

ANNEX S-1: PERFORMANCE LEVELS AND SUPPLIER CHARGES

1. GENERAL

1.1 Introduction

1.1.1 This Annex S-1 forms a part of Section S.

1.1.2 This Annex S-1 sets out:

- (a) the Menu of Supplier Charges (including Performance Levels and Supplier Charges); and
- (b) payment arrangements in respect thereof.

1.2 Interpretation

1.2.1 In this Annex S-1, unless the context otherwise requires:

- (a) references to a Performance Level or Serial shall be to a Performance Level or (as the case may be) Serial as specified in paragraph 2 or 3 respectively;
- (b) references to a Metering System shall be to a SVA Metering System;
- (c) references to the term "**for which a Supplier is responsible**" when used in relation to a particular Metering System or Metering Equipment shall mean the relevant Metering System or (as the case may be) Metering Equipment in relation to which the Supplier is registered with a Supplier Meter Registration Agent including for the avoidance of doubt a Metering System for which the Supplier is treated as Registrant pursuant to Section K7.1.3(a)(ii);
- (d) references to a paragraph shall be to a paragraph of this Annex S-1;
- (e) the acronyms employed in the formulae and other algebraic expressions shall bear the respective meanings set out in Annex X-2;
- (f) the subscripts and summations used in the formulae shall bear the respective meanings set out in Annex X-2; and
- (g) references to the Menu of Supplier Charges are to paragraphs 2 and 3 of this Annex S-1.

1.2.2 For the purposes of this Annex S-1:

- (a) "**Applicable Settlement Period**" means, in relation to any month, a Settlement Period in respect of which the relevant Volume Allocation Run for Supplier Volume Allocation is carried out in that month;
- (b) "**Applicable Settlement Day**" means, in relation to any month, a Settlement Day in respect of which the relevant Volume Allocation Run for Supplier Volume Allocation is carried out in that month.

1.3 Acknowledgement by Parties

1.3.1 Each of the Parties acknowledges and confirms that each of the charges set out in the Menu of Supplier Charges represents a genuine pre-estimate of the loss likely to be suffered by

other Parties as a result of a failure by a Supplier to meet the applicable Performance Level and is reasonable in all the circumstances.

- 1.3.2 Each of the Parties further acknowledges and confirms that the charges set out in the Menu of Supplier Charges constitute the sole remedy of a Party in respect of any claim for damages for any losses arising from any failure by a Supplier to meet the applicable Performance Level or Serial.
- 1.3.3 Nothing contained in this paragraph 1.3 shall be construed so as to limit a Party's ability to seek any other form of remedy (such as specific performance or injunctive relief) in respect of a Supplier's failure to meet a Performance Level or Serial, subject to Section C.

2. PERFORMANCE LEVELS

2.1 Compliance with performance levels

- 2.1.1 Each Supplier shall, without prejudice to its other obligations pursuant to Section S and elsewhere, comply with the Performance Levels set out in the Menu of Supplier Charges.
- 2.1.2 Each Supplier acknowledges that the Performance Levels represent the minimum requirements to be achieved.
- 2.1.3 In the Menu of Supplier Charges compliance with the Performance Levels set out in paragraphs 2.2 to 2.7 (both inclusive) shall be measured separately by reference to each GSP Group and not by reference to all GSP Groups.

2.2 Energy and Metering Systems on Annual Advances and Actual Readings at Each Volume Allocation Run - Serial SP08

- 2.2.1 In relation to each GSP Group, the percentage of total energy attributable to a Supplier in respect of Non Half Hourly Metering Systems settled on the basis of Annualised Advances for each Settlement Day shall be not less than the percentage set out in the table below against the applicable Volume Allocation Run:

Volume Allocation Run	Performance Level
Initial Volume Allocation Run	n/a
First Reconciliation Volume Allocation Run	30%
Second Reconciliation Volume Allocation Run	60%
Third Reconciliation Volume Allocation Run	80%
Final Reconciliation Volume Allocation Run	97%

2.2.2 For the purpose of paragraph 2.2.1:

- (a) the percentage of total energy attributable to a Supplier settled on the basis of Annualised Advances shall be calculated in accordance with the following formula:-

$$\left(\frac{A_{HZ}}{A_{HZ} + E_{HZ}} \right) \times 100$$

where:-

A_{HZ} means $\sum_{N(AA)} \sum_j (C_{iNj} + CLOSS_{iNj})$; and

E_{HZ} means $\sum_{N(EAC)} \sum_j (C_{iNj} + CLOSS_{iNj})$;

- (b) the following summations shall bear the following respective meanings:

$\sum_{N(AA)}$ means summed over all Consumption Component Classes (N) that are associated with Annualised Advances. For the avoidance of doubt, values associated with Consumption Component Classes associated with Third Party Generating Plant comprised in SVA Metering Systems shall be added to those values associated with all other Consumption Component Classes; and

$\sum_{N(EAC)}$ means summed over all Consumption Component Classes (N) that are associated with Estimated Annual Consumptions and are not associated with Unmetered Supplies. For the avoidance of doubt, values associated with Consumption Component Classes associated with Third Party Generating Plant comprised in SVA Metering Systems shall be added to those values associated with all other Consumption Component Classes;

- (c) the relevant values shall be those included in the relevant run of Settlement.

