

**SECOND-TIER SUPPLY LICENCE**

**GRANTED TO**

**ScottishPower Energy Retail Ltd**

## NOTE

The licence holder is subject to the environmental obligations set out in Schedule 9 (Preservation of Amenity and Fisheries) of the Electricity (Northern Ireland) Order 1992.

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## **PART I TERMS OF THE LICENCE**

1. The Director General of Electricity Supply for Northern Ireland, (hereinafter referred to as "**the Director**") in accordance with a general authority given by the Department of Economic Development now the Department of Enterprise Trade and Investment under Articles 10(1) and 10(2) of the Electricity (Northern Ireland) Order 1992 (hereinafter referred to as "**the Order**") and in exercise of the powers conferred by Articles 10(2)(a), 10(6), 11 and 13 of the Order hereby grants to **ScottishPower Energy Retail Ltd** a licence to supply electricity to the premises specified or of the description specified in Schedule 1 during the period specified in paragraph 3 below, subject to the Conditions set out in Parts II and III (hereinafter referred to as "**the Conditions**").
2. The Conditions are subject to modification or amendment in accordance with their terms or with Articles 14, 17 or 18 of the Order. The licence hereby granted (hereinafter referred to as "**this licence**") is further subject to the terms as to revocation specified in Schedule 2.
3. This licence shall come into force on 1 August 2001 and unless revoked in accordance with the provisions of Schedule 2 shall continue in force until determined by not less than 25 years' notice in writing given by the Director to the licensee, such notice not to be served earlier than the tenth anniversary of the date on which this licence comes into force.

13 August 2001

Director General of Electricity  
Supply for Northern Ireland

## **PART II GENERAL CONDITIONS APPLICABLE TO THE LICENCE**

### **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 this licence comes into force.
2. Any word or expression defined for the purposes of any provision of Part II of the 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 unless the context otherwise requires:

<b>"affiliate"</b>	in relation to the licensee or any subsidiary of a holding company of the licensee, means any holding company of the licensee or any subsidiary of the licensee or any subsidiary of a holding company of the licensee in each case within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986;
<b>"Auditors"</b>	means the licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986;
<b>"authorised"</b>	in relation to any business or activity means authorised by licence granted under Article 10 or exemption granted under Article 9 of the Order;
<b>"authorised electricity operator"</b>	means any person (other than the licensee) who is authorised to generate, transmit or supply electricity and any person transferring electricity to or from Northern Ireland across an interconnector or who has made an

	application for use of interconnector which has not been refused;
<b>"cancel"</b>	in relation to the Director means the exercise of his cancellation powers;
<b>"cancellable generating unit agreement"</b>	means a generating unit agreement which may be the subject of a cancellation direction, being the generating unit agreements 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 6 of Part III thereof or paragraph 5 of Condition 7 of Part III thereof);
<b>"cancellation direction"</b>	means a direction issued by the Director to cancel a cancellable generating unit agreement;
<b>"cancellation powers"</b>	means the powers of the Director to direct any party 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;
<b>"Community obligation"</b>	has the meaning ascribed to it in Part II of Schedule 1 to the European Communities Act 1972;
<b>"consumer committee"</b>	means the consumer committee established under Article 7 of the Order;
<b>"customer"</b>	means any person supplied or requiring to be supplied with electricity at any premises specified in Schedule 1 by the licensee (including any affiliate or related undertaking of the licensee) or, where the context requires, by another electricity supplier, but shall not include any authorised electricity operator in its capacity as such;
<b>"Department"</b>	means the Department of Enterprise Trade and Development formerly known as the Department of Economic Development.
<b>"designated"</b>	in relation to any agreement, arrangement, code, notice, proposal therefor or other document, means designated by the Department or on its behalf by means of initialling or descriptive reference whether for the purposes of any Condition of this licence or otherwise, but so that an agreement, arrangement, code, notice, proposal therefor or other document so designated may at the discretion of the

Department cease to be designated if amended or modified in any material respect;

<b>"Director"</b>	means the Director General of Electricity Supply for Northern Ireland;
<b>"Distribution Code"</b>	means, in relation to Northern Ireland Electricity plc, the Distribution Code required to be prepared by it pursuant to Condition 18 of Part II of its transmission and public electricity supply licences, and, in relation to any other public electricity supplier, the distribution code required to be prepared by such supplier, and in either case approved by the Director, as from time to time revised with the approval of the Director;
<b>"distribution system"</b>	in relation to a public electricity supplier means all electric lines of that public electricity supplier within its authorised area (excepting lines forming part of the transmission licensee's transmission system or any interconnector) and any other electric lines which the Director may specify as forming part of that public electricity supplier's distribution system, and includes any electrical plant and meters of that public electricity supplier which are used in connection with distribution by it;
<b>"electricity supplier"</b>	means either a Second Tier Supplier or a public electricity supplier;
<b>"eligible customer"</b>	bears the meaning ascribed to it in the Supply Competition Code;
<b>"emissions"</b>	means the discharge of substances into the air;
<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;
<b>"generating unit agreement"</b>	means a power purchase agreement between a generator and the power procurement manager in respect of a generation set or combination of generation sets;
<b>"generation licence"</b>	means a licence granted under Article 10(1)(a) of the Order;
<b>"generation set"</b>	means any plant or apparatus for the production of electricity;

