

**SMART METERING PROGRAM**

**DISTRIBUTION SYSTEM METERING DEVICES SUPPLY AND SERVICES AGREEMENT**

**BETWEEN**

**BRITISH COLUMBIA HYDRO AND POWER AUTHORITY**

**AND**

**QINETIQ NORTH AMERICA, INC.**

**MARCH 28, 2013**



**DISTRIBUTION SYSTEM METERING DEVICES SUPPLY AND SERVICES AGREEMENT**  
**SMART METER PROGRAM**

THIS AGREEMENT is made on March 28, 2013 (the "*Effective Date*"), between **British Columbia Hydro and Power Authority**, a British Columbia Crown Corporation having its head office at 333 Dunsmuir Street, Vancouver, B.C., V6B 5R3 Canada ("*BC Hydro*") and **QinetiQ North America, Inc.**, a Delaware corporation having an office at 350 Second Avenue, Waltham, MA, USA 02451-1196 ("*Contractor*"), and witnesses that BC Hydro and Contractor agree as follows:

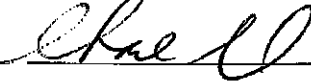
1. This Agreement consists of:

- (i) this page (the "*Cover Sheet*");
- (ii) the General Terms and Conditions attached to this Cover Sheet (the "*GT&C*");
- (iii) the Schedules attached hereto and listed in the Table of Contents following this Cover Sheet (the "*Schedules*"); and
- (iv) Change Orders, as defined in and entered into by the Parties pursuant to the GT&C;

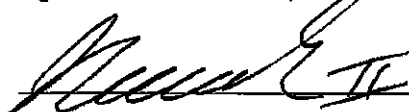
all of the terms and conditions of which are binding upon BC Hydro and Contractor upon execution of this Cover Sheet by both Parties, or, in the case of any Change Order, upon such Change Order being entered into by the Parties pursuant to Section 8.7 [*Change Order*] of the GT&C.

2. Each of BC Hydro and Contractor agrees with and represents and warrants to the other that it has read, understood and agreed to the terms and conditions of this Agreement and that this Agreement has been executed by a duly authorized signatory of that Party, and is a binding agreement of that Party.
3. This Agreement may be executed in counterparts, which when taken together will constitute one and the same agreement. This Agreement may be legally delivered and made binding on the Parties by the exchange of signed counterparts by facsimile transmission or electronically in PDF or similar secure format.

**BRITISH COLUMBIA HYDRO AND  
POWER AUTHORITY**

By:   
Name: CHARLES REID  
Title: PRESIDENT & CEO  
Date: APRIL 30, 2013

**QINETIQ NORTH AMERICA, INC.**

By:   
Name: J.D. Crouch II  
Title: PRESIDENT, TECHNOLOGY SOLUTIONS GROUP  
Date: 26 MARCH 2013

**SCHEDULE 11  
CONFIDENTIALITY AGREEMENT**

**BACKGROUND**

British Columbia Hydro and Power Authority ("**BC Hydro**") and QinetiQ North America, Inc. ("**Contractor**") are parties to a Distribution System Metering Devices Supply and Services Agreement effective \_\_\_\_\_, 2012, pursuant to which Contractor has agreed to perform work and provide equipment related to BC Hydro's Smart Meter Program (the "**SMI Program**"). [Insert Subcontractor name] ("**Subcontractor**") wishes to bid upon, or has been engaged by BC Hydro to perform, work in connection with the SMI Program, in connection with which Subcontractor may require access to Contractor's Confidential Information (as defined herein). As a condition of Subcontractor having access to Contractor's Confidential Information, Contractor requires that Subcontractor provide this Agreement.

