

Proposed DCUSA Legal Drafting

Add/Amend the following Definitions in Clause 1

"**SPAA**" means the Supply Point Administration Agreement established pursuant to the Gas Supply Licences¹.

"**SPAA Ltd**" means the corporate vehicle created for the purposes of giving effect to the decisions of the executive committee under the SPAA (including its successors as such).

"**Supplier Data**" means, in respect of each Supplier Party, the information and other data provided by that Supplier Party to DCUSA Ltd and/or the TRAS Service Provider pursuant to the Theft Risk Assessment Service Arrangements (and, in Appendix 1 to Schedule [X], includes the equivalent data provided pursuant to the SPAA).

"**Theft Risk Assessment Service Arrangements**" means the arrangements for a theft risk assessment service and other related measures that the Supplier Parties are obliged to maintain pursuant to the Supplier Licences.

"**TRAS Contract**" means each of the contracts from time to time between DCUSA Ltd and a TRAS Service Provider for provision of the Theft Risk Assessment Service Arrangements.

"**TRAS Liabilities**" means all costs, charges, expenses, professional fees, fines, damages and other liabilities incurred under or in connection with the Theft Risk Assessment Service Arrangements (including the TRAS Contract), whether in contract, tort (including negligence), for breach of statutory duty or otherwise.

"**TRAS Service Data**" means the information and other data received by Supplier Parties pursuant to the Theft Risk Assessment Service Arrangements (but excluding, for each Supplier Party, its own Supplier Data).

"**TRAS Service Provider**" means the person or persons with which DCUSA Ltd contracts from time to time for provision of the Theft Risk Assessment Service Arrangements (but excluding the Secretariat in its role as Secretariat).

¹ Consequential amendment to definition of Responsible Gas Supplier to replace "Supply Point Administration Agreement (as defined in condition 1 of the standard conditions applicable to Gas Supply Licences)" with "SPAA".

Add a new Schedule as follows

Schedule [X] – Theft Risk Assessment Service

1. Governance

- 1.1 The Panel shall establish a Working Group to oversee the Theft Risk Assessment Service Arrangements. Such Working Group shall work in collaboration with the equivalent sub-committee constituted under the SPAA.
- 1.2 It is the intention of the Parties that DCUSA Ltd contracts with a TRAS Service Provider for provision of services consistent with the description set out in Appendix 1. Where necessary, DCUSA Ltd shall seek to make changes to the TRAS Contract to ensure it remains consistent with Appendix 1 from time to time. For the avoidance of doubt, no Party shall have any obligation under Appendix 1.

2. Funding

- 2.1 Subject to Paragraph 2.3, all TRAS Liabilities incurred by DCUSA Ltd (howsoever arising) shall constitute Recoverable Costs to be paid by Supplier Parties pursuant to Clause 8.9A of the main body of this Agreement.
- 2.2 Where DCUSA Ltd contracts with the TRAS Service Provider under a common arrangement with SPAA Ltd:
- (a) DCUSA Ltd may agree to be liable to the TRAS Service Provider for up to 59% of the TRAS Liabilities that arise in relation to electricity and gas (and to be responsible for 100% of the TRAS Liabilities that relate exclusively to electricity); and
 - (b) notwithstanding Paragraph 2.2(a), DCUSA Ltd may agree to be jointly and severally liable with SPAA Ltd to the TRAS Service Provider for the TRAS Liabilities of SPAA Ltd; provided that SPAA Ltd agrees to reimburse DCUSA Ltd for the TRAS Liabilities of SPAA Ltd to the extent funded by DCUSA Ltd.
- 2.3 Paragraph 2.1 shall not apply in respect of TRAS Liabilities to the extent that DCUSA Ltd has a claim against another person in respect of such TRAS Liabilities. Such other

persons may include one or more of the TRAS Service Provider, SPAA Ltd, the Supplier Parties and the Secretariat. In such circumstances, DCUSA Ltd shall take all reasonable steps and proceedings to pursue and recover any amounts to which it is entitled from such other persons, unless and until the Panel determines (in consultation with Supplier Parties) that there is no reasonable prospect of success.

