

SECTION D: BSC COST RECOVERY AND PARTICIPATION CHARGES**1. GENERAL****1.1 Introduction**

1.1.1 This Section D sets out:

- (a) the basis on which Trading Parties' various Funding Shares will be determined;
- (b) the basis for determining specified charges payable by Parties and others to BSCCo in respect of participation under the Code;
- (c) further arrangements pursuant to which BSCCo will recover BSC Costs from Trading Parties;
- (d) arrangements pursuant to which certain Trading Parties will recover certain amounts (not being Trading Charges), directly from other Trading Parties, in respect of Party-Funded Costs.

1.1.2 In this Section D:

- (a) references to Parties exclude BSCCo and the BSC Clearer;
- (b) references to a month are to a calendar month, unless the context otherwise requires.

1.1.3 For the purposes of the Code, "**BSCCo Charges**" means amounts payable by Parties by way of Specified BSC Charges in accordance with paragraph 3.1 and any further charges in accordance with paragraph 3.3, and in respect of the recovery of BSC Costs pursuant to paragraph 4.2.

1.1.4 Nothing in this Section D applies in relation to Trading Charges.

1.2 Funding Shares

1.2.1 For the purposes of the Code, in relation to a month:

- (a) the "**Main Funding Share**" (FSM_{pm}) of a Trading Party is the proportion determined in accordance with Part 1 of Annex D-1;
- (b) the "**SVA (Consumption) Funding Share**" ($FSCS_{pm}$) of a Trading Party which is a Supplier is the proportion determined in accordance with Part 2 of Annex D-1;
- (c) the "**SVA (Production) Funding Share**" ($FSPS_{pm}$) of a Trading Party is the proportion determined in accordance with Part 3 of Annex D-1;
- (d) subject to paragraph 1.2.2, the "**General Funding Share**" of a Trading Party is the proportion determined in accordance with Part 4 of Annex D-1;
- (e) subject to paragraphs 1.2.2, 1.2.3 and 1.2.4, the "**Annual Funding Share**" of a Trading Party is the sum of its General Funding Shares for the 12 consecutive months ending with and including that month, divided by the sum for all Trading Parties of their General Funding Shares for such 12 months;

- (f) **"Funding Shares"** means Main Funding Shares, SVA (Consumption) Funding Shares, SVA (Production) Funding Shares, General Funding Shares, Annual Funding Shares and (where applicable in accordance with paragraph 1.3) Default Funding Shares.

1.2.2 A reference in any provision of the Code to the General Funding Share or Annual Funding Share (in relation to any month) of a Trading Party on a **"default basis"**, in the context of one or more other Trading Parties being in default of a payment obligation under the Code, is to such General Funding Shares or Annual Funding Shares determined, as provided in Part 4 of Annex D-1, so as to disregard the participation of the Trading Party(ies) in default.

1.2.3 Subject to paragraph 1.2.4, for the purposes of paragraph 1.2.1(e) a Trading Party shall be treated as having a General Funding Share of zero for any month for which no General Funding Share was determined for that Trading Party.

1.2.4 In relation to any month which is less than 12 months after the Go-live Date, the number of months referred to in paragraph 1.2.1(e) shall be the number of whole months from the Go-live Date to and including that month.

1.3 **Default Funding Shares**

1.3.1 For the purposes of this Section D:

- (a) a Trading Party is a **"defaulting party"** in relation to a BSC Year (a **"default"** BSC Year) where:
- (i) the Trading Party failed to pay any amount by way of BSCCo Charges (for which that Party was liable) accruing in respect of the default BSC Year, and
 - (ii) such unpaid amount was recognised by BSCCo as a bad debt and included in BSC Costs pursuant to paragraph 2.1.1(a)(ii) in relation to the default BSC Year;
- (b) in relation to every month in a default BSC Year (irrespective of the month in which any defaulting party failed or first failed to make payment), the **"Default Funding Share"** (FSD_{pm}) of each Trading Party which was not a defaulting party in that year is its General Funding Share determined on a default basis in relation to all defaulting parties.

1.4 **Determination of Funding Shares**

1.4.1 BSCCo will:

- (a) determine periodically in accordance with paragraph 4 each Trading Party's Main Funding Share, SVA (Consumption) Funding Share, SVA (Production) Funding Share and General Funding Share, Annual Funding Share and (where applicable) Default Funding Share for each month; and
- (b) notify all such Funding Shares to all Trading Parties in the statement provided under paragraph 4.5.1(b).

1.4.2 Annual Funding Shares determined in relation to any month in accordance with paragraph 4:

- (a) shall be final and binding on Trading Parties, notwithstanding that (in accordance with paragraph 4.3) they are based on estimated data (used in the determination of General Funding Shares) for certain months; and
- (b) shall not be subject to any subsequent adjustment or reconciliation upon actual data becoming available or upon any subsequent redetermination of General Funding Shares.

1.4.3 Each Party shall, upon request of BSCCo, provide to BSCCo any information reasonably requested by it for the purposes of determining Trading Parties' various Funding Shares.

1.4.4 So far as data derived in Volume Allocation is used in the determination of any Funding Shares:

- (a) such data shall be that derived from the Initial Volume Allocation Runs for Settlement Days in the relevant month, which shall be final and binding for the purposes of such determination;
- (b) no adjustment or reconciliation shall be made in respect of or by reference to any Reconciliation Volume Allocation Run or data derived therefrom, or otherwise as a result of the resolution of any Trading Dispute relating to such data.

1.4.5 If:

- (a) at the time at which a Trading Party first raised a Trading Dispute in accordance with Section W, such Party notified the Panel that the Party wishes this paragraph 1.4.5 to apply; and
- (b) following resolution of the Trading Dispute (or as the case may be the making of an arbitral award) and the carrying out of a Reconciliation Volume Allocation Run, the Panel in its sole discretion considers that such resolution or award amounts to an exceptional circumstance which justifies making an adjustment in respect of the Volume Allocation data used in determining Funding Shares,

then the Panel may require BSCCo to redetermine Funding Shares (for all or any particular purposes of the Code) accordingly, and to make the consequential adjustments in respect of the amounts paid or payable by Trading Parties by way of BSCCo Charges.

2 BSC COSTS

2.1 General

2.1.1 For the purposes of the Code, subject to paragraph 2.4:

- (a) "**BSC Costs**" means, subject to paragraph (b):
 - (i) all costs, expenses and other outgoings of BSCCo and its Subsidiaries and other amounts for which BSCCo or any of its Subsidiaries may be liable (other than amounts payable as trustee for any person), net of recoverable VAT; and
 - (ii) with effect from such time as BSCCo determines to treat such amount as a bad debt, any amount payable by a Party in respect of

BSCCo Charges which was not paid within 15 Business Days after the due date for payment and remains outstanding at such time, excluding any part of such amount which comprises VAT to the extent to which BSCCo considers that it will recover such VAT from a taxation authority;

- (b) BSC Costs do not include:
 - (i) amounts payable by or to the BSC Clearer in respect of Trading Charges pursuant to Section N;
 - (ii) (to avoid double counting) amounts paid by BSCCo to its Subsidiaries by way of funding;
 - (iii) Party Funded Costs or any amounts payable to any Parties in respect of Supplier charges pursuant to Annex S-1;
- (c) "**SVA Costs**" are BSC Costs incurred by BSCCo in connection with Supplier Volume Allocation, determined in accordance with Annex D-2;
- (d) "**Annual BSC Costs**" in relation to a BSC Year, means all BSC Costs accruing (in accordance with the BSCCo Accounting Policies) in that year;
- (e) "**Annual SVA Costs**" in relation to a BSC Year, means all SVA Costs accruing (in accordance with the BSCCo Accounting Policies) in that year;
- (f) "**Annual Default Costs**" in relation to a BSC Year, means the aggregate of all unpaid amounts falling to be treated as BSC Costs under paragraph 2.1.1(a)(ii) in that BSC Year.

2.1.2 Without prejudice to the generality of paragraph 2.1.1, BSC Costs include amounts for which BSCCo or any of its Subsidiaries is liable:

- (a) pursuant to or in connection with any BSC Agent Contract or Market Index Data Provider Contract or any breach by BSCCo thereof or the termination thereof;
- (b) pursuant to any indemnity given by it pursuant to the Code or any BSC Agent Contract or Market Index Data Provider Contract or otherwise;
- (c) pursuant to any provision of the Implementation Scheme;
- (d) should BSCCo in any circumstances be required to pay (other than as trustee) to any Party any amount recovered or recoverable by BSCCo from a BSC Agent or Market Index Data Provider;
- (e) by way of payment of interest or other charges or repayment (including any prepayment or premature or accelerated repayment) of principal in respect of any borrowing (and including any grossed-up amounts where any deduction is made from payment of interest);
- (f) in respect of any taxes (save to the extent to which such amounts are recoverable from any person or authority in the BSC Year in question);
- (g) to a Contract Trading Party pursuant to Section M4;

- (h) in damages (in contract or tort or otherwise) to any person, including (by virtue of Section C5.2 or otherwise) any Party.

2.2 Recovery of BSC Costs

- 2.2.1 BSCCo shall and shall be entitled to recover all BSC Costs from Trading Parties severally as provided in this Section D.

