

Annex C

Phoenix Energy Group Ltd

Proposed Licence Modifications

This Annex sets out the Licence modifications for the gas conveyance licence held by Phoenix Energy Group Ltd.

Proposed deletions are indicated by ~~red text~~ which has been struck through. Proposed additions are indicated by red text which has been underlined.

Where text is proposed to be moved from a place and to another place, this has been indicated by green font and:

- ~~double strike through~~ for text moved from a place;
- double underlining for text moved to a place, and additional simple strike through where such text is proposed to be modified.

This Annex only includes those provisions (in whole or in part) to which modifications have been proposed.

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 Licence Document 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 this Licence Document 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 Licence Document.

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" in relation to the licence granted by this Licence Document means the Conditions to which the licence is subject under

this Licence Document; 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; and
- (e) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than this Licence Document), 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.

1.1.3 Headings

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

1.1.4 Time Related Obligations

Save as otherwise provided in Condition 1.2.1, 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;
"amount"	means, in relation to gas the energy content thereof expressed in therms or kilowatt hours; except with effect from 1st January 2000, it means the said content expressed in kilowatt hours;
"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986;
"Authority"	means the Northern Ireland Authority for Utility Regulation;
"authorisation of persons"	means the power of the Licensee to authorise persons, pursuant to Schedule 5 of the Order;
"balancing"	means (in relation to the Network and relevant period for balancing under the Network Code) taking such measures as may be available to the Licensee, in particular measures: <ul style="list-style-type: none"> (i) for managing the relationship between deliveries of gas to and offtakes from the Network during that period; and (ii) to maintain pressures in the Network at all levels;

which will in the reasonable opinion of the Licensee, ensure the safety and efficiency of the Network in that or any subsequent relevant period;

"consumer"	means any person supplied with gas to premises;
"Department"	means the Department for the Economy
"development plan"	means the Licensee's plan to develop the Network under Schedule 4;
"distribution pipeline"	means any pipeline which is not a transmission pipeline.
"distribution system operator"	means any person authorised to convey gas through distribution pipelines by virtue of holding a licence granted under Article 8(1)(a) or the Order.
"district"	means an area so designated in an approved map under Schedule 1;
"domestic consumer"	means a consumer supplied, or requiring to be supplied, with gas at Domestic Premises;
"domestic premises"	means premises where the supply of gas is taken wholly or mainly for domestic purposes;
"Electoral Ward"	means the spatial unit used to elect local government councillors into district council areas, as at 15 March 2006. Any dispute as to the boundaries of such spatial unit shall be determined by the Authority by reference to the map of such spatial unit held at the Northern Ireland Statistics and Research Agency;
"Energy Order"	means the Energy (Northern Ireland) Order 2003;
"Exclusive Area"	means the area referred to in paragraphs 1.1(a),

1.1(e) and 1.2(b)-(i) of Schedule 1 (as comprising part of the Licensed Area) which is designated under Article 9 of the Order as being the area in which the Licensee has exclusive authority to carry on the conveyance of gas in accordance with the provisions of this Licence Document.

2. The areas to which conveyance exclusivity under the licence is to be extended (until 31 December 2016) are:

(a) the areas within the boundaries of the following Electoral Wards:

- (i) Comber North;
- (ii) Comber South;
- (iii) Comber East;
- (iv) Comber West; and
- (v) Lisbane; and

(b) the Temple Quarry area comprising:

- (i) the premises at the Temple Quarry, 26 Ballycarngannon Road, Lisburn, BT27 6YA;
- (ii) the land in on or over which the Quarry Pipeline is situated;
- (iii) any premises which are, at any given location, situated within a 50 metre radius of the Quarry Pipeline; and
- (iv) the land in on or over which pipelines are situated for the purpose of conveying gas to premises specified in

paragraph (b)(iii) above,

where “the Quarry Pipeline” means the distribution pipeline of the Licensee which pipeline follows the route of the A24 (as proceeding South from the boundary of the area described in paragraph 1.1(a) of Schedule 1) continuing South along the A24 to the junction of the Carr Road, continuing North-West along the Carr Road to the junction with the B178, continuing South-West along the B178 to the junction with the Ballycarngannon Road and continuing south along the Ballycarngannon Road to (and terminating at) the premises specified in paragraph (b)(i) above.

- (c) the McQuillan Quarry area comprising:
- (i) the premises at the McQuillan Quarry, 15 Sycamore Road, Budore, BT29 4JE;
 - (ii) the land in on or over which the McQuillan Quarry Pipeline is situated;
 - (iii) any premises which are, at any given location, situated within a 50 metre radius of the McQuillan Quarry Pipeline; and
 - (iv) the land in on or over which pipelines are situated for the purpose of conveying gas to premises specified in paragraph (c)(iii) above,

where “the McQuillan Quarry Pipeline” means

the distribution pipeline of the Licensee which pipeline follows the route of the Upper Springfield Road, Divis Road, Tornaroy Road, Wheelers Road, Tornagrough Road, Tullyrusk Road and continuing along the Sycamore Road to (and terminating at) the premises specified in paragraph (c)(i) above.

(d) the Cranmore Pet Crematorium area comprising:

- (i) the premises at the Cranmore Pet Crematorium, 45 Tullyrusk Road, Dundrod, Crumlin, BT29 4OH;
- (ii) the land in on or over which the Cranmore Pet Crematorium Pipeline is situated;
- (iii) any premises which are, at any given location, situated within a 50 metre radius of the Cranmore Pet Crematorium Pipeline; and
- (iv) the land in on or over which pipelines are situated for the purpose of conveying gas to premises specified in paragraph (d)(iii) above,

where “the Cranmore Pet Crematorium Pipeline” means the distribution pipeline of the Licensee which pipeline follows the route from the junction of Budore Road and Tullyrusk Road, continuing along the Tullyrusk Road to (and terminating at) the premises specified in paragraph (d)(i) above.

