

**ELECTRICITY SUPPLY LICENCE**

**FOR**

**PHOENIX SUPPLY LIMITED**

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## GRANT OF THE LICENCE

### Terms of the Licence

- 1 The Northern Ireland Authority for Utility Regulation (the ‘**Authority**’), in accordance with Article 10(1) of the Electricity (Northern Ireland) Order 1992 (as amended) (the ‘**Order**’) and in exercise of the power conferred by Article 10(1)(c) of the Order hereby grants to **Phoenix Supply Limited** (a company incorporated in Northern Ireland with registered number NI032810 and having its principal place of business at 197 Airport Road West, Belfast, BT3 9ED (the “**Licensee**”) a licence (the “**Licence**”) to supply electricity:
  - (a) to the premises specified or of the description specified in schedule 1; and
  - (b) during the period specified in paragraph 2 below.
  
- 2 The Licence shall come into force on the date of the grant and shall continue in force until:
  - (a) determined by not less than 25 years’ notice in writing given by the Authority to the Licensee, such notice not to be served earlier than the tenth anniversary of the date on which this licence comes into force; or
  - (b) the date, if earlier, on which the licence is revoked in accordance with the provisions specified as a term of the licence in schedule 2 hereto.

### Conditions of the Licence

- 3 The Licence shall in accordance with Article 11(1) of the Order include the conditions attached hereto at the time of this grant (as such conditions may subsequently be modified in accordance with their terms and in accordance with Articles 14, 17, 17A and 18 of the Order or such other lawful power of modification as may exist from time to time).

Definitions

- 4 Unless the contrary intention appears, words and expressions used in the terms of the Licence shall have the same meaning as was given to them, and shall be construed in accordance with the rules of construction and interpretation set out, in the conditions of the Licence at the date on which the Licence was granted.

Date.....13 September 2011.....

Signed.....Shane Lynch.....

Name.....

For and on behalf of The Northern Ireland Authority for Utility Regulation

## CONDITIONS OF THE LICENCE

### General Conditions

#### Condition 1: Interpretation and Construction

- 1 Unless the contrary intention appears:
  - (a) words and expressions used in the Conditions or in the Schedules below shall be construed as if they were in an enactment and the Interpretation Act (Northern Ireland) 1954 applied to them; and
  - (b) references to an enactment shall include subordinate legislation and in both cases any statutory modification or re-enactment thereof after the date when the Licence comes into force.
- 2 Any word or expression defined for the purposes of any provision of Part II of the Order, the Energy Order or the SEM Order shall, unless the contrary intention appears, have the same meaning when used in the Conditions or in the Schedules below.
- 3 In the Conditions and the Schedules unless the context otherwise requires:

**Affiliate** in relation to the Licensee or any subsidiary of any holding company of the Licensee means any holding company or subsidiary of that person or any subsidiary of a holding company of that person.

**Auditors** means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986.

**Authorised** in relation to any business or activity means authorised by licence granted under Article 10 or exemption

granted under Article 9 of the Order.

**Authorised electricity operator**

means any person (other than the Licensee in its capacity as the holder of the Licence) who holds a licence granted pursuant to Article 10 of the Order or whose activities are exempt pursuant to Article 9 of the Order and any person transferring electricity to or from Northern Ireland across an interconnector or who has made an application for use of an interconnector which has not been refused

**Authority**

means the Northern Ireland Authority for Utility Regulation.

**Cancel**

in relation to the Authority means the exercise of its cancellation powers.

**Cancellable generating unit agreement**

means a generating unit agreement which may be the subject of a cancellation direction, being the generating unit agreement specified in Schedule 8 of the transmission licence issued to Northern Ireland Electricity plc with effect from 1 April 1992 (as it may be modified pursuant to paragraph 12 of Condition 12 of Part III thereof or paragraph 5 of Condition 7 of Part III thereof).

**Cancellation direction**

means a direction issued by the Authority to cancel a cancellable generating unit agreement.

**Cancellation powers**

means the powers of the Authority to direct any person to a cancellable generating unit agreement to terminate that agreement upon such date or the happening of such event as shall be specified in the notice containing the direction.

**Charges for the Supply of**

means, as between an Electricity Supplier and a

<b>Electricity</b>	Customer, charges made by the Electricity Supplier in respect of the supply of electricity to that Customer.
<b>Contract</b>	means a contract for the supply of electricity made between the Licensee and a Customer but does not include a Deemed Contract.
<b>Customer</b>	means any person supplied or requiring to be supplied with electricity by the Licensee (including any affiliate or related undertaking of the Licensee) or, where the context requires, by any other Electricity Supplier at any premises in Northern Ireland, but shall not include any authorised electricity operator in its capacity as such.
<b>Deemed Contract</b>	means, as between the Licensee and a Customer, a contract for the supply of electricity deemed to have been made under paragraph 3 of Schedule 6 to the Order.
<b>Department</b>	means the Department of Enterprise Trade and Investment formerly known as the Department of Economic Development.
<b>Designated</b>	in relation to any agreement, arrangement, code, notice, proposal or other document, means designated by the Department or the Authority (as the case may be) or on its behalf by means of initialling or descriptive reference whether for the purposes of any Condition of the Licence or otherwise, but so that an agreement, arrangement, code, notice, proposal or other document so designated may at the discretion of the Department or the Authority (as the case may be) cease to be designated if amended or modified in any material respect.

<b>Directive Regulations</b>	means the Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 2005 and/or the Electricity Regulations (Northern Ireland) 2007.
<b>Distribution Code</b>	has the meaning given to it in the Transmission Owner Licence.
<b>Distribution system</b>	means all electric lines owned and/or operated by any person for the purpose of the distribution of electricity to Customers, including any electrical plant and meters which are used in connection with electricity distribution and any other electric lines which the Authority may specify as forming part of the distribution system, but excluding lines forming part of the transmission system or any interconnector.
<b>Domestic Customer</b>	means a customer supplied, or requiring to be supplied, with electricity at Domestic Premises.
<b>Domestic Premises</b>	has the meaning given in, and is to be interpreted in accordance with, Condition 25.
<b>Electricity Supplier</b>	means any person authorised by a licence under Article 10(1)(c) of the Order to supply electricity.
<b>Emissions</b>	means the discharge of substances into the air.
<b>Energy Order</b>	means the Energy (Northern Ireland) Order 2003.
<b>General Consumer Council</b>	means the General Consumer Council for Northern Ireland.
<b>Generating unit agreement</b>	means a power purchase agreement between a generator and the Power Procurement Business in respect of a generation set or combination of generation sets.
<b>generation business</b>	Means the authorised business (if any) of the Licensee

or any affiliate or related undertaking of the Licensee in the generation of electricity or in the provision of system support services.

**Generation set**

means any plant or apparatus for the production of electricity.

**Generator**

means a person authorised by a licence granted under Article 10(1)(a) of the Order.

**Grid Code**

has the meaning given to it in the Transmission System Operator Licence.

**Holding company**

means a holding company within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986.

**Interconnector**

means the electric lines and electrical plant and meters used for conveying electricity only directly to or from a substation or converter station on the Island of Ireland into or out of the Island of Ireland.

**Island of Ireland**

means Northern Ireland and the Republic of Ireland.

**Last Resort Supply  
Direction**

means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with electricity in accordance with Condition 22.

**Licence**

means the licence comprised in the licence grant in which these Conditions are referred to, granted on the terms, and subject to the Conditions, referred to therein.

**Licensee**

means the person identified as such in the Grant and Terms of this Licence, or any person to whom the Licence may subsequently be assigned or transferred in accordance with the Order, the Energy Order, the SEM Order, the Directive Regulations, or the Licence and

(where the context so requires) shall include any business in respect of which the Licensee is a successor company.

**Market Operator**

means the person authorised, from time to time, under the Northern Ireland Market Operator Licence in its capacity as the holder of that licence.

**Metering equipment**

includes any meter and any associated equipment which materially affects the operation of that meter.

**Modification**

includes addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly.

**NIE Energy Supply Licence**

means the licence granted under Article 10(1)(c) of the Order to Northern Ireland Electricity plc on 31 March 1992, which is to be transferred to NIE Energy Limited (a body corporate registered in Northern Ireland under company number NI27394) pursuant to a statutory scheme on or around SEM Go-Live.

**Non-Domestic Customer**

means a customer supplied, or requiring to be supplied, with electricity at Non-Domestic Premises.

**Non-Domestic Premises**

has the meaning given in, and is to be interpreted in accordance with, Condition 25.

**Northern Ireland Fuel Security Code**

means the document of that title designated as such by the Department as from time to time amended in accordance with its provisions, dealing with the co-operation of licence holders in strategic contingency planning in respect of fuel stocks, the modification of the merit order and certain other systems and procedures under the Grid Code during periods when the Department has given and there is in force one or

more directions under Article 37(4) of the Order, the entitlement of authorised electricity operators to and the collection of certain payments in anticipation of, during and after the expiry of any such periods, and connected matters.

**Northern Ireland Market Operator Licence**

means the licence granted, under Article 10(1)(d) of the Order, to SONI Limited (a body corporate registered in Northern Ireland under company number NI038715) on 3 July 2007.

**Notice**

means (unless otherwise specified) notice given either in writing or by electronic data transfer.

**Order**

means the Electricity (Northern Ireland) Order 1992.

**Power Procurement Business**

has the meaning given in the NIE Energy Supply Licence.

**Power purchase agreement**

means a contract for the provision to the Licensee or any other authorised electricity operator of the whole or any part of the available capacity and/or the sale or other disposal to the Licensee or any other authorised electricity operator of the whole or any part of the output of a generation set or combination of generation sets.

**Power station agreement**

means an agreement made with effect from 1 April 1992 between a generator and the Power Procurement Business, in relation to matters concerning a generating station and designated for the purposes of the generation licences granted to the successor companies.

**PSO Agreement**

means the agreement of that title with the Transmission Owner in the form approved from time to time by the Authority.

<b>Related undertaking</b>	in relation to any person means any undertaking in which that person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986.
<b>Relevant exempt self supplier</b>	means a relevant exempt self supplier within the meaning of the Electricity (Class Exemptions from the requirement for a Licence) Order (Northern Ireland) 1992.
<b>Relevant supplier</b>	means a licensed electricity supplier or a relevant exempt self supplier.
<b>Representation</b>	includes any objection or any other proposal made in writing.
<b>SEM Go-Live</b>	means the time and date designated as such by the Authority (with the consent of the Department) for the purpose of licences granted under the Order, being the commencement date for a number of matters including the Single Electricity Market.
<b>SEM Order</b>	means the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007.
<b>Separate Business</b>	Means each of the Supply Business and the Generation Business (if any) taken separately from one another and from any other business of the Licensee or any affiliate or related undertaking of the Licensee; but so that where all or any part of such business is carried on by an affiliate or related undertaking of the Licensee, such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any other such business of the Licensee (and of any other affiliate or related undertaking of the Licensee) so as to form a

single Separate Business.

