

# ELEXON

## **BILATERAL DATA SHARING AGREEMENT** **Market-Wide Half-Hourly Settlement Programme** **Systems Integration Testing, Qualification & Migration/Transition**

This Data Sharing Agreement ("Agreement") is entered into between:

- 1 Elexon Limited, a company registered under the laws of England & Wales, with company registration number 03782949 and its principal place of business at 4th Floor 350 Euston Road, London, NW1 3AW ("Elexon"), and
- 2 [Industry Participant's Name], a company registered under the laws of [England & Wales], with company registration number [CRN] and its principal place of business at [Address] ("Industry Participant"),

collectively referred to as the "Parties."

WHEREAS, Elexon and Industry Participant are participating in the Market-Wide Half-Hourly Settlement Programme (MHHS), which requires the sharing of consumer MPAN electricity meter data for the purpose of industry-wide Systems Integration Testing (SIT), qualification and migration/transition;

WHEREAS, the Parties acknowledge that the sharing of data is essential for the successful implementation and testing of the MHHS Programme;

WHEREAS, Elexon acts as a Controller for the purpose of industry-wide Systems Integration Testing, and Industry Participant is a Controller for its own business purposes and the respective owner of its MPAN data;

WHEREAS, the Parties acknowledge their obligations under applicable Data Protection Laws;

NOW, THEREFORE, the Parties agree as follows:

### **Definitions**

- 1.1 "Balancing and Settlement Code" or "BSC" means the Balancing and Settlement Code, as defined in the Transmission Licence.
- 1.2 "Data" refers to the consumer MPAN electricity meter and Non-domestic data required for the purpose of industry-wide Systems Integration Testing (SIT), qualification and migration/transition for the MHHS Programme. The MPAN electricity meter data includes MPAN Core/Number, MPAN address and Meter Serial Number.
- 1.3 "Data Protection Laws" all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended;
- 1.4 "Data Subject Rights Request" refers to the exercise by a data subject of their rights under the Data Protection Laws.
- 1.5 "Data Transfer" has the meaning given to that term in clause 4.4.

- 1.6 "MHHS Implementation Manager" has the meaning given to that term in the BSC
- 1.7 "MHHS Programme" means the programme established pursuant to the BSC to implement market-wide, half-hourly settlement and, where the context permits or requires, references in this document to the MHHS Programme means the "MHHS Implementation Manager" as defined in the BSC.
- 1.8 "MHHS Test Processing Purpose" means the industry-wide systems integration testing, qualification, migration and transition activities specified in the MHHS Test Plan including the secure transfer of Data and the temporary storage of such data for testing purposes. For the avoidance of doubt, the MHHS Test Processing Purpose relates only to testing and does not relate to any activities or Processing that will be required for the live operation of the MHHS arrangements.
- 1.9 "MHHS Test Plan" has the meaning given to that term in the BSC.
- 1.10 "Special Category Data" has the meaning given to that term in the Data Protection Laws.
- 1.11 "Sub-Processor" means a person appointed by a Processor to Process the Data, subject to the terms of this Agreement.
- 1.12 "BSC Party" or "BSC Parties" shall have the meaning given to that term in the BSC.
- 1.13 "Purpose" has the meaning given to that term in Clause 2.1.
- 1.14 Controller, Processor, Information Commissioner, Data Subject and Personal Data, Processing and appropriate technical and organisational measures shall have the meanings given to them in the Data Protection Laws

### **Purpose and Scope**

- 2.1 Purpose: The purpose of this Agreement is to govern the sharing of Data between Elexon and Industry Participants for the purpose of industry-wide Systems Integration Testing (SIT), qualification and migration/transition for the MHHS Programme.
- 2.2 Scope: This Agreement applies to the sharing, processing, and storage of Data during the system integration tests, qualification and migration/transition periods required for the MHHS Programme. The scope includes the secure transfer of Data via SFTP, temporary storage for testing purposes, and the compliance with applicable Data Protection Laws.
- 2.3 Special Category Data: No special categories of personal data or criminal offence data will be shared between the Parties pursuant to this Data.
- 2.4 Term of Agreement: This Agreement shall remain in force until the earlier of the completion of industry-wide Systems Integration Testing (SIT), qualification and migration/transition for the MHHS Programme or the implementation date of any provisions in the Balancing and Settlement Code that provide for the sharing or personal data between BSC Parties pursuant to the requirements of that code.

