

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

**Scheme Document**

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## Contents

<b>1</b>	<b>Introduction and background</b>	<b>3</b>
<b>2</b>	<b>Interpretation</b>	<b>3</b>
<b>3</b>	<b>Representations and warranties</b>	<b>10</b>
<b>4</b>	<b>Parties</b>	<b>10</b>
<b>5</b>	<b>Scheme effectiveness</b>	<b>11</b>
<b>6</b>	<b>Duration of Scheme</b>	<b>11</b>
<b>7</b>	<b>Details for operation of Scheme</b>	<b>12</b>
<b>8</b>	<b>Supplier duty to reduce Tariffs</b>	<b>14</b>
<b>9</b>	<b>Determination of Scheme amounts</b>	<b>16</b>
<b>10</b>	<b>Payment of Scheme amounts</b>	<b>23</b>
<b>11</b>	<b>Reporting and audit</b>	<b>25</b>
<b>12</b>	<b>Modification of the Scheme</b>	<b>26</b>
<b>13</b>	<b>Early end of a Supplier's participation</b>	<b>28</b>
<b>14</b>	<b>Liability</b>	<b>29</b>
<b>15</b>	<b>Transfer</b>	<b>29</b>
<b>16</b>	<b>Confidentiality</b>	<b>30</b>
<b>17</b>	<b>General</b>	<b>32</b>
	<b>Schedule 1 – Scheme Calculations</b>	<b>36</b>
	<b>Schedule 2 – Scheme Timetable</b>	<b>39</b>
	<b>Schedule 3 – Certificate of Compliance</b>	<b>40</b>
	<b>Schedule 4 – Energy Price Guarantee Assurance Programme (EPGAP)</b>	<b>41</b>

## 1 Introduction and background

- 1.1 This document (**Scheme Document**) is issued by the Secretary of State for Business Energy and Industrial Strategy to establish, under section 7(1) of the 2022 Act, a domestic gas price reduction scheme for Northern Ireland (the **Scheme**).
- 1.2 The Scheme may be referred to as the Energy Price Guarantee Scheme for Domestic Gas Consumers in Northern Ireland.
- 1.3 The Scheme is a scheme under which:
- (a) gas suppliers will reduce domestic consumer gas 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 gas 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, gas 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 gas suppliers under the Scheme.
- 1.5 The Scheme Document is designated by the Secretary of State the Energy Prices (Designated Domestic Price Reduction Schemes) (Northern Ireland) Regulations 2022, for the purposes of section 7(1) of the 2022 Act.
- 1.6 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:

**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;

**Charges for the Supply of Gas** means charges levied by a gas supplier to a person for the supply or required supply of gas by that gas supplier to that person;

**Consumer** means a person who is supplied with gas by way of NI domestic gas supply;

**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 gas deemed to have been made under Section 12 of the Energy Act (Northern Ireland) 2011;

**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);

**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 7.1.2;

**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 gas 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);

**Gas Supplier** means a licensed gas supplier (as defined in the 2022 Act);

**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 gas in accordance with a relevant Supply Licence, where circumstances have arisen that would entitle the Utility Regulator to revoke the relevant Supply Licence of a gas supplier;

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

**Order** means the Gas (Northern Ireland) Order 1996;

**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 gas taken through a Prepayment Meter;

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

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

**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 and such gas suppliers 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 a gas 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 gas supply;

**Supply Licence** means a gas supply licence granted or treated as granted pursuant to Article 8(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 7.2.1(b) 9.4.3 or 9.4.4 (as the case may be), being (subject to Section 2.2.7) 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 9.2.3(b);

**Support Period Quantity** means, in respect of a Support Payment Period and a Supplier, the aggregate quantity of gas Prepaid by Consumers or Billed 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 gas 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, 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;