<b>"generator"</b>	means a person authorised by a licence granted under Article 10(1)(a) of the Order;
<b>"Grid Code"</b>	means the Grid Code required to be prepared by the transmission licensee and approved by the Director as from time to time revised, amended, supplemented or replaced with the approval or at the instance of the Director;
<b>"holding company"</b>	means a holding company within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986;
<b>"interconnectors"</b>	means the electric lines and electrical plant and meters used solely for conveying electricity directly to or from a substation or converter station within Northern Ireland into or out of Northern Ireland;
<b>"licensee"</b>	means <b>ScottishPower Energy Retail Ltd</b> (registered in Great Britain under number 190287) and (where the context so requires) shall include any business in respect of which the licensee is a successor company;
<b>"licensee's system"</b>	means the electric lines owned or operated by the licensee (if any) through which electricity is transported from generation sets to the point of connection with the transmission system or the distribution system or any other system of any authorised electricity operator for the distribution of electricity or to the point of delivery to customers, and includes any electrical plant and meters owned or used by the licensee in connection therewith;
<b>"metering equipment"</b>	includes any meter and any associated equipment which materially affects the operation of that meter;
<b>"modification"</b>	includes addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;
<b>"Competition Commission"</b>	means the Competition Commission formerly known as the Monopolies and Mergers Commission;
<b>"Northern Ireland Fuel Security Code"</b>	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 cooperation 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;

<b>"notice"</b>	means (unless otherwise specified) notice given either in writing or by electronic data transfer;
<b>"power procurement manager"</b>	means the transmission licensee when it is performing or required to perform its obligations as power procurement manager under its transmission licence;
<b>"power purchase agreement"</b>	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;
<b>"power station agreement"</b>	means an agreement made with effect from 1 April 1992 between a generator and the power procurement manager in relation to matters concerning a generating station and designated for the purposes of the generation licences granted to the successor companies;
<b>"public electricity supplier"</b>	means Northern Ireland Electricity plc or any other holder for the time being of a licence under Article 10(1)(c) of the Order except where it is acting otherwise than for purposes connected with the supply of electricity to premises in its authorised area;
<b>"public electricity supply licence"</b>	means a licence granted under Article 10(1)(c) of the Order;
<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 licensed supplier"</b>	means a person authorised by a licence granted under Article 10(1)(c) or 10(2) of the Order;
<b>"relevant supplier"</b>	means a relevant licensed supplier or a relevant exempt self supplier;
<b>"representation"</b>	includes any objection or any other proposal made in writing;
<b>"Second Tier Supplier"</b>	means a person authorised to supply electricity pursuant to Article 10(2) of the Order;
<b>"Second Tier Supply Business"</b>	means the authorised business of the licensee as a Second Tier Supplier;
<b>"Separate Business"</b>	means each of the Second Tier 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>"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 Competition Code"</b>	means the document of that title designated as such by the Department, as from time to time revised, amended, supplemented or replaced with the approval or at the instance of the Department or the Director;
<b>"System Support Services"</b>	means <ul style="list-style-type: none"> <li>(a) spinning reserve, fast start, black start, reactive power, frequency control and such other services as any authorised electricity operator may be required to have available as system support services in</li> </ul>

association with any generation set pursuant to the Grid Code, including outage planning incentive arrangements either directly with a generator or which the power procurement manager makes available to the transmission system operator in respect of generation sets under contract to it; and

- (b) such services as any authorised electricity operator may have agreed to have available as being system support services in association with any generation set or interconnector pursuant to an agreement made with the transmission system operator;

and which may be offered for sale to the transmission system operator for the purpose of securing stability of operation on the transmission licensee's transmission system or distribution system and the distribution system of any authorised electricity operator or any system linked to the transmission licensee's transmission system or distribution system by an interconnector;

<b>"total system"</b>	means the transmission system and the distribution system of Northern Ireland Electricity plc taken together;
<b>"transmission licence"</b>	means a licence granted under Article 10(1)(b) of the Order;
<b>"transmission licensee"</b>	means Northern Ireland Electricity plc or any other holder for the time being of a transmission licence;
<b>"transmission system"</b>	in relation to the transmission licensee means the system of electric lines comprising the transmission licensee's high voltage lines and electrical plant and meters used for conveying electricity from a generating station to a substation, from one generating station to another, and from one substation to another within the transmission licensee's authorised area (except any such lines which the Director may approve as being part of a public electricity supplier's distribution system) and any other electric lines which the Director may specify as forming part of the transmission licensee's transmission system and shall not include any interconnector;
<b>"transmission system operator"</b>	means the transmission licensee when it is performing or required to perform its obligations as transmission system operator under its transmission 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; and
- "Use of System Agreement"** means an agreement for the use of a transmission system or a distribution system for the transmission or distribution (as the case may be) of electricity for the licensee.