2.2.3 The Performance Levels set out in the table in paragraph 2.2.1 are referred to elsewhere in this Annex S-1 as Serial SP08a.

2.2.4 In relation to each GSP Group and in respect of Half Hourly Metering Systems which are 100kW Metering Systems for which the Supplier is responsible, the Supplier shall ensure that (in accordance with the relevant BSC Procedure) in respect of each month, actual (rather than estimated) values in respect of not less than 99 per cent. of total energy attributable to that Supplier relating to such Metering Systems for the aggregate of the Applicable Settlement Periods are provided by its Half Hourly Data Aggregator to the SVAA in time for each Supplier Volume Allocation Run.

2.2.5 For the purposes of paragraph 2.2.4:

- (a) the percentage of total energy attributable to a Supplier represented by actual values in respect of any month shall be calculated in accordance with the following formula:-

$$\left(\frac{A_{HZ}}{A_{HZ} + E_{HZ}} \right) \times 100$$

where:-

A_{HZ} means $\sum_d^m \sum_{N(HHA)} \sum_j (C_{iNj} + CLOSS_{iNj})$; and

E_{HZ} means $\sum_d^m \sum_{N(HHE)} \sum_j (C_{iNj} + CLOSS_{iNj})$;

(b) the following summations shall bear the following respective meanings:-

\sum_d^m means summed over all Applicable Settlement Days;

$\sum_{N(HHA)}$ means summed over all Consumption Component Classes (N) that are associated with actual values and with half hourly data aggregation in relation to Metering Systems which are 100kW Metering Systems save those Consumption Component Classes associated with Third Party Generating Plant comprised in SVA Metering System(s);

$\sum_{N(HHE)}$ means summed over all Consumption Component Classes (N) that are associated with estimated values and with half hourly data aggregation in relation to Metering Systems which are 100kW Metering Systems save those Consumption Component Classes associated with Third Party Generating Plant comprised in SVA Metering System(s);

(c) the relevant values shall be those included in the relevant Volume Allocation Run.

2.2.6 In calculating the Performance Levels set out in paragraph 2.2.4, no account shall be taken of any Metering System which is at the relevant time de-energised for the purposes of BSC Procedure BSCP502, unless a consumption value has in fact been provided to the SVAA for the relevant Volume Allocation Run.

2.2.7 The Performance Levels set out in paragraph 2.2.4 are referred to elsewhere in this Annex S-1 as Serial SP08b.

2.2.8 In relation to each GSP Group and in respect of Half Hourly Metering Systems for which a Supplier is responsible which are identified as not being 100kW Metering Systems, the Supplier shall ensure that (in accordance with the relevant BSC Procedure) in respect of each month actual (rather than estimated) values in respect of:

(a) except to the extent set out in paragraph 2.2.8(b), not less than 99 per cent; or

(b) subject always to paragraph 2.2.8A, in respect of Metering Systems that are comprised in Measurement Class "F" and "G", not less than 90 per cent,

of the total energy attributable to that Supplier relating to such Metering Systems for the aggregate of the applicable Settlement Periods are provided by its Half Hourly Data Aggregator to the SVAA in time for the relevant First Reconciliation Volume Allocation Run and any subsequent Reconciliation Volume Allocation Runs.

2.2.8A Paragraph 2.2.8(b) shall:

(a) only apply to the relevant First Reconciliation Volume Allocation Run and shall not apply to any subsequent Reconciliation Volume Allocation Runs (for which the Performance Level shall be not less than 99 per cent as set out in paragraph 2.2.8(a)); and

- (b) cease to have effect from and including the Settlement Day that falls on 1st January 2020.

