
**LICENCE FOR THE
STORAGE OF GAS IN NORTHERN IRELAND**

**CONDITIONS FOR A LICENCE FOR THE
STORAGE OF GAS IN NORTHERN IRELAND**

	<u>PAGE</u>
GRANT AND TERMS OF LICENCE	3
PART 1 - GENERAL CONDITIONS APPLICABLE TO THE LICENCE HOLDER	5
Condition 1.1: Interpretation and Construction	5
Condition 1.2: Separate Accounts for Separate Businesses	10
Condition 1.3: Provision of Information to the Authority	14
Condition 1.4 : Restriction on Use of Certain information	16
Condition 1.5: Consultation with the General Consumer Council	18
Condition 1.6: Modifications	18
Condition 1.7: Assignment of Licences	18
Condition 1.8: Transfer of Business	19
Condition 1.9: Disposal of Relevant Assets	20
Condition 1.10: Payment of Fees	23
Condition 1.11: Compulsory Purchase Powers	26
Condition 1.12: Notices	27
PART 2 – CONDITIONS APPLICABLE TO THE STORAGE OF GAS BY THE LICENCE HOLDER	28
Condition 2.1: Security, reliability and efficiency of storage	28
Condition 2.2: Undue discrimination	29
Condition 2.3: Interaction with other natural gas undertakings, system users and storage system operators	30
Condition 2.4: Confidentiality and restriction on use of certain information	31
Condition 2.5: Provision of Information to the Authority, records and reporting	33
Condition 2.6: Emergencies	33
Condition 2.7: Competition law	33

Condition 2.8: Provision of information required by other licence or exemption holders	33	
Condition 2.9: Facility Development Plan		34
Condition 2.10: Public Service Obligations		34
SCHEDULE 1 – Storage facilities which the Licensee is authorised to operate	34	
SCHEDULE 2 - Right of Authority to revoke licence		35

GRANT AND TERMS OF LICENCE

LICENCE FOR THE SUPPLY OF GAS

1 Grant and Terms of licence

The Northern Ireland Authority for Utility Regulation (the “**Authority**”), in exercise of the powers conferred by Article 8(1)(b) of the Gas (Northern Ireland) Order 1996 (the “**Order**”) and with the consent of the Department of Enterprise, Trade and Investment hereby grants a licence to xxxxxxxxxxxx (the “**Licensee**”) to store gas in a gas storage facility:

- (a) at the locations specified in Schedule 1 hereto;
- (b) from the date of this grant, on which date the licence shall be deemed to come into force, until:
 - (i) the licence is determined by not less than X years’ notice in writing given by the Authority to the Licensee, which notice shall not be served earlier than the date which is X years after the date of this grant;
 - or

- (ii) 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.

2 Conditions of licence

The grant of the licence shall be deemed:

- (a) in accordance with Article 11(2) of the Order, to incorporate by this reference the standard conditions of licences for the storage of gas determined under Article 11(1) of the Order, subject to:
 - (i) those modifications to such standard conditions as are set out in the attachments hereto at the time of this grant as made in accordance with Article 11(3) of the Order (as such modifications may themselves subsequently be modified by virtue of Article 14(1)(a) of the Order, Article 17 of the Order, or such other lawful power of modification as may exist from time to time); and
 - (ii) any subsequent modification to such standard conditions as may be made in accordance with Article 14(1)(b) of the Order, Article 17 of the Order, or such other lawful power of modification as may exist from time to time; and
- (b) in accordance with Article 10(1) of the Order, to include the further conditions attached hereto at the time of this grant (as such conditions may subsequently be modified in accordance with Article 14(1)(a) of the Order, Article 17 of the Order, or such other lawful power of modification as may exist from time to time).

Granted on x date

Name Brian McHugh (Director of Gas)

Signature.....

For and on Behalf of the Northern Ireland Authority for Utility Regulation

PART 1 - GENERAL CONDITIONS APPLICABLE TO THE LICENCE HOLDER

Condition 1.1: Interpretation and Construction

1.1.1 Interpretation Act (Northern Ireland) 1954 and Gas (Northern Ireland) Order 1996

Unless the contrary intention appears:

- (a) words and expressions used in this or any of the following Parts of the licence or in the Schedules hereto shall be construed as if they were in an enactment and the Interpretation Act (Northern Ireland) 1954 applied to them;
- (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; and
- (c) words and expressions defined in the Gas (Northern Ireland) Order 1996 or the Energy (Northern Ireland) Order 2003 shall have the same meaning when used in this or any of the following Parts of the licence or in the Schedules hereto.

1.1.2 General Rules of Construction

Unless otherwise specified:

- (a) any reference to a numbered Part or Schedule is a reference to the Part or Schedule bearing that number;
- (b) any reference to a numbered Condition is a reference to the Condition bearing that number in the Part in which the reference occurs and within any Condition a reference to "this Condition" shall be to the whole of the Condition under its heading;
- (c) any reference to "the Conditions" means the Conditions to which the 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 Part, Condition or Schedule in which the reference occurs;

- (e) (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.

1.13 Headings

The heading or title of any Part, Condition, Schedule or paragraph shall not affect the construction thereof.