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

**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.

2.2.2 References in the Scheme Document to a **Tariff** are to Charges for the Supply of Gas so far as those charges are imposed or payable in respect of each unit of gas 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: 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 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 Support Payment Period, in the case of a Prepayment Consumer, a **Prepaid** quantity of gas is a quantity of gas 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) in that Support Payment Period, irrespective of when that gas is consumed;

2.2.6 In the case of a Credit Consumer, the **Billed** quantity of gas is a quantity of gas:

- (a) which is supplied to a Consumer in any period which:
  - (i) starts on the first day of a Support Payment Period and ends before the final day of that Support Payment Period, and
  - (ii) falls between the Scheme Commencement Date and the Scheme End Date; and



- (b) in respect of which an invoice or statement of account is generated by the Supplier within the Support Payment Period.

2.2.7 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 and Error Reconciliation Amounts in respect of quantities Billed 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 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;
- (c) to **£** or **pounds** is to the lawful currency of the United Kingdom;
- (d) to **kWh** is to kilowatt hours;
- (e) to **p/kWh** is to pence per kilowatt hour; and
- (f) 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 is (where applicable) party to a Supply Meter Point Agreement (as defined under its Supply Licence).
- (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

4.1 The Parties are:

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

4.2 If a person which is not a Supplier at the Scheme Commencement Date becomes the holder of a Supply Licence and is supplying an NI domestic gas supply to eligible Consumers for the purposes of the Scheme:

- (a) the Secretary of State may admit that person as a Party by entering, on behalf of all the Parties, into an agreement (in such form as the Secretary of State decides) with that person for it to accede to the Scheme Agreement; and
- (b) each Supplier irrevocably and unconditionally authorises the Secretary of State to enter into such accession agreement on its behalf.

## **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 on and with effect from 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 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 quantities of gas 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 quantities of gas 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 quantities of gas 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 Quantity, Base Support 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 9, 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 RTF Adjustment Amount or Error Reconciliation Amount (the **exit condition**), then the Supplier may give notice to the Secretary of State 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 Support Rate and Reduced Tariff Floor and scope**

- 7.1.1 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.
- 7.1.2 Subject to Section 7.1.3, 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**.

- 7.1.3 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 7.1.3.
- 7.1.4 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 7.1.3 shall not apply in respect of Consumers which enter into Fixed Term 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 7.1.3 shall apply in respect of Consumers which enter into Fixed Rate Contracts on or after the date specified in the switch-on notice (and accordingly such Consumers are Excluded Fixed Rate Consumers).
- 7.1.5 A notice given by the Secretary of State under Section 7.1.4:
- (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.
- 7.1.6 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 7.1.1.

## **7.2 Scheme Periods and Timetable**

- 7.2.1 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 Section 9.4.2(e), and subject to and in accordance with Section 7.2.2; and
  - (c) the Scheme Timetable is the timetable in Schedule 2 (*Scheme Timetable*).
- 7.2.2 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 2.2.7) 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.
- 7.2.3 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 7.2.1, 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):

- (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 7.1.1(a); or
- (b) result in the first such changed period ending after the prevailing Scheme End Date.

### 7.3 **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 including ensuring that such Base Tariff fairly reflects any discounts for which the Consumer has signed up under their Base Tariff; 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 11.1.3;
  - (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 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.
- 8.8 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, with the Tariff-Setting Requirements.
- 8.9 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.
- 8.10 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.
- 8.11 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 data as set out in Schedule 1;
- (b) the Secretary of State shall, by the Specified Times, provide to each Supplier data as set out in Schedule 1.