2.3 BSC Accounting Policies

- 2.3.1 BSCCo shall prepare and adopt, and may from time to time amend, after consulting with the Panel, accounting policies, as required by or consistent with requirements of law and generally accepted accounting practice in the United Kingdom, and having regard to the objectives referred to in Section C1.3.1.
- 2.3.2 BSCCo shall prepare a statement of the accounting policies from time to time adopted or amended pursuant to paragraph 2.3.1 and shall provide a copy of such statement and any amendment thereof to the Panel and upon request to any Trading Party.
- 2.3.3 BSCCo shall account for its transactions, costs and revenues, and shall maintain and prepare accounting records, statements and other documents, as required by law and as further appropriate to give effect to this Section D and in accordance with the BSC Accounting Policies.

2.4 Taxation

- 2.4.1 Subject only to paragraph 2.4.3, each Party agrees that it will be bound by any agreement made (whether before or after the entry into force of the Code) between BSCCo (or any of its Subsidiaries) and any tax authority as to the treatment for taxation purposes of any transactions envisaged by the Code between BSCCo (or any of its Subsidiaries) and any other Party.
- 2.4.2 Subject only to paragraph 2.4.3, each Party further undertakes that it will not act in any way prejudicial to such agreement, including acting on the basis of, assuming, seeking or making any application or request to any tax authority for, any conflicting treatment.
- 2.4.3 A Party shall not be bound by paragraph 2.4.1 or 2.4.2, if and to the extent that such Party has first obtained an opinion of leading counsel, in unequivocal terms, to the effect that such agreement is unlawful, or that it is required by law to act in breach of paragraph 2.4.2, and has provided to BSCCo a copy of such opinion and notified to BSCCo the action which such Party intends to take.
- 2.4.4 BSCCo shall ensure that details of each such agreement as is referred to in this paragraph 2.4 are provided to each Party upon its becoming a Party and upon any change in such agreement.

3. SPECIFIED BSC CHARGES

3.1 General

- 3.1.1 For the purposes of the Code:
 - (a) "**Specified BSC Charges**" means Specified NETA Funding Charges, Main Specified Charges and SVA Specified Charges;

- (b) **"Specified NETA Funding Charges"** means the charges determined in accordance with paragraph 2 of Annex D-3;
- (c) **"Main Specified Charges"** means the charges determined in accordance with paragraph 3 of Annex D-3;
- (d) **"SVA Specified Charges"** means the charges determined in accordance with paragraph 4 of Annex D-3.

3.2 Liability to pay Specified BSC Charges

- 3.2.1 Each Party shall be liable for and shall pay Specified BSC Charges determined in accordance with Annex D-3.
- 3.2.2 BSCCo shall determine amounts payable by way of Specified BSC Charges, and invoice such amounts to Parties (in accordance with paragraph 4.3 in the case of Trading Parties).

3.3 Further charges

- 3.3.1 The further provisions of Annex D-3 shall apply for the purposes of determining further charges which may be made by BSCCo; and Parties shall be liable to BSCCo for and shall pay all such amounts which may be so charged and invoiced by BSCCo.

4. RECOVERY OF NET ANNUAL COSTS

4.1 Net Annual BSC Costs

For each BSC Year:

- (a) **"Annual Net Main Costs"** is the amount of the Annual BSC Costs, less:
 - (i) all amounts payable by Parties by way of Main Specified Charges and specified NETA Funding Charges;
 - (ii) all amounts payable to BSCCo by any BSC Agent or Market Index Data Provider by way of credit, damages or liquidated damages or otherwise (unless deducted from amounts payable to such BSC Agent or Market Index Data Provider before the latter amounts were counted as BSC Costs), other than amounts falling within paragraph (b)(ii);
 - (iii) the amount of the Annual SVA Costs (or if greater, the aggregate amount paid by Trading Parties by way of SVA Specified Charges);
 - (iv) any amount recovered by BSCCo from any insurer;
 - (v) any amounts paid to BSCCo by way of fee pursuant to Section P6.2.2, Section P6.7.2 or Section Q7.2.3;
 - (vi) any amounts paid to BSCCo by way of fee pursuant to Section Q7.2.3;
 - (vii) all amounts otherwise paid to BSCCo (other than as trustee) by any person (including any Party, pursuant to any indemnity given by the Party to BSCCo under the Code, or otherwise);

- (b) **"Annual Consumption-Charging Net SVA Costs"** is one-half of the amount of the Annual SVA Costs, less:
 - (i) all amounts payable by Trading Parties by way of SVA Specified Charges;
 - (ii) all amounts payable to BSCCo by any of the BSC Agents referred to in Annex D-2, by way of credit, damages or liquidated damages or otherwise (unless deducted from amounts payable to such BSC Agent before the latter amounts were counted as BSC Costs), in respect of services referred to in Annex D-2;
- (c) **"Annual Production-Charging SVA Costs"** is one-half of the amount of the Annual SVA Costs;
- (d) subject to paragraph 4.3.8:
 - (i) **"Monthly Net Main Costs"** ($MNMC_m$) is 1/12 of Annual Net Main Costs;
 - (ii) **"Monthly Consumption-Charging Net SVA Costs"** ($MCNSC_m$) is 1/12 of Annual Consumption-Charging Net SVA Costs;
 - (iii) **"Monthly Production-Charging SVA Costs"** ($MPSC_m$) is 1/12 of Annual Production-Charging SVA Costs;
- (e) **"Monthly Default Costs"** (MDC_m) is 1/12 of Annual Default Costs.

4.2 Liability in Funding Shares

4.2.1 For each month in any BSC Year, each Trading Party shall be liable to BSCCo for:

- (a) its Main Funding Share for that month of the Monthly Net Main Costs;
- (b) its SVA (Consumption) Funding Share for that month of the Monthly Consumption-Charging Net SVA Costs;
- (c) its SVA (Production) Funding Share for that month of the Monthly Production-Charging SVA Costs;
- (d) its Default Funding Share of the Monthly Default Costs.

4.2.2 Amounts for which Trading Parties are liable pursuant to paragraph 4.2.1 shall be invoiced in accordance with the further provisions of this paragraph 4.

4.3 Invoicing, estimation and reconciliation

4.3.1 In relation to each month (the **"invoice month"**) of each BSC Year, BSCCo shall determine:

- (a) the amounts of:
 - (i) Monthly Net Main Costs,
 - (ii) Monthly Consumption-Charging Net SVA Costs,
 - (iii) Monthly Production-Charging SVA Costs,

(iv) Monthly Default Costs (if any)

for the invoice month and each preceding month in that year, consistent with the prevailing Annual Budget, and based on its prevailing estimate of Annual Net Main Costs, Annual Consumption-Charging Net SVA Costs, Annual Production-Charging SVA Costs and Annual Default Costs for the year;

(b) for each Trading Party, in relation to the invoice month and each preceding month in that BSC Year:

(i) the Main Funding Shares, SVA (Consumption) Funding Shares, SVA (Production) Funding Shares and (where applicable) Default Funding Shares of such Party; and

(ii) the amounts for which such Party is liable by way of Specified Charges;

(c) for each Trading Party:

(i) on the basis of paragraphs (a) and (b), the aggregate amounts for which such Party is liable in such BSC Year, up to and including the invoice month, by way of BSCCo Charges;

(ii) the aggregate amount (if any) already paid or payable by each Party by way of BSCCo Charges in such BSC Year, up to and including the month preceding the invoice month;

(iii) the amount of the difference (whether positive or negative) between the amounts in paragraphs (i) and (ii).

4.3.2 BSCCo's determinations under paragraph 4.3.1 shall be made:

(a) as at 1000 hours on the 15th Business Day of the month preceding (or if BSCCo has so notified Parties, the second month preceding) the invoice month, subject to paragraph 4.5.2 (and as soon as is practicable after that time and in any event no later than the last Business Day of that month);

(b) on the basis of actual data available to it at the time referred to in paragraph (a), and otherwise on the basis of BSCCo's estimates of the relevant data; and accordingly actual data received by BSCCo after such time will not be taken into account until the following month.

4.3.3 BSCCo shall prepare and from time to time revise, and make available to the Panel and to Parties, a statement of the principles and methods by which it makes estimates under paragraph 4.3.2(b), but it is acknowledged that such principles and methods will not be applicable in all cases, and in the absence of any such applicable principle or method BSCCo will make such estimates as appear to it to be reasonable.

4.3.4 Subject to paragraph 4.3.5, the amount to be invoiced by BSCCo to each Trading Party each month by way of BSCCo Charges shall be the amount determined pursuant to paragraph 4.3.1(c)(iii) (which amount shall be payable by or to the Trading Party according to whether it is positive or negative).

4.3.5 Where for any Trading Party in relation to any month the magnitude of the amount referred to in paragraph 4.3.4 is less than the minimum invoice amount, no amount shall be invoiced to that Party by way of BSCCo Charges in respect of that month (but without prejudice to the determinations made pursuant to paragraph 4.3.1 in the following month);

and for the purposes of this Section D the "**minimum invoice amount**" shall be such amount as the Panel shall from time to time determine, and shall initially be £500.

