



Subscription Agreement

DATE: [Insert]

PARTIES:

- (1) **SystemsLink 2000 Limited**, incorporated under the law of England and Wales with company registration number 3168771, whose registered office is at Calder House, St Georges Park, Kirkham, Lancashire, PR4 2DZ (**SystemsLink**); and
- (2) **[Insert name of Customer]**, incorporated under the law of **[England and Wales]** **[or]** **[Scotland]** with company registration number **[insert registration number]**, whose registered office is at **[insert registered office address]** (**Customer**).

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this agreement, including the schedules, the following definitions apply unless the context otherwise requires:

Acceptable Use Policy

the acceptable use policy, as revised from time to time (the current version of which is set out in schedule 5);

Additional Services

any services which are not within the scope of the Subscription or Implementation Services but which are ordered subsequently pursuant to a Statement of Work in accordance with clause 7.1;

Charges

the Subscription Charges and any charges for Implementation Services, Additional Services or Third Party Services;

Commencement Date

[the date of this agreement] **[or]** **[date]**;

Compatible Browser

the latest general release version of Google Chrome, Firefox, Microsoft Edge, Blackberry Access, Internet Explorer, Safari, Opera, Vivaldi and Brave, in each case provided that the browser has no non-standard plug-ins and is configured in accordance with the default settings applicable to that browser, or any other configuration which may be specified as required in by SystemsLink on notice to Customer from time to time;

Customer Branding

Customer's name, logo and any other trade mark or branding of Customer;

Customer Data

any data obtained from a Data Set or otherwise provided or made available to SystemsLink by Customer or a User, and any data generated by a Product which is derived from that data;

Data Set

any individual data set which is tracked by a Product, such as data from an individual meter or from any other source;

Developments

any feature, functionality or content that SystemsLink develops specifically for Customer;

Energy Manager

the Energy Manager product, as described in schedule 1 and in the User Guide;

Implementation Services

any services which are provided to facilitate the implementation of a Product, as set out in schedule 3;

Information Security Policy

SystemsLink's information security policy as updated from time to time, a copy of which is available on request;

Initial Term

☒ Years from the Commencement Date;

Intellectual Property Rights

any and all intellectual property rights including patents, trade marks, copyright, rights in databases, domain names, know-how, look and feel, rights in confidential information and all similar rights (whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world) together with the right to apply for registration of and/or register such rights and any and all goodwill relating or attached to it and all extensions and renewals of it;

Product

the cloud based subscription service(s) which Customer wishes to subscribe to, as indicated in schedule 1 (but excluding for the avoidance of doubt any Third Party Services indicated in schedule 6);

Project Requirements Analysis

an analysis to identify Customer's requirements in respect of the Implementation Services, to be prepared as described in clauses 6.3 and 6.4;

Service Level Agreement

the service level agreement set out in schedule 2;

Statement of Work

a statement of work which may be entered into between the parties to agree the terms on which Implementation Services or Additional Services (as applicable) are to be provided;

Subscription

a subscription entitling Customer to access and use a Product in accordance with this agreement (subject to payment of the Subscription Charges), which includes access to the User Guide, support and the hosting of the Product, as described in more detail in clause 2;

Subscription Charges

the charges payable in consideration of the Subscription, including any Charges based on the number of Users, Data Sets and/or usage metrics and any Charges for support (but not including Charges for Implementation Services or Additional Services), as set out in schedule 4;

Third Party Service

any service offered by a third party service provider (including any right to access or use third party software) which Customer may purchase through SystemsLink, as indicated in schedule 6 or as the parties may otherwise agree in writing from time to time that SystemsLink will procure access to on behalf of Customer;

User

an individual person who accesses a Product as part of Customer's Subscription;

User Guide

the user guide which describes, and provides guidance as to the proper use of, the Product, a copy of the current version of which is available on request; and

Year

a 12 month period, the first Year commencing on the date of this agreement and each subsequent Year commencing on an anniversary of that date.

- 1.2 Headings are included for convenience only and do not affect the construction or interpretation of this agreement.
- 1.3 Any reference to the singular includes the plural and vice versa and any reference to one gender includes all genders including the neuter gender. Any reference to a person, unless the context otherwise requires, includes individuals, partnerships, companies and all other legal persons.
- 1.4 The words **include**, **includes**, **including** and **included** and like words and expressions will be construed without limitation unless inconsistent with the context.
- 1.5 Any reference to a notice or other communication being in writing will be satisfied by that notice or communication being sent by email, provided this is permitted by and done in accordance with clause 17 where applicable. Where this agreement refers to something being agreed in writing, it can be agreed by electronic signature.
- 1.6 Any reference in this agreement to law or to any statute, statutory instrument, directive, regulation, order or other enactment means the same as may be amended, enacted, replaced, extended, modified, consolidated or repealed from time to time.
- 1.7 Any Statement of Work which is expressed to be made under this agreement and any order for Third Party Services which is expressed to be placed under this agreement will form part of this agreement once mutually agreed in writing by the parties.
- 1.8 Working days are all days other than Saturdays, Sundays and public holidays in England and working hours are 9am to 5pm UK time on working days.

2. THE SUBSCRIPTION

- 2.1 A Subscription entitles Customer to:
 - 2.1.1 the non-exclusive right to access and use the selected Product via the internet for its own legitimate business purposes during the term of the Subscription in accordance with this agreement, and to allow Users to access it;
 - 2.1.2 receive support in accordance with the Service Level Agreement; and
 - 2.1.3 receive a copy of and use the User Guide to support its use of the Product.
- 2.2 The Product is provided as a hosted service. A Subscription does not give Customer any right to a copy of the underlying software, including any Developments, to install on its own systems or servers.
- 2.3 It may be necessary from time to time for SystemsLink to disable part or all of a Product for maintenance purposes. Planned maintenance will take place during the maintenance window of 10pm and 2am, and unscheduled maintenance may take place at any time outside of working hours. SystemsLink will use reasonable endeavours to provide at least 48 hours' advance notice of any maintenance (whether planned or unscheduled).
- 2.4 Maintenance carried out in accordance with clause 2.3 may include making changes to a Product, including to improve its functionality or usability, add new features, remove features it considers to be obsolete, fix errors or address feedback received from customers. Where core changes to a Product are proposed, details of these changes will be set out in the notice of maintenance sent in accordance with clause 2.3.
- 2.5 SystemsLink will back-up all Customer Data and, in the unlikely event of a data loss event, SystemsLink will (as Customer's sole and exclusive remedy) restore the Customer Data from back-up.
- 2.6 The Products offer the functionality for Customer to export Customer Data at any time, as described in more detail in the applicable User Guide. Exports can be initiated by Customer and do not require assistance from SystemsLink. However, assistance with data export and migration can be ordered as Additional Services if desired.

- 2.7 Customer must immediately notify SystemsLink if it believes or suspects either that it may have breached this agreement, that a User (or other person using a User's access credentials) may have failed to comply with the Acceptable Use Policy or that any User's access credentials may have been compromised.
- 2.8 Customer will be responsible for, and must reimburse SystemsLink for, all costs, claims, damages, liabilities, loss and demands relating to or arising from or in connection with:
 - 2.8.1 any breach by a User of the Acceptable Use Policy; and/or
 - 2.8.2 any criminal or civil legal action brought against SystemsLink as a result of storage or transmission of information or material using a Product or as a result of the use of a Product, the Developments and/or the User Guide or receipt of the Configuration Services and/or the Additional Services by Customer or any User other than in accordance with the User Guide and as permitted by this agreement.
- 2.9 SystemsLink will be entitled to suspend access to a Product (or any part thereof) for any or all Users without liability to Customer or to take such action as it may in its discretion think appropriate:
 - 2.9.1 immediately and without notice if:
 - (a) it reasonably believes not doing so may prejudice the security, integrity or operability of the Product or part of it, cause harm to another customer or other third party or give rise to a claim against SystemsLink; or
 - (b) it reasonably believes Customer or any of its Users have transmitted, uploaded or downloaded any content which contravenes the restrictions set out in the Acceptable Use Policy; or
 - 2.9.2 on seven days' prior written notice if Customer is in breach of this agreement and fails to remedy that breach prior to the expiry of that notice period.