<b>Single Electricity Market</b>	means the single wholesale electricity market for the Island of Ireland, implemented in Northern Ireland pursuant to Section 23 of the Northern Ireland (Miscellaneous Provisions) Act 2006.
<b>Single Electricity Market Trading and Settlement Code</b>	has the meaning given to it in the Northern Ireland Market Operator Licence.
<b>Subsidiary</b>	means a subsidiary within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986.
<b>Successor company</b>	bears the meaning ascribed to it for the purposes of Part III of the Order.
<b>Supply Business</b>	means the business of the Licensee in the supply of electricity pursuant to the Licence.
<b>System Support Services</b>	Has the meaning given to it in the Transmission System Operation Licence
<b>Transmission Owner</b>	means the person authorised, from time to time, under the Transmission Owner Licence in its capacity as the holder of that licence.
<b>Transmission Owner Licence</b>	means the licence granted, under Article 10(1)(b) of the Order, to Northern Ireland Electricity plc (a body corporate registered in Northern Ireland under company number NI026041) on 31 March 1992.
<b>transmission system</b>	has the meaning given in the Transmission Owner Licence.
<b>Transmission System Operator</b>	means the person authorised, from time to time, under the Transmission System Operator Licence in its

capacity as the holder of that licence.

**Transmission System**

means the licence granted under Article 10(1)(b) of the Order to SONI Limited (a body corporate registered in Northern Ireland under company number NI038715) on 3 July 2007.

**Operator Licence**

**undertaking**

bears the meaning ascribed to it by Article 267 of the Companies (Northern Ireland) Order 1986.

**unmetered supply**

means a supply of electricity to premises which is not, for the purpose of calculating the charges for electricity supplied to the Customer at such premises, measured by metering equipment.

4 Unless otherwise specified:

- (a) any reference to a numbered Part is a reference to the Part bearing that number in this Licence;
- (b) any reference to a numbered Condition, or Annex or to a numbered Schedule is respectively a reference to the Condition or Annex or the Schedule bearing that number in this Licence;
- (c) any reference to **the Conditions** in relation this Licence means the Conditions to which this licence is subject and references to **any Conditions** and to any cognate expression shall be construed accordingly;
- (d) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Condition, Annex or Schedule in which the reference occurs; and
- (e) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than the Licence), code or other instrument shall include a reference to such agreement, licence, code or other instrument as varied, supplemented or replaced from time to time.

- 5 The heading or title of any Part, Condition, Annex, Schedule or paragraph shall not affect the construction thereof.
- 6 Where any obligation of the Licensee is expressed to require performance within a specified time limit that obligation shall continue to be binding and enforceable after that time limit if the Licensee fails to perform that obligation within that time limit (but without prejudice to all rights and remedies available against the Licensee by reason of the Licensee's failure to perform within the time limit).
- 7 The provisions of section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply for the purpose of the delivery or service of any document, direction or notice to be delivered or served pursuant to the Licence, and directions issued by the Authority pursuant to any Condition shall be delivered or served as aforesaid.

## **Condition 2: Separate Accounts for Separate Businesses**

- 1 This Condition shall only apply if the Licensee (or any affiliate or related undertaking of the Licensee) holds a licence (other than the Licence) granted under Article 10 of the Order.
- 2 The first financial year of the Licensee shall run from the date this Condition comes into force to **31 December 2011** and thereafter each financial year of the Licensee shall run from **01 January** to the following **31 December**.
- 3 The remaining paragraphs of this Condition apply for the purpose of ensuring that the Licensee (and any affiliate or related undertaking of the Licensee) maintains accounting and reporting arrangements which enable separate accounts to be prepared for each Separate Business and showing the financial affairs of each such Separate Business.
- 4 The Licensee shall in respect of each Separate Business:
  - (a) keep or cause to be kept for the period referred to in Article 230(5)(b) of the Companies (Northern Ireland) Order 1986 and in the manner referred to in that Article such accounting records in respect of each Separate Business as would by Article 229 of the Companies (Northern Ireland) Order 1986 be required to be kept in respect of each such business if it were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, each Separate Business are separately identifiable in the books of the Licensee (and any affiliate or related undertaking of the Licensee) from those of any other business;
  - (b) prepare on a consistent basis from such accounting records in respect of:
    - (i) the first financial year and each subsequent financial year, accounting statements comprising a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, and showing separately in respect of each Separate Business and in appropriate detail the amounts of any revenue, cost, asset, liability, reserve or provision which has been either;

- (A) charged from or to any other business (whether or not a Separate Business) together with a description of the basis of that charge;
  - (B) determined by apportionment or allocation between any Separate Business and any other business (whether or not a Separate Business) together with a description of the basis of the apportionment or allocation; and
- (ii) the first six months of the first financial year and of each subsequent financial year, an interim profit and loss account; and
- (c) procure, in respect of the accounting statements prepared in accordance with this Condition in respect of a financial year, a report by the Auditors and addressed to the Authority stating whether in their opinion those statements have been properly prepared in accordance with this Condition and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Separate Business to which the statements relate; and
- (d) deliver to the Authority a copy of the account referred to in sub-paragraph (b)(ii), the Auditors' report referred to in sub-paragraph (c) and the accounting statements referred to in sub-paragraph (b)(i) as soon as reasonably practicable, and in any event not later than three months after the end of the period to which it relates in the case of the account referred to in sub-paragraph (b)(ii), and six months after the end of the financial year to which they relate in the case of the accounting statements and Auditors' report referred to in sub-paragraphs (b)(i) and (c), provided that in the case of the account, report and statements which, but for this proviso, would have been due on --, they shall instead be due on --.

5 The Licensee shall not, in relation to the accounting statements in respect of a financial year, change the bases of charge, apportionment or allocation referred to in sub-paragraph 4(b)(i) from those applied in respect of the previous financial year, unless the Authority shall previously have issued directions for the purposes of this Condition directing the Licensee to change such bases in a manner set out in the directions or the Authority gives its prior written approval to the change in such bases. The Licensee shall comply with any directions issued for the purposes of this Condition.

- 6 Where, in relation to the accounting statements in respect of a financial year, the Licensee has changed such bases of charge, apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if so directed in directions issued by the Authority for the purposes of this Condition, in addition to preparing accounting statements on those bases which it has adopted, prepare such accounting statements on the bases which applied in respect of the immediately preceding financial year.
- 7 Accounting statements in respect of a financial year prepared under sub-paragraph 4(b)(i) shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:
- (a) have the same content and format (in relation to each Separate Business) as the annual accounts of the Licensee (and any affiliate or related undertaking of the Licensee) prepared under Article 234 and, where appropriate, Article 235 of the Companies (Northern Ireland) Order 1986 and conform to the best commercial accounting practices including Statements of Accounting Practice issued or adopted by the Accounting Standards Board currently in force; and
  - (b) state the accounting policies adopted; and
  - (c) (with the exception of the part of such statements which shows separately the amounts charged, apportioned or allocated and describes the bases of charge or apportionment or allocation respectively), be published with the annual accounts of the Licensee.
- 8 Unless the accounting statements prepared under sub-paragraph 4(b)(i) are prepared on the current cost basis as provided by the alternative accounting rules, the Licensee shall, unless otherwise agreed by the Authority, in addition to preparing those accounting statements under that paragraph, prepare accounting statements for each Separate Business covering the same period, which shall comprise and show separately:
- (a) a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, which shall:
    - (i) include in respect of current cost assets amounts determined on the current

cost basis as provided by the alternative accounting rules; and

- (ii) show or disclose the information and other matters required by the alternative accounting rules to be shown or disclosed in accounts where the amounts included in respect of assets covered by any items shown in those accounts have been determined on any basis mentioned in paragraph 31 of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986;
- (b) in respect of each Separate Business the adjusted amount of any such provision for depreciation as is referred to in paragraph 32(2) of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986 and the items shown in the profit and loss account of the Separate Business for the relevant period which are affected by the determination of amounts on the current cost basis as provided by the alternative accounting rules, including the profit (or loss) before taxation; and
- (c) such other current cost information as is referred to in the Handbook as the Authority may require,

and shall deliver the same, together with an Auditors' report prepared in relation to the current cost basis accounting statements in the form referred to in sub-paragraph 4(c), to the Authority within the time limits referred to in sub-paragraph 4(d), and shall (with the exception of the part of such statements which shows separately the amounts charged, apportioned or allocated and describes the bases of charge or apportionment or allocation respectively) publish the same with the annual accounts of the Licensee.

9 References in this Condition to costs or liabilities of, or reasonably attributable to, any Separate Business shall be construed as excluding taxation, capital liabilities which do not relate principally to a particular Separate Business, and interest thereon, and references to any accounting statement shall be construed accordingly.

10 In this Condition:

**alternative accounting rules**

means the rules set out in Section C of Part II of Schedule 4 to the Companies (Northern Ireland)

Order 1986.

**current cost accounts**

means assets of any description mentioned in paragraph 31 of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986.

**Generation Business**

means the authorised business (if any) of the Licensee or any affiliate or related undertaking of the Licensee in the generation of electricity or in the provision of System Support Services.

**Handbook**

means the handbook issued or adopted by the Accounting Standards Board or any successor body entitled **Accounting for the effects of changing prices: a Handbook** in its current edition for the time being or in the event that no such handbook shall be in issue such guidance or publication as may be issued in replacement or substitution therefor.

**Separate Business**

means each of the Supply Business and the Generation Business (if any) taken separately from one another and from any other business of the Licensee or any affiliate or related undertaking of the Licensee; but so that where all or any part of such business is carried on by an affiliate or related undertaking of the Licensee, such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any other such business of the Licensee (and of any other affiliate or related undertaking of the Licensee) so as to form a single Separate Business.

**System Support Services**

has the meaning given to it in the Transmission System Operator Licence.

### **Condition 3: Compliance with the Grid Code and Distribution Code**

1. The Licensee shall comply with the provisions of the Grid Code and the Distribution Code insofar as applicable to it.
2. The Authority may:
  - (a) following consultation with the Transmission System Operator, issue directions relieving the Licensee of its obligation under paragraph 1 above in respect of such parts of the Grid Code and to such extent as may be specified in those directions; and
  - (b) following consultation with the Transmission Owner, issue directions relieving the Licensee of its obligation under paragraph 1 above in respect of such parts of the Distribution Code and to such extent as may be specified in those directions.
3. The Authority shall be entitled, in order to implement the requisite arrangements referred to in Condition 5, to issue directions to the Transmission System Operator requiring it to revise the Grid Code in such manner and with effect from such date as may be specified in the directions, provided that such revisions shall not affect the rights and obligations of any party to:
  - (a) a power purchase agreement which is not a cancellable generating unit agreement; or
  - (b) a cancellable generating unit agreement, which has not, at the relevant time, been the subject of a cancellation direction,under that agreement beyond what may reasonably be regarded as de minimis in relation to that person.

#### **Condition 4: The Market Registration Framework Agreement**

1 The Licensee shall become a party to, and shall thereafter comply with the obligations applicable to it under, the Market Registration Framework Agreement.

