this Section C4.2 shall be determined in accordance with Section C4.3;
- (n) the Secretariat shall not publish details of the votes cast by each Voting Group, but shall disclose such details to the Panel Chair for scrutiny;
- (o) as soon as reasonably practicable following the election of an Elected Member in accordance with this Section C4.2, the Secretariat shall publish on the Website and notify each Party of the identity of the person who has been so elected; and
- (p) each person elected as a Panel Member in accordance with this Section C4.2 shall commence his or her office as a Panel Member: (i) in the case of Scheduled Elections, simultaneously with the retirement of the relevant Panel Member; or (ii) in the case of Interim Elections, simultaneously with the notification by the Secretariat pursuant to Section C4.2(o).

C4.3 As a result of the process set out in Section C4.2:

- (a) where there are the same number of eligible candidates for a Party Category as there are positions to be filled as Elected Members for that Party Category, all of the eligible candidates shall be elected as Elected Members;
- (b) where there are more eligible candidates for a Party Category than there are positions to be filled as Elected Members for that Party Category, the eligible candidate(s) that received the most votes in accordance with Section C4.2(l) shall be elected as Elected Members (and, in the case of a tie, the Secretariat shall determine the Elected Member by drawing lots, to be witnessed by the Panel Chair); or
- (c) where there are fewer eligible candidates for a Party Category than there are positions to be filled as Elected Members for that Party Category (including

where there are no eligible candidates), the Authority will (at its discretion) be entitled to nominate an Elected Member for that Party Category. Where this Section C4.3(c) applies, the Panel shall be entitled (at any time thereafter) to determine that a further Interim Election should be held in accordance with Section C4.2 in respect of that Party Category.

Retirement of Elected Members

C4.4 Subject to earlier removal from office of an Elected Member in accordance with Section C3.9, C4.5 or C4.6 and without prejudice to his or her ability to stand for re-election, each Elected Member shall retire (at which point his or her office shall become vacant) as follows:

- (a) the Elected Members elected in accordance with Section X (Transition) shall retire in accordance with that Section;
- (b) the Elected Members elected in accordance with this Section C4.2, shall retire two years after the date on which they first took office; and
- (c) any Elected Member nominated by the Authority pursuant to Section C4.3(c), shall retire on the Authority determining (at its discretion) that such person should be removed from office, or on the successful election of a replacement Elected Member in an election pursuant to Section C4.3(c).

Removal of Elected Members

C4.5 An Elected Member may:

- (a) resign his or her office by 10 Working Days' notice in writing to the Panel Chair;
- (b) be removed from office by the Panel Chair on notice to the Panel if the Elected Member fails to attend (either in person or via his or her Alternate) at least 50% of the Panel meetings held in any period of 12 months; or
- (c) be removed from office by the other Panel Members (acting unanimously) if such other Panel Members consider that the Elected Member is in breach of the confirmation given by that Elected Member pursuant to Section C3.8

(Panel Member Confirmation).

C4.6 An Elected Member shall automatically be removed from office if he or she:

- (a) dies;
- (b) is admitted to hospital in pursuance of an application under the Mental Health Act 1983 or the Mental Health (Care and Treatment) (Scotland) Act 2003, or an order is made by a court with competent jurisdiction in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person with respect to his property or affairs;
- (c) becomes bankrupt or makes any arrangement or composition with his creditors;
- (d) becomes prohibited by law from being a director of a company under the Companies Act 2006; and/or
- (e) is convicted of an indictable criminal offence.

C5 PROCEEDINGS OF THE PANEL

Meetings of the Panel

- C5.1 The Panel shall hold meetings with such frequency as it may determine or the Panel Chair may direct, but in any event shall meet when necessary to meet its responsibilities under Section D (Modification Process) and at least once every two months.
- C5.2 The location and timing of each meeting shall be determined by the Panel. Panel Members shall endeavour to attend each meeting in person, but attendance by telephone conference or other technological means shall be permitted (provided that each of the Panel Members attending the meeting acknowledges that he or she can communicate with each other).
- C5.3 Subject to the other provisions of this Code, the Panel may regulate the conduct of its meetings as it sees fit.

Quorum

- C5.4 No business shall be transacted at any meeting of the Panel unless a quorum is present at that meeting. The quorum for each Panel meeting shall be one half of all Panel Members appointed at the relevant time, at least one of whom must be the Panel Chair.

