

**Energy Price Guarantee for Domestic Electricity Consumers in Northern Ireland**

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**NOTICE OF MODIFICATION**

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**Modification Title:** Stage 2 and Stage 3 Reconciliation

**Modification No.** 04(NI) / 31.08.23.

**Issued by:** the Secretary of State for Energy Security and Net Zero (the **Secretary of State**).

**To:** the DNO and each Supplier.

**Introduction:**

The Secretary of State refers to the Energy Price Guarantee for Domestic Electricity Consumers in Northern Ireland, Scheme Document, October 2022 (the **Scheme Document**).

The rules of interpretation set out in Section 2 of the Scheme Document apply in this notice.

**Modification:**

The Secretary of State hereby makes the modifications to the Scheme Document showing in redline in the mark-up of the Scheme Document set out in the Appendix.

**Effective Date of Modification:**

The modifications set out in this notice will take effect from 00.00 on 01.09.23.

This Notice is governed by and construed in accordance with English law.

Issued by the Secretary of State for Energy Security and Net Zero on 31.08.23.

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Authorised on behalf of the Secretary of State

**Appendix -**

**Energy Price Guarantee for Domestic Electricity Consumers in Northern Ireland**

**Scheme Document**

**October 2022**

**Copy as at 31.08.23 showing changes proposed under Notice of Modification 04(NI) / 31.08.23 in redline and also incorporating changes made under:**

- **Modification No. 01(NI) / 27.02.23**
- **Modification No. 02(NI) / 02.03.23**
- **Modification No. 03(NI) / 12.05.23**

Dentons  
1 Fleet Place  
London EC4M 7WS

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## 1 Introduction and background

- 1.1 This document (**Scheme Document**) is issued the Secretary of State for Business Energy and Industrial Strategy to establish, under section 5(1) of the Energy Prices Act 2022, a domestic electricity price reduction scheme for Northern Ireland (the **Scheme**).
- 1.2 The Scheme may be referred to as the Energy Price Guarantee Scheme for Domestic Electricity Consumers in Northern Ireland.
- 1.3 The Scheme is a scheme under which:
- (a) electricity suppliers will reduce domestic consumer electricity tariffs by an amount (in p/kWh) from time to time (for specified periods) decided by the Secretary of State; and
  - (b) the Secretary of State will pay financial support to electricity suppliers to allow them to make those tariff reductions.
- 1.4 The object (**Object**) of the Scheme is that:
- (a) consumers' energy bills are lower than they would otherwise be, by an amount that directly reflects the reduction in tariffs decided by the Secretary of State from time to time; and
  - (b) to that end, electricity suppliers should pass to consumers, on a p/kWh basis, as reductions of the tariffs which would otherwise be charged, the whole of the support payments made to electricity suppliers under the Scheme.
- 1.5 Northern Ireland Electricity Networks Limited as the distribution network operator is party to the Scheme for the purposes of providing consumption volume information in connection with the operation of the Scheme.
- 1.6 The Scheme Document is designated by the Energy Prices (Designated Domestic Price Reduction Schemes) (Northern Ireland) Regulations 2022 for the purposes of section 6 of the 2022 Act.
- 1.7 The Scheme Document is made contractually binding between the Parties by the Scheme Agreement.

## 2 Interpretation

### 2.1 Defined terms

- 2.1.1 In the Scheme Document:

**Accession Agreement** means an agreement providing for a person to accede to the Scheme Agreement, substantially in the form set out in Schedule 4 (*Form of Accession Agreement*);

**Applicant Supplier** has the meaning given to it in Section 4.2.1;

**Base Rate** means the rate of interest published from time to time by the Bank of England as its base rate;

**Base Support Amount** means, in respect of a Support Payment Period and a Supplier, the amount payable to the Supplier in respect of the Support Rate, calculated in accordance with Schedule 1 (*Scheme Calculations*);

**Base Tariff** has the meaning given to it in Section 2.2.1(a);

**Business Day** means a day (other than a Saturday or a Sunday) on which banks are open in London and Belfast for the transaction of general business;

**Certificate of Compliance** means, in respect of a Supplier, a certificate substantially in the form set out in Schedule 3 (*Certificate of Compliance*) signed by the Finance Director, certifying that, to the best of their knowledge and belief, having made all reasonable enquiries, such information is in all material respects true, complete, accurate and not misleading, in each case by reference to the facts and circumstances then existing;

**Consumer** means a person who:

- (a) takes a supply of electricity by way of NI domestic electricity supply, and
- (b) is eligible under the Scheme in accordance with Section 7.1.

**Charges for the Supply of Electricity** means charges levied by an electricity supplier to a person for the supply or required supply of electricity by that electricity supplier to that person;

**Credit Consumer** means a Consumer who does not take their supply through a Prepayment Meter;

**Deemed Contract** means, as between a relevant Supplier and a Consumer, a contract for the supply of electricity deemed to have been made under Paragraph 3 of Schedule 6 to the Order;

**Discontinuing** in relation to a Party, has the meaning given to it in Section 6.3.1;

**Dispute** means any dispute or claim (other than as to a Statement Error, unless such error is to be resolved as a Dispute under Section 9.5.4(d)) in any way relating to or arising out of the Scheme Document, whether contractual or non-contractual (and including any dispute or claim regarding: (i) its existence, negotiation, validity or enforceability; (ii) the performance or non-performance of a Party's obligations pursuant to it; or (iii) breach or termination of it);

**DNO** means Northern Ireland Electricity Networks Limited;

**EBSS Scheme** means the Energy Bill Support Scheme;

**Energy Order** means the Energy (Northern Ireland) Order 2003;

**Error Reconciliation Amount** means, in respect of a Supplier and a Support Payment Statement, any amount determined as payable by or to the Supplier pursuant to the correction of any Statement Error in accordance with Section 9.5.5;

**Excluded Fixed Rate Consumer** has the meaning given in Section 7.2.2;

**Financial Counterparty** means any bank or financial institution which provides debt financing to a Supplier, or a person with which the Supplier has arranged to trade wholesale electricity

on terms under which that person holds a security interest in respect of the Consumer receivables of the Supplier;

**Finance Director** means, in respect of a Supplier, a board director responsible for the finances of that Supplier at the relevant time or (in each case provided that the Secretary of State has given prior written approval in respect of such person) either:

- (a) another board director, or
- (b) a senior manager in the Supplier's finance department;

**Fixed Rate Consumer** means a Consumer for which the Supply Contract is a Fixed Rate Contract;

**Fixed Rate Contract** means a Supply Contract under which the Tariff (or the component of the Tariff which reflects wholesale prices):

- (a) is fixed; or
- (b) is subject to a discount (in percentage or absolute terms) which is fixed

for a period of time specified in the contract (the fixed term period).

**Ineligible Customer** has the meaning given to it in Section 7.1.2;

**Insolvency Event** in relation to a Supplier, means where:

- (a) the Supplier:
  - (i) is unable or admits inability to pay its debts as they fall due (excluding, for the avoidance of doubt, debts that are not properly due or are disputed); or
  - (ii) suspends making payments on any of its debts;
- (b) the value of the assets of the Supplier is less than its liabilities (taking into account contingent and prospective liabilities and taking account of any statements made by any parent company of the Supplier as to the making available of funds to the Supplier) such that the Secretary of State reasonably considers that the Supplier will be unable to pay its debts as they fall due;
- (c) a moratorium is declared in respect of any indebtedness of the Supplier;
- (d) any corporate action, legal proceedings or other procedure or step is taken in relation to:
  - (i) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Supplier other than a solvent liquidation or reorganisation;
  - (ii) a composition, compromise, assignment or arrangement with any creditor of the Supplier;

- (iii) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Supplier or any of its assets; or
- (iv) enforcement of any security over any assets of the supplier, or any analogous procedure or step is taken in any jurisdiction; or
- (e) the Supplier stops carrying on business.

**Last Resort Supply Direction** means a direction of that name given by the Utility Regulator to an energy supplier that specifies or describes premises to be supplied with electricity in accordance with a relevant Supply Licence, where circumstances have arisen that would entitle the Utility Regulator to revoke the relevant Supply Licence of an electricity supplier;

**NI domestic electricity supply** has the meaning given in the 2022 Regulations;

**Order** means the Electricity (Northern Ireland) Order 1992;

**Party** means a party to the Scheme, in accordance with Section 4.1;

**Prepayment Arrangements** means arrangements by which a Consumer makes payment in advance in respect of a supply of electricity taken through a Prepayment Meter;

**Prepayment Consumer** means a Consumer who takes their supply through a Prepayment Meter;

**Prepayment Meter** includes any electricity meter operating in a mode which requires a Consumer to pay in advance the Supplier's charges for supplying electricity;

**Reduced Tariff** has the meaning given to it in Section 2.2.1(b);

**Reduced Tariff Floor** means in respect of a Consumer the applicable amount set in the RTF Table;

**RTF Adjustment Amount** means, in respect of a Supplier and a Support Payment Period, the amount determined (by reference to the Reduced Tariff Floor) as payable by the Supplier in accordance with Section 9.3;

**RTF Table**, means, in respect of a Support Rate Period, a table setting out, for different categories (decided by the Secretary of State) of Consumer, the amount (in p/kWh) determined by the Secretary of State as the lowest Tariff (**tariff floor**) which should result from the Scheme;

**Scheme** has the meaning set out in Section 1.1;

**Scheme Agreement** means the agreement, between the Secretary of State, the DNO and such electricity suppliers and other persons as have become party by accession, by which the Scheme Document is made binding among the Parties;

**Scheme Commencement Date** means 0000 hours on 1 November 2022;

**Scheme Document** has the meaning set out in Section 1.1; and references to the Scheme Document include the contract between the Parties, incorporating the Scheme Document, established by the Scheme Agreement;

**Scheme End Date** has the meaning given to that term in Section 6.1.2;

**Scheme Timetable** means the timetable for operation of certain provisions of the Scheme applying in accordance with Section 7;

**Specified Time** means the time by which (in relation to a Support Payment Period, or any other period) any step under the Scheme is to be taken, as set out in the prevailing Scheme Timetable;

**Statement Adjustment** has the meaning given to that term in Section 9.5.1(b);

**Statement Error** has the meaning given to that term in Section 9.5.1(a);

**SoLR** means a supplier acting pursuant to a Last Resort Supply Direction;

**Supplier** means an electricity supplier (including an SoLR) which is party to the Scheme Agreement and has not ceased to be a Party pursuant to Section 6.3.5;

**Supplier End Date** has the meaning given to it in Section 6.3.1;

**Supply Contract** means a contract (including a Deemed Contract) between a Supplier and a Consumer for NI domestic electricity supply;

**Supply Licence** means an electricity supply licence granted or treated as granted pursuant to Article 10(1)(c) of the Order (including to a supplier acting as a SoLR);

**Support Payment** means, in respect of a Support Payment Period and a Supplier, the sum of the Base Support Amount, the RTF Adjustment Amount and the Support Reconciliation Amount;

**Support Payment Period** means, in respect of a Supplier, a period of the duration specified in Section 7.3.1(b) 9.4.3 or 9.4.4 (as the case may be), being (subject to Section 2.2.6) the period in respect of which payments are to be made to or by that Supplier under the Scheme;

**Support Payment Statement** has the meaning given in Section 9.2.2(b);

**Support Period Volume** means, in respect of a Support Payment Period and a Supplier, the aggregate volume of electricity treated as supplied by the Supplier to Consumers, in that period determined in accordance with Schedule 1 (*Scheme Calculations*);

**Support Rate** means the rate, in p/kWh of electricity supplied to the premises of a Consumer, or a Consumer of a particular class, of tariff support to be provided by the Secretary of State under the Scheme;

**Support Rate Period** means the period (being a whole number of calendar months) for which a particular Support Rate applies;

**Support Reconciliation Amount** means, in respect of a Support Payment Period and a Supplier, the sum of the Volume Reconciliation Amount and any Error Reconciliation Amount, in accordance with Section 2.2.4;

**Tariff** has the meaning given to it in Section 2.2.2;

**Tariff Period** means in relation to a Consumer of a Supplier, each period from (and including) a tariff period date to (but not including) the next tariff period date; where a **tariff period date** is each of (1) the Scheme Commencement Date, (2) the first day of a Support Rate Period, (3) the first day with effect from which a new or revised Tariff applies under the Supplier's contract with that Consumer, and (4) the day after the Scheme End Date;

**Tariff Reduction** has the meaning given to it in Section 2.2.1(c);

**Tariff-Setting Requirements** means the requirements in Sections 8.1, 8.2, 8.3, 8.4, 8.5 and 8.6;

**Tax** means any taxes, levies, duties, imposts and any charges, deductions or withholdings in the nature of tax including taxes on gross or net Income, profits or gains and taxes on receipts, sales, use, occupation, development, franchise, employment, value added and personal property, together with any penalties, charges and interest relating to any of them;

**T01 DUoS Group** means the codes relating to the type of Consumer meter as set out in Schedule 6 to this Scheme Document;

**Utility Regulator** means the Northern Irish Authority for Utility Regulation; and

**Volume Reconciliation Amount** means an amount (to be included in calculating the Support Payment for any Support Payment Period) in respect of Stage 2 Reconciliation, Stage 2.1 Reconciliation or Stage 3 Reconciliation as defined and provided in Schedule 1;

**2022 Act** means the Energy Prices Act 2022; and

**2022 Regulations** means the Energy Prices (Domestic Supply) (Northern Ireland) Regulations 2022.

## 2.2 Specific interpretation

2.2.1 In relation to a Consumer of a Supplier, in respect of any Tariff Period:

- (a) the **Base Tariff** is the Tariff which (but for the Scheme) would apply, in accordance with Section 8.1(a);
- (b) the **Reduced Tariff** is whichever is the greater of (i) the Base Tariff less the Support Rate, and (ii) the Reduced Tariff Floor; and
- (c) the **Tariff Reduction** is the Base Tariff less the Reduced Tariff;
- (d) in a case within Section 8.7, the Base Tariff, Reduced Tariff and Tariff Reduction are determined on a weighted average basis in accordance with that Section.