- 2.4 Notwithstanding Paragraph 2.3 and the existence of any claim referred to therein, pending the recovery of amounts pursuant to Paragraph 2.3, the TRAS Liability in question shall constitute a Recoverable Cost (to be paid by Supplier Parties pursuant to Clause 8.9A), subject to subsequent reconciliation once any amount is recovered pursuant to Paragraph 2.3.

3. Performance Assurance

- 3.1 The Panel shall appoint a person that is reasonably independent of Supplier Parties and of the TRAS Service Provider to produce a performance assurance report in respect of the Theft Risk Assessment Service Arrangements. Such report shall be undertaken in accordance with the relevant requirements stipulated in the Supply Licences. For the avoidance of doubt, the costs incurred by the Panel in so doing will constitute TRAS Liabilities.

4. Data Protection

- 4.1 The words and expressions in this Paragraph 4 that are not otherwise defined in this Agreement shall be interpreted in accordance with the Data Protection Act.
- 4.2 In respect of each Supplier Party's Supplier Data insofar as it constitutes Personal Data:
- (a) DCUSA Ltd undertakes to that Supplier Party to only Process that Personal Data in accordance with Good Industry Practice and the principles of the Data Protection Act and for the purposes of procuring the Theft Risk Assessment Service Arrangements;
 - (b) DCUSA Ltd undertakes to that Supplier Party to ensure that the TRAS Service Provider shall only Process that Personal Data for the purposes of providing services pursuant to the Theft Risk Assessment Service Arrangements, and in

accordance with the contract pursuant to which DCUSA Ltd appoints the TRAS Service Provider; and

- (c) where DCUSA Ltd determines that it is necessary to obtain consent for particular aspects of Processing (and insofar as such consent can reasonably be obtained via supply contract terms and conditions), that Supplier Party shall ensure that provisions are included within its supply contract terms and conditions via which the individual to which that Personal Data relates gives his or her consent to the Processing of their Personal Data by the TRAS Service Provider for the purposes of the Theft Risk Assessment Service Arrangements.

4.3 In respect of the TRAS Service Data insofar as it constitutes Personal Data, each Supplier Party undertakes to only Process that Personal Data:

- (a) in accordance with Good Industry Practice, the principles of the Data Protection Act, and this Agreement; and
- (b) for the purposes of receiving services pursuant to the TRAS Contract and/or discharging its obligations pursuant to the Theft Risk Assessment Service Arrangements.

5. Data Sharing

5.1 DCUSA Ltd has agreed to procure that each Supplier Party grants the TRAS Service Provider a licence as described in this Paragraph 5.1. Each Supplier Party, in respect of its Supplier Data, hereby grants to the TRAS Service Provider a royalty-free, non-exclusive, non-transferable licence to use that Supplier Data for the sole purpose of providing services pursuant to the Theft Risk Assessment Service Arrangements. Each such licence includes the right of the TRAS Service Provider to grant a royalty-free, non-exclusive, non-transferable sub-licence to its sub-contractors for the same purpose.

5.2 Each Supplier Party, in respect of its Supplier Data, shall ensure that the TRAS Service Provider can use and sub-licence that Supplier Data in the manner envisaged by Paragraph 5.1 without infringing any Intellectual Property.