- 4.3.6 No interest shall accrue on or be taken into account in the determination of any amounts under paragraph 4.3.1 or upon reconciliation under paragraph 4.4.
- 4.3.7 Notwithstanding paragraph 4.3.1, BSCCo shall apply the formula set out in Annex D-4 for the purposes of determining the amount to be invoiced each month to each Trading Party by way of BSCCo Charges, and in the event of any conflict between this paragraph 4 and that Annex, that Annex shall prevail.
- 4.3.8 Where upon the application of BSCCo the Panel accepts that a substantial proportion of BSC Costs are or are likely to be incurred on a significantly uneven basis over the course of a BSC Year, and the Annual Budget indicates such basis by specifying the factors (approved by the Panel) referred to in paragraph (b):
- (a) for the purposes of its determinations under paragraph 4.3.1 (except pursuant to paragraph 4.4), BSCCo may, with the approval of the Panel, adjust the basis of determining Monthly Net Main Costs and Monthly Net SVA Costs, by recognising the expected profile of such expenditure in accordance with paragraph (b);
 - (b) such profile will be recognised by applying factors (as approved by the Panel) other than 1/12 in relation to all or certain months for the purposes of paragraph 4.1(d);
 - (c) BSCCo will inform Trading Parties of such factors (and the month(s) to which each such factor applies) as soon as they have been approved by the Panel; but
 - (d) Trading Parties' General Funding Shares shall be determined pursuant to Annex D-1 disregarding the recognition of such expected profile (and on the basis of factors of 1/12 in paragraph 4.1(d)).

4.4 Reconciliation

- 4.4.1 In relation to each BSC Year, BSCCo shall, not later than 28 days after publication of its audited accounts for that year, make a final determination and adjustment in respect of the amounts payable by each Trading Party way of BSCCo Charges.
- 4.4.2 Such determination and adjustment shall be made in accordance with paragraph 4.3 except that:
- (a) BSCCo shall use only actual data and shall not (unless any actual data remains unavailable to it at the time of such determination) use estimated data;
 - (b) paragraph 4.3.4 (providing for a minimum invoiced amount) shall not apply;
 - (c) paragraph 4.3.8 (providing for recognition of profiled expenditure) shall not apply.
- 4.4.3 BSCCo shall invoice to Trading Parties the amounts determined to be payable pursuant to paragraph 4.4.1 by way of final reconciliation and adjustment in respect of BSCCo Charges payable by Trading Parties in the relevant BSC Year.
- 4.4.4 Subject only to paragraph 4.4.5, BSCCo's determination of BSCCo Charges in a BSC Year under paragraph 4.4.1 shall be final and binding, and no further adjustment shall be made (and accordingly any subsequent adjustment in respect of BSC Costs in the BSC Year shall

be taken into account in the BSC Costs for the BSC Year in which such adjustment is identified and made).

- 4.4.5 If, after the final determination under paragraph 4.4.1, the Panel determines that there are exceptional circumstances which justify an adjustment in respect of an extraordinary error in the determination of, or in data used in the determination of, any Funding Shares under that paragraph, the Panel may in its discretion direct, and Trading Parties shall be bound by, and BSCCo shall give effect to, such adjustment in respect of BSCCo Charges (payable by and to Trading Parties) in that BSC Year as appears to the Panel to be appropriate.
- 4.4.6 It is acknowledged that any BSC Costs referred to in Section H1.7 may, if the Panel decides it is appropriate to do so, be apportioned (on such basis as the Panel shall so decide) over the period from the Go-live Date to the BSC Year in which they are incurred, and in such case the Panel may direct that BSCCo shall redetermine (on such basis of approximation as the Panel may approve) each Trading Party's liability for BSCCo Charges over such period, and each Trading Party shall be bound by such direction and determination and shall be liable to make adjustment payments in respect of BSCCo Charges accordingly.

4.5 Invoicing

- 4.5.1 In respect of each month, not less than 5 Business Days after making its determination for that month under paragraph 4.3.2, BSCCo shall send to each Trading Party:
- (a) an invoice in respect of the amounts accruing in respect of BSCCo Charges in the following month (or where paragraph 4.5.2 applies, accruing in the relevant prior month), setting out:
 - (i) the net amount determined as payable by or to the Trading Party in pursuant to paragraph 4.3.1(c)(iii);
 - (ii) applicable VAT in respect of supplies to which the invoice relates;
 - (iii) the invoice due date in accordance with paragraph 4.5.3;
 - (b) a statement showing the basis of calculation (pursuant to paragraph 4.3) of the amounts under paragraph (a).
- 4.5.2 Where BSCCo has sufficient working capital available to it (pursuant to any permitted borrowing in accordance with Section C3.4.3(a)), BSCCo may decide, after consultation with the Panel, to invoice BSCCo Charges (to all Parties) up to 3 months in arrears.
- 4.5.3 Following the final determination by BSCCo in respect of the preceding BSC Year in accordance with paragraph 4.4, BSCCo shall send to each Trading Party an invoice and statement setting out the matters specified in paragraph 4.5.1.
- 4.5.4 The due date of each invoice for BSCCo Charges shall be the 10th Business Day after the date of receipt of the invoice.

4.6 Combined invoicing of Supplier charges

- 4.6.1 It is agreed and acknowledged:
- (a) that the Performance Assurance Board may delegate to BSCCo the invoicing and administration of payment of Supplier charges (and any associated amounts in respect of VAT) on behalf of Suppliers and qualifying Trading Parties under Annex S-1,

- (b) in such case, that BSCCo may combine the invoicing and administration of payment of BSCCo Charges (on its own behalf) and Supplier charges under Annex S-1, and may submit a single invoice to each Party and require and make or receive a single payment in respect such amounts; and subject to paragraph 4.6.2 each Party authorises BSCCo to do so, notwithstanding any contrary provisions as to the basis (including any express or implied trust) on which such amounts are to be held by the Performance Assurance Board pursuant to Annex S-1.

4.6.2 Where pursuant to paragraph 4.6.1:

- (a) BSCCo receives any amount which includes any payment from any Supplier of any amount under Annex S-1, and
- (b) BSCCo does not on the same day make payment of the corresponding amount payable to the qualifying Trading Parties entitled thereto pursuant to Annex S-1 (or has not given credit for such corresponding amount in determining the net amount invoiced pursuant to paragraph 4.6.1 to such qualifying Trading Parties)

then BSCCo shall promptly upon receipt of such amount segregate that part of such amount which is referable to the payment from the Supplier pursuant to Annex S-1 into an account separate from that in which amounts paid in respect of BSCCo Charges are held (but without prejudice to paragraph 4.1.12 of Annex S-1).

5. PARTY-FUNDED COSTS

5.1 Party-Funded Costs

5.1.1 Certain Parties are entitled to repayment (from Parties or classes of Party collectively), in accordance with this paragraph 5, of amounts incurred by them no later than the Go-live Date, as follows:

- (a) to the extent not already recovered under the terms of the Pooling and Settlement Agreement, costs ("**1998 Programme Costs**") incurred by PES Suppliers in respect of the development (in connection with the Pooling and Settlement Agreement) of arrangements for Supplier Volume Allocation;
- (b) costs ("**Pool NETA Costs**") incurred by Pool Members in connection with the development of the arrangements to which the Code gives effect.

5.1.2 For the purposes of the Code:

- (a) "**Party Funded Costs**" means 1998 Programme Costs and Pool NETA Costs;
- (b) in relation to each kind of Party Funded Costs:
 - (i) "**Funding Party**" means the Party or Parties entitled to recover amounts in respect of such Party Funded Costs;
 - (ii) "**Party Charge**" means an amount payable by a Party in respect of the recovery by Funding Party(ies) of such Party Funded Costs;
 - (iii) "**Funding Party Payment**" means an amount payable to a Funding Party in respect of the recovery of such Party Funded Costs.

- 5.1.3 Annex D-5 sets out, for each kind of Party Funded Costs:
- (a) the amount or the basis of determination of the amount recoverable by the Funding Party, or Funding Parties in aggregate, in respect of such Party Funded Costs;
 - (b) the period over which such amount is recoverable by the Funding Party(ies);
 - (c) the basis (if any) on which interest will accrue in respect of Party Funded Costs until they are recovered;
 - (d) the Parties or classes of Party from which amounts are recoverable in respect of such Party Funded Costs;
 - (e) the basis for determining the amounts payable by such Parties as Party Charges and the due dates for payment of such charges.
- 5.1.4 Each Party (in each of the capacities referred to in paragraph 5.1.3(d)) shall be liable to the relevant Funding Parties for and shall pay the Party Charges applicable to it.
- 5.1.5 For the purposes of paragraph 6.5, where one or more Parties is in default of an obligation to pay a Party Charge (of any type) payable in respect of any period, the "**Default Party Charge Share**" of each non-defaulting Party is a proportion determined as the amount payable by the non-defaulting Party by way of Party Charge of the relevant type in relation to the relevant period, divided by the sum for all non-defaulting Parties of such amounts.
- 5.1.6 For the avoidance of doubt (but without prejudice to paragraph 4.6) this Section D does not apply in relation to Supplier charges under Annex S-1, and such charges are not Party Charges.