Promptly following any such suspension SystemsLink will notify Customer of the suspension, the reason for the suspension and what steps Customer can take so that the suspension can be brought to an end.

3. **USERS**

- 3.1 A separate User account must be registered for every individual User.
- 3.2 Customer may from time to time contact the support desk to make a request to:
 - 3.2.1 create additional User accounts (this may incur additional Charges – please see schedule 4); or
 - 3.2.2 reallocate a User account from one individual to another; or
 - 3.2.3 deactivate a User account (no refund will be due in respect of deactivated accounts).
- 3.3 Subject to clause 4, User accounts may only be issued to employees, consultants and/or officers of Customer.
- 3.4 User accounts are strictly to be used by the User to whom they were originally allocated (or were reallocated in accordance with clause 3.2) and must in no circumstances be shared between Users. It is Customer's responsibility to ensure that User accounts are used only by the User to whom they are allocated and Customer will be strictly liable for any failure to comply with this clause 3.4, whether or not Customer's consented to or was aware of such misuse.
- 3.5 SystemsLink may, as a precondition of access to a Product, require each User to read and agree to comply with the Acceptable Use Policy. Customer acknowledges that any User declining to do so will be unable to access the Product.
- 3.6 Notwithstanding clause 3.5, it is Customer's responsibility to ensure that all Users are aware of the Acceptable Use Policy and all applicable terms in respect of use of the applicable Product, and Customer must ensure that each User uses the Product in accordance with all applicable terms and will be fully responsible for any acts or omissions of any User or any

other party accessing a Product using any User's access credentials (whether or not with Customer's permission), as if such acts or omissions were the acts or omissions of Customer.

- 3.7 Without prejudice to its other rights or remedies, SystemsLink may suspend any User account at any time where it reasonably believes that the acts or omissions of such User has caused or is likely to cause Customer to breach this agreement, that the User account has been used by multiple people or reallocated contrary to clause 3.1 or that the User is not a person who is eligible to use a Product as part of Customer's Subscription.
- 3.8 Customer must keep, and must ensure that each User keeps, all access credentials for Products confidential and secure.
- 3.9 In no circumstances may Customer permit any party other than a User to access a Product using its Subscription. Users may be permitted access only to the extent that they are using the Product for Customer's legitimate business purposes (or in accordance with clause 4).

4. **THIRD PARTY USE**

- 4.1 Customer may grant **Authorised Third Parties** (such as Customer's own customers) access to any Product except Energy Manager.
- 4.2 Where Customer grants Authorised Third Parties access to a Product as permitted by clause 4.1, the following additional terms apply:
 - 4.2.1 in addition to its own employees, consultants and officers, User accounts may be issued to employees, consultants and officers of Customer's Authorised Third Parties;
 - 4.2.2 Customer may permit its Authorised Third Parties' Users to access and use the Product for the legitimate business purposes of the relevant Authorised Third Party;
 - 4.2.3 where one of the Authorised Third Party's Users agrees to comply with the Acceptable Use Policy, this acceptance is given on behalf of both the User and the Authorised Third Party (and access to the Product will only be granted to that Authorised Third Party if that acceptance is given);
 - 4.2.4 Customer will be responsible for any use of the Product by its Authorised Third Parties and their respective Users (as if the acts and omissions were Customer's own acts and omissions); and
 - 4.2.5 Customer acknowledges that its Authorised Third Parties will not have a direct relationship with SystemsLink (other than the commitments given by the Authorised Third Parties through acceptance of the Acceptable Use Policy) and that SystemsLink does not offer any direct warranties, remedies or service levels to its Authorised Third Parties, nor will it provide support directly to Authorised Third Parties. Customer must ensure that no Authorised Third Party brings or purports to bring any claim directly against SystemsLink arising out of or in connection with its use of the Product.

5. **PRODUCT WARRANTIES**

- 5.1 SystemsLink warrants that:
 - 5.1.1 the functionality of a Product will substantively conform to the User Guide;
 - 5.1.2 SystemsLink will at all times comply with its Information Security Policy;
 - 5.1.3 SystemsLink will take reasonable steps not to introduce any viruses, vulnerabilities or malicious code into Customer's network and information systems; and
 - 5.1.4 SystemsLink will use reasonable endeavours to ensure that the Product is available for the use of all Users in accordance with the Service Level Agreement.
- 5.2 By the nature of the Products, SystemsLink cannot warrant that they will be entirely error free. However, SystemsLink will use its reasonable endeavours to remedy any material error reported by Customer in accordance with the Service Level Agreement. In the event that

Customer does experience issues with a Product it should report the problem using the procedure set out in the Service Level Agreement, and Customer agrees that this clause 5.2 (and, if Customer has selected premium support, any service credits payable under the Service Level Agreement) will be its sole and exclusive remedy for any problems or deficiencies with a Product (including any breach of the warranties set out in clause 5.1).

- 5.3 To get the most of a Product, Users will need to access it via a Compatible Browser. A Product may be accessible via other web browsers, or via earlier versions or differently configured versions of the Compatible Browsers, but in these cases functionality may be limited. SystemsLink gives no warranty as to the accessibility or functionality of a Product when it is being accessed other than via a Compatible Browser.
- 5.4 SystemsLink does not warrant or represent that a Product will be compatible with any software or system except:
 - 5.4.1 as provided in clause 5.3 (Compatible Browsers);
 - 5.4.2 as expressly stated in a User Guide; or
 - 5.4.3 where Customer has expressly engaged SystemsLink to make the Product compatible with that software or system through the Implementation Services or Additional Services.

6. IMPLEMENTATION SERVICES

- 6.1 SystemsLink will provide any Implementation Services with reasonable care and skill and in accordance with the provisions of this clause 6.
- 6.2 Customer acknowledges that it is not possible to fully scope the Implementation Services (including to identify the timescales required and any costs involved) unless and until a Project Requirements Analysis has been completed, and that any details of the Implementation Services set out in schedule 3 (or of the Charges for the Implementation Services set out in schedule 4) are for indicative purposes only and not binding.
- 6.3 Subject to clause 6.5, the first stage of the Implementation Services will usually be to undertake a Project Requirements Analysis and prepare a report and, once the report has been prepared, SystemsLink will provide the remainder of the Implementation Services to reflect the outcome of the Project Requirements Analysis as agreed between the parties.
- 6.4 At Customer's request, SystemsLink may agree to undertake a Project Requirements Analysis prior to Customer signing this agreement. In this case, the engagement of SystemsLink to undertake a Project Requirements Analysis does not commit Customer to purchase a Subscription. However:
 - 6.4.1 the Charges payable for the Project Requirements Analysis are non-refundable, whether or not Customer chooses to purchase a Subscription; and
 - 6.4.2 notwithstanding that Customer has not signed this agreement, by engaging SystemsLink to undertake the Project Requirements Analysis the parties agree that the applicable terms of this agreement, including the warranty set out in clause 6.1, the confidentiality obligations set out in clause 13, the data protection obligations set out in clause 14 and the liability provisions set out in 15, will apply to those services.

Where a Project Requirements Analysis was undertaken before this agreement was entered into, the outcome of the Project Requirements Analysis will be reflected in schedule 3, and SystemsLink will provide the Implementation Services to reflect the outcome of this Project Requirements Analysis (as set out in schedule 3).