**AGREEMENT**

For good and valuable consideration (receipt of which is acknowledged), **SUBCONTRACTOR HEREBY COVENANTS AND AGREES WITH BC HYDRO AND CONTRACTOR AS FOLLOWS:**

**2. Definitions:** In this Agreement:

- (a) **"Commissioner"** means the information and privacy commissioner appointed pursuant to FOIPPA;
- (b) **"Contractor's Confidential Information"** means any information concerning Contractor and disclosed by BC Hydro or Contractor (whether orally, in writing or digitally), the further disclosure of which could reasonably be expected to have an adverse impact on Contractor, and any information otherwise identified by Contractor as "confidential";
- (c) **"Contact Information"** means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
- (d) **"FOIPPA"** means the British Columbia *Freedom of Information and Protection of Privacy Act*; and
- (e) **"Personal Information"** means recorded information about an identifiable individual, other than Contact Information, collected, created or otherwise acquired by Subcontractor as a result of bidding on or performing work in relation to the SMI Program, and other information defined or deemed as "personal information" pursuant to applicable laws related to privacy or data protection, including FOIPPA.

**3. Ownership of Information:** Subcontractor acknowledges that in the course of bidding on or performing work in connection with the SMI Program, it may have access to Contractor's Confidential Information. Subcontractor acknowledges that as between Contractor and Subcontractor, all Contractor's Confidential Information is and will remain the exclusive property of Contractor.

**4. Confidentiality:** Subcontractor will: (i) access and use Contractor's Confidential Information only as necessary to bid upon or perform its work in connection with the SMI Program; (ii) disclose



Contractor's Confidential Information only to the extent that disclosure is necessary to bid upon or perform its work in connection with the SMI Program, only as permitted by this Agreement or as otherwise expressly authorized in writing by Contractor; and (iii) not make any unnecessary copies of documents or records containing Contractor's Confidential Information. Subcontractor will not: (i) make any use or copies of the Contractor's Confidential Information except as contemplated by this Agreement; (ii) acquire any right or interest in or assert any lien against the Contractor's Confidential Information or any derivative works thereof; or (iii) sell, assign, lease or otherwise commercially exploit the Contractor's Confidential Information or any derivative works thereof. Subcontractor acknowledges that confidential information belonging to BC Hydro and to third parties may be subject to additional confidentiality restrictions imposed by BC Hydro or other agreements

5. **Return or Destruction of Confidential Information:** Subject to Section 12 [*Archived Confidential Information*] of this Agreement, Subcontractor will either return to Contractor or permanently delete and destroy all documents and records containing Contractor's Confidential Information immediately after they are no longer required by Subcontractor to bid upon or perform its work regarding the SMI Program. Subcontractor may not withhold the Contractor's Confidential Information or refuse for any reason to promptly return the Contractor's Confidential Information to Contractor, including copies thereof, if requested to do so, except where Subcontractor is required to retain copies by applicable law. Both during and indefinitely after Subcontractor has completed its bid or work in connection with the SMI Program, Subcontractor will maintain the strict confidentiality of Contractor's Confidential Information to prevent the unauthorized use or disclosure of Contractor's Confidential Information. Subcontractor will not disclose, make available, sell or transfer the Contractor's Confidential Information to any other person in any manner except as expressly provided in this Agreement. Subcontractor will use at least the same degree of care to safeguard and to prevent disclosing to third parties the Contractor's Confidential Information as the Subcontractor employs to avoid unauthorized disclosure or publication of its own information (or the information of its customers) of a similar nature, and in any event, no less than reasonable care. Subcontractor will be responsible for any disclosure or use of Contractor's Confidential Information by any Subcontractor personnel, affiliates, professional advisors, agents, stockholders or owners in breach or violation of this Agreement.

6. **Permitted Disclosures:** Notwithstanding the foregoing sections, Subcontractor may disclose:

- (a) Contractor's Confidential Information to Subcontractor's stockholders or owners to the extent necessary in connection with routine informational disclosures to such stockholders or owners; provided, however that in each such case Subcontractor uses reasonable efforts to ensure that such stockholders and owners comply with the confidentiality provisions set forth in this Agreement; and
- (b) Contractor's Confidential Information to its employees, professional advisors and agents, to the extent such disclosure is reasonably necessary for the bidding for or performance of Subcontractor's work in connection with the SMI Program and its obligations under this Agreement, provided that Subcontractor shall cause its employees, professional advisors and agents to comply with this Agreement in respect of any Contractor's Confidential Information disclosed to them and shall be responsible and liable to Contractor for any breach by Subcontractor's employees, professional advisors or agents of this Agreement.