4. Subject as provided in paragraph 5, for as long as Northern Ireland Electricity plc continues to be the holder of both its transmission licence and public electricity supply licence, and notwithstanding anything to the contrary in this licence, this licence (except this paragraph and paragraph 5) shall have effect as if:
- (a) the distribution system and the transmission system of Northern Ireland Electricity plc were a single system for the transmission and distribution of electricity;
  - (b) all references to the transmission system and to the distribution system, insofar as such systems are the systems of Northern Ireland Electricity plc, were references to the total system; and
  - (c) for as long as the Director shall not have issued any directions to Northern Ireland Electricity plc under paragraph 14 of Condition 18 of Part II of its transmission and public electricity supply licences, all references to the Distribution Code were references to the Grid Code.
5. Notwithstanding the holding by Northern Ireland Electricity plc of both of the licences referred to in paragraph 4, the Director may issue to the licensee directions (which may be subject to conditions which, in the opinion of the Director, are necessary or desirable in order to secure that the Conditions or, as the case may be, paragraphs or sub-paragraphs of the Conditions in which the relevant references referred to in paragraph 4 appear, operate separately in relation to the transmission system and the distribution system of Northern Ireland Electricity plc) disapplying in whole or in part the provisions of paragraph 4 if:
- (a) it is necessary for him to do so in order to comply with a Community obligation; or
  - (b) there shall have been granted a subsequent licence under Article 10(1)(b) or 10(1)(c) of the Order.

This licence shall have effect in accordance with the terms of such directions.

6. Unless otherwise specified:

- (a) any reference to a numbered Condition or to a numbered Schedule is respectively a reference to the Condition or the Schedule bearing that number in this licence;
  - (b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Condition or Schedule in which the reference occurs; and
  - (c) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than this 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.
7. The heading or title of any Part, Condition, Schedule or paragraph shall not affect the construction hereof.
8. 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).
9. 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 this licence, and directions issued by the Director pursuant to any Condition shall be delivered or served as aforesaid.

**Condition 2. Connection and use of system - requirement to offer terms and functions of the Director**

1. The licensee shall, subject to paragraphs 6, 7 and 10:
  - (a) offer to enter into an agreement to provide a connection to the licensee's system with any person who has made an application for connection to the licensee's system; and
  - (b) offer to enter into an agreement for the modification of a connection to the licensee's system with any person who has made an application for modification of a connection to the licensee's system; and
  - (c) offer to enter into an agreement with any authorised electricity operator or person who shall have applied for a licence under Article 10 of the Order and whose application has not been withdrawn or rejected and who has made an application for use of the licensee's system:
    - (i) to accept into the licensee's system at such entry point and in such quantities as may be specified in the application, electricity to be provided by or for that person; and
    - (ii) to deliver electricity equal in quantity to that accepted into the licensee's system (less only any losses incurred in the course of transporting such electricity through the licensee's system) from such exit points on the licensee's system and in such quantities as may be specified in the application to such person as the person making the application may specify.
2. The licensee shall, subject to paragraphs 6, 7 and 10, offer terms for an agreement in accordance with paragraph 1 as soon as practicable and in any event within the period specified in paragraph 8 after receipt by the licensee of an application from any person containing all such information as the licensee may reasonably require for the purposes of formulating the terms of its offer.
3. Each offer made in accordance with paragraph 1 shall:
  - (a) make detailed provision regarding such of the following matters as are relevant for the purposes of the agreement:
    - (i) the carrying out of works (if any) required for the construction or modification of the entry point to connect the licensee's system to the transmission system of the transmission licensee or to the distribution system of any public electricity supplier or the system for the distribution of electricity of any other authorised electricity operator or in connection with the construction or modification of any exit points for the delivery of electricity as specified in the application, and for the obtaining of any consents necessary for such purpose;