- 6.5 The requirement for a Project Requirements Analysis may be waived by mutual agreement (for example for smaller projects where such a requirement would be disproportionate). In this case, the specification for the Implementation Services to be provided will be agreed in writing.
- 6.6 For certain types of Implementation Services, a Statement of Work may be prepared and entered into to further describe the services to be provided. In this case, the terms of the Statement of Work will supplement the content of the report prepared through the Project Requirements Analysis and will prevail to the extent of any conflict.

- 6.7 Timescales given for the performance of Implementation Services are for indicative purposes only.

7. **ADDITIONAL SERVICES**

- 7.1 Customer may from time to time order Additional Services by entering into a Statement of Work with SystemsLink.
- 7.2 Any Additional Services will be provided with reasonable care and skill and in material conformance with any specification set out in the Statement of Work.
- 7.3 Timescales given for the performance of Additional Services are for indicative purposes only.

8. **THIRD PARTY SERVICES**

- 8.1 Where Customer orders a Third Party Service, SystemsLink will procure access to that Third Party Service on behalf of Customer.
- 8.2 Customer acknowledges that SystemsLink is not the provider of any Third Party Service and therefore:
- 8.2.1 Customer's ability to use the Third Party Service will be governed by the end user licence agreement issued by the provider of that Third Party Service (a copy of which is available on request), and by ordering the applicable Third Party Service from SystemsLink Customer agrees to be bound by the applicable end user licence agreement; and
 - 8.2.2 SystemsLink cannot and does not provide any warranties or guarantees in respect of the Third Party Service or take any responsibility for provision of the service or the use of that service by Customer and Customer acknowledges that any rights or remedies arising out of or in connection with its use of (or inability to use) a Third Party Service must be pursued directly with the provider.
- 8.3 Customer shall use Third Party Services in good faith and in the manner in which is intended and in accordance with any terms or other requirements or directions imposed by the provider of that service. Customer shall not take any steps which are intended or likely to cause the provider of the Third Party Service to terminate its relationship with SystemsLink or to pursue any claim against SystemsLink, and Customer will on demand reimburse SystemsLink in full for all costs, claims, damages, liabilities, losses and/or demands relating to or arising from or in connection with a breach by Customer of its obligations under this clause 8.3.

9. **ASSUMPTIONS AND DEPENDENCIES**

- 9.1 Any Charges quoted, and any timescale provided, for Implementation Services or Additional Services is conditional on:
- 9.1.1 Customer performing any dependencies set out in schedule 3, the Project Requirements Analysis report and/or a Statement of Work (and otherwise complying with its obligations); and
 - 9.1.2 any assumption set out in schedule 3, the Project Requirements Analysis report and/or a Statement of Work proving to be accurate.
- 9.2 If (a) Customer fails to perform any of its dependencies or other obligations within the required timescales or (b) an assumption proves to be inaccurate (each a **Relief Event**), then SystemsLink:
- 9.2.1 will not be in breach of its obligations where and to the extent it can show that the failure was caused by the Relief Event;
 - 9.2.2 will be granted a reasonable extension of time for performance of its obligations; and
 - 9.2.3 may charge Customer for any additional fees, costs and expenses that are reasonably incurred as a result of the Relief Event.

10. **INTELLECTUAL PROPERTY RIGHTS**

- 10.1 All rights, title and interest (including Intellectual Property Rights) in a Product, the User Guides and any Developments will (as between SystemsLink and Customer) belong to SystemsLink, and nothing in this agreement will operate to transfer any such rights to Customer.
- 10.2 Subject to clause 10.3, Customer acknowledges that to the extent it acquires any rights in a Product, User Guide or any Developments it hereby assigns such rights absolutely (by way of present assignment of future rights) to SystemsLink. Where applicable Customer will be entitled to use such parts of the Product, User Guide or the Developments in accordance with its Subscription.
- 10.3 Customer will retain all rights in the Customer Branding, Customer Data and any other materials which Customer provides or makes available to SystemsLink. Customer grants SystemsLink a non-exclusive royalty free licence to use such Customer Branding, Customer Data and other materials for the purposes of providing the Subscription and performing the Implementation Services and the Additional Services and, in the case of the Customer Branding, in publicity material.
- 10.4 Where the Implementation Services or Additional Services result in the production of any Developments then, unless otherwise expressly agreed in writing, those Developments will not be exclusive to Customer and SystemsLink reserves the right to incorporate those Developments into the core Product and to make them available to other customers.
- 10.5 SystemsLink warrants that use of the Products, the User Guide and/or any Developments in accordance with this agreement and/or receipt of any Implementation Services and Additional Services will not infringe any Intellectual Property Rights subsisting in the UK belonging to a third party.
- 10.6 Customer warrants that use of the Customer Branding, Customer Data and any other materials which Customer provides or makes available to SystemsLink in accordance with this agreement will not infringe any Intellectual Property Rights subsisting in the UK belonging to a third party.
- 10.7 Without prejudice to clause 10.5, where SystemsLink becomes aware of any claim or potential claim that a Product, the User Guide or any Developments and/or receipt of any Implementation Services or Additional Services infringes any Intellectual Property Rights of any third party, SystemsLink may at its option:
- 10.7.1 suspend access to the Product (or the affected part), withdraw the User Guide or the Developments (or the affected part) and/or suspend the Implementation Services or Additional Services (or the affected parts);
 - 10.7.2 modify the Product, the User Guide, the Developments and/or the Implementation Services or Additional Services to remedy the infringement; and/or
 - 10.7.3 terminate Customer's Subscription.
- 10.8 Where access to a Product is suspended or terminated pursuant to clause 10.7 SystemsLink will make a pro rata refund to Customer calculated by SystemsLink (acting reasonably) based on the proportion of the Product not received and the period over which it was not received.

11. **CHARGES**

- 11.1 Customer will pay the Charges in accordance with schedule 4.
- 11.2 Where and to the extent that services are provided from any location other than SystemsLink's own premises, Customer will be responsible for any and all reasonable expenses incurred by SystemsLink as a result.
- 11.3 All Charges are exclusive of VAT which is chargeable in addition at the prevailing rate. VAT will also be payable on expenses where applicable.
- 11.4 SystemsLink may suspend access to a Product or the provision of any of the Implementation Services or Additional Services without liability if any amount due to it from Customer is not paid by the due date and may maintain such suspension until all outstanding sums due to SystemsLink from Customer have been paid. This does not affect the liability of Customer to

pay for the Subscription, the Implementation Services and/or the Additional Services during any period of suspension.

- 11.5 Customer agrees to carefully check any invoice received and to raise any dispute regarding its content within 21 days of the invoice date, such notice to confirm the amount disputed and the reason(s) for the dispute. Invoices will be deemed to have been properly submitted and due for payment where an invoice has not been disputed within 21 days of the invoice date.
- 11.6 Notwithstanding the fact that a dispute may have arisen Customer must pay to SystemsLink any undisputed amount(s) as these undisputed amounts become due. The parties will in good faith attempt to resolve the dispute as to the unpaid amount and, where it is agreed (or ordered by a court) that a further amount is payable, Customer must pay this amount to SystemsLink within 14 days of the amount being resolved to be payable.
- 11.7 All amounts due to SystemsLink must be paid by Customer to SystemsLink in full without any set-off, counterclaim, deduction or withholding.