2 In this Condition:

**Market Registration Framework Agreement** shall have the meaning given to it from time to time in the Transmission Owner Licence.

**Condition 5: Modification of the Single Electricity Market Trading and Settlement Code and Cancellation of contracts**

1. When the Authority shall have determined that the requisite arrangements have been developed and that they satisfy the requirements of paragraph 3, it shall be entitled to exercise the powers specified in paragraph 4, provided that the procedural requirements of paragraph 6 have been followed.
2. The requisite arrangements are arrangements which, if implemented by means of the making of modifications of the Single Electricity Market Trading and Settlement Code, the Grid Code and the Northern Ireland Fuel Security Code, or otherwise implemented (in whole or in part) under or by virtue of the powers contained in the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007, would facilitate an increase in competition in the generation of electricity available for supply in Northern Ireland or the supply of electricity in Northern Ireland for the benefit of consumers of electricity in Northern Ireland in respect of the prices charged and the other terms of supply, the continuity of supply and the quality of the electricity supply services provided.
3. The requirements of this paragraph are:
  - (A) that there is available for immediate establishment an electricity trading system by which (except as provided in paragraph 7) all licence holders will be bound and which, in the opinion of the Authority, will:
    - (i) constitute proper and adequate arrangements for the trading of electricity and the calculation and settlement of payments due for the provision of available generating capacity and the delivery or supply of electricity;
    - (ii) ensure that adequate arrangements are in place for the provision by one or more relevant generators of all necessary System Support Services and the proper remuneration of those services;
    - (iii) be based upon a system of despatch of generation sets which is technically viable and will not prejudice the security and stability of the total system or any part of it;

- (iv) ensure that there are adequate incentives for relevant generators to make available such generation capacity as will in aggregate be at least sufficient to ensure that all reasonable demands for electricity in Northern Ireland are satisfied;
  - (v) ensure that all generators and Electricity Suppliers are contractually bound to comply with the provisions of the Northern Ireland Fuel Security Code or, to the extent superseded by any other code or arrangement, such other code or arrangement;
  - (vi) ensure that either:
    - (a) Electricity Suppliers shall contract for or acquire, in aggregate, amounts of generation capacity and quantities of electricity from the Power Procurement Business which are not less than the amounts of generation capacity and quantities of electricity for which the Power Procurement Business is committed to pay under:
      - A. the power purchase agreements to which the Power Procurement Business is a party and which are cancellable generating unit agreements which at all relevant times have not been cancelled; and
      - B. the power purchase agreements to which the Power Procurement Business is a party and which are not liable to be cancelled;
- or:
- (b) arrangements are in place pursuant to which the Power Procurement Business is entitled to recover monies equal to the shortfall (if any) between the sums it pays for amounts of generation capacity and quantities of electricity under:
    - A. the power purchase agreements to which the Power Procurement Business is a party and which are cancellable

generating unit agreements which at all relevant times have not been cancelled; and

- B. any power purchase agreements to which the Power Procurement Business is a party and which are not liable to be cancelled;

and the amounts it recovers for the provision of such generation capacity and the sale of such quantities of electricity;

- (vii) not in its operation require any generator to breach any obligation incumbent upon it under the Large Combustion Plants (Control of Emissions) Regulations (Northern Ireland) 1991 in relation to emissions;
  - (viii) contain arrangements which will ensure that each generator which shall be a party to a cancellable generating unit agreement, for so long as such agreement shall not have been cancelled, shall be in no worse a financial position in respect of its rights under that cancellable generating unit agreement by reason of the operation of Clause 7.3.2 of each power station agreement;
  - (ix) ensure that an appropriate share of the costs of the Land Bank Business shall be borne by each Electricity Supplier;
  - (x) not, in its operation, cause the Licensee to be unable to finance the carrying on of the activities which it is authorised by this Licence to carry on; and
- (B) that each generator which shall have applied for a licence under Article 10(1)(c) of the Order to have effect from the date upon which any cancellable generating unit agreement to which it is a party is to be cancelled, shall have been granted such a licence, provided -
- (a) the Authority shall at the relevant time have power under Article 10 of the Order to grant such a licence;

- (b) the criteria for the grant of such a licence shall otherwise have been satisfied at the date of the application and the date upon which it is first to have effect; and
  - (c) there shall have been no material change in the circumstances of the applicant in any relevant respect between the date of the application and the date upon which the licence is to have effect.
- 4. The powers referred to in paragraph 1 are powers to serve upon the Power Procurement Business and the generator under a cancellable generating unit agreement a notice directing them to terminate the cancellable generating unit agreement pursuant to Clause 9.3 thereof upon such date or the happening of such event as shall be specified in the notice.
- 5. The powers specified in paragraph 4 may not be exercised in relation to any cancellable generating unit agreement in the table appearing in Annex 4 of the NIE Energy Supply Licence earlier than the date appearing opposite that cancellable generating unit agreement in that table. The Authority may, in relation to any cancellable generating unit agreement and upon the application of either party to that cancellable generating unit agreement, modify the table appearing in Annex 4 of the NIE Energy Supply Licence by substituting a later date for the date appearing opposite that agreement in that table.
- 6. The procedural requirements which require to have been followed for the purposes of paragraph 1 are:
  - (a) in its preparations for the making of the determination referred to in paragraph 1, the Authority shall have consulted with the Department, all licence holders, the General Consumer Council and such other persons as the Authority shall consider likely to be materially affected in relation to the steps that it believes require to be taken and the documentation and other obligations which it believes require to be entered into, imposed or assumed in order to satisfy the requirements of paragraph 3 and to create and implement the requisite arrangements;
  - (b) in the consultations referred to in sub-paragraph (a) above, the Authority shall have made available to each person so consulted such drafts of the documentation in question and of the instruments or other means by which the obligations in

question are to be imposed or assumed, as it shall consider are necessary so as properly to inform such persons of the detail of its proposals;

- (c) the Authority shall have given each person so consulted the opportunity to make representations in relation to the relevant steps and the relevant documentation and shall have taken into consideration all such representations (other than those which are frivolous or trivial) in making the determination;
- (d) the Authority shall have published its conclusions as to the relevant steps and the relevant documentation (including drafts of the relevant documentation) and its reasons for those conclusions;
- (e) the Authority shall, before exercising any power under paragraph 4, have given not less than 180 days' notice to the Department, the Power Procurement Business, every person who at the time it gives the notice is a licence holder, and the General Consumer Council that it intends to do so; and
- (f) the Authority shall, in publishing any statement of proposals or the reasons for them, have treated as confidential any representation (including any submission of any written material) which (and to the extent that) the person making the representation shall, by notice in writing to the Authority or by endorsement on the representation of words indicating the confidential nature of such representation, have specified as confidential information.

7. The rules of the electricity trading system referred to in paragraph 3(A) contained in the Single Electricity Market Trading and Settlement Code or in any instrument code, agreement or other document having effect (in whole or in part) under or by virtue of the powers contained in the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007, may provide that they are to apply to all licence holders except if and to the extent that:

- (a) they permit the Authority to relieve the licence holder in question from compliance with them or any of them; or

(b) they make provision that they are to apply to particular licence holders or classes of licence holder differently from the way or ways in which they apply to other licence holders.

8. Notwithstanding paragraph 6, the Authority shall be entitled, after having carried out the consultations referred to in paragraph 6 and published its conclusions, both before and after it shall have given any notice of the kind referred to in sub-paragraph (e) of paragraph 6, to make any modification of the relevant documentation which either:

(a) is, in its opinion, necessary or desirable in order to refine the requisite arrangements;

(b) involves only a change of a technical nature in the requisite arrangements; and

(c) will not increase the liability or decrease the rights of any person bound or to be bound by the Single Electricity Market Trading and Settlement Code beyond what may be regarded as reasonable in relation to that person;

provided it gives due notice of such amendment or variation to such persons as appear to it to be likely to be affected thereby,

or

is made in accordance with the provisions of the relevant documentation being modified.

9. The Licensee shall afford the Authority such co-operation as it shall in directions issued to the Licensee for the purposes of this Condition request in developing and testing its proposals for the establishment of the requisite arrangements and the electricity trading system referred to in paragraph 3(A).

10. The Licensee's reasonable direct costs of complying with a request made under paragraph 9 (incurred prior to the date upon which the Authority shall have first exercised its cancellation powers and for which an invoice shall have been submitted by the Licensee to the Market Operator or the Transmission System Operator not later than 2 months prior to the date upon which the first cancellation direction shall take effect) shall be audited in such manner as the Authority shall from time to time require and shall be recoverable from the Market Operator or the Transmission System Operator.

11. In this Condition:

<b>Land Bank Business</b>	has the meaning given to that expression in the transmission licence granted to Northern Ireland Electricity plc on 31 March 1992;
<b>relevant documentation</b>	means the documentation and other obligations referred to in sub paragraph (a) of paragraph 6;
<b>relevant generator</b>	means a generator and/or a person granted a licence pursuant to section 14(1)(a) of the Electricity Regulation Act 1999 to engage in the generation of electricity;
<b>relevant steps</b>	means the steps referred to in sub paragraph (a) of paragraph 6; and
<b>requisite arrangements</b>	means the arrangements referred to as such in paragraph 2.

**Condition 6: Security Arrangements**

- 1 The Licensee shall comply with the provisions of the Northern Ireland Fuel Security Code and such provisions shall have effect as if they were set out in this licence.
- 2 The Northern Ireland Fuel Security Code may be amended in accordance with its provisions.

**Condition 7: Compulsory Acquisition of Land**

1. All the powers and rights conferred by or under the provisions of Schedule 3 of the Order (compulsory acquisition of land) shall have effect in relation to the Licensee to the extent that they are required to enable the Licensee to supply electricity to the premises specified in Schedule 1.
  
2. The powers referred to in paragraph 1 shall not apply to land forming part of the land bank.
  
3. Paragraphs 1 and 2:
  - (a) may be brought into effect on such date as the Authority shall specify in directions issued to the Licensee for the purposes of this Condition, and shall cease to have effect on such date as the Authority shall specify in directions issued to the Licensee for the purposes of this Condition.
  
4. In this Condition:

<b>Land</b>	includes any right, easement or other interest in land and any wayleave.
<b>land bank</b>	has the meaning given in the Transmission Owner Licence.

**Condition 8: Powers to Carry out Road Works etc**

1. The powers and rights conferred by or under the provisions of Schedule 4 of the Order (other powers, etc., of licence holders) shall have effect in relation to the Licensee and may be exercised by the Licensee carrying out works in relation to, or in pursuance of, the installation, inspection, maintenance, adjustment, repair, alteration, replacement and removal of:
  - (a) electric lines which are necessary to enable the Licensee to supply electricity to the premises specified in Schedule 1;
  - (b) electrical plant associated with such lines; and
  - (c) any structures for housing or covering such lines or plant.
  
