

MODIFICATION PROPOSAL FORM			
Proposer <i>(Company)</i>	Date of receipt <i>(assigned by Secretariat)</i>	Type of Proposal <i>(delete as appropriate)</i>	Modification Proposal ID <i>(assigned by Secretariat)</i>
Pinergy	27th January 2022	Standard	Mod_01_22
Contact Details for Modification Proposal Originator			
Name	Telephone number	Email address	
Tadhg Gunnell		tadhg@pinergy.ie	
Modification Proposal Title			
Broaden the acceptable forms of Credit Cover from Cash and a Letter of Credit as is currently provided to include a Surety or Demand Guarantee			
Documents affected <i>(delete as appropriate)</i>	Section(s) Affected	Version number of T&SC or AP used in Drafting	
T&SC Part B, Appendices, Glossary, AP09, AP15 and AP17	Section G 9.1.2 & 9.1.3 of T&SC, Appendix A, various paragraphs throughout the affected APs and new definitions in the Glossary	9 November 2021	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>Currently, the T&SC provides for two acceptable forms of collateral, namely Cash or an irrevocable Letter of Credit (LoC). We wish to add a further form of acceptable collateral called a Surety or Demand Guarantee.</p> <p>A Surety or Demand Guarantee is similar to an LoC except that it is issued by an underwriter rather than a bank. They are equally as liquid and the covenant is often superior to a LoC.</p> <ul style="list-style-type: none"> • The underwriter will be subject to the same minimum credit rating as are applicable to the providers of LoC meaning the covenant provided is equal if not better than the covenant provided by the banks currently approved by SEMO. • A Surety or Demand Guarantee is similarly liquid as an LoC. 			
Legal Drafting Change <i>(Clearly show proposed code change using tracked changes, if proposer fails to identify changes, please indicate best estimate of potential changes)</i>			
<p>The proposed modification impacts a number of documents, namely:</p> <ul style="list-style-type: none"> • TSC Part B • TSC Part B Glossary • TSC Part B Appendices • Part B Agreed Procedure 9 • Part B Agreed Procedure 15 			

- Part B Agreed Procedure 17

The impact on each document is set out below. Amendments and additions are in red. Full marked up copies of each document is attached.

TSC Part B

G.2.6 Calls on Credit Cover

G.2.6.1 If any Participant fails to pay an amount due in accordance with a Settlement Document in full in accordance with paragraph G.2.5.4(c), then the Participant has a Shortfall and the Market Operator shall forthwith make a Credit Call on the Participant's Posted Credit Cover for payment of the Shortfall, subject to the De Minimis Level for Letter of Credit or **Demand Guarantee**. Draw Down provisions in paragraph 3.3 of Agreed Procedure 15 "Settlement and Billing".

G.2.6.2 Where the Market Operator makes a Credit Call on a Participant's Posted Credit Cover in accordance with the Code, the Market Operator:

- (a) Shall be entitled to draw down on the Participant's Letter of Credit, **Demand Guarantee** or the SEM Collateral Reserve Account (where applicable) in whatever order, proportion or combination it decides, subject to the De Minimis Level for Letter of Credit or **Demand Guarantee**. Draw Down provisions in paragraph 3.3 of Agreed Procedure 15 "Settlement and Billing";
- (b) shall, as soon as reasonably practicable and notwithstanding any other provisions of the Code relating to Notices, notify the Participant in writing, using a rapid means of communication such as email or facsimile, that it has made the Credit Call on the Participant's Credit Cover Provider or Credit Cover Providers as applicable; and
- (c) shall as soon as reasonably practicable after making such a Credit Call and issuing the notice under sub-paragraph (b), notify the Participant of the amount of Shortfall, the Settlement Document to which the relevant Shortfall relates, the sums called from the Participant's SEM Collateral Reserve Account (if any) and Letters of Credit (if any) and, if appropriate, the Imbalance Settlement Period(s) concerned.

G.2.7 Shortfalls and Unsecured Bad Debt

G.2.7.1 If the Shortfall is not paid in full by 12:00 on the next Working Day after the Payment Due Date, then, subject to the De Minimis Level for Letter of Credit or **Demand Guarantee**. Draw Down provisions in paragraph 3.3 of Agreed Procedure 15 "Settlement and Billing":

- (a) the amount of the Shortfall that remains unpaid shall become an Unsecured Bad Debt for the purposes of this Code;
- (b) the Market Operator shall, where practicable, and as applicable, withhold, deduct or set off payment of any amount due pursuant to the Code to the Defaulting Participant until the amount of the Unsecured Bad Debt and any applicable Default Interest has been recovered in full; and
- (c) paragraphs G.2.7.2 to G.2.7.10 shall apply as appropriate.