12. **TERM AND TERMINATION**

- 12.1 Subject to clause 12.2, this agreement will come into force on the Commencement Date and will remain in effect until terminated in accordance with its terms.
- 12.2 Where a Project Requirements Analysis has been undertaken prior to the Commencement Date, the terms of this agreement will also apply to that Project Requirements Analysis, but the Subscription will not commence until the Commencement Date.
- 12.3 Either party may terminate this agreement on not less than 12 months' written notice to the other party, provided that such notice may not seek to bring this agreement to an end prior to the expiry of the Initial Term. Third Party Services may be subject to separate termination provisions, as set out in schedule 6 or as agreed in writing.
- 12.4 SystemsLink may also terminate this agreement immediately at any time on written notice if Customer:
 - 12.4.1 commits an irremediable breach of this agreement, persistently commits remediable breaches or commits any remediable breach and fails to remedy it within 30 days of receipt of notice of the breach requiring remedy of the same;
 - 12.4.2 fails to pay any amount due to SystemsLink as it falls due; or
 - 12.4.3 makes an arrangement with or enters into a compromise with its creditors, becomes the subject of a voluntary arrangement, receivership, administration, liquidation or winding up, applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986, is unable to pay its debts or otherwise becomes insolvent or suffers or is the subject of any distrait, execution, event of insolvency or event of bankruptcy or any other similar process or event, whether in the United Kingdom or elsewhere (or SystemsLink reasonably apprehends that any of the events described in this clause 12.4.3 is about to occur in relation to Customer).
- 12.5 Where SystemsLink terminates this agreement in accordance with clause 12.4, any Third Party Service will also be terminated unless SystemsLink expressly provides otherwise in its notice of termination.
- 12.6 SystemsLink may also terminate a Third Party Service (without affecting the continuation of the remainder of this agreement) if the provider of that Third Party Service:
 - 12.6.1 ceases to trade or to offer that Third Party Service (either generally or through SystemsLink specifically); or
 - 12.6.2 requires SystemsLink to terminate Customer's right to use that Third Party Service for any reason (for example due to Customer's misuse of that service).
- 12.7 In the event of termination of this agreement for any reason:
 - 12.7.1 Customer's (and all Users') access to the Product will be withdrawn by SystemsLink and Customer must not (and must ensure that the Users do not) make any further attempt to access the Product;

- 12.7.2 SystemsLink will be entitled to delete any Customer Data from its servers;
- 12.7.3 except where expressly stated to the contrary in this agreement, any Charges already paid will be non-refundable;
- 12.7.4 SystemsLink may immediately invoice for any Charges and expenses which have accrued as at the date of termination;
- 12.7.5 Customer will be liable for any costs that SystemsLink incurs to the provider of a Third Party Service in connection with the termination, including any ongoing service fees which cannot be cancelled;
- 12.7.6 if SystemsLink has terminated this agreement in accordance with clause 12.4:
 - (a) SystemsLink may invoice for the Subscription Charges which would have fallen due for the longer of (a) the remainder of the Initial Term and (b) 12 months from the date of termination (to the extent such Subscription Charges have not already been invoiced); and
 - (b) if the termination led to the cancellation of Implementation Services or Additional Services, SystemsLink may invoice on a daily rate for each consultant who was engaged in those services up until the earlier of (a) the date on which those services were due to complete or (b) the date on which SystemsLink is able to allocate that consultant to a different project;
- 12.7.7 any invoice outstanding as at the date of termination, or issued in accordance with clause 12.7.4 or 12.7.6, will be immediately due and payable; and
- 12.7.8 the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, will not be affected or prejudiced.
- 12.8 The termination of this agreement will not affect the continuation of any terms which are expressly or implicitly intended to survive termination, including clauses 1, 8, 10, 12, 13, 14, 15, 17 and 18.
- 13. **CONFIDENTIALITY**
- 13.1 Each party undertakes that it will keep the other party's confidential information confidential and will not at any time:
 - 13.1.1 use such information for any purpose other than to exercise its rights and perform its obligations under this agreement (or such other purposes as the other party may expressly authorise in writing from time to time); or
 - 13.1.2 disclose such information to any third party, except as otherwise permitted by this agreement or with the other party's prior written consent.
- 13.2 For the purposes of this agreement, a party's confidential information is any know-how, trade secret, documentation or information (whether commercial, financial, technical, operational or otherwise) relating to its business, affairs, operations, processes, intentions, customers or suppliers and which is either marked as "confidential" or which the other party was or ought reasonably to be aware was of a confidential nature, save that this clause 13 will not apply to any information that the receiving party can demonstrate:
 - 13.2.1 is in the public domain in substantially the same combination as that in which it was disclosed to the receiving party other than as a result of a breach of this agreement or any other obligations of confidentiality;
 - 13.2.2 is or was lawfully received from a third party not under an obligation of confidentiality with respect to it; or
 - 13.2.3 was developed independently of and without reference to confidential information disclosed by the other party.
- 13.3 A party may disclose the other's confidential information where and to the extent it is required to do so under operation of law, by court order or by any regulatory body of competent jurisdiction provided that, except where legally prohibited from doing so, it must:

- 13.3.1 provide the other with at least ten (10) days' written notice of its intention to make the disclosure, such notice specifying the confidential information concerned and the nature of the disclosure obligation; and
- 13.3.2 take into account the reasonable requests of the other party in relation to the content, nature and form of the disclosure.
- 13.4 A party may also disclose the other's confidential information where and to the extent necessary to comply with market reporting obligations imposed on that party (or an affiliate of that party) as a publicly listed company.
- 13.5 Each party will be entitled to divulge the other party's confidential information to:
 - 13.5.1 its employees, agents, directors, officers, authorised sub-contractors, professional advisors and consultants where such entity has a need to know the same in connection with this agreement; and
 - 13.5.2 in the case of SystemsLink, to its affiliates for internal reporting purposes (provided that SystemsLink will not share meter identification numbers, addresses or user contact details with its affiliates),

provided that the receiving party must ensure that such persons are aware of, and must ensure that such persons comply with, these obligations as to confidentiality.
- 13.6 Nothing in this clause 13 prevents SystemsLink from sharing aggregated anonymised information and usage statistics reflecting general insight on its entire user base (such as information about the total number of Data Sets monitored through a Product) provided that Customer (and the Customer Data) cannot be identified from such data.
- 13.7 Where Customer is a public authority which is subject to the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 (the **FOIA / EIR**):
 - 13.7.1 Customer must promptly inform SystemsLink if it receives a request under the FOIA / EIR (a **Request**) which may lead to it disclosing SystemsLink's confidential information (unless prohibited to do so by law);
 - 13.7.2 where and to the extent that SystemsLink requests that it does so, Customer will use all reasonable endeavours to avoid disclosing SystemsLink's commercially sensitive information, including relying on any exceptions provided for by the FOIA / EIR, it being acknowledged that the provisions of this clause 13.7.2 do not override Customer's duties under the FOIA / EIR;
 - 13.7.3 subject to clauses 13.7.1 and 13.7.2, Customer may make any disclosures it is required to make by the FOIA / EIR notwithstanding the other provisions of this clause 13; and
 - 13.7.4 SystemsLink will (at Customer's expense) provide all assistance in complying with the Request as Customer may reasonably request.

14. DATA PROTECTION

- 14.1 Each party agrees that, in the performance of its respective obligations under this agreement, it will comply with the provisions of the UK GDPR, together with the Data Protection Act 2018 and any other law applicable to the protection of personal data in effect from time to time (together, **Data Protection Legislation**), in each case to the extent it applies to each of them. Where used in this clause 13, the expressions **data subject**, **personal data**, **personal data breach** and **process** bear their respective meanings given in Data Protection Legislation.
- 14.2 SystemsLink is expected to process the names and contact details of Users for the purposes of administering User accounts on behalf of the Customer.
- 14.3 The Customer agrees that it will not provide SystemsLink with any personal data other than that described in clause 14.2, and will ensure that its Users do not upload or otherwise provide any personal data.
- 14.4 Where SystemsLink processes personal data on Customer's behalf under or in connection with this agreement, it will do so only in accordance with the terms of this agreement and Customer's documented instructions (unless otherwise required by law or a regulatory body

in which case SystemsLink will, where permitted, inform Customer of that legal requirement before processing).