9.2.2 Each Supplier represents and warrants and undertakes to the Secretary of State that and each Certificate of Compliance shall confirm that:

- (a) in respect of Prepayment Consumers, the information provided to the Secretary of State under Schedule 1 in respect of Prepaid quantities is and will be, to the best of its knowledge and belief, having made all reasonable enquiries, true and accurate in all material respects;
- (b) in respect of Credit Consumers:
  - (i) the information provided to the Secretary of State under Schedule 1 in respect of Billed quantities is and will be, to the best of its knowledge and belief, having made all reasonable enquiries, in all material respects a true and accurate statement of the quantities subject to invoices or statements of account to relevant Consumers;
  - (ii) those quantities are and will be properly determined, on the basis of (as applicable) meter readings and/or profiles and estimates of consumption made in good faith and on the basis of estimation processes and demand models which are established and kept under review in accordance with good practice in the gas supply industry and operate without bias.

9.2.3 For each Support Payment Period, the Secretary of State shall, by the Specified Time:

- (a) confirm (by reference to the Supplier Support Statement and subject to any adjustment made under Schedule 1) for each Supplier:
  - (i) the Support Period Quantity and the Base Support 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 a statement (**Support Payment Statement**) setting out the amounts referred to in paragraph (a).

9.2.4 For the avoidance of doubt, 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 Quantity,

(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 '  $SPV_C$  ' 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 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 9.3.3) 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 Supplier Support Statement (as provided in Schedule 1) sent to the Secretary of State or 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 Supplier Support Statement or 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 by which a Supplier Support Statement or 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, 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 to that effect and setting out such Statement Adjustment;
- (c) otherwise the Secretary of State shall report to the Supplier 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 setting out the agreed Statement Adjustment;
- (d) if in the case of 9.5.4(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 17.11.

9.5.5 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).

9.5.6 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; and
- (d) where it represents an estimate of a quantity of gas 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 gas 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 8.8; 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 Section 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, in respect of each month (M) within which the Supplier is a Party, submit to the Secretary of State a 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:

- (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 quantity of energy Prepaid by or Billed 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 quantities 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 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.
- 11.1.3 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 11.1.2;
  - (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.
- 11.1.4 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 11.1.2 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.
- 11.1.5 Each Supplier shall procure for the Secretary of State (or their nominee under Section 11.1.4) access to premises, personnel, data, information and records sufficient to enable the proper performance of any audit to be carried out under Section 11.1.3.
- 11.1.6 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 Energy Price Guarantee Assurance Programme**

- 11.2.1 Each Supplier is bound by and shall comply with Schedule 4 (*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 7.2.3;
- (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 quantities of gas 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 the 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 quantities of gas 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 7.2.3) 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 7.1.1.

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.

### **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 11.1.4 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 4; 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 other legal obligations to comply with the Scheme as a matter of law (including as a relevant requirement for the purposes of Article 41B 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 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 41B 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, 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.

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;

(b) in the case of the Secretary of State, to each other Party.

17.11.4 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.

17.11.5 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.

17.11.6 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 6 month consumption estimates**

- 1.1 Three days before the start of the first Support Payment Period to start in each calendar month, the Supplier must provide the Secretary of State with total consumption estimates for all its Consumers for the six (6) months following the start of that Support Payment Period.
- 1.2 The consumption estimates must be generated and aggregated to a weekly, monthly, and quarterly level. These should be accompanied by a clear methodology explaining how the estimates were arrived at.
- 1.3 This information is used by the Secretary of State for budgeting purposes in connection with the Scheme.

### **2 Quantities**

- 2.1 The Support Period Quantity for a Supplier for a Support Payment Period is the sum of:
  - (a) the Prepaid quantities for that Support Payment Period for all Prepayment Consumers;
  - (b) the Billed quantities for that Support Payment Period for all Credit Consumers.
- 2.2 The Billed quantity for any period of supply is to be determined based on the first invoice or statement of account issued by the Supplier to the Customer which relates to that period of supply. Subject to paragraph 3 of this Schedule 1, where a later invoice or statement of account relates to the same period of supply and provides an adjustment (based on meter readings or otherwise) to the original billed quantity, that later invoice or statement (and the adjustment in it) is not counted and does not require a redetermination of the Billed quantity in relation to the relevant period of supply.