5.2 Administration of Party Charges

- 5.2.1 BSCCo shall act on behalf of Funding Parties:
- (a) to determine the amounts from time to time payable by Parties by way of Party Charges and to Funding Parties by way of Funding Party Payments;
 - (b) to administer the invoicing and receipt of Party Charges and payments of Funding Party Payments, together with any associated amounts in respect of VAT
- in accordance with the relevant provisions of Annex D-5.
- 5.2.2 Pursuant to paragraph 5.2.1(b), BSCCo shall provide to all Parties an invoice or statement in respect of the amounts from time to time payable by and to each Party in respect of Party Charges and Funding Party Payments and any associated amounts in respect of VAT, and showing the basis of calculation of such amounts, in accordance with Annex D-5.
- 5.2.3 Whenever BSCCo receives amounts in respect of Party Charges:
- (a) BSCCo shall in accordance with Annex D-5 pay such amounts over to the Funding Parties entitled to receive the same, in the proportions in which they are so entitled in accordance with the relevant provisions of Annex D-5;
 - (b) until it pays such amounts over, BSCCo shall hold such amounts on trust for such Funding Parties in such proportions; and such amounts shall be paid to and held in a separate account in accordance with paragraph 6.1.2, but subject

thereto BSCCo shall not be required to segregate amounts received in respect of Party Charges (and held by it in such separate account) into separate funds.

- 5.2.4 Nothing done or omitted to be done by BSCCo under paragraph 5.2.1 shall affect the rights and obligations of Parties in respect of Party Charges.
- 5.2.5 For the avoidance of doubt, BSCCo shall have no liability for any failure by any Party to pay any amount payable in respect of Party Charges.

6. PAYMENT OF BSCCO CHARGES AND PARTY CHARGES

6.1 Bank Accounts

- 6.1.1 Each Trading Party shall notify to BSCCo, and BSCCo shall notify to each Party, details of the banks and accounts to which any payments are to be made (to BSCCO or such Party) in respect of BSCCo Charges and Party Charges.
- 6.1.2 BSCCo shall establish and notify under paragraph 6.1.1 separate accounts in respect of BSCCo Charges and Party Charges.

6.2 Payment by Parties

- 6.2.1 Each Party shall pay all amounts invoiced in respect of BSCCo Charges and Party Charges payable by it and applicable VAT thereon no later than the due date for payment in accordance with this Section D.
- 6.2.2 Payment of BSCCo Charges and Party Charges shall be made in sterling in cleared funds to the relevant account of the payee for the time being notified pursuant to paragraph 6.1.
- 6.2.3 Payment of BSCCo Charges and Party Charges shall be made in full, free and clear of any restriction, reservation or condition, and except to the extent (if any) required by law, without deduction, withholding, set-off or counter-claim of any kind (but without prejudice to any other remedy).
- 6.2.4 In this paragraph 6, where the context admits, references to BSCCo Charges and Party Charges include amounts payable by Trading Parties pursuant to paragraph 6.5 upon a failure by a Trading Party to pay such a charge, or by way of cash call pursuant to paragraph 6.6.
- 6.2.5 Where BSCCo is required by law to make any deduction or withholding, the amount thereof shall be the minimum amount required by law (as modified by the terms of any agreement between BSCCo and any relevant taxation authority), and BSCCo shall make payments and returns to the relevant tax authorities and issue certificates to Parties in respect thereof as required by law (as so modified).
- 6.2.6 BSCCo may agree with any Party that such Party will pay BSCCo Charges and/or Party Charges by direct debit.

6.3 Disputes

- 6.3.1 If a Party disputes any amount shown in an invoice or statement as payable by it in respect of any BSCCo Charges or Party Charges, that Party shall nevertheless pay the amount shown in full and may not withhold payment of such amount or any part thereof, but without prejudice to that Party's right subsequently to dispute such invoice or statement subject to and in accordance with applicable provisions of the Code.

- 6.3.2 Where a Party notifies BSCCo of any dispute or query as to the amount shown in any invoice or statement as payable by that Party in respect of BSCCo Charges or Party Charges, BSCCo shall as soon as is reasonably practicable (but not necessarily before the due date for payment) investigate the matter and inform the Party of the outcome of its investigation.
- 6.3.3 Where (pursuant to paragraph 6.3.2 or otherwise) BSCCo establishes that, or it is determined that, any error has been made in the determination of the amounts payable by any Party or Parties in respect of BSCCo Charges or Party Charges (whether such error resulted in over-payments or in under-payment by any such Party), BSCCo will make such adjustments, in respect of the BSCCo Charges or Party Charges respectively next (following such establishment or determination) to be payable in accordance with the Code by or to such Party or Parties, as will ensure that the correct amounts have been so paid.
- 6.3.4 No amount in respect of interest shall be included in any adjustment under paragraph 6.3.3 unless otherwise ordered in any award of an arbitrator.
- 6.3.5 Nothing in this Section D shall be construed as preventing BSCCo from withdrawing and replacing (with the same due date for payment) any invoice or other statement, before the due date for payment, by agreement with the Party concerned, where BSCCo is aware of an error in such invoice or statement.

6.4 Interest on late payment

- 6.4.1 If any amount payable by a Party in respect of BSCCo Charges or Party Charges is not paid on or before the due date, the paying Party shall pay interest, after as well as before judgment, at the Default Interest Rate, on the unpaid amount from the due date until the day on which payment is made.

6.5 Failure to pay

- 6.5.1 If any Party (a "**non-paying**" Party) fails to pay in full, within 15 Business Days after the invoice due date, any amount payable by it in respect of BSCCo Charges or (as the case may be) Party Charges:
- (a) BSCCo shall promptly notify all Trading Parties, the Panel and the Authority to that effect, and paragraph 6.5.2 shall apply;
 - (b) in the case of BSCCo Charges, subject to and with effect from the time referred to in paragraph 2.1.1(a)(ii) and by virtue of paragraph 4.2.1(d), each Trading Party will be liable to pay additional amounts by way of BSCCo Charges, determined by reference to its Default Funding Share (where the non-paying Party is a Trading Party) in respect of the unpaid amount;
 - (c) in the case of Party Charges:
 - (i) each other Trading Party shall be severally liable to pay an additional amount to the payee Funding Parties representing the Trading Party's Default Party Charge Share of the unpaid amount;
 - (ii) BSCCo shall promptly invoice to each Trading Party the amount payable by it under paragraph (i), together with applicable VAT thereon, which amount shall be payable within 10 Business Days after the date of the invoice.
- 6.5.2 Where an amount is unpaid as described in paragraph 6.5.1 (and whether or not any amounts have become payable by Trading Parties as provided in paragraph 6.5.1(b) or (c)):

- (a) if the amount is unpaid in respect of BSCCo Charges, unless the Panel (upon the recommendation of BSCCo or otherwise) determines that it would not be worthwhile to do so, BSCCo shall
- (b) if the amount is unpaid in respect of Party Charges, if the Panel so instructs BSCCo, BSCCo shall (on behalf of the Trading Parties having an entitlement in respect thereof)

take all reasonable steps and proceedings, in consultation with the Panel, to pursue and recover from the non-paying Party the unpaid amount.

6.5.3 If BSCCo subsequently recovers any amount from the non-paying Trading Party in respect of the unpaid BSCCo Charges or Party Charges:

- (a) in the case of a recovery in respect of BSCCo Charges, the amount recovered will be taken into account in determining under paragraph 4.3.2 the amounts payable in subsequent months by Trading Parties in respect of Trading Charges (provided that where such amount is recovered after BSCCo's final determination under paragraph 4.4.1, such amount will be taken into account in the BSC Year in which it is recovered);
- (b) in the case of a recovery in respect of Party Charges, BSCCo will credit such amount to Trading Parties in their respective Default Party Charge Shares which applied under paragraph 6.5.1(c).

6.5.4 Without prejudice to BSCCo's continuing entitlement to payment by a non-paying Trading Party in respect of BSCCo Charges, a non-paying Trading Party shall indemnify and keep indemnified each other Trading Party on demand in respect of all amounts:

- (a) paid by such other Trading Party to BSCCo in respect of its liability under paragraph 6.5.1(b);
- (b) paid by such other Trading Party under paragraph 6.5.1(c).

6.5.5 While any amount is outstanding from the non-paying Trading Party in respect of BSCCo Charges, BSCCo will be entitled to withhold any payments which may be due to that Trading Party pursuant to an invoice under paragraph 4.5.

6.5.6 A Trading Party shall give notice to the BSCCo before instituting any action or proceeding to enforce payments due to it under paragraph 6.5.3.

6.6 Emergency funding

6.6.1 If at any time BSCCo is or anticipates that it will be unable to pay any BSC Costs falling due for payment before BSCCo will receive (from Trading Parties pursuant to invoices issued under paragraph 4.5) funds sufficient to enable it to pay such BSC Costs:

- (a) BSCCo may, with the approval of the Panel, give notice by way of cash call to Trading Parties:
 - (i) requiring them to pay in their Main Funding Shares for the month in which such notice is given such amount as BSCCo requires so as to be sufficiently funded; and
 - (ii) specifying the date (as approved by the Panel) for payment of such cash call, which shall not be less than 3 Business Days after the date of such notice;

- (b) each Trading Party shall pay the amount so notified as payable by it, not later than the date specified for payment;
- (c) amounts so payable by Trading Parties will be BSCCo Charges, treated as accruing due when so notified, and will be taken into account in determining the amounts subsequently payable as BSCCo Charges in the relevant BSC Year (by being taken into account in the invoicing of such charges pursuant to paragraph 4.3.1);
- (d) BSCCo shall promptly after making such cash call provide to all Trading Parties an explanation of the circumstances which required it to be made, and (without prejudice to Section C6.5) a statement of whether the BSC Costs in question represent expenditure in excess of the amount in the Annual Budget.

