



DSC Credit Rules

21st January 2019

Prepared by Credit Risk Management – Xoserve Limited (the CDSP)

Draft Version 2.1

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Introduction

Xoserve Limited has been appointed by the Transporters pursuant to Standard Special Condition A15A of the Gas Transporters Licence as the CDSP and has entered into the DSC.

The Data Services Contract Credit Rules are the “DSC Credit Rules” referred to in the Data Services Contract (DSC) and, in particular, the Credit Policy (as defined in the DSC). The Credit Policy is referred to in GT Section D 3.1.4(iii) and 3.3(h) of the DSC Terms and Conditions and is a CDSP Service Document. The Credit Policy is an integral part of and is incorporated in the DSC.

The purpose of this document is to set out the DSC Credit Rules in support of the Credit Policy. These rules apply to all Services provided by the CDSP whether under the DSC, The UK Link User Agreement or any other agreement with any party.

The Rules are written to protect parties to the DSC against financial loss arising from commercial default (see Paragraph 2.2 below). The DSC Credit Rules are to be followed by all employees/agents of the CDSP who are involved in proposing, assessing, monitoring or managing credit exposure arising under the DSC, in order to minimise avoidable financial loss to Customers.

This document has been designed to provide existing and prospective Customers with all the information they need about the DSC Credit Rules and how they are applied, in a transparent and readily accessible manner.

These Rules aim to answer those questions that are most commonly asked by Customers and gives an overview of how DSC Credit Limits are established, secured and monitored by the CDSP on behalf of the Parties to the DSC. For ease of reference we have also provided cross-references to the DSC to provide you with a fuller explanation of a particular legal or technical issue.

Once you have read this document, we will be pleased to discuss your requirements further and to answer any questions that you may have. Contact details can be found in paragraph 8 below.

In the event that circumstances dictate that the DSC Credit Rules need to change, any such changes will be authorised by the Committee (as referred to in the Credit Policy) in accordance with the Credit Policy (also referred to as the DSC Credit Committee in this document).

NB: Liability of the CDSP is outlined in paragraph 2.5 of the Credit Policy.

Section A

Glossary

Abbreviation	Description
CDS	Central Data Services
CDSP	Central Data Services Provider
DSC	Data Service Contract
FGO	Funding, Governance and Ownership arrangements
UUA	UK-Link User Agreement
S&P	Standard & Poor's Corporation
LoC	Letter of Credit
MCLOC	Multiple Customer Letter of Credit
PCG	Parent Company Guarantee
IP	Insolvency Practitioner

Terminology

In this document:

- (a) Uniform Network Code (UNC) means the Uniform Network Code prepared pursuant to Standard Special Condition A11(6) of the gas transporter's licence, as from time to time modified;
- (b) DSC Terms and Conditions means DSC Terms and Conditions as defined in GT Section D;
- (c) Terms defined in the DSC Terms and Conditions and not otherwise defined in this Document have the meanings given to them in the DSC Terms and Conditions;

- (d) Terms defined in any other DSC Service Document and not otherwise defined in this Document have the meanings given to them in that DSC Service Document;
- (e) The further provisions of the DSC as to interpretation apply.

Definitions

- (a) Approved Credit Rating is a Credit Rating published by an Approved Rating Agency.
- (b) Approved Credit Rating Agency means Credit Rating Agency approved by the DSC Credit Committee in line with Section 1.4.1(b) of the Credit Policy. Credit Rating Agencies currently approved by the committee are Standard and Poor's Corporation and Moody's Investment Services for Financial Institutions; in addition the DSC Credit Committee have also approved Graydons, Experian and Dun & Bradstreet for the provision of corporate ratings.
- (c) DSC Credit Committee means the Committee set up pursuant to 1.4.1(c) of the Credit Policy.
- (d) Credit Default Notice means a notice substantially in the form set out in the DSC Credit Rules to the effect the Customer is in default of the DSC;
- (e) Services means all Services provided by the CDSP whether under the DSC, The UK Link User Agreement or any other agreement with any party.

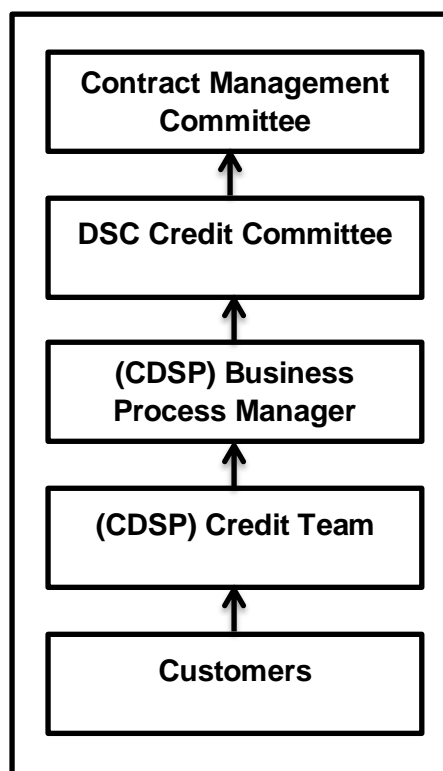
Section 1: Key Objectives of the Credit Rules

- 1.1 The DSC Credit Committee has a set of key objectives it aims to achieve in setting Credit Rules as outlined in Section 3.1 of this document.
- 1.2 As noted above, for completeness, this document refers to certain provisions of the DSC where they are relevant to the DSC Credit Rules. Whilst all reasonable efforts have been made to verify the information in this document, it can only ever be a high level summary of some of the key provisions in the DSC. This document is not a substitute for reading the detailed provisions of the DSC Provisions and must not be relied upon when making any contractual business or other decision. No representation or warranty is made as to the accuracy or completeness of the information contained herein.

Any capitalised terms used in the DSC Credit Rules shall have the same meaning given to them in the DSC (unless otherwise defined in the DSC Credit Rules).

1.3 Organisation and Responsibility of the Credit & Risk Management Function

The governance structure in respect of the operations of this Credit Policy is as follows:



Section 2: The Data Service Contract Credit Rules (DSC Credit Rules)

2.1 Administration of the Rules

- (a) The DSC Credit Rules are the processes and procedures described in this document revised from time to time in accordance with the DSC and they provide the framework by which all Customers exposure to financial loss is managed.
- (b) As set out under Section 3.1 of the Credit Policy, with the approval of the DSC Credit Committee the DSC Credit Rules may be revised upon giving notice to all Customers of not less than 2 months or such shorter period as may in any particular case be approved by the DSC Credit Committee.
- (c) For the avoidance of doubt where it is determined that the DSC Credit Committee or a Customer have proposed a Modification to the Credit Policy

the DSC Credit Committee shall give consideration to the proposal prior to making any decision to approve any revision to the prevailing DSC Credit Rules.

2.2 Responsibility for Financial Loss

If a Customer or multiple Customers fail to pay the Charges in accordance with the DSC, such unpaid Charges will be included in the Costs (as defined in the Budget and Charging Methodology Document) and such Costs will be payable by the Customers as set out in the Budget and Charging Methodology Document.

The effect of the provisions of the Budget and Charging Methodology Document is that if Customers fail to make payment of any invoice issued when due, all other Customers shall become liable for (in aggregate) for an equivalent amount (together with an amount in respect of the cost of financing such non-payment).

Section 3: The Data Services Contract Credit Committee (DSC Credit Committee)

3.1 Powers and Duties of the DSC Credit Committee

- (a) The DSC Credit Committee is comprised of a body of industry representatives with certain rights and responsibilities concerning the risk management of the DSC. Established by the Contract Management Committee having a set of clear operational principles and strategic objectives determined by the DSC Credit Committee.
- (b) To establish credit arrangements and associated governance that is consistent with the Credit Policy.
- (c) To minimise, as far as practically possible, CDSP's Customers (who form part of the CDSP's "mutual" community) risk from avoidable financial loss resulting from another Customer's default.
- (d) To ensure the CDSP's consistent application of processes and procedures in a manner that is not unduly discriminatory between the CDSP's customers.

- (e) Agree a suite of Management Information for the CDSP to provide reporting information to agree key credit related KPIs and allow transparency of performance.
- (f) Work with the CDSP to ensure DSC Customers operate within the prevailing rules.
- (g) Work with the CDSP to develop and maintain a consistent credit limit framework for limiting CDSP's exposure to the risk of financial loss resulting from the provision of CDSP Specific Services or Additional Services or UUA Services or Direct Services or Third Party Services or any other Service(s) as outlined in the CDSP Service Description Document.

3.2 General

- (a) References to the Committee in this document refer to the DSC Credit Committee, a sub Committee of the Contract Management Committee established by it and comprising of such members, and on such terms, as the Contract Committee decides.
- (b) The DSC Credit Committee is chaired by the Joint office and is attended by up to 12 industry representatives and the CDSP's Business Process Manager. The DSC Credit Committee may invite other persons to attend, in a non-voting capacity.

3.3 Members and Appointment

3.3.1 Members are elected annually on the 1st October and at other times when vacancies occur from time to time following the decision of the Contract Management Committee. Initial Appointment Year shall be the period for 1st April 2017 until and including 30th September 2018, as detailed in Transitional Arrangements Document section 3.6.5. These elections are conducted by the Joint Office. Industry representatives are the only persons who are entitled to vote and have the power to appoint a standing alternate to vote on their behalf.