2.2.2 References in the Scheme Document to a **Tariff** are to Charges for the Supply of Electricity, so far as those charges are imposed or payable in respect of each unit of electricity consumed by the Consumer, and determined in accordance with all other terms and conditions that apply, or are in any way linked, to a particular type of Supply Contract and are relevant to how those Charges are set or calculated.

- 2.2.3 The value of each of the following terms may be positive or negative: Volume Reconciliation Amount, Error Reconciliation Amount, RTF Adjustment Amount, Support Reconciliation Amount, Support Payment; and where:
- (a) the value is positive, the term represents an amount payable by the Secretary of State to a Supplier;
  - (b) the value is negative, the term represents an amount payable (disregarding its sign) by a Supplier to the Secretary of State.
- 2.2.4 In respect of a Support Payment Period, the amounts to be included in the Support Payment Statement for a Supplier in respect of Error Reconciliation Amounts, Volume Reconciliation Amounts and RTF Adjustment Amounts, are those amounts which:
- (a) have been determined (pursuant to the relevant provision of the Scheme) in time to be included in any Support Payment Statement to be issued by the Secretary of State; and
  - (b) have not been included in any prior Support Payment Statement.
- 2.2.5 For the purposes of the Scheme, in respect of a day and a Prepayment Consumer, a **Prepaid** volume of electricity is a volume of electricity for the consumption of which the Consumer has made payment (at the Reduced Tariff applicable on the day of payment, and by whatever Prepayment Arrangements apply in respect of that meter) on that day, irrespective of when that electricity is consumed.
- 2.2.6 References in the Scheme Document to Support Payment Periods include periods (of the duration provided in Section 7.3.1(b)) commencing on or after the Scheme End Date, for the purposes of determining and including in Support Payment Statements amounts in respect of Base Support Amount, RTF Adjustment Amount, Volume Reconciliation Amounts and Error Reconciliation Amounts in respect of volumes supplied or (as the case may be) Prepaid up to and including the Scheme End Date.

### **2.3 General interpretation**

- 2.3.1 In the Scheme Document:
- (a) headings are for ease of reference only and to be ignored when interpreting the Scheme Document;
  - (b) the Eiusdem Generis rule does not apply to interpretation. The words **include**, **including** and **in particular** indicate examples only. They do not limit the general nature of any preceding words. A phrase finishing with the words **or other** or **otherwise** is not limited by any preceding words where a wider interpretation is possible;
  - (c) where a word or expression is defined related words and expressions have a consistent meaning; and
  - (d) unless the context otherwise requires, the singular shall include the plural and vice versa.
- 2.3.2 Any reference in the Scheme Document:

- (a) to any **Section** or **Schedule** is (unless otherwise stated) to a section or schedule of the Scheme Document. All the Schedules are an integral part of the Scheme Document;
- (b) to any **Paragraph** or **Paragraphs** is (unless otherwise stated) to a paragraph of Schedule 1 of this Scheme Document;
- (c) to the Scheme Document, the Scheme Agreement or any other document is to the Scheme Document, Scheme Agreement, or that other document, as varied, novated, supplemented or replaced from time to time;
- (d) to **£** or **pounds** is to the lawful currency of the United Kingdom;
- (e) to **kWh** is to kilowatt hours;
- (f) to **p/kWh** is to pence per kilowatt hour; and
- (g) to any gender includes the others.

### 2.3.3 In the Scheme Agreement and the Scheme Document:

- (a) the word **person** includes each of the following, even if they have no separate legal personality: an individual (including a special administrator), firm, partnership, trust, joint venture, body corporate, unincorporated body, association, organisation or any government, state or local body or authority;
- (b) the expression **this Clause** or (as the case may be) **this Section**, unless followed by the number of a specific part of the Clause or Section, refers to the whole clause or section in which it occurs; and
- (c) references to any statute, statutory provision or other legislation include a reference to that statute, statutory provision or legislation as amended, extended, re-enacted, consolidated or replaced from time to time (whether before or after the date of the Scheme Agreement) and include any order, regulation, instrument or other subordinate legislation made under the relevant statute, statutory provision or legislation.

## 3 Representations and warranties

Each Supplier represents and warrants to the Secretary of State that as at the date upon which it becomes a party to the Scheme Agreement, the following statements are true, accurate and not misleading:

- (a) **Status:** it is duly formed, in good standing and validly existing under the laws of its jurisdiction of incorporation or other formation, and has the power and capacity to own its assets and carry on its business as it is currently being conducted and as contemplated by the Scheme Document.
- (b) **Power and authority:** it has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Scheme Document.

- (c) **Enforceability:** the Scheme Agreement has been duly executed by it and the Scheme Document constitutes the legal, valid and binding obligations of it, enforceable against it in accordance with its terms.
- (d) **Regulatory:** it holds a Supply Licence and (to the extent applicable) is party to the Single Electricity Market Trading and Settlement Code, the Capacity Market Code, a PSO agreement with the DNO and the Market Registration Framework Agreement with the DNO.
- (e) **Solvency:** no Insolvency Event has occurred in relation to it.
- (f) **No requirement to deduct or withhold:** it is not required by any law or legal requirement applicable to it, as applied, interpreted or modified by the published practice of any relevant competent authority of any jurisdiction in which it is resident for Tax purposes, to make any deduction or withholding for or on account of any Tax from or in relation to any payment to be made by pursuant to the Scheme Document.

## **4 Parties and accession**

### **4.1 Parties**

4.1.1 The Parties are:

- (a) the Secretary of State;
- (b) each Supplier; and
- (c) the DNO.

### **4.2 Accession of Suppliers**

- 4.2.1 Any electricity supplier (**Applicant Supplier**) shall be entitled to be admitted as a Party prior to the Scheme End Date.
- 4.2.2 If an electricity supplier requests admission as a Party, the Secretary of State shall as soon as reasonably practicable comply with such request by drawing up and entering into an Accession Agreement with the Applicant Supplier.
- 4.2.3 Each Party hereby irrevocably and unconditionally authorises the Secretary of State to execute and deliver on behalf of such Party an Accession Agreement duly executed by an Applicant Supplier, and to admit the Applicant Supplier as a Party.
- 4.2.4 Upon the accession of an Applicant Supplier to the Scheme Agreement, the Applicant Supplier becomes a Party with effect from the date of its request for admission as a Party; and such Party's rights and obligations under the Scheme Document shall become effective in accordance with Section 5.1.
- 4.2.5 Nothing in the Scheme Document shall prejudice or impact an electricity supplier's legal obligations to become party to the Scheme and comply with the terms of the Scheme where so party pursuant to the 2022 Act, 2022 Regulations, its Supply Licence or otherwise.

## **5 Scheme effectiveness**

### **5.1 General**

- 5.1.1 The rights and obligations of a Party pursuant to the Scheme Document are effective and binding:
- (a) in the case of the Secretary of State and the DNO on and from the Scheme Commencement Date; and
  - (b) in the case of a Supplier, on and with effect from the latest of:
    - (i) the date on which it becomes a Party; or
    - (ii) the Scheme Commencement Date.

## **6 Duration of Scheme**

### **6.1 Scheme as a whole ending**

- 6.1.1 Subject to and in accordance with Section 6.3, the Scheme shall end on the Scheme End Date.
- 6.1.2 The **Scheme End Date** shall be 2400 hours on 31 December 2022, or such later date to which it is extended in accordance with Section 6.1.3.
- 6.1.3 The Secretary of State may extend the Scheme End Date by a period of three (3) calendar months from the then current Scheme End Date (whether 31 December 2022 or a later date to which it has been extended under this Section 6.1.3), by giving notice of such extension not less than twenty-three (23) Business Days before the then current Scheme End Date.

### **6.2 Scheme ending in respect of a Supplier**

- 6.2.1 A Supplier's participation in the Scheme may end in accordance with Section 13.

### **6.3 Effect of Scheme ending**

- 6.3.1 In this Section 6.3, the **Discontinuing Parties** and (in respect of a Discontinuing Supplier) the **Supplier End Date** are determined as follows:
- (a) where a Supplier's participation in the Scheme ends under Section 13, each of that Supplier and (in relation to that Supplier) the Secretary of State and the DNO is a Discontinuing Party, and the Supplier End Date is the last day before such participation ends; and
  - (b) where the Scheme ends on the Scheme End Date under Section 6.1, all of the Parties (excluding any Supplier whose participation in the Scheme ended earlier under Section 13) are Discontinuing Parties, and the Supplier End Date is the Scheme End Date.
- 6.3.2 The provisions of the Scheme Document shall:
- (a) continue in force and effect for the Discontinuing Parties in respect of volumes of electricity supplied by each Discontinuing Supplier to Consumers up to and including the Supplier End Date; and

- (b) not have force or effect between the Discontinuing Parties in respect of volumes of electricity supplied by any Discontinuing Supplier to Consumers after the Supplier End Date for that Discontinuing Supplier.
- 6.3.3 Pursuant to Section 6.3.2(a), in respect of volumes of electricity supplied by each Discontinuing Supplier to Consumers up to and including the Supplier End Date:
  - (a) amounts under the Scheme in respect of Support Period Volume, Base Support Amount, Volume Reconciliation Amount, RTF Adjustment Amount (if any), Error Reconciliation Amount and Support Reconciliation Amount shall continue to be determined and payable;
  - (b) the Discontinuing Parties shall continue to comply with their respective obligations under Sections 8.11, 10 and 11 in respect of the determination, notification and payment of such amounts and related reporting;
  - (c) the provisions of Section 9.5 in respect of Statement Errors continue to apply; and
  - (d) the Discontinuing Supplier shall continue to comply with the Tariff-Setting Requirements including but not limited to Section 8.2(f) in respect of meter readings.
- 6.3.4 Pursuant to and subject to the foregoing, after the Supplier End Date, the Discontinuing Parties continue to be Parties (and bound by the Scheme Document), subject to Sections 6.3.5 and 6.3.6.
- 6.3.5 Where, upon application from a Supplier, after its Supplier End Date, the Secretary of State accepts and notifies the Supplier that no further material non-zero amounts will in future be determined for that Supplier in respect of Volume Reconciliation Amount, RTF Adjustment Amount or Error Reconciliation Amount (the **exit condition**), then the Supplier may give notice to the Secretary of State and the DNO that it wishes to cease to be a Party, and such Supplier shall cease to be Party to the Scheme Agreement with effect from such notice being given.
- 6.3.6 If, after consultation with Parties, the Secretary of State determines that the exit condition in Section 6.3.5 is met for all Suppliers, the Secretary of State may by notice terminate the Scheme Agreement.

## **7 Details for operation of Scheme**

### **7.1 Eligibility of consumers**

- 7.1.1 A person who takes a supply of electricity by way of NI domestic electricity supply is eligible for the scheme where the meter through which the supply is taken falls within the T01 DUoS Group.
- 7.1.2 A person who:
  - (a) takes a supply of electricity through a meter which falls within the T01 DUoS Group, but
  - (b) does not take that supply by way of NI domestic electricity supplyis an **Ineligible Customer**.

## 7.2 Support Rate and Reduced Tariff Floor and scope

7.2.1 For each Support Rate Period, the Secretary of State shall, not less than twenty-three (23) Business Days before the start of the Support Rate Period (except for the first, starting on the Scheme Commencement Date), determine (in the Secretary of State's discretion) and give notice of:

- (a) the Support Rate, and
- (b) the RTF Table,

each to apply throughout that Support Rate Period.

7.2.2 Subject to Section 7.2.4, where a Consumer enters into a Fixed Rate Contract, within paragraph (a) of the definition thereof (in this Section 7, a **relevant** Fixed Rate Contract), with a Supplier after the date of the Scheme Agreement, with effect from the date of that Fixed Rate Contract and for the fixed term period under that Fixed Rate Contract, the Consumer is an **Excluded Fixed Rate Consumer**.

7.2.3 The Scheme does not apply in respect of Excluded Fixed Rate Consumers; and Section 9.3.2 applies for the purposes of giving effect to this Section 7.2.3.

7.2.4 The Secretary of State may (in their discretion) from time to time:

- (a) determine and give notice (**switch-off notice**) that with effect from the date specified in the notice, Section 7.2.3 shall not apply in respect of Consumers which enter into relevant Fixed Rate Contracts on or after that date (and accordingly such Consumers are not Excluded Fixed Rate Consumers);
- (b) determine and give notice (**switch-on notice**) that, with effect from the date specified in the notice, a previously given switch-off notice is revoked, so that Section 7.2.3 shall apply in respect of Consumers which enter into relevant Fixed Rate Contracts on or after the date specified in the switch-on notice (and accordingly such Consumers are Excluded Fixed Rate Consumers).

