

**FE Licence**

Last Modified: 1 January 2017

**Firmus Energy (Distribution) Limited <sup>1</sup>**

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**LICENCE FOR THE CONVEYANCE**

**OF GAS IN NORTHERN IRELAND**

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<sup>1</sup> Licence granted to Bord Gais Eireann on 24 March 2005 and assigned to BGE (NI) Distribution Ltd from 20 June 2005. BGE (NI) Distribution Ltd changed name to Firmus Energy (Distribution) Limited from 4 May 2006.

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**GRANT AND TERMS OF LICENCE**

**LICENCE FOR THE CONVEYANCE OF GAS**

1. Grant and Terms of Licence

The Northern Ireland Authority for Energy Regulation (the “Authority”), in exercise of the powers conferred by Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 (the “Order”) and with the consent of the Department of Enterprise, Trade and Investment, hereby grants to Bord Gais Eireann<sup>2</sup> (a body corporate established in Ireland under the Gas Acts, 1976 to 2002, and having its principal place of business at P.O. Box 51, Gasworks Road, Cork, Ireland) (the “Licensee”) a licence to participate in the conveyance of gas from one place to another:

- (a) in the area designated as a term of the licence 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 25 years’ notice in writing given by the Authority to the Licensee, which notice shall not be served earlier than the date which is ten 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; and
- (c) by virtue of Article 9(1) of the Order, on an exclusive basis in accordance with the provisions specified as a term of the licence in Schedule 3 hereto.

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<sup>2</sup> Licence Assigned to BGE (NI) Distribution Ltd from 20 June 2005. BGE (NI) Distribution Limited changed name to Firmus Energy (Distribution) Ltd from 4 May 2006

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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 conveyance 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).

24 March 2005

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Douglas McIlDoon

Chairman  
The Northern Ireland Authority for Energy 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; and

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- (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.

### 1.1.3 Headings

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

### 1.1.4 Time Related Obligations

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

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	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 Act 1985;
“authorisation of persons”	means the power of the Licensee to authorise persons, pursuant to Schedule 5 of the Order;
“Authority”	means the Northern Ireland Authority for Energy Regulation;
“balancing”	means (in relation to the Network and any 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"><li>(i) for managing the relationship between deliveries of gas to and offtakes of gas from the Network during that period; and</li><li>(ii) to maintain pressures in the Network at levels;</li></ul> which will, in the reasonable opinion of the Licensee, ensure the safety and efficiency of the Network in that or any subsequent relevant period;
“company”	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 or any other body corporate;
“Competition and Markets Authority (CMA)”	means the body of that name established by section 25 of the Enterprise and Regulatory Reform Act 2013;
“consumer”	means any person supplied with gas to premises;

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“conveyance charges”	means the charges made by the Licensee for the conveyance of gas;
“conveyance services”	means all services provided by the Licensee of conveying gas to, through and within the Licensed Area;
“Department”	means the Department of Enterprise, Trade and Investment;
“distribution pipe-line”	means any pipe-line which is not a transmission pipe-line;
“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) of the Order;
“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;
“Energy Order”	means the Energy (Northern Ireland) Order 2003;
“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;
“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 including the Licensee as so authorised or exempted;

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“Grant”	means the commencing section of this licence by which the Authority grants the Licensee the licence;
“high pressure pipe-line”	means any pipe-line having a design operating pressure exceeding 7 bar gauge;
“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 Area”	means the area in which the Licensee is authorised to convey gas pursuant to Schedule 1 of this Licence.
“Licensed Business”	means the activities connected with the conveyance of gas pursuant to the licence, including (without limitation) the development, construction, operation and maintenance of the Network, the connection of premises to the Network, and the provision and maintenance of gas meters (but not meter reading);
“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;
“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

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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.”

“Network Code”	means the document prepared by the Licensee under Condition 2.4.2;
“non-domestic consumer”	means a consumer who is not a domestic consumer;
“non-domestic premises”	means premises which are not domestic premises;
“non standard gas credit meter”	means a gas credit meter owned by the Licensee which is not a standard gas credit meter;
“non standard gas meter”	means either a non standard gas credit or pre-payment meter;
“non standard gas pre-payment meter”	means a gas pre-payment meter owned by the Licensee which is not a standard gas pre-payment meter;
“Order”	means the Gas (Northern Ireland) Order 1996;
“Other Business”	means any business of the Licensee other than the Licensed Business;
“owned”	means in relation to any gas meter title in or control over a meter and includes meters leased to a person;
“person”	means any company, firm, partnership, association, body corporate or individual;
“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;