ANNEX D-1: FUNDING SHARES

Part 1 – Main Funding Shares

A Trading Party's Main Funding Share (FSM_{pm}) in relation to a month (month 'm') reflects its proportionate share of aggregate Credited Energy Volumes for that month and shall be determined as follows:

$$FSM_{pm} = \frac{1}{2} * \{P\Sigma^+ (QCE_{iaj}) + P\Sigma^- (-QCE_{iaj})\} / \Sigma_p \{P\Sigma^+ (QCE_{iaj}) + P\Sigma^- (-QCE_{iaj})\} \\ + \frac{1}{2} * \{C\Sigma^+ (QCE_{iaj}) + C\Sigma^- (-QCE_{iaj})\} / \Sigma_p \{C\Sigma^+ (QCE_{iaj}) + C\Sigma^- (-QCE_{iaj})\}$$

where:

$P\Sigma^+$ represents, for the Production Energy Account a belonging to Party p, a sum over each Settlement Period in month m and each BM Unit, where the Trading Unit to which the BM Unit belongs is delivering in the Settlement Period j.

$P\Sigma^-$ represents, for the Production Energy Account a belonging to Party p, a sum over each Settlement Period in month m and each BM Unit, where the Trading Unit to which the BM Unit belongs is offtaking in the Settlement Period j.

$C\Sigma^+$ represents, for the Consumption Energy Account a belonging to Party p, a sum over each Settlement Period in month m and each BM Unit, where the Trading Unit to which the BM Unit belongs is delivering in the Settlement Period j.

$C\Sigma^-$ represents, for the Consumption Energy Account a belonging to Party p, a sum over each Settlement Period in month m and each BM Unit, where the Trading Unit to which the BM Unit belongs is offtaking in the Settlement Period j.

Σ_p represents the sum over all Trading Parties p;

and where delivering and offtaking are construed in accordance with Section T2.1.1.

Part 2 –SVA (Consumption) Funding Shares

A Supplier's SVA (Consumption) Funding Share ($FSCS_{pm}$) in relation to a month (month 'm') reflects its proportionate share of aggregate non-half hourly consumption for that month and shall be determined as follows:

$$FSCS_{pm} = \frac{p^m \Sigma_{ZHj} CCSDT_{HZj}}{\Sigma_p p^m \Sigma_{ZHj} CCSDT_{HZj}}$$

where:

$p^m \Sigma_{ZHj}$ represents the sum over all Settlement Periods j in Month m, and over values of $CCSDT_{HZj}$ relevant to Party p (where a value of $CCSDT_{HZj}$ is relevant to Party p' if Party p' is the same as Supplier Z');

Σ_p represents the sum over all Trading Parties p.

Part 3 – SVA (Production) Funding Shares

A Trading Party's SVA (Production) Funding Share (FSPS_{pm}) in relation to a month (month 'm') reflects its proportionate share of aggregate Credited Energy Volumes for Production BM Units for that month and shall be determined as follows:

$$FSPS_{pm} = \{\sum^+ (QCE_{iaj}) + \sum^- (-QCE_{iaj})\} / \sum_p \{\sum^+ (QCE_{iaj}) + \sum^- (-QCE_{iaj})\}$$

where the summations are the same as in Part 1.

Part 4 – General Funding Shares

1. General funding shares

A Trading Party's General Funding Share (FSG_{pm}) in relation to a month (month 'm') reflects its proportionate share of the aggregate of certain BSCCo Charges for that month shall be determined as follows:

$$FSG_{pm} = \{TSC_{pm} + (MNMC_m * FSM_{pm}) + (MCNSC_m * FSCS_{pm}) + (MCSP_m * FSPS_{pm})\} / \sum_p \{TSC_{pm} + (MNMC_m * FSM_{pm}) + (MCNSC_m * FSCS_{pm}) + (MPSC_m * FSPS_{pm})\}$$

where

TSC_{pm} = Total Specified BSC Charges for Trading Party p relating to month m

MNMC_m = Monthly Net Main Costs relating to month m

FSM_{pm} = Main Funding Share for Trading Party p relating to month m

MCNSC_m = Monthly Consumption-Charging Net SVA Costs relating to month m

FSCS_{pm} = SVA (Consumption) Funding Share for Trading Party p relating to month m

MPSC_m = Monthly Production-Charging SVA Costs relating to month m

FSPS_{pm} = SVA (Production) Funding Share for Trading Party p relating to month m

\sum_p = the sum over all Trading Parties p

2. Default basis

Where for any month General Funding Shares are to be determined on a default basis in relation to any defaulting Trading Party or Trading Parties:

(a) paragraph 1 shall apply on the basis that:

$$\sum_p = \text{the sum over all Trading Parties p other than the defaulting Trading Party(ies);}$$

(b) FSG_{pm} shall not be determined in respect of the defaulting Trading Party(ies).

Part 5 – Determination of Funding Shares

In accordance with the further provisions of the Code, the following data (or such other data as may be agreed by BSCCo and the relevant BSC Agent) will be provided to BSCCo by the following BSC Agents in order to enable BSCCo to determine Funding Shares in accordance with Section D1.4 each month:

- (a) SVAA will provide monthly total values (by Trading Party and BM Unit) of $({}^{pm}\Sigma_{ZHj}CCSDT_{HZj})$;
- (b) SAA will provide for each month m , in relation to the Energy Account a of each Party, each BM Unit i and each Settlement Period j , values of QCE_{iaj} .

ANNEX D-2: SVA COSTS

1. SVA Costs shall be those BSC Costs determined by BSCCo to be operational costs directly or indirectly referable to Supplier Volume Allocation.
2. Subject to paragraph 3, SVA Costs shall include the following amounts and costs payable or incurred by BSCCo or any of its Subsidiaries:
 - (a) amounts payable to the Supplier Volume Allocation Agent;
 - (b) amounts payable in respect of the use by the Supplier Volume Allocation Agent of the Managed Data Network;
 - (c) amounts payable to the Profile Administrator;
 - (d) amounts payable to the Teleswitch Agent;
 - (e) amounts payable to the Technical Assurance Agent for Supplier Volume Allocation;
 - (f) amounts payable to the Certification Agent, so far as relating to the Certification of the Agency Systems of Supplier Agents;
 - (g) costs of the maintenance and support of the software and systems referred to in paragraph 4;
 - (h) the costs of resolving Trading Disputes relating to Supplier Volume Allocation;
 - (i) the costs of administering Entry Processes relating to Suppliers and Supplier Agents;
 - (j) amounts payable to the BSC Auditor, in respect of the functions of the BSC Auditor referable to Supplier Volume Allocation;
 - (k) costs of the operation of the Performance Assurance Reporting and Monitoring Systems (other than any such operation not referable to Supplier Volume Allocation);
 - (l) costs of providing advice and support to Parties in connection with those provisions of the Code relating to Supplier Volume Allocation.
3. SVA Costs shall not include
 - (a) any such costs (as described in paragraph 2) in respect of services provided by a BSC Agent in connection with the implementation of an Approved Modification of otherwise for the development of any BSC Systems;
 - (b) any such costs in respect of services which are not directly or indirectly referable to Supplier Volume Allocation.
4. The software and systems referred to in paragraph 2(g) are software and systems made available by BSCCo to Trading Parties for estimation of annual consumption and annualised advance, and for non half hour data aggregation; and the Supplier Volume Allocation System.

ANNEX D-3: SPECIFIED BSC CHARGES

1. General

- 1.1 This Annex D-3 sets out the basis on which Specified BSC Charges will be determined.
- 1.2 The amounts or rates of each of the Specified BSC Charges (other than Specified NETA Funding Charges):
- (a) in relation to the BSC Year in which the Go-live Date falls, shall be the initial amounts or rates set out in this Annex D-3;
 - (b) in relation to each subsequent BSC Year, shall be the amounts or rates determined and notified to Parties by the Panel not later than the start of that BSC Year, provided that the amounts or rates prevailing in one BSC Year shall continue to apply in the following BSC Year if the Panel does so not notify any revised such amounts or rates.

2. Specified NETA Funding Charge

- 2.1 The Specified NETA Funding Charge for each Trading Party in respect of each month shall be a charge determined as the Trading Party's Main Funding Share (for the relevant month) of the Monthly NETA Recovery Amount.
- 2.2 For the purposes of this paragraph 2:
- (a) the "**Monthly NETA Recovery Amount**" is an amount determined as $1/n$ of the BSC NETA Funding Amount, where 'n' is the number of complete months from the Go-live Date until 31st March 2005;
 - (b) the "**BSC NETA Funding Amount**" is the aggregate amount of costs incurred and/or expenditure funded by BSCCo prior to the Go-live Date in relation to NETA Implementation; and includes all amounts of BSCCo Transitional Costs allocated to the categories in paragraphs E5.1.3(b) and (c) of the Implementation Scheme, other than those funded by Pool Members as described in paragraph 2 of Annex D-5 (where NETA Implementation and BSCCo Transitional Costs have the meanings given to those terms in the Implementation Scheme);
 - (c) the Panel shall determine and notify to Parties the amount of the BSC NETA Funding Amount as soon as practicable after the Go-live Date.