Meeting Notice and Papers

- C5.5 Each meeting that the Panel determines, or the Panel Chair directs, is to be held shall be convened by the Secretariat. Such meeting shall be convened on at least 5 Working Days' advance notice (or such shorter period as the Panel may approve). Such notice must be given to:
- (a) the Panel Members (and any appointed Alternates);
 - (b) each of the persons referred to in Section C5.13;
 - (c) the Parties; and
 - (d) any other person that the Panel determines, or the Panel Chair directs, should

be invited to the meeting.

C5.6 The notice of each Panel meeting shall contain or be accompanied by the following:

- (a) the time, date and location of the meeting;
- (b) the arrangements for those wishing to attend the meeting by telephone conference or other technological means; and
- (c) an agenda and supporting papers.

C5.7 The accidental omission to give notice of a meeting to, or the non-receipt of notice of a Panel meeting by, a person entitled to receive notice shall not invalidate the proceedings of that meeting.

Panel Chair

C5.8 The Panel Chair shall preside at every meeting of the Panel. If the Panel Chair is unable to attend a Panel meeting, the Panel Chair shall ensure that his or her Alternate attends the meeting as Panel Chair.

C5.9 The Panel Chair shall not be entitled to vote unless there is a deadlock, in which case the Panel Chair shall have the casting vote.

Voting

C5.10 Subject to Section C5.9, each Panel Member shall be entitled to attend, and to speak and vote at, every meeting of the Panel.

C5.11 All decisions of the Panel shall be by resolution. In order for a resolution of the Panel to be passed at a meeting, a simple majority of those Panel Members voting at that meeting must vote in favour of that resolution.

C5.12 A resolution in writing signed by or on behalf of all the Panel Members shall be as valid and effective as if it had been passed at a meeting of the Panel duly convened and held. Such a resolution may be signed in any number of counterparts.

Attendance by other persons

C5.13 One representative from each of the following persons shall be entitled to attend and

Speak (but not vote) at any meeting of the Panel:

- (a) the Secretary of State;
- (b) the Authority; and
- (c) any other person that the Panel determines, or the Panel Chair directs, should be invited to attend.

C5.14 Any Party shall be entitled to send a representative to attend a Panel meeting provided that Party gives the Secretariat at least 3 Working Days' notice in advance of such meeting (or such shorter period of notice as the Panel Chair may approve). Such a representative shall be entitled to attend and (at the Panel Chair's invitation) speak at (but in no circumstances vote at) the meeting.

C5.15 The Panel Chair may (at his or her discretion on grounds of confidentiality) exclude from any part of a Panel meeting persons admitted pursuant to Section C5.13(c) or C5.14.

Minutes of Panel Meetings

C5.16 The Secretariat shall, following each Panel meeting (and in any event at or before the next Panel meeting), circulate copies of the minutes of that meeting to each person who was entitled to receive a notice of that meeting. The Panel may determine that certain parts of a meeting are confidential, in which case those matters will not be included in the minutes circulated to persons other than the Panel, the Secretary of State and the Authority.

C5.17 If any Panel Member disagrees with any item of the minutes, he shall notify the Secretariat of those items with which he or she disagrees, and the Secretariat shall incorporate those items upon which there is disagreement into the agenda for the next following meeting of the Panel.

C5.18 The Secretariat shall maintain a record of all resolutions voted on by the Panel, indicating how each Panel Member voted on each resolution, and shall make such record available on request to any Party.

Alternates

- C5.19 Each Panel Member may, from time to time by notice in writing to the Secretariat, appoint another natural person to act as his or her alternate (an **Alternate**). The Panel Chair must appoint a person to act as his or her Alternate.
- C5.20 Each such Alternate must, before his or her appointment as such can become valid, have provided the confirmations referred to in Sections C3.8(a) and (c) (Panel Member Confirmation).
- C5.21 Where a Panel Member does not attend at a Panel meeting, the Panel Member's Alternate shall be entitled to attend (and count, in his capacity as Alternate, towards the quorum at) that meeting, and to exercise and discharge all the functions, powers and duties of the Panel Member at that meeting.
- C5.22 Each Panel Member may, by notice in writing to the Secretariat, remove or replace the person appointed from time to time by that Panel Member as his or her Alternate. An Alternate shall immediately cease to be an Alternate on the occurrence of any of the events set out in Section C4.5 (Removal of Elected Members) in respect of the Alternate. Where an Alternate's appointor ceases to be a Panel Member for any reason, the Alternate's role as such shall also cease.
- C5.23 Unless the context otherwise requires, any reference in this Code to a Panel Member shall be construed as including a reference to that Panel Member's Alternate.