1.1.4 Time Related Obligations

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).

1.1.5 Natural Persons

These Conditions shall have effect as if, in relation to a licence holder who is a natural person, for the words "it", "its" and "which" there were substituted the words "he", "his" or "whom" and cognate expressions shall be construed accordingly.

1.1.6 Definitions

Except where expressly stated to the contrary and unless the context otherwise requires, the following terms shall have the meanings ascribed to them below:

"affiliate"

means, in relation to any person, any company which is a subsidiary of such person or a company of which such person is a subsidiary or a company which is another subsidiary of a company of which such person is a subsidiary;

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986;
"Capacity Statement"	forecasts for a specified period of capacity, forecast flows and customer demand.
"Authority"	means the Northern Ireland Authority for Utility Regulation;
"Company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 or any other body corporate;
"Department"	means the Department of Enterprise, Trade and Investment;
"Energy Order"	means the Energy (Northern Ireland) Order 2003;
"General Consumer Council"	means the General Consumer Council for Northern Ireland;
"Grant"	means the commencing section of this licence by which the Authority grants the Licensee the

	licence;
"information"	includes documents, accounts, estimates, returns, reports or other information;
"licence"	means the Grant together with those Conditions and Schedules referred to in paragraphs 1 and 2 thereof (as modified from time to time);
"Licensed Business"	means the activities connected with the storage of gas pursuant to the licence;
"Licensee"	means the person referred to as such in the Grant, and/or any person to whom the licence is subsequently assigned in accordance with the Order, the Energy Order or the licence;
"Natural gas undertaking"	Means any natural or legal person carrying out at least one of the following functions: production, transmission, distribution, supply, purchase or storage of natural gas, including LNG, which is responsible for the commercial, technical and/or maintenance tasks related to those functions, but shall not include final customers.
"Order"	means the Gas (Northern Ireland) Order 1996;
"person"	means any company, firm, partnership, association, body corporate or individual;
"related undertaking"	means any undertaking in which any person has a participating interest as defined in Article 268 of

"separate accounts"

means the accounts which are to be prepared for each Separate Business;

"Separate Business"

means each of the activities of the Licensee connected with:

(a) the conveyance of gas by means of a transmission pipe-line pursuant to a licence granted in accordance with Article 8(1)(a) of the Order;

(b) the conveyance of gas by means of a distribution pipe-line pursuant to a licence granted in accordance with Article 8(1)(a) of the Order;

(c) the supply of gas pursuant to a licence granted in accordance with Article 8(1)(c) of the Order;

(d) the storage of gas pursuant to this licence;
and

(e) the storage of gas pursuant to a licence (other than this licence) granted in accordance with Article 8(1)(b) of the Order;

each 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 any such business is carried on by an affiliate or related undertaking of the Licensee (save in respect of an affiliate or related undertaking which has a separate licence or exemption), 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;

"subsidiary"

has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order 1986; and

“storage business”

means the injection, storage and withdrawal of natural gas from any source on behalf of customers, using the Storage Facility.

Storage Facility

to be defined as per Schedule 1

Storage System Operator

means a natural or legal person who carries out the function of storage and is responsible for operating a storage facility.

1.1.8 Singular/plural

The terms defined under Condition 1.1.6 shall include the singular and the plural, as the context requires.

Condition 1.2: Separate Accounts for Separate Businesses

1.2.1 Financial years

For the purposes of this Condition the first financial year of the Licensee shall run from the date of the Grant to and thereafter each financial year of the Licensee shall run from 1st January to the following 31st December.

1.2.2 Separate Business Accounting

This Condition applies for the purposes of ensuring that the Licensee (in conjunction with any relevant affiliate or related undertaking of the Licensee) maintains internal

accounting and reporting arrangements which:

- (a) enable separate financial statements to be prepared for each Separate Business and showing the financial affairs of each such Separate Business; and
- (b) facilitate the avoidance of discrimination, cross-subsidisation or distortion of competition between the Licensed Business and any other business of the Licensee.

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under Article 236 of the Companies (Northern Ireland) Order 1986, but shall be required to prepare such accounts in accordance with this Condition.

1.2.3 Separation of Internal Accounts

The Licensee shall keep proper books of account and records in such a form that the revenues and costs, assets and liabilities of, or reasonably attributable to, each Separate Business are separately identifiable in the books of the Licensee from those of any other business. Then the Licensee shall, so far as is reasonably practicable, prepare for each Separate Business on a consistent basis from its accounting records in respect of each financial year, financial statements comprising:

- (a) a profit and loss account;
- (b) a statement of net assets at the end of the period;
- (c) a cash flow statement for the period with a reconciliation to the financial statements specified in sub-paragraphs (a) and (b) above; and
- (d) a balance sheet.

1.2.4 Apportionment

The financial statements prepared under Condition 1.2.3 shall set out and fairly present the costs (including depreciation), revenues, assets employed and liabilities of, or as may be reasonably attributable to, each Separate Business and showing separately and in appropriate detail the amounts of any revenue, cost, asset or liability

which has been:

- (a) charged from or to any other business of the Licensee (or of any affiliate or related undertaking of the Licensee); and/or
- (b) apportioned between that Separate Business and any other business (such apportionment to be undertaken in accordance with the basis of apportionment approved by the Authority in accordance with Condition 1.2.5),

together with a description of the charge or basis of apportionment.