3. Main Specified Charges

- 3.1 The Main Specified Charges payable by Parties in relation to each month are as follows:
- (a) a Base Monthly Charge, payable by each Party, at an initial charge rate of £250 per month;
 - (b) a CVA Metering System Monthly Charge, for each CVA Metering System (including a Metering System at a Systems Connection Point) of which a Party is Registrant for all or any part of that month, at an initial charge rate of £50 per month;
 - (c) a CVA BM Unit Monthly Charge, for:

- (i) each BM Unit (other than a Supplier BM Unit and other than BM Units as provided in paragraph (ii)) for which a Trading Party is Lead Party for all or any part of that month; and
 - (ii) for:
 - (1) each Consumption BM Unit associated with an Exemptable Generating Plant for which (Consumption BM Unit) the Trading Party is Lead Party for all or any part of that month (and, in this case, no charge will be made for any Exempt Export BM Units at the Exemptable Generating Plant); or
 - (2) (if there are no Consumption BM Units associated with an Exemptable Generating Plant) all Exempt Export BM Units at the Exemptable Generating Plant for which the Trading Party is Lead Party for all or any part of that month (as a single charge taking such Exempt Export BM Units in aggregate)
- at an initial charge rate of £100 per month;
- (d) a Dataline Monthly Charge, for each data communications line supplied to a Trading Party (as described in paragraph 3.3(a)), at an initial charge rate of £2000 per month;
 - (e) a TIBCO Software Support Charge, as described in paragraph 3.3, at an initial charge rate:
 - (i) for the base number of users (in total) as described in paragraph 3.3, of £200 per month;
 - (ii) for each additional user, of £15 per month;
 - (f) a Notified Volume Charge, for the Gross Contract MWh determined for a Trading Party in accordance with paragraph 3.2, at an initial charge rate of £0.0025/MWh;
 - (g) a Base BM Unit Monthly Charge, for a set of Base BM Units (in aggregate) automatically allocated (in accordance with Section K3.3.1(a)) to a Supplier, and held by a Supplier for all or any part of that month, at an initial charge rate of £100 per month;
 - (h) an Additional BM Unit Monthly Charge, for each Supplier BM Unit for which a Supplier is Lead Party for all or any part of that month, and which is not charged for under paragraph (g), at an initial charge rate of £100 per month; and
 - (i) for a Replacement Supplier BM Unit held by a Replacement Supplier for all or any part of that month:
 - (i) which corresponds to a Base BM Unit, to the Replacement Supplier, one twelfth of the Base BM Unit Monthly Charge;
 - (ii) which corresponds to an Additional BM Unit, to the Replacement Supplier, the Additional BM Unit Monthly Charge,

and no charge will be made in respect of Replacement Supplier BM Units under paragraphs (g) or (h) provided that, for the purposes of this paragraph 3.1, a BM Unit shall cease to be considered a Replacement Supplier BM Unit when all the Metering Systems associated with that BM Unit are no longer registered in the name of the relevant failing Supplier.

- 3.2 For the purposes of paragraph 3.1(f), the Gross Contract MWh for a Trading Party in relation to a month shall be determined as follows:

$$\sum_{zabj} \{ |ECQ_{zabj}| + |ECQ_{zbaj}| \} + \sum_{ziaj} \{ |QMFR_{ziaj}| \} + \sum_{zibj} \{ |QMFR_{zibj}| \}$$

where

\sum_{zabj} represents the sum over all Energy Accounts b, over the two Energy Accounts a which belong to Party p, over all Energy Contract Volume Notifications z and over all Settlement Periods j in month m

\sum_{ziaj} represents the sum over all BM Units i for which the Party p is a Subsidiary Party, over the two Energy Accounts a which belong to Party p, over all Metered Volume Reallocation Notifications z and over all Settlement Periods j in month m

\sum_{zibj} represents the sum over all BM Units i for which Party p is the Lead Party, over all Energy Accounts b which Subsidiary Energy Accounts for BM Unit i, over all Metered Volume Reallocation Notifications z and over all Settlement Periods j in month m

- 3.3 For the purposes of this paragraph 3:

- (a) the 'Dateline Monthly Charge' is a charge payable by a Party in respect of the provision of the High Grade Service of the BMRS referred to in Section V2 (where the Party has requested that service), and is payable:
- (i) for each dedicated communications line (as described in the applicable Communication Requirements Document) supplied in order to provide the High Grade Service;
 - (ii) for a minimum period (of supply of each such line) of 12 months;
- (b) where the Party (having requested the High Grade Service) does not already have available and therefore has requested the provision of the software known as 'TIBCO' software (as described in the applicable Communications Requirements Document) for operation with the High Grade Service, the Party is required to pay to BSCCo:
- (i) a set-up charge known as the 'TIBCO Set-up Charge' in accordance with paragraph 3.4; and
 - (ii) a software support charge known as the 'TIBCO Software Support Charge' in accordance with paragraph 3.1(e);

by reference to a base number of users and for each additional user (as defined and described in the applicable Communications Requirements Document).

- 3.4 The TIBCO Set-up Charge is payable in relation to the month in which the TIBCO software is provided, and the amount of such charge shall initially be:

- (a) for the base number of users in total, £10,000;

- (b) for each additional user, £1,000.

4. SVA Specified Charges

- 4.1 The SVA Specified Charge payable by each Supplier is a Half Hourly Metering System Monthly Charge, for each Half Hourly Metering System for which a Supplier is Registrant for all or any part of that month, at an initial charge rate of £1.25 per month.

5. Provision of information to BSCCo

- 5.1 The following data (or such other data as may be agreed by BSCCo and the relevant BSC Agent) will be provided to BSCCo by the following BSC Agents in order to enable BSCCo to determine Specified BSC Charges in accordance with this Annex D-3 for each month:

- (a) the ECVAA will provide for each month m ;
 - (i) in relation to each Energy Contract Volume Notification z , each Energy (From) Account a of each Party, each Energy (To) Account b of each Party and each Settlement Period j , values of ECQ_{zabj} ;
 - (ii) in relation to each Metered Volume Reallocation Notification z , the relevant Energy Account a of each Subsidiary Party, each BM Unit i and each Settlement Period j , values of $QMFR_{zaij}$;
- (b) the CRA will provide:
 - (i) the number of CVA Metering Systems of which each Party is Registrant in each month;
 - (ii) the number of BM Units (other than Supplier BM Units and Exempt Export BM Units) and the number of Exempt Export BM Units for which each Party is Lead Party in each month;
 - (iii) the number of Base BM Units and Additional BM Units of which each Supplier is Lead Party in each month;
- (c) the BMRA will provide:
 - (i) details of the Parties which have requested the High Grade Service and the number of data communications lines under supply to each such Party in each month;
 - (ii) details of the Parties to whom TIBCO software is being provided and the number of additional users of each such Party in each month.

6. Further charges

- 6.1 Where BSCCo provides or procures any relevant service to or for a relevant person, subject to paragraph 6.3, BSCCo may, and if the Panel so requires shall, make a charge to the relevant person of an amount sufficient to recover the relevant costs.

- 6.2 For the purposes of paragraph 6.1:

- (a) a relevant service is a service (including but not limited to the provision of a copy of any document) provided at the request of and to or for a particular person (not including the Authority) and not provided to Parties or Trading Parties on a routine basis pursuant to the Code;

- (b) a relevant person is the person, whether or not a Trading Party or another Party, to whom a relevant service is provided;
- (c) the relevant costs are the costs (excluding overhead costs) directly incurred by BSCCo in providing or procuring the relevant service, to the extent to which such costs have not been taken into account by the Panel in determining the rate or amount of any Specified BSC Charge.

6.3 Where BSCCo is required by any provision of the Code or a Code Subsidiary Document to provide (at the request of a Party) the relevant service, BSCCo may only make such a charge with the prior approval of the Panel.

6.4 Without prejudice to the generality of paragraph 6.1, where a BSC Agent makes a specific charge to BSCCo in respect of the provision on a particular occasion of a relevant service by that BSC Agent, BSCCo may make a charge of an equal amount to the relevant person, provided that the amount of such charge has not been taken into account by the Panel in determining the rate or amount of any Specified BSC Charge.

6.5 In addition to the charges to be made pursuant to the foregoing provisions of this Annex D-3:

- (a) the System Operator shall pay to BSCCo 10% of the amounts from time to time borne by BSCCo in respect of the overhead costs of the Electricity Arbitration Association as provided in Section H7.1.6;
- (b) fees in respect of Certification will be charged in accordance with the Menu of Certification Fees;
- (c) application fees are payable by Party Applicants in accordance with Section A2.5;
- (d) charges are payable by persons (other than Parties) requesting the High Grade Service of the BMRS as provided in Section V2.3.4(a).