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“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 storage of gas pursuant to a licence granted in accordance with Article 8(1)(b) of the Order; and
- (d) the supply of gas pursuant to a licence granted in accordance with Article 8(1)(c) 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 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;

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“standard gas credit meter”	means a gas credit meter of a type so specified and owned by the Licensee;
“standard gas meter”	means either a standard gas credit or pre-payment meter;
“standard gas pre-payment meter”	means a gas pre-payment meter of a type so specified and owned by the Licensee;
“subsidiary”	has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order 1986;
“Supply Licensee”	means the person from time to time authorised to supply gas under a licence originally granted, on the same date as the date of the Grant, to Bord Gais Eireann;
“transmission pipe-line”	means any pipe-line having a design operating pressure exceeding 7 bar gauge;
“transportation arrangements”	means the arrangements which licence holders or exemption holders may have with the Licensee to have gas introduced into, conveyed by means of and taken out of the Network; and
“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.

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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 31<sup>st</sup> December 2005 and thereafter each financial year of the Licensee shall run from 1<sup>st</sup> January to the following 31<sup>st</sup> December.

1.2.2 Separate Business Accounting

This Condition applies for the purposes of ensuring that the Licensee (in conjunction with any 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 of the Licensee. 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:

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- (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) 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, that 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 Bases of apportionment

The Licensee shall, no later than three months after the date of the Grant, notify the Authority of the basis 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 storage of gas pursuant to a licence granted in accordance with Article 8(1)(b) of the Order;

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- (d) the supply of gas pursuant to this licence; and
- (e) the supply of gas pursuant to a licence (other than this licence) granted in accordance with Article 8(1)(c) 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; of apportionment that it proposes to use for the financial statements in respect of each Separate Business for the financial year commencing on 1<sup>st</sup> January 2005, 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 apportionment used in the financial statements in respect of any Separate Business for any financial year subsequent to the financial year commencing on 1<sup>st</sup> January 2005 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,

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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 Business of the Economic Network 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 Act 1985.

### **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.

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### 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 the United Kingdom 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 an affiliate or related undertaking of the Licensee) holds 20% or more of the shares; or
- (b) any company in respect of which the Licensee (or an affiliate or related undertaking of the Licensee) 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.

### 1.2.13 Provision of Accounts to the Department

The Licensee shall, where requested to do so by the Department, provide to the Department a copy of its accounting records for the period specified in the request.

**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 any of its functions relating to gas as conferred on, or assigned or transferred to, it by or under any legislation.

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.

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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: Consultation with the General Consumer Council**

1.4.1 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 conveyance 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.

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**Condition 1.5: Restriction on Use of Certain Information**

**1.5.1 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

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

### **1.5.2 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.

### **1.5.3 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; or
- (d) necessary in order to enable the person to whom such information is disclosed to enter into arrangements with the Licensee for the conveyance of gas, or in order to give effect to such arrangements; or
- (e) is necessary in order to enable any agent appointed by the Licensee to fulfil the Licensee's balancing obligations under the Licence.

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1.5.5 Additional definition

In this Condition:

“protected information” means any commercially confidential information which relates to the affairs of a person who is not an affiliate or related undertaking of the Licensee holding a licence or exemption to convey, store or supply gas or any affiliate or related undertaking of that person which has been furnished to or otherwise acquired by the Licensee under or pursuant to or in the course of any dealings with that person or any affiliate or related undertaking of his other than information which is in, or comes into, the public domain other than as a result of breach by the Licensee of this Condition or of any Conditions of the licence.

**FE Licence**

**Condition 1.6: Powers of Entry**

1.6.1 Arrangements for powers of entry

The Licensee shall, unless it has done so before being licensed, no less than 15 days before gas is first introduced into the Network and in any event within six months of the licence coming into force:

- (a) submit to the Authority a statement of its proposed arrangements in respect of the matters mentioned in Condition 1.7;
- (b) if within 30 days of such submission the Authority notifies the Licensee that, in its opinion, the arrangements are not sufficient for the purposes of Condition 1.7, make changes to the arrangements requisite to secure compliance with such conditions as are specified by the Authority; and
- (c) make such arrangements;

and the arrangements so made in this Condition and in Condition 1.7 are referred to as “the arrangements”.

1.6.2 Changes in arrangements for extensions to licence

In the event of an extension of its licence, the Licensee shall ensure that the arrangements remain sufficient for the purposes of Condition 1.7 and shall make, subject to Condition 1.6.3, any necessary changes.