- 5.3 Each Supplier Party, in respect of its Supplier Data, hereby grants to each other Supplier Party a royalty-free, non-exclusive, non-transferable licence to use that Supplier Data for the sole purpose of receiving services pursuant to the TRAS Contract and/or discharging its obligations pursuant to the Theft Risk Assessment Service Arrangements.
- 5.4 Each Supplier Party, in respect of its Supplier Data, shall ensure that each other Supplier Party can use that Supplier Data in the manner envisaged by Paragraph 5.3 without infringing any Intellectual Property.
- 5.5 Without prejudice to the generality of Paragraphs 5.1 and 5.3, it is agreed that:
- (a) the Supplier Data of each Supplier Party will be used for the purposes of detecting theft of electricity and/or gas (not just electricity) at premises throughout Great Britain (not just the premises supplied from time to time by the Supplier Party);
 - (b) the Supplier Data of each Supplier Party relating to a particular premises can continue to be used notwithstanding that the Supplier Party no longer supplies that premises; and
 - (c) the Supplier Data of each Supplier Party can continue to be used notwithstanding that the Supplier Party has ceased to be a Party.
- 5.6 Each Supplier Party undertakes to only use the TRAS Service Data for the purposes of receiving services pursuant to the TRAS Contract and/or discharging its obligations pursuant to the Theft Risk Assessment Service Arrangements; and to only use such data in accordance with law.

6. Confidentiality

- 6.1 Subject to Paragraphs 6.3 and 6.4, DCUSA Ltd undertakes to each Supplier Party to treat that Supplier Party's Supplier Data as confidential and to safeguard it in accordance with Good Industry Practice.

- 6.2 Subject to Paragraphs 6.3 and 6.5, each Supplier Party undertakes to treat the TRAS Service Data as confidential and to safeguard it in accordance with Good Industry Practice.
- 6.3 The obligations of confidentiality in this Paragraph 6 shall not apply to the extent that:
- (a) disclosure is required in accordance with the Relevant Instruments or any other law;
 - (b) such information was separately created or obtained by the Party² seeking to make a disclosure without an obligation of confidentiality; and/or
 - (c) such information is already in the public domain at the time of disclosure otherwise than by a breach of this Agreement.
- 6.4 DCUSA Ltd may disclose each Supplier Party's Supplier Data to the Secretariat and/or to the TRAS Service Provider (in either case) insofar as is necessary for the purposes of the Theft Risk Assessment Service Arrangements. DCUSA Ltd shall be responsible for any disclosure of such data by the Secretariat otherwise than in accordance with this Paragraph 6. DCUSA Ltd shall have no obligations in respect of disclosure by the TRAS Service Provider, in respect of which the Supplier Parties are intended to have directly enforceable rights.
- 6.5 Each Supplier Party may disclose the TRAS Service Data to its agents and contractors insofar as is necessary for the purposes receiving services pursuant to the TRAS Contract and/or discharging its obligations pursuant to the Theft Risk Assessment Service Arrangements. Each Supplier Party shall be responsible for any disclosure of such data by any such persons otherwise than in accordance with this Paragraph 6.

7. Liabilities and Claims

- 7.1 Subject to Paragraph 7.2, each Supplier Party hereby indemnifies DCUSA Ltd against any TRAS Liabilities incurred by DCUSA Ltd as a result of a breach by that Supplier Party of this Agreement.

² Consequential change to definition of 'Party' in clause 1 to include DCUSA Ltd for TRAS Schedule.

7.2 The limitations of liability set out in Clause 53 of the main body of this Agreement shall not apply in respect of any breach by a Party of this Schedule [X], but the following shall instead apply in respect of such breaches:

- (a) nothing in this Paragraph 7.2 shall limit a Party's liability for death or personal injury caused by its negligence, or for fraud or fraudulent misrepresentation;
- (b) no Supplier Party shall be liable for any inaccuracy in its Supplier Data;
- (c) the Party in breach shall be liable for the losses that were reasonably foreseeable as likely to arise as a result of the breach (to be assessed at the time of the breach, and not at the time at which the Party became a Party); and
- (d) the Party in breach shall not be liable for the losses that were not reasonably foreseeable as likely to arise as a result of the breach (to be assessed at the time of the breach).

7.3 For the purposes of Paragraph 7.2, it is acknowledged and agreed that a breach of this Schedule [X] by a Supplier Party may cause DCUSA Ltd to incur a TRAS Liability to the TRAS Service Provider and/or may cause another Supplier Party to incur a TRAS Liability.