- 14.5 Where SystemsLink processes any personal data on Customer's behalf under or in connection with this agreement it will:
 - 14.5.1 other than as permitted by Chapter 5 of the UK GDPR, not transfer or allow the transfer of such personal data outside the United Kingdom or European Economic Area without Customer's written consent;
 - 14.5.2 ensure that any persons authorised to process the personal data are subject to a duty of confidence in respect of such processing;
 - 14.5.3 implement appropriate technical and organisational measures in accordance with its Information Security Policy to ensure a level of security appropriate to the risk, in compliance with the obligations imposed on SystemsLink by article 32 of the UK GDPR;
 - 14.5.4 notify Customer without undue delay on becoming aware of a personal data breach and cooperate with Customer to resolve such issue; and
 - 14.5.5 at Customer's expense, provide such assistance as Customer may reasonably require to assist it to comply with its obligations to keep that personal data secure, allow it to inform a regulatory authority or data subject of a personal data breach, conduct a data protection impact assessment, consult with a regulatory authority regarding the relevant processing activities and/or respond to requests made by data subjects pursuant to Data Protection Legislation.
- 14.6 Customer authorises SystemsLink to engage sub-processors from time to time provided that SystemsLink will notify Customer of any intended changes concerning the addition or replacement of sub-processors and give Customer the right to object and will impose upon any sub-processor (and ensure any sub-processor's compliance with) the terms of this clause 14 as if the processing being carried out by the sub-processor was being carried out by SystemsLink (and SystemsLink will be liable for the acts and omissions of such sub-processors as if they were SystemsLink's own acts and omissions).
- 14.7 From time to time during the term of this agreement SystemsLink will (upon written request from Customer):
 - 14.7.1 provide details in writing of its data processing activities carried out on Customer's behalf; and
 - 14.7.2 on reasonable notice allow Customer (or its appointed auditor) to audit its compliance with this agreement, subject to any reasonable requirements or restrictions that SystemsLink may impose to safeguard the personal data it holds on behalf of other customers and/or avoid unreasonable disruption to SystemsLink's business.
- 14.8 SystemsLink will process personal data on Customer's behalf only during the term of this agreement (and following termination to the extent required to perform any post termination obligations). On the termination or expiry of this agreement, SystemsLink will either delete or return all personal data processed on Customer's behalf, and delete any copies (except to the extent retention is required by law or for record-keeping purposes).
- 14.9 For the avoidance of doubt, nothing in this clause 14 or otherwise this agreement relieves either party of its own direct responsibilities and liabilities under Data Protection Legislation.

15. **LIABILITY**

- 15.1 Save as provided by clause 15.3 below:
 - 15.1.1 neither party's total aggregate liability in respect of all causes of action arising out of or in connection breach of clause 13 (confidentiality) or clause 14 (data protection) in any Year will exceed £1 million;
 - 15.1.2 except as provided in clause 15.1.1, neither party's total aggregate liability in respect of all causes of action arising out of or in connection with this agreement in any Year (whether for breach of contract, strict liability, tort (including

negligence), misrepresentation or otherwise) will exceed the total Charges (exclusive of Third Party Services Charges) paid under this agreement during the preceding Year save that:

- (a) in respect of causes of action arising in the first Year of this agreement, the limit the total Charges (exclusive of Third Party Services Charges) paid during that Year; and
- (b) for the purposes of this clause 15.1.1, any causes of action arising after the termination of this agreement will be treated as having occurred immediately preceding the termination of this agreement;

15.1.3 neither party will be liable for any claim to the extent that it relates to loss of profits, goodwill, business opportunity or anticipated savings, loss of data, injury to reputation, wasted expenditure, wasted management time or indirect, consequential or special loss or damage regardless of the form of action, whether in contract, tort (including negligence) or strict liability or otherwise howsoever arising and regardless of whether that party knew or had reason to know of the possibility of the loss or damage in question; and

15.1.4 neither party will be liable for any delay in or failure to comply with its obligations to the extent that it results from the actions or omissions of other party.

15.2 The express terms set out in this agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

15.3 Nothing in this agreement will limit or exclude:

15.3.1 either party's liability for death or personal injury caused by negligence, for fraud or fraudulent misrepresentation, and/or for any other loss or damage the exclusion or limitation of which is prohibited by English law;

15.3.2 SystemsLink's liability for breach of clause 10.5 or Customer's liability for breach of clause 10.6 (infringement of Intellectual Property Rights); or

15.3.3 Customer's liability to pay the Charges.

16. **FORCE MAJEURE**

16.1 SystemsLink will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations that is caused by events outside its reasonable control (a **Force Majeure Event**).

16.2 A Force Majeure Event includes any act, event, non-happening, omission or accident beyond SystemsLink's reasonable control and includes in particular (without limitation), terrorist attack or threat of terrorist attack, war, threat or preparation for war, fire, malicious damage, epidemic or pandemic, storm (including lightning strike), flood, or other natural disaster or adverse weather, industrial action or other shortage of available staff, impossibility of the use of telecommunications networks, or interruption or failure of utility service, malicious activity against SystemsLink's computer systems such as computer virus or denial of service attack, other illegal or unlawful actions of third parties, acts or omissions of other customers and/or their users or non-performance by suppliers, subcontractors or agents and the acts, decrees, legislation, regulations, policy or restrictions of any government or public authority.

16.3 Where the Force Majeure Event affects:

16.3.1 a Product, Customer accepts that access to the Product may be unavailable or restricted during the continuance of the Force Majeure Event; or

16.3.2 Implementation Services or Additional Services, Customer's right to receive such Additional Services is suspended for the period that the Force Majeure Event continues, and SystemsLink will have an extension of time for performance for the duration of that period.

16.4 SystemsLink will use its reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which its obligations may be performed despite the Force Majeure Event.

17. NOTICES

- 17.1 Each notice given under or in relation to this agreement must be in writing, must clearly state the full corporate name of Customer and must be sent by email to the recipient's nominated email address.
- 17.2 SystemsLink's nominated email address for service of notices is sales@systems-link.com.
- 17.3 Customer's nominated email address for service of notices is [insert].
- 17.4 Each party may update its nominated email address by notice to the other from time to time.
- 17.5 A notice will be treated as having been received at the time of sending if between 9am and 4:30pm on a working day, at 9am on that day if sent before 9am on a working day or otherwise at 9am on the next working day (provided in each case that no email delivery failure notification is received).
- 17.6 This clause 17 does not apply to the service of legal proceedings or other documents in any legal action.

18. GENERAL

- 18.1 This agreement is the entire agreement between the parties and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, written or oral, relating to its subject matter. Each party acknowledges and accepts that, in entering into this agreement it has not relied upon any representation, undertaking or promise except as set out in this agreement.
- 18.2 Each party agrees that it will have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it will have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.
- 18.3 The failure or delay of either party to enforce or to exercise, at any time or for any period of time, any term of or any right, power or privilege arising pursuant to this agreement does not constitute and will not be construed as a waiver of such term or right, remedy, power or privilege and will in no way affect either party's right later to enforce or exercise it, nor will any single or partial exercise of any right, remedy, power or privilege preclude any further exercise of the same or the exercise of any other remedy, right, power or privilege.
- 18.4 The invalidity or unenforceability of any provision of or any part of a provision of or any right arising pursuant to this agreement will not in any way affect the remaining provisions or rights, which will be construed as if such invalid or unenforceable part did not exist.
- 18.5 Customer may not assign, transfer, sub-contract or otherwise part with this agreement or any right or obligation under it without SystemsLink's prior written consent.
- 18.6 SystemsLink may amend this agreement from time to time by notice to Customer. The revised terms will take effect on such date as SystemsLink may nominate, provided that such date must not be less than 30 days from the date of the notice save where the change is required by law to take place earlier.
- 18.7 Nothing in this agreement will confer any rights upon any person who is not a party to this agreement, whether under the Contracts (Rights of Third Parties) Act 1999.
- 18.8 This agreement (including any associated non-contractual disputes or claims) is governed by English law and the parties hereby accept the exclusive jurisdiction of the English courts in relation to any dispute arising under or in connection with this agreement.