“exemption holder”	means the holder of an exemption under Article 7 of the Order;
"exercise of powers of entry"	means the Licensee entering any premises, in accordance with the powers conferred by Schedule 5 of the Order;
<u>"Gas Delivery Facility"</u>	<u>means any building, structure, facility or pipe-line from which gas is, or may be, introduced into the Network, but excluding: any pipe-line or pipe-line system from which gas is or may be conveyed by any person holding a licence granted (or treated as granted) under Article 8(1)(a) of the Order;</u>
<u>"Gas Delivery Facility Operator"</u>	<u>means any person that owns and/or operates a Gas Delivery Facility;</u>
<u>"Gas Delivery Point"</u>	<u>means a point on the Network at which gas is, or may be, introduced into the Network from a Gas Delivery Facility;</u>
"gas supplier"	means any person authorised by licence under Article 8 of the Order or by exemption under Article 7 of the Order to supply gas;
“General Consumer Council”	means the General Consumer Council for Northern Ireland;
"Grant"	means the commencing section of this Licence Document by which the Department grants the Licensee the licence;
“high pressure pipe-line”	means any pipe-line having a design operating pressure exceeding 7 bar gauge;

“holding company”	has the same meaning as given to it under Article 4 of the Companies (Northern Ireland) Order 1986;
"information"	includes documents, accounts, estimates, returns, reports or other information;
"Licence Document"	means the Grant of this conveyance licence to the Licensee and Parts 1 and 2 of this conveyance licence together with the Schedules thereto;
"Licensed Area"	means the area in which the Licensee is authorised to convey gas pursuant to Schedule 1 of this Licence Document;
“Licensed Business”	means the activities connected with the conveyance of gas pursuant to the conveyance licence granted under paragraph 1(a) of the Grant;
"Licensee"	means Phoenix Energy Group Ltd, a company registered in Northern Ireland (No. NI032809);
“low pressure pipe-line”	means any pipe-line which is not a high pressure pipe-line;
"Network"	“means all the pipe-lines (as defined by the Gas (Northern Ireland) Order 1996, and shall also include any plant, equipment or apparatus used for, or for any purposes connected with, the conveyance of gas) within the Licensed Area that are owned and/or operated by any licensee, which pipe-lines shall, in the case of conveyance to consumer’s premises and for the purposes of this definition, be deemed to terminate immediately prior to the inlet of the first gas meter at such premises:”
“non-domestic consumer”	means a consumer who is not a domestic consumer;

“non-domestic premises”	means premises which are not domestic premises;
"Order"	means the Gas (Northern Ireland) Order 1996;
"person"	means any company, firm, partnership, association, body corporate or individual;
"quarter"	means a period of three calendar months;
"related undertaking"	means any undertaking in which any person has a participating interest within the meaning of section 421A of the Financial Services and Markets Act 2000;
"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: <ul style="list-style-type: none"> (a) the conveyance of gas by means of distribution pipeline pursuant to a licence granted in accordance with Article (8)(1)(a) of the Order; and (b) the storage of gas pursuant to a 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; and

- "subsidiary" has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order, 1986.
- “transmission pipeline” means any pipeline having a design operating pressure exceeding 7 bar gauge.
- “ultimate controller” means, in respect of the Licensee:
- (a) any holding company of the Licensee, which is not itself a subsidiary of another company; and/or
 - (b) any person who (whether alone or with a person or persons connected with him) is in a position to control, or to exercise significant influence over, the policy of the Licensee, or any holding company of the Licensee, by virtue of:
 - (i) rights under contractual arrangements to which he is a party or of which he is a beneficiary;
 - (ii) rights of ownership (including rights attached to or deriving from securities or rights under a trust) which are held by him or of which he is a beneficiary,

but shall exclude any director or employee of a

corporate body in his capacity as such and any minister, ministry, department, agency, authority, official or statutory person.

A person shall be considered to be connected with another person if they are party to any arrangement regarding the exercise of any such rights as are described in (i) and/or (ii) above.

“working day”

means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

1.1.7 References to energy

References to amounts of gas in therms shall with effect from 1st January 2000 be converted to equivalent amounts of gas in kilowatt hours.

1.1.8 Singular/plural

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

1.1.9 Application

The Conditions shall only apply to the activities of the Licensee carried out in Northern Ireland.

1.1.10 Grant

The licence to supply gas referred to in paragraph 1(b) of the Grant was revoked with the agreement of the Licensee on 2009.

Condition 2.4: Connection Charges and Obligation to Connect

Part A – Connection Charges – Charging Methodology Statements

2.4.1 Statement of connection charges and terms for connection of premises to the Network

The Licensee shall, no later than three months after this Condition takes effect, prepare and submit to the Authority for approval as to form and content, a statement **(Connection Charging Methodology Statement)** showing the methods by, and the principles on, which charges are to be determined by the Licensee, for, connecting to, and disconnecting from, the Network:

- (a) any premises; and
- (b) any non standard gas meter and any gas meter that is not owned by the Licensee (or any affiliate or related undertaking of the Licensee) and is located in any premises,

and in each case the statement shall include:

- (i) the methods by, and principles on, which charges are to be determined by the Licensee for maintaining, repairing or modifying any connection between the Network and any premises, including removing any gas fittings that are owned by the Licensee and comprised in the connection; and
- (ii) the Licensee's other terms for such a connection, and an explanation of those terms together with the Licensee's technical design and operational requirements which shall apply to the making of any particular, or particular type of, connection.