1.2.5 Basis of apportionment

The Licensee shall, no later than three months after the date of the Grant, notify the Authority of the basis of apportionment that it proposes to use for the financial statements in respect of each Separate Business for the financial year commencing on 1 January 200X, and:

- (a) the basis of apportionment in respect of those financial statements shall be the basis so proposed by the Licensee unless the Authority following consultation with the Licensee gives a direction requiring the use of any other basis; and
- (b) except in so far as the Authority consents to the Licensee doing so the Licensee shall not change any basis of charge or apportionment used in the financial statements in respect of any Separate Business for any financial year subsequent to the financial year commencing on 1 January 200X from the basis used in the financial statements in respect of that Separate Business for that financial year.

1.2.6 Auditor's Reports

In respect of each set of financial statements prepared in accordance with this Condition in respect of a financial year, the Licensee shall:

- (a) procure a report by the auditors and addressed to the Authority stating whether, in their opinion, that set of financial statements have been properly prepared in accordance with this Condition and give a true and fair view of the

revenues, costs, assets and liabilities of, or reasonably attributable to, the Separate Business to which they relate; and

- (b) use its reasonable endeavours to procure a report by the auditors and addressed to the Authority verifying that the internal accounting and financial reporting arrangements of the Licensee are implemented in such a way as to ensure that there is no discrimination, cross-subsidisation or distortion of competition between the Separate Business and any other business of the Licensee.

1.2.7 Copies of accounts and auditor's reports to be provided to the Authority

The Licensee shall provide the Authority with a copy of each set of financial statements and auditor's reports required under this Condition as soon as reasonably practicable and in any event not later than six months after the end of each financial year.

1.2.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the Companies (Northern Ireland) Order 1986.

1.2.9 Publication of Accounting Statements

The Authority may direct the Licensee to publish such accounting statements and reports (including but not limited to an auditor's report) as the Licensee is required to deliver to the Authority under this Condition 1.2 with the annual accounts of the Licensee.

1.2.10 Construction of "costs or liabilities"

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.

1.2.11 Additional Definition

"UK generally accepted accounting principles and practices" means the principles and practices prevailing from time to time in Ireland which are generally regarded as permissible or legitimate by the accountancy profession irrespective of the degree of use.

1.2.12 Associated Undertakings

The Licensee shall set out, in notes to the published accounts (referred to in Condition 1.2.8(c), any transaction relating to any Separate Business that was undertaken with an associated undertaking and that has a value of over £500,000.

For the purpose of this Condition 1.2.12, an "associated undertaking" is:

- (a) any company in respect of which the Licensee (or its parents and subsidiaries) holds 20% or more of the shares; or
- (b) any company in respect of which the Licensee (or its parents and subsidiaries) has the right to appoint or to remove a majority of the members of the board and is at the same time either a shareholder in that company or controls, pursuant to a shareholders' agreement, a majority of voting rights in that undertaking.

Condition 1.3: Provision of Information to the Authority

1.3.1 Furnishing information

Subject to Conditions 1.3.2 and 1.3.3 below, the Licensee shall, furnish to the Authority, in such manner and at such times as the Authority may reasonably require, information as the Authority may reasonably require or as may be necessary for the purpose of performing:

- (a) the functions assigned to it by or under the Order or the Energy Order; and

(b) any functions transferred to it under the Order or the Energy Order.

1.3.2 Licensee to comment on accuracy of information

This Condition shall not apply in respect of any function of the Authority under Articles 14(1)(a) and 27 of the Order or under Article 7 of the Energy Order but the Licensee shall, if requested by the Authority, give reasoned comments on the accuracy (so far as it relates to its Licensed Business), of any information or advice which the Authority proposes to publish pursuant to Article 7 of the Energy Order.

1.3.3 Condition 1.3 exclusive of other powers to require information

The power of the Authority to call for information under this Condition is in addition to the power of the Authority to call for information under or pursuant to any other Condition or any Schedule.

1.3.4 Condition 1.3 and other powers to require information

Where the Licensee is or can be required to provide information to the Authority under any Condition other than this Condition, there shall be a presumption that the provision of that information in accordance with the Condition in question is sufficient for the purposes of that Condition, but that presumption shall be rebutted and shall not limit the right of the Authority to call for further information under Condition 1.3.1 if it states in writing that in its opinion such information is, or is likely to be, necessary to enable it to exercise functions under the Condition in question.

1.3.5 Limitation on obligation to furnish information

This Condition shall not require the Licensee to furnish any information which the Licensee could not be compelled to produce or give in evidence in civil proceedings in the High Court.