Deleted: Transmission Company

ANNEX D-4: DETERMINATION OF MONTHLY BSCCO CHARGES**1. Invoicing within year**

- 1.1 For the purposes of Section D4.3.7, the monthly payment (P_{pm}) for each Trading Party p for month m is determined as follows:

$$\begin{aligned}
 P_{pm} = & \Sigma_m(TSC_{pm}) \\
 & +\Sigma_m(MNMC_m) * \Sigma_m(FSM_{pm}) / \Sigma_m(1) \\
 & +\Sigma_m(MCNSC_m) * \Sigma_m(FSCS_{pm}) / \Sigma_m(1) \\
 & +\Sigma_m(MPSC_m) * \Sigma_m(FSPS_{pm}) / \Sigma_m(1) \\
 & +\Sigma_m(MDC_m) * \Sigma_m(FSD_{pm}) / \Sigma_m(1) \\
 & -\Sigma_{m-1}(P_{pm})
 \end{aligned}$$

where:

TSC_{pm} = the aggregate amount payable by a Trading Party by way of Specified BSC Charges in respect of month m;

$MNMC_m$ = Monthly Net Main Costs relating to month m

FSM_{pm} = Main Funding Share for Trading Party p relating to month m

$MCNSC_m$ = Monthly Consumption-Charging Net SVA Costs relating to month m

$FSCS_{pm}$ = SVA (Consumption) Funding Share for Trading Party p relating to month m

$MPCS_m$ = Monthly Production-Charging SVA Costs relating to month m

$FSPS_{pm}$ = SVA (Production) Funding Share for Trading Party p relating to month m

MDC_m = Monthly Default Costs relating to month m

FSD_{pm} = Default Funding Share for Trading Party p relating to month m

Σ_m = the sum over all of the months of the BSC Year up to and including month m;

Σ_{m-1} = the sum over all of the months of the BSC Year up to and including the month preceding month m;

$\Sigma_m(1)$ = the number of months of the BSC Year up to and including month m;

- 1.2 In accordance with Section D4.3 the data used for the calculation will be estimated data where actual data is not available; and values of monthly BSC Costs (of different types) will be determined in accordance with Section D4.3.8 where that paragraph applies.

2. Reconciliation

- 2.1 For the purposes of the reconciliation pursuant to Section D4.4 the amount (P_p) payable by each Trading Party p by way of final reconciliation and adjustment is determined as follows:

$$\begin{aligned}
 P_p = & \Sigma_m(TSC_{pm}) \\
 & +\Sigma_m(MNMC_m) * \Sigma_m(FSM_{pm}) / 12 \\
 & +\Sigma_m(MCNSC_m) * \Sigma_m(FSCS_{pm}) / 12
 \end{aligned}$$

$$\begin{aligned}
 & +\Sigma_m(\text{MPSC}_m) * \Sigma_m(\text{FSPS}_{pm}) / 12 \\
 & +\Sigma_m(\text{MDC}_m) * \Sigma_m(\text{FSD}_{pm}) / 12 \\
 & -\Sigma_m(\text{P}_{pm})
 \end{aligned}$$

where

Σ_m = the sum over all of the months of the BSC Year

all other terms have the meanings in paragraph 1.

- 2.2 In accordance with Section D4.4.2 the data used for the calculation will be actual data (unless not then available); and Section D4.3.8 shall not apply in relation to the determination of values of monthly BSC Costs (of different types).

ANNEX D-5: PARTY-FUNDED AMOUNTS**1. 1998 PROGRAMME COSTS****1.1 Entitlement of PES Suppliers to recover amounts in respect of 1998 Programme Costs**

1.1.1 The principal amount ("**Aggregate PES Recoverable Amount**") recoverable as at the BSC 1998 Start Date by PES Suppliers in aggregate in respect of 1998 Programme Costs shall be:

- (a) £63,388,000, being the total initial principal amount recoverable by PES Suppliers in aggregate in respect of 1998 Programme Costs, less
- (b) the aggregate amounts recoverable up to and including the Quarter Date immediately before the BSC 1998 Start Date in respect of principal of that amount by PES Suppliers pursuant to those provisions of the Pooling and Settlement Agreement equivalent to this paragraph 1;

and the Panel shall determine and notify to all Parties the Aggregate PES Recoverable Amount as soon as practicable after the BSC 1998 Start Date.

1.1.2 For the purposes of this paragraph 1:

- (a) the "**1998 Programme Recovery Period**" is the period over which PES Suppliers are entitled to recover amounts in respect of 1998 Programme Costs, and is the period beginning on the BSC 1998 Start Date and expiring on 31st March 2003;
- (b) the "**BSC 1998 Start Date**" is the day after the Quarter Date preceding the Go-live Date (or if the Go-live Date is a Quarter Date, the day after the Go-live Date).

1.1.3 The respective percentages ("**PES 1998 Recovery Shares**") in which PES Suppliers are entitled to recover the Aggregate PES Recoverable Amount are as follows:

Column-1	Column-2
Name of PES Supplier	PES 1998 Recovery Shares
Eastern Electricity plc	13.82%
PowerGen Energy plc	9.61%
London Electricity plc	8.50%
Manweb plc	5.71%
Midlands Electricity plc	9.64%
Northern Electric plc	5.44%
NORWEB Plc	8.99%
SEEBOARD PLC	8.91%

Column-1	Column-2
Name of PES Supplier	PES 1998 Recovery Shares

Southern Electric plc	11.75%
South Wales Electricity plc	3.64%
South Western Electricity plc	6.21%
Yorkshire Electricity Group plc	7.78%

- 1.1.4 In the event of any merger between one or more PES Suppliers any successor company shall have the aggregate PES 1998 Recovery Shares of its predecessors. Any successor to part only of the authorised area (as such term is defined in its PES Supply Licence) of a PES Supplier and the PES Supplier retaining the other part shall have such PES 1998 Recovery Shares as the Authority shall determine.

1.2 Amounts payable by Suppliers

- 1.2.1 The "**Quarterly 1998 Programme Amount**" ('Q1998PA') in respect of each Quarter beginning on the BSC 1998 Start Date shall be the amount determined in accordance with the following formula:-

$$Q1998PA = \frac{PACL * r}{(1 - (1+r)^{-L})}$$

where:

r is the rate (expressed as a quarterly rate, and as a decimal value) determined by the Panel to be the time weighted average of the Base Rates prevailing during the preceding Quarter;

L is the remaining part of the 1998 Programme Recovery Period (specified in Quarters) as at the beginning of the relevant Quarter;

PACL is the remaining portion of the principal amount comprised in the Aggregate PES Recoverable Amount not recoverable in respect of previous Quarters.

- 1.2.2 As soon as reasonably practicable after the beginning of each Quarter, BSCCo shall determine the Quarterly 1998 Programme Amount in respect of that Quarter.

- 1.2.3 For each Supplier, in respect of each Quarter, the "**Quarterly 1998 Programme Charge**" (Q1998PC) payable by it in respect of that Quarter, shall be determined in accordance with the following formula:

$$Q1998PC = Q1998PA \times (C1998MWH / TC1998MWH)$$

where:-

C1998MWH is the Chargeable 1998 MWh for the Supplier;

TC1998MWH is the aggregate of Chargeable 1998 MWh for all Suppliers;

Q1998PC is the Quarterly 1998 Programme Charge for the Supplier; and

Q1998PA is the Quarterly 1998 Programme Amount for that Quarter.

- 1.2.4 For the purposes of paragraph 1.2.3, the Chargeable 1998 MWh ('C1998 MWh') for each Supplier in respect of a Quarter shall be the sum of the Supplier NHH MWh for that Quarter and the Supplier HH MWh for that Quarter.
- 1.2.5 For the purposes of paragraph 1.2.4:
- (a) the Supplier NHH MWh in respect of a Supplier shall be the number of MWh supplied by that Supplier during the relevant Quarter in respect of premises with Non Half Hourly Metering Systems (not being 100kW Premises); and
 - (b) the Supplier HH MWh in respect of a Supplier shall be the number of MWh supplied by that Supplier during the relevant Quarter in respect of premises with Half Hourly Metering Systems (not being 100kW Premises).
- 1.2.6 In each Quarter BSCCo will, not less than 16 Business Days before the end of the Quarter:
- (a) estimate and notify to each Supplier, the Chargeable 1998 MWh and (by reference to that estimate) the Quarterly 1998 Programme Charge for each Supplier for that Quarter;
 - (b) determine (by way of reconciliation in respect of the preceding Quarter) and notify to each Supplier:
 - (i) the Chargeable 1998 MWh and Quarterly 1998 Programme Charge in relation to the preceding Quarter;
 - (ii) the difference between the amount of the Quarterly 1998 Programme Charge previously estimated (under paragraph (a)) for the preceding Quarter and the amount of that charge determined under paragraph (i);
 - (c) determine and notify to each Supplier the net amount payable by the Supplier in that Quarter (being the net aggregate of the amounts under paragraphs (a) and (b)(ii)).
- 1.2.7 In determination pursuant to paragraph 1.2.6, BSCCo shall take into account the most recent information received by it from PES Suppliers, the SAA and the SVAA as at the 30th day before the end of the relevant Quarter in which the determination falls to be made.
- 1.2.8 BSCCo shall be entitled, in the absence of manifest error and in the absence of information to the contrary derived from the Supplier Volume Allocation System or provided by the SAA:
- (a) to assume that all Non Half Hourly Metering Systems relate to premises other than 100kW Premises; and
 - (b) to rely on information provided by a Supplier pursuant to paragraph 1.2.9 as to its Supplier HH MWh.
- 1.2.9 For the purposes of paragraph 1.2.4 (unless otherwise agreed by the Panel) each Supplier shall inform BSCCo in writing, no later than 30 days before the end of each Quarter, of the number of MWh supplied by it to premises with Half Hourly Metering Systems, not being 100kW Premises, during the preceding Quarter.