2.4.2 ~~Connections by any pipe-line system~~ Terms for connection of a Pipe-Line System to the Network

Where any person requests a connection to the Network ~~is requested for of~~ any pipe-line system to or from which gas ~~will is or may~~ be conveyed ~~by means of the Network~~ by any person holding a licence granted (or treated as granted) under Article 8(1)(a) of the Order (Pipe-Line System), the terms of such connection shall be those agreed between the Licensee and the person requesting such a connection to the Network, on

a case-by-case basis. This principle shall be included in the statement referred to in Condition 2.4.1.

2.4.3 Explanation of connection charging methodology for introducing gas to the Network
Statement of connection charges and terms for connection of Gas Delivery Facilities to the Network

- (a) Condition 2.4.3(b) applies where the Authority has, pursuant to this Condition 2.4.3(a), issued to the Licensee a direction describing or specifying a particular category or type of Gas Delivery Facility, which category or type may be described or specified by reference to the type or blend of gas which may be introduced into the Network from such a Gas Delivery Facility.
- (b) Where this paragraph applies, the Licensee shall, in accordance with the requirements specified in the direction (which requirements may, without limitation, relate to timings), prepare and submit to the Authority for approval as to form and content, a statement showing, so far as reasonably practicable, the methods by, and the principles on, which charges are to be determined by the Licensee for making, maintaining, repairing or modifying a connection to the Network of that category or type of Gas Delivery Facility (a **GDF Connection Charging Methodology Statement**).

The Licensee shall comply with any direction given by the Authority to submit a statement to the Authority for approval showing, so far as reasonably practicable, the methods by which and the principles on which charges are to be made by the Licensee for making a connection for the purposes of introducing gas into the Network and, in the context of making such a connection, for:

- (a) — modifying apparatus and works associated with a pipe line so as to increase the capacity of a pipe line; or
 - (b) — supplying and installing any pipe line or works,
- including where practicable an indication of likely costs and other terms for the making of such a connection.

Part B – Premises Connections – Other Requirements

2.4.4 Other ~~requirements-provisions~~ to be included in the ~~statement~~ Connection Charging Methodology Statement

~~A-statement~~ The Connection Charging Methodology Statement submitted to the Authority by the Licensee under Condition 2.4.1 shall:

- (a) subject to Condition 2.4.~~15~~10, clearly distinguish between ~~eases-persons~~ and classes of ~~eases-of~~ person for whom the Licensee proposes different methods by, or principles on which charges are to be determined for connection;
- (b) in respect of any such ~~easesperson~~, or classes of ~~easesperson~~, show that element of connection costs the Licensee proposes to recover by way of conveyance charges to gas suppliers, including any Separate Business engaged in the supply of gas; and
- (c) identify the types of connection where:
 - (i) a standard quotation will be provided on a request for a quotation in accordance with Condition 2.4.~~712~~(a); and
 - (ii) a non standard quotation will be provided on a request for a quotation in accordance with Condition 2.4.~~712~~(b).

2.4.5 The ~~statement~~ Connection Charging Methodology Statement to give likely indication of costs

~~A-statement~~ The Connection Charging Methodology Statement -submitted to the Authority by the Licensee under Condition 0 shall:

- (a) where practicable, indicate ~~for the Authority's information~~ the costs likely to arise in respect of work done and materials used in connecting any premises or gas meter (including a non standard gas meter, or a gas meter not owned by the Licensee);
- (b) include such information as will reasonably enable any person to estimate the Licensee's connection charges in connecting any premises or gas meter (including a non standard gas meter, or a gas meter not owned by the Licensee);

and

- (c) include such information as will reasonably enable any Relevant Person requesting a connection to the Network to determine the works and/or other actions he would need to undertake, including, without limitation, any work or action required to comply with the Licensee's technical design and operational requirements, in order for the connection to be made.

2.4.6 Standards of Performance Regulations

The Licensee shall ensure that each ~~statement~~ Connection Charging Methodology Statement submitted by it to the Authority under Condition 2.4.1 includes, for the purposes of the Standards of Performance Regulations:

- (a) a description of a connection that is classed by the Licensee as an excluded connection; and
- (b) a description of a connection that is classed by the Licensee as a complex connection,

each description as approved by the Authority after such consultation as the Authority directs.

~~2.4.7 Authority's approval~~

~~The Authority shall, in approving the Licensee's basis for charging for connection as set out in the statement submitted to it by the Licensee under Condition 2.4.1, have regard to the need of the Licensee to be able to finance the carrying on of its activities and obtain a return equal to that which is, in the reasonable opinion of the Authority, appropriate.~~

~~2.4.8 Publication of and compliance with statement~~

~~The Licensee shall:~~

- ~~(a) put in place and comply with the statement, as approved by the Authority under Condition 2.4.7;~~
- ~~(b) publish each approved statement in such manner as will secure adequate publicity for it; and~~
- ~~(c) send a copy of any such statement to any person who requests one.~~

~~2.4.9 Direction by the Authority~~~~Where the Authority determines that it is necessary for the Licensee to revise:~~

- ~~(a) the methods and principles on which it has determined the charges and other terms for connection in the latest published statement; and/or~~
- ~~(b) the charges and other terms for connection it has determined and included in the latest published statement;~~

~~in order to ensure that they are (or continue to be) proportionate and applied in a non-discriminatory manner, the Authority may direct the Licensee to revise its methods, principles, charges or terms (as the case may be) in accordance with the provisions of the direction.~~~~2.4.10 Revising connection charges~~~~Without prejudice to Condition 2.4.9 the Licensee shall:~~