7.2.5 A notice given by the Secretary of State under Section 7.2.4:

- (a) may not specify an effective date earlier than the date of the notice;
- (b) shall be publicly available to Consumers and shall make clear that the relevant determination is that of the Secretary of State.

7.2.6 The Secretary of State may change the Support Rate applying in respect of the Support Rate Period which begins on 1 April 2023 (the 1 April SRP), by giving notice of the changed Support Rate no later than 16th March 2023, provided that the changed Support Rate is higher than the Support Rate for the 1 April SRP of which notice was given in accordance with Section 7.2.1.

## 7.3 Scheme Periods and Timetable

7.3.1 For the purposes of the Scheme, until and unless changed under Section 12:

- (a) the Support Rate Period is a period of three (3) months (apart from the first, which is the period from the Scheme Commencement Date to 2400 hours on 31 December 2022, both dates inclusive);
- (b) the Support Payment Period is a period of one (1) week, subject to Sections 9.4.3 and 9.4.4, and subject to and in accordance with Section 7.3.2; and
- (c) the Scheme Timetable is the timetable in Schedule 2 (*Scheme Timetable*).

7.3.2 The first Support Payment Period is a period of six (6) days, starting on the Scheme Commencement Date, and the next Support Payment Period (of one (1) week) starts six (6) days after the Scheme Commencement Date, and (without prejudice to Section 2.2.6) the Support Payment Period which is the last to start before the Scheme End Date is the period of days ending on the Scheme End Date.

7.3.3 Where the Secretary of State considers that market conditions or other circumstances make it appropriate to change any of the details of the Scheme set out or provided for in Section 7.3.1, the Secretary of State may modify the Scheme Document (subject to and in accordance with Section 12) so as to effect such change, provided that such modification may not (except in an urgent case and with agreement of all Suppliers and the DNO):

- (a) change a Support Rate Period which is current at the time of the modification or in relation to which the Secretary of State has given notice of the Support Rate under Section 7.2.1(a); or
- (b) result in the first such changed period ending after the prevailing Scheme End Date.

#### 7.4 **Guidance**

The Secretary of State may by notice issue guidance about the operation of the Scheme.

### **8 Supplier duty to reduce Tariffs**

8.1 Each Supplier must:

- (a) for each Consumer, and for each Tariff Period (other than the first), determine in compliance with law and with all of its duties under the conditions of its Supply Licence, and acting in good faith having regard to the Object of the Scheme, the Tariff which it would have set but for the Scheme; and
- (b) for each Consumer, and for each Tariff Period, reduce the Base Tariff by the Support Rate which applies in relation to that Tariff Period, subject to the Reduced Tariff Floor.

8.2 Pursuant to Section 8.1, each Supplier must:

- (a) for each Tariff Period, (but subject to Section 8.3) give notice in a timely manner to each Consumer, for the purposes of the Supply Contract, that the Reduced Tariff will be the Tariff on which (under that contract) the Supplier supplies the Consumer in that period;
- (b) in such notice, set out the Base Tariff, the Tariff Reduction and the Reduced Tariff;
- (c) not set or alter standing charges in a way which frustrates the Object of the Scheme;

- (d) use all reasonable endeavours to ensure that, when the Supplier sends bills or statements of account to Consumers, those Consumers are made aware of the effect of the Tariff Reduction in the amount billed or stated; and make, and if requested discuss with the Secretary of State, arrangements for that purpose and use reasonable endeavours to accommodate any proposals made by the Secretary of State as to such arrangements;
  - (e) for each Tariff Period, ensure that the Prepayment Arrangements for each Prepayment Meter operate (and are set to operate) on the basis of the Reduced Tariff;
  - (f) apply (and account on the basis of) the Reduced Tariff in complying with its duties under its Supply Licence regarding billing and statements based on meter readings; and
  - (g) apply (and account on the basis of) the Reduced Tariff in complying with its duties under the conditions of its Supply Licence regarding Consumer payment by direct debit and dealing with any surplus Consumer credit balances.
- 8.3 If for a Consumer a Tariff Period starts within ten (10) Business Days (or such other period as the Secretary of State may specify in guidance) of the start of another Tariff Period, a single notice may be given relating to both Tariff Periods and Tariffs.
- 8.4 If (and for so long as) the Supply Contract does not permit the Supplier to reduce the prevailing Tariff as required by Section 8.1(b):
- (a) the Supplier shall take appropriate action to give effect to the Tariff Reduction for the benefit of the Consumer;
  - (b) such action may include:
    - (i) offering the Consumer the Tariff Reduction and deeming the offer accepted unless the Consumer rejects it; or
    - (ii) notifying the Consumer that payment (of the amount of charges equivalent to the Tariff Reduction) is waived irrevocably; and
  - (c) the Supplier's compliance with paragraph (a) shall be treated as compliance with the Tariff-Setting Requirements in Section 8.1(b) and 8.2(a).
- 8.5 Each Supplier must:
- (a) establish and implement procedures to ensure and monitor its compliance with the Tariff-Setting Requirements and identify any non-compliance, which procedures:
    - (i) must be sufficiently robust and comprehensive to provide a high degree of assurance of compliance and of prompt identification of any non-compliance;
    - (ii) must be disclosed to the Secretary of State on request pursuant to Section 11.1.2;
    - (iii) are subject to audit under Section 11.1.4;

- (b) deal promptly and fairly with any Consumer complaints about implementing the Scheme or complying with the Tariff-Setting Requirements;
  - (c) where it identifies any error or other failure in its compliance with the Tariff-Setting Requirements:
    - (i) promptly determine any amount charged to the Consumer in excess of what should have been charged, and credit that amount to the Consumer's account or in the Prepayment Arrangements for a Prepayment Meter (where applicable by providing the Consumer with a voucher, special action message or (failing any other means) by cheque; and
    - (ii) report such error or failure in its next report under Section 11.1.1.
- 8.6 The duty of a Supplier to determine a Consumer's Tariff under Section 8.1(a) includes the duty to determine that Tariff so that it fairly reflects any discounts to which the Consumer is entitled under the terms and conditions of its Supply Contract.
- 8.7 Where the Base Tariff for a Consumer comprises different tariffs applicable to supply at different times of day the Supplier may comply with Section 8.1(a), by reducing those tariffs by different amounts, provided that:
- (a) none of those tariffs is less than the Reduced Tariff Floor, where applicable; and
  - (b) those reductions are equivalent, on a volume weighted average basis, to a reduction of the Base Tariff by the Support Rate, subject to the Reduced Tariff Floor;
- (and the Supplier may comply with Section 8.2 on that basis).
- 8.8 A Supplier may not (except to comply with Section 8.1(b)) make any agreement or arrangement with a Consumer under which the Tariff under any Fixed Rate Contract entered into before the Scheme Commencement Date is or will be varied (within the fixed term period for which it applies) from the Tariff provided for in that contract; and if (in breach of this provision) such an agreement or arrangement is made, the Consumer shall be treated as an Excluded Fixed Rate Consumer for the purposes of Section 9.3.2. This prohibition does not apply where the Supplier and Consumer agree to end (before the end of the fixed term period) a Fixed Rate Contract so that it becomes or is replaced by a Supply Contract which is not a Fixed Rate Contract, but without prejudice to Section 9.3.7.
- 8.9 Each Supplier must, by the fourteenth (14<sup>th</sup>) day of each month, provide to the Secretary of State a Certificate of Compliance signed by the Finance Director of the Supplier, in the presence of a witness, as to the Supplier's compliance or any non-compliance, in the preceding month M, with the Tariff-Setting Requirements, unless the Secretary of State has, in their discretion, notified the Supplier in writing that it is not required to provide a Certificate of Compliance in respect of month M.
- 8.10 Without prejudice to any other remedy of the Secretary of State, where a Supplier has failed to pass the benefit of the Support Rate to a Consumer in accordance with Section 8.1 (other than in error, corrected by a Consumer credit, as provided in Section 8.5(c)):
- (a) the Supplier is liable to repay to the Secretary of State, immediately on demand, the amount not passed to the Consumer; and

- (b) after giving the Supplier an opportunity to remedy the matter, the Secretary of State may publicly name the Supplier and its failure.
- 8.11 In complying with Section 8.2(d) the Supplier must ensure the Tariff Reduction is clearly distinguished from any other discount applied by the Supplier in the Base Tariff.
- 8.12 Each Supplier must notify the Secretary of State of a new or changed Tariff as soon as reasonably practicable after the start of the relevant Tariff Period.

## **9 Determination of Scheme amounts**

### **9.1 Support Payment**

9.1.1 Each Support Payment in respect of a Supplier shall:

- (a) if it is a positive amount, be an amount that is payable by the Secretary of State to that Supplier; or
- (b) if it is a negative amount, be an amount that (disregarding its sign) is payable by the Supplier to the Secretary of State,

in each case subject to and in accordance with the further provisions of the Scheme Document.

### **9.2 Determination and notification of amounts**

9.2.1 For each Support Payment Period:

- (a) each Supplier shall, by the Specified Times, provide to the Secretary of State and the DNO data as set out in Schedule 1;
- (b) the DNO shall, by the Specified Times, provide to the Secretary of State and each Supplier data as set out in Schedule 1.

9.2.2 For each Support Payment Period, the DNO shall, by the Specified Time:

- (a) determine for each Supplier:
  - (i) the Support Period Volume, the Base Support Amount and the Volume Reconciliation Amount, in accordance with Schedule 1;
  - (ii) the amounts to be taken into account in respect of:
    - (A) RTF Adjustment Amount (if any), in accordance with Schedule 1; and
    - (B) any Error Reconciliation Amount;
  - (iii) the Support Reconciliation Amount; and
  - (iv) the Support Payment;
- (b) provide to each Supplier and the Secretary of State a statement (**Support Payment Statement**):

- (i) setting out the amounts referred to in paragraph (a); and
- (ii) showing the basis on which such amounts have been calculated.

9.2.3 For the avoidance of doubt, Volume Reconciliation Amounts, Error Reconciliation Amounts and RTF Adjustment Amounts are determined without counting any interest as running (on any amount included in such determination) in respect of the period ending when such amounts are due to be included in a Support Payment Statement.

### 9.3 Reduced Tariff Floor

9.3.1 The **RTF Adjustment Amount** for a Supplier and a Support Payment Period is calculated as:

$$- \sum_C (SR - TR_C) * SPV_C$$

where:

$\sum_C$  is the sum over all the Supplier's Consumers; and

SR is the Support Rate;

and where, for each Consumer:

$TR_C$  is the Tariff Reduction; and

$SPV_C$  is the Support Period Volume,

(and consistent with the rule in Section 2.2.3, the RTF Adjustment Amount has negative sign, as an amount representing a credit to the Secretary of State).

9.3.2 In respect of an Excluded Fixed Rate Consumer, the RTF Adjustment Amount shall be determined on the basis that the Tariff Reduction  $TR_C$  for such Consumer is zero.

9.3.3 The Secretary of State may, after consultation with Suppliers, determine and give notice of the basis on which amounts in respect of RTF Adjustment Amounts are to be counted in the Support Payment in respect of any Support Payment Period, which may require:

- (a) an estimate of the RTF Adjustment Amount to be made in advance and counted in determining the Support Payments for the Support Payment Period in which the volume 'SPV<sub>c</sub>' was supplied to Consumers;
- (b) a subsequent adjustment in a later Support Payment Period.

9.3.4 The Supplier shall determine and notify to the Secretary of State and the DNO the amount to be counted (in the Support Payment in respect of any Support Payment Period) in respect of the RTF Adjustment Amount:

- (a) in accordance with any determination of the Secretary of State under Section 9.3.3, or
- (b) (if no such determination has been made) in accordance with Schedule 1; and
- (c) by way of further adjustments of such amount pursuant to Volume Reconciliation and refinements of estimates made under paragraph (b).

- 9.3.5 For the purposes of Section 9.2 the reference to the RTF Adjustment Amount (in respect of any Support Payment Period) is to the amount which (pursuant to Section 9.3.4) is to be taken into account in determining the Support Payment for any Support Payment Period (and such amount shall be signed negative or positive consistent with the rule in Section 2.2.3).
- 9.3.6 The Supplier shall establish a methodology for determining (consistent with any determination by the Secretary of State under Section 9.3.3) the amounts to be taken into account in respect of RTF Adjustment Amounts; and upon request of the Secretary of State, the Supplier shall submit such methodology to the Secretary of State for approval (not unreasonably to be withheld).
- 9.3.7 Where:
- (a) (as contemplated in the second sentence of Section 8.6) the Supplier agrees with a Consumer, or otherwise arranges, to end a Fixed Rate Contract (the **former** contract) before the end of its fixed term period; and
  - (b) the Tariff Reduction determined (disregarding this Section 9.3.7) in respect of the Supply Contract which replaces the former contract (the **new** contract) is greater than the Tariff Reduction in respect of the former contract,

then with effect from the later of (1) the Scheme Commencement Date and (2) the date on which the former Fixed Rate Contract is ended, until the date at which the fixed term period of the former Fixed Rate Contract would otherwise have ended, for the purposes of determining Support Amounts (but not for the purposes of the Tariff-Setting Requirements):

- (a) the new Supply Contract shall be treated as a Fixed Rate Contract under which the Base Tariff is the same as the Base Tariff under the former Fixed Rate Contract;
  - (b) the Reduced Tariff and the RTF Adjustment Amount shall be determined accordingly; and
  - (c) the obligations of the Supplier under Sections 9.3.4 and 9.3.6 shall apply accordingly.
- 9.3.8 Section 9.3.7(a) includes (without limitation) where the Supplier waives any restriction under the Fixed Rate Contract on the Consumer ending it before the end of its fixed term period, or waives in whole or in part any liability (for a prescribed payment or for damages or otherwise) of the Consumer under the contract for so ending it; but Section 9.3.7(a) does not include where the Consumer exercised a right (without any such restriction or liability) to end the contract unilaterally.