2.2.9 For the purpose of paragraph 2.2.8:

- (a) the percentage of total energy attributable to a Supplier represented by actual values in respect of any month shall be calculated in accordance with the following formula:

$$\left(\frac{A_{\text{HZ}}}{A_{\text{HZ}} + E_{\text{HZ}}} \right) \times 100$$

where:-

A_{HZ} means $\sum_d^m \sum_{N(\text{HHA})} \sum_j (C_{iNj} + \text{CLOSS}_{iNj})$; and

E_{HZ} means $\sum_d^m \sum_{N(\text{HHE})} \sum_j (C_{iNj} + \text{CLOSS}_{iNj})$;

- (b) the following summations shall bear the following respective meanings:-

\sum_d^m means summed over all Applicable Settlement Days;

$\sum_{N(\text{HHA})}$ means summed over all Consumption Component Classes (N) that are associated with actual values and with half hourly data aggregation in relation to Metering Systems which are not 100kW Metering Systems save those Consumption Component Classes associated with Third Party Generating Plant comprised in SVA Metering System(s);

$\sum_{N(\text{HHE})}$ means summed over all Consumption Component Classes (N) that are associated with estimated values and with half hourly data aggregation in relation to Metering Systems which are not 100kW Metering Systems save those Consumption Component Classes associated with Third Party Generating Plant comprised in SVA Metering System(s);

- (c) the relevant values shall be those included in the relevant Volume Allocation Run.

2.2.10 In calculating the Performance Levels set out in paragraph 2.2.8, no account shall be taken of any Metering System which is at the relevant time de-energised for the purposes of BSC Procedure BSCP502, unless a consumption value has in fact been provided to the SVAA for the relevant Volume Allocation Run in respect of that Metering System.

2.2.11 The Performance Levels set out in paragraph 2.2.8 are referred to elsewhere in this Annex S-1 as Serial SP08c.

2.3 Use of Default Values of Estimated Annual Consumption - Serial SP09

2.3.1 In relation to each GSP Group and in respect of Non Half Hourly Metering Systems for which the Supplier is responsible, the Supplier shall ensure that the number of such Non Half Hourly Metering Systems (whether metered Metering Systems or Metering Systems for Unmetered Supplies) that are settled on the basis of Default Estimated Annual Consumption For Metered Metering Systems or Default Estimated Annual Consumption For Unmetered Metering Systems, as the case may be, expressed as a percentage of the

total number of Non Half Hourly Metered Metering Systems (both metered Metering Systems and Metering Systems for Unmetered Supplies) for which the Supplier is responsible, shall be no greater than the values set out in the table below against the applicable Volume Allocation Run, provided that this paragraph 2.3.1 shall not apply where the total number of Non Half Hourly Metering Systems for which the Supplier is responsible is less than 1000.

Volume Allocation Run	Performance Level
Initial Volume Allocation Run	0.5%
First Reconciliation Volume Allocation Run	0.5%
Second Reconciliation Volume Allocation Run	0.2%
Third Reconciliation Volume Allocation Run	0.1%
Final Reconciliation Volume Allocation Run	0%

2.3.2 In relation to each GSP Group and in respect of Non Half Hourly Metering Systems for which the Supplier is responsible, the number of such Non Half Hourly Metering Systems (whether metered Metering Systems or Metering Systems for Unmetered Supplies) that are settled on the basis of Default Estimated Annual Consumption For Metered Metering Systems or Default Estimated Annual Consumption For Unmetered Metering Systems, as the case may be, shall be no greater than the values set out in the table below against the applicable Volume Allocation Run provided that this paragraph 2.3.2 shall not apply where the total number of Non Half Hourly Metering Systems for which the Supplier is responsible is 1000 or more.

Volume Allocation Run	Performance Level (number of Metering Systems)
Initial Volume Allocation Run	5
First Reconciliation Volume Allocation Run	5
Second Reconciliation Volume Allocation Run	2
Third Reconciliation Volume Allocation Run	1
Final Reconciliation Volume Allocation Run	0

2.3.3 The Performance Levels set out in this paragraph 2.3 are referred to elsewhere in this Menu of Supplier Charges as Serial SP09.

2.4 Installation of Half Hourly Metering - Serial SP04

- 2.4.1 A Supplier shall comply with the requirements of Section L2.1.1 in relation to the installation of Half Hourly Metering Equipment for each 100kW Metering System for which it is responsible.
- 2.4.2 The Performance Level set out in paragraph 2.4.1 is referred to elsewhere in this Annex S-1 as Serial SP04.

2.5 Reporting by Suppliers - Serials SP01 and SP02

- 2.5.1 A Supplier shall deliver, or procure the delivery of, its Routine Performance Monitoring Report in respect of each GSP Group to the Performance Assurance Board or as it may direct, in accordance with the relevant BSC Procedure, by not later than 20 Business Days after the end of each month.
- 2.5.2 A Supplier shall update, or procure the updating of, its Routine Performance Monitoring Log in respect of each GSP Group in accordance with the relevant BSC Procedure, by not later than 20 Business Days after the end of each month and shall make such updated logs available promptly on request from time to time to the Performance Assurance Board or as it may direct.
- 2.5.3 The Performance Levels set out in paragraphs 2.5.1 and 2.5.2 are referred to elsewhere in this Annex S-1 as Serial SP01 and Serial SP02 respectively.