- ~~(a) periodically, and on each occasion Condition 2.4 is modified, review its published statement for compliance with the Licensee's obligations under the Licence and propose, and submit to the Authority for approval, any changes necessary in light of the review;~~
- ~~(b) not revise the basis of its charges for a connection of any premises, gas meter (including a non standard gas meter, or a gas meter not owned by the Licensee), or the other terms for connection, without first giving the Authority a revised statement in the same terms as Condition 2.4.1 and, where such revision is other than any increase in the Consumer Prices Index including owner occupiers' housing costs or applicable indexation base, as approved by the Authority.~~

~~2.4.11 Compliance with a Direction~~~~The Licensee shall comply with the requirements of any direction issued by the Authority under Condition 2.4.9 and shall publish any revised statement as soon as reasonably practical in accordance with Condition 2.4.8.~~

2.4.122.4.7 Quotation Requests

The Licensee shall, in accordance with Condition 2.4.6 and the Standards of Performance Regulations:

- (a) within 10 working days of receiving a request from any Relevant Person for a standard quotation in respect of a connection to the Network provide that Relevant Person with a specific statement of the connection charges and other terms of connection, applicable to the request; and
- (b) within 28 days of receiving a request from any Relevant Person for a non standard quotation in respect of a connection to the Network provide that Relevant Person with a specific statement of the connection charges, and other terms of connection, applicable to the request.

2.4.132.4.8 Treatment of Request for Quotation

For the purposes of Conditions 2.4.127(a) and (b) and the Licensee's obligation to provide a specific statement of connection charges, a request for a quotation of the applicable connection charges shall be treated as such if it is in such form that it can be reasonably expected of the Licensee to provide a specific statement of connection charges in response to it.

2.4.142.4.9 Accuracy of Quotations

The Licensee shall:

- (a) from time to time submit to the Authority for its approval an accuracy review scheme ~~through~~under which any Relevant Person can require the Licensee to review the accuracy of a quotation provided to that Relevant Person for a new connection or altering an existing connection; and
- (b) publish the approved accuracy review scheme in such manner as will secure adequate publicity for it.

The agreed accuracy review scheme shall be the published accuracy scheme for the purposes of the Standards of Performance Regulations.

2.4.152.4.10 Prohibition on undue discrimination in relation to connections

The Licensee shall not show any undue preference towards or undue discrimination against any person or ~~cases or~~ classes of ~~cases of~~ person (including any other business of the Licensee):

- (a) seeking, and entitled pursuant to the provisions of Condition 2.4.~~1611~~, a connection to be made between their premises and the Network;
- (b) seeking a connection to be made between a non standard gas meter, or a gas meter not owned by the Licensee (or any affiliate or related undertaking of the Licensee), and the Network;
- (c) that own or operate (or proposes to own or operate) a ~~pipe-line system~~Pipe-Line System and seek a connection of that system to the Network;
- ~~(d) seeking a connection for the purposes of introducing gas to the Network.~~

2.4.162.4.11 Obligation to Connect premises

Upon acceptance by the Relevant Person of the quotation made, in respect of a connection of a premises to the Network, pursuant to Condition 2.4.~~127~~, any requirements pursuant to Condition 2.4.17-12 and subject to Condition 2.4.~~1813~~, the Licensee shall make ~~a~~the connection to the Network on the basis of such quotation.

2.4.172.4.12 Connection Requirements (premises connections)

The Licensee may require that, prior to making any connection to a premises :

- (~~ia~~) the owner of the premises in respect of which the connection is to be made accepts the Licensee's terms and conditions (including ~~as set out in the statement~~ those that may be set out in the Connection Charging Methodology Statement submitted to the Authority by the Licensee under Condition 2.4.1) for making the connection, including terms in respect of:
 - (~~ai~~) the design and operational requirements which apply; and
 - (~~bii~~) the recovery by the Licensee of its charges for making the connection;
- and
- (~~iiib~~) ~~A~~a gas supplier confirms to the Licensee its willingness to supply gas (or

continue to supply gas) to the occupier of the premises following the making of the connection.

2.4.182.4.13 No obligation to connect premises

Nothing in Condition 2.4.~~16-11~~ shall require the Licensee to make or maintain ~~the a~~ connection of a premises to the Network:

- (a) if the making or maintaining of the connection involves danger to the public and / or a risk to the safety of the Network, provided that the Licensee has taken all such reasonable steps to prevent such danger from occurring;
- (b) if there is insufficient capacity in the Network; or
- (c) if the Licensee has reasonable grounds to believe the making of the connection would be in conflict with:
 - (i) the relevant objectives set out in Condition 2.5.1; or
 - (ii) any public service obligation (where applicable)

and in any such case the Licensee shall give duly substantiated reasons for believing such circumstances apply.

Part C – Gas Delivery Facility Connections – Other Requirements

2.4.14 Other provisions to be included in a GDF Connection Charging Methodology

Statement

- (a) A GDF Connection Charging Methodology Statement prepared pursuant to Condition 2.4.3 shall, subject to Condition 2.4.16, clearly distinguish between persons and classes of person for whom the Licensee proposes different methods by, or principles on which charges are to be determined for:
 - (i) making, maintaining, repairing or modifying a connection of a Gas Delivery Facility of the category or type described or specified in any direction given by the Authority under Condition 2.4.3; and
 - (ii) accepting the introduction of gas into the Network from a Gas

Delivery Facility.

(b) A GDF Connection Charging Methodology Statement prepared pursuant to paragraph (a) shall, without limitation, include:

(i) the process and procedures to be followed, and the information likely to be required, by the Licensee for the purposes of offering terms for:

(A) the making and maintaining of the connection; of each particular category or type of Gas Delivery Facility described or specified in any direction given by the Authority under Condition 2.4.3; and

(B) accepting the introduction of gas into the Network from such a Gas Delivery Facility.