#### **9.4 End of Scheme**

- 9.4.1 This Section 9.4 applies where the Scheme ends or a Supplier's participation in the Scheme ends (as provided in Section 6), for the purposes of ensuring the retention of an amount otherwise payable to the Discontinuing Supplier to provide assurance to the Secretary of State of payment of amounts becoming due (in respect of Support Reconciliation Amounts and reconciliation of RTF Adjustment Amounts) from that Supplier after the Supplier End Date.
- 9.4.2 For the purposes of this Section 9.4, in relation to each Discontinuing Supplier:
- (a) the **First Suspension Period** is:

- (i) in a case within Section 6.3.1(a), the earliest Support Payment Period in respect of which, at the Supplier End Date (or if earlier the date of the Secretary of State's notice under Section 13.2.2), payment of the Support Payment has not already been made to the Discontinuing Supplier;
  - (ii) in a case within Section 6.3.1(b), the second Support Payment Period before the Support Payment Period in which the Supplier End Date falls;
- (b) subject to Section 9.4.10, the **Payment Threshold Amount** is the amount payable in aggregate to the Supplier in respect of the Base Support Amount for the three (3) Support Payment Periods up to and including the Support Payment Period in which the Supplier End Date falls;
- (c) the **Suspension Start Date** is:
- (i) in a case within Section 6.3.1(a), the Supplier End Date (or if earlier the date of the Secretary of State's notice under Section 13.2.2);
  - (ii) in a case within Section 6.3.1(b), the date on which (under the Scheme Timetable) the Secretary of State would make payment to the Discontinuing Supplier in respect of the Support Payment for the First Suspension Period;
- (d) the **Cumulative Outstanding Amount** for a Payment Period (P) is the sum of:
- (i) the Cumulative Outstanding Amount for the preceding Support Payment Period (P-1), which is zero (0) in respect of the First Suspension Period; plus
  - (ii) interest in accordance with Section 9.4.5 on the Cumulative Outstanding Amount for Support Payment Period P-1, calculated from the first to the last day of that Support Payment Period; plus
  - (iii) the Support Payment for Support Payment Period P; less
  - (iv) the amount (if any) paid to the Supplier under Section 9.4.8 in respect of Support Payment Period P-1; plus
  - (v) any amount paid by the Supplier pursuant to Section 9.4.9 in respect of a negative Cumulative Outstanding Amount in Support Payment Period P-1.

9.4.3 For a Supplier whose participation is ended under Section 13:

- (a) the Support Payment Period which is the last to start before the Supplier End Date shall (subject to Section 6.3.2(b)) continue,
- (b) thereafter each Support Payment Period for that Supplier shall, until Section 9.4.4 applies (and for all purposes of the Scheme Document):
  - (i) start on the day after the previous Support Payment Period ends, and
  - (ii) end 4 (four) weeks later or on the Scheme End Date, if earlier.

9.4.4 With effect from the Scheme End Date, each Support Payment Period is (in respect of all Suppliers) a period of one (1) calendar month.

- 9.4.5 Interest shall run on the amount from time to time of the Cumulative Outstanding Amount at the Base Rate, calculated on a daily basis and without compounding (and such interest shall have the same sign as the Cumulative Outstanding Amount on which it runs).
- 9.4.6 Subject to Section 9.4.10, with effect from the Suspension Start Date no amount is payable under the Scheme Document to the Discontinuing Supplier at any time until and unless (nor of more than the amount by which) the Cumulative Outstanding Amount is greater than the Payment Threshold Amount.
- 9.4.7 For each Support Payment Period, starting with the First Suspension Period, for each Discontinuing Supplier, the Secretary of State shall determine and include in each Support Payment Statement:
- (a) the Cumulative Outstanding Amount; and
  - (b) the amount (if any) by which the Cumulative Outstanding Amount is greater than the Payment Threshold Amount (Suspension Payment Amount).
- 9.4.8 With effect from the First Suspension Period, Sections 10.2 and 10.3 shall apply in respect of the Discontinuing Supplier as if references to the Support Payment were to the Suspension Payment Amount, subject to Section 9.4.9.
- 9.4.9 If for any Support Payment Period the Cumulative Outstanding Amount is a negative amount, such amount shall be the Suspension Payment Amount and shall be payable by the Supplier accordingly.
- 9.4.10 At a date to be determined by the Secretary of State and notified to each Discontinuing Supplier but not later than fourteen (14) months after the Supplier End Date, the Payment Threshold Amount is set to zero (0) for the purposes of this Section 9.4.
- 9.4.11 The Secretary of State will, at a time decided by the Secretary of State, review (after consultation with Suppliers) the provisions of this Section 9.4 for the purposes of determining (in the Secretary of State's discretion, and having regard to possible future levels of the Support Rate) whether any modification of the Scheme Document, to determine reduced or tapered Payment Threshold Amounts or change any other such provision, could be made without prejudicing the interests of the Secretary of State in the purpose set out in Section 9.4.1.

## **9.5 Statement Error Resolution**

- 9.5.1 For the purposes of the Scheme Document:
- (a) a **Statement Error** is an error in any Support Payment Statement sent to a Supplier, including a failure to use the correct data, an error in a calculation made, or an error in stating the result of such calculation; and
  - (b) a **Statement Adjustment** is the adjustment required in respect of a Support Payment Statement to correct a Statement Error.
- 9.5.2 In this Section 9.5 references to a Party are to the Secretary of State and the Supplier to which a Support Payment Statement was sent.
- 9.5.3 If at any time either Party identifies or considers that there is or has been a Statement Error, such Party shall promptly give notice (**Error Query Notice**) to the other Party and to the

DNO, stating what it has identified as or considers to be a Statement Error and what it considers to be the Statement Adjustment.

9.5.4 As soon as reasonably practicable after giving or receiving an Error Query Notice:

- (a) the Secretary of State shall investigate the matter;
- (b) if (in the case of an Error Query Notice sent by a Supplier) the Secretary of State is satisfied that the Statement Error occurred and that the proposed Statement Adjustment will correct it, the Secretary of State shall give notice to the Supplier and the DNO to that effect and setting out such Statement Adjustment;
- (c) otherwise the Secretary of State shall report to the Supplier and the DNO the conclusion of its investigation, and following such report:
  - (i) the Parties shall seek to agree whether there was a Statement Error and if so what it was, and what Statement Adjustment is necessary to correct it; and
  - (ii) if the Parties agree on such Statement Adjustment, the Secretary of State shall give notice to the Supplier and the DNO setting out the agreed Statement Adjustment;
- (d) if in the case of (d), the Parties have not reached such agreement within fifteen (15) Business Days after the Error Query Notice was provided, either of the Secretary of State or the Supplier may seek resolution of the matter as a Dispute in accordance with Section 17.10.

9.5.5 The DNO shall upon request of the Secretary of State provide all reasonable assistance in respect of the investigation and resolution of any Statement Error.

9.5.6 The amount of a Statement Adjustment:

- (a) set out in a notice under Section 9.5.4(b) or Section 9.5.4(c)(ii); or
- (b) determined pursuant to the resolution of a Dispute pursuant to Section 9.5.4(d),

is in each case an **Error Reconciliation Amount** (and shall be signed as positive or negative consistent with the rule in Section 2.2.3).

9.5.7 A Supplier is not entitled to dispute or withhold payment of any amount shown in a Support Payment Statement until and unless it is corrected by a Statement Adjustment either:

- (a) determined in accordance with and notified under Section 9.5.4(b) or Section 9.5.4(c)(ii) so that it is an Error Reconciliation Amount; or
- (b) (subject to Section 9.5.4(d)) determined pursuant to the resolution of a Dispute.

## 9.6 Payment Support Information

9.6.1 In this Section 9.6, Payment Support Information means information provided by a Supplier to the Secretary of State under Schedule 1 or otherwise in connection with the determination of amounts payable by way of Payment Support.

9.6.2 Each Supplier represents and warrants and undertakes to the Secretary of State that all Payment Support information provided by the Supplier to the Secretary of State is and will be:

- (a) prepared and sent in good faith;
- (b) true and accurate in all material respects;
- (c) not misleading;
- (d) where it represents an estimate of a volume of electricity supplied or consumed, determined based on estimation procedures and models which the Supplier uses in its supply business and which for are established and kept under review in accordance with good practice in the electricity supply industry and operate without bias.

## **10 Payment of Scheme amounts**

### **10.1 Bank accounts**

10.1.1 Each Supplier:

- (a) shall (not later than two (2) Business Days after the Scheme Commencement Date) notify to the Secretary of State details of the bank account to which amounts payable to it under the Scheme Document are to be paid; and
- (b) may change such account on giving the Secretary of State not less than ten (10) Business Days' advance notice of the new account details.

10.1.2 The Secretary of State:

- (a) shall notify to the Supplier details of the bank account to which amounts payable to the Secretary of State under the Scheme Document are to be paid; and
- (b) may change such account on giving the Supplier not less than ten (10) Business Days' advance notice of the new account details.

10.1.3 The details of a bank account to be notified under this Section 10.1 are: bank name, branch name, sort code, account name and account number.

### **10.2 Payment of Support Amounts**

10.2.1 In respect of each Support Payment Period, the Secretary of State shall by the Specified Time, in respect of amounts payable by and to

- (a) subject to Section 10.4 and Section 10.2.3, pay each positive Support Payment in respect of a Supplier, to the Supplier;
- (b) receive each negative Support Payment paid to it by a Supplier.

10.2.2 In respect of each Support Payment Period, each Supplier shall in respect of amounts payable by the Secretary of State to it, and by it to the Secretary of State:

- (a) receive each positive Support Payment that is paid to it by the Secretary of State;

- (b) by the Specified Time, pay each negative Support Payment due to be paid by it, to the Secretary of State.

10.2.3 The Secretary of State may, when making payment to a Supplier of any amount shown in a Support Payment Statement as payable to a Supplier, set off from that amount any unpaid amount due from that Supplier to the Secretary of State under the Scheme.

### **10.3 Payment obligations determined by statements**

10.3.1 The obligation of the Secretary of State to pay a Support Payment is to pay the amount stated in the Support Payment Statement in respect of such Support Payment.

10.3.2 Where a Supplier disputes an amount in a Support Payment Statement, Section 9.5 shall apply, and accordingly such amount shall be paid in full pending determination of an Error Reconciliation Amount pursuant to that Section.

### **10.4 Supplier payments condition**

10.4.1 Subject to Section 10.4.2, no Support Payment shall be payable by the Secretary of State to a Supplier:

- (a) at any time at which the Supplier has not complied with the obligation to provide a Certificate of Compliance under Section 8.9; or
- (b) if a Certificate of Compliance discloses any non-compliance with the Tariff-Setting Requirements which the Secretary of State considers (in their discretion) to be a material non-compliance, unless at the same time as providing such certificate the Supplier satisfies the Secretary of State that such non-compliance will be remedied promptly; or
- (c) if the Secretary of State has given notice to the Supplier of a breach of the Supplier's obligations under the Scheme Document (other than of the kind specified in Section 10.4.1(a) or Section 10.4.1(b)), and in the Secretary of State's reasonable belief such breach remains unremedied, and such breach is of such materiality that it prejudices the Object of the Scheme generally or in relation to some or all of that Supplier's Consumers.

10.4.2 Where pursuant to Section 10.4.1, a Support Payment was not made, and subsequently (as the case may be) the Supplier provides the relevant Certificate of Compliance, or the Supplier satisfies the Secretary of State (in their discretion) that the non-compliance disclosed in such a certificate has been remedied, or (but without prejudice to Section 13.2.1(c)) that the previously unremedied breach has been remedied, the Support Payment that was not made will be payable and the Secretary of State shall make such payment.

### **10.5 Basis of payment**

10.5.1 Where a Party is to make payment of any amount to another Party under the Scheme Document, the paying Party shall make such payment by direct bank transfer or equivalent transfer of immediately available funds into the account notified to it by the recipient pursuant to Section 10.1.

10.5.2 Subject to Sections 10.2.3, all payments under the Scheme Document shall be made without set-off, withholding or any deduction of any kind including, but not limited to, for any Tax (unless required by applicable law), banking transfer or other costs or claims.

10.5.3 If a Party is required by applicable law to make a withholding or deduction as referred to in Section 10.5.2, that Party shall:

- (a) ensure the withholding or deduction does not exceed the minimum amount the law requires; and
- (b) increase the amount payable so the net amount the recipient Party receives and holds equals the amount it would have received and held if the law had not required the withholding or deduction.

## 10.6 VAT

The Parties acknowledge that:

- (a) the Support Payments are not consideration for any taxable supply for VAT purposes; and
- (b) neither the Secretary of State nor a Supplier is liable to pay any amounts in respect of VAT in addition to the Support Payments or other payments under the Scheme.

## 10.7 Default interest

10.7.1 If any Supplier or the Secretary of State fails to pay any amount payable by it under the Scheme Document on its due date, simple interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate of two (2)% above the applicable Base Rate.