G.2.8.5 Notwithstanding paragraph G.1.6, if:

- (a) a payment is received by the Market Operator under a Letter of Credit or **Demand Guarantee** after a sum has been withdrawn from a SEM Collateral Reserve Account (where applicable) to pay for (in whole or in part) a Shortfall or Unsecured Bad Debt; and
 - (b) the aggregate of the amounts paid out of that SEM Collateral Reserve Account and paid under the Letter of Credit or Demand Guarantee in respect of a relevant Participant exceeds the Shortfall or Unsecured Bad Debt,
- then any excess paid over the Shortfall or Unsecured Bad Debt shall be remitted with any applicable Interest by the Market Operator to the relevant Participant's bank account or bank accounts.

G.9 CREDIT COVER OBLIGATIONS

G.9.1.1 A Participant shall:

- (a) manage its trading in the SEM, and its Credit Cover arrangements under this Code, so that at all times the amount of its Posted Credit Cover equals or exceeds its Required Credit Cover level; and
- (b) provide at least the Required Credit Cover calculated in relation to it and notified to it by the Market Operator in accordance with the Code.

G.9.1.2 Each Participant must maintain its Credit Cover with a Credit Cover Provider. The acceptable forms of Credit Cover which Participants can post are:

- (a) an irrevocable standby Letter of Credit which:
- (i) shall be issued by a Credit Cover Provider fulfilling the eligibility requirements set out in paragraph G.9.1.3;
 - (ii) shall be in the form attached in Appendix A “Standard Letter of Credit and Standard Demand Guarantee”;
 - (iii) shall be for a minimum duration of 12 months. At least 60 calendar days before expiry of the current letter of credit the Participant must put a replacement letter of credit in place, with an effective date starting from the date following the date of expiry of the current letter of credit;
 - (iv) shall be capable of being paid out for “Same Day Value” following a Credit Call; and
 - (v) shall be capable of being validated by the Market Operator under paragraph G.9.1.7,
- and/or:
- (b) a cash held deposit in a SEM Collateral Reserve Account as provided for in paragraphs G.1.5.1, G.1.5.2 and G.1.5.3. For the avoidance of doubt, if a Participant elects to provide a cash deposit as part of its Required Credit Cover, then it shall:
- (i) on the same day on which its Required Credit Cover is posted and the cash collateral is paid into the relevant SEM Collateral Reserve Account(s), complete and enter into the Deed of Charge and Account Security (including the Notice of Assignment and Acknowledgment) in respect of such SEM Collateral Reserve Account and SEM Collateral Reserve Assets;
 - (ii) within 5 Working Days from the date on which its Required Credit Cover is posted, furnish to the Market Operator the original executed Deed of Charge and Account Security for the purposes of the registration of such Deed of Charge and Account Security pursuant to section 860 of the Companies Act 2006 (UK) and/or section 409 of the Companies Act 2014 (Ireland), as appropriate, and/or at such other registry or registries as may be appropriate;
 - (iii) within 5 Working Days from the date on which its Required Credit Cover is posted and the Deed of Charge and Account Security is dated, furnish to the Market Operator the original executed Notice of Assignment and Acknowledgment for the purposes of enabling the Market Operator to give notice to the SEM Bank and procure the SEM Bank's acknowledgment pursuant to clause 2.4 of the Deed of Charge and Account Security;

(iv) do all such things and execute all such documents and provide any further information that the Market Operator may reasonably require in order to carry out such registrations within such timelines as may be specified by the Market Operator, having regard to any applicable time limit for the registration of such a charge; and

(v) fully comply with any other applicable Account Security Requirements in relation to the provision of cash collateral as set out in paragraphs G.1.5.1, G.1.5.2 and G.1.5.3 of this Code and in Agreed Procedure 1 "Registration", Agreed Procedure 9 "Management of Credit Cover and Credit Default" and Agreed Procedure 17 "Banking and Participant Payments".

and/or:

(a) an irrevocable Demand Guarantee which:

(i) shall be issued by a Credit Cover Provider fulfilling the eligibility requirements set out in paragraph G.9.1.3;