(ii) the methods by, and principles on, which charges will be determined for:

(A) any extension or reinforcement of any part of the Network, which is necessary or appropriate by virtue of the required connection to the Network of such a Gas Delivery Facility;

(B) the maintenance and repair required of any gas plant or apparatus provided and installed for the purposes of making a connection of such a Gas Delivery Facility;

(C) disconnection from the Network of such a Gas Delivery Facility and the removal of gas plant and apparatus at a Gas Delivery Point following disconnection;

(D) the Licensee's operational costs in respect of the maintenance and use of the Gas Delivery Point established by virtue of the connection of such a Gas Delivery Facility; and

(E) such other matters as may be specified in any direction issued to the Licensee under this Condition 2.4.14(b) for

the purposes of this Condition 2.4.

2.4.15 Gas Delivery Facility Connections – Requirement to offer terms

Where the Licensee receives a request for a connection to be made to the Network of a Gas Delivery Facility, it shall:

- (a) as soon as reasonably practicable, following receipt of the information reasonably required from the person making the request (the 'applicant'):
 - (i) offer terms and conditions for the making and maintaining of the requested connection; and
 - (ii) offer terms and conditions for the introduction of the gas from the Gas Delivery Facility into the Network; and
- (b) ensure that any terms and conditions offered by it pursuant to the requirements of paragraph (a) provide that where:
 - (i) the terms and conditions are accepted by the applicant, neither the Licensee nor the applicant shall take any action under or pursuant to the agreement (as resulting from the applicant's acceptance of the offered terms and conditions) prior to the date on which the accepted terms and conditions are approved by the Authority;
 - (ii) there is a dispute between the Licensee and the applicant in respect of the terms and conditions offered by the Licensee, either the applicant or the Licensee may make an application to the Authority for determination of the dispute.

2.4.16 Prohibition on undue discrimination in relation to Gas Delivery Facility Operators

The Licensee shall not show any undue preference towards or undue discrimination against any person or classes of person (including any other business of the Licensee) requesting, or having, a connection to the Network of a Gas Delivery Facility.

2.4.17 Obligation to Connect a Gas Delivery Facility

Where the Licensee has, upon request by any person, offered terms for connection pursuant to Condition 2.4.15 and the person requesting the connection accepts the connection terms offered, the Licensee shall make and maintain the requested connection on the basis of the accepted terms.

2.4.18 Exceptions to requirement to offer connection terms for a Gas Delivery Facility

Nothing in Condition 2.4.15 shall require the Licensee to offer terms to make and maintain a connection to the Network of a Gas Delivery Facility, if:

- (a) to make and maintain the requested connection would involve a danger to the public and/or or a risk to the safety of the Network, provided that the Licensee has taken all reasonable steps to prevent such danger from occurring and/or to mitigate the risk to the safety of the Network;
- (b) there is insufficient capacity in the Network to accept the delivery of the gas from the Gas Delivery Facility; or
- (c) the Licensee has reasonable grounds to believe that making and maintaining the requested connection would be in conflict with:
 - (i) the relevant objectives set out in Condition 2.5.1; or
 - (ii) any public service obligation (where applicable),

and in any such case the Licensee shall give duly substantiated reasons for believing such circumstances apply.

2.4.19 Calorific Value Management Statement

The Licensee shall comply with any direction given by the Authority to prepare and submit to the Authority for approval a statement (the **Calorific Value Management Statement**), setting out:

- (a) the methods by, and the principles on, which the Licensee will manage the Calorific Value in the Network; and
- (b) such information as is required by Gas Delivery Facility Operators and gas suppliers for the purposes of carrying out their respective activities, including (without limitation) information relating to:
 - (i) the measurement and/or the methodology for establishing the energy

content of gas;

- (ii) monitoring the accuracy of the measurement and/or the methodology for establishing the energy content of gas;
- (iii) the Calorific Value information required by gas suppliers for the purposes of customer billing; and
- (iv) such other matters as may be specified in the Authority's direction.

Part D – Approval and publication of statements prepared under this Condition 2.4

2.4.7 2.4.20 Authority's approval of connection charging methodology statements

The Authority shall, in approving the Licensee's basis for charging for connection as set out in the ~~statement~~ Connection Charging Methodology Statement submitted to it by the Licensee under Condition 2.4.1 or the GDF Connection Charging Methodology Statement submitted to it by the Licensee under Condition 2.4.3, have regard to the need of the Licensee to be able to finance the carrying on of its activities and obtain a return equal to that which is, in the reasonable opinion of the Authority, appropriate.

2.4.8 2.4.21 Publication of and compliance with statements prepared under this Condition 2.4

The Licensee shall:

- (a) — put in place and comply with the statement, as approved by the Authority under Condition 2.4.7;
- (a) implement and comply with the Connection Charging Methodology Statement and the GDF Connection Charging Methodology Statement, in each case as approved by the Authority under and in accordance with any provision of this Condition 2.4;
- (b) implement and comply with the Calorific Value Management Statement, as approved by the Authority under and in accordance with any provision of this Condition 2.4;
- (bc) publish each approved statement in such manner as will secure adequate publicity for it; and
- (ed) send a copy of any such statement to any person who requests one.

2.4.22 Review and Revision of Statements – Direction by the Authority

- (a) The Authority may, where it determines it necessary for the purposes of the Licensee ensuring that any Statement in effect pursuant to the requirements of this Condition 2.4 is, and/or continues to be, proportionate and applied in a non-discriminatory manner, direct the Licensee to review and revise the Statement in accordance with the requirements specified in the direction and to submit the revisions to the Authority for approval.
- (b) The Licensee shall comply with any direction given by the Authority under Condition 2.4.22(a) above.