- (a) A member must appoint an alternate either on a standing basis or on a meeting by meeting basis. Such appointments shall be made in writing or by email to enquiries@gasgovernance.co.uk. Where it is impracticable to contact the member, a standing member may appoint an alternate for a meeting.

3.3.2 Where a Member has not appointed a standing alternate and either:

- (i) Resigns; **or**

- (ii) Cannot be contacted and is absent from two consecutive regular committee meetings.

The Joint Office, on behalf of the DSC Credit Committee, will notify the Contract Management Committee that a vacancy has occurred.

- 3.3.3 Members are representatives in their own right and do not represent the company by which they are employed. It is recommended that members should have relevant credit management or gas industry experience. With the exception of interim appointments outlined above the election rules permit no more than one member per Customer. Member or alternate members of the DSC Credit Committee can hold concurrent appointments on both the DSC Credit Committee and the Energy Balancing Credit Committee (EBCC). Where members and their alternates are both unable to attend a meeting a member may pass on their voting Proxy to another standing member of the committee by advising the chair of such prior to any meeting.

3.4 Meetings

- 3.4.1 The Committee endeavours to meet at least quarterly or a lesser period determined by the DSC Credit Committee, and for the purposes of voting a quorum of three voting members, or appointed alternate(s), is required. Decisions are made by a simple majority vote.
- 3.4.2 An agenda for each meeting will be published on the Joint Office website at least five Business Days prior to the meeting and minutes published no more than five days after the meeting. A monthly operational summary will be published prior to the meeting. If the minutes are of a sensitive nature then members can agree to circulate to members and standing alternates only.
- 3.4.3 In addition to the regular meetings detailed above, should the need arise for the CDSP to consult with the Committee on a particular issue or in relation to any aspect of its functions, an operational meeting can be called.
- 3.4.4 A teleconferencing facility exists for situations where any meeting cannot be conducted by any other means or as agreed by members.
- 3.4.5 Where necessary the DSC Credit Committee may also be convened for an emergency meeting for the purpose including, but not limited to, discussion of the Customer's suspension of Specific Services or Additional Services or UUA Services or Direct Services or Third Party Services or any other Services outlined within CDSP

Service Description Document. An emergency meeting can be convened at 36 hours' notice (or less in exceptional circumstances) and for voting a quorum of three voting members or appointed alternate(s) is required. Due to their sensitive nature, minutes of these meetings are only circulated to members and standing alternates. In these situations the DSC Credit Committee chair may be an Operational Manager within the CDSP. An agenda will be provided to members as soon as is reasonably practicable and pursuant to Section 2.4.3 of the Credit Policy.

- 3.4.6 The CDSP will keep the DSC Credit Rules under review subject to Section 2.1(b) of the DSC Credit Rules and the CDSP will review the DSC Credit Rules with the DSC Credit Committee at least once a year (or with such greater frequency as the DSC Credit Committee may require); and following any such review the CDSP shall revise the DSC Credit Rules where requested to make a revision would put the CDSP in breach of any legal requirement).
- 3.4.7 Where the CDSP brings the matter to the attention of the DSC Credit Committee this will be subject to the conditions in paragraph 2.4.3 of the Credit Policy.

Section 4: Operation of the Credit Risk Framework

- 4.1 All contracts exposure entered into by the CDSP in relation to the DSC entered into at any time must be identified and measured on a continuing basis.
- 4.2 As set out in Clause 4 of the DSC Terms and Conditions, in order to accede to the DSC, Applicants must satisfy certain Accession Requirements. The conditions of being a Customer referred to in Clause 4.3(b) include:
1. All Customers shall be credit assessed by the CDSP prior to entering into an Accession Agreement. Please refer to Paragraph 4.7 below.
 2. All Customers shall provide security in the specified form and within the stipulated timeframe if requested by the CDSP. The specified forms of security and timeframes are set out in Paragraphs 4.9 to 4.12 below.
 3. All Customers shall be assigned a DSC Credit Limit All Customers from time to time shall be required to increase their security in the event that the DSC Credit Limit is exceeded.
- 4.3 In addition to the monitoring and reassessment of the DSC Credit Limits, all Customers and all third party security guarantors who provide security will be monitored.
- 4.4 Customer's total gross indebtedness is calculated as:

Invoiced (All amounts invoiced to the Customer in relation to the Services)

+

Accrued (Amounts not yet invoiced in relation to the Services)

-

Disputed Sums

-

Payments in Advance

=

Total Gross Indebtedness

NOTE: Invoiced services are inclusive of VAT.

4.5 DSC Credit Limit

4.5.1 A Customer's DSC Credit Limit will be reviewed and may be revised from time to time in accordance with the DSC Credit Rules on not less than thirty (30) days' notice (or any lesser period agreed by the Customer) to the Customer:

- (i) at intervals of not less than twelve (12) months;
- (ii) where the review is requested by the Customer.

4.5.2 A Customer's DSC Credit Limit may be reviewed and revised immediately in accordance with the DSC Credit Rules:

- (i) where any Credit Rating is revised downwards.
- (ii) where (without prejudice to any requirement in the DSC Credit Rules) any instrument of DSC Security expires or is determined.
- (iii) following the appointment of any Supplier of Last Resort (as defined in TPD Section G2.1.7) by the Authority and TPD Section G2.18 applies, where the Customer is a Last Resort User (as defined in TPD Section G2.1.7)
- (iv) where at any time the CDSP has reasonable grounds to believe that the effect of the review would be to reduce the Customer's DSC Credit Limit.

4.5.3 The DSC Credit Limit represents the value of unsecured credit limit plus any security (if) provided by a Customer which in the event of a default may be

realised to meet its outstanding invoices, un-invoiced sums and any other costs incurred during the collection of the amounts in default.

- (i) Credit limits are applied on an individual Customer basis and are determined in accordance with the standard detailed credit assessment

4.6 Approved Credit Rating Agency

The Customer may choose from any of the approved published rating agencies below:

Graydons, Experian and Dunn & Bradstreet

4.7 Principles of Credit Assessment

- 4.7.1 Once a Customer's Credit Application is received, a credit assessment will be performed prior to any Services being provided.
- 4.7.2 The credit assessment will comprise of the Customer being credit checked for an acceptable published credit rating by an approved rating agency assessment of any supporting data, as detailed in Section 1.4(b) of Credit Policy and, may be factored into any decision made to provide or extend credit.
- 4.7.3 The Credit Assessment shall consider the following factors including but not limited to;
 - (i) Additions/changes to the Customer's business activity
 - (ii) Measurement of credit risk exposure
 - (iii) Monitoring of credit risk exposure
 - (iv) Escalation of the credit risk notification
 - (v) Escalation, default and recovery of debt
 - (vi) Increase in Security requirements
- 4.7.4 All Customers are required to maintain a DSC Credit Limit at all times in order to provide sufficient protection for the DSC community from a Customer failure.

4.8 Types of Acceptable Security

- 4.8.1 When it is determined that a Customer does not have an appropriate Published Rating to cover exposures in respect of their activity they shall be required to lodge adequate Security. Such security may be in the form set out

below in Sections 4.9 to 4.12 of these rules and shall have a deemed value of zero one month prior to maturity.

4.9 Letter of Credit (LoC)

4.9.1 An Irrevocable Standby Letter of Credit, issued by a UK branch of a financial institution with a long term credit rating of not less than A3 (refer to the Rating Comparison Table in 4.13) provided by Moody's Investor Services or such equivalent rating by Standard and Poor's Corporation (where such ratings conflict, the lower of the two ratings will be used).

- (i) The Letter of Credit must be issued in favour of the CDSP.
- (ii) The Letter of Credit will not be accepted unless one authorised signature is obtained from the Financial Institution.
- (iii) The Letter of Credit will have a deemed value of zero for the purposes of security one month prior to maturity.

4.9.2 The accepted format of the Irrevocable Standby Letter of Credit is set out in Appendix I and is compliant with the UCP 600 and current prevailing legislation.

4.10 Multiple Customer Letter of Credit (MCLOC)

4.10.1 A Multiple Customer Irrevocable Standby Letter of Credit issued by a UK branch of a financial institution with a long term credit rating of not less than A3 Refer Rating Table in 4.14 provided by Moody's Investment Services or such equivalent rating by Standard and Poor's Corporation (where such ratings conflict, the lower of the two ratings will be used).

- (i) The Multiple User Letter of Credit must be issued in favour of the CDSP.
- (ii) The Multiple Customer Letter of Credit will not be accepted unless one authorised signature is obtained from the Financial Institution.
- (iii) The Multiple Customer Letter of Credit will have a deemed value of zero for the purposes of security one month prior to maturity.
- (iv) If this form Security is the preferred option, the companies that are covered under the Multiple Customer Letter of Credit must have the same Parent Company in common.
- (v) A side letter outlining the DSC Credit Limits that have been assigned to each Customer must accompany the Multiple Customer Letter of Credit.

4.10.2 The accepted format of the Multiple Customer Letter of Credit is set out in Appendix II. The accepted format of the side letter outlining the Credit Limits that have been assigned is set out in Appendix III.

4.11 Parent Company Guarantee (PCG)

A **Parent Company Guarantee** (PCG) is a **guarantee** given by a customer's ultimate or intermediate holding **company** in favour of the CDSP to secure the performance of that customer's obligations under the contract.