7. **Required Disclosures:** Subcontractor shall not be considered to have breached its obligations under this Agreement for disclosing Contractor's Confidential Information to the extent required to satisfy any legal requirement of a Canadian court, tribunal or other competent governmental,



administrative or regulatory authority (each of the foregoing being hereinafter called an "**Authority**"), including any such authority acting under FOIPPA, provided that Subcontractor:

- (a) promptly upon receiving any such request and within a reasonable time before disclosure notifies BC Hydro and Contractor of the terms and circumstances of the requested disclosure;
- (b) consults with BC Hydro and Contractor regarding the nature and scope of such request and the response or other position Subcontractor intends to take with respect to such request;
- (c) does not obstruct or interfere with BC Hydro or Contractor's efforts to object to, enjoin, narrow the scope of or otherwise contest the requested disclosure;
- (d) furnishes only information that, according to the advice of Subcontractor's legal counsel, Subcontractor is legally compelled or advised to disclose; and
- (e) makes and reasonably pursues a request that is reasonable and customary in the circumstances, to the applicable Authority for confidential treatment of the information disclosed to or at the behest of such Authority,

provided that nothing in this Section 7 *[Required Disclosures]* shall permit Subcontractor to disclose any "personal information", as defined in FOIPPA, pursuant to an order of a foreign court, tribunal or other competent foreign governmental, administrative or regulatory authority, including pursuant to the Patriot Act Legislation, where such disclosure would be contrary to requirements of FOIPPA or Subcontractor's obligations pursuant to Section 13 *[Freedom of Information and Privacy Legislation]* of this Agreement.

**8. Notification of Unauthorized Use of Information:** Subcontractor shall:

- (a) promptly notify BC Hydro and Contractor of any material unauthorized possession, use or knowledge, or attempt thereof, of Contractor's Confidential Information by any person that may become known to Subcontractor;
- (b) promptly furnish to BC Hydro and Contractor details of the unauthorized possession, use or knowledge, or attempt thereof, and use reasonable efforts to assist BC Hydro and/or Contractor in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of Contractor's Confidential Information;
- (c) use reasonable efforts to cooperate with BC Hydro and/or Contractor in any litigation or investigation against third parties deemed necessary by BC Hydro and/or Contractor to protect Contractor's proprietary rights and Contractor's Confidential Information; and
- (d) promptly use reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of Contractor's Confidential Information.

Contractor shall reimburse any reasonable out-of-pocket expenses incurred by Subcontractor as a result of compliance with this Section 7 *[Notification of Unauthorized Use of Information]*, except to the extent caused or contributed to by Subcontractor's breach or violation of this Agreement.

**9. No Licenses:** Nothing contained in this Agreement shall be construed as obligating BC Hydro and/or Contractor to disclose Contractor's Confidential Information to Subcontractor, or as granting to or





conferring on Subcontractor, expressly or impliedly, any right or license to Contractor's Confidential Information.

10. **Independent Development:** Nothing contained in this Agreement, shall be construed to limit Subcontractor's right to independently develop or acquire products, concepts, systems or techniques without use of the Contractor's Confidential Information. Contractor and BC Hydro acknowledge that Subcontractor may currently, or in the future, be developing information internally, or receiving information from other persons, that is similar to the Contractor's Confidential Information. Accordingly, nothing in this Agreement shall be construed as a representation or agreement that Subcontractor shall not develop or have developed for it products, concepts, systems, or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Contractor's Confidential Information, provided that Subcontractor does not violate any of its obligations under this Agreement in connection with such development.

11. **Contractor Policies:** Subcontractor will comply with Contractor's written policies and procedures regarding access to and use of Contractor's facilities, premises, systems, computer equipment, networks, personnel and information, as amended by Contractor from time to time, that are relevant to work in connection with the SMI Program. Subcontractor acknowledges that copies of those policies and procedures are available from BC Hydro.