(ii) shall be in the form attached in Appendix A "Standard Letter of Credit and Standard Demand Guarantee";

(iii) shall be for a minimum duration of 12 months. At least 60 calendar days before expiry of the current demand guarantee the Participant must put a replacement demand guarantee in place, with an effective date starting from the date following the date of expiry of the current demand guarantee;

(iv) shall be capable of being paid out for "Same Day Value" following a Credit Call; and

(v) shall be capable of being validated by the Market Operator under paragraph G.9.1.7,

G.9.1.3 A Credit Cover Provider shall be a Bank which must:

(a) hold a Banking Licence in Ireland under Section 9 of the Central Bank Act 1971 (Ireland) or be authorised by the Financial Conduct Authority to engage in "regulated activities", as defined in Part 2 and Schedule 2 of the Financial Services and Markets Act 2000 (Northern Ireland and United Kingdom), or be otherwise authorised to provide banking services in Ireland or the United Kingdom; and

(b) satisfy one of the following requirements:

(i) be a Clearing Bank in either Ireland or the United Kingdom:

(A) with a long term debt rating of not less than A- (Standard & Poors) or A3 (Moody's Investors Service Inc.); or

(B) with a long term debt rating of not less than BB- (Standard & Poors) or Ba3 (Moody's Investors Service Inc.) and have a Balance Sheet Net Asset Value of not less than €1,000 million;

(ii) be a subsidiary of a Bank, where the parent company of that subsidiary has guaranteed the obligations of the subsidiary and such parent company has:

(A) a long term debt rating of not less than A- (Standard & Poors) or A3 (Moody's Investors Service Inc.);

or

(B) a long term debt rating of not less than BB- (Standard & Poors) or Ba3 (Moody's Investors Service Inc.)

and has a Balance Sheet Net Asset Value of not less than €10,000 million; or

(iii) be an international bank that is authorised or approved by the relevant regulatory authority in Ireland or the United Kingdom or is otherwise eligible to provide banking services in Ireland or the United Kingdom and complies with paragraph G.9.1.3(b)(i)(A) or G.9.1.3(b)(i)(B).

or

A Credit Cover Provider shall be an Insurance Undertaking which must:

(a) be authorised by (i) the Central Bank of Ireland or equivalent regulatory authority in any European Economic Area (EEA) member state to carry out Suretyship insurance activities in Ireland or (ii) the Financial Conduct Authority in the United Kingdom to carry out Suretyship insurance activities in the United Kingdom (in each case as applicable)

(b) satisfy one of the following requirements:

(i) be an insurance undertaking in any of Ireland, any EEA member state or the United Kingdom (as applicable):

(A) with a long term debt rating of not less than A- (Standard & Poors) or A3 (Moody's Investors Service Inc.); or

(B) with a long term debt rating of not less than BB- (Standard & Poors) or Ba3 (Moody's Investors Service Inc.) and have a Balance Sheet Net Asset Value of not less than €1,000 million;

(ii) be a subsidiary of an undertaking, where the parent company of that subsidiary has guaranteed the obligations of the subsidiary and such parent company has:

(A) a long term debt rating of not less than A- (Standard & Poors) or A3 (Moody's Investors Service Inc.);

or

(B) a long term debt rating of not less than BB- (Standard & Poors) or Ba3 (Moody's Investors Service Inc.)

and has a Balance Sheet Net Asset Value of not less than €10,000 million;

TSC Part B Glossary

Two new definitions have been included:

Demand Guarantee means an unconditional and irrevocable demand guarantee in the form set out in

Appendix A "Standard Letter of Credit and Standard Demand Guarantee"

Insurance Undertaking means an undertaking that is authorised by

- (i) the Central Bank of Ireland or equivalent regulatory authority in any European Economic Area (EEA) member state to carry out Suretyship insurance activities in Ireland or
- (ii) the Financial Conduct Authority in the United Kingdom to carry out Suretyship insurance activities in the United Kingdom (in each case as applicable)

TSC Part B Appendix

A new standard template for a Demand Guarantee has been included in Appendix A as set out below.

3. TEMPLATE FOR STANDARD DEMAND GUARANTEE

Form of Doc Credit: Demand Guarantee

Documentary Bond Number:

Date of Issue:

Applicable Rules: URDG :This Demand Guarantee is subject to the Uniform Rules for Demand Guarantees

International Chamber of Commerce Publication No. 758 .