Condition 1.4: Restriction on Use of Certain Information

1.4.1 Use of protected information

Where the Licensee or any affiliate or related undertaking of the Licensee receives protected information, the Licensee shall (and shall procure that such affiliate or related undertaking shall) procure:

- (a) that the Licensee shall not obtain any unfair commercial advantage from its possession of protected information with respect to any Separate Business.
- (b) that protected information is not used by any other person for the purpose of obtaining for that person:
 - (i) any unfair commercial advantage from its possession of protected information;
 - (ii) any licence;
 - (iii) any exemption;
 - (iv) control of any body corporate which, directly or indirectly, has the benefit of any such licence or exemption; and
- (c) that protected information is not disclosed except with the prior consent in writing of the relevant person to whose affairs the protected information relates;
provided that the obligation on the Licensee:
 - (d) to procure the above in relation to an affiliate or related undertaking which has control of the Licensee (control being defined by Section 416 of the Income and Corporation Taxes Act 1988), shall be to do so by using reasonable endeavours and obtaining an appropriate contractual undertaking from that affiliate or related undertaking in respect of such protected information; and
 - (e) not to obtain any unfair commercial advantage from its possession of protected information under Condition 1.5.1(a) shall be construed to exclude protected information received by any Separate Business, if applicable, not engaged in the

conveyance of gas independently of the Separate Business engaged in the conveyance of gas.

1.4.2 Compliance with directions

The Licensee shall implement such measures and procedures and take all such other steps as shall be specified in directions issued by the Department from time to time under Article 45 of the Order or otherwise for the purposes of this Condition as reasonably appear to the Department to be requisite or expedient for the purpose of securing compliance by the Licensee with its obligations under Condition 1.5.1 in the conduct of its business to convey gas.

1.4.3 Limitation of non disclosure obligations

Condition 1.5.1(c) shall not apply to any disclosure of information:

- (a) authorised by Article 63(3) or (4) of the Energy Order; or
- (b) made in compliance with the duties of the Licensee or any affiliate or related undertaking of the Licensee under the Order or the Energy Order or by any other requirement of a competent authority; or
- (c) made in compliance with the Conditions of the Licence or any document referred to in the Licence with which the Licensee or any affiliate or related undertaking of the Licensee is required by virtue of the Order or the Energy Order or the Licence to comply.

Condition 1.5: Consultation with the General Consumer Council

1.5.1 Policy statements for General Consumer Council

The Licensee shall in due time consult with the General Consumer Council in the formulation of:

- (a) its policies for the conduct of its business activities relating to the storage of gas insofar as they may affect consumers; and
 - (b) the general arrangements for their implementation;
- and shall:
- (c) give the General Consumer Council reasonable notice of the publication, announcement or implementation (if no publication or announcement is made) of details of any significant change in any such policies and general arrangements; and
 - (d) give to the General Consumer Council as the General Consumer Council may reasonably request an explanation of any such significant change and of the implementation of those policies.

Condition 1.6: Modifications

1.6.1 Modification of licence Conditions

The Conditions of the licence are subject to modification in accordance with their terms or with Articles 9, 14, 17, 17A or 18 of the Order or with any provision for the modification of the same in the Energy Order.

Condition 1.7: Assignment of Licences

1.7.1 Licensee's ability to assign its licence

For the purposes of Article 12 of the Order, the Licensee with the prior consent of the Authority may assign the licence either generally, or so far as relating to any specified gas

storage facility.

1.7.2 Matters affecting an assignment

In deciding whether to give its consent under Condition 1.7.1 the Authority shall apply those criteria contained in Article 12(3) of the Order, and any consent shall be subject to compliance with the matters determined by the Authority under Article 12(4) of the Order.

1.7.3 Licensee may not otherwise assign its licence

Save as the Licensee is authorised to assign the licence under this Condition, the Licensee may not otherwise assign the licence without the consent of the Authority.

Condition 1.8: Transfer of Business

1.8.1 Subject to Condition 1.8.2, the Licensee shall not transfer to another person (the "transferee") all or part of its Licensed Business unless:

- (a) the Authority is satisfied that the transferee:
 - (i) is or will be licensed to carry out the relevant business from the proposed date of the transfer; and
 - (ii) will have the technical and financial capability to comply with the conditions of its licence (subject to any modifications pursuant to Condition 1.8.1 (b)) in respect of the relevant business; and
- (b) if the licence contains additional conditions which, in the opinion of the Authority, are for the purpose of protecting the interests of consumers, the transferee has given the Authority its consent (in order to give continued effect to those additional conditions) to the modification of the conditions of its licence by way of the insertion of like conditions or ones to the like effect, taking account of the purpose of such conditions, and the Licensee has consented to the modification of such additional conditions in order to give continued effect to the purpose of such conditions.

1.8.2 Exception to Condition 1.8.1

Nothing in Condition 1.8.1 shall prevent the Licensee from transferring all or the relevant

part of its business to the assignee where the Authority has consented to the assignment of all or the relevant part of the licence under Article 12 of the Order or the Licensee has assigned all or the relevant part of the licence in accordance with Condition 1.7.