12. **Archived Confidential Information:** Subcontractor will not be required, upon termination or expiry of this Agreement, to return to Contractor, or to delete or destroy, copies of Contractor's Confidential Information in the custody or control of Contractor, which may be stored in electronic archives or backup tapes ("*Backup Tapes*"). After termination or expiry of this Agreement, Subcontractor will not use Contractor's Confidential Information stored on any Backup Tapes for any purposes whatsoever, and all such Contractor's Confidential Information shall remain subject to Subcontractor's obligations in this Agreement. If Subcontractor uses any Backup Tape containing any such Contractor's Confidential Information to restore Subcontractor's systems or data, or retrieves from any Backup Tape data containing any such Contractor's Confidential Information for any other purpose, Subcontractor will immediately notify BC Hydro and Contractor of this circumstance and, as directed by Contractor, either delete, destroy or return to Contractor any such Contractor's Confidential Information contained in that Backup Tape or in the data retrieved from the Backup Tape.

13. **Freedom of Information and Privacy Legislation:**

13.1 **Compliance with FOIPPA:** Subcontractor acknowledges that BC Hydro is subject to FOIPPA, and that BC Hydro may from time to time be required to provide information in accordance with the requirements of FOIPPA. Subcontractor shall cooperate with and assist BC Hydro in complying with any orders or directives made by the Commissioner under or in contemplation of FOIPPA, any agreements or protocols relating to the administration of FOIPPA and any other requirements arising under FOIPPA. Subcontractor further acknowledges that where BC Hydro transfers, or causes to be transferred, to Subcontractor physical custody of "records" as defined under FOIPPA, BC Hydro is not transferring control of those records, or control of any Personal Information that may be contained in those records. In performing its work in connection with the SMI Program and managing those records, Subcontractor shall comply, and shall cause all persons for whom Subcontractor is in law responsible to comply, with:

- (a) all requirements of FOIPPA and any other applicable Canadian privacy laws; and
- (b) any applicable policies and directives of BC Hydro, of which Subcontractor has been or is given, notice, including, without limitation, the Privacy Protection Schedule attached to this Agreement.



Subcontractor shall perform its duties, and be bound by its obligations, under FOIPPA and this Section 13 [*Freedom of Information and Privacy Legislation*], notwithstanding the threatened or actual application or operation of foreign laws or processes (including the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (the USA PATRIOT Act) of 2001, Pub L. No. 107-56, 115 Stat 272 (2001), and any applicable policies and directives (collectively, the "*Patriot Act Legislation*") and the application or operation of such foreign laws or processes shall not release Subcontractor from any liability arising from Subcontractor's failure to comply with its duties or obligations under FOIPPA or this Section 13 [*Freedom of Information and Privacy Legislation*]. Notwithstanding the foregoing, Subcontractor's obligation to comply with FOIPPA shall be only as such legislation applies to Subcontractor in its capacity as a service provider.

**13.2 Acknowledgement Regarding Commercial and Financial Information:** Subcontractor acknowledges that the Contractor's Confidential Information constitutes commercial and financial information that has been supplied in confidence and the disclosure of which could reasonably be expected to harm significantly the competitive position, and interfere significantly with the commercial interests, of Contractor, and further, could reasonably be expected to harm the financial or economic interests of Contractor. Accordingly, the parties confirm their intention that all Contractor's Confidential Information disclosed to Subcontractor shall be deemed to be confidential and exempt from disclosure to third persons in accordance with Section 21 of FOIPPA.