7.4 DCUSA Ltd shall contract with the TRAS Service Provider on the basis that each Supplier Party has a directly enforceable contractual right against the TRAS Service Provider in respect of the following:

- (a) an obligation on the TRAS Service Provider equivalent to the obligation set out in Paragraph 4.2;
- (b) a non-exclusive, non-transferable, royalty free licence from the TRAS Service Provider to use the TRAS Service Data for the purposes of receiving services pursuant to the TRAS Contract and/or discharging its obligations pursuant to the Theft Risk Assessment Service Arrangements (and the right to use the TRAS Service Data without infringing any Intellectual Property); and
- (c) an obligation on the TRAS Service Provider equivalent to the obligation set out in Paragraph 6.2.

7.5 Each Supplier Party hereby agrees with DCUSA Ltd, in respect of any claim that the Supplier Party may have in respect of the directly enforceable contractual rights referred to in Paragraph 7.4, to:

- (a) notify DCUSA Ltd of any claim that the Supplier Party may have in respect of such rights;
- (b) irrevocably appoint DCUSA Ltd as the Supplier Party's exclusive agent to pursue, negotiate and conduct any claims that the Supplier Party may have in respect of such rights (which role DCUSA Ltd may choose to delegate);
- (c) provide DCUSA Ltd with all reasonable assistance requested by DCUSA Ltd in respect of the conduct of such claims;
- (d) take all reasonable steps to mitigate any TRAS Liabilities; and
- (e) where the Supplier Party's claim relates to a claim by a third party against the Supplier Party, not make any admission without first consulting with DCUSA Ltd.

7.6 Without prejudice to any contractual rights that a Supplier Party may have (whether under this Agreement, pursuant to the Contracts (Rights of Third Parties) Act 1999, or otherwise), each Supplier Party hereby irrevocably waives and releases (to the fullest extent permissible by law) all tortious rights and remedies and claims for breach of statutory duty that it might otherwise have against the TRAS Service Provider arising under or in connection with the Theft Risk Assessment Service Arrangements.

7.7 Notwithstanding Clause 60.8 of the main body of this Agreement, the TRAS Service Provider shall be entitled to enforce the following paragraphs in accordance with the Contracts (Rights of Third Parties) Act 1999:

- (a) Paragraphs 4.2(c) and 4.3;
- (b) Paragraphs 5.1, 5.2 and 5.6;
- (c) Paragraph 6.2; and
- (d) Paragraphs 7.5(b) and 7.6,

provided that this Agreement (including those paragraphs) shall remain subject to amendment and termination in accordance with its provisions (and without the consent of the TRAS Service Provider).

- 7.8 It is acknowledged that the TRAS Contract may contain compensation and/or termination provisions linked to the amendment of the paragraphs referred to in Paragraph 7.7, and that DCUSA Ltd may incur TRAS Liabilities in the event of any changes to those paragraphs.

8. Supplier Data

- 8.1 Each Supplier Party shall take all reasonable steps to agree with the TRAS Service Provider the specifications for the data files described in Appendix 2 in an agreed computer readable format and containing the data specified in Appendix 2. The data files described in Appendix 2 fall into two categories (as further described in Appendix 2), which comprise:

- (a) information in respect of residential premises and commercial premises; and
- (b) information in respect of known instances of theft,

the data files so agreed by each Supplier Party being, for that Supplier Party, the "**Supplier Data File**" and the "**Stolen Meter File**", respectively.

- 8.2 For the purposes of Paragraph 8.1, the data fields referred to in Appendix 2 are mandatory to the extent that the Supplier Party has the data.

- 8.3 By 30th June 2015, each Supplier Party shall provide to the TRAS Service Provider (via the secure STS service agreed between that Supplier Party and the TRAS Service Provider):

- (a) the Supplier Data File covering supply data for the 12 months to 1 June 2015, and theft investigation data covering the 24 months to 1 June 2015; and
- (b) the Stolen Meter File for all known data.