~~2.4.9 Direction by the Authority~~

~~Where the Authority determines that it is necessary for the Licensee to revise:~~

- ~~(a) the methods and principles on which it has determined the charges and other terms for connection in the latest published statement; and/or~~
- ~~(b) the charges and other terms for connection it has determined and included in the latest published statement.~~

~~in order to ensure that they are (or continue to be) proportionate and applied in a non-discriminatory manner, the Authority may direct the Licensee to revise its methods, principles, charges or terms (as the case may be) in accordance with the provisions of the direction.~~

~~2.4.11 Compliance with a Direction~~

~~The Licensee shall comply with the requirements of any direction issued by the Authority under Condition 2.4.9 and shall publish any revised statement as soon as reasonably practical in accordance with Condition 2.4.8.~~

2.4.23 Review and Revision of Statements – General

The Licensee shall:

- (a) periodically, and on each occasion this Condition 2.4 is modified, review each Statement prepared by the Licensee, and approved by the Authority, pursuant to this Condition 2.4, for the purposes of ensuring that the Statement continues

to meet the requirements of this Condition 2.4 and following such review prepare and submit to the Authority for approval, any changes proposed by the Licensee in light of the review;

- (b) not revise the basis of its charges for a connection of any premises, gas meter (including a non standard gas meter, or a gas meter not owned by the Licensee), or the other terms for connection, without first submitting to the Authority a revised Connection Charging Methodology Statement that meets the requirements of Conditions 2.4.1 and 2.4.4 and, where any such revision is other than an increase in the Consumer Prices Index including owner occupiers' housing costs (CPIH), or applicable indexation base as approved by the Authority, obtaining the Authority's approval to such a revision;
- (c) not revise a GDF Connection Charging Methodology Statement applying in respect of connections of a Gas Delivery Facility of a category or type described or specified in a direction given by the Authority under Condition 2.4.3, without first submitting to the Authority a revised GDF Connection Charging Methodology Statement, as applicable to that category or type of Gas Delivery Facility, that meets the requirements of Conditions 2.4.3 and 2.4.14 and obtaining the Authority's approval to such a revision; and
- (d) not revise the methods by, and the principles on, which the Licensee will manage Calorific Value in the Network without first submitting to the Authority a revised Calorific Value Management Statement that meets the requirements of Condition 2.4.19 and obtaining the Authority's approval to such a revision.

2.4.10 – Revising connection charges

Without prejudice to Condition 2.4.9 the Licensee shall:

- (a) periodically, and on each occasion Condition 2.4 is modified, review its published statement for compliance with the Licensee's obligations under the Licence and propose, and submit to the Authority for approval, any changes necessary in light of the review;
- (b) not revise the basis of its charges for a connection of any premises, gas meter

~~(including a non standard gas meter, or a gas meter not owned by the Licensee), or the other terms for connection, without first giving the Authority a revised statement in the same terms as Condition 2.4.1 and, where such revision is other than any increase in the Consumer Prices Index including owner occupiers' housing costs or applicable indexation base, as approved by the Authority.~~

Part E – Connection Disputes – Authority's Role

2.4.19 2.4.24 Resolution of disputes by the Authority

~~Where:~~

- (a) ~~Where~~ there is a dispute between the Licensee and any person entitled, or claiming to be entitled, to a connection ~~to the Network in respect of the terms of an agreement for the connection to be made ('connection agreement'), under and in accordance with any provision of this Condition 2.4:~~

~~(i) where the person is not a Gas Delivery Facility Operator, in respect of connection terms offered by the Licensee to that person for such a connection to the Network,~~

~~(ii) where the person is a Gas Delivery Facility Operator, in respect of the terms offered by the Licensee for:~~

~~(aa) making and maintaining the connection of the Gas Delivery Facility to the Network; and/or~~

~~(bb) permitting gas to be introduced into the Network from that operator's Gas Delivery Facility,~~

any party to the dispute may make an application to the Authority for determination of the ~~terms of the connection agreement~~ dispute.

- (b) ~~Any dispute referred to~~ the Authority ~~receives an application~~ pursuant to ~~sub-paragraph (a) and the dispute:~~ Condition 2.4.24(a) which relates to a connection to the Network of any premises (and any non standard gas meter and any gas meter that is not owned by the Licensee (or any affiliate or related undertaking of the Licensee) and is located in any premises) which:

- (i) has not previously been referred by either party to the General Consumer Council for investigation; or
- (ii) has previously been referred by one of the parties to the General Consumer Council but the General Consumer Council ~~has advised~~advises the Authority that it has not concluded its investigation of the dispute,

may be referred by— the Authority ~~may refer the dispute~~ to the General Consumer Council for the purposes of enabling the General Consumer Council to ~~assist the parties in the resolution~~investigate and/or conclude its investigation of the dispute; and

~~—(c) the Authority refers the dispute to the General Consumer Council under paragraph (b) it will at the same time inform the parties of that referral;~~

(iii) notification of any such referral will be given by the Authority to both parties; and

(div) where the General Consumer Council has not been able to assist the parties in the resolution of the dispute within 3 months of the Authority's referral ~~under paragraph (b)~~ (the 'applicable timescale'), either party to the dispute may then refer the ~~matter back~~ dispute to the Authority for determination_;

(c) Condition 2.4.24 (d) applies:

(i) in respect of a dispute referred to the Authority under Condition 2.4.24(a)(i) which is not referred to the General Consumer Council under Condition 2.4.24(b);

(eii) in respect of a dispute referred to the Authority under ~~paragraph~~ Condition 2.4.24(ab)÷(iv); and