10.7.2 Any interest accruing under this Section 10.7 to the Secretary of State or a Supplier shall be payable on demand by the Party to which it is owed.

10.7.3 Without prejudice to Section 10.7.2, where any amount is payable by or to a Supplier in respect of interest under this Section 10.7, the amount of such interest accrued up to the day immediately prior to the issue of a Support Payment Statement by the Secretary of State, shall be shown as an additional item on each Support Payment Statement. Payment to the Secretary of State shall be treated as satisfying a demand under Section 10.7.2.

## 11 Reporting and audit

### 11.1 Suppliers

11.1.1 Each Supplier shall (subject to Section 11.1.2), in respect of each month (M) within which the Supplier is a Party, submit to the Secretary of State a report (a **Monthly Report**) by the fourteenth (14th) day of the following month (or if such day is not a Business Day, the next Business Day), setting out each of the following (each an **MR Component**):

- (a) a summary of the procedures established under Section 8.5(a) or any changes to such procedures since the previous report;
- (b) in respect of month M, a summary statement of Tariff Periods which started in the month and (for each relevant Tariff) the Base Tariff, Reduced Tariff and Tariff Reduction;
- (c) in respect of each Support Payment Period ending within month M:

- (i) number of Consumers billed that month, and for each of those Consumers, the amount that was billed, and the kWh used, and the p/kwh charged;
  - (ii) the total volume of energy Prepaid by or determined (in accordance with the Supplier's processes for determining or estimating consumption) as supplied to Consumers;
  - (iii) the total amount (in £) received in respect of the Base Support Payment Amount;
  - (iv) the total amount (in £) of the Tariff Reductions applicable to the volumes in (i);
  - (v) the total amount (in £) of RTF Adjustment Amounts; and
  - (vi) an explanation of any discrepancy between the amounts in (iii), (iv) and (v) which is not expected to be eliminated by future Error Reconciliation Amounts;
- (d) a statement and explanation of any error or failure identified in month M as referred to in Section 8.5(c) and whether it has been addressed as provided in paragraph (i) of that Section;
- (e) where (as contemplated in the second sentence of Section 8.6) the Supplier has agreed with a Consumer to end the fixed term period of a Fixed Rate Contract, the date with effect from which it was ended, an estimate of the annual consumption of the Consumer, and the following details of the Fixed Rate Contract (prior to its being ended): the Base Tariff, standing charges under the Fixed Rate Contract, end-date of the fixed term period.

11.1.2 The Secretary of State may, in their discretion, notify a Supplier in writing in respect of any MR Component that:

- (a) it is not required to provide that MR Component for a given month M; or
- (b) it is only required to provide that MR Component (a **Nil Return Component**) for a given month M if there is anything to report,

and (following such notice) the requirement for that Supplier to provide a Monthly Report in respect of that month M shall be altered accordingly, provided that, if there is nothing to report in respect of a Nil Return Component for month M, the Supplier shall notify the Secretary of State of that (whether in the Monthly Report or separately).

11.1.3 Each Supplier shall provide such further information as the Secretary of State may at any time reasonably require relating to the Supplier's compliance with the Tariff-Setting Requirements.

11.1.4 The Secretary of State may audit the records of each Supplier:

- (a) to assess its compliance with the Tariff-Setting Requirements and with the requirements in Section 9.3, and the accuracy of its reports under Section 11.1.1 and information provided under Section 11.1.3;
- (b) to assess its compliance with, and the accuracy of its statements submitted under, Schedule 1; and

- (c) to enable the National Audit Office to carry out an examination pursuant to Section 6.1 of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Secretary of State has used its resources.

11.1.5 The Secretary of State may nominate an appropriate public body or a suitably qualified professional to receive any communication from a Supplier under Section 11.1.1 or 11.1.3 or exercise (on behalf of the Secretary of State) any of the Secretary of State rights under this Section 11.1 and report its findings to the Secretary of State.

11.1.6 Each Supplier shall procure for the Secretary of State (or their nominee under Section 11.1.5) access to premises, personnel, data, information and records sufficient to enable the proper performance of any audit to be carried out under Section 11.1.4.

11.1.7 In respect of Consumers in relation to which a Supplier is acting pursuant to a Last Resort Supply Direction, the Secretary of State will give reasonable consideration to a request from the Supplier to limit or qualify (for a reasonable period of time) the information included in reports under Section 11.1.1.

## **11.2 DNO**

11.2.1 The DNO shall, in respect of each month (M) in which the Scheme Document is in force, submit to the Secretary of State by the fourteenth (14<sup>th</sup>) day of the following month (or if such day is not a Business Day, the next Business Day), a report setting out,

- (a) in respect of the amounts referred to in Section 9.2.2(a), the aggregate of each of those amounts included in the Support Payment Statements submitted in respect of Support Payment Periods ending in month M; and
- (b) in respect of Statement Errors, a summary and explanation of all Error Query Notices given in month M.

## **11.3 Secretary of State**

11.3.1 The Secretary of State shall, in respect of each Support Payment Period in which the Scheme Document is in force, submit to the DNO by the first Business Day which is not less than 4 days after the Support Payment Period a statement of the following, to be taken into account by the DNO in preparing Support Payment Statements under Section 9.2.2:

- (a) any amounts due for payment by a Supplier which are unpaid at the end of week W;
- (b) any default interest payable by a Supplier, and how it has been accounted for;
- (c) any amounts netted from an amount payable to a Supplier pursuant to Section 10.2.3.

## **11.4 Rights to audit DNO**

11.4.1 The Secretary of State may audit, or appoint a suitably qualified professional to audit, the records of the DNO to assess its compliance with the Scheme Document and/or the accuracy of reports under Section 11.2.1.

11.4.2 The DNO shall procure for the Secretary of State (or their nominee) access to premises, personnel, data, information and records sufficient to enable the proper performance of any audit to be carried out under Section 11.4.1.

## **11.5 Energy Price Guarantee Assurance Programme**

11.5.1 Each Supplier and the DNO are bound by and shall comply with Schedule 5 (*Energy Price Guarantee Assurance Programme (EPGAP)*).

## **12 Modification of the Scheme**

12.1 The Secretary of State may (subject to and in accordance with this Section 12) modify the Scheme Document:

- (a) as provided for under Sections 7.3.3;
- (b) if in the judgement of the Secretary of State the Scheme is failing in a material way to achieve the Object, as appropriate (in the judgement of the Secretary of State) to correct that failure;
- (c) if (in the judgement of the Secretary of State) necessary as a result of or in connection with a modification made or to be made to any Supplier's Supply Licence;
- (d) if it becomes apparent to the Secretary of State that the Scheme:
  - (i) is resulting in excessive profits for Suppliers; or
  - (ii) is allowing Suppliers to realise an unforeseen benefit in respect of VAT in relation to supplies to Consumers;
- (e) following a review under Section 9.4.11;
- (f) if the Secretary of State considers there is a risk that there would otherwise be material volumes of electricity which have been Prepaid by Consumers at the Reduced Tariff and which will not have been supplied by the Scheme End Date; or
- (g) otherwise where Secretary of State considers it appropriate to do so and provided the modification is not materially adverse to the interests of Suppliers generally or any class of Suppliers.

12.2 No modification of the Scheme Document under this Section 12:

- (a) will modify the Object of the Scheme in such a way as to change fundamentally the nature of the Scheme;
- (b) will have the effect that Suppliers (having complied with the Tariff-Setting Requirements) are unable to recover (as Support Payments) amounts in respect of the Support Rate for volumes of electricity supplied to Consumers:
  - (i) prior to the date with effect from which the modification is made; or
  - (ii) (except in the case of a modification pursuant to Section 12.1(d), and except as permitted under Section 7.3.3) within the remaining term of the Support Rate Period which is current when the modification is made or within the term of a Support Rate Period of which notice has been given under Section 7.2.1.

12.3 Where the Secretary of State proposes to modify the Scheme Document pursuant to Section 12.1:

- (a) the Secretary of State shall give notice to each other Party:
  - (i) setting out the proposed modification, the reasons for it and the date from which it is proposed to be effective; and
  - (ii) inviting representations in respect of the proposal (including the financial impact of the proposal on Suppliers, and the feasibility of its implementation by the proposed effective date) within such period as the Secretary of State (having regard to the urgency of the case and any prior informal consultation on the proposal with Parties) shall decide;
- (b) the Secretary of State may publicise the proposal in such other manner as the Secretary of State decides;
- (c) the Secretary of State shall consider any representations from any Party that are notified to the Secretary of State within the period specified in the notice (as well as representations received from other persons);
- (d) following such consideration, the Secretary of State may modify the Scheme Document on the basis of the original proposal or (subject to paragraph (e)) such variation of it as the Secretary of State decides;
- (e) if the Secretary of State considers that such a variation of the proposal departs materially from the original proposal, so that Parties should have a further opportunity to make representations in respect of it, the Secretary of State will give a further notice pursuant to paragraph (a).

12.4 When (following a notice of proposed modification under Section 12.3(a)) the Secretary of State has decided whether or not to modify the Scheme Document, the Secretary of State shall publish (no later than the notice under Section 12.5, where applicable) the decision together with the reasons for the decision and the conclusions the Secretary of State reached in respect of representations received under Section 12.3(c).

12.5 The modification of the Scheme Document shall be made by notice given by the Secretary of State either attaching the modified Scheme Document or setting out the modification of the Scheme Document and stating the date on which it is effective; and the Scheme Document is hereby modified in accordance with such notice.

12.6 The Parties shall be bound pursuant to the Scheme Agreement by the Scheme Document as from time to time modified under this Section 12.

## **13 Early end of a Supplier's participation**

### **13.1 Automatic ending**

A Supplier's participation in the Scheme will automatically end if the Supplier ceases to hold a Supply Licence.

### **13.2 Discretionary ending**

13.2.1 Section 13.2.2 shall apply in relation to a Supplier if:

- (a) an Insolvency Event occurs in relation to the Supplier;

- (b) either:
  - (i) the Supplier commits fraud in connection with the Scheme Document or its performance; or
  - (ii) the Secretary of State has reasonable grounds to suspect that the Supplier has committed fraud in connection with the Scheme Document or its performance; or
- (c) a breach of the Supplier's obligations under the Scheme Document has occurred and remains unremedied, and such breach is of such materiality that it prejudices the Object of the Scheme generally or in relation to that Supplier's Consumers.

13.2.2 Where this Section 13.2.2 applies in relation to a Supplier, the Secretary of State may end the Supplier's participation in the Scheme by serving a notice on it, specifying:

- (a) the relevant event or circumstances under Section 13.2.1 giving rise to the notice; and
- (b) the date on which the Supplier's participation in the Scheme will end.

13.3 Following service of a notice under Section 13.2.2 on a Supplier, that Supplier's participation in the Scheme shall end on the date specified in the notice.

#### **13.4 Effect of early ending**

The consequences of the ending of a Supplier's participation in the Scheme under this Section 13 are provided for in Section 6.3.

### **14 Liability**

#### **14.1 Excluded losses**

14.1.1 Subject to Section 14.1.2, no Party shall be liable to any other Party pursuant to the Scheme Document, in tort (including negligence and/or breach of statutory duty) or otherwise at law for:

- (a) any loss, damage, cost or other expense to the extent that the same does not arise naturally from the breach and cannot reasonably be supposed to have been in the contemplation of the Parties, on the date that Party became a Party, as the probable result of such breach; or
- (b) any special, indirect or consequential loss or any loss which constitutes loss of use, loss of goodwill, loss of profit or loss of revenue, in each case incurred by the other Party in respect of any breach of the terms of the Scheme Document.

14.1.2 Section 14.1.1 shall not operate so as to prejudice or override the express terms of any obligation to pay within the Scheme Document.

#### **14.2 Excluded losses (2)**

Nothing in Section 14.1 is intended to limit liability for:

- (a) personal injury or death caused by negligence; or

- (b) fraud.

### **14.3 Force majeure affecting the DNO**

The DNO is not liable to any Party for any delay in or failure of performance of its obligations under Schedule 1 which results from any event or circumstance the occurrence of which was beyond the reasonable control of the DNO and the effects of which could not have been avoided by measures that the DNO ought reasonably to have taken.

## **15 Transfer**

15.1.1 Save as expressly permitted by this Section 15 (*Transfers*), no Party may:

- (a) assign to any person all or any of its rights or benefits under the Scheme Document;
- (b) create any security over the Scheme Document or its rights and benefits pursuant to the Scheme Document;
- (c) make a declaration of trust in respect of or enter into any arrangement whereby it agrees to hold in trust for any person all or any of its rights or benefits under the under the Scheme Document; or
- (d) transfer (whether by way of novation, sub-contract, delegation or otherwise) to any person, or enter into an arrangement whereby any person is to perform, any or all of its obligations under the under the Scheme Document, other than by way of an energy transfer scheme (under and as defined in the Energy Act 2004) approved by the Secretary of State.

15.1.2 Notwithstanding Section 15.1.1:

- (a) the Secretary of State shall be entitled, without the consent of any other Party, to assign to any appropriate public body all or any of the rights or benefits (but may not transfer the obligations) of the Secretary of State under the Scheme Document on such terms as the Secretary of State considers appropriate; and
- (b) the Secretary of State shall be entitled without the consent of any other Party, to sub-contract or delegate to any person, or enter into an arrangement whereby any person is to perform, any or all of their obligations under the Scheme Document, provided that the Secretary of State shall not be relieved of any of its obligations under the Scheme Document and shall be liable for the acts and omissions of any person to whom they subcontract or delegate or with whom they enter into an arrangement to perform any or all of its obligations under the Scheme Document.