- 8.4 On the first Working Day of every calendar month from November 2015 onwards, each Supplier Party shall extract its Supplier Data File and update it to reflect the most up-to-date data available to it.
- 8.5 By the third Working Day of every calendar month from November 2015 onwards, each Supplier Party shall provide to the TRAS Service Provider (via the secure STS service referred to in Paragraph 8.3) the Supplier Data File referred to in Paragraph 8.4.
- 8.6 On the first Working day of February, May, August and November (from November 2015 onwards), each Supplier Party shall provide to the TRAS Service Provider (via the secure STS service referred to in Paragraph 8.3) its Stolen Meter File to reflect the most up-to-date data available to it. By the third Working Day of each such calendar month, each Supplier Party shall provide to the TRAS Service Provider (via the secure STS service referred to in Paragraph 8.3) such Stolen Meter File.
- 8.7 By the third Working Day of every calendar month from November 2015 onwards, each Supplier Party shall input details of investigation status and outcomes (as required from time to time under the TRAS Contract) into the system provided for that purpose by the TRAS Service Provider.
- 8.8 Once the format of each Supplier's Supplier Data File and Stolen Meter File has been agreed with the TRAS Service Provider pursuant to this Paragraph 8, the format may not be changed without the TRAS Service Provider's consent (such consent to be obtained by DCUSA Ltd pursuant to the TRAS Contract).
- 8.9 Each Supplier Party shall provide sufficient and suitably qualified staff as reasonably required by the TRAS Service Provider from time to time in compliance with the TRAS Contract with the objective of ensuring successful requirements definition, configuration, testing and implementation of the Theft Risk Assessment Service Arrangements in accordance with the TRAS Contract.
- 8.10 Each Supplier Party shall provide a suitably qualified single point of contact for the TRAS Service Provider to manage the day-to-day interactions between the TRAS Service Provider and that Supplier Party.

- 8.11 Each Supplier Party shall report any faults and issues with respect to the TRAS Contract via the help desk established by the TRAS Service Provider for that purpose under the TRAS Contract.
- 8.12 Each Supplier Party shall provide the TRAS Service Provider with any information or assistance reasonably requested by the TRAS Service Provider from time to time in relation to the provision of the Theft Risk Assessment Service Arrangements by the TRAS Service Provider in accordance with the TRAS Contract.

Appendix 1 to Schedule [X] – Description of the Services to be Procured Pursuant to the TRAS Contract

The TRAS Contract shall provide for the TRAS Service Provider to:

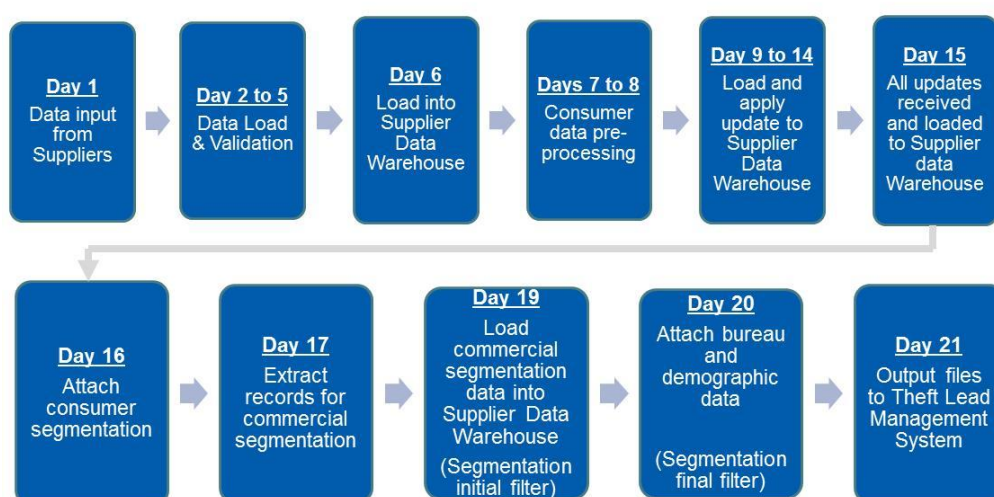
- identify, collect, scrutinise and evaluate Supplier Data provided by Supplier Parties;
- assess geographic, behavioural and other such trends;
- create, maintain and operate a stolen meter register and security device register (as further described in the TRAS Contract);
- monitor the risk of theft when consumers change energy supplier, such that consumers should not be able to frustrate the investigation of potential theft of energy by their current supplier by changing to another supplier;
- produce a theft risk assessment methodology (**TRAM**) to be delivered to, and approved by DCUSA Ltd and SPAA Ltd;
- review the TRAM quarterly for the first year, and annually thereafter, and work with industry to identify changes to the Supplier Data;
- establish the "**Theft Target**" and the "**Theft Target Methodology**" (as each such expression is further described in the TRAS Contract) within 12 months after the effective date of the TRAS Contract;
- receive information concerning, and the results of, theft investigations from Supplier Parties in the agreed formats;
- produce and distribute lead generation reports (as further described in the TRAS Contract) to each Supplier Party by the Working Day on or after the 24th day of each month;
- establish a helpdesk to support Supplier Parties in the submission of data and understanding of the lead generation reports and respond to ad hoc requests from Supplier Parties for further details regarding a potential energy theft lead (**Theft Leads**);