### **3 Reconciliation – Credit Customers**

- 3.1 Paragraph 3.2 of this Schedule 1 applies if, after the Supplier has determined Billed quantities in relation to a Support Payment Period:
  - (a) metered consumption data which was not taken into account in those Billed Quantities becomes available to the Supplier; and
  - (b) based on that, the Supplier changes its determination of the consumption of its Credit Consumers 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.
- 3.2 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 consumption, 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.

#### 4 Support Payment

- 4.1 For each Supplier for each week in the Support Payment Period, the Support Payment will be calculated as follows:

*The sum of the Base Support Amount, the RTF Adjustment Amount, and the Error Reconciliation Amount.*

- 4.2 Suppliers must send a **Supplier Support Statement** to BEIS for the Support Payment including:

- (a) the Support Period Quantity;
- (b) the Base Support Amount;
- (c) the RTF Adjustment Amount;
- (d) the Support Payment due to the Supplier
- (e) breakdown of calculations supporting the statement (including application of consumer discount); and
- (f) methodology of calculation (to be provided by the Supplier once to Secretary of State, and again only if changed thereafter) – i.e., set out the methodology used internally by each Supplier to apply discounts across different tariffs, capture these in billing data, create consumption estimates where accurate meter reads are not available.

- 4.3 To support their Support Payment Statement, each Supplier must provide the Secretary of State with a weekly report for the corresponding one (1) week of billables and allocation data. This data should include:

- (a) Weekly Billed reports and Pre-payment Meter (PPM) daily vend reports data for the Support Payment Period;
- (b) Allocation data for the period;
- (c) Tariff data for each tariff offered to customers including:
  - (i) the Base Tariff for the period;
  - (ii) the Reduced Tariff for the period;
  - (iii) the Tariff Reduction for the period;
- (d) Number of customers in each of the above tariffs;
- (e) Cumulative amount of energy billed to/purchased by customers in each tariff (in kWh);

- 4.4 The Secretary of State will review the Supplier Support Statement and if it is accepted, issue a Support Payment Statement no later than four (4) Business Days following receipt of the Supplier Support Statement.

## 5 Supporting Information

- 5.1 Format of the information (the **Supplier Support Statement**) to be provided by the Supplier to the Secretary of State:

Support Payment Period	#						
Week commencing	Xx/xx/xx						
Payment date	Yy/yy/yy						
Supplier Name	PPM or non-PPM	Base Volume for Period	Base Support Amount	RTF Adjustment Amount	Credit Customers Reconciliation Amount	Error Reconciliation Amount	Support Payment
Tariff 1	(y/n)	kWh	£	£	£	£	£xx
Tariff 2	(y/n)	kWh	£	£	£	£	£xx
Totals		kWh	£	£	£	£	£yy (= Aggregate Support Amount)

## 6 Payment Retention when Scheme ends, or Supplier ceases to participate

The Secretary of State will apply the rules in Section 9.4.

## 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.	The Supplier provides the Secretary of State with Supplier Support Statement.	Schedule 1, Section 2	1700 hours on the 3rd business day after day D (usually Wednesday).
2.	The Secretary of State pays Support Amount to Supplier. If appropriate, this will be net of any adjustments outlined in Action 3.	Schedule 1, Section 4	1700 hours on the 4th business day after Action 1 (usually the following Tuesday).

### 1.2. Adjustments

Action	Description	Section reference	Specified Time by which action must be taken
3.	If appropriate under Section 3 of Schedule 1, the Supplier shall notify the Secretary of State of a material change in consumption data for Credit Consumers during a previous period (Action 1).	Schedule 1, Section 3	To be provided at any time as appropriate.

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

Action	Description	Section reference	Specified Time by which action must be taken
5.	Supplier 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 1700 27 October 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 [●] (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 – Energy Price Guarantee Assurance Programme (EPGAP)

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

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 11.1.4) 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 4 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 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.