2. Paragraph 1 may be brought into effect on such date as the Authority shall specify in directions issued to the Licensee for the purposes of this Condition and shall cease to have effect on such date as the Authority shall specify in directions issued to the Licensee for the purposes of this condition

**Condition 9: Health and Safety of Employees**

1 The Licensee shall:

- (a) acting jointly and in co-operation with the holders of other licences granted under the Order, consider and discuss matters of mutual concern in respect of the health and safety of persons employed by them; and
- (b) establish and maintain appropriate processes for consultation with representatives of the Licensee's employees in respect of the health and safety of those employees.

## **Condition 10: Provision of Information to the Authority**

- 1 Subject to paragraphs 2 and 3, the Licensee shall furnish to the Authority, in such manner and at such times as the Authority may require, such information and shall procure and furnish to it such reports, as the Authority may consider necessary in the light of the Conditions or as it may require for the purpose of performing:
  - (a) any functions assigned to it by or under the Order, the Energy Order, the SEM Order or the Directive Regulations; and
  - (b) any functions transferred to it under the Order, the Energy Order, the SEM Order or the Directive Regulations.
- 2 The Licensee may not be required by the Authority to furnish it under this Condition with information for the purpose of the exercise of its functions under Article 7 of the Energy Order.
- 3 The Licensee may not be required by the Authority to furnish it under this Condition with any information required in relation to an enforcement matter which the Licensee could not be compelled to produce or give in evidence in civil proceedings in the High Court.
- 4 The power of the Authority to call for information under paragraph 1 is in addition to the power of the Authority to call for information under or pursuant to any other Condition.
- 5 The Licensee shall, if so requested by the Authority, give reasoned comments on the accuracy and text of any information and advice (so far as relating to the supply of electricity authorised by this licence) which the Authority proposes to publish pursuant to Article 7 of the Energy Order.
- 6 In paragraphs 1 to 5, **information** shall include any documents, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Authority) of any description specified by the Authority.

7 In this Condition:

**enforcement matter**

means any matter in respect of which any function of the Authority under Article 42 of the Energy Order is or may be exercisable.

### **Condition 11: Payment of Fees**

- 1 The Licensee shall, at the times stated hereunder, pay to the Authority fees of the amount specified in or determined under the following paragraphs of this Condition.
- 2 Within 30 days after the grant of this Licence but in any event before **07 October 2011**, the Licensee shall pay to the Authority an initial **fee of £1500**.
- 3 In respect of the year beginning on 1 April of the year following the grant of the licence and in each subsequent year, the Licensee shall pay to the Authority a fee which is the aggregate of the following amounts:
  - (a) an amount which is a proportion, as determined by the Authority, of the amount estimated by the Authority, according to a method which has previously been disclosed in writing to the Licensee, as likely to be its costs during the year in question in the exercise of its functions under the Order, the Energy Order, the SEM Order and the Directive Regulations in relation to the holders of licences granted under Article 10(1) of the Order;
  - (b) an amount which is a proportion, as determined by the Authority, of the amount notified to the Authority by the General Consumer Council and approved by the Department as being the General Consumer Council's estimate of its likely costs during the year in question in the exercise of the functions relating to electricity assigned to it by or under the Order, the Energy Order, the SEM Order and the Directive Regulations and any other such functions as it has been or may be required to exercise by the Authority or, in the event that the Authority shall not have received such notification by 31 July in the year in question, an amount which is the relevant proportion of the Authority's estimate of such likely costs (having regard to any estimate of such costs in any forward work programme published by the General Consumer Council in respect of the year in question);
  - (c) an amount which is a proportion as determined by the Authority of the amount estimated by the Authority (in consultation with the Competition Commission) as having been incurred in the calendar year immediately preceding the 1 April in question by the Competition Commission in connection with references made to it

under Article 15 of the Order with respect to the Licence or any other licence issued under Article 10(1)(c) of the Order; and

- (d) the difference (being a positive or a negative amount), if any, between:
- (i) the amount of the fee paid by the Licensee in respect of the year immediately preceding the 1 April in question less any refund paid to the Licensee in respect of that year under paragraph 4; and
  - (ii) the amount which that fee would have been in respect of that year:
    - (A) had the amount comprised therein under sub-paragraph (a) been calculated by reference to the total costs of the Authority in connection with the functions referred to in sub-paragraph (a) and the proportion thereof actually attributable to the Licensee,
    - (B) had the amount comprised therein under sub-paragraph (b) been calculated by reference to the total costs of the General Consumer Council in connection with the functions referred to in sub-paragraph (b) and the proportion thereof actually attributable to the Licensee,

(such total costs being apportioned as determined by the Authority according to a method previously disclosed in writing to the Licensee),

and the fee shall be paid by the Licensee to the Authority within one month of the Authority giving notice to the Licensee of its amount, provided that notice is given within six months of the beginning of the year in respect of which the fee is payable.

- 4 In respect of the year beginning on [1 April of the year following the grant of the licence] and for each subsequent year, the Authority may pay the Licensee an amount (**the refund**) calculated in accordance with the method previously disclosed in writing to the Licensee and by reference to the difference between:

- (a) the proportion of the licence fee for that year paid by the Licensee which is attributable to the Authority's estimate of its costs in accordance with paragraph 3(a), and the estimate of the General Consumer Council or the Authority (as

appropriate) of the General Consumer Council's costs in accordance with paragraph 3(b); and

- (b) the Authority's reasonable revised estimate of those costs (taking account of any revised estimate of the costs referred to in paragraph 3(b) which is approved by the Department and notified to the Authority by the General Consumer Council);

provided that any such refund shall be paid to the Licensee on or before 31 March in the year to which the fee relates.

## **Condition 12: Prohibition of Cross-Subsidies**

- 1 This Condition shall only apply if the Licensee (or an affiliate or related undertaking of the Licensee) holds a licence (other than the Licence) granted under Article 10 of the Order.
- 2 The Licensee shall procure that no Separate Business gives any cross-subsidy to, or receives any cross-subsidy from, any other business of the Licensee or of an affiliate or related undertaking of the Licensee (whether or not a Separate Business).
- 3 Nothing which the Licensee is obliged to do or not do pursuant to this Licence or any other licence granted to the Licensee under the Order shall be regarded as a cross-subsidy for the purposes of this Condition.
- 4 In this Condition:

**Generation Business**

means the authorised business (if any) of the Licensee or any affiliate or related undertaking of the Licensee in the generation of electricity or in the provision of System Support Services.

**Separate Business**

means each of the Supply Business and the Generation Business (if any) taken separately from one another and from any other business of the Licensee or any affiliate or related undertaking of the Licensee; but so that where all or any part of such business is carried on by an affiliate or related undertaking of the Licensee, such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any other such business of the Licensee (and of any other affiliate or related undertaking of the Licensee) so as to form a single Separate Business.

**Condition 13: Not Used**

#### **Condition 14: Prohibition of Discrimination in Supply**

- 1 This Condition applies where the Licensee (taken together with its affiliates and related undertakings) is in a dominant position in a market for the supply of electricity to Customers.
- 2 Where this Condition applies the Licensee shall not supply or offer to supply electricity to Customers in any market in which it is dominant on terms which are predatory.
- 3 Where this Condition applies but subject to paragraph 4, the Licensee (taken together with its affiliates and related undertakings) shall not, in supplying or offering terms for the supply of electricity to Customers in any market in which it is dominant:
  - (a) show undue preference to any person (or class of persons) within such market;
  - (b) exercise undue discrimination between any persons (or classes of person) within such market; or
  - (c) set terms which are unduly onerous.
- 4 Nothing in paragraph 3 shall prohibit the Licensee, within any area or class of Customers (the **relevant area or class**) in respect of which there is established competition in the supply of electricity, from supplying or offering to supply electricity on terms which are reasonably necessary to meet that competition, save that the Licensee (taken together with its affiliates and related undertakings) shall not, in supplying or offering terms for the supply of electricity:
  - (a) show undue preference to any persons (or class of persons) or exercise undue discrimination between any persons (or classes of person) within the relevant area or class of Customers; or
  - (b) set terms in respect of any person (or class of persons) in a market in which the Licensee is dominant, save such persons who are within the relevant area or class of Customers, which are unduly onerous.
- 5 For the purposes of this Condition, terms are unduly onerous if the revenue from the supply of electricity to Customers on those terms:

- (a) significantly exceeds the costs of that supply; and
  - (b) exceeds such costs to a significantly greater degree than the revenue from supply to all other Customers of the Licensee (and of its affiliates and related undertakings) within the same market exceeds the costs of supply to those Customers.
- 6 For the purposes of this Condition, a market may be defined by reference to a geographical area, or to a class of Customer or both.
- 7 In determining, for the purposes of this Condition, whether any persons constitute a class of person, due regard shall be had to the circumstances of supply to such persons including (without limitation) volumes, load factors, conditions of interruptibility, location of premises being supplied and date and duration of the Contract or Deemed Contract.
- 8 For the purposes of this Condition, the Authority shall determine any question as to:
- (a) whether any area or class of Customers constitutes a market for the supply of electricity;
  - (b) whether the Licensee (taken together with its affiliates and related undertakings) is dominant in any market for the supply of electricity;
  - (c) whether there is established competition in respect of the supply of electricity in any area or to any class of Customers; and
  - (d) whether any terms are predatory, having due regard to whether such terms:
    - (i) incorporate charges which do not reasonably cover the avoidable costs incurred in consequences of supplying the Customers in question; and
    - (ii) are intended or are likely to restrict, distort or prevent competition in the supply of electricity.
- 9 The Authority may, on the application of the Licensee, and following such consultation (if any) as the Authority may consider appropriate, issue directions relieving the Licensee of its obligations under this Condition in respect of such of the Licensee's arrangements

or agreements as are specified in the direction and to such extent and subject to such conditions as may be specified in the direction.

10 In this Condition:

**terms** means all the terms on which a supply of electricity is offered or provided, including terms as to price, which significantly affect the evaluation of that supply.

### **Condition 15: Duration of Discrimination Conditions**

- 1 Condition 14 shall cease to have effect (in whole or in part, as the case may be) if the Licensee makes a disapplication request in accordance with this Condition and:
  - (a) the Authority agrees in writing to that request; or
  - (b) the application of Condition 14 (in whole or in part) is terminated by notice given by the Licensee in accordance with paragraph 3 or 4 of this Condition.
  
- 2 A disapplication request pursuant to this Condition may be made by the Licensee only where the Authority has notified it, in accordance with paragraph 8 of Condition 14, of its determination that the Licensee is dominant in a specified market, and any such request shall:
  - (a) be made in writing to the Authority;
  - (b) specify whether the request relates to the whole of Condition 14 or any part or parts thereof; and
  - (c) state the date (the **disapplication date**) from which the Licensee wishes the specified provisions of Condition 14 to cease to have effect, which date shall be not earlier than 12 months after the date on which the request is made.
  
- 3 If the Authority has not by the date which is six months prior to the disapplication date made a reference to the Competition Commission (under Article 15 of the Order) relating to the modification of Condition 14, the Licensee may give to the Authority a notice in writing terminating the application of such of the provisions of Condition 14 as are specified in the disapplication request with effect from the disapplication date or from any later date specified in the notice.
  
