

| MODIFICATION PROPOSAL FORM   |  |  |   |
|--|--|--|---|
| Proposer<br>(Company)  | Date of receipt<br>(assigned by Secretariat)                                 | Type of Proposal<br>(delete as appropriate)      | Modification Proposal ID<br>(assigned by Secretariat) |
| Pinery   | 7 <sup>th</sup> September 2022   | Standard   | Mod_11_22 v2  |
| Contact Details for Modification Proposal Originator   |  |  |   |
| Name   | Telephone number   | Email address                                    |   |
| Tadhg Gunnell  |  |  |   |
| Modification Proposal Title  |  |  |   |
| Permitting the use of email and or physical delivery to communicate registering, cancelling or amending a Demand Guarantee   |  |  |   |
| Documents affected<br>(delete as appropriate)  | Section(s) Affected  | Version number of T&SC or AP used<br>in Drafting |   |
| T&SC Part B Appendices, AP09,<br>T&SC Part B 9.1.3   | T&SC Part B Appendix A,<br>minor amendments to AP09<br>and T&SC Part B 9.1.3 | 22 August, 2022                                  |   |
| Explanation of Proposed Change<br>(mandatory by originator)  |  |  |   |
| <p>Currently, Part B of T&amp;SC, Appendices and Agreed Procedures provide that the registration, cancellation and amendment of Letters of Credit (LoC) and Demand Guarantees should be communicated by SWIFT.</p> <p>SWIFT is a messaging network that Financial Institutions use to transmit information and instructions through a standardised system of codes. It is typically used by Banks.</p> <p>Non-bank Financial Institutions, e.g. Insurance Undertakings do not necessarily use SWIFT.</p> <p>Therefore, the code needs to be modified to accept alternative forms of communication to be used for the registration, cancellation and amendment of Demand Guarantees.</p> <p>The alternative forms of communication in the amendment is E-mail.</p> <p>Communication for LoC's will continue to be done via SWIFT only.</p> <p>In addition, following a legal review of the definition of an Insurance Undertaking has recommended the definition should be slightly amended to ensure it is consistent with the definition of a Credit Cover Provider for a Letter of Credit.</p> |  |  |   |
| Legal Drafting Change<br>(Clearly show proposed code change using <b>tracked</b> changes, if proposer fails to identify changes, please indicate best estimate of potential changes)   |  |  |   |
| <p>The proposed modification impacts a number of documents, namely:</p> <ul style="list-style-type: none"> <li>• TSC Part B Appendices</li> <li>• Part B Agreed Procedure 9</li> <li>• TSC Part B <del>5-G</del> 9.1.3</li> </ul>  |  |  |   |

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 Appendix

A new standard template for a Demand Guarantee has been included in Appendix A omitting references to SWIFT and permitting communication by email and physical delivery, as set out below.

### 1. TEMPLATE FOR STANDARD DEMAND GUARANTEE

Form of ~~Doc Credit~~: Demand Guarantee

~~Documentary~~ Bond Number:

~~Insurance Undertaking Name and Address~~

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):

~~Partial Shipments~~/Drawings: Allowed. This guarantee is for up to the amount of.....

Formatted: English (Ireland)

Documents required:

Beneficiary Statement, as detailed below, must be on Market Operator letterhead **which can be sent by email to [insert email address(s)]**

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 **Insurance Undertaking** 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 emailed / presented to **the Insurance Undertaking** on or before the Expiry Date.
2. Upon receipt of a signed Beneficiary Statement in compliance with the above conditions **and provided such notification is received by us no later than 14:00 hrs on any weekday on which banks are open for business in Dublin and Belfast**, 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 **Beneficiary** by email.
4. We the **Insurance Undertaking** 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 Demand Guarantee.

Charges:

All **Insurance Undertaking** charges are for the account of the Applicant.

Instruction to Pay:

PLEASE REFER TO ADDITIONAL CONDITIONS.

**APPENDIX**

[Market Operator letterhead]

To: **[Name and Address of Insurance Undertaking]**

Date:

The Demand Guarantee ~~Documentary-Bond~~ Number [ ] dated [ ] (“the Demand Guarantee”)

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 ~~Documentary-Bond~~ Number..... issued by .....[insert name of Insurance **Undertaking**]. 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.

**For an on behalf of SEMO**

Dated:

**Part B Agreed Procedures 9**

Various minor amendments to permit notifications of changes to posted credit cover by email for Demand Guarantees. Mark up attached.

**T&SC Part B G 9.1.3**

**Update definition of Credit Cover Provider for Demand Guarantee to be consistent with definition for Credit**

**Cover Provider for Letter of Credit.**

A Credit Cover Provider shall in respect of a Demand Guarantee 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 ~~or (iii) otherwise authorised to carry out suretyship activities in Ireland or the United Kingdom (in each case as applicable)~~ and

(b) satisfy one of the following requirements:

(i) be an Insurance Undertaking in ~~any of either~~ Ireland, ~~any EEA member state or the United Kingdom (including Northern Ireland) (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 Insurance 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;

**Modification Proposal Justification**

*(Clearly state the reason for the Modification)*

This change ensures that the code can facilitate the use of a Demand Guarantee as collateral with alternative forms of communication provided for in addition to SWIFT.

**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)*

Market participants will not be able to use a Demand Guarantee as a form of collateral therefore precluding a secure, liquid source of credit cover to market participants.

It will also reduce competition among credit providers ultimately disadvantaging the consumer.

**Working Group**

*(State if Working Group considered necessary to develop proposal)*

**Impacts**

*(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.)*

N/A

No impact on systems with minor impact on processes, procedures and publications.

**Please return this form to Secretariat by email to [balancingmodifications@sem-o.com](mailto: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.