- 1.2.10 Any Supplier which is a Supplier for part only of any Quarter shall pay charges on an interim basis of such amount as the Panel estimates to be reasonable for such Quarter. Adjustments to charges on all Suppliers as a result of existing Suppliers leaving or new Suppliers joining will be made in such manner as the Panel shall determine, whereupon the Suppliers and/or former Suppliers shall be required to pay such additional amount or be entitled to such reimbursement as may be determined by the Panel by an adjustment to charges in respect of the then current Quarter.
- 1.2.11 The Panel may, in its discretion, determine the charges to be payable by Suppliers pursuant to this paragraph 1.2 according to such transitional arrangements as it considers appropriate from time to time having regard to the availability of information concerning Half Hourly Metering Systems or (as the case may be) Non Half Hourly Metering Systems, premises which are not 100kW Premises and quantities of energy attributable to particular Suppliers.
- 1.2.12 Each Supplier shall pay, no later than the penultimate Business Day of each Quarter during the 1998 Programme Recovery Period (which shall be the due date for the purposes of Section D6.2.1), the amount determined and notified to pursuant to paragraph 1.2.6(c) in respect of the Quarterly 1998 Programme Charge for that Quarter.

1.3 Reimbursement to PES Suppliers

- 1.3.1 The amounts recovered from Suppliers pursuant to paragraph 1.2 in respect of a Quarter shall be distributed among the PES Suppliers on the last Business Day of that Quarter according to their proportionate PES 1998 Recovery Shares.
- 1.3.2 Any amounts received late from Suppliers shall be distributed on the same basis as soon as reasonably practicable following their receipt.
- 1.3.3 Following the end of each Quarter BSCCo shall monitor the amounts due to each PES Supplier since the BSC 1998 Start Date and the amounts paid, in each case in accordance with the provisions of this paragraph 1.
- 1.3.4 After the expiry of the 1998 Programme Recovery Period, BSCCo shall produce a statement showing the amounts due to each PES Supplier and the amounts paid, in each case in accordance with the provisions of this paragraph 1.
- 1.3.5 The Panel shall review the materiality of any differences between the amounts referred to in paragraph 1.3.4 and propose a mechanism for resolving them.

1.4 General

- 1.4.1 All amounts and charges under this paragraph 1 are exclusive of VAT which shall be added to such charges, if applicable.
- 1.4.2 In this paragraph 1 references to Quarters are to Quarters during the 1998 Programme Recovery Period.

2. POOL MEMBER NETA FUNDING

2.1 Recoverable amounts and shares

- 2.1.1 The amounts recoverable by Pool Members as Pool NETA Costs are amounts expended or funded by or on behalf of Pool Members before the Go-Live Date under work packages authorised pursuant to arrangements made in the NETA Programme; and include amounts

of BSCCo Transitional Costs allocated to the categories in paragraphs E5.1.3(b) of the Implementation Scheme to the extent funded:

- (a) by payments pursuant to paragraph E5.2.4 of the Implementation Scheme in respect of Authorised Pool Expenditure;
- (b) by payments pursuant to paragraph E5.3.2 of the Implementation Scheme (made in accordance with this Section D as modified by paragraph G6 of the Implementation Scheme);

(where terms not otherwise defined in the Code have the meanings given to them in the Implementation Scheme)

2.1.2 For the purposes of this paragraph 2:

- (a) "**Aggregate Pool NETA Costs**" means the aggregate amount of Pool NETA Costs, with interest on each amount of Pool NETA Costs at the Base Rate from the first day of the month following that in which such amount was expended to the Pool NETA Start Date;
- (b) the "**Pool NETA Start Date**" is the day after the Quarter Date following the Go-live Date (or if the Go-live Date is a Quarter Date, the day after the Go-live Date).

2.1.3 Pool Members shall be entitled to recover the Aggregate Pool NETA Costs in the respective percentages ("**Pool NETA Recovery Shares**") in which, pursuant to the Pooling and Settlement Agreement, such amounts were expended by them (determined taking account of the interest adjustment to the Pool NETA Start Date under paragraph 2.1.2(a), and determined including as Pool Members such persons as is referred to in paragraph 2.3.5 and their percentage shares).

2.1.4 The period the ("**Pool NETA Recovery Period**") over which Pool Members are entitled to recover amounts in respect of Aggregate Pool NETA Costs is the period commencing on the Pool NETA Start Date and ending on 31st March 2005.

2.1.5 The Panel shall on or as soon as practicable after the Pool NETA Start Date determine the Aggregate Pool NETA Costs and the Pool NETA Recovery Shares for all Pool Members and provide a statement thereof to all Parties and the Authority, and the Panel's determination shall be final and binding in the absence of manifest error.

2.1.6 Pool Members shall provide to the Panel all such information as the Panel may reasonably require in connection with its determinations under paragraph 2.1.5.

2.2 Amounts payable by Trading Parties

2.2.1 The "**Quarterly Pool NETA Amount**" in respect of each Quarter beginning on the Pool NETA Start Date shall be the amount determined in accordance with the following formula:-

$$QPNA = \frac{RPNC * r}{(1 - (1 + r)^{-L})}$$

where:

- r is the rate (expressed as a quarterly rate, and as a decimal value) determined by the Panel to be one percentage point per annum above the time weighted average of the Base Rates prevailing during the preceding Quarter;
- L is the remaining part of the Pool NETA Recovery Period (specified in Quarters) as at the beginning of the relevant Quarter;
- RPNC is the remaining portion of the principal amount comprised in the Aggregate Pool NETA Costs not recoverable in respect of previous Quarters.

2.2.2 As soon as reasonably practicable after the beginning of each Quarter, BSCCo shall determine the Quarterly Pool NETA Amount in respect of that Quarter.

2.2.3 The amount payable by each Trading Party, in respect of each Quarter in the Pool NETA Recovery Period, shall be an amount determined as:

$$QPNA * (S1 + S2 + S3) / 3$$

where:

- QPNA is the Quarterly Pool NETA Amount in respect of that Quarter;
- S1, S2 and S3 are the Trading Party's Main Funding Shares for each of the three months in that Quarter.

2.2.4 In each Quarter BSCCo will, not less than 16 Business Days before the end of the Quarter:

- (a) estimate in relation to each Trading Party:
- (i) the Main Funding Share for each month in that Quarter, and
 - (ii) on the basis of such estimated shares, the amount payable by such Trading Party pursuant to paragraph 2.2.3 in relation to that Quarter;
- (b) determine (by way of reconciliation in respect of the preceding Quarter):
- (i) the amount payable by each Trading Party pursuant to paragraph 2.2.3 in relation to the preceding Quarter (based on actual data as to Main Funding Shares);
 - (ii) the difference between the amount previously estimated (under paragraph (a)(ii)) for the preceding Quarter and the amount determined under paragraph (i);
- (c) determine the net amount payable by the Trading Party in that Quarter (being the net aggregate of the amounts under paragraphs (a)(ii) and (b)(ii));
- (d) notify the amounts so estimated and determined to each Trading Party.

2.2.5 Each Trading Party shall pay, no later than the penultimate Business Day of each Quarter in the Pool NETA Recovery Period (which shall be the due date for the purposes of Section D6.2.1), the amount determined under paragraph 2.2.4(c) in respect of that Quarter.

2.3 Reimbursement to Pool Members

- 2.3.1 The amounts recovered from Trading Parties pursuant to paragraph 2.2 in respect of a Quarter shall be distributed among Pool Members on the last Business Day of that Quarter according to their proportionate Pool NETA Recovery Shares.
- 2.3.2 Any amounts received late from Trading Parties shall be distributed on the same basis as soon as reasonably practicable following their receipt.
- 2.3.3 Following the end of each Quarter BSCCo shall monitor the amounts due to each Pool Member since the start of the Pool NETA Recovery Period and the amounts paid, in each case in accordance with the provisions of this paragraph 2.
- 2.3.4 After the expiry of the Pool NETA Recovery Period, BSCCo shall produce a statement showing the amounts due to each Pool Member and the amounts paid, in each case in accordance with the provisions of this paragraph 2; and Pool Members shall make appropriate adjusting payments as specified by the Panel in respect of any differences between the amounts referred to in paragraph 2.3.3.
- 2.3.5 Trading Parties agree, subject as follows, that a person which is not a Party but was a Pool Member shall be paid any amount which would be payable pursuant to this paragraph 2.3 if that person were a Party; and BSCCo shall (so far as it is reasonably able to do identify and contact such person) arrange for payment of such amount on behalf of Trading Parties to such person; provided that where that person remains liable to pay to Pool Members any amounts accruing but unpaid under the Pooling and Settlement Agreement, BSCCo shall act in accordance with the instructions of the Panel as to any deduction, withholding or set-off to be made before any payments are made to such person.

2.4 General

- 2.4.1 All amounts and charges under this paragraph 2 are exclusive of VAT which shall be added to such charges, if applicable.
- 2.4.1 In this paragraph 2 references to Quarters are to Quarters during the Pool NETA Recovery Period.