- (ii) the carrying out of works (if any) for the provision of electrical plant or for the extension or reinforcement of the licensee's system which are required to be undertaken for the provision of connection to, or the making of a modification to a connection to, the licensee's system or for provision of use of the licensee's system to the person making the application and for the obtaining of any consents necessary for such purposes;
  - (iii) the installation of appropriate meters or other apparatus (if any) required to enable the licensee to measure electricity being accepted into the licensee's system at the specified entry point and leaving such system at the specified exit points;
  - (iv) the installation of such switchgear or other apparatus (if any) as may be required for interrupting the use of the licensee's system should there be a failure by or for a person to provide electricity at its entry point on the licensee's system for delivery to any person specified by the person making the application from the exit points on the licensee's system;
  - (v) the date by which any works required so as to permit access to the licensee's system (including for this purpose any works for its extension or reinforcement) shall be completed and so that, unless otherwise agreed by the person making the application, a failure to complete such works by such date shall be a material breach of the agreement entitling the person to rescind such agreement;
  - (vi) the charges to be paid by the person making the application for the provision of electrical plant, for connections to or modification of connections to, or the extension or reinforcement of, the licensee's system, for the installation of meters, switchgear or other apparatus and for their maintenance, for disconnection from the licensee's system and the removal of electrical plant, electric lines and meters following disconnection, and for use of the licensee's system which shall, unless manifestly inappropriate, be set in conformity with paragraph 4; and
- (b) contain such other provisions as may be appropriate for the purposes of the agreement in the circumstances in which it is likely to be entered into.
4. The charges referred to in paragraph 3 to be contained in every agreement which is the subject of an offer by the licensee shall be such that:
- (a) charges for the provision of electrical plant, connection charges, charges for modification of connections, charges for disconnection from the licensee's system and the removal of electrical plant, electric lines and meters following disconnection or any charges for extension or reinforcement of the licensee's system or for use of the licensee's system are set at a level which will enable the licensee to recover no more than:
    - (i) the appropriate proportion (taking account of the factors referred to in paragraph 5) of the costs directly or indirectly incurred by the licensee; and

- (ii) a reasonable rate of return on the capital represented by such costs; and
  - (b) charges for the installation of meters, switchgear or other apparatus and for their maintenance shall not exceed the costs thereof and a reasonable rate of return on the capital represented by such costs.
5. For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works, the licensee shall have regard to:
- (a) the benefit (if any) to be obtained or likely in the future to be obtained by the licensee or any other person as a result of the carrying out of such works whether by virtue of the provision of electrical plant, the reinforcement or extension of the licensee's system or the provision of additional entry or exit points on the licensee's system or otherwise; and
  - (b) the ability or likely future ability of the licensee to recoup a proportion of such costs from other persons.
6. The licensee shall not be obliged pursuant to this Condition to offer to enter into any agreement where, by reason of the capacity of the licensee's system and the use made or reasonably expected to be made of it, the licensee would be required to expand or reinforce the capacity of the licensee's system.
7. The licensee shall not be obliged pursuant to this Condition to offer to enter into any agreement with any person if:
- (a) to do so would be likely to involve the licensee being:
    - (i) in breach of the Grid Code; or
    - (ii) in breach of the Distribution Code; or
    - (iii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 or any regulations made under Article 32 of the Order; or
    - (iv) in breach of any other enactment relating to safety or standards applicable to the licensee's system; or
  - (b) the person does not undertake to be bound, insofar as applicable, by the terms of the Codes referred to in sub-paragraph (a)(i) and (a)(ii) above, as are from time to time in force and to such extent as the Director shall from time to time specify in directions issued to the licensee for the purposes of this Condition.
8. For the purposes of paragraph 2, the period specified shall be:
- (a) in the cases of persons seeking use of the licensee's system only, 28 days; and

- (b) in the case of persons seeking connection or modification of an existing connection or seeking use of the licensee's system in conjunction with connection, three months.
9. The licensee shall within 28 days following receipt of a request from any person, give or send to such person such information in the possession of the licensee as may be reasonably required by such person for the purpose of completing the appropriate paragraphs of the Electricity (Applications for Licences and Extensions of Licences) Regulations (Northern Ireland) 1992 or such provisions to like effect contained in any further regulations then in force made pursuant to Articles 10(3) and 64 of the Order.
10. Paragraphs 1 to 9 inclusive shall apply only if and to the extent that the Director so directs. The licensee shall comply with any such direction.
11. If, after a period which appears to the Director to be reasonable for the purpose, the licensee has failed to enter into an agreement with any person entitled or claiming to be entitled thereto pursuant to an application in accordance with this Condition, the Director may, pursuant to Article 11(3) of the Order, on the application of such person or the licensee, settle any terms of the agreement in dispute between the licensee and the person in question in such manner as appears to the Director to be reasonable having (insofar as relevant) regard, in particular, to the following considerations:
- (a) that the person should pay to the licensee the whole or an appropriate proportion (as determined in accordance with paragraph 5 of this Condition) of the costs directly or indirectly incurred by the licensee in the carrying out of any works or in providing or doing any other thing under the agreement in question calculated in accordance with the principles set out in paragraph 4 of this Condition together with a reasonable rate of return on the capital represented by such costs;
  - (b) that the performance by the licensee of its obligations under the agreement should not cause it to be in breach of any other Condition of this licence;
  - (c) that any methods by which the licensee's system is connected to the transmission system of the transmission licensee or the distribution system of any public electricity supplier or to the system for the distribution of electricity of any other person authorised to supply electricity accords with good engineering principles and practices;
  - (d) that the terms and conditions of agreements entered into by the licensee pursuant to an application in accordance with this Condition should be, so far as circumstances allow, as similar in substance and form as is practicable.
12. If the person wishes to proceed on the basis of the agreement as settled by the Director, the licensee shall forthwith enter into and implement such agreement in accordance with its terms.
13. If either party to an agreement for connection to, or modification of a connection to, the licensee's system or for use of the licensee's system entered into pursuant to this Condition proposes to vary the contractual terms of such agreement in any manner provided for under