4.11.1 A Parent Company Guarantee shall only be accepted in the following circumstances;

- (i) The Parent Company Guarantee is from an ultimate or intermediate holding company.
- (ii) The terms of the PCG shall be based upon an indemnity / demand guarantee basis.
- (iii) The issuer of the PCG must have an acceptable credit rating by an approved rating agency.

4.11.2 The accepted format of the Parent Company Guarantee is set out in Appendix IV.

NB: Any deviation made from the accepted format of any Security Template Document will result in the rejection of that document.

NB: The CDSP manages all DSC security activity on behalf of Customers. In order to avoid unnecessary delay, it is the responsibility of the Customer to ensure that correctly completed Security Template Documents are provided directly to the CDSP at the address detailed in paragraph 8 of this Document.

4.12 Financial Institution and Corporate Ratings

4.12.1 Only Financial institutions with a Moody's long term credit rating of A3 or above or Standard and Poor's equivalent as detailed below will be acceptable. Ratings are monitored daily and in the event that an organisation is placed on watch for a possible downgrade. Affected Customers may be notified and requested to confirm contingency arrangements, in the case that a downwards rating change occurs Customers affected will be notified as soon as reasonably practicable. The following table explains the rating action

that will be taken by the CDSP in the event that the rating of an organisation providing Security falls below the acceptable rating.

4.13 Rating Comparison Table

Ratings Comparison		Aggregate Limit (Maximum exposure acceptable for an individual Financial Institution)	Rating Action
Moody's	S&P		
Aaa Aa1 Aa2 Aa3	AAA AA+ AA AA-	£12,000,000	Rating is acceptable provided that the maximum Aggregate limit is not exceeded.
A1 A2 A3	A+ A A-	£5,000,000	Rating is acceptable provided that the maximum Aggregate Limit is not exceeded.
Baa Baa1 Baa2 Baa3	BBB+ BBB BBB-	Zero	Rating is not acceptable. In the event of a downgrade below Moody's A3 or equivalent, Customer(s) will be notified to provide alternative Security <u>within 30 days</u> . If alternate Security is not provided within 30 days, the Customer(s) DSC Credit Limit may prevent further Services being provided and indebtedness will be managed via the NTPFS process and DSC Credit Limit process.
Ba1 Ba2 Ba3 Or below	BB+ BB BB- or below	Zero	Rating is not acceptable. In the event of a downgrade below Moody's Baa3 or equivalent, the Customer(s) will be notified to provide alternative Security and the Customer's DSC Credit Limit will be set to zero with immediate effect. Indebtedness will be managed via the NTPFS

			process and DSC Credit Limit process.
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4.13.1 The amount of any costs, expenses or other amounts incurred by the CDSP for the procurement of Credit Rating Services from third parties shall be recovered as an amount to be included as detailed in the Budget & Charging Methodology Document.

4.14 Renewal of Security

4.14.1 In the event that a renewal of Security is required, the Customer(s) will be notified in writing of not less than 60 days before the expiry date, to put in place revised Security 30 days prior to the existing Security's expiry.

4.14.2 If accepting this revised Security would cause the Aggregate Limit of a Financial Institution to be exceeded, the Customer(s) will be notified by email immediately upon the Customer notifying the CDSP and will be asked to make alternative provisions.

4.14.3 Where a Customer fails to put in place revised Security 30 days prior to the existing Security's expiry date the Customer will be required to provide immediate cash payment of an adequate sum to be held until the revised Security is in place based on prevailing exposures.

4.14.4 Where a Customer's DSC Indebtedness:

- (i) Exceeds 80% of the Customer's Credit Limit, the CDSP shall give the Customer notice to that effect;
- (ii) Following notice under Paragraph (i), if the indebtedness exceeds 100% of the Customer's DSC Credit Limit, the CDSP will notify;
 - (i) the Customer to such effect and request the Customer to provide additional DSC Security in such amount as required to reduce the Customer's DSC Indebtedness to below 90% of the Customer's Credit Limit.

4.15 Rating Downgrades and Security

4.15.1 Should the rating of an organisation providing Security fall below Moody's rating A3 or Standard and Poor's equivalent paragraph 4.14 above, the Customer(s) will be required to provide acceptable alternative Security within 30 days of the CDSP's request.

4.15.2 Notwithstanding the above, the Customer(s) shall be permitted an extension of 30 days where:

- (i) The Customer(s) has made a written request for an extension within 7 days of the CDSP's request for alternative security; and
- (ii) The Customer(s) has been required to provide acceptable alternative Security as a result of the rating of a Financial Institution providing the Customer(s) Security falling below Moody's rating A3 or Standard and Poor's equivalent once within the preceding 6 months ;

4.15.3 Customer(s) shall be permitted an extension of 60 days where:

- (i) The Customer(s) has made a written request for an extension within 7 days of the CDSP's request; for alternative security and
- (ii) The Customer(s) has, on two or more occasions within the preceding 6 months , been required to provide acceptable alternative Security as a result of the rating of a financial institution providing the Customer(s) Security falling below Moody's rating A3 or Standard and Poor's equivalent.

NB: Extension provisions will not apply where a Customer(s) original Security is due to expire within the extension period.

4.15.4 Where the rating of an Financial Institution providing security falls below Baa3 (provided by Moody's Investor Services or such equivalent rating by Standard and Poor's Corporation), or where an insolvency practitioner is appointed to manage the affairs of said financial institution of company institution or company, CDSP shall give notice to downgrade the Customer's DSC Credit Limit to zero with immediate effect in accordance with Paragraph 4.16 below and Paragraph 4.14 above.

4.15.5 For the avoidance of doubt, the CDSP will continue to hold the original Security provided until such time as an acceptable alternative has been received and the CDSP has confirmed that the replacement security meets the requirements of the DSC Credit Rules.

4.16 Revision's to a Customer's DSC Credit Limit

4.16.1 As outlined in section 3 of the Credit Policy a Customer's DSC Credit Limit will be reviewed at least every 12 months. However a review may be initiated at any other time if it is deemed there are reasonable grounds to do so in the

event that a Customer's circumstances have changed. For the avoidance of doubt, the CDSP will continue to hold the original Security provided until such time as an acceptable alternative has been received and the CDSP has confirmed that the replacement security meets the requirements of the DSC Credit Rules. A Customer may apply at any time to increase its DSC Credit Limit.

4.16.2 A Customer who has provided DSC Security may request the CDSP to release such DSC Security (in whole or part), and following such request, provided the requirements of Section 3.3.3 of the CDSP Credit policy are satisfied, the CDSP will as soon as reasonably practicable and in any event within thirty (30) days after such request, comply with such request.

4.16.3 The requirement is that at the date two (2) Business Days before the date of release or reduction the amount of security the Customer's DSC Indebtedness is less than 90% of the Customer's DSC Credit Limit (as calculated after taking into account the proposed release or reduction of the DSC Security).

4.16.4 An instrument of DSC Security shall not form part of the DSC; and no provision or modification of the DSC, nor any inconsistency between the DSC and any such instrument, and nothing done by the CDSP pursuant to the DSC, shall prejudice or invalidate such instrument.

4.17 Special Arrangements for Transporters

4.18.1 Further to the DSC Credit Committee held on 16th February 2017 it was agreed that Transporters would be excluded from the requirement to provide security. Note this does not include Independent Gas Transporters.

Section 5: Operation of the Further Security Process

5.1 Notice to Provide Further Security (NTPFS) Process

5.1.1 In accordance with paragraph 4.15.4 of the DSC Credit Rules where a Customer's DSC Indebtedness:

- (i) Exceeds 80% of the Customer's Credit Limit, the CDSP shall give the Customer notice to that effect, in the form of a Notice of Credit Limit Utilisation;

- (ii) Following notice under Paragraph (i), if the indebtedness exceeds 100% of the Customer's DSC Credit Limit, the CDSP will notify; the Customer to such effect and request the Customer to provide additional DSC Security in such amount as required to reduce the Customer's DSC Indebtedness to below 90% of the Customer's Credit Limit. This will be in the format of a Notice to Provide Further Security.
- 5.1.2 The Customer must lodge the Further Security with the CDSP by 12:00 hours on the 10th Business Day following the date of issue of the NTPFS.
 - 5.1.3 The CDSP shall not be under any obligation to pay any credit invoices falling due to a Customer until the NTPFS has been satisfied (Security lodged or NTPFS successfully appealed and withdrawn).
 - 5.1.4 Any credit invoice falling due will be paid into the Customer's Cash Deposit Account on its due date.
 - 5.1.5 The CDSP shall not be liable to pay any interest if a credit invoice is subsequently paid to a Customer after its due date.