(iii) in respect of any other dispute is not referred by to the Authority to the General Consumer Council under paragraph under Condition 2.4.24(ea);
or

~~(ii) is referred by the Authority to the General Consumer Council under paragraph (c) but is referred back to the Authority under paragraph (d);~~

(d) Where this Condition applies:

- (i) the Authority may, having given both parties not less than one month in which to make any further representations, settle the ~~terms of the connection agreement dispute~~ in such manner as appears to the Authority to be reasonable having regard (insofar as is relevant and appropriate) to the obligations that would otherwise have applied to the Licensee under this Condition 2.4; and
- (fii) where the person entitled or claiming to be entitled to a connection to the Network wishes to proceed on the basis of the terms ~~the connection agreement as~~ settled by the Authority, the Licensee shall ~~forthwith~~ enter into ~~and implement such the required~~ agreement ~~in accordance with its on the basis of such~~ terms.

Part F: Definitions and Interpretation

2.4.20 2.4.25 Interpretation and construction

- (a) References in this Condition 2.4 to "**charges**" shall include references to means whereby such charges may be ascertained.
- (b) In this Condition:
 - ~~(i) "Standards of Performance Regulations" means The Gas (Individual Standards of Performance) Regulations (Northern Ireland) 2014.~~
 - ~~(ii) "Relevant Person" is a person who is the:~~
 - ~~(a) owner of the premises; or~~
 - ~~(b) occupier of the premises~~
 - ~~in respect of which the request for connection is made.~~

<u>“Calorific Value”</u>	<u>has the meaning given to it in the Network Code.</u>
<u>"premises"</u>	<u>includes any land, building or structure:</u> <u>(i)- supplied, or to be supplied, with gas from the Network; and</u> <u>(ii) does not include any Pipe-Line System or Gas Delivery Facility.</u>
<u>“Relevant Person”</u>	<u>is a person who is the:</u> <u>(a) owner of the premises; or</u> <u>(b) occupier of the premises</u> <u>in respect of which the request for connection is made.</u>
<u>“Standards of Performance Regulations”</u>	<u>means The Gas (Individual Standards of Performance) Regulations (Northern Ireland) 2014.</u>

Condition 2.5: Network Code

2.5.1 The relevant objective

The Licensee shall establish transportation arrangements, being arrangements other than those to which Conditions 2.3 and 2.4 relate, for the conveyance of gas through distribution pipelines which are calculated to facilitate the achievement of the "relevant objective", that is to say:

- (a) the secure, safe, reliable, efficient and economic development and operation and maintenance of the Network with due regard to the environment;
- (b) where the Licensee is responsible for the balancing of the Network, the balancing of the Network pursuant to rules for that purpose which are objective, transparent and non-discriminatory (including the rules for the charging of system users for energy imbalances); and
- (c) subject thereto:
 - (i) compliance with the Licensee's other obligations under this Licence Document; and
 - (ii) subject to Condition 2.5.1(c)(i), the promotion of effective competition between Users .

2.5.2 Network Code

The Licensee shall:

- (a) prepare and provide to the Authority for its approval (no later than 1st November 2004) a document (the "Network Code") setting out the arrangements for the conveyance of gas through distribution pipelines established under Condition 2.5.1 and the terms on which it will enter into such arrangements with Users for the conveyance of gas through distribution pipelines;
- (b) where, pursuant to Condition 2.14.1 the Licensee is designated as a distribution system operator, ensure that the Distribution Network Code

contains provisions that establish, where the Licensee undertakes these activities:

- (i) the measures that the Licensee will put in place for the balancing of the Network;
- (ii) the methodology used by the Licensee to procure the gas required for balancing the Network;
- (iii) the methodology by which the charges to be levied on gas suppliers for the balancing of the Network are to be determined; and
- (iii) the technical safety criteria applicable to the operation of the Network;
- (c) put such Network Code in place except as the Authority otherwise consents and comply with the provisions of the approved Network Code;
- (d) put in place appropriate contractual arrangements, approved by the Authority, which require compliance with the Network Code by the Licensee, the Users, and any third parties who may become parties to the Network Code; and
- (e) except in so far as the Authority consents to the Licensee doing so, not enter into any arrangements for the conveyance of gas except in accordance with the provisions of the Network Code applicable from time to time to the circumstances of the case.

2.5.3 Where a term of the Network Code or of the modification rules referred to in Condition 2.5.5 is framed so that its proper implementation is to be determined with regard to whether it facilitates the achievement of the relevant objective, either the Licensee or any other party to the Network Code who has entered into the arrangements to which that term applies, may, to the extent that the term so provides, refer to the Authority for determination any question as to whether a manner in which the Licensee proposes to implement the term would secure that objective.

2.5.4 Modification of the Network Code

The Licensee shall establish and implement procedures for the modification of the Network Code by the Licensee, subject to the provisions of this Condition, so as to

better facilitate the achievement of the relevant objective and which will enable:

- (a) the Network Code to be reviewed;
- (b) modifications to be proposed by the Authority, the Licensee or by any other party to the Network Code;
- (c) adequate publicity to be given to any proposal by:
 - (i) drawing it to the attention of other parties to the Network Code;
 - (ii) sending a copy of the proposal to anyone who requests it; and
 - (iii) making it otherwise available in an appropriate manner where it is necessary for establishing whether the proposal would better facilitate the achievement of the relevant objective;
- (d) the preliminary views of the Authority to be sought in relation to any matter arising on a proposal to modify the Network Code; and
- (e) the representations or objections, with respect to any proposal to modify the Network Code, made (and not withdrawn) by any other party to the Network Code and by other persons who are likely to be materially affected by the proposal to be properly considered.