- 4 If the Competition Commission reports on a reference made by the Authority relating to the modification of Condition 14 and does not conclude that the disapplication of any of the provisions of that Condition (being provisions specified in the disapplication request) would or may be expected to operate against the public interest, the Licensee may within 30 days of the publication of the report under Article 16 of the Order give to the Authority notice in writing terminating the application of such provisions with effect

from the disapplication date or any later date specified in the notice.

**Condition 16: Duty to offer Terms for Meter Provision**

- 1 The Licensee shall on application made by any person:
  - (a) offer to enter into an agreement for the provision of any relevant metering equipment whether, at the discretion of the Licensee, by way of sale, hire or loan; and
  - (b) where the terms offered are acceptable to the person making the application, sell, hire or loan the relevant metering equipment in accordance with such terms.
- 2 In making an offer to enter into an agreement in accordance with paragraph 1, the Licensee shall set out:
  - (a) the date by which the terms of the agreement shall be fulfilled (time being of the essence unless otherwise agreed between the parties);
  - (b) the charges to be paid to the Licensee; andsuch other detailed terms as are or may be appropriate for the purpose of the agreement.
- 3 The Licensee shall offer terms for agreements in accordance with paragraph 1 as soon as practicable after the receipt by the Licensee of an application containing all such information as it may reasonably require for the purpose of formulating the terms of the offer.
- 4 The Licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any agreement if to do so would be likely to cause the Licensee to be in breach of regulations made under Article 32 of the Order, provided that it has taken all reasonable steps to prevent such breach from occurring.
- 5 The Authority may, on the application of the Licensee, issue a direction relieving the Licensee of its obligations under paragraph 1 in respect of such relevant metering equipment and subject to such terms and conditions as may be specified in the direction.
- 6 The Licensee shall not enter into an agreement with any person for the provision of an electricity meter at any premises (whatever the nature of that agreement) which is

intended or is likely to restrict, distort or prevent competition in the supply of electricity.

7 In this Condition:

**relevant metering equipment**

means metering equipment owned by the Licensee and sited at any premises to which a supply of electricity is being or is required to be given by an Electricity Supplier other than the Licensee.

**Condition 17: Procedures for the Detection and Prevention of Theft, Damage and Meter Interference**

- 1 The Licensee shall (and shall ensure that its agents) take all reasonable steps to detect and prevent:
  - (a) the theft of electricity at premises which are supplied by it;
  - (b) damage to any electrical plant, electric line or electricity meter through which such premises are supplied; and
  - (c) interference with any electricity meter through which such premises are supplied.
  
- 2 The Licensee shall, as soon as is reasonably practicable, inform the owner of the relevant electrical plant, electric lines or meter of any incident where it has reason to believe:
  - (a) there has been damage to any electrical plant, electric line or meter; or
  - (b) there has been interference with any meter to alter its register or prevent it from duly registering the quantity of electricity supplied.
  
- 3 Where the Licensee has reason to believe that any incident reported to the owner in accordance with paragraph 2 has been caused by the criminal act of any person it shall, on complying with the requirement of that paragraph, provide the owner with such information as is reasonably required for the purposes of investigating the incident and resolving any safety concerns arising out of it.
  
- 4 The Licensee shall inform the owner of its policy in relation to incidents of the type referred to at paragraph 3, and in particular of the circumstances in which it requires the Transmission Owner to remedy such incidents by the use of:
  - (a) the substitution of alternative meters;
  - (b) the provision of prepayment meters; and
  - (c) the discontinuation of supply to the premises at which the incident occurred.

**Condition 18: Licensee's Apparatus on Customers' Side of Meter**

- 1 This Condition applies where the Licensee installs a second meter or other apparatus for the purpose of ascertaining or regulating the amount of electricity supplied, the period of supply, or any other quantity or time connected with the supply on the Customer's side of the meter or meters registering the quantity of the supply to a Customer.
- 2 Any second meter or other apparatus installed by the Licensee in the position and for a purpose described in paragraph 1 shall be such that the power consumed by it, when aggregated with the power consumed by any other meter or apparatus installed by the Licensee in the like position and for a like purpose in relation to the Customer, does not exceed 10 watts except where otherwise agreed with the Customer.

**Condition 19: Provision of Information to Transmission System Operator and Market Operator**

1. The Licensee shall furnish to:
  - (a) the Transmission System Operator; and
  - (b) the Market Operator,

in such manner and at such times as may be required, such information as each of them may reasonably require and which the Authority deems necessary for the purpose of complying with their respective obligations in relation to any authorised business or activity.

2. The information provided under paragraph 1 shall be furnished in accordance with directions issued by the Authority from time to time.

**Condition 20: Single Electricity Market Trading and Settlement Code**

- 1 The Licensee shall become a party to the Single Electricity Market Trading and Settlement Code, and shall at all times remain a party to and comply with the Code, insofar as it is applicable to the Licensee in its capacity as an Electricity Supplier.

**Condition 21: The PSO Agreement**

- 1 The Licensee shall enter into, and at all times remain a party to, the PSO Agreement in its capacity as an Electricity Supplier.

## **Condition 22: Supplier of Last Resort**

- 1 The Authority may give a Last Resort Supply Direction to the Licensee if it considers that:
  - (a) circumstances have arisen that would entitle it to revoke the electricity supply licence of an Electricity Supplier other than the Licensee (for this Condition only, the **other supplier**); and
  - (b) the Licensee could comply with the Last Resort Supply Direction without significantly prejudicing its ability:
    - (i) to continue to supply electricity to its Customers' premises; and
    - (ii) to fulfil its contractual obligations for the supply of electricity.
- 2 The Last Resort Supply Direction will:
  - (a) have effect on and from the date on which and the time at which the other supplier's electricity supply licence is revoked; and
  - (b) stop having effect on and from a date, specified in the Last Resort Supply Direction, that is up to six months after the date on which the direction has effect.
- 3 The Licensee shall, subject to paragraph 4, comply with a Last Resort Supply Direction.
- 4 The Licensee is not required to comply with a Last Resort Supply Direction in respect of premises to which it would not be required to supply electricity because of either of the exceptions set out in sub-paragraphs 4(a) and (b) of Condition 26.
- 5 Within a reasonable period of time after receiving a Last Resort Supply Direction, the Licensee must send a copy of a notice to each of the premises specified or described in the Last Resort Supply Direction to inform the Customer:
  - (a) that the other supplier stopped supplying electricity to his premises with effect on and from the date on which the Last Resort Supply Direction had effect;
  - (b) that the Licensee began to supply electricity to his premises with effect on and

from the date on which the Last Resort Supply Direction had effect;

- (c) that the Licensee is supplying electricity to the Customer's premises under a Deemed Contract;
- (d) that the Customer may enter into a Contract with the Licensee or any other Electricity Supplier under which electricity will be supplied to his premises; and
- (e) of the Charges for the Supply of Electricity that the Licensee may charge the Customer while supplying him under the Last Resort Supply Direction.

6 The Licensee's Charges for the Supply of Electricity to the premises specified or described in the Last Resort Supply Direction must not exceed an amount that may be expected, in total, approximately to equal the Licensee's reasonable costs of supply (including, where appropriate, the costs of purchasing electricity at short notice) and a reasonable profit.

7 If the Licensee purchases electricity to comply with a Last Resort Supply Direction, it must take all reasonable steps to do so as economically as possible in all the circumstances of the case.

8 The Licensee shall, so far as is reasonably practicable, give the Authority at least five days' notice of any increase in the Charges for the Supply of Electricity to premises to be supplied with electricity by it in accordance with a Last Resort Supply Direction.

9 Where, within five days of the receipt by the Authority of the notice referred to in paragraph 8, the Authority determines that the charges proposed by the Licensee would be likely to cause hardship to Domestic Customers, it may issue a direction to the Licensee requiring it to ensure that its Charges for the Supply of Electricity do not exceed those specified in the direction as being appropriate in order to avoid or mitigate such hardship.

10 The Licensee shall comply with any direction issued by the Authority under paragraph 9, but shall not be required by that direction to set its Charges for the Supply of Electricity at a level less than that applicable to the supply by it under Deemed Contracts of comparable Domestic Premises otherwise than in accordance with a Last Resort Supply Direction.

### **Condition 23: Claims for Last Resort Supply Payments**

1. If the Licensee has received the Authority's consent under paragraph 5, it may make a claim for a Last Resort Supply Payment under condition 33 of the Transmission Owner Licence.
2. The Licensee must not make a claim for a Last Resort Supply Payment if it has waived its ability to do so by notice given to the Authority before the Authority gave it a Last Resort Supply Direction.
3. If the Licensee intends to make a claim for a Last Resort Supply Payment, it must:
  - (a) give notice to the Authority of its claim; and
  - (b) give the Authority a calculation of the amount claimed with information to support that calculation,  
  
within six months after the date on which the Last Resort Supply Direction to which the claim relates stops having effect.
4. The total amount of the Last Resort Supply Payment (for this Condition only, **the relevant amount**) to be claimed by the Licensee must not exceed the amount by which:
  - (a) the total costs (including interest on working capital) reasonably incurred by the Licensee in supplying electricity to premises pursuant to the Last Resort Supply Direction and a reasonable profit,  
  
are greater than:
  - (b) the total amounts recovered by the Licensee through Charges for the Supply of Electricity to premises under the Last Resort Supply Direction (after taking all reasonable steps to recover such charges).
5. If the Authority considers it appropriate in all the circumstances of the case for the Licensee to make the claim notified to it in accordance with paragraph 3, the Authority will give its consent in writing to the Licensee.
6. Within three months after it has been notified of the claim in accordance with paragraph

3, the Authority may determine that an amount other than the one calculated by the Licensee is a more accurate calculation of the relevant amount.

7. If the Authority makes a determination under paragraph 6, the amount specified by it must be treated as the relevant amount for the purpose of paragraph 8.
8. A claim by the Licensee for a Last Resort Supply Payment from the Transmission Owner must specify:
  - (a) the relevant amount to be paid by the Transmission Owner; and
  - (b) whether payment is to be made by quarterly or monthly instalments.
9. A claim will lapse if the Licensee does not make it within six months after the Authority has given its consent under paragraph 5.
10. In this Condition:

**Last Resort Supply Payment**

means a sum of money payable to the Licensee to compensate for any additional costs it incurs in complying with a Last Resort Supply Direction.

**Condition 24: Standards of Performance**

- 1 The Licensee shall conduct the Supply Business in the manner which it reasonably considers to be best calculated to achieve any standards of overall performance or standards of performance in connection with the promotion of the efficient use of electricity by Customers that may be determined by the Authority pursuant to Articles 43 and 44 respectively of the Order.

## **Condition 25: Classification of Premises**

### General Rule

1. For the purposes of this Licence:
  - (a) a Domestic Premises is any premises at which a supply of electricity is taken wholly or mainly for a domestic purpose; and
  - (b) any other premises shall be treated as a Non-Domestic Premises, except to the extent otherwise provided by paragraph 2.