Condition 1.9: Disposal of Relevant Assets

1.9.1 Licensee not to dispose of or relinquish operational control of relevant assets

Except:

- (a) in relation to an assignment permitted under Condition 1.7 and the disposal or relinquishing of operational control of any relevant asset necessary for the assignment to have effect; or
- (b) in relation to a transfer of business permitted under Condition 1.8 and the disposal or relinquishing of operational control of any relevant asset necessary for the transfer to have effect; or
- (c) in so far as the Authority consents to the Licensee so doing; or
- (d) where the Licensee has relevant assets which do not form an integral part of the Network, or are not otherwise required for continuous system control and data acquisition or the safe and continuous operation of the Network, which may be the subject of arms length asset and financing leasing arrangements;

the Licensee shall not dispose of or relinquish operational control over any relevant asset if the disposal or relinquishing of control would materially affect its ability to discharge its obligations under the Order or the Energy Order or the carrying on of activities authorised or required by the Licence and any question arising under this Condition 1.9.1 as to whether such disposal or relinquishing of control is such as aforesaid shall be determined by the Authority.

1.9.2 Notice to be given to Authority

Save as provided in Condition 1.9.3 or in so far as the Authority otherwise consents, the Licensee shall give to the Authority not less than two months prior written notice of its intention to dispose of or relinquish operational control over any relevant asset, together with such further information as the Authority may request relating to such asset or the

circumstances of such intended disposal or relinquishment of control or to the intentions in regard thereto of the person proposing to acquire such asset or operational control over such asset

1.9.3 Notice not required for minor disposals

The Licensee shall not be required to give the Authority any notice of its intention to dispose of or relinquish operational control of any relevant asset having a value of less than £20,000 in September 1996 prices (such sum to be adjusted annually by reference to the retail price index), provided that:

- (a) the disposal of or relinquishing of operational control of such relevant asset would not materially affect the Licensee's ability to discharge its obligations under the Order or the Energy Order or the carrying on of activities required by the Licence; and
- (b) the disposal or relinquishing of any such relevant assets does not exceed an aggregate value of £20,000 in September 1996 prices (such sum to be adjusted annually by reference to the retail price index), in any period of twelve months.

1.9.4 Disposal allowed with consent of the Authority

The Licensee may dispose of or relinquish operational control over any relevant asset where:

- (a) the Authority confirms in writing that it consents to such disposal or relinquishment before such disposal or relinquishment occurs (which consent may be made subject to the acceptance by the Licensee or any third party in favour of whom the relevant asset is proposed to be disposed or operational control is proposed to be relinquished of such conditions as the Authority may specify); or
- (b) the Authority does not inform the Licensee in writing of any objection to such disposal or relinquishment of control within the notice period referred to in Condition 1.9.2.

1.12.5 Consultation with other licence holders

Any consent of the Authority pursuant to Condition 1.9.4 shall be given after the Authority shall have consulted and taken into consideration any representations made in a timely manner by any other licence holder liable to be materially affected by the disposal in question.

1.12.6 Additional Definitions

In this Condition:

"disposal" includes any sale, assignment, gift, exchange, lease, licence, the grant of any right of possession, loan, security, mortgage, charge or the grant of any other encumbrance or the permitting of any encumbrance to subsist or any other disposition to a third party and "dispose" shall be construed accordingly.

"relevant asset" means any part of the Network operated from time to time by the Licensee or any gas plant used by the Licensee for or for purposes connected with the conveyance of gas, together with any estate or interest in land required for the utilisation of the Network or gas plant, and any intangible assets (including patents, copyright, design rights and other similar rights) relating to or arising from its business.

Condition 1.10: Payment of Fees

Condition 1.10: Payment of Fees to the Authority

- 1 In respect of each year, beginning on 1 April, during which the Licence is in force, the Licensee shall pay to the Authority a fee of the amount determined in accordance with this Condition (the **licence fee**).
- 2 The Licensee shall pay to the Authority the licence fee for each year (the **relevant year**) within 30 days of the Authority giving notice to the Licensee of the amount due from the Licensee for the relevant year.
- 3 For each relevant year, the licence fee shall be the total of:
 - (a) an amount that is the Relevant Contribution to the Estimated Costs of the Authority for the relevant year;
 - (b) an amount that is the Relevant Contribution to the Estimated Costs of the Consumer Council with regard to the exercise of its functions relating to gas consumers for the relevant year;
 - (c) an amount that is the Relevant Contribution to the Estimated Costs of the Competition Commission, in connection with any reference made to it in respect of the Licence or any other licence granted under Article 8(1)(a) of the Order, for the year immediately preceding the relevant year (the **previous year**); and
 - (d) an amount which is the difference (which may be a positive or negative amount), if any, between:

- (i) the licence fee that would have been due from the Licensee for the previous year had such fee been calculated in relation to the actual costs of:
 - (A) the Authority for the previous year;
 - (B) the Consumer Council with regard to the exercise of its functions relating to gas consumers for the previous year; and
 - (C) the Competition Commission, in connection with references of the type referred to in sub-paragraph 3(c), for the year immediately preceding the previous year; and
- (ii) the licence fee paid by the Licensee for the previous year,

provided that where the Licence is in force for only a part of the relevant year, the amount payable in respect of that year shall be a proportionate part of the licence fee due for the full year.