3. CHARGES

3.1 Application of Charges

- 3.1.1 This paragraph 3 will have effect in determining the charges payable by a Supplier in respect of any failure to comply with the Performance Levels including the maximum amount payable by a Supplier under paragraph 3.7.
- 3.1.2 The arrangements for payment, collection and distribution of the charges are set out in paragraph 4 of this Annex S-1.
- 3.1.3 The charges specified in this paragraph 3 are cumulative and not mutually exclusive one of the other.

3.2 Failure to Comply with Serial SP08a

- 3.2.1 A Supplier who fails to comply with Serial SP08a shall be liable to the charge set out in the table below against the relevant item in Serial SP08a:

Item in Serial SP08a (as referred to in the table in paragraph 2.2.1)	Amount per Chargeable MWh
Initial Volume Allocation Run	No Charge
First Reconciliation Volume Allocation Run	No Charge
Second Reconciliation Volume Allocation Run	No Charge
Third Reconciliation Volume Allocation Run	£0.13

Item in Serial SP08a (as referred to in the table in paragraph 2.2.1)	Amount per Chargeable MWh
Final Reconciliation Volume Allocation Run	£1.43

3.2.2 For the purposes of paragraph 3.2.1, the Chargeable MWh for a Supplier shall be calculated in respect of a GSP Group for any month for each Settlement Day (if any) in relation to which the relevant Volume Allocation Run was carried out in that month, in respect of which there has been a failure to comply with Serial SP08a, in accordance with the following formula:

$$SCMWh = NHHEA \times \frac{p}{100}$$

where:-

SCMWh is the Chargeable MWh attributable to that Supplier for the relevant Settlement Day in respect of the relevant GSP Group;

NHHEA is the sum of A_{HZ} and E_{HZ} (expressed in MWh) attributable to that Supplier in respect of such GSP Group for such Settlement Day, as determined in accordance with paragraph 2.2.2; and

p is the number of percentage points by which the Performance Level in Serial SP08a was not met by that Supplier in such GSP Group in respect of such Settlement Day, rounded to 1 decimal place.

3.3 Failure to Comply with Serial SP08b

3.3.1 A Supplier who fails to comply with Serial SP08b shall be liable to the charge set out in the table below:-

Item in Serial SP08b (as referred to in paragraph 2.2.4)	Amount per Chargeable MWh
Initial Volume Allocation Run	£0.13
First Reconciliation Volume Allocation Run	£1.43
Second Reconciliation Volume Allocation Run	£0.00
Third Reconciliation Volume Allocation Run	£0.00
Final Reconciliation Volume Allocation Run	£0.00

- 3.3.2 For the purposes of paragraph 3.3.1, the Chargeable MWh for a Supplier shall be calculated in respect of a GSP Group for any month in respect of which there has been a failure to comply with Serial SP08b in accordance with the following formula:

$$\text{SCMWh} = \text{HHEA} \times \frac{p}{100}$$

where:-

SCMWh is the Chargeable MWh attributable to that Supplier for all Applicable Settlement Periods in respect of the relevant GSP Group;

HHEA is the sum of A_{HZ} and E_{HZ} (expressed in MWh) attributable to that Supplier for such month in respect of the relevant GSP Group for the relevant month, as determined in accordance with paragraph 2.2.5; and

p is the number of percentage points by which the relevant Performance Level in Serial SP08b was not met by the Supplier in such GSP Group in respect of such month, rounded to 2 decimal places.

3.4 Failure to Comply with Serial SP08c

- 3.4.1 A Supplier who fails to comply with Serial SP08c shall be liable to a charge set out in the table below:-

Item in Serial SP08c (as referred to in paragraph 2.2.8)	Amount per Chargeable MWh
First Reconciliation Volume Allocation Run	£0.00
Second Reconciliation Volume Allocation Run	£0.00
Third Reconciliation Volume Allocation Run	£0.00
Final Reconciliation Volume Allocation Run	£1.43

- 3.4.2 For the purposes of paragraph 3.4.1, the Chargeable MWh for a Supplier shall be calculated in respect of a GSP Group for any month in respect of which there has been a failure to comply with Serial SP08c, in accordance with the following formula:

$$\text{SCMWh} = \text{HHEA} \times \frac{p}{100}$$

where:-

SCMWh is the Chargeable MWh attributable to that Supplier for all Applicable Settlement Periods in the relevant month in respect of the relevant GSP Group;

HHEA is the sum of A_{HZ} and E_{HZ} (expressed in MWh) attributable to that Supplier in respect of the relevant GSP Group for the relevant month, as determined in accordance with paragraph 2.2.9; and

p is the number of percentage points by which the Performance Level in Serial SP08c was not met by the Supplier in such GSP Group in respect of such month, rounded to the nearest 2 decimal places.