such agreement, the Director may, at the request of the licensee or other party to such agreement, settle any dispute relating to such variation in such manner as appears to the Director to be reasonable having regard (insofar as relevant), in particular, to the considerations set out in sub-paragraphs (a) to (d) of paragraph 11.

### **Condition 3. Compliance with the Grid Code and, where applicable, 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 Director may, following consultation with the transmission licensee (and, in the relevant circumstances, any public electricity supplier), issue directions relieving the licensee of its obligation under paragraph 1 above in respect of such parts of the Grid Code (and, in the relevant circumstances, the Distribution Code) and to such extent as may be specified in those directions.
3. In this Condition, the “**relevant circumstances**” are where the Director shall have issued directions to the transmission licensee and the public electricity supplier under paragraph 14 of Condition 18 of Part II) of the transmission and public electricity supply licences.
4. The Director shall be entitled, in order to implement the requisite arrangements referred to in Condition 5, to issue directions to the transmission licensee 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:
  - (a) come into effect earlier than 1 November 1996; or
  - (b) affect the rights or obligations of any party to:
    - (i) a power purchase agreement which is not a cancellable generating unit agreement; or
    - (ii) 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. Compliance with Supply Competition Code**

1. The licensee shall comply with the provisions of the Supply Competition Code insofar as applicable to it, including any requirements thereunder for the Director's approval or consent, for compliance with directions issued by the Director or relating to determinations made by the Director.
2. The provisions of the Supply Competition Code shall have effect as if they were set out in this licence.
3. The Supply Competition Code may be modified in accordance with paragraph 4 or its provisions.
4. The Director shall be entitled to make such modifications of the Supply Competition Code as shall, in his opinion, be necessary to implement the requisite arrangements referred to in Condition 5, or in accordance with paragraph 8 of that Condition.
5. The modification of the Supply Competition Code made pursuant to paragraph 4 shall include the establishment of procedures for its further modification with the agreement of all licence holders and, in the absence of such agreement, in the manner provided for in Articles 14 to 18 of the Order.
6. No modification of the Supply Competition Code pursuant to paragraph 4 shall affect the rights or 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 5: Modification of Supply Competition Code and cancellation of contracts**

1. When the Director shall have determined that the requisite arrangements have been developed and that they satisfy the requirements of paragraph 3, he 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 to the Supply Competition Code, the Grid Code and the Northern Ireland Fuel Security Code, would facilitate an increase in competition in the generation or 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) the power procurement manager and all licence holders will be bound and which, in the opinion of the Director, 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 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 all generators to make available such generator capacity as will in aggregate be sufficient to ensure that all reasonable demands for electricity are satisfied;
    - (v) ensure that all generators and relevant licensed suppliers are contractually bound to comply with the provisions of the Northern Ireland Fuel Security Code;
    - (vi) ensure that relevant suppliers shall contract for or acquire, in aggregate, amounts of generation capacity and quantities of electricity from the power procurement manager which are not less than the amounts of generation capacity and quantities of electricity for which the power procurement manager is committed to pay under -

- (a) the power purchase agreements to which the power procurement manager 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 manager is a party and which are not liable to be cancelled;
  - (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 relevant 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(2) of the Order to have effect from the date upon which the cancellable generating unit agreement pursuant to which it is a party is to be cancelled, shall have been granted such a licence, provided -
- (a) the Director 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 manager 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 Schedule 8 of the transmission licence earlier than the date appearing opposite that cancellable generating unit agreement in that table.