### **Roles and Responsibilities**

- 3.1 Elexon's Responsibilities in respect of the Purpose:
  - 3.1.1 where Elexon is acting its capacity as MHHS Implementation Manager (in relation only to Processing, and Personal Data Processed in, MHHS test environments), it shall act as a Controller and ensure compliance with Data Protection Laws.
  - 3.1.2 Elexon shall provide Industry Participant with necessary information and guidance regarding the technical requirements for the secure transfer of Data to/from Elexon via SFTP.

3.1.3 Elexon shall establish and maintain appropriate policies, procedures, and safeguards to ensure the security and confidentiality of the Data. This includes implementing technical and organisational measures to protect against unauthorised access, loss, or disclosure of the Data. Elexon shall regularly review and assess the effectiveness of these measures to maintain a high standard of data protection and security. Elexon shall also conduct regular audits and assessments to identify any vulnerabilities or areas for improvement and take necessary actions to mitigate any risks identified. Elexon shall ensure that its employees, agents, and contractors involved in the processing of the Data are trained and aware of their obligations regarding data protection and confidentiality. Furthermore, Elexon shall maintain records of its data processing activities and make them available to the relevant supervisory authorities upon request.

3.1.4 Elexon shall monitor and oversee the technical and organisational measures implemented by the Sub-Processor to ensure the security and confidentiality of the Data.

### 3.2 Industry Participant's Responsibilities:

3.2.1 Industry Participant shall act as a Controller for its own purposes (including in relation to all data within their own systems which do not directly interface with the MHHS programme test environment) and ensure compliance with Data Protection Laws for those purposes.

3.2.2 Industry Participant shall provide accurate and up-to-date (in each case for the date that the MHHS Programme requests that a data cut is taken for the relevant test phase) MPAN data for the purpose of Systems Integration Testing (SIT), qualification and migration/transition within the MHHS Programme.

3.2.3 The Industry Participants are, for the purposes of their participation in Systems Integration Testing (SIT), qualification and migration/transition within the MHHS Programme Processors. For the avoidance of doubt, these purposes relate only to testing and do not relate to any activities or Processing that will be required for the live operation of the MHHS arrangements.

### 3.3 Sub-Processor's Responsibilities:

#### 3.3.1 Elexon shall ensure that each of its sub-processors:

- a) shall Process the Data solely for the purpose of facilitating the secure data exchange for the Systems Integration Testing (SIT), qualification and migration/transition phases of the MHHS Programme.
- b) is subject to written contractual obligations in respect of the Processing of that Data which are substantially similar to the Processor obligations in this Agreement.

## **Data Processing and Transfer**

4.1 Data Processing: Without prejudice to the Industry Participant's Processing of the Data for its own business purposes, with regards to the MHHS Test Processing Purpose the Parties shall Process the Data solely for the purpose of conducting Systems Integration Testing (SIT), qualification and migration/transition within the MHHS Programme. The processing activities shall be limited to what is necessary and proportionate to achieve the MHHS Test Processing Purpose.

4.2 Lawful, fair and transparent processing: Each Party shall ensure that it Processes the Data fairly, transparently and lawfully for the term of this Agreement. The lawful bases for the Processing under this Agreement are as follows:

- a) Legal obligation (Elexon): the obligation on Elexon to undertake the industry-wide Systems Integration Testing (SIT) resides in Section C12 of the Balancing and Settlement Code. The Balancing and Settlement Code is established pursuant to the Transmission Licence which, in turn, is established pursuant to section 6(1)(b) of the Electricity Act 1989;
- b) Legal obligation (Industry Participant): the obligation on the Industry Participant to comply with industry-wide testing resides in Section C12 of the Balancing and Settlement Code. The Industry Participant is required by its licence, which is established pursuant to section 6 of the Electricity Act 1989, to comply with the Balancing and Settlement Code;
- c) Legitimate interests: both Parties have a legitimate interest in ensuring the effectiveness of industry-wide testing for market-wide half hourly settlement to ensure that the market-wide arrangements have been comprehensively tested prior to live operation
- d) Legitimate interest: where the Party is a Party Agent on behalf of a BSC Party, the legitimate interest described in (c) above applies. In addition, the Party Agent has a legitimate interest in complying with its contractual obligations to a BSC Party including where that BSC Party is under a legal obligation pursuant to paragraph (b).