3.5 Failure to Comply with Serial SP04

3.5.1 Subject to paragraph 3.5.2, a Supplier who fails to comply with Serial SP04 shall be liable, in relation to each relevant Metering System, to a charge of £2.68 per day (or part thereof) during which the failure continues.

3.5.2 A Supplier shall not be liable to a charge in accordance with paragraph 3.5.1 in respect of any failure to install Half Hourly Metering Equipment during the three months following the date on which any Metering Systems (identified as not being 100kW Metering Systems) to which that Metering Equipment relates first become 100kW Metering Systems (the "**SP04 Exclusion Period**").

3.5.3 For the purposes of the charges calculated in accordance with this paragraph 3.5, any charges calculated in respect of any failure to install Half Hourly Metering by the completion of the SP04 Exclusion Period (the "**SP04 Completion Date**"), then:

- (a) where the SP04 Completion Date falls on or after the Relevant Implementation Date of the Code Modification that first made reference to 100 kW Metering Systems;
- (b) such charges shall be calculated in accordance with the rules introduced by the Code Modification that first made reference to 100 kW Metering Systems.

3.6 Failure to Comply with Serial SP01 and Serial SP02

3.6.1 A Supplier who fails to comply with Serial SP01 or (as the case may be) Serial SP02 shall be liable to a charge of £25.50 per Business Day in respect of each Routine Performance Monitoring Report which is not provided or, as the case may be, each Routine Performance Monitoring Log which is not maintained in accordance with the time limits and in the manner specified in Serial SP01 and Serial SP02 respectively.

3.7 Charge Cap

3.7.1 A Supplier's liability to pay charges in respect of any month in respect of a GSP Group (after taking account of its share of such charges receivable pursuant to paragraph 4.1.13) shall in no circumstances exceed the Supplier's Monthly Cap.

3.7.2 A Supplier's Monthly Cap for any month in respect of a GSP Group shall be calculated by the Performance Assurance Board on or before the end of the next succeeding month (on the basis of the then latest available Volume Allocation Run) according to the following formula:

$$S_C = GSP_{MC} \times \left(\frac{SCT}{GSP_{DT}} \right)$$

where:-

S_C means the Supplier's Monthly Cap for the relevant month;

GSP_{MC} means the GSP Group liability cap for the relevant month, calculated in accordance with paragraph 3.7.3;

SCT means the total quantity of active import energy attributable to that Supplier determined as the sum of Supplier Cap Take for that Supplier in the relevant GSP Group across all Settlement Periods in the relevant month; and

GSP_{DT} means the total quantity of active import energy attributable to all Suppliers determined as the sum of Supplier Cap Take for all Suppliers in the relevant GSP Group across all Settlement Periods for the relevant month.

3.7.3 The GSP Group liability cap in respect of a GSP Group for any month shall be calculated by the Performance Assurance Board on or before 30th April in each year (in each case, on the basis of the then latest available Volume Allocation Run) according to the following formula:-

$$GSP_{MC} = \text{£}1,275,000 \times \left(\frac{GSP_A}{GSP_{AS}} \right)$$

where:-

GSP_{MC} means the GSP Group liability cap for the relevant month;

GSP_A means the total quantity of energy (rounded to the nearest two decimal places) attributable to all Suppliers determined as the GSP Group Take in that GSP Group across all Settlement Periods in the 12 month period ending on the immediately preceding 31st March, as determined by the Performance Assurance Board on the basis of information provided by the SVAA; and

GSP_{AS} means the total quantity of energy (rounded to the nearest two decimal places) attributable to all Suppliers determined as the sum of all GSP Group Takes for all GSP Groups across all Settlement Periods in the 12 month period ending on the immediately preceding 31st March, as determined by the Performance Assurance Board on the basis of information provided by the SVAA.

3.7.4 The Performance Assurance Board shall, in its discretion, establish reasonable transitional arrangements (by reference to information available to it from the CDCA) for determining the quantity of energy attributable to all Suppliers for the purposes of paragraph 3.7.3 in relation to any 12 month period for which information as to the GSP Group Take is not available in respect of each month in that period.