The Director 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 Schedule 8 of the transmission 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 his preparations for the making of the determination referred to in paragraph 1, the Director shall have consulted with the Department, all licence holders, the power procurement manager, the consumer committee and such other persons as the Director shall consider likely to be materially affected in relation to the steps that he believes require to be taken and the documentation and other obligations which he 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 Director 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 he shall consider are necessary so as properly to inform such persons of the detail of his proposals;
  - (c) the Director shall have given each person so consulted the opportunity to make representations in relation to the relevant steps and 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 Director shall have published his conclusions as to the relevant steps (including drafts of the relevant documentation) and his reasons for those conclusions;
  - (e) the Director shall, before exercising any power under paragraph 4, have given not less than 180 days' notice to the Department, the power procurement manager, every person who at the time he gives the notice is a licence holder, and the consumer committee that he intends to do so; and
  - (f) the Director shall in publishing any statements 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 Director 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 Supply Competition Code as modified by the Director in the exercise of his powers under paragraph 3 of Condition 5 of Part III of the transmission licence, may provide that they are to apply to all licence holders except if and to the extent that:

- (a) they permit the Director 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 Director shall be entitled, after having carried out the consultations referred to in paragraph 6 and published his conclusions, both before and after he 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:
- (a) is, in his 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 Supply Competition Code beyond what may be regarded as reasonable in relation to that person;

provided he gives due notice of such amendment or variation to such persons as appear to him to be likely to be affected thereby.

9. The licensee shall afford the Director such co-operation as he shall in directions issued to the licensee for the purposes of this Condition request in developing and testing his 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 Director shall have first exercised his cancellation powers and for which an invoice shall have been submitted by the licensee to the transmission licensee 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 Director shall from time to time require and shall be recoverable from the transmission licensee.

11. In this Condition:

**"Land Bank Business"** means the business of Northern Ireland Electricity plc in the discharge of its obligations under Condition 17 of Part III of its transmission licence;

**"licence holder"** means the holder of a licence granted under Article 10 of the Order;

**"modification"** includes addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;

<b>"relevant documentation"</b>	means the documentation and other obligations referred to in sub-paragraph (a) of paragraph 6;
<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. Licensee's system planning**

1. The licensee shall plan and develop each part of the licensee's system in accordance with a standard not less than the relevant standard insofar as applicable to it or such other standard of planning as the licensee may, following consultation with the transmission licensee, each public electricity supplier and such (if any) other authorised electricity operators as the Director shall consider appropriate and with the approval of the Director, adopt from time to time.
2. The Director may (following consultation with the licensee, the transmission licensee, each public electricity supplier and such (if any) other authorised electricity operators as the Director shall consider appropriate) issue directions relieving the licensee of its obligation under paragraph 1 in respect of such parts of the licensee's system and to such extent as may be specified in the directions.
3. In this Condition:

**"relevant standard"** means the standard laid down in the document entitled **"Transmission and Distribution System Security and Planning Standards"** as submitted from time to time by the transmission licensee to and approved by the Director.

**Condition 7. 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 8. 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 for the installation, maintenance, removal or replacement of the licensee's system or any part thereof which are necessary 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 inclusive:
  - (a) shall cease to have effect on 31 March 1996 unless the Director shall before such date have substituted a later date in directions issued to the licensee for the purposes of this Condition; and
  - (b) may be brought into effect after they shall have ceased to have effect on such date as the Director shall specify in directions issued to the licensee for the purposes of this Condition.
4. In this Condition:

**"land"** includes any right, easement or other interest in land and any wayleave;  
and

**"land bank"** means the land more fully described in Schedule 9 of the transmission licence granted to Northern Ireland Electricity plc together with such additional land as shall be acquired by Northern Ireland Electricity plc as the holder of that licence by virtue of any requirement that a generator shall transfer to it a freehold interest in any land.

**Condition 9. 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 and may be exercised by 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:
  - (a) shall cease to have effect on 31 March 1996 unless the Director shall before such date have substituted a later date in directions issued to the licensee for the purposes of this Condition; and
  - (b) may be brought into effect after it shall have ceased to have effect on such date as the Director shall specify in directions issued to the licensee for the purposes of this Condition.

**Condition 10. Health and safety of employees**

It shall be the duty of the licensee to act together with other licence holders to consult with appropriate representatives of the employees for the purpose of establishing and maintaining an appropriate machinery or forum for the joint consideration of matters of mutual concern in respect of the health and safety of persons employed by those licence holders.

### **Condition 11. Provision of information to the Director**

1. Subject to paragraphs 2 and 3, the licensee shall furnish to the Director, in such manner and at such times as the Director may require, such information and shall procure and furnish to him such reports, as the Director may consider necessary in the light of the Conditions or as he may require for the purpose of performing:
  - (a) the functions assigned to him by or under the Order; and
  - (b) any functions transferred to him under the Order.
2. The licensee may not be required by the Director to furnish him under this Condition with information for the purpose of the exercise of his functions under Article 51 of the Order.
3. The licensee may not be required by the Director to furnish him under this Condition with any information required in relation to an enforcement matter which the licensee could not be compelled to produce or give under Article 31(3) of the Order.
4. The power of the Director to call for information under paragraph 1 is in addition to the power of the Director to call for information under or pursuant to any other Condition.
5. In paragraphs 1 to 4, **"information"** shall include any documents, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Director) of any description specified by the Director.
6. The licensee shall, if so requested by the Director, 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 Director proposes to publish pursuant to Article 51 of the Order.