### Exceptions to the General Rule

2. A premises that would otherwise be a Domestic Premises shall be treated as a Non-Domestic Premises if it is a premises of a type (a **relevant premises**) described at one or more of paragraphs 3, 4 and 5 below.

### Accommodation services, Landlords etc.

3. A premises is a relevant premises if:
  - (a) the person who has entered into a Contract with the Licensee for the supply of electricity to those premises is a person who has entered or will enter into an agreement with any other person for the provision of a residential or any other accommodation service at the premises, and
  - (b) the terms of the agreement referred to in sub-paragraph (a) are commercial in nature and include a charge for the supply of electricity to the premises (whether such charge is express or implied).

### Change of Use

4. A premises is a relevant premises if the Customer at that premises has begun to take a supply of electricity wholly or mainly for a domestic purpose only subsequent to:
  - (a) the Licensee entering into a Contract with that Customer for those premises to be supplied with electricity as Non-Domestic Premises; or
  - (b) a Deemed Contract for the supply of electricity to Non-Domestic Premises has

commenced in relation to those premises,

in which case the premises shall be treated as a Non-Domestic Premises until the Contract or the Deemed Contract (as the case may be) comes to an end.

#### Multi-Site Contracts

5. A premises is a relevant premises during any period in which it is supplied with electricity under a Multi-Site Contract.
6. For the purposes of paragraph 5, a **Multi-Site Contract** is a Contract for the supply of electricity to:
  - (a) one or more Non-Domestic Premises; and
  - (b) one or more premises at which electricity is taken wholly or mainly for a domestic purpose, but which are occupied for a purpose ancillary to that for which any of the Non-Domestic Premises that are supplied under the Contract is occupied,  
  
and where all of those premises are owned or occupied by:
    - (c) the same person or body of persons, whether corporate or unincorporate; or
    - (d) an undertaking (the **principal undertaking**) and an affiliate of that principal undertaking, or any other undertaking in which the principal undertaking has a participating interest (as defined by Article 268 of the Companies (Northern Ireland) Order 1986).

## Customer Related Conditions

### Condition 26: Duty to Offer Terms

- 1 Where the Licensee supplies, or offers to supply, electricity to Domestic Premises, it must, within a reasonable period of time after receiving a request from a Domestic Customer for a supply of electricity to Domestic Premises, offer to enter into a Contract with that Customer.
- 2 If the Domestic Customer accepts the terms of the Contract offered to him under paragraph 1, the Licensee must supply electricity in accordance with that Contract.
- 3 A Contract must:
  - (a) be in writing; and
  - (b) include all the terms and conditions for the supply of electricity as provided for in Condition 27.
- 4 The Licensee is not required to comply with the obligations set out in paragraphs 1 or 2 in any of the following circumstances:
  - (a) supplying electricity to the Domestic Premises would put the Licensee in breach of regulations made under Article 32 of the Order, provided that it has taken all reasonable steps to prevent such breach from occurring;
  - (b) it is not reasonable in all the circumstances of the case for the Licensee to supply electricity to the Domestic Premises, provided that, if it is already supplying electricity to the premises, it has given at least seven working days' notice of its intention to stop doing so; or
  - (c) the Licensee requires the Domestic Customer to pay a reasonable Security Deposit and he does not do so.
- 5 In this Condition:

**Security Deposit**

means a deposit of money paid by a Customer as security for the payment of charges for the supply of

electricity by the Licensee to the premises at which he is (or is to be) supplied, and may include a sum as security the provision of metering equipment.

## **Condition 27: Terms and Conditions of Electricity Supply Contracts**

- 1 The Licensee shall ensure that any Contract it enters, or offers to enter, into with a Customer for a supply of electricity contains provisions which are in clear and comprehensible language and which incorporate all relevant information so as to enable the Customer or potential Customer to understand the terms under which the supply of electricity is, or is to be, made.
- 2 The Licensee shall ensure that any Contract it enters into with a Customer for a supply of electricity provides that the Contract will terminate automatically from the date that a Last Resort Supply Direction, given to another Electricity Supplier, takes effect in relation to the premises supplied under that Contract.
- 3 The Licensee shall not enter, or offer to enter, into a Contract, for the supply of electricity to a premises, containing a term which requires or has the effect of requiring the Customer to:
  - (a) obtain a supply of electricity to the same premises from another Electricity Supplier from a date and for such period as may be specified (whether in the Contract or otherwise) by the Licensee; and
  - (b) immediately following the expiry of that specified period, recommence taking a supply of electricity at the premises from the Licensee.
- 4 The Licensee shall determine standard terms and conditions for the supply of electricity to Domestic Customers and may determine different standard terms and conditions for different cases or classes of cases or for different areas. The Licensee shall not enter, or offer to enter, into a Contract for the supply of electricity with a Domestic Customer otherwise than on its standard terms and conditions.
- 5 The Licensee shall ensure that each set of standard terms and conditions it determines for Domestic Customers shall be fair (as between the Licensee and each Domestic Customer) and shall, as a minimum, include the following:
  - (a) the identity and address of the Licensee and any other appropriate contact details;
  - (b) the services to be provided, the service quality levels offered by the Licensee

- (which may be subject to the approval of the Authority pursuant to Condition 29) and the date for the commencement of the electricity supply under the Contract;
- (c) the duration of the Contract, the conditions for renewal and for termination of the Contract (including any requirement, which must be approved in advance by the Authority, for the Customer to pay charges arising due to the termination of the Contract) and any services provided thereunder and the existence of any right of cancellation or termination of the Contract;
  - (d) (if offered by the Licensee) the types of maintenance service offered under the Contract;
  - (e) a right for the Customer to withdraw from and cancel the Contract:
    - (i) where a supply of electricity has at any time previously been taken at the premises, within seven working days of entering into the Contract; and
    - (ii) where a supply of electricity has not previously been taken at the premises, within seven working days of entering into the Contract, or any time up to seven working days prior to the premises being connected to a distribution system, whichever is the later;
  - (f) a right for the Customer to terminate the Contract where the Licensee proposes a variation to the terms and conditions of the Contract and the Customer does not wish to accept such new terms and conditions;
  - (g) the tariffs, charges and other payments required to be paid by the Customer, in a manner that enables the Customer to identify each particular tariff, charge or payment, including without limitation any payment which is or has the effect of being a payment by way of security for the payment of charges for the supply of electricity;
  - (h) the means by which up to date information on all applicable tariffs, charges and other payments (including any discounts and promotions) for the supply of electricity and for any other services which are to be provided under the Contract:
    - (i) can be promptly obtained by the Customer; and

- (ii) will be communicated to the Customer in writing by the Licensee;
  - (i) the compensation and the refund arrangements which will apply if contracted service quality levels are not met (which may be subject to the approval of the Authority pursuant to Condition 9);
  - (j) details of how the Customer may initiate the Licensee's complaint handling procedure (as established under Condition 33); and
  - (k) details of how the Customer can contact, and the relevant address and telephone number of, the General Consumer Council for further help and advice.
- 6 Before entering into or concluding a Contract with any Domestic Customer, the Licensee shall give the Customer a written copy of the full terms and conditions of the Contract, including without limitation all the information referred to in paragraph 5.
- 7 The Licensee shall notify each Domestic Customer it supplies with electricity pursuant to the Licence of:
- (a) any proposed variation to the terms of the Contract the Licensee has entered into with that Customer, together with the Customer's right (as included in the Contract in accordance with paragraph 5) to terminate the Contract before the proposed variation is due to take effect, at least 21 days in advance of the date the variation is due to take effect; and
  - (b) any actual variation that subsequently does take effect in respect of the charges for the supply of electricity, within 28 days of the date the variation takes effect.
- 8 The Licensee shall, on the request of a Domestic Customer and without charge, send to that Customer a copy of the then current set or sets of standard terms and conditions (as determined in accordance with this Condition) that are applicable to the request (including, for the avoidance of doubt, the applicable charges and tariffs relating to each such set).
- 9 The Licensee shall ensure that its standard terms and conditions provide Domestic Customers with a choice of payment methods, including as a minimum making payment:
- (a) in arrears (at such frequency as is set out in the terms and conditions);

- (b) by direct debit (at such frequency as is set out in the terms and conditions); and
  - (c) by prepayment meter.
- 10 Any difference in the charges for supply of electricity according to the choice of payment method shall be calculated by the Licensee on a reasonable basis to reflect the costs to the Licensee of such different payment methods.
- 11 The Licensee shall not impose on, or request from, a Domestic Customer any charge or payment for the purpose of enabling that Customer to exercise or preventing him from exercising (as the case may be) his right to receive a supply of electricity from his Electricity Supplier of choice.

### **Condition 28: Deemed Contracts**

- 1 The Licensee shall ensure that each of its Deemed Contracts provides that it will terminate automatically in the event that a Last Resort Supply Direction is given to another Electricity Supplier in relation to the premises supplied under that Deemed Contract.
- 2 Subject to paragraph 4, the Licensee must take all reasonable steps to ensure that the terms of each of its Deemed Contracts are not unduly onerous.
- 3 For the purposes of paragraph 2, the terms of a Deemed Contract shall be unduly onerous for any class of Domestic Customers, or for any class of Non-Domestic Customers, only if the revenue derived from supplying electricity to the premises of the relevant class of customers on those terms:
  - (a) significantly exceeds the Licensee's costs of supplying electricity to those premises; and
  - (b) exceeds such costs of supplying electricity by significantly more than the Licensee's revenue exceeds its costs of supplying electricity to the premises of the generality of its Domestic Customers or, as the case may be, to the premises of the generality of its Non-Domestic Customers (in each case excluding from the calculation premises supplied under a Last Resort Supply Direction).
- 4 Where a Customer is being supplied by the Licensee with electricity under a Deemed Contract as a result of a Last Resort Supply Direction being issued in relation to his premises, paragraph 2 shall not apply until that direction stops having effect.
- 5 The Licensee shall ensure that each of its Deemed Contracts shall provide that, where a Customer intends his premises to be supplied with electricity under a Contract agreed with the Licensee or any other Electricity Supplier, the Deemed Contract will continue to have effect until the Licensee or the other Electricity Supplier, as appropriate, begins to supply electricity to the premises under such a Contract.
- 6 If the Licensee supplies electricity to a Customer under a Deemed Contract, the Licensee may not demand of the Customer any sum of money or other compensation (whether

financial or otherwise) solely because the Deemed Contract is terminated (by whatever means).

- 7 If the Licensee supplies electricity to a Customer's premises under a Deemed Contract, it must take all reasonable steps to provide that Customer with a notice:
  - (a) setting out the principal terms of the Deemed Contract (being all of those terms which may reasonably be considered significantly to affect the evaluation by the Customer of the Deemed Contract);
  - (b) informing the Customer that contractual terms for the supply of electricity which may be different from the terms of Deemed Contracts may be available from the Licensee and of how further information about such terms may be obtained.
- 8 If any person requests a copy of a Deemed Contract that the Licensee has available, the Licensee must provide it to that person within a reasonable period of time after receiving the request.
- 9 In determining the number of kilowatt hours of electricity that are to be treated as supplied to or taken at premises under a Deemed Contract, the Licensee must act reasonably and take into account available electricity consumption data for the premises and any other relevant factor.