Schedule 1
Product(s)

Selected?	Product	Description
	Energy Manager/Daisy [delete as appropriate]	Energy Management software including AMR Collection Service
	Client Portal	Client portal to view dashboards, reports and data
	Market Eye	Live screen displaying SystemsLink's buy and sell price based on our view of the market at that time
	Budgets	Budget and Forecast tool (including customer interface)
	Instant Insights	Live energy-related newsfeed
	Market Reports	Daily and weekly Market Report providing SystemsLink's market prices and commentary
	PDF Auto	PDF document handling
	Non-commodity cost estimator	Cost forecasting tool including current commodity and non-commodity costs, both published and forecast
	Query Hub	Live query management portal
	Environmental Reporting	Environmental reporting display tool
	Carbon Action Programme	Carbon emissions data collation tool
	SDGme	UN Sustainability Development Goals mobile phone application
	Business Intelligence Visualisation kit	Dynamic dashboards providing portfolio oversight
	Business Intelligence Bureau kit	Dynamic dashboards providing supporting a bill validation service
	Business Intelligence Finance kit	Dynamic dashboards providing supporting budgeting and accruals
	Market Intelligence pack	Market Eye + Non-commodity cost estimator + Instant Insights + Market Reports

Schedule 2

Service Level Agreement

PART A – STANDARD SUPPORT

1. Helpdesk

1.1 SystemsLink will make available, during working hours, a portal, telephone and email helpdesk facility for the purposes of:

1.1.1 receiving reports of Incidents (as defined in paragraph 2 below), determining the cause of such Incidents and resolving any such Incidents; and

1.1.2 receiving and handling service requests (as defined in paragraph 4 below).

1.2 Customer must make all requests for support through the helpdesk.

1.3 **All potential P1 and P2 Incidents (as defined in paragraph 2 below) should be reported by both telephone AND email.** Any other Incident, and any service request, may be reported by portal, telephone or email.

1.4 Where SystemsLink notices an elevated level of tickets which it considers reflects a training requirement, training will be organised and Customer will be responsible for ensuring its Users attend the training.

2. Prioritisation of Incidents

2.1 For the purposes of this Service Level Agreement, an **Incident** is an unplanned interruption to, or quality reduction of, a Product (including to the performance and availability of the Product, attendant hosted services and associated databases).

2.2 Incidents vary in **impact** and **urgency**. Taken together, these criteria determine the priority of the incident.

2.3 The **impact** assessment will consider criteria such the number of Users and services affected (“Is there widespread disruption?”) along with the risk of financial or reputational damage (“Are we potentially in breach of contract terms?”)

2.4 **Urgency** is measured in terms of how soon the impact will be felt without corrective action. Potential workarounds will be factored into this assessment.

2.5 The following table will be used as a guideline for the categorisation of Incidents:

URGENCY

		High (now / imminent)	Medium (today / this week)	Low (this month)
IMPACT	High	P1	P2	P3
	Medium	P2	P3	P4
	Low	P2	P3	P4

2.6 These definitions are by no means categorical. They provide a guideline to the service desk which determines the Incident priority on a case-by-case basis. This may necessitate further dialogue between the service desk and Customer in order to agree the actual priority (but the final categorisation of an Incident is at SystemsLink’s discretion).

3. Incident response and resolution times

3.1 This table indicates Incident **Key Performance Indicators**, specifically response and resolution times by priority:

Priority	Response target	Resolution target
P1	< 0.5 working hours	< 8 working hours
P2	< 0.5 working hours	< 16 working hours
P3	< 2 working hours	< 2 weeks
P4	< 2 working hours	< 5 weeks

3.2 **Response** means acknowledgement of the Incident and identification of the assigned individual or response team together with the issue of a Service Request number.

3.3 **Resolution** means that either:

3.3.1 a request to close the Incident has been issued by the Service Desk; or

3.3.2 a satisfactory workaround has been agreed with Customer such that the Incident priority may be reduced.

3.4 All reasonable endeavours will be used to respond to and resolve Incidents in accordance with their priority.

4. **Escalation of Incidents**

4.1 Major Incidents (as reasonably determined by SystemsLink) will be managed by the Service Delivery Manager with an escalation to the Operations Director.

4.2 A Major Incident Report (MIR) will be issued within 5 working days of a major Incident being resolved.

5. **Availability**

5.1 Unless Customer has selected premium support (see Part B of this Service Level Agreement), SystemsLink will use reasonable endeavours to ensure that a Product is available at least 99% of the time, 24 hours a day, seven days a week. A Product is “available” provided that Customer is able to utilise its core functionality.

5.2 Availability will be calculated for each quarter by dividing the time that the Product was “available” in accordance with paragraph 5.1 by the total target availability (calculated in accordance with paragraph 5.3) and multiplying the result by 100.

5.3 For these purposes, the “total target availability” is the number of hours in the relevant quarter minus any time that the Product was unavailable due to (a) maintenance carried out in accordance with clause 2.3, (b) breach of the agreement by Customer, (c) problems caused by Customer’s (or a User’s) own systems or networks, or by hardware, software, firmware or media not supplied by SystemsLink, (d) a Force Majeure Event (as defined in clause 16.1) or (e) suspension which is permitted by the agreement.

6. **Service requests**

6.1 A **Service Request** may be a request from a User for information, advice, a standard change or access to a service.

6.2 Service requests typically follow a standard procedure and so it is possible to catalogue items with an expected completion target as follows:

Request	Priority
Information and advice	High
Training request	Normal
User access issue	Urgent

Activate AMR collection service	Normal
New database instance	Low
New import routine	Low

6.3 **Response** means acknowledgement of the request and identification of the assigned individual or response team together with the issue of a Service Request number.

6.4 **Resolution** means that either:

6.4.1 a request to close the Incident has been issued by the Service Desk; or

6.4.2 a satisfactory workaround has been agreed with the Customer such that the Service Request priority may be reduced.

6.5 All reasonable endeavours will be used to respond to and resolve Service Requests in accordance with their priority.

6.6 For the avoidance of doubt, requests related to Additional Services (including enquiries about Additional Services and any requests made in connection with Additional Services which SystemsLink has been engaged to provide) do not fall within the scope of the service levels set out in this paragraph 6. There will be no commitment in respect of Additional Services until an applicable Statement of Work has been entered into. Once an applicable Statement of Work has been entered into, any timescales will be governed by the provisions of that Statement of Work.

7. Exclusions from support

7.1 SystemsLink will have no obligation under this agreement to provide support in respect of any fault or error caused by:

7.1.1 the improper use of a Product;

7.1.2 the use of a Product otherwise than in accordance with the User Guide; or

7.1.3 any alteration to a Product (including repairs and upgrades) made without SystemsLink's prior written consent.

PART B – PREMIUM SUPPORT

Premium support selected?			
Yes	☒	No	☒

1. Selection of premium support

Where Customer has selected premium support (as indicated above), both Part A and Part B of this Service Level Agreement apply to Customer.