5.2 Right of Appeal

- 5.2.1 A Customer may Appeal in the following circumstances where;
 - (a) A NTPFS (the "**relevant**" Further Security Request) has been submitted to a Customer; and
 - (b) The Customer considers it inappropriate that it should be required to provide a further, additional or revised Security.
- 5.2.2 The Customer may, not later than 12:00 hours on the 3rd Business Day following the day on which the Further Security Request was submitted, so notify the CDSP, specifying in as much detail as possible the Customer's reasons for appeal.
- 5.2.3 In the event that the Appeal is not successful. The Customer must provide the CDSP with full satisfaction of the NTPFS within 24 hours of the Notice of Outcome of the Appeal Decision or in any event no later than the expiry of the NTPFS.
- 5.2.4 Following review of the DSC Credit Committee a Notice of Outcome will be issued which may result in the:

- (a) Re-instatement of the NTPFS if the DSC Credit Committee considers the appeal to be invalid.
- (b) Issue a revised NTPFS if the DSC Credit Committee considers the appeal does not fully mitigate the NTPFS.
- (c) Issue a withdrawal if the DSC Credit Committee considers the appeal to be fully valid.

5.3 Failure to Provide Further Security

5.3.1 Where a Customer fails to lodge further security in accordance with the NTPFS, the CDSP shall submit to the Customer a Notice of Failure to Provide Further Security – Credit Default (NFTPFS) in the form set out in the DSC Credit Rules.

5.3.2 The CDSP shall notify the DSC Credit Committee that such a notice has been issued and

- (i) In the case of a Customer who is a Shipper User, each Transporter;
- (ii) In the case of a Customer who is a Transporter, the Authority.

5.3.3 Where and for as long as the Customer's DSC Indebtedness exceeds the relevant percentage of the Customer's DSC Credit Limit as specified in the DSC Credit Rules the CDSP may suspend the provision of any Specific Service or Additional Service which the CDSP is providing to the Customer until such time as the Customer's DSC Indebtedness is reduced to less than 100% of the Customer's DSC Credit Limit.

5.4 Process after a Notice of Failure to Provide Further Security is Issued

Where and for as long as the defaulting Customer's DSC Indebtedness for the time being exceeds 100% of the Customer's DSC Credit Limit, the CDSP may convene a meeting of the Committee and the Committee may direct the CDSP to give a Credit Default Notice to the defaulting Customer in which case the CDSP will send a Credit Default Notice to the defaulting Customer, with a copy to:

- (a) in the case of a defaulting Customer who is a Shipper User, each Transporter and the Authority; and
- (b) in the case of a defaulting Customer who is a Transporter, to the Authority.

Section 6: Payment of Invoices

6.1 Failure to Pay an Invoice

6.1.1 A Notice of Failure to Pay Invoice – Credit Default (NFTPI) (pursuant to Paragraph 4 of the Credit Policy) will be issued on the next Business Day following the due date where a Customer fails to pay an invoice in respect of Services provided by the CDSP. This will request that the Customer settles the amount in full by two Business Days after issue of the Notice. Late Payment charges will accrue in accordance with the Terms and Conditions of the Contract. All payments due to the Customer will be withheld, late payment interest will not accrue (against payments withheld by the CDSP) and any monies will be paid into the Customer's Cash Deposit Account.

6.1.2 Where a Customer does not comply within two Business Days following the issue of the NFTPI, the CDSP will:

- (a) notify the Committee of the Customer's failure to pay Charges by the due date for payment;
- (b) convene a meeting of the Committee, at which meeting the Committee may direct the CDSP to take one or more of the DSC Remedial Steps; and
- (c) take such DSC Remedial Steps as directed by the Committee.

6.1.3 Remedial Steps may comprise:

- (a) reviewing and revising the defaulting Customer's DSC Credit Limit;
- (b) notifying other Customers of the defaulting Customer's failure to pay Charges by the due date for payment;
- (c) accelerating the due date of payment for future invoices submitted to the defaulting Customer (by such period as approved by the Committee);
- (d) suspending the provision of any Specific Service, Additional Service, or any other Service which the CDSP is providing to the defaulting Customer;
- (e) taking such DSC Recovery Steps as approved by the Committee; and

- (f) enforcing and realising DSC Security provided to the CDSP by the defaulting Customer.

The Defaulting Customer will be advised of Remedial steps taken.

- 6.1.4 Upon expiry of the NFTPI where a Customer has not settled any of the sums due, in excess of £10,000 the CDSP may convene a meeting of the DSC Credit Committee and the Committee may direct the CDSP to issue a Credit Default Notice to the defaulting Customer, in which case the CDSP will send a Credit Default Notice to the defaulting Customer pursuant to paragraph 4.1.4 of the Credit Policy.

6.2 Withholding Against an Invoice

- 6.2.1 A Customer may not withhold payment against a DSC CDSP Invoice. Any queries must be notified by the Customer to the CDSP in writing within 18 months from the date the invoice was issued, in accordance with clause 5.3 of the DSC Terms & Conditions.

6.3 DSC Recovery Steps

In accordance with Section 4 of the DSC Credit Policy where the DSC Credit Committee authorises the CDSP to take further enforcement action in respect of any amounts outstanding, the CDSP shall keep the Committee reasonably informed as to progress of such recovery steps.

- 6.3.1 Any costs incurred by the CDSP in pursuing such action and any unrecovered amounts shall be recovered from Customers in accordance with the Budget and Charging Methodology.

Section 7: Appointment of Insolvency Practitioner (IP) to a Customer

Where an Insolvency Practitioner (IP) is appointed assurances are required within two Business Days to provide an undertaking to cover ongoing exposures. Should the IP fail to provide an undertaking within two Business Days of its appointment, an emergency meeting of the DSC Credit Committee shall be convened to determine if a Suspension Notice for CDSP Services should be issued and the CDSP shall inform the Transporters of the failure of the IP to provide such undertaking as required.

- 7.1 It is imperative that the Insolvency Practitioner contacts the Business Process Manager as soon as appointed.
- 7.2 The CDSP shall convene a meeting of the DSC Credit Committee as soon as reasonably practicable following the failure of the receiver, administrator, trustee-in-bankruptcy or foreign insolvency practitioner (as appropriate) to provide those assurances referred above and shall consult with the DSC Credit Committee to determine whether the CDSP should be obliged to issue the Suspension Notice, pursuant to Paragraph 4.1.2(d) of the Credit Policy or whether the DSC Credit Committee should defer taking such step.

Subject to Paragraph 4.1.4 and 4.2.1 of the Credit Policy, the CDSP shall be entitled to take such action as the DSC Credit Committee recommends. Section 8: Contact Details

- 8.1 After reading this document you should have a greater understanding of how we operate the CDSP Services outlined within the CDSP Service Description Document, Credit Risk Framework, on behalf of all Customers.
- 8.2 If you require further information please contact Mark Cockayne, CDSP, at the address below:

**Credit Risk Management
Xoserve Limited
2nd Floor
Lansdowne Gate
65 New Road
Solihull
West Midlands
B91 3DL**

Tel No: 0121 623 2000

box.Xoserve.CRM_Xoserve@Xoserve.com

- 8.3 Each Customer shall provide to the CDSP:
- (a) A single telephone number, a single address, a single email address by means of which the CDSP may contact a representative of the Customer for any purpose connected with this Document.
 - (b) The name(s) and title(s) of the Customer's representative at such numbers and addresses.

8.4 Each Customer shall give the CDSP notification of any amendment to the details provided under Paragraph 2.6.1 of the DSC Credit Policy no later than the day following the day on which such amendment has effect.

Appendix I – Proforma Irrevocable Standby Letter of Credit

To: Xoserve Limited (company number: 05046877)

Lansdowne Gate

65 New Road

Solihull

B91 3DL

(“**Xoserve**”)

Date: [.....]

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [.....]¹

- 1) We, by this letter, establish in your favour our irrevocable standby letter of credit (this “**Letter of Credit**”) for the account of [.....]² (the “**Company**”). This Letter of Credit is issued in connection with the Company's obligations to you pursuant to the agreement(s) which Xoserve and the Company are parties (the “**Agreements**” which term shall include any of the Agreements as from time to time amended, varied, modified, supplemented, restated, novated or reduced).
- 2) We understand that the Company and you may from time to time agree to amendments to, or other variations or extensions of, the terms of any of the Agreements and that any of the Agreements may from time to time be modified, varied, restated or amended. Our obligations under this Letter of Credit, as set out herein, will apply notwithstanding any such modifications, amendments, variations, restatements or extensions or change in the parties to any of the Agreements or the termination of any of the Agreements

¹Insert Number

²Insert full name, company number, country of incorporation and registered address of Company.

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Date 21st January 2019

Owner: Credit Risk Management – Xoserve Limited

provided that our maximum liability to you under this Letter of Credit shall not exceed [£
.....]³:

- 3) We shall make payments to you under this Letter of Credit on your written demand for payment provided such demand is:
 - a) presented to us at [.....]⁴ ;
 - b) accompanied by your certificate that the Company has failed to honour, in whole or in part, its obligations to you under any of the Agreements and the amount of your demand under this Letter of Credit is not greater than the total amount of sums then due and payable to you by the Company pursuant to those obligations;
 - c) subject to clause 2 above;
 - d) not received by us after the Expiry Date; and
 - e) lawfully made by you.
- 4) This Letter of Credit will become effective on [.....]⁵ and expire [.....]⁶ (the "**Expiry Date**") and the demand(s) and certificate(s) referred to in paragraph 3 of this Letter of Credit must be presented by you to us on or before the Expiry Date. We undertake that all demands made in accordance with this Letter of Credit will be met with due honour.
- 5) This Letter of Credit is a transaction separate from any other on which it may be based.
- 6) This Letter of Credit and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is subject to the Uniform Customs and Practice for Documentary Credits (2007 revision), International Chamber of Commerce Publication No. 600, and, to the extent not inconsistent therewith, shall be governed by and construed in accordance with English law. In the event of any dispute relating to this Letter of Credit and any non-contractual obligations arising out of or in connection with it, we hereby agree to submit to the exclusive jurisdiction of the courts of England.