Conflicts of interest

- C5.24 Given the duty of each Panel Member to act independently, as set out in C3.7 (Duties of the Panel), conflicts of interest should not regularly arise.
- C5.25 Notwithstanding Section C5.24, where a decision of the Panel will have particular consequences for a particular Party or class of Parties, each Panel Member shall consider whether that decision presents a conflict of interest (whether because such Party or Parties comprise Related Persons of the Panel Member or otherwise).
- C5.26 Where a Panel Member considers that a decision does present a conflict of interest, the Panel Member shall absent him or herself from the Panel meeting for that decision and abstain from the vote regarding that decision. Furthermore, where the Panel Chair

considers that a decision does present a conflict of interest for a Panel Member, the Panel Chair may require the Panel Member to absent him or herself from the Panel meeting for that decision and to abstain from the vote regarding that decision.

C6 SUB-COMMITTEES

Sub-Committees

- C6.1 The Panel may establish committees (**Sub-Committees**) for the purposes of doing or assisting the Panel in doing anything to be done by the Panel pursuant to this Code. The Panel shall establish those Sub-Committees expressly provided for in this Code.
- C6.2 The Panel may establish a Sub-Committee on a standing basis or for a fixed period or a finite purpose.
- C6.3 The Panel may decide that any Sub-Committee (other than one whose establishment is expressly provided for in this Code) is to be dissolved. Those Sub-Committees expressly provided for in this Code are to remain established for so long as they are provided for in this Code.
- C6.4 Subject to Section C6.5, the Panel may delegate to any Sub-Committee such of the duties, powers and functions of the Panel as the Panel may specify. The Panel shall delegate to any Sub-Committee expressly provided for in this Code all of the duties, powers, and functions of the Panel relating to the functions of that Sub-Committee described in this Code.

Working Groups

- C6.5 The Panel may not establish Sub-Committees to undertake the functions expressly reserved to Working Groups under Section D (Modification Process). Working Groups are to be subject to the requirements of Section D6 (Refinement Process), which may impose requirements by reference to this Section C6.

Membership

- C6.6 Each Sub-Committee expressly provided for in this Code shall be composed of such persons as are determined in accordance with the provisions of this Code (if any) that prescribe such membership (and otherwise in accordance with Section C6.7).
- C6.7 Subject to Section C6.6:
- (a) each Sub-Committee shall be composed of such persons of suitable experience and qualifications as the Panel shall decide and as are willing to serve thereon,

and which may include any Panel Member;

- (b) before establishing each Sub-Committee, the Panel shall invite (by such means as it considers appropriate) applications from individuals who wish to serve on that Sub-Committee;
- (c) once a Sub-Committee has been established, the Panel may admit such additional persons to, or remove any person from, that Sub-Committee as the Panel considers appropriate (including on the application of any Party or any member of the Sub-Committee).

C6.8 Each person serving on a Sub-Committee shall, when acting in that capacity:

- (a) act independently, not as a delegate, and without undue regard to the interests, of any Related Person; and
- (b) act in a manner designed to facilitate the performance by the Panel of its duties under this Code.

Member Confirmation

C6.9 Unless the Panel otherwise directs, a person who is to serve on a Sub-Committee shall not do so unless he or she has first provided a written confirmation to SECCo (for the benefit of SECCo and each Party) that that person:

- (a) agrees to serve on the Sub-Committee in accordance with this Code, including the requirements of Section C6.8; and
- (b) will be available as reasonably required throughout his or her term of office, both to attend Sub-Committee meetings and to undertake work outside those meetings as may reasonably be required.

Terms of Reference and Procedural Requirements

C6.10 The Panel shall set out in writing the duties, powers, and functions of the Panel that it has delegated to each Sub-Committee. The Panel shall also specify in the same document the terms of reference and procedural rules that are to be followed by the Sub-Committee (which may be revised from time to time by the Panel); provided that, in the case of Sub-Committees expressly provided for in this Code, the Panel must

specify terms of reference and procedural rules consistent with the requirements (if any) expressly set out in this Code.

C6.11 Save to the extent otherwise specified by the Panel in accordance with Section C6.10, each Sub-Committee shall conduct its business in accordance with the requirements applying to the Panel in accordance with Section C5 (Proceedings of the Panel).