Date and Place of Expiry:

Applicant [insert Participant's name] or [insert company name] on behalf of [insert Participant's name]

Beneficiary: EirGrid plc and SONI Limited, trading as "SEMO", being the Market Operator under the SEM

Trading and Settlement Code. [address]

Currency Code, Amount (Maximum total amount):

Available With (ADVISING BANK IE SEMO'S BANK BY PAYMENT)

Partial Shipments/Drawings: Allowed

Documents required:

Beneficiary Statement, as detailed below, must be on Market Operator letterhead

QUOTE:

"We, the Market Operator under the Trading and Settlement Code (the "Beneficiary") hereby state that [insert Participant's name] is in default of its obligation to pay pursuant to the Trading and Settlement Code (to which the Participant is a party) under paragraph [insert details] and as a result we hereby demand[insert amount being claimed] under Demand Guarantee number..... issued by[insert name of Insurance Company]. Payment in respect of this Beneficiary Statement shall be effected immediately to [insert relevant account details]. We confirm that the signatory(ies) to this Beneficiary Statement are empowered to sign and make this Beneficiary Statement on behalf of the Beneficiary.

Terms defined in the Demand Guarantee referred to above have the same meaning when used in this Beneficiary Statement."

SIGNED FOR AND ON BEHALF OF THE MARKET OPERATOR.

NAME..... TITLE.....

UNQUOTE

Additional Conditions:

1. This Demand Guarantee is available by payment at sight against presentation to the Advising Bank of a Beneficiary Statement as detailed in Documents required.
2. The Beneficiary Statement must be made on original letterhead paper of the Beneficiary and signed on its behalf, and must be presented to the Advising Bank on or before the Expiry Date.
3. Upon receipt of a signed Beneficiary Statement in compliance with the above conditions the Advising Bank is required promptly to notify us by email of receipt of such Beneficiary Statement and inform us of the relevant details of such Beneficiary Statement. Upon receipt of such notification, we shall make payment under this Demand Guarantee for Same Day Value on that day or if received after 14:00hrs on the next such weekday in accordance with such notification and shall confirm payment by notifying the Advising Bank by email.
4. We the Insurance Company hereby waive any right to set off or counterclaim whatsoever against any amounts payable under this Demand Guarantee in respect of any claims we may have against the Beneficiary and such amounts shall be paid free and clear of all deductions or withholdings whatsoever.
5. Effective From:
6. This Demand Guarantee is personal to you and your rights hereunder including the right to receive proceeds to this Demand Guarantee, are not assignable.

This Demand Guarantee shall be governed by and construed in accordance with the laws of Northern Ireland and the parties submit to the jurisdiction of the Courts of Ireland and the Courts of Northern Ireland (and no other court) for all disputes arising under, out of, or in relation to this Letter of Credit.

Charges:

All Insurance Company charges are for the account of the Applicant.

All Advising Bank charges are for the account of the Beneficiary.

Instruction to Pay:

PLEASE REFER TO ADDITIONAL CONDITIONS.

ADVISING BANK TO CLAIM REIMBURSEMENT BY email AND RETAIN BENEFICIARY STATEMENT ON FILE.

APPENDIX

[Market Operator letterhead]

We, the Market Operator under the Trading and Settlement Code (the “Beneficiary”) hereby state that [insert Participant’s name] is in default of its obligation to pay pursuant to the Trading and Settlement Code (to which the Participant is a party) under paragraph [insert details]

and as a result we hereby demand[insert amount being claimed] under Demand Guarantee number..... issued by[insert name of Insurance Company]. Payment in respect of this Beneficiary Statement shall be effected immediately to [insert relevant account details]. We confirm that the signatory(ies) to this Beneficiary Statement are empowered to sign and make this Beneficiary Statement on behalf of the Beneficiary.

Terms defined in the Demand Guarantee referred to above have the same meaning when used in this Beneficiary Statement.

Part B Agreed Procedures 9,15 and 17

The 3 Agreed Procedures required amendments to include “Demand Guarantee” where a Letter of Credit is referenced and to include “Insurance Undertakings” alongside Bank or Eligible Bank. There are numerous amendments, hence I have not included them in this document. Marked up versions of AP 9,15 and 17 are attached.

Modification Proposal Justification
(Clearly state the reason for the Modification)

This change and broadening of credit cover providers will:

- Provide greater variety of credit cover providers to market participants.