3.8 Adjustment to Charges and Caps

3.8.1 The charges specified in paragraphs 3.2.1, 3.3.1, 3.4.1, 3.5.1 and 3.6.1 and the figure of £1,275,000 in paragraph 3.7.3 (for the purposes of this paragraph 3.8 in each case described as the "**Base Sum**"), shall be calculated, in respect of each 12 month period beginning on 1st April, from and including 1st April, 2001, in accordance with the following formula:

$$\text{adjusted Base Sum} = \text{Base Sum} \times \left(1 + \frac{RPI_P}{100} \right)$$

where RPI_P is the percentage change (whether of a positive or negative value) in the Retail Price Index between that published in, or (as the case may be) the substitute index for, the third month before 1st April, 2000 and that published in, or the substitute index for, the third month before the anniversary from which the adjusted charges and the adjusted GSP Group liability cap are to take effect.

3.9 Timing of Commencement of Charges

- 3.9.1 The charges specified in this Annex S-1 except paragraph 3.6 shall apply in respect of months commencing on or after the Implementation Date of the Approved Modification pursuant to which this paragraph 3.9.1 was introduced.
- 3.9.2 The charges specified in paragraph 3.6 shall apply in respect of months (in respect of which Routine Performance Monitoring Reports are to be delivered and Routine Performance Monitoring Logs updated) commencing on or after the date two months after the Implementation Date of the Approved Modification pursuant to which this paragraph 3.9.2 was introduced.

3.10 Temporary Unavailability in Central Monitoring System

- 3.10.1 The provisions of this paragraph 3.10 shall apply where the Performance Assurance Reporting and Monitoring System is temporarily unavailable for whatever reason and, for the avoidance of doubt, a Supplier shall remain liable to pay charges in respect of which the Performance Assurance Board is, for the time being, unable to determine the payment of such charges due to the temporary unavailability of the Performance Assurance Reporting and Monitoring System.
- 3.10.2 Each of the Suppliers acknowledges and confirms that those charges specified in this paragraph 3 which cannot be separately determined by the Performance Assurance Board without the assistance of the Performance Assurance Reporting and Monitoring System shall not be payable in respect of a Supplier until such time as the Performance Assurance Reporting and Monitoring System is available in order to record data and determine the charges payable by Suppliers pursuant to the Menu of Supplier Charges (as determined by the Performance Assurance Board) provided that such charges shall nevertheless continue to accrue for the purposes of paragraph 3.10.3.
- 3.10.3 Once the Performance Assurance Reporting and Monitoring System is available (as determined by the Performance Assurance Board in accordance with paragraph 3.10.2), a Supplier shall be liable to pay charges in respect of its performance against those Serials in respect of which the Performance Assurance Board could not determine the payment of such charges without the assistance of the Performance Assurance Reporting and Monitoring System, for the period from the relevant date when such System became temporarily unavailable.
- 3.10.4 The charges referred to in paragraph 3.10.3 shall be calculated in accordance with the Menu of Supplier Charges (and shall have deemed due dates for payment) for the purposes of paragraph 4 as if such Performance Assurance Reporting and Monitoring System had been available.

4. COLLECTION AND PAYMENT OF SUPPLIER CHARGES

4.1 Supplier Charges - Collection and Recovery

- 4.1.1 The Performance Assurance Board shall determine whether a Supplier has failed to comply with any of the Serials and the associated charges payable, in each case as soon as is reasonably practicable following receipt by the Performance Assurance Board of the Routine Performance Monitoring Reports pursuant to Serial SP01.
- 4.1.2 The Performance Assurance Board shall make its determination on the basis of the information provided to it in the Routine Performance Monitoring Reports adjusted where

appropriate to reflect the circumstances which applied at the time when the calculations would have been made if the Routine Performance Monitoring Reports had been provided within the time period specified in Serial SP01.

- 4.1.3 When making its determination pursuant to paragraph 4.1.1 of whether a Supplier has failed to comply with any of the Serials and the associated charges payable by the Supplier:
- (a) the Performance Assurance Board shall compare the Supplier's Net Liability for the relevant month (calculated as S_{NL} below) with the Supplier's Monthly Cap;
 - (b) if the Supplier's Net Liability exceeds the Supplier's Monthly Cap then the total charges payable by the Supplier in respect of the relevant month shall be calculated according to the following formula (instead of by general application of the Menu of Supplier Charges):-

$$\text{Supplier's charges} = S_{TGC} \times \left(\frac{S_C}{S_{NL}} \right)$$

where:-

S_{TGC} is the total charges which would be payable by the Supplier for the relevant month under this paragraph 4 in respect of the relevant GSP Group before the application of this paragraph;

S_C is the Supplier's Monthly Cap for the relevant month (calculated pursuant to paragraph 3.8 of the Menu of Supplier Charges); and

S_{NL} is the total charges which would be payable by the Supplier for the relevant month under this paragraph 4 in respect of the relevant GSP Group before the application of this paragraph 4.1.3, less any share of those charges payable by the Supplier which would otherwise be receivable by the Supplier pursuant to paragraph 4.1.13 before the application of this paragraph.