**Condition 29: Approval of the Authority to the Licensee's Arrangements**

- 1 The Licensee shall, within 28 days of any notice from the Authority requiring it to do so, provide to the Authority full details of the arrangements which it has in place in respect of any of the matters set out in paragraph 3 and referred to in that notice.
- 2 If the Authority, within three months of the Licensee providing such details to the Authority, by notice in writing to the Licensee requires the Licensee to make any modifications to those arrangements, the Licensee shall, as soon as is practicable but in any event within 60 days of the date of the notice, modify such arrangements accordingly.
- 3 The matters referred to in paragraph 1 are:
  - (a) the service quality levels offered by the Licensee to Domestic Customers under and in accordance with any Contract for the supply of electricity to such Customers; and
  - (b) the compensation and refund arrangements which are to apply where the Licensee is unable to meet such contracted service quality levels.

### **Condition 30: Code of Practice on Payment of Bills**

- 1 This Condition shall apply where the Licensee supplies, or offers to supply, electricity to Domestic Premises.
- 2 The Licensee shall by such date as the Authority may direct prepare a Code of Practice concerning the payment of electricity bills by Customers occupying Domestic Premises, and setting out the procedures and guidance it will adopt for the assistance of such Customers who, through misfortune or inability to cope with credit terms, may have difficulty in paying such bills.
- 3 The Code of Practice shall set out the Licensee's method and procedures for:
  - (a) identifying Customers in such difficulty (**Customers in difficulties**);
  - (b) providing appropriate information as to how Customers in difficulties might be able to reduce their future bills by the efficient use of electricity;
  - (c) making arrangements, which take into account the Customers' ability to comply with such arrangements, to enable Customers in difficulties to pay the charges accrued for the supply of electricity in instalments;
  - (d) detecting failures by Customers in difficulties to comply with the arrangements entered into by them for paying for the charges accrued for the supply of electricity in instalments;
  - (e) ascertaining the ability of such Customers to comply with such arrangements; and
  - (f) providing, or procuring the provision of, a prepayment meter (where safe and practicable to do so) for Customers who have failed to comply with such arrangements; and
  - (g) calibrating any prepayment meter so provided so as to take into account the Customer's ability to pay any of the charges due from the Customer under such arrangements in addition to the other charges lawfully being recovered through the prepayment meter.

- 4 In formulating the Code of Practice the Licensee shall have particular regard to adopting methods and procedures that have the purpose of avoiding, in so far as reasonable and practicable, the disconnection of premises occupied by Customers in difficulties.
- 5 The Licensee shall as soon as practicable following the preparation of the Code of Practice or any revision made to it, send to the Authority, the General Consumer Council, such other bona fide customer advice organisations as may from time to time be agreed with the Authority and, at the request of any Customer, any recognised professional advisor of that Customer, a copy of the Code of Practice or such revision in the form approved by the Authority.
- 6 The Licensee shall, within three months after the Code of Practice has been put in place, establish procedures for monitoring its general operation of the arrangements set out in the Code of Practice and compliance therewith, which shall be submitted to the Authority for its approval.
- 7 **Code of Practice** in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to services provided for assisting Customers having difficulty in paying their bills.

## **Condition 31: Code of Practice on Services for Vulnerable Persons**

### Application

- 1 This Condition shall apply where the Licensee supplies, or offers to supply, electricity to Domestic Premises.

### Vulnerable Persons

- 2 The Licensee shall by such date as the Authority may direct prepare a Code of Practice describing the special services available and any charges made or to be made to such persons who are of State pensionable age, disabled, blind or deaf.

### Pensionable age or Disabled

- 3 The Code of Practice shall set out the Licensee's arrangements for persons occupying Domestic Premises who are of State pensionable age or disabled, by which special services in the following respects can be made available where appropriate:
  - (a) providing where practicable special controls and adaptors for electrical appliances and meters (including prepayment meters) and repositioning meters;
  - (b) providing special means of identifying officers authorised by the Licensee; and
  - (c) giving advice on the use of electricity.
- 4 The arrangements shall, in the case of any of the Licensee's Domestic Customers who –
  - (a) is of State pensionable age and lives alone or with other persons all of whom are also of State pensionable age or minors; and
  - (b) is in default of his obligation to pay for electricity through misfortune or inability to cope with credit terms for the supply of electricity for domestic use,

provide that Licensee shall not in those circumstances cut off the supply of electricity to the premises during any winter period, that is to say, a period beginning with 1 October in any year and ending with 31 March in the next following year.

Blind/Deaf

- 5 The Code of Practice shall set out the Licensee's arrangements for the provision, on request and free of charge, in relation to the Licensee's Domestic Customers who, to the knowledge or reasonable belief of the Licensee:
- (a) are blind or partially sighted, of:
    - (i) details of the meter readings and charges in respect of the supply of electricity as set out in any bill; and
    - (ii) details of the arrangements for making enquiries or complaints about bills or the services provided by the Licensee,  
  
as relating to them, by telephone or other appropriate means; or
  - (b) are deaf or partially hearing, of details of facilities to assist them (if they have the equipment enabling them to take advantage thereof) when making enquiries or complaints about bills or the services provided by the Licensee.
- 6 **Code of Practice** in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to the provision of services for persons referred to in this Condition.

### **Condition 32: Code of Practice on the efficient use of Electricity**

- 1 This Condition shall apply where the Licensee supplies, or offers to supply, electricity to Domestic Premises.
- 2 The Licensee shall within 3 months of this Condition coming into effect (or such later date as the Authority may direct), prepare a Code of Practice setting out the ways in which the Licensee will make available to Customers such guidance on the efficient use of electricity as will, in the opinion of the Licensee, enable them to make informed judgements on measures to improve the efficiency with which they use the electricity supplied to them. Such Code of Practice shall include, but shall not be limited to:
  - (a) the preparation, and making available free of charge to any Customer who requests it, of a statement, in a form approved by the Authority, setting out information and advice for the guidance of Customers in the efficient use of electricity supplied to them;
  - (b) the creation and maintenance within the Licensee's organisation of sources from which Customers may obtain further information about the efficient use of electricity supplied to them, including the maintenance of a telephone information service; and
  - (c) the preparation, and making available free of charge to any Customer who requests it, of a statement or statements of sources (to the extent that the Licensee is aware of the same) outside the Licensee's organisation from which Customers may obtain additional information or assistance about measures to improve the efficiency with which they use the electricity supplied to them such statement or statements to include basic information which is publicly available on financial assistance towards the costs of such measures available from Central or Local Government or through bodies in receipt of financial support from Government in connection with measures to promote the efficiency of energy use.
- 3 **Code of Practice** in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to the efficient use of electricity.

**Condition 33: Code of Practice on Complaint Handling**

- 1 This Condition shall apply where the Licensee supplies, or offers to supply, electricity to Domestic Premises.
- 2 The Licensee shall such by date as the Authority may direct prepare a Code of Practice establishing a transparent, simple and inexpensive procedure to be operated by the Licensee for handling complaints from Customers about the manner in which the Licensee conducts the Supply Business.
- 3 The complaints procedure established and operated by the Licensee in accordance with this Condition shall as a minimum:
  - (a) specify the periods within which it is intended that different descriptions of complaint should be processed and resolved;
  - (b) be made available to all Domestic Consumers without charge;
  - (c) facilitate the fair and prompt settlement of complaints and disputes; and
  - (d) provide, where required by the Authority under Condition 29 or otherwise warranted for a system of making a reimbursement and/or compensation payment to complainants.
- 4 **Code of Practice** in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to the complaint handling procedure.

**Condition 34: Code of Practice on Services for Prepayment Meter Customers**

- 1 This Condition shall apply where the Licensee supplies, or offer to supply, electricity to Domestic Premises.
- 2 The Licensee shall by such date as the Authority may direct prepare a Code of Practice setting out the services which the Licensee offers to prepayment meter Customers. Such Code of Practice shall include, but shall not be limited to:
  - (a) instructions for the operation of the prepayment meter system, including token availability, emergency credit and other such facilities;
  - (b) details of the advantages and disadvantages of prepayment meters, including situations or types of Customer for which they are particularly suited or unsuited; and
  - (c) details of any additional charges which may be payable for the use of prepayment meters and the basis on which these charges are calculated.
- 3 **Code of Practice** in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to prepayment meter Customers.

**Condition 35: Preparation, Review of and Compliance with Codes of Practice**

- 1 This Condition applies to each of the Codes of Practice required to be prepared by the Licensee pursuant to Conditions 30, 31, 32, 33, and 34 (a **Code**).
- 2 The Licensee shall, before submitting a Code to the Authority for its approval, consult the General Consumer Council and shall consider any representations made by it on the Code or the manner in which it is likely to be operated.
- 3 The Licensee shall submit each Code to the Authority for its approval.
- 4 If, within 30 days from the day the Licensee first submitted a Code to the Authority for its approval, the Authority notifies the Licensee that it considers that the Code does not meet the requirements of the Licence, the Licensee shall immediately make such changes to the Code as the Authority may require.
- 5 The Licensee shall whenever requested to do so by the Authority review any Code and the manner in which it has been operated, with a view to determining whether any modification should be made to that Code or to the manner of its operation.
- 6 In carrying out any such review the Licensee shall consult the General Consumer Council and shall consider any representations made by it about the Code or the manner in which it is likely to be or has been operated.
- 7 After consulting the General Consumer Council in accordance with paragraph 6, the Licensee shall submit any revision of the Code which it wishes to make to the Authority for its approval and if the Authority approves the revision, the Licensee shall, following receipt of the Authority's approval in writing, then revise the Code appropriately. If the Authority does not approve the revision, the Licensee shall make further revisions to the Code as the Authority may require, in order to meet the requirements of this Licence.
- 8 The Licensee shall:
  - (a) as soon as practicable following the preparation of each Code or any revision made to it, send to the Authority and the General Consumer Council a copy of the Code or such revision in the form approved by the Authority;

- (b) draw to the attention of its Customers the existence of the Code and each substantive revision of it and how they may inspect or obtain a copy of the Code in its latest form;
- (c) make a copy of the Code available for inspection during normal opening hours by members of the public at each of the Licensee's premises which are open to Customers in the normal course of the Licensee's business;
- (d) give or send free of charge a copy of the Code (as from time to time revised) to any person who requests it; and
- (e) make available to members of the public, in such form and in such manner as the Authority considers appropriate, information published by the Authority pursuant to Article 7 of the Energy Order.