- It will also provide greater competition to existing credit cover providers, again benefitting all market participants and consumers.
- The Surety provider will be subject to the same minimum debt/credit rating levels as apply to the LoC banks

Code Objectives Furthered

(State the Code Objectives the Proposal furthers, see Section 1.3 of Part A and/or Section A.2.1.4 of Part B of the T&SC for Code Objectives)

The modification above furthers the following aims of the code:

(b) to facilitate the efficient, economic and coordinated operation, administration and development of the Single Electricity Market in a financially secure manner;

(d) to promote competition in the Single Electricity Market;

(f) to ensure no undue discrimination between persons who are parties to the Code; and

(g) to promote the short-term and long-term interests of consumers of electricity on the island of Ireland with respect to price, quality, reliability, and security of supply of electricity.

Implication of not implementing the Modification Proposal

(State the possible outcomes should the Modification Proposal not be implemented)

Failure to implement this modification proposal will preclude a secure, liquid source of credit cover to market participants. It will also reduce competition among credit providers ultimately disadvantaging the consumer.

<p align="center">Working Group <i>(State if Working Group considered necessary to develop proposal)</i></p>	<p align="center">Impacts <i>(Indicate the impacts on systems, resources, processes and/or procedures; also indicate impacts on any other Market Code such as Capacity Market Code, Grid Code, Exchange Rules etc.)</i></p>
<p>N/A</p>	<p>No impact on systems with minor impact on processes, procedures and publications.</p>

Please return this form to Secretariat by email to balancingmodifications@sem-o.com

Notes on completing Modification Proposal Form:

1. If a person submits a Modification Proposal on behalf of another person, that person who proposes the material of the change should be identified on the Modification Proposal Form as the Modification Proposal Originator.
2. Any person raising a Modification Proposal shall ensure that their proposal is clear and substantiated with the appropriate detail including the way in which it furthers the Code Objectives to enable it to be fully considered by the Modifications Committee.
3. Each Modification Proposal will include a draft text of the proposed Modification to the Code unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.
4. For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:

Agreed Procedure(s):	means the detailed procedures to be followed by Parties in performing their obligations and functions under the Code as listed in either Part A or Part B Appendix D "List of Agreed Procedures". The Proposer will need to specify whether the Agreed Procedure to modify refers to Part A, Part B or both.
T&SC / Code:	means the Trading and Settlement Code for the Single Electricity Market. The Proposer will also need to specify whether all Part A, Part B, Part C of the Code or a subset of these, are affected by the proposed Modification;
Modification Proposal:	means the proposal to modify the Code as set out in the attached form
Derivative Work:	means any text or work which incorporates or contains all or part of the Modification Proposal or any adaptation, abridgement, expansion or other modification of the Modification Proposal

The terms "Market Operator", "Modifications Committee" and "Regulatory Authorities" shall have the meanings assigned to those terms in the Code.

In consideration for the right to submit, and have the Modification Proposal assessed in accordance with the terms of Section 2 of Part A or Chapter B of Part B of the Code (and Part A Agreed Procedure 12 or Part B Agreed Procedure 12) , which I have read and understand, I agree as follows:

1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:
 - 1.1 to the Market Operator and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;
 - 1.2 to the Regulatory Authorities, the Modifications Committee and each member of the Modifications Committee to amend, adapt, combine, abridge, expand or otherwise modify the Modification Proposal at their sole discretion for the purpose of developing the Modification Proposal in accordance with the Code;
 - 1.3 to the Market Operator and the Regulatory Authorities to incorporate the Modification Proposal into the Code;
 - 1.4 to all Parties to the Code and the Regulatory Authorities to use, reproduce and distribute the Modification Proposal, whether as part of the Code or otherwise, for any purpose arising out of or in connection with the Code.
2. The licences set out in clause 1 shall equally apply to any Derivative Works.
3. I hereby waive in favour of the Parties to the Code and the Regulatory Authorities any and all moral rights I may have arising out of or in connection with the Modification Proposal or any Derivative Works.
4. I hereby warrant that, except where expressly indicated otherwise, I am the owner of the copyright and any other intellectual property and proprietary rights in the Modification Proposal and, where not the owner, I have the requisite permissions to grant the rights set out in this form.
5. I hereby acknowledge that the Modification Proposal may be rejected by the Modifications Committee and/or the Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.