**13.3 Personal Information:**

- (a) If and to the extent that Subcontractor obtains access to any Personal Information in the custody or control of BC Hydro and/or Contractor, Subcontractor will comply with all applicable personal information protection laws, all of BC Hydro written policies and practices relating to the collection, use, disclosure, protection, retention and destruction of Personal Information, and BC Hydro's specific instructions provided from time to time;
- (b) Subcontractor will not remove from any BC Hydro facilities any document or record containing Personal Information or any storage media containing any data (including Personal Information) unless and until all data has been permanently deleted and removed from the media in accordance with BC Hydro applicable policies and procedures;
- (c) Subcontractor understands and acknowledges that it may be required to provide copies of, or access to copies of records containing the Personal Information of Subcontractor's employees or other persons for whom Subcontractor is in law responsible, that are relevant to the SMI Program. Subcontractor further understands and acknowledges that provision of copies of such records, or access to such records, would be subject to the provisions of FOIPPA, including the requirement for each person, whose information is to be disclosed to BC Hydro, to consent to BC Hydro's indirect collection of that information. Where Subcontractor is required to provide BC Hydro with copies of, or access to copies of, any records containing Personal Information, Subcontractor shall first obtain and provide to BC Hydro written consents, from each individual whose Personal Information is to be provided, to the indirect collection of such Personal Information by BC Hydro. The consents shall be in a form to be supplied by BC Hydro. Subcontractor acknowledges that the foregoing is a requirement of FOIPPA.

**13.4 Archived Personal Information:** Subject to Section 13.5 [*No Archiving of Personal Information Outside Canada*], Subcontractor will not be required, upon termination or expiry of this



Agreement, to return to BC Hydro, or to delete or destroy, copies of any Personal Information which may be stored on Backup Tapes. After termination or expiry of this Agreement, Subcontractor will not use any Personal Information stored on any Backup Tapes for any purposes whatsoever, and all such Personal Information shall remain subject to Subcontractor's obligations in this Agreement. If Subcontractor uses any Backup Tape containing any Personal Information to restore Subcontractor's systems or data, or retrieves from any Backup Tape data containing any Personal Information for any other purpose, Subcontractor will immediately notify BC Hydro of this circumstance and, as directed by BC Hydro, either delete, destroy or return to BC Hydro any such Personal Information contained in that Backup Tape or in the data retrieved from the Backup Tape.

**13.5 No Archiving of Personal Information Outside Canada** – Provided that nothing in this Section 13.5 [*No Archiving of Personal Information Outside Canada*] shall be deemed to authorize or permit Subcontractor to transfer, cause or allow to be transferred, any Personal Information outside of Canada, if Subcontractor is in possession of any Personal Information outside of Canada, Subcontractor will put in place procedures to ensure that such Personal Information is isolated from Subcontractor's back-up and archiving procedures and is not stored on any Backup Tape located outside of Canada. If notwithstanding the foregoing any Personal Information is stored on any Subcontractor Backup Tape located outside Canada, Subcontractor will delete, destroy or return to BC Hydro all such Personal Information immediately after the Personal Information is no longer required by Subcontractor to bid upon or perform its work regarding the SMI Program.

**13.6 Consequences of Breach:** Subcontractor acknowledges and agrees that breach of this Agreement may cause significant irreparable harm, loss and damage to BC Hydro, Contractor and other persons, may result in personal liability to Subcontractor. In the event of a breach of this Agreement, BC Hydro and/or Contractor shall be entitled to preliminary and permanent injunctive relief, as well as an equitable accounting of all profits and benefits arising out of such breach, which remedy shall be in addition to any other rights or remedies to which BC Hydro and/or Contractor may be entitled under this Agreement or applicable law.

**13.7 General:** This Agreement is the entire agreement between Subcontractor, Contractor and BC Hydro with respect to the subject matter hereof, and may not be modified except by a written instrument signed by both Subcontractor, Contractor and BC Hydro. This Agreement is for the benefit of BC Hydro, Contractor, and their respective successors, assigns and licensees. This Agreement is binding upon Subcontractor and its successors and assigns. This Agreement and all related matters will be governed by and construed in accordance with the laws of British Columbia, Canada and the laws of Canada applicable in British Columbia, and the Supreme Court of British Columbia, sitting in Vancouver, Canada, will have original and exclusive jurisdiction over any dispute arising from, connected with or relating to this Agreement or any related matter. In this Agreement: (a) headings are for reference only; (b) "person" includes a legal entity; (c) words importing the singular number only include the plural, and vice versa; and (d) "including" means including without limitation.

*The remainder of this page has been intentionally left blank.*