³Insert maximum amount payable under this Letter of Credit

⁴Insert address of U.K. bank to which demands under this Letter of Credit are to be sent

⁵Insert date.

⁶Insert date.

7) All payments by us under this Letter of Credit shall be made in full, without set-off or counterclaim and, save as provided below, free and clear of any deductions or withholdings in immediately available, freely transferable, cleared funds for value on the date specified in your demand or as soon as practically possible but no later than 3 business days from the date specified in your demand⁷ to the account notified by you to us. If at any time we are required by law to make any deduction or withholding in respect of any taxes, duties or other charges or withholdings from any payment due under this Letter of Credit, the sum due from us in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, you receive on the due date and retain (free of any liability in respect of such deduction or withholding) a net sum equal to the sum which you would have received had no such deduction or withholding been required to be made.

Yours faithfully

.....

duly authorised signatory for and on behalf of [.....]⁸

⁷ ICC rules currently allow the issuer 5 business days to assess the demand

⁸Insert name of U.K. bank providing this Letter of Credit

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Date 21st January 2019

Owner: Credit Risk Management – Xoserve Limited

Appendix II – Proforma Multiple Customer Irrevocable Standby Letter of Credit

To: Xoserve Limited (company number: 05046877)

Lansdowne Gate

65 New Road

Solihull

B91 3DL

(“**Xoserve**”)

Date: [.....]

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [.....]⁹

- 8) We, by this Letter of Credit (this "**Letter of Credit**"), establish in your favour our irrevocable standby letter of credit for the account of [Customer #1], a company incorporated in [] with registered number [] whose registered office is at [], [Customer #2], a company incorporated in [] with registered number [] whose registered office is at [] and [Customer], a company incorporated in [] with registered number [] whose registered office is at [], (each being a "**Customer**" and together the "**Customers**"). This Letter of Credit is issued in connection with the Customers' obligations to you pursuant to the agreement(s) specified in the Appendix to this Letter of Credit to which Xoserve and all or any of the Customers are parties (the "**Agreements**" which term shall include any of the Agreements as from time to time amended, varied, modified, supplemented, restated, novated or reduced).
- 9) We understand that any or all of the Customers and you may from time to time agree to amendments to, or other variations or extensions of, the terms of any of the Agreements and that any of the Agreements may from time to time be modified, varied,

⁹Insert Number
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restated or amended. Our obligations under this Letter of Credit, as set out herein, will apply notwithstanding any such modifications, amendments, variations, restatements or extensions or change in the parties to any of the Agreements or the termination of any of the Agreements provided that

- a) our maximum liability to you under this Letter of Credit shall not exceed [£]¹⁰; and
- b) we shall not be required to pay claims made by you under this Letter of Credit which are received by us after the Expiry Date.

10) We shall make payments to you under this Letter of Credit on your written demand for payment provided such demand is presented to us at [.....]¹¹ accompanied by your certificate that all or any of the Customers has failed to honour, in whole or in part, its obligations to you under any of the Agreements and the amount of your demand under this Letter of Credit is not greater than the total amount of sums then due and payable to you by the Customers pursuant to those obligations. For the avoidance of doubt it is acknowledged that:

- (a) you may demand payment hereunder on any number of occasions but subject to clause 2 above; and
- (b) any demand hereunder may be lawfully made by you or any person on your behalf.

11) This Letter of Credit will become effective on [.....]¹² and expire on 30 days after the final payment obligation is due under the Agreements (the "**Expiry Date**") and the demand(s) and certificate(s) referred to in paragraph 3 of this Letter of Credit must be presented by you to us on or before the Expiry Date. We undertake that all demands made in accordance with this Letter of Credit will be met with due honour.

12) This Letter of Credit is a transaction separate from any other on which it may be based.

13) This Letter of Credit and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is subject to the Uniform Customs and Practice for Documentary Credits (2007 revision), International Chamber of Commerce Publication No. 600, and, to the extent not inconsistent

¹⁰Insert maximum amount payable under this Letter of Credit

¹¹ Insert address for service of notice

¹²Insert date.

therewith, shall be governed by and construed in accordance with English law. In the event of any dispute relating to this Letter of Credit and any non-contractual obligations arising out of or in connection with it, we hereby agree to submit to the exclusive jurisdiction of the courts of England.

14) All payments by us under this Letter of Credit shall be made in full, without set-off or counterclaim and, save as provided below, free and clear of any deductions or withholdings in immediately available, freely transferable, cleared funds for value on the date specified in your demand and/or as soon as practically possible but no later than three business days from the date specified in your demand¹³ to the account notified by you to us. If at any time we are required by law to make any deduction or withholding in respect of any taxes, duties or other charges or withholdings from any payment due under this Letter of Credit, the sum due from us in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, you receive on the due date and retain (free of any liability in respect of such deduction or withholding) a net sum equal to the sum which you would have received had no such deduction or withholding been required to be made.

Yours faithfully

.....
duly authorised signatory for and on behalf of [.....]¹⁴

¹³ ICC rules currently allow the issuer 5 business days to assess the demand
¹⁴ Insert name of U.K. bank providing this Letter of Credit
Draft Version 2.1
Date 21st January 2019
Owner: Credit Risk Management – Xoserve Limited

Appendix III – Multiple User Letter to Xoserve Ltd – Data Services Contract Letter of Credit

To: Xoserve Ltd
Lansdowne Gate
65 New Road
Solihull
B91 3DL

Company No: 05046877
("Xoserve")

Date

Dear Sirs

Letter of Credit dated [insert date] granted by [] in favour of Xoserve (the "Letter of Credit")

We refer to the Letter of Credit described above which relates to the liabilities of **[insert details of all Users]** (each a "User" and together the "Users").

For the purposes of this letter:

- (a) **"Data Services Contract"** shall mean the document (as the same may be modified, varied or amended from time to time) prepared by the Transporters for the purposes of their Transporter's Licences;
- (b) the terms **"DSC"**, **"Secured Credit Limit"**, **"User Default"**, shall (subject to paragraph (c) below) have the meanings given to them from time to time in the **Data Services Contract**; and

- (c) in the definitions “**Data Services Contract**”, “**CDSP**” shall mean **Xoserve Ltd**:
- (i) in its capacity as the owner and operator of the Central Data Services Provider and licensee under its Transporter’s Licence authorising the conveyance of gas through the NTS; and
 - (ii) in its capacity as the owner and operator of one or more LDZ(s) and licensee under its Transporter’s Licence authorising the conveyance of gas through such LDZ(s).

In consideration of your agreeing to accept one letter of credit in respect of the Secured Credit Limits of all of the Users, we have agreed to enter into this letter and to be bound by its terms.

We acknowledge that:

- (a) **pursuant to the Data Services Contract, each User has currently been allocated a Secured Credit Limit, as set out below:**

[User 1] Secured Credit Limit: £[]

[User 2] Secured Credit Limit: £[]

[User 3] Secured Credit Limit: £[]

- (b) the total of the Users’ individual Secured Credit Limits is currently £[]; and
- (c) the Secured Credit Limit of each User may be altered as provided for in the Code at any time (whether before or after any demand referred to in paragraph number 1 below of this letter). Any such alteration shall not affect the provisions of this letter.

We are writing to acknowledge and confirm our agreement with the following:

1. If a demand is made by Xoserve Ltd under the Letter of Credit in relation to the liabilities of any one or more of the Users to Xoserve Ltd will, where practicable, discuss with each of the other User(s) whether any of the Secured Credit Limits of the other User(s) need to be adjusted. If the amount demanded is a sum greater than the then Secured Credit Limit of the User(s) in relation to which the demand is made, Xoserve Ltd will (whether or not it has been able to discuss the same with

such other User(s)) be entitled to reduce the Secured Credit Limit(s) of any one or more of the other User(s) as it thinks fit. Any such reduction(s):

- (a) shall take effect immediately on determination of such reduction by Xoserve Ltd without the need under the DSC or otherwise for any notice or specified amount of notice to the relevant User(s) (and the Users hereby waive any right to any such notice);
 - (b) shall take effect notwithstanding that it may result in Xoserve Ltd being able to give a Termination Notice to any one or more of the Users and/or cause a User Default to occur in relation to any one or more of the Users.
2. Xoserve Ltd will notify a User as soon as reasonably practicable of any reduction in its Secured Credit Limit pursuant to paragraph number 1 of this letter.
3. For the avoidance of doubt:
 - (a) in making any reduction in any Secured Credit Limit(s) pursuant to paragraph number 1 of this letter, Xoserve Ltd owes no duty to any User(s) to make such reduction proportionately or equitably or on any particular basis between any User(s) but shall be entitled to determine the Secured Credit Limit of each particular User as it in its absolute discretion thinks fit; and
 - (b) if subsequent to any reduction in its Secured Credit Limit under paragraph number 1 of this letter any User wishes to increase its Secured Credit Limit it shall only be entitled to do so as provided for in the Code.
4. Each of the Users hereby authorises Xoserve Ltd to disclose any information it may have in relation to any User (including without limitation its Secured Credit Limit and/or any actual or proposed security or other arrangements and any proposed change in its Secured Credit Limit whether under this letter or otherwise) to any of the other Users. For the avoidance of doubt, nothing in this letter shall oblige Xoserve Ltd to disclose any such information.
5. We acknowledge and agree that the rights of and protections afforded to Xoserve Ltd pursuant to this letter may be exercised and claimed by Xoserve Ltd and by any person authorised by Xoserve Ltd.
6. This letter is and is intended to be legally binding and is subject to the laws of England.