15.1.3 Notwithstanding Section 15.1.1, each Supplier shall be entitled, without the consent of any other Party, to assign its rights to receive payment of Support Payments by way of security to or in favour of:

- (a) a Financial Counterparty; or
- (b) any agent or security trustee on behalf of any Financial Counterparty.

15.1.4 A Supplier shall give the Secretary of State not less than five (5) Business Days' written notice prior to effecting an assignment pursuant to Section 15.1.3 and shall specify in such

notice the identity of the assignee and provide such details in relation to such assignee as the Secretary of State may reasonably request having received such notification.

## **16 Confidentiality**

### **16.1 Duty of Confidentiality**

16.1.1 In this Section 16 **Confidential Information** means all information of a confidential nature that a Party (the **receiving** Party) gets from another Party (the **disclosing** Party) as a result of the performance of, or exercise of the receiving Party's rights under, the Scheme Document.

16.1.2 Each receiving Party must, subject to Sections 16.2 and 16.3:

- (a) keep all Confidential Information confidential and not disclose it to any person; and
- (b) (in the case of the Secretary of State) take all reasonable measures to ensure that a nominee under Section 11.1.5 or 11.4.1 does the same.

### **16.2 Allowed disclosures and Freedom of Information**

16.2.1 A receiving Party may disclose or allow disclosure of Confidential Information:

- (a) on a confidential basis:
  - (i) to its officers, employees or professional advisers; or
  - (ii) to any of its permitted assignees or transferees; or
  - (i) to any department, non-departmental public body, authority or agency (including the Authority) of the Government of the United Kingdom; and any Secretary of State or any other Minister of the Crown;
- (c) to enable a Dispute to be instigated, progressed, consolidated with other disputes, settled or determined;
- (d) when disclosure is required by law; or the rules or any order of any court, tribunal or agency of competent jurisdiction;
- (e) in the case of the Secretary of State, as contemplated in Schedule 5; and
- (f) to the extent the Confidential Information has become publicly available or generally known to the public at the time of the disclosure other than as a result of a breach of this Section 16.

16.2.2 Each Party acknowledges and agrees that the Secretary of State:

- (a) is subject to the requirements of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (and any subordinate legislation made under, or guidance and/or codes of practice issued in relation to, those Acts) (the **FoIA** and the **EIR** respectively);
- (b) may be obliged under the FoIA or the EIR to disclose Confidential Information:

- (i) in certain circumstances without consulting or obtaining consent from the disclosing Party; or
- (ii) following consultation with the disclosing Party and having taken their views into account,

provided always that where (i) above applies the Secretary of State shall draw this to the attention of the disclosing Party prior to any disclosure.

- (c) shall be responsible for determining in its absolute discretion, whether the Confidential Information it holds (or that is held on its behalf) that is the subject of a request for information or request that environmental information be made available (each as defined under the FoIA or EIR) or an apparent such request:
  - (i) is exempt or excepted from disclosure pursuant to the FoIA or the EIR; or
  - (ii) is to be disclosed in response to such a request.

### **16.3 Continuation of duties**

The duties in this Section 16 shall continue to apply for three (3) years after the Scheme ends.

## **17 General**

### **17.1 Remedies for Supplier breach**

17.1.1 Each Supplier agrees that:

- (a) damages alone would not be an adequate remedy for any breach by it of its obligations in the Scheme Document;
- (b) accordingly, the Secretary of State will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach by the Supplier of its obligations under the Scheme Document.

17.1.2 Each Supplier acknowledges that a failure by it to comply with the Scheme Document may constitute a contravention by it of its Supply Licence.

### **17.2 Scheme costs**

17.2.1 Each Party is responsible for its own costs in connection with the negotiation, preparation, execution, perfection and implementation of the Scheme Agreement and Scheme Document.

### **17.3 Effect of Scheme Document**

Nothing in the Scheme Document operates to establish any right, obligation or liability as between Suppliers.

### **17.4 Data Protection**

17.4.1 In this Section 17.4:

- (a) **Applicable Data Protection Law** means all applicable legislation, rules, regulations, and governmental requirements relating to the privacy of Personal Data, including, but not limited to, the UK Data Protection Act 2018 and the GDPR as it forms part of the law of any country of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018 (the **UK GDPR**).
- (b) **Personal Data** means all personal data (as defined by UK GDPR) disclosed by or made available by or on behalf of a Party to another Party, or generated by that other Party, for the purposes of the Scheme Document, each of those Parties being a **Relevant Party** in relation to that Personal Data.

17.4.2 In addition to the terms defined above, for the purposes of this Section 17.5, **controller, processor, processing, supervisory authority and data subject**, shall have the meanings ascribed to them under the UK GDPR.

17.4.3 Each Party hereby acknowledges that in processing Personal Data that it is either receiving or disclosing in connection with this Scheme Document, it is acting as an independent controller of that Personal Data.

17.4.4 Each Relevant Party shall comply with Applicable Data Protection Law in disclosing, receiving or processing Personal Data, and (without limitation to that) shall:

- (a) implement appropriate technical and organisational measures to ensure the security of the Personal Data in accordance with requirements under Applicable Data Protection Law;
- (b) provide reasonable assistance, information and cooperation at the other Relevant Party's request to the other Relevant Party to comply with all its obligations under Applicable Data Protection Law as it applies to the processing of the Personal Data, including any obligation to: (i) respond to requests for exercising of data subject rights; and (ii) handle any complaints received from a data subject or supervisory authority; and
- (c) from time to time agree in good faith and execute and deliver all such further documents and instruments and do all acts and things as may be reasonably required to enable any sharing of Personal Data anticipated under this Scheme Document is undertaken in accordance with Applicable Data Protection Law.

## 17.5 Variation

Except pursuant to a modification in accordance with Section 12 and subject and without prejudice to any contrary provision of legislation or a condition of a Supply Licence, the terms and conditions of the Scheme Document shall only be varied by an agreement in writing signed by the Parties.

## 17.6 Waiver

No waiver by any Party of any breach of a provision of the Scheme Document shall be binding unless made expressly and in writing and any such waiver shall relate only to the matter to which it expressly relates and shall not apply to any subsequent or other matter.

## **17.7 Severability**

Each provision contained in the Scheme Document shall be severable and distinct from each other provision and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected.

## **17.8 Rights of Third Parties**

The Parties do not intend that any term of the Scheme Document shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party.

## **17.9 Entire Agreement**

17.9.1 Each Party confirms that the Scheme Agreement and Scheme Document represent the entire understanding, and constitutes the whole agreement, in relation to its subject matter and supersedes any previous agreement between the Parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

17.9.2 Each Party confirms that:

- (a) in entering into the Scheme Agreement it has not relied on any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out or referred to in the Scheme Agreement); and
- (b) in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or action taken in connection with the Scheme Agreement, are those pursuant to the Scheme Agreement, and for the avoidance of doubt and without limitation, no Party has any other right or remedy (whether by way of a claim for contribution or otherwise) in tort (including negligence) or for misrepresentation (whether negligent or otherwise, and whether made prior to, or in, the Scheme Agreement). This clause, and any similar provision of the Scheme Agreement, shall be without prejudice to each Supplier's or the DNO's other legal obligations to comply with the Scheme as a matter of law (including as a relevant requirement for the purposes of Article 41A of the Energy Order) and the relevant remedies available to any competent authority, including the Utility Regulator, in connection with any breach of such requirement.

## **17.10 Governing Law and Jurisdiction**

17.10.1 Any dispute, controversy or claim (including with respect to its subject matter) arising out of or in connection with the Scheme shall be governed by and construed in accordance with the law of England and Wales and as between the parties shall be subject to the jurisdiction of the Courts of England and Wales, provided that nothing in this clause shall prejudice the ability of any competent authority (including the Utility Regulator) to take enforcement or other proceedings against or with respect to the relevant Supplier or the DNO or otherwise where entitled to do so by law, including, on a non-exhaustive basis, where a breach of the Scheme constitutes a breach of relevant requirements for the purposes of Article 41A of the Energy Order.

17.10.2 Any Supplier which is incorporated in any country or jurisdiction outside of the United Kingdom shall immediately on the Scheme Commencement Date provide to the Secretary of State an address in the United Kingdom for service of process on its behalf in any proceedings provided that if any such Party fails at any time to provide such address, such Party shall be deemed to have appointed the Secretary of State as its agent to accept service of process on its behalf until and unless such Party provides the Secretary of State with an alternative address in the United Kingdom for these purposes.

#### **17.11 Notices**

17.11.1 Any notice to be given pursuant to the Scheme Document shall be effective only if it is in writing and is in English. Faxes are not permitted and, unless otherwise expressly stated, email is permitted.

17.11.2 The notice details of:

- (a) the Secretary of State and the DNO, as at the date of the Scheme Agreement, are set out in the Scheme Agreement; and
- (b) each Supplier, as at the date it becomes a Party, shall be in the relevant Accession Agreement.

17.11.3 A Party may change its notice details by giving notice (of not less than three (3) Business Days) of such change:

- (a) in the case of a Supplier, to the Secretary of State and the DNO;
- (b) in the case of the Secretary of State or the DNO, to each other Party.

17.11.4 Where, at the time a Supplier accedes to the Scheme Agreement, the Secretary of State or the DNO has changed its notice details from those in the Scheme Agreement, the Secretary of State shall notify the changed details to the Supplier in, or at the same time as entering into, the Accession Agreement.

17.11.5 Any notice given pursuant to the Scheme Document shall, without evidence of earlier receipt, be deemed to have been received:

- (a) if delivered by hand, on the Business Day of delivery or, if delivered on a day other than a Business Day, on the next Business Day after the date of delivery;
- (b) if sent by first class post within the United Kingdom, on the third (3rd) Business Day after the day of posting;
- (c) if sent from one country to another, on the fifth (5th) Business Day after the day of posting; or
- (d) if sent by email, when sent, except that:
  - (i) subject to paragraph (ii) an email shall be deemed not to have been sent if the sender receives a delivery failure notification, provided that any notice given outside the hours of 0900 to 1700 on a Business Day shall be deemed not to have been given until 0900 on the next Business Day; and

- (ii) paragraph (i) does not apply in relation to Support Payment Statements and statements provided under Section 11.1.1 to the Secretary of State.

17.11.6 Except where expressly stated to the contrary, each notice given by the Parties, pursuant to the Scheme Document must be duly signed (including, in the case of notice by way of email, by Electronic Signature (and “Electronic Signature” shall have the meaning given to that term in the Electronic Communications Act 2000):

- (a) in the manner, and by the person, specified in the relevant provision of the Scheme Document; or
- (b) (where no such requirement is specified) by an authorised signatory of the relevant Party.

17.11.7 Any notice to be given by the Secretary of State under the Scheme Document to all Suppliers or to all other Parties may be given by the Secretary of State publishing the notice on the Government website or in such other manner as the Secretary of State considers appropriate (and the foregoing requirements of this Section 17.11 do not apply in respect of a notice so given).

# Schedule 1 – Scheme Calculations

## 1 Introduction – determination of Support Period Volume

1.1 The volume of electricity supplied to Consumers by a Supplier in a weekly Support Payment Period (SPP) which starts in any calendar month (M) falling in quarter (Q) in calendar year (Y) is determined in stages as follows.

1.2 In the first stage, the volume will be estimated by reference to the volume supplied by the Supplier in the same quarter in the preceding year (Y-1), as set out in Paragraph 3. This is **Stage 1 Estimation**. This estimate of volume for each Support Payment Period is used to calculate the Base Support Amount;

1.3 In the second stage, a revision of that estimate is made on the basis of the data used by the DNO to calculate DUOS charges for month M, as set out in Paragraph 4:

- (a) before 1 September 2023 (the **Stage 2 Amendment Date**), the Scheme Document provided that the second stage estimate was made on a monthly basis over the three (3) months following month M. This was **Stage 2 Reconciliation**; and

from the **Stage 2 Amendment Date**, the second stage estimate is made in the seventh (7<sup>th</sup>) month following month M, this being **Stage 2.1 Reconciliation**, provided that, as further described in Paragraph 4 below, Stage 2.1 Reconciliation shall also be applied to all volumes of electricity supplied to Consumers before the Stage 2 Amendment Date.

1.4 The third stage (**Stage 3 Reconciliation**) is different for Credit Consumers and Prepayment Consumers:

- (a) it applies for Credit Consumers, after the later of the Scheme End Date and the completion of Stage 2.1 Reconciliation. The Supplier notifies the Secretary of State if there is a discrepancy from the volumes as estimated following the Stage 2.1 Reconciliation, and an adjustment may be made, as set out in Paragraph 5.5.
- (b) for Prepayment Consumers, amounts (in £) in respect of support payments are determined after:
  - (i) 1 August 2023 by reference to the amount of prepayments applicable to the period of the Scheme until 30 June 2023; and
  - (ii) the later of the Scheme End Date and the completion of Stage 2.1 Reconciliation, by reference to the amount of prepayments applicable to the period of the Scheme from 1 July 2023,

and the reconciliation is for the difference between those amounts and the amounts of Support Payments previously paid, as set out in Paragraph 6.