C6.12 No Sub-Committee may further delegate any of its duties, powers and functions unless expressly authorised to do so by the terms of reference and procedural rules specified in accordance with Section C6.10.

Decisions of Sub-Committees

C6.13 Resolutions of Sub-Committees shall only have binding effect as decisions of the Panel if the Panel has formally delegated the decision-making powers to the Sub-Committee.

C6.14 The Panel shall be deemed to have delegated its decision-making powers to each Sub-Committee expressly provided for in this Code, insofar as such decision-making powers relate to the functions of the Sub-Committee. The delegation of decision-making powers to any other Sub-Committee shall require the unanimous agreement of all Panel Members at the meeting at which the decision to delegate such powers is agreed.

C6.15 For the avoidance of doubt, the delegation to a Sub-Committee of any duties, powers and functions of the Panel shall not relieve the Panel of its general responsibility to ensure that such duties, powers and functions are exercised in accordance with this Code.

C7 CODE ADMINISTRATOR, SECRETARIAT AND SECCO

Code Administrator

C7.1 The Panel may, from time to time, appoint and remove, or make arrangements for the appointment and removal of, one or more persons to be known as the **Code Administrator**.

C7.2 The Code Administrator shall perform those tasks and functions expressly ascribed to it under this Code, and any other tasks and functions as the Panel may assign to the Code Administrator from time to time. In particular, the Code Administrator shall:

- (a) 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 (provided that the requirements of this Code shall apply in the event of any inconsistencies between this Code and the requirements of the Code Administration Code of Practice);
- (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);
- (c) report to the Panel on any inconsistencies between this Code and the requirements of the Code Administration Code of Practice;
- (d) support the process by which Applicants apply to become a Party, as set out in Section B (Accession);
- (e) support the process for Modifications, as set out in Section D (Modification Process);
- (f) facilitate a process whereby Parties can submit a potential Modification Proposal to the Code Administrator to have that potential variation developed, refined and discussed prior to the Party deciding whether to formally submit a Modification Proposal (whether through the Change Board or another forum);
- (g) support the process by which Parties become Users, as set out in Section H1

(User Entry Process);

- (h) act as a critical friend in providing assistance and support to Parties (and prospective Parties) in relation to the other tasks and functions to be performed by the Code Administrator, with a view to providing particular assistance and support to small Parties and the Consumer Members;
- (i) without prejudice to the generality of Section C7.2(i), provide support and assistance to the Proposer of a Modification Proposal, including assistance in understanding this Code so as to properly frame the Modification Proposal;
- (j) advise the Panel (and Sub-Committees and Working Groups) as to, and in respect of, the matters of which it is necessary or appropriate that the Panel (or the Sub-Committee or Working Group) should be aware in order to discharge their functions in accordance with this Code; and
- (k) provide or procure such information in connection with the implementation of this Code as the Panel may require.

C7.3 The Panel shall be responsible for ensuring that the Code Administrator undertakes its tasks and functions in respect of this Code. In particular, the Panel shall ensure that the arrangements under which the Code Administrator is appointed oblige the Code Administrator to undertake such tasks and functions on terms no less onerous than those provided for by this Code.

C7.4 Subject to the other requirements of this Section C7, the Code Administrator shall be appointed by the Panel on such terms and conditions and in return for such remuneration as the Panel sees fit.

C7.5 In no event shall the Code Administrator be a Party, an Affiliate of a Party, an employee of a Party, an employee of an Affiliate of a Party, a DCC Service Provider, an Affiliate of a DCC Service Provider, an employee of a DCC Service Provider, or an employee of an Affiliate of a DCC Service Provider.

Secretariat

C7.6 The Panel may, from time to time, appoint and remove, or make arrangements for the appointment and removal of, one or more persons to be known as the **Secretariat**.

C7.7 The Secretariat shall perform those tasks and functions expressly ascribed to it under this Code, and any other tasks and functions as the Panel may assign to the Secretariat from time to time. In particular, the Secretariat shall:

- (a) support the election of Elected Members, as set out in Section C4 (Elected Members);
- (b) support the proceedings of the Panel (and Sub-Committees and Working Groups), as set out in Section C5 (Proceedings of the Panel);
- (c) provide or procure such facilities and services in connection with the operation of the Panel (and Sub-Committees and Working Groups) as the Panel may require;
- (d) maintain each Party's Party Details, as set out in Section M6 (Party Details);
- (e) procure the creation, hosting and maintenance of the Website; and
- (f) make an accurate and up-to-date copy of this Code available on the Website.