Please sign and return to us the enclosed copy to acknowledge your receipt of this letter and confirm your acceptance of its terms.

Yours faithfully

for and on behalf of

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Owner: Credit Risk Management – Xoserve Limited

[User 1]

for and on behalf of

[User 2]

for and on behalf of

[User 3]

-on duplicate-

We acknowledge receipt of the letter from [Users] dated [] (of which the above is a copy) and confirm our acceptance of its terms.

Yours faithfully

for and on behalf of

Xoserve Ltd

Appendix IV – Proforma Parent Company Guarantee

[GUARANTOR] (1)

In favour of

XOSERVE LIMITED (2)

GUARANTEE

THIS GUARANTEE is made on¹⁵ by
[.....]¹⁶ a company registered in [.....]¹⁷ with
company number [.....]¹⁸ and having its registered office at
[.....]¹⁹ (herein called the “**Guarantor**”) in favour of Xoserve
Limited a company registered in England and Wales (No. 5046877) having its registered
office a Lansdowne Gate, 65 New Road, Solihull, B91 3DL herein called the “**Service
Provider**”.

WHEREAS

- (a) This Guarantee is supplemental to the agreements specified in the Schedule to this
Guarantee to which the Service Provider and [.....]²⁰, a company

¹⁵ Insert Date

¹⁶ Insert Guarantor’s name

¹⁷ Insert jurisdiction of registration. Particular care should be taken if the guarantor is not (1) a private company limited by shares or (2) registered in England and Wales. Specialist legal advice should be sought in such circumstances

¹⁸ Insert company number

¹⁹ Insert registered address

²⁰ Insert name of principal contractor

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Owner: Credit Risk Management – Xoserve Limited

registered in [.....]²¹ with company number [.....]²² and having its registered office at [.....]²³ (herein called the “**Company**” are or may become parties and such other agreements to which the Company may from time to time become bound by virtue of the agreements specified in the Schedule. The agreements specified in the Schedule and all such other agreements are herein called the “**Agreements**” (which term shall include any of the Agreements as from time to time amended, restated, varied, modified, supplemented, novated or reduced).²⁴

- (b) The Service Provider has entered or agreed to enter into one or more of the Agreements and/or permit the Company to incur (or as the case may be, to continue to incur) indebtedness pursuant to one or more of the Agreements subject to the Guarantor guaranteeing performance by the Company of its obligations pursuant to the Agreements.
- (c) The Guarantor is the parent company of the Company and has agreed to guarantee the Company's obligations under the Agreement in accordance with the terms and conditions contained in this Deed.

NOW THIS DEED WITNESSETH and the Guarantor hereby agrees as follows:

1 Guarantee and Indemnity

- 1.1 In consideration of the Service Provider entering into the Agreements, the Guarantor irrevocably and unconditionally guarantees the due and punctual performance by the Company of the Company's duties and obligations to the Service Provider under the Agreements (the “**Guaranteed Liabilities**”) PROVIDED that the liability of the Guarantor hereunder shall not exceed £[.....]²⁵ ([..... pounds sterling]).
- 1.2 As a separate and independent obligation, the Guarantor (as a primary obligor and not merely as a surety) agrees that it shall remain liable in respect of an obligation or liability of the Company even if that obligation or liability is not or ceases to be valid or enforceable against the Company for whatever reason, whether or not known to the Service Provider, as if the same were fully valid and enforceable.

²¹ Insert jurisdiction of registration

²² Insert company number

²³ Insert address

²⁴ The definition of “Agreements” purports to extend to additional documents entered into in the future in connection with the agreements listed in the Schedule.

²⁵ Insert maximum liability.

- 1.3 If the Company fails to observe or perform any of its duties or obligations to the Service Provider under any of the Agreements, or if the Company fails to pay any sum, loss, debt, damage, interest, cost or expense due from the Company to the Service Provider under or in connection with any of the Agreements, the Guarantor (as a separate and independent obligation and liability from its obligations and liabilities under clause 1.1) shall indemnify the Service Provider against all loss, debt, damage, interest, cost and expense incurred by the Service Provider by reason of such failure or non-payment and shall, on first written demand, pay to the Service Provider, without any deduction or set-off, the amount of that loss, debt, damage, interest, cost and expense.

2 Interest and Costs

- 2.1 The Guarantor agrees to pay interest on each amount demanded under this Guarantee and on any interest compounded under this clause 2.1 from the date of demand until payment (as well after as before judgment) at a rate of 2 per cent per annum above Barclays Bank plc base rate accruing on a daily basis. Such interest shall be calculated and compounded monthly if not paid on demand but without prejudice to the Service Provider's right to require payment of such interest.²⁶
- 2.2 The Guarantor agrees to pay legal and other costs and expenses (on a full and unqualified indemnity basis) incurred by the Service Provider whether before or after the date of demand on the Guarantor: (i) in enforcing or reasonably endeavouring to enforce the payment of any money due under this Guarantee or otherwise in relation to this Guarantee; and (ii) in resisting or reasonably endeavouring to resist any claims or defences made against the Service Provider in connection with the liabilities or alleged liabilities of the Company guaranteed hereunder or any money or benefits received by or any preference or alleged preference given to the Service Provider by or from the Company.

3 Service Provider Protections

- 3.1 The liability of the Guarantor under this Guarantee shall not be impaired or discharged by reason of any of the following (whether or not the Guarantor has notice thereof):
- (a) any amendment, variation or waiver (however fundamental) of any provision of any of the Agreements;

- (b) any grant of time, indulgence, waiver, concession or forbearance shown by the Service Provider towards the Company or the Guarantor whether as to payment or time for payment or any arrangement entered into or composition accepted by the Service Provider modifying (by operation of law or otherwise) the rights and remedies of the Service Provider under any of the Agreements with regard to payment or time for payment;
- (c) any variation (whether pursuant to the Agreements or otherwise) of the Company's credit limit (as allocated by the Service Provider to the Company) (the "**Credit Limit**") or by the Company exceeding its Credit Limit for any reason;
- (d) any action lawfully taken by any party to the Agreements to determine any of the Agreements as respects the Company or any other party thereto, or as a result of which the Company ceases to be a party to any of the Agreements;
- (e) any change in the relationship between the Guarantor and the Company;
- (f) any disability, legal limitation, incapacity or change in the status or constitution of the Company, the Guarantor or the Service Provider;
- (g) the bankruptcy, liquidation, dissolution, winding-up or insolvency of the Company or any receivership, administration, moratorium, composition of creditors or other analogous event affecting the Company or any of its property;
- (h) any third party becoming or ceasing to be a party to any of the Agreements;
- (i) any failure or delay by the Service Provider to assert any of its rights under this Guarantee;
- (j) any composition discharge release or other variation of liability entered into with or granted to the Company;
- (k) the invalidity or unenforceability of the obligations of the Company under any of the Agreements;
- (l) any intermediate payment, settlement of account or discharge in whole or in part of the Guaranteed Liabilities; or

- (m) any other act or omission of the Service Provider or any other circumstance which but for this provision might discharge the Guarantor.

3.2 This Guarantee shall:

- (a) be in addition to any present or future Collateral Instrument (as defined in clause 3.6 below), right or remedy held by or available to the Service Provider; and
- (b) not be in any way prejudiced or affected by:
 - (i) the existence of any Collateral Instrument, rights or remedies; or
 - (ii) any Collateral Instrument becoming wholly or in part void, voidable or unenforceable on any ground; or
 - (iii) the Service Provider dealing with, exchanging, varying or failing to perfect or enforce any Collateral Instrument; or
 - (iv) the Service Provider giving time for payment or indulgence or compounding with any person liable for the Guaranteed Liabilities.

3.3 The Service Provider shall not be obliged to make any claim or demand on the Company or to resort to any Collateral Instrument or other means of payment now or in future held by or available to it before enforcing this Guarantee.

3.4 No action taken or omitted by the Service Provider in connection with any Collateral Instrument or other payment or any variation, amendment, supplement, novation or replacement of any Collateral Instrument shall discharge, reduce, prejudice or affect the Guaranteed Liabilities or liability of the Guarantor under this Guarantee.

3.5 The Service Provider shall not be obliged to apply any money or other property received or recovered in consequence of any enforcement or realisation of any Collateral Instrument or other payment in reduction of the Guaranteed Liabilities.

3.6 For the purposes of this clause “**Collateral Instruments**” means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and other assurances against financial loss, and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any indebtedness or liabilities of the Company, and includes any document or

instrument creating or evidencing an encumbrance, however defined and includes, without limitation, letters of credit, deposit agreements and escrow agreements.