4.3 Data Processor obligations: The Parties acknowledge that, where as part of SIT, the Industry Participant Processes the Data pursuant to the Purpose:

- a) the Industry Participant will be Processing the Data as a Processor;
- b) the Controller shall be Elexon (in its capacity as MHHS Implementation Manager as defined in the BSC);
- c) the Industry Participant shall comply with the provisions in Annex 1;
- d) the Industry Participant, in its capacity as Controller described in Clause 3.2 above, consents and agrees to the provisions of Annex 1.

4.4 Data Transfer:

4.4.1 Data Transfer for test data preparation: it involves the transfer related to analysis, test cases allocation, data cleanse and data augmentation: The Data shall be transferred between Elexon and Industry Participant via SFTP secure data exchange. The Parties shall ensure the implementation of appropriate technical and organisational measures to safeguard the Data during transfer and storage.

4.4.2 Data Transfer for Test Execution: it involves the data transfer occurring by the execution of tests during system integration tests, qualification and migration/transition. While executing tests in a test environment, Industry Participants send data to Elexon and other Industry Participants as per MHHS Design and MHHS Test Scenario requirements. Subject to paragraph 4.4.3, the data shall be transferred via the security mechanism specified by the Interface Code of Connection [MHHS DEL1197], including appropriate Mutual Transport Layer Security (mTLS) and Public Key Infrastructure (PKI) and message signing.

4.4.3: Data transferred via the ElectraLink Data Transfer Service (DTS) and Central Switching Services (DTS) shall be stored and transferred in accordance with the requirements of the DTSA and the REC. Data transferred via a secure direct connection between participants shall be protected using the same mechanisms of their respective production environments.

4.4.4 International Data Transfers: The Parties agree that the provisions of Annex 1 shall apply in respect of transfers to countries outside the UK or the European Economic Area (EEA).

## **Data Security and Confidentiality**

- 5.1 Security Measures: The Parties shall implement and maintain appropriate technical and organisational measures to ensure the security and confidentiality of the Data. These measures shall be designed to protect against unauthorised access, accidental loss, destruction, or alteration of the Data.
- 5.2 Confidentiality: Both Parties agree that the provisions of Section H4 of the Balancing and Settlement Code shall apply mutatis mutandis as if the Data was Protected Information (as defined in the Balancing and Settlement Code).

### **Data Subject Rights and Requests**

- 6.1 Data Subject Rights: Subject to Clause 6.2, each Party shall respond to any Data Subject Rights Request in accordance with any applicable timescales specified by the Data Protection Laws, including the rights of access, rectification, erasure, restriction of processing, and data portability.
- 6.2 Responsibility for Data Subject Rights Request: The Parties agree that:
  - a) where Elexon is the Controller and the Data Subject Rights Request relates to the Data and the MHHS Test Processing Purpose, then Elexon shall respond to such request (subject always to Annex 1, pursuant to which the Parties may agree that it is more appropriate for the Industry Participant to respond);
  - b) where a Data Subject Rights Request relates to any Personal Data (including the Test Data) processed by the Industry Participant for any other purpose, then the Industry Participant that is the Controller of the Data for all other purposes shall be responsible for responding to the Data Subject Rights Request;
  - c) where Data Subject Rights Request relates to any Personal Data (including the Data) processed for multiple purposes, including the Purpose, then the Parties shall agree who is best placed to respond to such request.
- 6.3 Records of Data Subject Rights Requests: In relation to the Data, each party is responsible for maintaining a record of Data Subject Rights Requests, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request.
- 6.4 Cooperation and Assistance: To the extent reasonably required, the Parties shall cooperate and provide reasonable assistance to each other in responding to Data Subject requests and ensuring compliance with Data Protection Laws, including providing such assistance as is reasonably required to enable the other party to comply with Data Subject Rights Request within the time limits imposed by the Data Protection Laws..