C7.8 The Panel shall be responsible for ensuring that the Secretariat undertakes its tasks and functions in respect of this Code. In particular, the Panel shall ensure that the arrangements under which the Secretariat is appointed oblige the Secretariat to undertake such tasks and functions on terms no less onerous than those provided for by this Code.

C7.9 Subject to the other requirements of this Section C7, the Secretariat shall be appointed by the Panel on such terms and conditions and in return for such remuneration as the Panel sees fit.

C7.10 In no event shall the Secretariat be a Party, an Affiliate of a Party, an employee of a Party, an employee of an Affiliate of a Party, a DCC Service Provider, and Affiliate of a DCC Service Provider, an employee of a DCC Service Provider, or an employee of an Affiliate of a DCC Service Provider.

SECCo

C7.11 SECCo shall be established in accordance with Schedule 4.

C7.12 SECCo shall act as a corporate vehicle in relation to the business of the Panel, including:

- (a) entering into any contractual arrangements in order to give effect to any resolution of the Panel which it is necessary or desirable to implement by means of a binding contract; and
- (b) becoming a Subscriber for IKI Certificates as directed by the Panel for the purpose of exercising any function of the Panel under this Code.

C8 PANEL COSTS AND BUDGETS

General

C8.1 The costs and expenses incurred by (or on behalf of) the Panel in exercising its powers and performing its duties in respect of this Code shall be incurred by SECCo, and the DCC shall provide SECCo with the funds necessary to meet such costs and expenses.

SEC Costs and Expenses

C8.2 The costs and expenses capable of recovery under this Section C8 (the **Recoverable Costs**) shall be all the reasonable costs and expenses incurred:

- (a) subject to Section C8.3, by the Panel Members in their capacity as such (including in their capacity as directors of SECCo);
- (b) subject to Section C8.3, by those serving on Sub-Committees (but not, for the avoidance of doubt, Working Groups) in their capacity as such;
- (c) by SECCo under or in connection with this Code; or
- (d) by SECCo under or in connection with contracts that SECCo has entered into in accordance with this Code, including the contracts for:
 - (i) the appointment of the Code Administrator and the Secretariat;
 - (ii) the appointment of the Panel Chair;
 - (iii) the appointment of any person serving on a Sub-Committee expressly provided for in this Code where that person is expressly stated to be remunerated; and
 - (iv) the appointment of advisers,

(in each case) provided that such costs or expenses are provided for in, or otherwise consistent with, an Approved Budget.

C8.3 Subject to the terms of those contracts referred to in Sections C8.2(d):

- (a) each Panel Member and each person serving on a Sub-Committee shall be entitled to recover all reasonable travel expenses properly incurred by them in their roles as such (and the Panel shall establish a policy that sets out guidelines regarding what constitutes reasonable travel expenses); and
- (b) no Panel Member or person serving on a Sub-Committee shall be entitled to a salary in respect of their role as such, or to any payment in respect of time they incur in their role as such.

Reimbursing Panel Members

- C8.4 Where a Panel Member or person serving on a Sub-Committee wishes to recover any Recoverable Costs, he or she shall submit evidence of the Recoverable Costs in question to the Panel (or a named person approved by the Panel) for approval. The cost or expense in question shall only be approved to the extent that it is a Recoverable Cost, and only if the evidence is submitted in a timely manner (and in any event on or before the 20th Working Day following the end of the relevant Regulatory Year). Once approved, the evidence of the Recoverable Cost shall be submitted to SECCo for payment.
- C8.5 Within 20 Working Days following receipt of evidence of a Recoverable Cost that has been approved in accordance with Section C8.4, SECCo shall pay the relevant amount to the relevant person.

SEC Costs to be Reimbursed by DCC

- C8.6 The Recoverable Costs incurred by SECCo shall be reimbursed to SECCo by the DCC.
- C8.7 SECCo may periodically invoice the DCC for the Recoverable Costs incurred, or reasonably expected to be incurred, by SECCo; provided that SECCo shall deduct from such Recoverable Costs amounts that SECCo has received by way of Application Fee payments and any amounts that represent previous overpayments by the DCC (due to the inaccuracy of SECCo estimates, or otherwise).
- C8.8 The DCC shall pay each invoice submitted by SECCo in accordance with Section C8.7 within 10 Working Days of receipt of such invoice by the DCC.