4 Where:

- (a) the Estimated Costs of the Authority or of the Consumer Council are revised during the course of the relevant year (**Revised Costs**);
- (b) the Licensee has paid the licence fee for the relevant year; and
- (c) the Revised Costs would, had they applied to the calculation of the licence fee paid by the Licensee, have resulted in the calculation of a lower licence fee than that paid by the Licensee,

the Authority may, where it is reasonable for it to do so taking into consideration the timing of the Revised Costs and the provisions of paragraph 3(d), refund to the Licensee the difference between the amount of the licence fee paid by the Licensee and the amount of the lower licence fee referred to in paragraph 4(c) above.

5 Where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph 2 above within the 30 day period specified, it shall with effect from the end of that 30 day period pay simple interest on the amount at the rate which is from time to time equivalent to the base lending rate of an institution designated by the Authority for this purpose.

6 In this Condition:

“Estimated Costs”

- (i) in relation to the costs of the Authority, means the costs estimated by the Authority as likely to be its costs for the relevant year as calculated in accordance with the Principles;
- (ii) in relation to the costs of the Consumer Council means either:
 - a) the costs notified to the Authority by the Consumer Council as its estimated costs for the relevant year as approved by the Department; or
 - b) In the event that the Authority does not receive such notification by 31 July in the relevant year, the costs estimated by the Authority (having regard to any estimate of such costs in any forward work programme published by the Consumer Council in respect of the relevant year) as likely to be the costs of the Consumer Council for the relevant year; and
- (iii) in relation to the costs of the Competition Commission means the costs estimated by the Authority following consultation with the Competition Commission as likely to be the costs of the Competition Commission for the previous

year in connection with references of the type referred to in sub-paragraph 3 (C) above.

“Principles” means the principles determined by the Authority for the purposes of this Condition generally, following consultation with the Licensee and with others likely to be affected by the application of such principles and notified to the Licensee in writing.

“Relevant Contribution” means, in respect of the Estimated Costs, the level of contribution to those costs applicable, whether by way of a specified amount or a stated proportion, to the Licensee as determined under or in accordance with the Principles.

Condition 1.11: Compulsory Purchase Powers

1.11.1 Where a licence holder proposes to acquire, otherwise than by agreement, any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, he may apply to the Department for an order vesting that land in him and the Department shall have power to make a vesting order.

1.11.2 The power of acquiring land compulsorily under this paragraph includes power to acquire, by the creation of a new right, an easement or other right over land.

1.11.3 No application shall be made under paragraph 1 for a vesting order in respect of land belonging to another licence holder except with the consent of the Director.

Condition 1.12: Notices

1.12.1 Notices

All notices to be given under any Condition shall be in writing and shall be deemed to have been properly given if delivered in person or sent by registered or electronic mail or transmitted by facsimile to the relevant party at the address set out below or at such other address as that party may from time to time specify in writing to the others:

Licensee: XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Authority: Northern Ireland Authority for Utility Regulation,
Queen's House,
16-18 Queen Street,
Belfast
BT1 6ED
Northern Ireland

Facsimile Telephone Number (02890) 311740

Department: Department of Enterprise, Trade and Investment,
Energy Division,
Netherleigh House,
Massey Avenue,
Belfast, BT4 2JP

Facsimile Telephone Number (02890) 529549

1.12.2 Receipt

Any notice given under the provisions of Condition 1.8.1 shall be deemed to have been duly delivered and received:

- (i) at the actual time of delivery, if delivered personally;
- (ii) three (3) working days subsequent to the date of posting, if sent by registered mail;
and
- (iii) at the time of receipt, if transmitted by facsimile where there is confirmation of uninterrupted transmission by a transmission report and provided that the original of the notice is then delivered personally or sent by registered mail as soon as reasonably practicable.

PART 2 – CONDITIONS APPLICABLE TO THE STORAGE OF GAS BY THE LICENCE HOLDER

Condition 2.1: Security, reliability and efficiency of storage

2.1.1 Licensee to maintain its financial affairs

The Licensee shall at all times maintain its financial affairs in such a way so as not to prejudice the conduct of its Licensed Business and shall at the request of the Authority provide the Authority with such information as the Authority may reasonably request to be satisfied of the above.

2.1.2 Licensee to operate an efficient storage facility

The Licensee shall operate, maintain and develop under economic conditions such secure reliable and efficient facilities or systems as required for the purpose of operating the Storage Facility upon confirmation from X that the storage facility is operational and shall do so with due regard to the environment in compliance with all relevant environmental laws and public safety.

2.1.3 Capacity Statement

The Licensee shall prepare on an annual basis a Capacity Statement which shall be submitted to the Authority for approval, such approval not to be unreasonably withheld or delayed.

Once approved for a particular year, the Capacity Statement shall be published on the Licensee's website and made available promptly to any request from any third party.

The Licensee shall furnish to the Transmission System Operator at such times as may reasonably be required a Capacity Statement.

The Licensee shall at all times keep itself fully aware of the relevant capacity used and unused at the Storage Facility and shall make regular inquiries of persons working at the Storage facility to verify such knowledge.

Condition 2.2: Undue discrimination

2.2.1 Undue discrimination

The Licensee shall not discriminate between storage users or classes of storage users or customers particularly in favour of related undertakings.

2.2.2 Independence of Gas Storage Business

The Licensee shall operate the Licensed Business through a legally distinct and separate entity from any other business or venture which is engaged in the production or supply of natural gas in Northern Ireland.

