

DCP 256 Draft Legal Text**Change to DCUSA to mitigate risks of non-payment of DCUSA invoices**

Add the following definitions to Clause 1.1:

DCUSA Late Payment Notice	has the meaning given to that term in Clause 8.11A.
DCUSA Payment Default	has the meaning given to that term in Clause 8.11B.

Add the following new clauses after Clause 8.3:

8.3A The Draft Budget shall separately identify the Panel's good-faith estimate of the Recoverable Costs that it anticipates will be invoiced in each Quarter of the Financial Year to which the Draft Budget relates, split between each Party Category.

8.3B The Draft Budget for a Financial Year shall be accompanied by the Panel's latest estimate of the likely outcome of the annual review for the previous Financial Year, which will be carried out pursuant to Clause 8.12.

8.3C The Draft Budget for a Financial Year shall be accompanied by the Panel's best estimate of the dates on which it will raise invoices for each Quarter of the Financial Year.

Amend Clause 8.10 as follows:

8.10 The Panel shall, in respect of each Party and within 7 days after the start of each Quarter;

8.10.1 calculate the Panel's best estimate (by reference to the Approved Budget) of that Party's Cost Contribution (together with VAT thereon, if applicable) in respect of that Quarter; and

8.10.2 arrange for an invoice or other statement, on such terms as the Panel may from

time to time prescribe, for an amount equal to such estimate to be sent to that Party. Such invoices shall separately identify Recoverable Costs for TRAS Liabilities and for ETTOS Liabilities. Such invoices shall be sent by post, by email, or by post and email, as specified by the receiving Party from time to time (or, where no preference has been specified, by post only). Such invoices shall ordinarily be payable within 30 days, or within such shorter period as the Panel may specify for TRAS Liabilities and/or ETTOS Liabilities.

Add the following new clauses after Clause 8.11:

8.11A Failure by a Party to pay (in cleared funds) an amount in accordance with Clause 8.11 shall be a **"DCUSA Payment Default"**.

8.11B Where a Party commits a DCUSA Payment Default, the Panel shall send a notice (a **"DCUSA Late Payment Notice"**) to the Party:

8.11B.1 setting out the amount owed by the Party;

8.11B.2 stating to whom payment should be made;

8.11B.3 specifying that the payment must be made by a method of same day payment, such as CHAPS; and

8.11B.4 stating that failure to pay may lead to an Event of Default under this Agreement.

8.11C Failure by a Party to remedy a DCUSA Payment Default may give rise to an Event of Default under and in accordance with Clause 54.1, and may lead to the Panel suspending a Supplier Party's rights in accordance with Clause 54.2.

8.11D If a DCUSA Payment Default of one or more Supplier Parties will cause DCUSA Ltd to be unable to pay the TRAS Service Provider in accordance with the TRAS Contract and/or the ETTOS Service Provider in accordance with the ETTOS Contract, then the Panel shall consider whether additional funding is required. Where additional funding is required the Panel shall be entitled (as set out in paragraph 2.4 of Schedule 25 or

paragraph 2.4 of Schedule [XX]¹, as applicable) to invoice all other Supplier Parties for the amount in default, calculating their share in accordance with Clause 8.9A (but without reference to the Supplier Parties in default). Where a Supplier Party that was in default subsequently pays some or all of the outstanding amount, the non-defaulting Supplier Parties shall be credited with the amount previously invoiced under this Clause 8.11D (as set out in paragraph 2.4 of Schedule 25 or paragraph 2.4 of Schedule [XX], as applicable).

Amend Clause 54.1 as follows:

...

54.1.6 without prejudice to Clause 55, a circumstance of Force Majeure that affects the performance by the Breaching Party of substantially all of its obligations under this Agreement continues for more than 180 days and any Party to whom any such obligation was owed serves a notice on the Breaching Party referring to this Clause 54;

54.1.7 any of the conditions precedent relating to the Breaching Party set out in Clauses 16.1.2 to 16.1.7 (inclusive) or in Clauses 37.1.1 to 37.1.5 (inclusive) cease to be satisfied in respect of the Breaching Party; or

54.1.8 the Breaching Party fails to remedy a DCUSA Payment Default within 5 Working Days after receipt of a DCUSA Late Payment Notice.

Amend Clause 54.2 as follows:

54.2 For so long as an Event of Default is continuing, where a Supplier/DG Party is a User under Section 2A, or where a DNO/IDNO/OTSO Party is a User under Section 2B, and, in either case, that Party is a Breaching Party pursuant to:

54.2.1 Clause 54.1.1 or 54.1.6, any Party to whom the obligations in question were owed shall be entitled to suspend its performance of the services described in

¹ To be updated with relevant reference for Energy Theft Tip-Off Service Schedule.

Section 2 to the Breaching Party by notice in writing to the Breaching Party;

54.2.2 Clause 54.1.8, the Panel shall be entitled to instruct each DNO/IDNO Party to procure suspension of registration services for the Breaching Party under the Master Registration Agreement, in which case the DNO/IDNO Parties shall procure such suspension, and the Panel shall notify the Breaching Party of such suspension and each DNO/IDNO Party shall report the alleged event of default to the MRA Executive Committee as required under the Master Registration Agreement; and

54.2.3 any other provision of Clause 54.1, any Party shall be entitled to suspend its performance of the services described in Section 2 to the Breaching Party by notice in writing to the Breaching Party,

and the Breaching Party shall pay to the suspending Party (in the case of Clauses 54.2.1 and 54.2.3) an amount equal to any reasonable costs incurred by such Party as a result of such suspension. Any Party serving a notice under this Clause 54.2 shall send a copy of the notice to the Panel.

Gowling WLG (UK) LLP

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