1.5 For each of Stage 2 Reconciliation, Stage 2.1 Reconciliation and (except in relation to Prepayment Consumers) Stage 3 Reconciliation:

- (a) an adjustment is calculated in respect of the volume previously estimated as supplied to Consumers in the relevant period;

- (b) a financial adjustment calculated by reference to the Support Rate applicable to that period; and
- (c) the financial adjustment is counted as an adjustment in determining the Support Payment for a number of subsequent Support Payment Periods.

1.6 RTF Adjustment Amounts are not determined at Stage 1 Estimation and are determined at Stage 2 Reconciliation and/or Stage 2.1 Reconciliation and re-determined at Stage 3 Reconciliation as provided below.

## **2 General**

2.1 In this Schedule **DUoS Data** means data for volumes consumed by Suppliers' Consumers which is used by the DNO to calculate Distribution Use of System charges included in the DNO's Network charges invoices to Suppliers.

2.2 For the purposes of implementing this Schedule, Consumers are identified by the meters (in DUoS Group T01) through which their supply is taken. Suppliers must notify the DNO of their Ineligible Customers, as set out in Paragraph 10.

2.3 In this Schedule:

- (a) references to volume supplied (by a Supplier) and consumption (of a Supplier's Consumers) are interchangeable;
- (b) a quarter is a period of three calendar months starting 1 January, 1 April, 1 July or 1 October;
- (c) week and Support Payment Period or SPP are used interchangeably (and week includes the first SPP of six (6) days);
- (d) for each SPP for which consumption is to be determined under this Schedule, the calendar month in which the SPP ends is month 'M';
- (e) Supplier Determined Volume means the consumption used by a Supplier in billing Consumers, determined on the basis of the Supplier's processes for estimating or calculating consumption.

## **3 Stage 1 Estimation**

3.1 A weekly estimate of consumption is created by the DNO for each Supplier, for a SPP ending in quarter Q, based on the DUoS Data from the corresponding quarter (Q<sub>Y-1</sub>) in the previous calendar year. This estimate is calculated using the following calculation:

$$\{\text{Consumption for quarter (Q}_{Y-1}\text{) / number of days in quarter Q}\} * 7 \text{ days} = \text{weekly estimated consumption}$$

3.2 This calculation is based on the consumption of those Consumers who were supplied by the Supplier in quarter Q<sub>Y-1</sub>,

3.3 The DNO provides this information to the Secretary of State at an aggregated consumption level for all Consumers for individual Suppliers. Suppliers will receive this for information purposes only.

3.4 The Base Support Amount for a SPP is calculated by reference to the weekly estimated consumption.

#### **4 Stage 2 Reconciliation**

4.1 For the purposes of this Paragraph 4:

- (a) an **Ending** SPP, is one that did not start in month M, but ends in month M; and
- (b) a **Starting** SPP is one that started in month M, but did not end in month M; and
- (c) a **Stub** SPP is an Ending or a Starting SPP in respect of month M.

4.2 Before the Stage 2 Amendment Date, Stage 2 Reconciliation was required to be done, in relation to SPPs which ended in month M, in each of the following three (3) months (**S2R months**).

4.3 From the Stage 2 Amendment Date, Stage 2.1 Reconciliation shall (subject to Paragraph 4.4), be done in respect of the volume of electricity supplied to Consumers by a Supplier in each month M in the **S2.1R month** relating to that month M. For these purposes:

- (a) for each month M from and including November 2022 to and including February 2023, September 2023 is the **S2.1R month**; and
- (b) for each month M from and including March 2023, the seventh (7<sup>th</sup>) month to commence after month M is the **S2.1R month**.

4.4 The requirement to perform Stage 2.1 Reconciliation in accordance with Paragraph 4.3 shall:

- (a) save as provided in (b), apply whether or not Stage 2.1 Reconciliation (as referred to in Paragraph 4.2) has already been done in relation to any of the volume concerned);
- (b) not apply to any volumes supplied to Prepayment Consumers on or before 30 June 2023 or other volumes in respect of which Stage 3 Reconciliation has occurred before the Stage 2 Amendment Date.

4.5 In each S2.1R month the DNO will, by the 8<sup>th</sup> Business Day of that month, for each Supplier:

- (a) determine using DUoS Data the aggregate consumption of Consumers in in month M (**S2.1R Volume**);
- (b) subject to Paragraph 4.6, determine the amount by which the S2.1R Volume differs from the aggregate consumption in the First Stage Estimation or, where and to the extent it has occurred in respect of volumes supplied in month M, the Stage 2 Reconciliation for month M, for those relevant Consumers; and
- (c) calculate the value (**S2.1R Amount**) at the applicable Support Rate of that difference.

If there is a Stub SPP in month M, to determine either of the First Stage Estimation or the Stage 2 Reconciliation of consumption of relevant Consumers in month M for the purposes of 4.5(b), electricity supplied in that Stub SPP shall be apportioned by the DNO to month M using the formula  $n/7 \times V$ , where:

- (i) n is the number of days in the Stub SPP that fell in month M; and

(ii) V is volume of electricity supplied in the Stub SPP.

4.6 The S2.1R Amount is counted as a Volume Reconciliation Amount in the calculation of the Support Payment for the Supplier for the first SPP that ends after the DNO has made the determinations in Paragraph 4.3.

## **5 Stage 3 Reconciliation (Credit Customers)**

5.1 The Supplier receives the DNO's DUoS billing data at MPRN level. This will only contain the MPRNs that DNO has billed during the month M.

5.2 Not used.

5.3 After the later of the Scheme End Date and the completion of Stage 2.1 Reconciliation, the Supplier carries out reconciliation for the whole Scheme duration for all Consumers based on all DUoS Data sent to it, as described in Paragraph 5.4.

5.4 The Supplier compares the Supplier Determined Volume for all days until the Scheme End Date (as determined pursuant to Stage 2.1 Reconciliation) against the DUoS Data provided by the DNO to identify any volume counted in such Supplier Determined Volume that was supplied to an Ineligible Consumer or that has not been billed by the Supplier to a Consumer. The Supplier must return to the DNO and the Secretary of State its reconciliation of the Supplier Determined Volume under this Paragraph against the volume in the DUoS Data at Meter Point Reference Number (MPRN).

5.5 The Supplier must determine the amount (**S3 Reconciliation Volume**) by which the aggregate Supplier Determined Volume as determined pursuant to Paragraph 5.4 is less than the volume determined pursuant to Stage 2.1 Reconciliation.

5.6 Unless the magnitude of the S3 Reconciliation Volume is less than the materiality threshold (if any) published by the Secretary of State for the purposes of this paragraph, if the aggregate Supplier Determined Volume is less than the volume determined pursuant to Stage 2.1 Reconciliation, the Supplier must submit a statement (**S3R Statement**) to the DNO and the Secretary of State.

5.7 An S3R Statement must set out the amount of the difference between the Supplier Determined Volumes and the S2.1R Volumes, the value of that difference at the applicable Support Rate, and the following:

- (a) the difference in the total number of MPRNs between their data and the DNO's DUoS data;
- (b) a list of the MPRNs that are included in one dataset but not the other; and
- (c) the underlying data used.

5.8 The Secretary of State (in consultation with the DNO and Suppliers as needed) will consider, the S3R Statement and information submitted by the Suppliers. As soon as reasonably practicable, the Secretary of State will decide whether to:

- (a) accept the statement (or accept it with such adjustments as may have been agreed following such consultation), or
- (b) reject the statement.

- 5.9 Not used.
- 5.10 If a S3R Statement is accepted, the S3R Amount is the value of the S3 Reconciliation Volume (as determined from the statement, taking account of any adjustments as referred to in 5.8(a)), determined on the basis of the applicable Support Rate.
- 5.11 The S3R Amount is counted (as well as any applicable S2.1R Amount) as a Volume Reconciliation Amount in the calculation of the Support Payment for the first SPP that ends after the Secretary of State has accepted the S3R Statement.
- 5.12 The Secretary of State will submit an instruction to the DNO to give effect to paragraph 5.11.

## **6 Stage 3 Reconciliation (Prepayment Customers)**

- 6.1 For the purposes of this Paragraph 6:
- (a) each of the following are **Reconciliation Periods**:
- (i) **PPM Stage 3 Reconciliation Period 1**, being the period from 1 November 2022 to 30 June 2023; and
- (ii) **PPM Stage 3 Reconciliation Period 2**, being the period from 1 July 2023 until the Scheme End Date; and
- (b) the **Reconciliation Start Date** is:
- (i) for **PPM Stage 3 Reconciliation Period 1**, 1 August 2023; and
- (ii) for **PPM Stage 3 Reconciliation Period 2**, the later of the Scheme End Date and the completion of Stage 2.1 Reconciliation.
- 6.2 Following the Reconciliation Start Date for each Reconciliation Period, the Supplier must provide the Secretary of State and the DNO a statement of:
- (a) the Prepaid quantities for all its Prepayment Consumers for each day (each a **Relevant Scheme Day**) in that period, including (for avoidance of doubt) quantities Prepaid pursuant to the implementation of the EBSS Scheme;
- (b) the Base Tariff for each of those Consumers for each Relevant Scheme Day; and
- (c) the Reduced Tariff for each of those Consumers for Relevant Scheme Day.
- 6.3 The Supplier must send with the statement supporting data on showing values of PPM vends for each Relevant Scheme Day.
- 6.4 On the basis of the statement, the DNO will calculate and notify to the Secretary of State and the Supplier:
- (a) the amount in aggregate of the Support Payments payable to the Supplier, calculated as the sum, over all Relevant Scheme Days and all Prepayment Consumers of  $\{A * (B - C)\}$  (each as set out in 6.1); and

- (b) the difference (**S3R Reconciliation Amount**) between the amount under paragraph (a) and the aggregate amounts previously determined as payable to the Supplier in respect of Support Payments in respect of Prepayment Consumers.

6.5 The Secretary of State will review the figures provided by the DNO for any errors, and include the S3R Reconciliation Amount (determined after correcting any error) as a Volume Reconciliation Amount in the next Support Payment Statement.

6.6 It is anticipated this process may run for approximately a month after each Reconciliation Period however will run for as long as is appropriate.

## 7 RTF Adjustment

7.1 After Stage 1 Estimation and before Stage 3 Reconciliation, the RTF Adjustment Amount is determined on an estimated basis as follows:

- (a) as soon as possible after month M, the Supplier must send to the DNO a statement setting out, for each different relevant Tariff applied under its Supply Contracts:
  - (i) the Supplier's best estimate of the number of Consumers with Supply Contracts on that Tariff;
  - (ii) the Tariff Reduction applicable to those Supply Contracts;
- (b) the DNO will calculate the **Aggregate RTF Adjustment** for month M as the sum, over all such Tariffs, of  $\{A * (B - C) * D\}$  where A is the number in (a)(i) above, B is the Support Rate, C is the Tariff Reduction in (a)(ii), and D is the average consumption per Consumer for that Supplier in that month;
- (c) the Weekly RTF Amount is the Aggregate RTF Adjustment divided by 4;
- (d) the Weekly First RTF Amount is counted as an RTF Adjustment Amount in the Support Payment for the Supplier for the 4 (four) consecutive SPPs of which the first is the first SPP that ends after the DNO has made the calculations in (b).

7.2 At Stage 3 Reconciliation, for Credit Consumers:

- (a) the Supplier must calculate the RTF Adjustment Amount for each relevant period as provided in Section 9.3.1 on the basis of the Supplier Determined Volumes for each Consumer used in Stage 3 Reconciliation;
- (b) the Supplier must send to the DNO the RTF Adjustment Amount so calculated together with supporting details of the calculation;
- (c) the DNO will determine the difference (**RTFA Difference**) between that RTF Adjustment Amount and the amount counted for the relevant period under Paragraph 7.1
- (d) the Weekly RTFA Difference is the RTFA Difference divided by 4;
- (e) the Weekly RTFA Difference is counted as an adjustment RTF Adjustment Amount in the calculation of the Support Payment for the 4 consecutive SPPs of which the first is the first SPP that ends after the Secretary of State has accepted the S3R Statement.

7.3 The Stage 3 Reconciliation for Prepayment Consumers is based on Reduced Tariff and therefore avoids the need for a separate determination of RTF Adjustment Amount.

## **8 Further Reconciliation – Credit Customers**

8.1 Paragraph 8.2 applies if, in relation to a Supplier's Credit Customers, after Stage 3 Reconciliation:

- (a) metered consumption data which was not taken into account in Stage 3 Reconciliation becomes available to the Supplier; and
- (b) based on that, the Supplier changes its determination of the Supplier Determined Volumes in aggregate for any period by any amount which exceeds a materiality threshold notified by the Secretary of State for the purposes of this paragraph.

8.2 Where this paragraph applies:

- (a) the Supplier shall so notify to the Secretary of State, providing details of the amount of such change in aggregate volume, the period to which it relates, and the amount by which the Supplier considers that previously determined Base Support Amounts and RTF Adjustment Amounts would be adjusted to take account of the change;
- (b) the Support Amount in a later Support Payment Statement will be adjusted by such amount, if any, as the Secretary of State decides and notifies to the Supplier as being appropriate in respect of such change.

## **9 6 month consumption estimates**

9.1 Three (3) days before the start of the first Support Payment Period to start in each calendar month, the DNO must send to the Secretary of State total consumption estimates for all Consumers, based on Stage 1 Estimation, for the six (6) months following the start of that Support Payment Period.