The Licensed Business shall at all times have effective decision making rights with respect to the assets necessary to maintain operate and develop the Storage Facility.

Condition 2.3: Interaction with other natural gas undertakings, system users and storage system operators

2.3.1 Provision of information to other natural gas undertakings storage and other system operators

The Licensee shall furnish to other natural gas undertakings to whose system its Storage Facility is connected, in such manner and at such times as may reasonably be required, such information as may be reasonably required by such undertakings in order to ensure the safe, secure and efficient co-operation, co-ordinated development and inter-operability of the Storage Facility and such systems.

2.3.2 Contractual relationship with storage and other system operators

The Licensee shall document any agreement between the transmission system operator and the storage system operator to connect to each other's systems with the proposed terms to be agreed by the Authority.

2.3.3 Provision of information to system users

The Licensee shall provide system users with the information they need for efficient access to the Storage Facility.

2.3.4 Licensee to negotiate in good faith

The Licensee shall negotiate in good faith with other natural gas undertakings to whose systems its storage facility is connected, with a view to entering into such agreements as are required and perform such other acts as are required, to ensure the safe, secure and efficient operation, co-ordinated development and inter-operability of the Storage facility and such systems.

2.3.5 Technical rules to ensure the inter-operability of systems

The Licensee shall ensure that objective and non-discriminatory technical safety criteria are defined and that technical rules establishing the minimum technical design and

operational requirements for the connection to the system of LNG facilities, other transmission or distribution systems, and direct lines, are developed and made public.

2.3.6 Storage Charges (depends on whether regulated or negotiated third party access; RA to retain audit rights regardless)

2.3.7 Third Party Access – (terms will depend on whether negotiated or regulated access. If negotiated, storage system operator to publish the main commercial conditions. If regulated, access will be on basis of published tariffs and/or other terms and obligations for use of system. Regardless of regime, RA will retain audit rights over prices. Extent of Third Party Access to be discussed – and whether it should be set out in legislation or provided via licence)

Condition 2.4: Confidentiality and restriction on use of certain information

2.4.1 Confidentiality of information obtained in the course of business

Without prejudice to any legal duty to disclose information, the Licensee shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out the Licensed Business.

2.4.2 Information obtained from third parties

The Licensee shall not use commercially sensitive information obtained from third parties in the context of providing or negotiating access to the storage facility.

2.4.3 Exceptions to Conditions 2.4.1 and 2.4.2

Without prejudice to the generality of Conditions 2.4.2 and 2.4.3 above, the Licensee shall ensure that no information relating to, or derived from, the storage business is

disclosed for the benefit of, or used for the purposes of, any other separate business.
This paragraph shall not apply in so far as:

- (a) The Authority so consents;
- (b) The Licensee is expressly permitted or required to disclose that information under the terms of any agreement or arrangement with the relevant person to whose affairs such information relates;
- (c) The information is in the public domain (otherwise than as a consequence of a contravention of any Condition of this Licence);
- (d) The information has been published or is to be disclosed:
 - (i) Pursuant to any condition of this licence; or
 - (ii) In compliance with any requirement imposed on the Licensee by or under any natural gas legislation or other requirement of law; or
 - (iii) The information is disclosed pursuant to any judicial or other arbitral process or tribunal of competent jurisdiction.

2.4.4 Information to be provided to the Authority

The Licensee shall provide the Authority with any information or access to information the Authority may reasonably deem necessary in relation to the compliance by the Licensee with this condition.

Where data of a strategic nature are concerned, or where there is only one single third party using the Storage Facility, the Licensee shall provide to the Authority on an annual basis a report as to its compliance with Conditions 2.4.1 and 2.4.2, such report to cover protective measures in place, the sufficiency of those measures, any performance issues within the year, and any new or improved measures which would further enhance the Licensee's ability to comply with these Conditions.

2.4.5 Licensee to comply with any directions

The Licensee shall (and shall procure that its affiliates and related undertakings shall)

comply with any directions as may from time to time be issued by the Authority requiring the Licensee (or its affiliates and related undertakings) to take such steps or desist from such action as the Authority reasonably considers appropriate to secure compliance with this condition.

Condition 2.5: Provision of information to the Authority, records and reporting

2.5.1 Licensee to keep records

The Licensee shall keep records of its operation of the storage business and, in such form as may be reasonably directed by the Commission from time to time.

2.5.2 Licensee to provide to the Authority records or reports

The Licensee shall, as reasonably required by the Authority in writing from time to time, provide to the authority the records or reports relating to the operation of the storage business.

Condition 2.6: Emergencies

2.6. Emergency Services and obligations – relates to safety and security of supply – safe operation of system. Perhaps add an obligation re Gas Safety Management Regulations? Need to avoid undue overlap with Health and Safety Executive.

Condition 2.7: Competition Law

2.7.1 Compliance with EU and UK competition law

The Licensee shall ensure that the Storage Business is operated at all times in compliance with EU and UK competition law.