- 4.1.4 As soon as practicable following a determination pursuant to paragraph 4.1.1, the Performance Assurance Board shall notify each Supplier of the amount (if any) due from it pursuant to this paragraph in respect of any particular month in respect of failures to comply with any of the Serials and any such notice shall specify the GSP Group in relation to which the relevant amount is payable by a Supplier (where relevant).
- 4.1.5 Each Supplier shall pay the amount notified to it by the Performance Assurance Board in accordance with paragraph 4.1.4 within 15 days after the invoice date. Any such payment shall be made to the Performance Assurance Board (for distribution in accordance with paragraphs 4.1.13 and 4.1.14) in sterling in cleared funds in full without set-off or counterclaim (subject to paragraph 4.1.20), withholding or deduction of any kind whatsoever but without prejudice to any other remedy.
- 4.1.6 All charges under this paragraph 4.1 are exclusive of VAT which shall be added to such charges, if applicable.
- 4.1.7 In the event of any dispute regarding charges under this paragraph 4.1 in respect of any month, no Supplier may withhold payment of any invoiced amount.

4.1.8 For the purposes of this paragraph 4.1:

- (a) if any amount due under this paragraph 4.1 is not received on the due date, the Supplier required to pay such amount shall pay interest to the Performance Assurance Board on such amount from and including the date of default to the date of actual payment (before as well as after judgment) at the Default Interest Rate from time to time during such period of default;
- (b) if the Performance Assurance Board has to calculate any amount due under this paragraph 4.1 following the late receipt of a Routine Performance Monitoring Report (in this paragraph, the “**Relevant Report**”), the Supplier required to pay such amount shall pay interest to the Performance Assurance Board on such amount for the period of default (before as well as after judgment) at the Default Interest Rate;
- (c) if an amount due from a Supplier pursuant to this Annex S-1 in respect of a failure to comply with any of the Serials is subsequently recalculated or redetermined (whether as a result of a dispute or otherwise howsoever), interest shall be payable to the Performance Assurance Board by or for the account of the Supplier and/or the Trading Parties concerned on the difference between the original amount and the amount as so recalculated or redetermined from (and including) the first day of the month following that in respect of which the original charge was levied to (and including) the last day of the month immediately preceding that in which the amount is recalculated or redetermined (before as well as after judgment) at the Base Rate calculated for successive monthly periods and determined as at the first day of each such period;

and, for the purpose of calculating interest under paragraphs 4.1.8(a) and (b):

- (i) the period of default shall be deemed to begin on the due date for delivery of the Relevant Report and shall be deemed to end on the due date for delivery of the next succeeding Routine Performance Monitoring Report required to be delivered by that Supplier after receipt by the Performance Assurance Board of the Relevant Report (in this paragraph, the “**Next Report**”) (or, if the Relevant Report shall be the last report due from that Supplier, the date that would have been the due date for delivery of the Next Report); and
- (ii) the Default Interest Rate shall be calculated as at the first day of each month for successive monthly periods beginning with the month in which the period of default is deemed to begin and ending with the month in which such period of default is deemed to end.

4.1.9 If the Performance Assurance Board is unable to calculate any amounts due under this paragraph 4.1 as a result of any temporary unavailability of the Performance Assurance Reporting and Monitoring System, then the Supplier required to pay any such amounts shall pay interest to the Performance Assurance Board from and including the deemed due date for payment, calculated in accordance with paragraph 3.11 of the Menu of Supplier Charges, to the date of payment (before as well as after judgment) at the BSC Interest Rate from time to time during such period.

4.1.10 Any amount received by the Performance Assurance Board pursuant to this paragraph 4.1 shall be applied by the Performance Assurance Board (unless otherwise specified by the paying Supplier) in or towards payment of amounts payable by the Supplier in respect of the longest outstanding invoice and (where there is a shortfall in payment by a Supplier of any amounts specified in a single invoice in respect of different GSP Groups) according to

the proportion which the individual amounts payable pursuant to the invoice bear to the total amount payable under that invoice.