9.2 The consumption estimates must be generated and aggregated to a weekly, monthly, and quarterly level.

9.3 This information is used by the Secretary of State for budgeting purposes in connection with the Scheme.

## **10 Ineligible Customers**

Suppliers must provide to the Secretary of State and the DNO the MPRNs for the Ineligible Customers.

## Schedule 2 – Scheme Timetable

The table below sets out, in relation to each Support Payment Period ending on **day D** (or other period where specified), the time by which the specified actions are to be taken.

### 1.1 Weekly

Action	Description	Section reference	Specified Time by which action must be taken
1.	DNO determines Support Payments for Supplier and issues Support Payment Statement to the Secretary of State and Supplier.	9.2.1 & Schedule 1	12:00 hours on the 3 <sup>rd</sup> business day after day D (Wednesday).
2.	The Secretary of State pays (positive) Support Amount to Supplier.	9.1.1	17:00 hours on the 5 <sup>th</sup> business day after Action 1 (the following Wednesday).
3.	Supplier pays (negative) Support Payment to Secretary of State.	9.1.1	17:00 hours on the 5 <sup>th</sup> business day after Action 1 (the following Wednesday).

### 1.2 Stage 2.1 Reconciliation

Action	Description	Section reference	Specified Time by which action must be taken

4.	DNO to perform volume reconciliation and share with Supplier and the Secretary of State.	See schedule 1, Paragraph 4 (Stage 2 Reconciliation)	DNO shares reconciliation by eighth (8) business day of each S2.1R month.  Further details and definition of S2.1R month set out in Schedule 1
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### 1.3 End of Scheme (Stage 3 Reconciliation – Credit Consumers)

Action	Description	Section reference	Specified Time by which action must be taken
5.	The Supplier compares the Supplier Determined Volumes for all days until the Scheme End Date against the DUoS Data that month provided by the DNO. The Supplier must return to the DNO and the Secretary of State its reconciliation of the Supplier Determined Volumes identifying any volume counted in such Supplier Determined Volume that was supplied to an Ineligible Consumer or that has not been not billed by the Supplier to a Consumer.	See schedule 1, Paragraph 5 (Stage 3 Reconciliation (Credit Consumers))	After the later of the Scheme End Date and the completion of Stage 2.1 Reconciliation
6.	The Secretary of State (in consultation with the DNO and Suppliers as needed) will consider, the statement and information submitted by the Suppliers at Action 5. The Secretary of State will decide whether to:  (a) accept the statement (or accept it with such adjustments as may have been agreed following such consultation), or  (b) reject the statement.	See schedule 1, Paragraph 5 (Stage 3 Reconciliation (Credit Consumers))	As soon as reasonably practicable.

### 1.4 01.08.23 and end of Scheme (Stage 3 Reconciliation - Prepayment Consumers)

Action	Description	Section reference	Specified Time by which action must be taken

7.	After each of (i) 1 August 2023; and (ii) the later of the Scheme End Date and the completion of Stage 2.1 Reconciliation, The Supplier carries out the reconciliation for the relevant period (see paragraph 6 in Schedule 1), for all Prepayment Consumers. The Supplier must return to the DNO a statement of the Prepaid quantities for all its Prepayment Consumers for each relevant Scheme day in that period, including (for avoidance of doubt) quantities Prepaid pursuant to the implementation of the EBSS Scheme, with supporting data showing values of PPM vends for each relevant Scheme day	See schedule 1, Paragraph 6 (Stage 3 Reconciliation (Prepayment Consumers))	After each of (i) 1 August 2023; and (ii) the later of the Scheme End Date and the completion of Stage 2.1 Reconciliation.  It is anticipated this process may run for approximately a month after each reconciliation period however will run for as long as is appropriate.
8.	The Secretary of State will review the figures provided by the DNO for any errors, and include the reconciliation amount (determined after correcting any error) as a Volume Reconciliation Amount in the next Support Payment Statement	See schedule 1, Paragraph 6 (Stage 3 Reconciliation (Prepayment Consumers))	It is anticipated this process may run for approximately a month after each reconciliation period however will run for as long as is appropriate

### 1.5 Monthly (Estimate for draw down of Exchequer funds)

Action	Description	Section reference	Specified Time by which action must be taken
9.	DNO notifies the 6-month consumption estimates for each of the next following 6 months (where necessary, assuming no change in Support Rate) to Secretary of State.	Schedule 1	By 1 November 2022 and then three days before the start of the first Support Payment Period to start in each calendar month.



### Schedule 3 – Certificate of Compliance

[Company Name] (the **Company**)

SCHEME DOCUMENT – CERTIFICATE OF COMPLIANCE

Relating to the period from [●] to [●] (the **Relevant Period**) [Note: insert the period in respect of which, under Section 13 of the Scheme Document, the Supplier must provide this Certificate of Compliance]

To: [The Secretary of State] (**the Secretary of State**)

I, [●], being the Finance Director of the [x] (the **Supplier**), refer:

- (a) to the Scheme Agreement entered into inter alia, by [the Supplier, [x] and the Secretary of State on [●]] / [inter alia, [x], the Secretary of State and various electricity suppliers, and acceded to by the Supplier pursuant to an accession agreement dated [●]] (the “Agreement”); and
- (b) to the Scheme Document incorporated into the Scheme Agreement.

Terms defined in or incorporated into the Scheme Document have the same meanings when used in this Certificate.

I hereby certify, having made all reasonable enquiries, that to the best of my knowledge and belief:

- (a) the Supplier has complied with the Tariff-Setting Requirements pursuant to the Scheme Document so far as they relate to the Relevant Period [other than the following instance(s) of non-compliance: XXX] [delete these words or set out in detail any non-compliance which is to be disclosed]; and
- (b) the information in this Certificate is in all material respects true, complete, accurate and not misleading.

This Certificate is governed by and construed in accordance with English law.

.....

Name: [●]

Position: Director

Dated: [●]

.....

Witness’s name: [●]

Occupation: [●]

Address: [●]

Dated: [●]

## Schedule 4 – Form of Accession Agreement

### Dated

### Between

- (1) The Secretary of State for the Department of Business, Energy & Industrial Strategy on its own behalf and on behalf of all the other parties to the Scheme Agreement (the **Secretary of State**); and
- (2) [*Insert name of Applicant Supplier (as applicable) to be admitted to the Scheme Document*] [registered in [Northern Ireland] with number {\*\*} whose registered office is at {\*\*}] (**New Party**)

### Recitals

- A By the Scheme Agreement dated [*insert*] made between the Initial Parties named therein and as now in force between the Parties by virtue of any Accession Agreement entered into by any new Party before the date of this Accession Agreement (the **Scheme Agreement**), the Parties agreed to give effect to and be bound by the Scheme Document.
- B The New Party complies with the requirements of the Scheme Document, is authorised and wishes to be admitted as a Party to the Scheme Agreement.

### It is agreed:

#### 1 Accession of new Party

- 1.1 In this Accession Agreement, words and expressions defined in or for the purposes of the Scheme Agreement (including the term Scheme Document) and the Scheme Document that are not otherwise defined herein shall have the meanings ascribed thereto under the Scheme Agreement or Scheme Document, as applicable.
- 1.2 The Secretary of State (acting on its own behalf and on behalf of each of the other Parties) hereby admits the New Party as an additional party under the Scheme Agreement with effect from the date of this Accession Agreement on the terms and conditions hereof.
- 1.3 The New Party hereby accepts its admission as a party and undertakes with the Secretary of State (acting on its own behalf and on behalf of each of the other Parties) to perform and to be bound by the Scheme Agreement as a Party as from the date hereof.
- 1.4 For all purposes in connection with the Scheme Agreement the New Party shall as from the date hereof be treated as if it has been a signatory of the Scheme Agreement from the date hereof, and as if this Accession Agreement were part of the Scheme Agreement from the date hereof, and the rights and obligations of the Parties shall be construed accordingly.

#### 2 New Party notice details

For the purposes of Section 17.11.2 of the Scheme Document the notice details of the New Party are as follows:

[Address: \*\*  
Attention: \*\*  
Email: \*\*  
[Copy to:] \*\*

### **3 Miscellaneous**

- 3.1 This Accession Agreement and the Scheme Agreement shall be read and construed as one document and references (in or pursuant to the Scheme Agreement) to the Scheme Agreement (howsoever expressed) should be read and construed as reference to the Scheme Agreement and this Accession Agreement.
- 3.2 Each provision contained in this Accession Agreement shall be severable and distinct from each other provision and if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected.
- 3.3 This Accession Agreement may be executed in counterparts.
- 3.4 This Accession Agreement shall be governed by and construed in accordance with the law of England and Wales and as between the parties shall be subject to the jurisdiction of the Courts of England and Wales, provided that nothing in this clause shall prejudice the ability of any competent authority (including the Utility Regulator) to take enforcement or other proceedings against or with respect to the relevant Supplier or the DNO or otherwise where entitled to do so by law, including, on a non-exhaustive basis, where a breach of the Scheme constitutes a breach of relevant requirements for the purposes of Article 41A of the Energy Order.
- 3.5 If the New Party is incorporated in a jurisdiction outside of the United Kingdom it shall provide to the Secretary of State an address in the United Kingdom for service of process on its behalf in any proceedings provided that if any such Party fails at any time to provide such address, such Party shall be deemed to have appointed the Secretary of State as its agent to accept service of process on its behalf until and unless such Party provides the Secretary of State with an alternative address in the United Kingdom for these purposes.

**Signed** by the parties or their authorised representatives

## Schedule 5 – Energy Price Guarantee Assurance Programme (EPGAP)

In this Schedule 'Party' means each Supplier and the DNO; 'we', 'us' and 'our' refers to the Secretary of State; and 'you' and 'your' refers to each Supplier and the DNO.

Each Party may be required to provide the Secretary of State (the data controller) and any nominated public body or a suitably qualified professional (as per Section 11.1.5) data with information relating to consumer supplies for the purpose of monitoring performance, and conducting compliance checks with the Scheme. The Secretary of State reserves the right to audit Parties and to conduct compliance checks. This Schedule 5 does not apply to information which a Party does not (and is not required by the Scheme or law or regulation to) hold or have access to. Data collected will be used in the following circumstances:

- to analyse and review the take up, impact, performance and costs of the Scheme;
- to research the effectiveness of the Scheme and support future policy development;
- to prevent and detect crime; including the use of fraud analytics to look for unknown or undetected criminal patterns and behaviour;
- to prevent and detect error; including use of analytics to identify anomalies in payments and settlements;
- to take action to mitigate the risk of loss in relation to fraud against a Party including:
  - preventing, detecting, investigating and prosecuting fraud;
  - bringing civil proceedings as a result of fraud;
  - taking administrative action in connection with fraud.
- to take action to mitigate the risk of loss in relation to error (including overpayments) against a Party including:
  - preventing, detecting and investigation error;
  - bringing civil proceedings as a result of errors;
  - taking administrative action in connection with errors (including recovery action).

As a Party within the Scheme you may be required to submit data for the purposes stated above.

A standard data schema will include, but is not limited to, tariffs and the EPG discount applied to tariffs, meter point and customer accounts, energy consumption data, billing data and account position and postcodes. The Secretary of State will ensure that consumers' privacy is safeguarded, whilst enabling proportionate access to energy consumption data. Any changes to how consumer data is used will be communicated via a privacy notice on gov.uk which is kept under regular review. The data shall be submitted to the Secretary of State and nominated qualified professionals via a secure file transfer process as required by the Secretary of State.

The data schema may be subject to change from time to time as required by BEIS. We will give reasonable notice of any changes, to allow Suppliers / DNO to comply with obligations.

We will, in some circumstances and where the law allows, share your data with third parties, such as other government departments and regulatory bodies.

We will share your information with third parties where:

- required or allowed by law;
- it is in the public interest to do so;

- you authorise us to do so;
- it is necessary for the performance of our functions as a government department or a function of the Crown, another government department or another public authority.

## Schedule 6 – T01 DUoS Group data

Duos Group	Proposed Duos Group Name	Tariff Description	DUoS Tariff Code	In scope of EPG?
T01	Domestic	Standard Rate	T011	Yes
T01	Domestic	Economy 7 (Preserved)	T012	Yes
T01	Domestic	Economy 7 Rate	T014	Yes
T01	Domestic	Economy 7 Rate Automatic	T015	Yes
T01	Domestic	4 Rate Time-Banded	T016	Yes
T01	Domestic	8 Hr Off-Peak & UNR Res (Pres)	T045	Yes
T01	Domestic	11 Hr Off-Peak & UNR Res (Pres)	T046	Yes
T01	Domestic	15 Hr Off-Peak & UNR Res (Pres)	T047	Yes
T01	Domestic	16 Hr Off-Peak & UNR Res (Pres)	T048	Yes
T01	Domestic	4 Rate Time-Banded PPM	T050	Yes
T01	Domestic	4 Rate Time-Banded PPM (Preserved)	T052	Yes
T01	Domestic	Standard Rate PPM	T053	Yes
T01	Domestic	Domestic - Day / Night / Heat Rate PPM	T054	Yes
T01	Domestic	8 Hr Off-Peak & UNR Res PPM (Pres)	T056	Yes
T01	Domestic	11 Hr Off-Peak & UNR Res PPM (Pres)	T057	Yes
T01	Domestic	15 Hr Off-Peak & UNR Res PPM (Pres)	T058	Yes