### **Data Breach Notification**

- 7.1 Data Breach Notification: In the event of a personal data breach involving the Data, each Party shall comply with its obligation to report the breach to (where applicable) the Information Commissioner and (where applicable) Data Subjects under the Data Protection Laws. The Party becoming aware of such breach shall promptly notify the other Party in writing, providing all relevant details of the breach, including the nature of the breach, the categories of affected Data Subjects, the potential consequences, and the measures taken or proposed to be taken to address the breach and mitigate any adverse effects.
- 7.2 Cooperation and Assistance: To the extent reasonably required, the Parties shall cooperate and provide mutual assistance in investigating and managing any data breach incidents related to the Data. This includes sharing relevant information, coordinating

efforts, and taking necessary actions to mitigate the impact of the breach, prevent further unauthorised access, and comply with any applicable legal obligations.

### **Data Retention and Deletion**

- 8.1 Data Retention: The Parties shall retain the Data only for the duration necessary to achieve the MHHS Test Processing Purpose of conducting Systems Integration Testing (SIT), qualification and migration/transition within the MHHS Programme, as specified in this Agreement or as required by applicable laws or regulatory obligations.
- 8.2 Data Deletion: Upon the completion of the systems integration testing (SIT), qualification and migration/transition for the MHHS Programme or upon the termination of this Agreement, whichever occurs earlier, the Parties shall, to the extent technologically possible, promptly delete or securely destroy all copies of the Data in their possession, unless (i) otherwise required by applicable laws or regulatory obligations (including pursuant to the BSC); or (ii) the Data (or a data that is the same as the Data) is already in their possession for some other lawful purpose. The Parties shall provide written confirmation of the deletion or destruction of the Data upon request.

### **Governing Law and Jurisdiction**

- 9.1 Governing Law: This Agreement shall be governed by and construed in accordance with the laws of England & Wales.
- 9.2 Jurisdiction: Any disputes arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the courts of England & Wales.

### **Miscellaneous**

- 10.1 Entire Agreement: This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or representations, whether oral or written.
- 10.2 Amendments: Any amendments or modifications to this Agreement must be made in writing and signed by both Parties.
- 10.3 Severability: If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired.

### **Duration**

- 11.1 Subject to paragraph 11.2, this Agreement remain in full force and effect for the duration of the MHHS Test Processing Purpose.
- 11.2 This Agreement shall cease to have effect and shall be superseded from the date that BSC Modification P458 (Introducing Data Controller and Processor Obligations in the BSC for MHHS Testing) is implemented and to the extent that either (i) the Industry Participant is a BSC Party; or (ii) the Industry Participant is a Processor or Sub-processor on behalf of a BSC Party in respect of the MHHS Test Processing Purpose.

IN WITNESS WHEREOF, the Parties have executed this Data Sharing Agreement as of the Effective Date.

**Elexon Limited:**

**[Industry Participant's Name]:**

[Authorised Signatory]

[Authorised Signatory]

[Name and Title]

[Name and Title]

[Date]

[Date]