- 4.1.11 Any amounts paid by a Supplier pursuant to this paragraph 4.1 shall be accounted for separately by the Performance Assurance Board by reference to the GSP Group in respect of which the relevant amounts have been collected or appropriated.
- 4.1.12 The Performance Assurance Board shall not be obliged to segregate any amounts received pursuant to this paragraph 4.1 into separate funds.
- 4.1.13 Each qualifying Supplier shall be entitled to receive its due proportion of amounts recoverable pursuant to this paragraph 4.1 and available for distribution in respect of a GSP Group and, for this purpose:-
- (a) a "**qualifying Supplier**" is a Supplier who has at any time during the relevant month supplied any Customers in the relevant GSP Group who have Non Half Hourly Metering Systems;
 - (b) the due proportion relating to a qualifying Supplier is the amount (as near as may be) calculated by the Performance Assurance Board as that Supplier's share of the total quantity of energy (after adjustment for Line Loss Factors) attributable to Non Half Hourly Metering Systems taken by all Suppliers in the GSP Group during the relevant month pursuant to the Code;
 - (c) the amount available for distribution in relation to a GSP Group in respect of a particular month is 90 per cent. of the total amount from time to time paid or due and payable from Suppliers pursuant to this paragraph 4.1 in relation to the relevant GSP Group in respect of that month, whether or not then paid; and
 - (d) the information as to total quantity of energy referred to in paragraph (b) shall be as provided by the SVAA based on the latest available run of Supplier Volume Allocation as at the time when the relevant calculation falls to be made.
- 4.1.14 Each qualifying Trading Party shall be entitled to receive a share of amounts recoverable pursuant to this paragraph 4.1 and available for distribution in respect of Trading Parties in the proportion to which a Trading Party's Main Funding Share bears to the Main Funding Shares of all Trading Parties applicable in respect of the relevant month and, for this purpose:-
- (a) a "**qualifying Trading Party**" is a Trading Party who was at any time during the relevant month a Trading Party; and
 - (b) the amount recoverable pursuant to this paragraph 4.1 and available for distribution to qualifying Trading Parties in respect of a particular month is 10 per cent. of the total amount from time to time paid or due and payable from Parties pursuant to this paragraph 4.1 in relation to the relevant GSP Group in respect of that month, whether or not then paid.
- 4.1.15 The Performance Assurance Board shall, by no later than the end of each month, calculate the amount (if any) payable to each qualifying Supplier and qualifying Trading Parties pursuant to paragraph 4.1.13 and paragraph 4.1.14 in respect of the relevant preceding month (or months) to which a Supplier's Routine Performance Monitoring Report relates and any earlier months.
- 4.1.16 The Performance Assurance Board shall, by no later than the end of each month, notify each qualifying Supplier and qualifying Trading Party of the amounts (if any) so

recoverable by them and shall account to each qualifying Supplier and qualifying Trading Party on a monthly basis out of the funds received in respect of any particular GSP Group for the amounts so recoverable.

- 4.1.17 The Performance Assurance Board shall in no circumstances be obliged to account to a qualifying Supplier or qualifying Trading Party in an amount exceeding the available funds collected pursuant to this paragraph 4.1.
- 4.1.18 Any amounts paid by the Performance Assurance Board to a qualifying Supplier or qualifying Trading Party shall be deemed to be inclusive of any VAT, if applicable.
- 4.1.19 The provisions of this paragraph 4.1 shall give rise to rights and obligations as between Suppliers within the same GSP Group and as between qualifying Trading Parties generally and the relevant Supplier and, accordingly, the procedures for collection and payment of amounts by the Performance Assurance Board shall accordingly be without prejudice to the rights of any qualifying Supplier or qualifying Trading Parties to enforce its claim (to the extent not paid or otherwise satisfied) against any Supplier who fails to make payment on the due date.
- 4.1.20 For administrative convenience, the Performance Assurance Board shall be entitled at any time and from time to time to arrange for the payment and collection of amounts by, and for the payment and account of amounts to, Suppliers and Trading Parties (or particular ones of them) pursuant to this paragraph 4.1 to be made on a net basis (in which case such payments, collections and accounts with respect to, and as between, the Suppliers and Trading Parties in question shall be so made) but any such netting shall be without prejudice to paragraph 4.1.19.
- 4.1.21 The Performance Assurance Board may request BSCCo to arrange for the FAA or some other person nominated by it from time to time to carry out all or any of its functions pursuant to this paragraph 4.1 (save where the Performance Assurance Board is required to make a determination pursuant to any of paragraphs 4.1.1 and 4.1.2 and paragraph 4.1.13(b)), in which case references to the Performance Assurance Board in this paragraph 4.1 are to be read as references to FAA or such other person so long as such delegation continues.
- 4.1.22 A Supplier may query the amounts notified to it pursuant to paragraph 4.1.16 within 10 Business Days of receiving such notification in accordance with BSCP536.