- 9 No changes may be made to any Code otherwise than in accordance with this Condition.
- 10 Subject to paragraph 12 the Licensee shall ensure, so far as reasonably practicable, that it complies with the terms of, and the arrangements or procedures (as the case may be) as are contained in or described by, each Code to which this Condition applies or any revision to such Code approved by the Authority.
- 11 The Licensee shall provide the Authority with all assistance reasonably necessary to enable the Authority to monitor the implementation and operation of any Code and this assistance shall include, without limitation, permitting the Authority access to relevant documentation held by the Licensee.
- 12 The Authority may (following consultation with the Licensee) issue directions relieving the Licensee of any of its obligations under Conditions 30, 31, 32, 33 and 34 and this Condition to such an extent as may be specified in those directions and subject to such terms and conditions as the Authority thinks fit.

### **Condition 36: Report on Performance**

- 1 The Licensee shall keep a record of its general operation of the arrangements mentioned in Conditions 30, 31, 32, 33 and 34 and, if the Authority so directs in writing, of its operation in particular cases specified, or of a description specified, by it.
- 2 The Licensee shall also keep a statistical record of its performance in relation to the provision of electricity supply services to Domestic Customers including services related to:
  - (a) the ascertainment of quantities of electricity supplied and the recovery of electricity charges; and
  - (b) the making of visits to Customers' premises and the response made to enquiries.
- 3 As soon as is reasonably practicable after 31 December in each year, the Licensee shall submit to the Authority and General Consumer Council a report dealing with the matters mentioned in this Condition which shall include a comparison of the Licensee's performance against any established standards in relation to that year and shall:
  - (a) make public the report so submitted in such manner as will in the reasonable opinion of the Licensee secure adequate publicity for it; and
  - (b) send a copy of it free of charge to any person requesting oneexcept that, in performing the obligations under paragraphs (a) and (b), the Licensee shall exclude from the report such information as appears to it to be necessary or expedient to ensure that, save where they consent, individual Customers referred to therein cannot readily be identified.
- 4 The report shall be presented, so far as is reasonably practicable, in a standard format determined by the Authority.

**Condition 37: Relations with the General Consumer Council**

- 1 The Licensee shall meet with the General Consumer Council whenever requested to do so by it, up to a maximum of six times in every year during the period of the Licence.
- 2 Without prejudice to paragraph 1, the Licensee shall meet the General Consumer Council at least once in every year during the period of the Licence.
- 3 In at least one meeting with the General Consumer Council in every year during the period of the Licence, the Licensee shall be represented by one or more directors of the Licensee.

### **Condition 38: Information given to Customers**

- 1 The Licensee shall keep each of its Customers (save insofar as he receives an unmetered supply) informed of the amount of electricity which, since he was last informed, its records show as having been consumed by that Customer:
  - (a) according to the meter through which he is supplied; or
  - (b) where no meter reading is available, according to the estimate of the Licensee.
- 2 The Licensee shall use all reasonable endeavours to take an actual meter reading in respect of each of its Customers (save insofar as he receives an unmetered supply) on at least an annual basis.
- 3 The Licensee shall:
  - (a) provide the information required by this Condition in such detail and in such format as the Licensee has determined in consultation with the General Consumer Council; and
  - (b) keep each of its Customers informed:
    - (i) that the General Consumer Council can assist in resolving complaints which the Licensee has not resolved to the Customer's satisfaction; and
    - (ii) of the contact address and telephone number of the General Consumer Council.
- 4 The Licensee may discharge its duties under paragraphs 1, 2 and 3 by providing the relevant information on or with each bill or statement given to a Customer in respect of charges for the supply of electricity, and annually to each Customer to whom no such bills or statements are rendered.
- 5 Where the Licensee provides a bill showing an estimated current meter reading, the Licensee shall provide the Customer with details of how the Customer can:
  - (a) read his own meter (to be known as a self-read); and

- (b) register the self read with the Licensee, in order for the Licensee to send the Customer a bill reflecting the self read.

### **Condition 39: Security and Safety of Supplies**

- 1 The Licensee shall make arrangements to keep each of its Customers informed of the postal address and telephone number of an enquiry service established and operated for the purposes of receiving reports from any person about any matter or incident that:
  - (a) causes danger or requires urgent attention, or is likely to cause danger or require urgent attention, in relation to the supply or distribution of electricity;  
or
  - (b) affects or is likely to affect the maintenance of the security, availability and quality of service of any distribution system through which the relevant Customer is supplied with electricity.
  
- 2 The enquiry service referred to at paragraph 1 must be such a service as shall:
  - (a) be provided without charge to the Customer;
  - (b) be available to receive and process telephone reports and enquiries at all times on every day of each year; and
  - (c) be operational no later than such date as the Authority may specify.
  
- 3 The Licensee may discharge the duty imposed by paragraph 1 by providing the requisite information to each of its Customers:
  - (a) on the occasion of the Customer first commencing to take a supply from the Licensee; and
  - (b) either:
    - (i) where bills or statements in respect of charges for the supply of electricity are rendered to the Customer, on a quarterly basis (it being sufficient that the information is included on or with any bill or statement); or
    - (ii) where no bills or statements in respect of charges for the supply of

electricity are rendered to the Customer, on an annual basis

and by publishing such information in such manner as will in the opinion of the Licensee secure adequate publicity for it.

- 4 The Licensee shall, in so far as is practicable, take steps to inform each of its Customers of any change to the address or telephone number of the service referred to at paragraph 1 prior to such change becoming effective.

**Condition 40: Marketing of Electricity to Domestic Customers**

- 1 This Condition shall apply, from the date of the direction, where the Authority has directed that it shall apply to the Licensee. This Condition applies to the selling methods and marketing activities of the Licensee in respect of the supply or proposed supply of electricity to Domestic Customers.
- 2 The Licensee shall (and shall procure that its agents or sub-contractors shall):
  - (a) establish appropriate procedures for the selection of persons employed or engaged in roles the principal duties of which involve oral communications with Domestic Customers for the purpose of selling to such Customers the Licensee's services in respect of the supply of electricity;
  - (b) take all reasonable steps to ensure that the each such person is sufficiently trained so as to have a sufficient understanding of:
    - (i) the electricity supply market in Northern Ireland;
    - (ii) the terms and condition of the Licensee's Contracts available for Domestic Customers; and
    - (iii) matters relating to the efficient use of electricity (in order to provide energy efficiency advice to consumers including details of other organisations that may be able to assist the consumer on such matters),  
so that any advice given to Domestic Customers by such persons is not misleading; and
  - (c) take all reasonable steps to ensure that a Domestic Customer is:
    - (i) made aware or will readily understand that he has entered, or is about to enter, into a Contract with the Licensee for the supply of electricity to the Customer's premises;
    - (ii) where the Customer is to receive a supply of electricity for the first time at the premises, made aware or will readily understand that he should take appropriate action to ensure that he is able to continue the

use of his existing fuel source (if any) until the commencement of the supply of electricity; and

- (iii) take all reasonable steps to ensure that any unsolicited contact made on behalf of the Licensee with any Domestic Customer takes place at a reasonable time of the day.

3 Where the Licensee enters into a Contract with a Domestic Customer in the course of:

- (a) a visit to that Customer's premises by a representative of the Licensee; or
- (b) a conversation in a place to which the public have access,

the Licensee shall use its reasonable endeavours to contact the Customer between 1 to 14 days after the Contract has been entered into to confirm that the Customer understands that he has entered into the Contract and is content to have done so but that the supply of electricity will not commence until the supply start date notified, or to be notified, to him.

4 If in the course of, or in response to, the Licensee's contact in accordance with paragraph 3 the Domestic Customer indicates that he is not content to have entered into the Contract and wishes to cancel the Contract, the Licensee shall use all reasonable endeavours to ensure that the Contract is cancelled and that the Licensee does not commence the supply of electricity to the Customer's premises.

5 In this Condition:

**marketing activities**

means any activities of the Licensee that are directed at or incidental to identifying and communicating with Domestic Customers for the purpose of promoting the Licensee's electricity supply contracts to them, and includes entering into contracts with such Customers.

**Representative**

means any person directly or indirectly authorised to represent the Licensee in its dealings with

Domestic Customers.

**Schedule 1 Specified Premises**

All premises in Northern Ireland

## **Schedule 2 Terms as to Revocation**

1. The Authority may at any time revoke the Licence by not less than 30 days' notice (24 hours' notice in the case of revocation under sub-paragraph 1(e)) in writing to the Licensee:
  - (a) if the Licensee agrees in writing with the Authority that the Licence should be revoked;
  - (b) if any licence fee required to be paid under the Licence is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee notice that the payment is overdue provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
  - (c) if the Licensee fails to comply with a final order (within the meaning of Article 42 of the Energy Order) or with a provisional order (within the meaning of Article 42 of the Energy Order) which has been confirmed under Article 42 of the Energy Order and which (in either case) has been made in respect of a contravention or apprehended contravention of any of the Conditions or of any relevant requirement (as defined in Article 41(2)(a) of the Energy Order) imposed on the Licensee in its capacity as holder of the Licence and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 44 of the Energy Order could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined;
  - (d) if the Licensee fails to comply with an order made by a court under section 34 of the Competition Act 1998; or fails to comply with an order made under section 72, 75, 76, 81, 83, 84, 158, 160 or 161 of, or under paragraph 2, 5, 6, 10 or 11 of schedule 7 to, the Enterprise Act 2002; or any partner, director, member, secretary or manager of the Licensee is found guilty of an offence under section 188 or 201 of the Enterprise Act 2002;

- (e) if the Licensee:
  - (i) is unable to pay its debts (within the meaning of Article 103(1) or (2) of the Insolvency (Northern Ireland) Order 1989, but subject to paragraph 3 of this Schedule) or if any voluntary arrangement is proposed in relation to it under Article 14 of that Order, or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority);
  - (ii) has a receiver (which expression shall include an administrative receiver within the meaning of Article 5(1) of the Insolvency (Northern Ireland) Order 1989) of the whole or any material part of its assets or undertaking appointed;
  - (iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989 made in relation to it;
  - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority;
  - (v) becomes subject to an order for winding-up by a court of competent jurisdiction; or
  - (vi) shall suffer any event analogous to any of the foregoing in any jurisdiction in which it is incorporated or resident;
- (f) if the Licensee is convicted of having committed an offence under Article 63 of the Order or under Article 46 of the Gas (Northern Ireland) Order 1996;
- (g) if the Licensee fails to pay any financial penalty (within the meaning of Article 45 of the Energy Order) imposed in respect of a contravention or apprehended contravention of a Condition or of a “relevant requirement” as defined in Article 41(2)(a) of the Energy Order by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the

period within which an application under Article 49 of the Energy Order could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined; or

- (h) if none of the premises specified, or of the description specified, in Schedule 1 shall have been supplied with electricity by the Licensee at any time during any period of 5 years.
2. For the purposes of paragraph 1(e)(i) of this Schedule Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 shall have effect as if for "£750" there was substituted "£250,000" or such higher figure as the Authority may from time to time determine by notice in writing to the Licensee.
  3. The Licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(e)(i) of this Schedule if any such demand as is mentioned in Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 is being contested in good faith by the licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1 of this Schedule.