2. KPIs

Key Performance Indicators	SL Performance Measure	Target
System availability per quarter	See paragraph 5 of Part A	99%
Service Request – response per quarter	% responses within response target	90%
Service Request – completion per quarter	% responses within resolution target	90%
Incident response – P1 p.c.m.	% responses within response target	100%
Incident response – P2 p.c.m.	% responses within response target	90%
Incident response – P3 p.c.m.	% responses within response target	80%
Incident response – P4 p.c.m.	% responses within response target	80%
Incident resolution – P1 p.c.m.	% responses within resolution target	95%

Incident resolution – P2 p.c.m.	% responses within resolution target	85%
Incident resolution – P3 p.c.m.	% responses within resolution target	80%
Incident resolution – P4 p.c.m.	% responses within resolution target	80%
Number of P1 Incidents p.a.	# P1 incidents	<3
Customer Satisfaction survey p.c.m.	Scored response	80%
Successful first time response p.c.m. (Information and Advice + User Access issues)	# queries by type, % queries resolved on first response	90%

3. Service credits

- 3.1 If in any quarter system availability falls below the KPI set out in paragraph 2 of this Part B, Customer will be entitled to a service credit calculated as follows:

$$\text{Service credit} = (a\% - x\%) * \text{£}c$$

where:

“a” is the availability KPI for that quarter (99%)

“x” is the actual availability % during that quarter (calculated in accordance with paragraph 5 of Part A)

“c” is the total Subscription Charges paid in connection with unavailable Products during the relevant quarter.

- 3.2 Customer may claim any applicable service credit by making a request to SystemsLink within one month of the expiry of the affected quarter.
- 3.3 Where Customer claims a service credit in accordance with paragraph 3.2, the service credit will be applied as a credit to the next invoice issued to Customer.

4. Service delivery management

- 4.1 SystemsLink will host quarterly service review meetings with Customer [quarterly] [or] [monthly].
- 4.2 SystemsLink will nominate a named service delivery manager who will be responsible for the provision of a monthly report to include actual KPI performance and the management of both Incidents and Service Requests.

PART C – BESPOKE SUPPORT [DELETE THIS SECTION IF NOT RELEVANT]

1. Availability of bespoke support

Where this Part C is included in the Service Level Agreement, this indicates that Customer has selected bespoke support. In this case, Part A, Part B and Part C of this Service Level Agreement apply to Customer (and Part C will take precedence over Part A and Part B to the extent of any conflict).

[Set out any bespoke support arrangements.]

Schedule 3

Implementation Services

1. Introduction

SystemsLink delivers projects in accordance with its own, well-established 5-stage Implementation Methodology, as described in more detail in this schedule 3.

2. Project Requirements Analysis

2.1 Unless the parties have agreed to waive the requirement for a Project Requirements Analysis, the Implementation Services will commence with the preparation of a Project Requirements Analysis.

2.2 The Project Requirements Analysis will be led by SystemsLink, and is based upon site visits, interviews, initial data analysis and conversation with relevant third parties (e.g. any incumbent software provider).

2.3 The output is a report that identifies objectives, necessary resources (all parties), a project team structure and role definitions together with other key deliverables:-

2.3.1 key project objectives, priority deliverables and phases from which a detailed project plan is derived;

2.3.2 key project operational stakeholders and key project steering stakeholders;

2.3.3 additional resource requirements (data collectors, data analysts etc.);

2.3.4 definition of roles and responsibilities;

2.3.5 Users of the system;

2.3.6 project risks and mitigations;

2.3.7 in depth analysis of Customer's portfolio structure, hierarchy and data readiness (completeness of extant data).

2.4 Please note that the timescale for delivery to "go live" is largely contingent upon the current state of data and the effort required in order to be ready that for import.

2.5 All parties, including parties such as vendors (where a project dependency), are required to agree to the commitments outlined within the Project Requirements Analysis before implementation can begin.

3. Example implementation activities

The specific implementation activities to be undertaken will depend on (and be set out in) the report which is prepared as part of the Project Requirements Analysis. However, the below table sets out an example of activities which commonly form part of the Implementation Services:

Activity	Description
System Education	This is typically executed by SystemsLink or else on a "Training The Trainers" basis. Any successful systems implementation is characterised by attentive change management. This begins with the communication of objectives, benefits ("what's in it for me"), exposure to the user interface from the outset and the communication of how the system will be implemented and maintained long-term. Three Education activities are required: System, Data and Implementation. Sessions are bespoke, designed and tailored to specific stakeholder needs.

Workflow Analysis	A SystemsLink-led activity, an 'As Is' workflow analysis captures current business processes which, under review, yield system-led, optimised "To Be" business processes. Documented, these, subject to Customer sign-off, provide a foundation for Tailored Procedures and Tailored Training. Exceptionally, workflow definitions identify the need for software modifications or, more commonly, bespoke API or report requirements.
Software Specification	A SystemsLink activity, where bespoke development work is required, a specification (and Statement of Work) will be prepared with, if applicable, a quotation for the development, testing, implementation and support of that work. Development cannot begin without Customer authorisation.
Report Specification	A SystemsLink activity, where a bespoke report is required, a specification (and Statement of Work) will be prepared with, if applicable, a quotation for the development, testing, implementation and support of that work. Development cannot begin without Customer authorisation.
Software and Report Development	Upon Customer authorisation (software or report specification and associated Statement of Work) SystemsLink will develop, test and implement the required change which, subject to user acceptance testing and Customer approval will then be deployed to the live system.
Data Design	A joint Customer and SystemsLink activity, Data Design is intended to structure data in order to maintain data completeness and underpin both reporting requirements and system functionality. Data Design considers static data sets (e.g. clients, sites, meters, suppliers, contact details, contracts, billing information and history). Data Design can require restructuring and additional data. As such it is essential to planning both Data Preparation and Data Migration.
Data Preparation	A Customer activity, Data Preparation is the process of sourcing, collecting, cleansing, and completing the data prior to migration in full consideration of the Data Design. SystemsLink provides templates – customarily Excel – to facilitate this.
Data Migration	A joint activity that customarily reiterates to Data Preparation. Once Customer has confirmed that Data Preparation is complete, SystemsLink will execute the migration: importing the collated data into a target database. This activity involves pre-planning, a briefing for key stakeholders, build/test of the migration logic and, finally, the Migration itself. Both parties are required to test the migrated data for completeness and, once this is proven, commit to freezing the data load pending "go live". Various strategies are available with respect to the on-going maintenance of that data pending go live.
System Testing	System testing will ensure the system is fully functional and ready for go live. A joint activity, it is intended to confirm data availability, functionality, performance and reinforce Tailored Training.
Tailored Procedures	Customarily a SystemsLink activity, Tailored Procedures are person/role-specific documents based upon the aforementioned "To Be" workflows. They detail how and when users will operate the software and why. Their production (and Customer approval) provides the basis for Tailored Training.
Tailored Training	Led by SystemsLink, hands-on Tailored Training is based upon Tailored Procedures. This is primarily conducted post-Systems Testing and as close to Go Live as possible.

User Acceptance Testing	This is a Customer activity founded in Workflow Analysis and Tailored Procedures. It is essential that Customer uses this opportunity to exercise the system for all roles and all functions (including reports). Sign-off criteria (including performance) should be agreed between SystemsLink and Customer.
Go Live Support	A SystemsLink Implementation Project Manager will normally be on-site during the first week of go-live. This person will act as a single point of contact for assistance with the identification and resolution of issues.
Post Live Review	A SystemsLink activity, the parties meet to review the implementation and agree a hand-over from the Implementation Team to Systems Link Service Delivery and the appointed SystemsLink Customer Success Manager.

4. **Project Governance**

The Implementation Methodology is supported by rigorous project governance. The below dependencies must be met to safeguard the delivery of the project:

- 4.1 weekly progress calls with key project stakeholders;
- 4.2 fortnightly steering committee calls with senior management from both parties;
- 4.3 any significant project changes to be detailed on a Project Change Control document which must be signed off (via DocuSign) by the Steering Committee; and
- 4.4 the Project Requirements Analysis to be authorised by all implementation stakeholders (document distributed by DocuSign) before work can start on the remainder of the Implementation Services.