## Condition 12. Payment of fees

1. The licensee shall, at the times stated hereunder, pay to the Director 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 30 September 2001, the licensee shall pay to the Director an initial fee of £250.
3. In respect of the year beginning on 1 April 2002 and in each subsequent year, the licensee shall pay to the Director a fee which is the aggregate of the following amounts:
  - (a) an amount which is a proportion, as determined by the Director of the amount estimated by the Director, according to a method which has previously been disclosed in writing to the licensee, as likely to be his costs during the coming year in the exercise of his general functions under the Order in relation to the holders of licences granted under Article 10(1) and 10(2) of the Order;
  - (b) an amount which is a proportion as determined by the Director of the amount estimated by the Director (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 this licence or any other licence issued under Article 10(2) of the Order; and
  - (c) 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 below; and
    - (ii) the amount which that fee would have been in respect of that year had the amount comprised therein under sub-paragraph (a) above (or, where that year commenced on 1 April 1992, had the amount comprised therein which was attributable to the matters referred to in that subparagraph, as determined by the Director according to a method disclosed in writing to the licensee) been calculated by reference to the total costs of the Director and the proportion thereof actually attributable to the licensee (such total costs being apportioned as determined by the Director according to a method previously disclosed in writing to the licensee);and the fee shall be paid by the licensee to the Director within one month of the Director giving notice to the licensee of its amount if 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 each year beginning on 1 April 1998 and for each subsequent year, the Director 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 Director's estimates in accordance with paragraph 3(a) above; and
- (b) the Director's reasonable revised estimate of those costs;

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

### **PART III - SPECIAL CONDITIONS APPLICABLE TO THE LICENCE**

Conditions 13 to 23 (inclusive) will apply to the licensee as from the date upon which the licensee commences supplies to an eligible customer or customers.

### **Condition 13. 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 this 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 March 2002 and thereafter each financial year of the licensee shall run from 1 April to the following 31 March.
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; and
  - (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; or
      - (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 6 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 Director 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 Director a copy of the account referred to in sub-paragraph (b) (ii) above, the Auditors' report referred to in sub-paragraph (c) above and the accounting statements referred to in sub-paragraph (b) (i) above 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) above 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) above, provided that in the case of the account, report and statements which, but for this proviso, would have been due on 31 December they shall instead be due on 31 January.
5. (a) 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 (b) (i) of paragraph 4 from those applied in respect of the previous financial year, unless the Director 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 Director gives his prior written approval to the change in such bases. The licensee shall comply with any directions issued for the purposes of this Condition.
- (b) 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 Director 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.
6. Accounting statements in respect of a financial year prepared under sub-paragraph (b) (i) of paragraph 4 shall, so far as reasonably practicable and unless otherwise approved by the Director 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.

7. Unless the accounting statements prepared under sub-paragraph (b) (i) of paragraph 4 are prepared on the current cost basis as provided by the alternative accounting rules, the licensee shall, unless otherwise agreed by the Director, 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 Director may require;

and shall deliver the same, together with an Auditor's report prepared in relation to the current cost basis accounting statements in the form referred to in sub-paragraph (c) of paragraph 4, to the Director within the time limits referred to in sub-paragraph (d) of paragraph 4, 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.

8. 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.

9. For the purposes of paragraph 7:

**“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 assets”**

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;

**“the 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.

#### **Condition 14. 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 this 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.

### **Condition 15. 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 eligible 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, the licensee (taken together with its affiliates and related undertakings) shall not, in supplying or offering terms for the supply of electricity to eligible 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. 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.
5. 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.
6. 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 supply contract.
7. For the purposes of this Condition, the Director 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 consequence of supplying the customers in question; and
    - (ii) are intended or are likely to restrict, distort or prevent competition in the supply of electricity.
8. The Director may determine that the licensee is dominant in a specified market, having first consulted with the licensee and such other persons as he considers appropriate (and having taken into account any representations made to him) at any time after this Condition has come into force and where the Director does make a determination he shall thereafter notify the licensee as soon as is reasonably practicable.
9. 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 16. Duration of discrimination conditions**

1. Condition 15 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 Director agrees in writing to that request; or
  - (b) the application of Condition 15 (in whole or in part) is terminated by notice given by the licensee in accordance with paragraph 4 or 5 of this Condition.
2. A disapplication request pursuant to this Condition may be made by the licensee only where the Director has notified it, in accordance with paragraph 9 of Condition 15, of his determination that the licensee is dominant in a specified market, and any such request shall:
  - (a) be made in writing to the Director;
  - (b) specify whether the request relates to the whole of Condition 15 or any part or parts thereof; and
  - (c) state the date (the “**disapplication date**”) from which the licensee wishes the specified provisions of Condition 15 to cease to have effect, which date shall be in accordance with paragraph 3 and not earlier than 12 months after the date on which the request is made.
3. Where the licensee was notified by the Director prior to this Condition coming into force of his determination that the licensee is dominant in a specified market, no disapplication request made by the licensee shall be effective to disapply any of the provisions of Condition 15 prior to 31 March 2001.
4. If the Director has not by the date which is 6 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 15, the licensee may give to the Director a notice in writing terminating the application of such of the provisions of Condition 15 as are specified in the disapplication request with effect from the disapplication date or from any later date specified in the notice.
5. If the Competition Commission reports on a reference made by the Director relating to the modification of Condition 15 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 Director notice in writing terminating the application of such provisions with effect from the disapplication date or any later date specified in the notice.