## ANNEX 1

### Data Processing Obligations

1. Each Processor shall, when acting as a processor of the Data for one or more Data Controllers pursuant to this Agreement:
  - a) only Process that Data for the for the MHHS Test Processing Purpose (which represents the documented instructions of the Controllers), and not in a manner that the Processor knows (or should reasonably know) is likely to cause the Controllers to breach their obligations under the Data Protection Laws (subject to paragraph (b) below);
  - b) if the Processor is of the opinion that any requirement of paragraph (a) above breaches the Data Protection Laws, the Processor shall immediately inform the Elexon in its capacity as MHHS Implementation Manager of this giving details of the breach or potential breach (unless the Processor is prohibited from doing so by any of its other obligations under law);
  - c) only Process that Data for so long as it is required to do so for the MHHS Test Processing Purpose;
  - d) ensure that the Processor's personnel who are authorised to Process Data are under enforceable obligations of confidentiality;
  - e) (having regard to the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of Data Subjects) implement appropriate technical and organisational measures to ensure that the Data is Processed in compliance with the Data Protection Laws and is protected against accidental or unlawful loss, destruction, damage, alteration or disclosure;
  - f) (taking into account the nature of the Processing and the information available to the Processor) assist the Controllers with their obligations to comply with Data Subject Rights Requests and Data Subjects' rights under the Data Protection Laws in respect of that Data (through, insofar as is possible, the use of appropriate technical and organisational measures);
  - g) taking into account the nature of the Processing and the information available to the Processor, provide reasonable assistance to the Controllers in complying with any enquiry made, or investigation or assessment initiated, by any competent authority in respect of the Processing of that Data pursuant to this Agreement;



- h) notify without undue delay after becoming aware of a Personal Data breach, Elexon (in its capacity as MHHS Implementation Manager) in the event that the Processor becomes aware of a Personal Data breach in relation to Data. Taking into account the nature of the Processing and the information available to the Processor, the Processor shall provide all reasonably necessary assistance to the Controller in order to comply with the Controller's obligations under Data Protection Laws to notify the Commissioner and Data Subjects;
  - i) provide all such reasonable and timely assistance as Elexon may require in order to conduct an impact assessment in accordance with Data Protection Laws;
  - j) upon termination or expiry of the Processing pursuant to the MHHS Test Processing Purpose, destroy the Data that is within its possession or control (including where subcontracted to a third party); save that this requirement shall not apply to the extent that the Processor: (i) is required by Law to retain the Data; and/or (ii) continues to process the Data for other lawful purposes (either as a Controller or as a Processor on behalf of other Controllers); and
  - k) permit Elexon, in its capacity as MHHS Implementation Manager to audit compliance with this Annex 1 and make available to on request from all information reasonably necessary to demonstrate such compliance.
2. Each Processor shall ensure that its sub-processors, in respect of the Data, are subject to written contractual obligations in respect of the Processing of that Personal Data which are substantially the same as the Processor obligations under this Agreement.
  3. The Controller hereby gives each Processor general authorisation to engage sub-processors who are appointed in accordance with the requirements of this Agreement. The Controller hereby confirms that it does not object to the engagement of any sub-processors engaged in accordance with such requirements. Where a sub-processor is appointed in accordance with this clause, the Processor shall maintain a list of sub-processors (including details of the processing it performs or will perform) and provide such list of sub-processors to the Elexon, in its capacity as MHHS Implementation Manager, on request.
  4. Notwithstanding such general consent to appointment of sub-processors under Clause 3 of this Annex, if a Controller objects to the appointment of a sub-processor on reasonable grounds relating to the protection of Personal Data, the Processor will not permit Processing of Data by such sub-processor.

5. Each Processor shall, where acting as a Processor of the Data on behalf of one or more Controllers, not transfer or process the Data outside the United Kingdom or the European Economic Area unless the Processor:
  - a) has first obtained the Elexon's approval (in its capacity as MHHS Implementation Manager); and
  - b) takes such measures as are necessary to ensure the transfer is in compliance with Data Protection Laws, which may include transferring the Data to a recipient: (i) in a country that the Secretary of State has decided provides adequate protection for Personal Data; (ii) that has achieved binding corporate rules authorisation in accordance with Data Protection Laws; or (iii) that has executed relevant standard contractual clauses adopted or approved by the Secretary of State or otherwise permitted by the Data Protection Laws.
  
6. This paragraph sets out information about the Personal Data processed by Processors for the MHHS Testing Processing Purpose:
  - a) nature of the Processing: the secure transfer of the Data between Industry Participants and the storage of such data;
  - b) Purpose and subject matter of the Processing; the MHHS Test Processing Purpose;
  - c) Duration of the Processing: the duration of the MHHS Test Processing Purpose as specified in the MHHS Test Plan;
  - d) Categories of Data Subject: electricity consumers;
  - e) Types of Personal Data: MPAN/Metering System details including MPAN Core/Number, MPAN address and Meter Serial Number .