Schedule 4

Charges

1. **Subscription Charges**
 - 1.1 *SystemsLink Energy Manager*
 - 1.1.1 Standard Charges
 - (a) Up to [x] Data Sets: £[x] per Year
 - (b) Support: £[x] per Year
 - 1.1.2 Charges for additional modules
 - (a) [x] £[x] per Year
 - (b) [x] £[x] per Year
 - 1.1.3 Charges for optional additions (available on request)
 - (a) Additional Data Sets: £[x] per Data Set per Year (available in batches of 50)
 - (b) Additional Users:
 - (i) Hosted Users (read / write access): £[x] per User per Year
 - (ii) Web Users (read only access): No additional Charges
2. **Implementation Services**
 - 2.1 Implementation Services will be charged at a day rate of £[x] per day.
 - 2.2 Estimated Charges for Implementation Services: £[x] (an updated estimate with full resource breakdown will be provided on completion of the Project Requirements Analysis).
3. **Additional Services**
 - 3.1 Save where and to the extent that a fee for Additional Services is agreed in advance, Additional Services will be charged at a day rate of £[x] per day.
4. **Third Party Services**
 - 4.1 If Customer has ordered any Third Party Services at the time of entering into this agreement, details of the applicable Charges will be set out in schedule 6.
 - 4.2 In relation to any Third Party Services ordered subsequently, the applicable Charges will be agreed in writing.
 - 4.3 SystemsLink may increase the Charges in respect of Third Party Services at any time to reflect increases in the charges incurred by SystemsLink to the relevant provider.
5. **Invoicing**
 - 5.1 The Subscription Charges are payable annually in advance. Subscription Charges for the first Year will be invoiced on the date of this agreement, and Subscription Charges for subsequent Years will be charged on an anniversary of the date of this agreement.
 - 5.2 Any charges for Implementation Services or Additional Services will be invoiced in advance, except where those Charges are on a time worked basis, in which case they will be invoiced SystemsLink in arrears on an interim basis and at the conclusion.
 - 5.3 Invoices are payable within 30 days of the date of receipt of invoice.
6. **Indexation**
 - 6.1 SystemsLink may increase the Charges (and its day rates) annually by an amount equal to the percentage increase in the UK Retail Prices Index since the last increase (or, if there has been no prior increase, since the date of this agreement).

Schedule 5

Acceptable Use Policy

1. About us

- 1.1 This Acceptable Use Policy is published by SystemsLink 2000 Limited, a company which is incorporated under the law of England and Wales with company registration number 3168771 and whose registered office is at Calder House, St Georges Park, Kirkham, Lancashire, PR4 2DZ.
- 1.2 SystemsLink 2000 Limited is referred to as “us”, “we” and “our” in this Acceptable Use Policy.

2. About you

- 2.1 Access to our products is available to:
 - 2.1.1 employees, consultants and officers of our customers (entities which have signed a subscription agreement with us); and
 - 2.1.2 in some cases, employees, consultants and officers of other entities which are authorised to access our product by one of our customers (for example, employees, consultants and officers of one of our customer’s own customers).
- 2.2 All users, whether associated with one of our customers or another entity which is authorised by a customer, must comply with this Acceptable Use Policy. In this Acceptable Use Policy, we refer to users as “you” or “your”.

3. About this Acceptable Use Policy

- 3.1 Where you are using our product on behalf of one of our customers, it is a requirement of the subscription agreement which the customer has signed up to that you comply with this Acceptable Use Policy. If you fail to do so, our customer will be in breach of its contract with us.
- 3.2 Where you are using our product on behalf of another entity authorised by one of our customers, you may only access the product if you accept this Acceptable Use Policy on behalf of that entity. That entity will be responsible for your compliance with this Acceptable Use Policy. By proceeding to use the product, you are confirming that you are authorised to accept this Acceptable Use Policy on behalf of that entity and that you are accepting this Acceptable Use Policy on behalf of that entity.
- 3.3 This Acceptable Use Policy does not create any legal relationship between us and you as an individual user. However, it is essential that you read and understand this Acceptable Use Policy before proceeding, to avoid the risk of you placing our customer or the other authorised entity you represent in breach of its terms. If you do not accept the terms of this Acceptable Use Policy, you must not use the product.
- 3.4 It is a requirement of this Acceptable Use Policy that it is strictly complied with, both in letter and in spirit. In the event that you are unsure as to whether any particular use of a product is permitted, please submit a service request seeking clarification.

4. Key requirements

You must:

- 4.1 use the product in accordance with this Acceptable Use Policy;
- 4.2 use the product in good faith and in the manner in which is intended;
- 4.3 read the user guide and ensure that you use the product in accordance with it; and
- 4.4 let us know if you become aware of anything which concerns you regarding the product, including any security issues or any breach or potential breach of this Acceptable Use Policy by you or any other person.

5. Prohibited uses

You must not use a product:

- 5.1 in a way that breaches any applicable local, national or international law or regulation;

- 5.2 in a way that may damage our reputation, that of the product, or the reputation of any customer, other authorised entity or user;
- 5.3 in a way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect; and/or
- 5.4 for the following purposes:
 - 5.4.1 uploading, downloading, using or re-using any material which:
 - (a) expresses an opinion which is not genuinely held;
 - (b) contains any material which is defamatory or derogatory of any person;
 - (c) contains any material which is obscene, offensive, hateful or inflammatory;
 - (d) promotes sexually explicit material, violence, any illegal activity or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
 - (e) infringes the intellectual property rights or other rights of any person;
 - (f) is likely to deceive any person;
 - (g) is made in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence; and/or
 - (h) advocates, promotes or assists any unlawful act such as (by way of example only) copyright infringement or computer misuse; and
 - 5.4.2 harming or attempting to harm any individual, company or other body in any way; and
 - 5.4.3 accessing any computer, system, data or network in an unauthorised manner.

6. Other prohibited actions

You must not:

- 6.1 reproduce, duplicate, copy or re-sell any part of a product except as permitted by the subscription agreement;
- 6.2 impersonate any person or misrepresent your identity or affiliation with any person;
- 6.3 access without authority, interfere with, damage or disrupt:
 - 6.3.1 any part of a product; or
 - 6.3.2 any software used in the provision of a product;
- 6.4 attempt to circumvent any security measure or other restriction; and
- 6.5 transmit any data, send or upload any material that contains viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware, or to attack a product via a denial-of-service attack.

7. Our responsibility to you

- 7.1 Our subscription agreement offers various promises, assurances and service levels to our customers. If you experience any issues with our product, please speak to the relevant contact at our customer who will be able to tell you how to raise the issue with us.
- 7.2 We do not offer any promises, assurances or service levels to authorised entities which are not our customers or directly to users. By using our product, you acknowledge and accept this position (including acknowledging and accepting it on behalf of the authorised entity you represent, if applicable) and agree that neither you nor the authorised entity will bring any form of claim or action against us arising out of or in connection your use of the product. This is the only basis on which we are prepared to grant access to the product and, if this is not acceptable to you, you must not access the product. For the avoidance of doubt, this does not affect any rights or remedies that our customer has under the subscription agreement.

Schedule 6
Third Party Service(s)

[If no Third Party Service(s), insert "not used" and delete the rest of this schedule. Otherwise, complete this schedule.]

Description of Third Party Service

XXXXXX

Subscription term

Start date: [Date of this agreement.]

Initial term: [Insert.]

Termination: See XXXX EULA.

Page limit

[Insert]

Charges

Monthly charge: £[x]

Additional page fees: [x].

Consultancies

Customer [is] [is not] is a "Consultancy" who will use the Service to provide advice or services to third parties (being its "Clients") (see EULA for more information).

THE PARTIES have signed this agreement on the date first set out above

SIGNED BY _____)
for and on behalf of)
SYSTEMSLINK 2000 LIMITED)

SIGNED BY _____)
for and on behalf of)
CUSTOMER)