- provide a 24/7 tip off line (with separate processes for category A and B tip offs, where category A relates to a serious safety concern and category B does not);
- maintain emergency contact details for referring category A tip-offs;
- provide the hosting of the TRAS Service Provider solution on a website that satisfies the tier III data centre standards;
- provide monthly management reports to DCUSA Ltd and SPAA Ltd (including performance against service levels and rationale for any failure to meet service levels); and
- provide additional services as required under and in accordance with the TRAS Contract.

Managed Service Process Flow

The following diagram shows the monthly process flow for the TRAS Contract services from receipt of Supplier Data to output of the Theft Leads.

TRAS Monthly Process Flow



The key interaction points between Supplier Parties and the TRAS Service Provider are measured from an agreed cut off point each month (Working Day 3). The key interaction

points between the TRAS Service Provider and each Supplier Party are identified in bold below:

Process Day	Outline Service Level Definition
1 (the third Working Day of the month)	The TRAS Service Provider receives Supplier Data Files from each Supplier
2 to 15	Files validated, converted, quality checks and data loaded to data warehouse
7	Monthly Supplier Data File MI reports sent to Supplier Parties
15 to 20	Theft lead processing – Outliers identified, bureau and risk data append, process through scorecard and decision strategy
21	Output of Supplier Party Theft Lead files to the Theft Lead management system. Suppliers able to access own Theft Leads.

Theft Target Development

The TRAS Service Provider will use a data and analytics driven approach to establishing the Theft Target which is achievable, fully justifiable and gains high buy-in from industry stakeholders. It will be an iterative process, which is within the core responsibility of the TRAS Service Provider's team, where the target is refined as both performance improves and energy suppliers' investigation units become more adept at using the Theft Leads. With the data gathered in year 1 of operation and the analysis performed on Theft Leads status and outcomes across all energy suppliers as consolidated within the Theft Lead management system there will be an opportunity to establish and agree the initial Theft Target with SPAA Ltd and DCUSA Ltd.

The TRAS Service Provider will analyse individual Revenue Protection Units' (RPU) success rates, against comparable quality of Theft Leads generated for them to investigate,

using the Theft Lead management system audit capability. This is made possible by the TRAM scoring mechanism which will ensure each RPU will receive Theft Leads of a comparable quality regardless of the numbers they are investigating. By understanding the success rate by theft propensity score band and applying to a GB wide benchmark the TRAS Service Provider can calculate the likely volumes and values of theft instances and using detection rates, provide a sensitivity analysis for what can be achievable, so supporting the justification of the Theft Target to the Authority. Development of the theft lead target is included in the remit of the TRAS Service Provider.

The TRAS Service Provider can also identify through the same benchmarking process where best practice is being operated and as appropriate promote that to lower performing RPUs. It is also worth noting that, where an RPU receives more high quality Theft Leads than it can currently cope with this can be made apparent and a business case for them to expand their capability and resources can be readily made using the data available.