C8.9 It is acknowledged that the DCC is entitled to recover amounts paid by it to SECCo in accordance with this Section C8 through the Charges (subject to the requirements of the DCC Licence).

C8.10 In the event that the DCC does not pay SECCo in accordance with Section C8.8, and subject to prior approval from the Authority, SECCo may invoice the Parties who hold Energy Licences for the unpaid amount (and those Parties shall pay the invoiced amounts to SECCo as if they were Charges). Where this Section C8.10 applies, the amount to be paid by each Party shall be determined in accordance with a methodology approved by the Authority, and all amounts paid shall be reimbursed by SECCo to the relevant Party (plus interest at the Non-Default Interest Rate) at such time as the Authority may determine.

Draft Budgets and Work Plans

C8.11 The Panel shall, during January of each year, prepare and circulate to all the Parties a draft budget for the next three Regulatory Years commencing thereafter (a **Draft Budget**).

C8.12 Each Draft Budget shall set out the Panel's good-faith estimate of the Recoverable Costs that it anticipates will be incurred (or committed to) during the relevant Regulatory Years, and shall be accompanied by a detailed work plan showing the activities and projects to which the relevant costs and expenses relate. Each Draft Budget must provide for limits (both individually and in the aggregate) on costs and expenses not expressly provided for in the budget which can be incurred without having to amend the budget.

Approval of Budgets

C8.13 In respect of the Draft Budget circulated in January for the next Regulatory Year commencing thereafter, the Panel shall:

- (a) arrange for the circulation to all the Parties of the comments received from the Parties regarding the Draft Budget in the 20 Working Days following its circulation;
- (b) consider and respond to those comments, and circulate its responses to all the

Parties;

- (c) to the extent that it considers it appropriate to do so, amend the Draft Budget and/or the accompanying work plan in the light of those comments;
- (d) approve the Draft Budget (subject to any such amendments) and publish that budget and the accompanying work plan on the Website; and
- (e) specify a date in such publication (being not less than 15 Working Days following the date of publication) from which such budget will (subject to Section C8.14) become the **Approved Budget** for the relevant Regulatory Year.

Appeal of Budget

C8.14 Each of the Parties or Citizens Advice or Citizens Advice Scotland may appeal to the Authority the Panel's approval of a budget as the Approved Budget for a Regulatory Year. Any such appeal will only be validly made if notified to the Authority within 10 Working Days following the publication of such Draft Budget pursuant to Section C8.13(e), and if copied to the Panel. In the event an appeal is validly made, the Panel shall arrange for a copy of the appeal to be circulated to all the Parties, and:

- (a) 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, in which case the budget approved by the Panel shall remain the Approved Budget; or
- (b) the Authority may give notice that it will further consider the appeal, in which case the budget approved by the Panel shall remain the Approved Budget pending and subject to any interim directions issued by the Authority, and:
 - (i) where the Authority determines that the budget approved by the Panel is consistent with the General SEC Objectives, then such budget shall remain the Approved Budget; or
 - (ii) where the Authority determines that the budget approved by the Panel is not consistent with the General SEC Objectives, then either (as directed by the Authority):

- (A) such budget shall be amended in such manner as the Authority may direct, and such budget as so amended will be Approved Budget; or
- (B) the Panel shall produce a further Draft Budget and re-commence the process set out in Section C8.13.

Amendments to Budgets

C8.15 The Approved Budget relating to each Regulatory Year may be amended by the Panel from time to time (whether before during or after that Regulatory Year, and including in respect of Recoverable Costs already incurred), provided that the Panel has first:

- (a) circulated and invited comments on the proposed amendments in accordance with Section C8.13 as if it were a Draft Budget; and
- (b) circulated and considered any comments received on the proposed amendments within 20 Working Days of such circulation on the same basis as is referred to in Section C8.13.

Reports

C8.16 The Panel shall, as soon as is reasonably practicable following the end of each Regulatory Year, produce and circulate to Parties a report on the costs and expenses incurred (or committed to) during that Regulatory Year and the activities and projects to which those costs and expenses relate.

Audit

C8.17 The Panel shall arrange for the monies paid by and to SECCo pursuant to this Section C8 during each Regulatory Year to be audited by a firm of chartered accountants on an annual basis in order to verify whether the requirements of this Section C8 have been met.

C8.18 The Panel shall send a copy of such auditor's report to all the Parties within 10 Working Days of its receipt by the Panel.