2.5.5 Modification Rules

The Licensee shall:

- (a) prepare "the modification rules", that is to say a document, or documents, setting out the terms of the procedures established under Condition 2.5.4, and shall furnish the Authority with a copy of the modification rules;
- (b) not make any modification to the modification rules except:
 - (i) after consulting the other parties to the Network Code;
 - (ii) after furnishing the Authority with a report on such consultation and consideration; and

(iii) with the consent of the Authority; and

(c) furnish the Authority with a copy of any modification so made.

2.5.6 Prohibition on irregular modification

The Licensee shall not make any modification to the Network Code except:

(a) to comply with Condition 2.5.7(c); or

(b) with the consent of the Authority;

and shall furnish the Authority with a copy of any modification made.

2.5.7 Role of Authority in modifications

Where a proposal is made pursuant to the modification rules to modify the Network Code, the Licensee shall:

(a) refer for determination by the Authority any question as to whether the representations or objections by any other party to the Network Code or by any other person, in respect of the proposal have been properly considered in accordance with those rules;

(b) as soon as reasonably practicable, give notice to the Authority:

(i) giving particulars of the proposal;

(ii) where the proposal is made by any other party to the Network Code , giving particulars of any alternative proposal by the Licensee to modify the Network Code in respect of the same matter;

(iii) giving particulars of any representations or objections made by a party to the Network Code or by any other person in respect of those proposals;

(iv) stating whether, in its opinion, any proposed modification should or should not be made;

(v) stating the factors which, in its opinion, justify making or not making

the proposed modification; and

- (vi) giving such further information as may be prescribed by the modification rules; and
- (c) comply with any direction given by the Authority to make a modification to the Network Code in accordance with a proposal described in a notice given to the Authority under sub-paragraph (b) which, in the opinion of the Authority will, as compared to the existing provisions of the Network Code or any alternative proposal, better facilitate the achievement of the relevant objective.

2.5.8 Publication of Network Code

The Licensee shall:

- (a) publish the Network Code and the modification rules as modified from time to time in such form and manner as the Authority may from time to time direct; and
- (b) send a copy of the Network Code and the modification rules as modified from time to time to any person who asks for a copy on payment of a charge in respect of the cost incurred by the Licensee in complying with this requirement which does not exceed such amount as the Authority may from time to time direct.

2.5.9 Authority to determine material effect on persons of transportation arrangements

Except in so far as the Authority otherwise consents, the Licensee shall refer for determination by the Authority any question as to whether a person is likely to be materially affected by transportation arrangements or by a proposal to modify the Network Code.

2.5.10 Reasons for refusal of access

The Network Code prepared in accordance with this Condition shall require the Licensee to give duly substantiated reasons for any refusal of access to the Network.

2.5.11 Prohibition on undue discrimination

The Licensee shall not show an undue preference for or undue discrimination against any person or class or classes of person:

- (a) in assessing a person's application to become a party to the Network Code;
and/or
- (b) in its interpretation of the Network Code and the application of procedures contained in the Network Code.

2.5.12 Definitions

In this Condition 2.5, "User" means, as the context requires, any gas supplier or any person acting on behalf of a gas supplier who has made, or seeks to make, arrangements with the Licensee in pursuance of which gas is, or is to be, conveyed through the Network.

2.5.13 Performance of Obligations

- (a) The Licensee shall in fulfilling its obligations under Conditions 2.5.1 to 2.5.2 and 2.5.4 to 2.5.5:
 - (i) liaise and co-operate with any other person authorised by virtue of a licence granted under Article 8(1)(a) of the Order to convey gas through low pressure pipe-lines (a 'relevant licence holder') for the purposes of ensuring that the Network Code is, in so far as is possible, consistent with the network codes of relevant licence holders; and
 - (ii) comply with directions issued by the Authority (following consultation with the Licensee and relevant licence holders) for the purposes of this Condition 2.5.13.

Condition 2.10: Maintenance of Records

2.10.1 Recorded information

The Licensee shall hold in an appropriate form recorded information, insofar as the Licensee is reasonably able to acquire it, as to:

- (a) every premises and pipe-line system to which gas has been conveyed by means of the Network during the relevant period;
- (b) every Gas Delivery Point from which gas has been conveyed by means of the Network during the relevant period;
- ~~(bc)~~ every third party who has arranged with the Licensee for gas to be conveyed by means of the Network at any place referred to in Condition 2.10.1(a) or (b) during the relevant period;
- ~~(ed)~~ insofar as the Licensee has been furnished with the information, in respect of each premises referred to in Condition 2.10.1(a) every gas supplier who has supplied during the relevant period gas which has been conveyed to those premises by means of the Network;
- (e) in respect of each Gas Delivery Point referred to in Condition 2.10.1(b), details of each gas supplier that, during the relevant period, was under and in accordance with the Network Code a registered user for that Gas Delivery Point and the period for which each such gas supplier was a registered user;
- ~~(df)~~ insofar as the Licensee has been furnished with the information, the ownership of every meter first installed after the outlet of the final control valve of the service pipe at any premises referred to in Condition 2.10.1(a) for ascertaining the quantity of gas conveyed to the premises by means of that system during the relevant period;
- ~~(eg)~~ any information contained in a notice given to the Licensee under any regulations made by the Authority under Article 22 of the Order during the relevant period; and

(~~h~~) any information which has been provided to the Licensee by any other licence or exemption holder whether directly or indirectly pursuant to the conditions of his licence or exemption.

2.10.2 Additional definition

In this Condition, "the relevant period" means the preceding five years or such shorter period to which the Authority may consent in respect of any of the above requirements.