### **Condition 17. 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 the 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 Director shall 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 18. Duty to offer terms for meter provision**

1. This Condition shall apply where the licensee is the owner of any relevant metering equipment.
2. The licensee shall, on an 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.
3. In making an offer to enter into an agreement in accordance with paragraph 2, 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; and
  - (c) such other detailed terms as are or may be appropriate for the purpose of the agreement.
4. The licensee shall offer terms for agreements in accordance with paragraph 2 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.
5. 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 those provisions referred to at paragraph 7 of Condition 2.
6. In complying with its obligations under paragraph 2 the licensee shall not restrict, distort or prevent competition in the supply of electricity.
7. The Director may, on the application of the licensee, issue a direction relieving the licensee of its obligations under paragraph 2 in respect of such relevant metering equipment and subject to such terms and conditions as may be specified in the direction.
8. In this Condition:

**“relevant metering equipment”**

means metering equipment 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 19. 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 public electricity supplier 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 20. Agreements for the provision of meters**

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.

**Condition 21. 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 keep each of its customers informed:
  - (a) that the Director, or the consumer committee can assist in resolving complaints which the licensee has not resolved to the customer's satisfaction; and
  - (b) of how the appropriate office of the Director or the committee can be contacted.
3. The licensee may discharge its duties under paragraphs 1 and 2 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.

**Condition 22. Provision of Information**

1. The licensee shall furnish to the transmission system operator in such manner and at such times as may be required, such information as may reasonably be required by the transmission system operator and which the Director deems necessary for the purpose of complying with its 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 Director from time to time.

### **Condition 23: Trading Arrangements**

1. The licensee shall use its reasonable endeavours in conjunction with other licence holders to facilitate the development of trading arrangements which, subject to paragraph 3, will supersede the interim settlement arrangements established under Condition 24 of Part III of the transmission licence for the trading of electricity between authorised electricity operators with a view to developing more flexible trading arrangements to facilitate the competitive electricity market as envisaged by Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity.
2. The arrangements referred to in paragraph (1) above shall be developed in accordance with such timetable and in such format as the Director shall consider appropriate and shall require to be approved by the Director.
3. If, as part of the process referred to in paragraph 1 above, the licensee and the other licence holders agree that the interim settlement arrangements meet the criteria specified in paragraph 1 above and that it will not be advantageous for the interim settlement arrangements to be replaced and superseded by other trading arrangements, the licensee and the other licence holders together shall notify the Director accordingly. Subject to the approval of the Director, the interim settlement arrangements will then remain in force and effect and will become, and be, the trading arrangements referred to in paragraph 1 above.

**SCHEDULE 1**  
**Specified Premises**

For the purposes of this licence, the licensee is authorised to supply electricity to all premises in Northern Ireland.

**SCHEDULE 2**  
**Terms as to revocation**

1. The Director may at any time revoke this licence by not less than 30 days' notice in writing to the licensee:
  - (a) if the licensee agrees in writing with the Director that this licence should be revoked;
  - (b) if any amount payable under Condition 12 is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Director 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 3 of the Order) or with a provisional order (within the meaning of Article 3 of the Order) which has been confirmed under Article 28 of the 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 (within the meaning of Article 3 of the Order) imposed on the licensee in its capacity as holder of this licence and (in either case) such failure is not rectified to the satisfaction of the Director within three months after the Director has given notice of such failure to the licensee. Provided that no such notice shall be given by the Director before the expiration of the period within which an application under Article 30 of the 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 any order made by the Secretary of State under Section 56, 73, 74 or 89 of the Fair Trading Act 1973 or under Section 10(2)(a) of the Competition Act 1980;
  - (e) if:
    - (i) 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 the period of 5 years commencing on the date on which this licence comes into force; or
    - (ii) 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;
  - (f) 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 2 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 Director); or

- (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; or
  - (iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989 made in relation to it; or
  - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Director; or
  - (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;
- (g) if the licensee is convicted of having committed an offence under Article 63 of the Order.
2. (a) For the purposes of paragraph 1(f)(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 Director may from time to time determine by notice in writing to the licensee.
- (b) The licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(f)(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 Director under paragraph 1 of this Schedule.