Condition 2.8: Provision of information requested by other licence or exemption holders

2.8.1 Provision of information

2.8.2 Prejudicial to commercial interests of Licensee

The Licensee shall be entitled to refuse to provide information on the grounds that its disclosure would seriously and prejudicially affect the commercial interests of the Licensee or any other person unless and until the Authority, by notice in writing given to the Licensee, directs its to provide such information on the ground that the provision thereof is necessary for the purpose of Condition 2.9.1 above.

2.8.3 Civil proceedings

This Condition shall not require the Licensee to produce any documents or give any information which it could not be compelled to produce or to give in evidence in civil proceedings before the court.

2.8.4 Effective arrangements

Condition 2.9: Facility Development Plan

The Licensee shall submit a Development Plan to the Authority of any proposed extension or modification to the storage facility for review.

Condition 2.10: Public Service Obligations?

SCHEDULE 1

Storage facilities which the Licensee is authorised to operate under the licence

1. Those parts of X facilities (including any reservoir, cavern or well at [Larne Lough], offshore platforms, compression, processing plant and the shore terminal) used from time to time to store natural gas, which term shall include the injection, retention and withdrawal of natural gas as necessary.

SCHEDULE 2

Right of Authority to revoke licence

1 Circumstances allowing revocation

The Authority may at any time revoke the licence by not less than 30 days' (or 24 hours in the case of (f) below) notice to the Licensee:

- (a) if the Licensee agrees in writing with the Authority that the licence should be revoked; or
- (b) if any amount payable under Condition 1.11 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 which the amount payable becomes due;
or

- (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 a condition to which the licence is subject or of a “relevant requirement” as defined in Article 41(2)(b) of the Energy Order and 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; or
- (d) 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 to which the licence is subject or of a “relevant requirement” as defined in Article 41(2)(b) 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
- (e) 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 is found guilty of an offence under section 188, 193 or 194 of the Enterprise Act 2002; or

(f) if the Licensee:

- (i) is unable to pay its debts (within the meaning of Article 103(1) or 92) of the Insolvency (Northern Ireland) Order 1989, but subject to paragraph 3 of this Schedule 2) or has any voluntary arrangement 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); 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 Authority; or
- (v) becomes subject to an order for winding up by a court of competent jurisdiction or if a petition for its winding up is presented to 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; or

- (g) if at any time the Licensee fails to notify the Authority of any change in ownership of the equity capital of the Licensee as soon as practicable after such change has occurred; or there has been a change in ownership of equity capital notified by the Licensee; and
 - (i) the Authority is satisfied that the new shareholder (together with the other companies in its group) does not have adequate technical, financial or managerial strength taking into account the size of its shareholdings in the Licensee;
 - (ii) the Authority serves notice on the Licensee stating that it proposes to revoke the licence in pursuance of this paragraph unless such further change in the ownership of the Licensee as is specified in the notice takes place (or ownership reverts to the person or those persons owning the equity capital of the Licensee prior to the change) within the period of three months beginning with the date of service of the notice; and
 - (iii) that further changes or reversion in ownership does not take place within that period; or
- (h) if at any time the Licensee fails to notify the Authority of a change in control as soon as practicable after such change in control has occurred; or there has been a change in control notified by the Licensee, and:
 - (i) the Authority serves notice on the Licensee stating that the Authority proposes to revoke the licence in pursuance of this paragraph unless such further change in control of the Licensee as is specified in the notice takes place (or control reverts to the person(s) controlling the Licensee prior to the change) within the period of three months beginning with the date of service of the notice; and

- (ii) that further change or reversion in control does not take place within that period; or
- (i) if the Licensee is convicted of having committed an offence under Article 46 of the Order or under Article 63 of the Electricity (Northern Ireland) Order 1992.

2 Revocation if Licensee ceases to carry on the licensed business

The Authority may at any time by not less than 30 days notice to the Licensee revoke the licence if the Licensee has not commenced carrying on its Licensed Business within thirty-six (36) months of the date of the Grant or thereafter ceases for a period of 3 months to carry on its Licensed Business and in relation to any date or period given in this paragraph 2 the Authority shall substitute a later date or a longer period where reasonably satisfied that exceptional circumstances which could not have been reasonably foreseen by the Licensee had prevented, or could reasonably be expected to prevent, the carrying on of the relevant business.

3 Licensee's deemed ability to pay its debts

- (a) For the purposes of paragraph 1(f)(i) of this Schedule 2, 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.
- (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 2 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 2.

4 Additional definition

- (a) Except where expressly stated to the contrary, and unless the context otherwise requires, the expressions used in this Schedule 2 shall have the meanings ascribed to them in the Conditions at the date of the Grant, and shall be construed in accordance with the rules of construction and interpretation set out in the Conditions at the date of the Grant.
- (b) For the purposes of paragraph 1(h) of this Schedule 2, there is a change in the control of the Licensee whenever a person obtains control of the Licensee who did not have control of the Licensee when this licence was granted; and sub-sections (2) and (4) to (6) of Section 432 of the Taxes Consolidation Act 1997 shall apply for the purpose of determining whether for the purposes of this paragraph a person has or had control of the Licensee, but at any time should no person have control then for the words "the greater part" wherever they occur in the said sub-section (2) there shall be substituted the words "one-third or more".