- 3.7 The Guarantor shall exercise only in accordance with any of the Service Provider's instructions:
- (a) its rights of subrogation, contribution and indemnity in connection with any payment by the Guarantor pursuant to this Guarantee;
 - (b) its right to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Company obligations held by the Service Provider; and
 - (c) its right to prove or claim in the bankruptcy, liquidation, dissolution or insolvency of the Company or any receivership, administration, moratorium, composition of creditors or other analogous event affecting the Company or any of its property.

Any amount recovered as a result of the exercise of such rights shall be paid to the Service Provider on demand.

4 Representations and Warranties

- 4.1 The Guarantor hereby represents and warrants to the Service Provider on the date of this Guarantee and on each day thereafter until the Termination Date that:
- (a) the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
 - (b) the Guarantor has full power and authority to execute, deliver and perform its obligations under this Guarantee and no limitation on the powers will be exceeded as a result of the Guarantor entering into this Guarantee;
 - (c) the execution, delivery and performance by the Guarantor of this Guarantee and the performance of its obligations under this Guarantee have been duly authorised by all necessary corporate action and do not contravene or conflict with:

- (i) the Guarantor's memorandum and articles of association or other equivalent constitutional documents; or
 - (ii) any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is a party or which is binding upon it or any of its assets; or
 - (iii) the terms of any agreement or other document to which the Guarantor is a party or which is binding upon it or any of its assets; and
- (d) this Guarantee is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms;
- (e) no litigation, arbitration or administrative proceedings are taking place, pending or, to the Guarantor's knowledge, threatened against it or any of its assets;
- (f) no event or circumstance is outstanding which constitutes a default under any deed or instrument which is binding on the Guarantor, or to which its assets are subject, which might have a material adverse effect on the Guarantor's ability to perform its obligations under this Guarantee; and
- (g) the Guarantor's payment obligations under this Guarantee rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

4.2 The Guarantor acknowledges that the Service Provider has accepted this Guarantee in full reliance on the representations and warranties set out in this clause 4.

5 Payments

5.1 All payments by the Guarantor under this Guarantee shall be made in full, without set-off or counterclaim and, subject to clause 5.2, free and clear of any deductions or withholdings in immediately available, freely transferable, cleared funds for value on the date specified in the Service Provider's demand to the account notified to the Guarantor by the Service Provider.

5.2 If at any time the Guarantor is required by law to make any deduction or withholding in respect of any taxes, duties or other charges or withholdings from any payment due under this Guarantee, the sum due from the Guarantor in respect of such

payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Service Provider receives on the due date and retains (free of any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made.

6 Transfer

- 6.1 The Guarantor may not assign or transfer any of its rights or obligations under this Guarantee. The Service Provider may only assign its rights under this Guarantee to a person in favour of whom an assignment has been made under the Agreements.
- 6.2 The Service Provider may disclose to a prospective assignee or transferee or to any other person proposing to enter into any agreement with the Service Provider in relation to any of the Agreements such information about the Guarantor as the Service Provider thinks fit.

7 Severance

- 7.1 If any provisions of this Guarantee become invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

8 Remedies and Waivers

- 8.1 No amendment of this Guarantee shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).
- 8.2 No failure or delay by the Service Provider in exercising any right or remedy shall operate as a waiver, nor shall any single or partial exercise or waiver of any right or remedy preclude its further exercise or the exercise of any other right or remedy.
- 8.3 The Service Provider's rights under this Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Service Provider deems expedient.

9 Third Party Rights

A person who is not a party to this Guarantee (including any employee, officer, agent, representative or sub-contractor of any party) shall not have the right to enforce any term of this Guarantee which expressly or by implication confers a benefit on that

person without the express prior agreement in writing of the Guarantor and the Service Provider, which agreement must refer to this clause 9.

10 Termination

10.1 This Guarantee shall secure the ultimate balance of the Guaranteed Liabilities from time to time and shall be a continuing security and shall not be affected by any performance, payment, settlement or other matter under or in respect of the Agreements or this Guarantee and shall (subject to clause 10.2) remain in full force and effect until

(a) the date of termination of all the Agreements as respects of the Company.

10.2 Notwithstanding clause 10.1 above and any release, discharge, termination or settlement between the Service Provider and the Guarantor the liability of the Guarantor under this Guarantee shall continue in full force and effect following the Termination Date and/or such release, discharge, termination or settlement in relation to:

(a) the Guaranteed Liabilities which shall have become due at the Termination Date; and

(b) the Guaranteed Liabilities (including for the avoidance of doubt and without limitation contingent and unascertained liabilities) which may become due, owing or incurred by the Company to the Service Provider pursuant to any transaction, dealing, commitment or other engagement entered into or effected either (i) prior to the Termination Date or (ii) on or after the Termination Date pursuant to any commitment, expressed or implied, assumed or undertaken by the Company to the Service Provider prior to the Termination Date; and

(c) the Guaranteed Liabilities if any moneys paid to the Service Provider in reduction of the indebtedness of the Company under any of the Agreements has to be repaid by the Service Provider by virtue of any provision or enactment relating to bankruptcy, liquidation, dissolution, administration, insolvency or other analogous event for the time being in force or on any other ground. If that happens the liability of the Guarantor under this Guarantee shall be computed as if such moneys had never been paid to the Service Provider at all; and

(d) the Guaranteed Liabilities if any security, disposition or payment to the Service Provider from the Guarantor is liable to be void, set aside or ordered to be refunded pursuant to any enactment or law relating to bankruptcy, liquidation, dissolution, administration, insolvency or other analogous event or for any other reason whatsoever. If that happens, the Service Provider shall be entitled to recover from the Guarantor to the full extent of this Guarantee as if the release, discharge or settlement had not occurred and such payment had not been made.

10.3 The Service Provider shall be entitled to retain this Guarantee after as well as before the payment or discharge of all the Guaranteed Liabilities for such period as it may determine.

11 Evidence of Amounts and Certificates

Any statement of account of the Company, signed as correct by an officer of the Service Provider, showing the amount of the Guaranteed Liabilities shall, in the absence of manifest error, be binding and conclusive on and against the Guarantor.

12 Notices

12.1 All notices or other communications under or in connection with this Guarantee shall be sent by email and a confirmatory copy of the notice shall be signed and delivered personally or by courier to the relevant Party or Parties or posted by recorded delivery. Unless proven otherwise, a notice shall be deemed to have been given:

- (a) if delivered personally or by courier or sent by email with confirmed receipt during 09.00 to 17.00 when left at the relevant address of receipt is confirmed (as applicable); and
- (b) Otherwise on the next day, unless that day is not a Business Day, in which case the notice will be deemed to have been given on the next Business Day.

12.2 [Subject to Clause 14]²⁷ the postal and email address for all notices under or in connection with this Guarantee are as follows, unless the other party has been notified otherwise at least five days before the notice is received:

- (a) in the case of the Guarantor:

Postal Address: []

²⁷ Delete if no process serving agent is used for a foreign company under clause 14.

Email Address: []
For the attention of: []²⁸

(b) in the case of the Service Provider:

Address: Lansdowne Gate
65 New Road
Solihull
B91 3DL

Email Address: box.Xoserve.CRM_Xoserve@Xoserve.com

For the attention of: [Business Process Manager (Credit)]²⁹

12.3 Unless the contrary intention appears, a reference in this Guarantee to the Service Provider or Guarantor or the Company or a person includes its successors in title, permitted assigns and permitted transferees.

13 Governing Law and Jurisdiction

13.1 This Guarantee and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by and shall be construed in accordance with the Laws of England and Wales.

13.2 Subject to clauses 13.4 and 13.5, the courts of England and Wales have exclusive jurisdiction to settle any disputes arising out of or connected with this Guarantee (including a dispute regarding the existence validity or termination of this Guarantee or the consequences of its nullity) (a “**Dispute**”).

13.3 Subject to clauses 13.4 and 13.5, the parties agree that the courts of England and Wales are the most appropriate and convenient courts to settle Disputes between them and accordingly that they will not argue to the contrary.

13.4 This clause 13 is for the benefit of the Service Provider only. As a result and notwithstanding clauses 13.2 and 13.3 it does not prevent the Service Provider from:

(a) taking proceedings relating to a Dispute in any other courts (and the Guarantor waives any objection to proceedings in such courts on the grounds

²⁸ Insert relevant details

²⁹ Insert relevant details

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of venue or on the grounds that proceedings have been brought in an inappropriate forum); or

- (b) referring a Dispute to be finally settled by arbitration under the Rules of Arbitration and Conciliation of the International Chamber of Commerce by two or more arbitrators appointed pursuant to such Rules.

13.5 To the extent allowed by law, the Service Provider may take concurrent proceedings in any number of jurisdictions.

14 [Agent for service

[The Guarantor authorises and appoints [.....]³⁰ [*legal representatives or related company in England and Wales*] of [.....][address]³¹ (or such other person being a firm of solicitors in England as they may from time to time substitute by notice to the Service Provider) to accept service of all legal process arising out of or connected with this Guarantee. Service on such person (or substitute) shall be deemed to be service on the Guarantor. Except upon a substitution, the Guarantor shall not revoke any such authority or appointment and shall at all times maintain an agent for service of process in England. If any agent ceases for any reason to be an agent, the Guarantor shall forthwith appoint another agent and advise the Service Provider accordingly.]