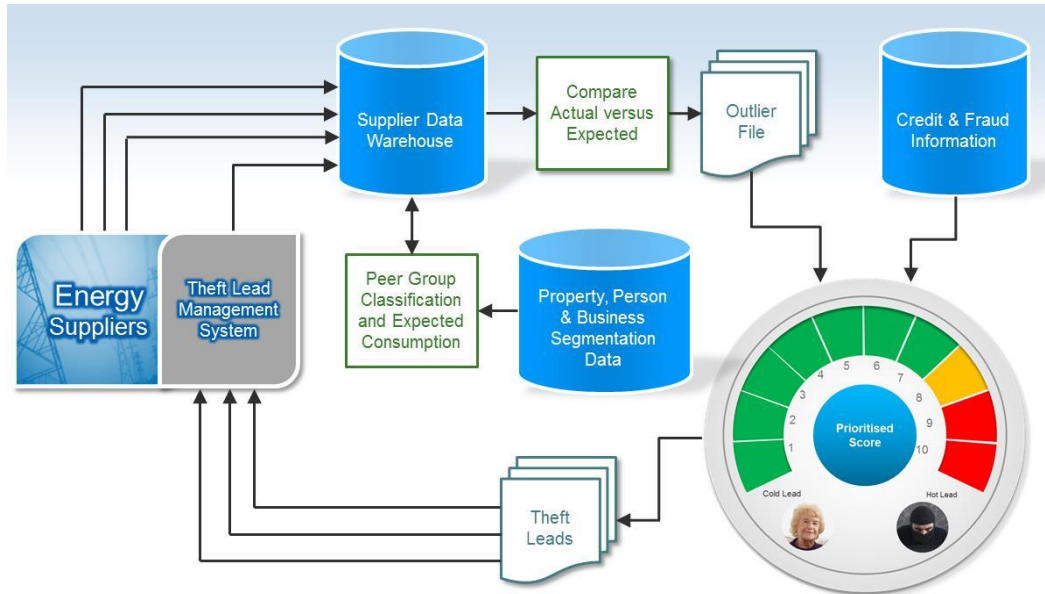
Service Management and Dedicated Team

The TRAS Service Provider will deliver services under the TRAS Contract through hosted services and a team comprising a combination of dedicated resources and expertise from specific TRAS Service Provider functions, including:

- hosted environments to operate the supplier data warehouse, supplier data processing and the Theft Lead management system;
- a frontline help desk to receive calls, log them and handle issue escalation;
- a dedicated team to manage the BAU service (data receipt, conversion, quality checks and loads, standard MI) plus handle second line support, database maintenance and fixes, data queries, minor upgrades and amendments;
- a third-line team comprising expert analytics to provide annual theft propensity scorecards, residential and commercial segmentation performance improvement plus agreed bespoke MI, benchmarking and define Theft Target

Theft Risk Assessment Methodology (TRAM)

The TRAS Provider's solution is built around the TRAS Provider's TRAM which is a two stage process:



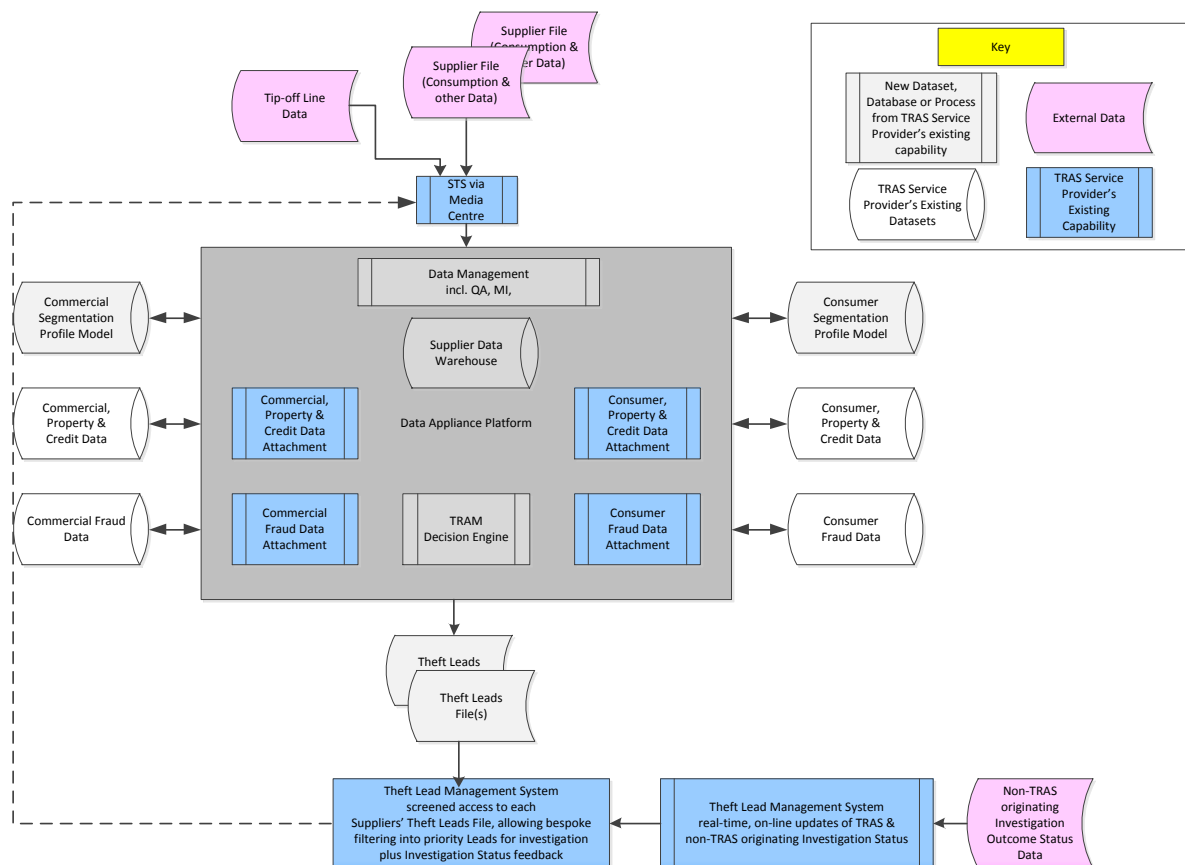
Stage 1 identifies low consumption outliers by comparing actual consumption at a supply point against a modelled consumption for that property/customer type (classification). These classifications will be constructed during the development phase of the service based on the TRAS Service Provider's unique data sets covering property type and occupant information. Supplier Data will be used to then calculate an expected consumption for each classification. Monthly processing of actual consumption against the expected consumption for the relevant classification for each supply point will generate a low consumption outlier file based on statistically proven variation.

Stage 2 is to qualify these outliers by looking for markers which indicate a motivation and propensity for the customer to perpetrate theft. This will be done using the TRAM decision engine and scorecards based on the TRAS Service Provider's property, credit and fraud data (consumer and commercial). The scorecards will rank outliers for propensity to be stealing energy and provides these as Theft Leads to the energy suppliers. It will be built using expert analytics during the development phase and will be an evolution of the prototype scorecard already proven with a major energy supplier.

Solution description

The TRAS Service Provider will use its experience in building and operating shared data user groups to create a solution to receive and integrate Supplier Data, identify where theft is potentially being perpetrated and report this back to the energy Suppliers for investigation.

This diagram below represents the primary functions and data flows within the proposed solution.



All functions of the system are provided by configurations and parameterisation of products and services that the TRAS Service Provider already provides to the market, apart from the supplier data warehouse, so de-risking the programme delivery and operation.

Appendix 2 to Schedule [X] – Supplier Data Files

The embedded spreadsheet contains the layouts for residential and commercial customers and stolen meters.



Copy of Final
Supplier Data Files La

Wragge Lawrence Graham & Co LLP