15 [Waiver of Immunity

The Guarantor waives any right of state immunity which it may have in respect of any proceedings or action (which shall include any attachment or arrest prior to judgment and any enforcement proceedings including execution) commenced against the Guarantor under or in connection with this Deed.]³²

IN WITNESS whereof the Guarantor has caused this Guarantee to be executed as its deed but not delivered until the day and year first before written.

[The Common Seal of [*insert name of Guarantor*] was hereunto affixed in the presence of:

[.....] Director

³⁰ Insert

³¹ This Clause 14.1 is only necessary if the Guarantor is a foreign company. The process agent should be an independent law firm or a professional process agent company.

³² This Clause 15 is only necessary if the Guarantor is a governmental authority (whether foreign or in England and Wales)

[.....] Director/Company Secretary]

or

[Executed as a Deed by

[insert name of Guarantor] acting by:

[.....] Director

[.....] Director/Company Secretary]³³

³³ Please delete as appropriate
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SCHEDULE
THE AGREEMENTS

The agreements are:

[]

Appendix V: Notice of DSC Credit Limit Utilisation

Customer Name:	[insert name]		
DSC Credit Limit	%[insert value]	Current Date:	[insert date]
Current Indebtedness	£x[insert value]	Ref:	[insert reference]

Please note that your current level of Indebtedness is at [] % of your DSC Credit Limit.

This Notice is given in pursuance of Section [5.1.1 (i)] of the DSC Credit Rules and Section [3.5.1 (a)] of the DSC Credit Policy and gives notice that you have exceeded [80%] of your DSC Credit Limit.

Should you take no action following this notice and you exceed [100%] of your DSC Credit Limit you will be issued with a Notice To Provide Further Security, which will represent a request to provide security to reduce your indebtedness to 90% of your DSC Credit Limit within 10 days.

All CDSP customers are required to maintain Outstanding Indebtedness at a level below 100% of their DSC Credit Limit.

Business Process Manager – (CDSP)

Date

Appendix VI: Notice to Provide Further Security (NTPFS)

Customer Name:	[insert name]		
DSC Credit Limit	%[insert value]	Current Date:	[insert date]
Current Indebtedness	£x[insert value]	Ref:	[insert reference]
Further Security Requested	£x[insert value]		

CDSP Customers are required to maintain Outstanding Indebtedness at a level below [100%] of the DSC Credit Limit.

Your recent level of Indebtedness is above [100%] of the DSC Credit Limit

This Notice is given in pursuance of Section [5.1.1 (ii)] of the DSC Credit Rules and Section [3.5.1 (b)] of the DSC Credit Policy and gives notice that you have exceeded [100%] of your DSC Credit Limit. This Notice represents a request for you to provide further security to reduce your DSC Indebtedness to 90%.

If this requirement is not met you will be issued with a Notice of Failure to Provide Further Security - Credit Default. Should you not comply with that Notice then the CDSP may suspend the provision of any Services. The DSC Credit Committee will be informed, and a meeting may be convened where the DSC Credit Committee may direct to issue a Credit Default Notice.

Xoserve Limited (The CDSP) shall withhold any amounts owed to you in respect of any outstanding Invoices to refund any monies held or due to be paid until this Notice has been satisfied.

If you intend to appeal against this Notice, you should follow the procedure outlined in paragraph [5.2] of the DSC Credit Rules.

Business Process Manager – (CDSP)

Date

Appendix VII: Notice of Failure to Pay Invoice – Credit Default

Customer Name:	[Insert name]		
Outstanding Invoice:	[Insert date]	Current Date:	[insert date]
Invoice Due Date:	[Insert date]	DSC Credit Limit	£x[insert value]
Invoice Amount:	£x[insert value]		

The DSC Credit Rules require that Customers pay the Net Invoice Amount under each DSC Invoice in full on the Invoice Due Date. Payment is required notwithstanding any outstanding Invoice Query.

We have not received payment of your Net Invoice Amount for the Invoice detailed above.

Therefore this Notice, issued in pursuance of Section [6] of the DSC Credit Rules and Section [4.1] of the DSC Credit Policy represents a demand for immediate payment of [insert sum] in cleared funds by [insert date] into the Xoserve Limited (The CDSP) bank account [insert details].

Once we have received settlement of the invoice, you will be notified of the amount of interest and charges owing in respect of late payment.

Xoserve Limited (The CDSP) shall withhold any amounts owed to you in respect of any outstanding Invoices to refund any monies held or due to be paid until this Notice has been satisfied.

Should you not comply with this Notice then the CDSP will:

- (a) notify the DSC Credit Committee of the failure to pay Charges by the due date for payment; and
- (b) convene a meeting of the DSC Credit Committee, at which meeting the Credit Committee may direct the CDSP to take one or more of the DSC Remedial Steps; and
- (c) take such DSC Remedial Steps as directed by the Committee; and
- (d) if directed by the Credit Committee issue a Credit Default Notice Customer pursuant to paragraph [4.1.4] of the DSC Credit Policy.

Following the issuing of a Credit Default Notice the CDSP shall inform the DSC Credit Committee [the Transporter and/or OFGEM] of the Default.

Business Process Manager – (CDSP)

Date

Appendix IX: Notice of Failure to Provide Further Security – Credit Default

Customer Name:	[Insert Name]		
DSC Credit Limit	[insert value]%	Current Date:	[Insert Date]
Current Indebtedness	£x[insert value]	Ref:	[Insert Ref]
Further Security Requested	£x[insert value]		

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CDSP Customers are required to maintain Outstanding Indebtedness at a level below [100%] of the DSC Credit Limit. Your recent level of Indebtedness has been above your DSC Credit Limit.

You were issued with a Notice to Provide Further Security on **[insert date]** requesting you to provide further security of **[insert amount]** by 12.00 hrs on **[insert date]**.

The further security requested has not been received in accordance with the Notice to Provide Further Security.

This Notice represents a final reminder to provide further security of [Insert Amount] . It is issued in pursuance of Section [5.3] of the DSC Credit Rules and Section [3.5.1 (b)] of the DSC Credit Policy by [insert date].

Should you not comply with this Notice then the CDSP may:

- (i) suspend the provision of any Services;**
- (ii) inform the DSC Credit Committee [the Transporter and/or OFGEM]**
- (iii) convene a DSC Credit Committee who may direct to issue a Credit Default Notice.**

The DSC does not make provision for you to appeal the calculations used in a Notice of Failure to Provide Further Security – Credit Default

Xoserve Limited (The CDSP) shall withhold any amounts owed to you in respect of any outstanding Invoices to refund any monies held or due to be paid until this Notice has been satisfied.

Business Process Manager – (CDSP)

Date

Appendix XIV: Credit Default Notice

Customer Name:	[Insert Name]		
DSC Credit Limit	%	Current Date:	[Insert Date]
Current Indebtedness	£X[insert value]	Ref:	[Insert Ref]
Outstanding [Invoice(s) and or Further Security Request] Amount	£X[insert value]	Current Security Amount	£X[insert value]

CDSP Customers are required to maintain Outstanding Indebtedness at a level below [100%] of the DSC Credit Limit. Your recent level of Indebtedness has been above your DSC Credit Limit and you were issued with a Notice of Failure to Provide Further Security – Credit Default.

The DSC Credit Rules require that Customers pay the Net Invoice Amount under each DSC Invoice in full on the Invoice Due Date. Payment is required notwithstanding any outstanding Invoice Query. You have an outstanding payment[s] and you were issued with a Notice of Failure to Pay Invoice – Credit Default

[We have not received payment of your Net Invoice Amount for the Invoice(s) detailed above] [We have not receiver further security requested detailed above]

Therefore this Notice, issued in pursuance of Section [4.1.4 or 3.5.3] of the DSC Credit Policy, represents a final demand for [immediate payment of [insert sum] in cleared funds into the Xoserve Limited [The CDSP] bank account [insert details]] [and/or further security of [Insert Amount] by [insert date].

Your organisation is in a DSC Default pursuant to paragraph 5.1 of the DSC Credit Policy.

A copy of this Notice has been sent to the DSC Credit Committee [the Transporter and/or OFGEM] advising them of the Default.

Business Process Manager – (CDSP)

Date

Document Control

Version	Status	Date	Author(s)	Summary of Changes
1.1	Draft	26/06/2017	S Dworkin	<ul style="list-style-type: none"> Added a Document Control at the end of the document. 4.1.1 Reference to Deposit Deed removed. 3.3 Membership appointment, amendment in Credit Rules to show 'Initial Appointment Year shall be the period for 1 April 2017 until and including 30 September 2018, as detailed in Transitional Arrangements Document 3.6.5'. 6.1 Clarity required regarding late payment charges which are referred to in the Terms and Conditions of the appropriate contracts. For the DSC it is in section 5.4. Wording added as follows: 'Late payment charges will accrue in accordance with the Terms and Conditions of the Contract'. Escalation process highlighted discrepancies between Credit Policy states 'any sum due in excess of the amount specified in the DSC Credit Rules' Suggest adding a value of 10K to the DSC Credit Rules. Add wording as follows: in excess of £10,000.
2.0	Approved	05/07/2017	S Dworkin	<ul style="list-style-type: none"> DSC Credit Committee approved Draft 1.1 of the DSC Credit Rules.
2.1	Draft	12/12/18	S Dworkin	<ul style="list-style-type: none"> Updated Xoserve Logo Formatting reviewed PCG proforma amended