1.6.3 Consent of Authority to changes

The Licensee shall not make any material change to the arrangements except with the consent of the Authority, which consent shall not be unreasonably withheld and shall be deemed to have been given, unless refused in writing within 2 months of receipt by the Authority of the application to make a material change by the Licensee.

**FE Licence**

1.6.4 Conduct with domestic consumers

The Licensee shall use its best endeavours to ensure that, so far as is reasonably practicable, when exercising powers of entry under Schedule 5 to the Order, it conducts itself towards domestic consumers to whose premises the Licensee arranges for gas to be conveyed in conformity with the arrangements.

**FE Licence**

**Condition 1.7: Authorisation of Persons**

**1.7.1 Steps to be included in the arrangements**

The arrangements shall comprise all reasonable steps:

- (a) for securing that no person is authorised for the purpose of any provision of Schedule 5 to the Order unless in the reasonable opinion of the Licensee he is a fit and proper person to enjoy the rights conferred by that provision;
- (b) for securing that any person authorised for the purpose of any provision of Schedule 5 to the Order possesses appropriate expertise to perform the particular task that he will be required to undertake under the provision in question;
- (c) for securing that a member of the public may readily confirm the identity or authority of a person authorised for the purpose of any provision of Schedule 5 to the Order;
- (d) for securing that identity cards, uniforms, liveried vehicles and other things conveying evidence of authority or identity in relation to the Licensee are not misused; and
- (e) for securing that all persons authorised by the Licensee comply with the provisions for entry where any justices' warrant is issued under Schedule 5 paragraph 6 to the Order.

**1.7.2 Licensee not to authorise a person to exercise any powers of entry unless steps described in the arrangements above are complied with**

The Licensee shall not authorise any person to exercise any powers of entry conferred by Schedule 5 to the Order unless the steps provided for in the arrangements described in Condition 1.7.1(a), (b) and (c) have been complied with and it appears to the Licensee that he is such a fit and proper person.

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1.7.3 Licensee to take reasonable steps to keep relevant persons informed

Except in so far as the Authority otherwise consents, if in respect of any premises any person so authorised is an officer or employee of an agent of the Licensee, the Licensee shall take reasonable steps to inform and keep informed all persons to whom the information is relevant, including its domestic consumers and any other licence holders, naming the agent in question and shall give that information in a verifiable and authoritative manner.

**FE Licence**

**Condition 1.8: Exercise of Powers of Entry**

1.8.1 Licensee to avoid undue disturbance

In exercising the powers of entry conferred on it by Schedule 5 to the Order, the Licensee shall avoid undue disturbance to owners or occupiers of premises as a result of visits being made to their premises by persons authorised by the Licensee.

1.8.2 Construction of Condition 1.8.1

In this Condition any reference to the conferring on the Licensee of powers of entry under Schedule 5 to the Order or to the exercise of such powers shall be construed as a reference to the conferring on a person authorised by the Licensee of such powers and the exercise by such an authorised person of those powers.

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**Condition 1.9: Modifications**

1.9.1 Modification of Licence Conditions

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

**FE Licence**

**Condition 1.10: Assignment of Licences**

1.10.1 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 the whole or any part of the Licensed Area.

1.10.2 Matters affecting an assignment

In deciding whether to give its consent under Condition 1.10.1 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.

1.10.3 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.

1.10.4 Immediate assignment following the Grant

The Licensee shall as soon as is reasonably practicable following the date of the Grant (and in any event within three months thereof) assign the Licence generally to BGE (NI) Distribution Limited(a company registered in England & Wales, with registered number5375370). For the purposes of this Condition and Article 12 of the Order, the Authority shall be deemed to have consented to such assignment.<sup>3</sup>

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<sup>3</sup> Licence Assigned to BGE (NI) Distribution Ltd from 20 June 2005.

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**Condition 1.11: Transfer of Business**

1.11.1 Restrictions on transfer of the Licensed Business

Subject to Condition 1.11.2, the Licensee shall not transfer to another person all or any part of the Licensed Business.

1.11.2 Exception to Conditions 1.11.1

Nothing in Condition 1.11.1 shall prevent the Licensee from transferring all or the relevant part of the Licensed 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 1.10.

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**Condition 1.12: Disposal of Relevant Assets**

**1.12.1 Licensee not to dispose of or relinquish operational control of relevant assets**

Except:

- (a) in relation to an assignment permitted under Condition 1.10 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 1.11 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) in relation to 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 1.12.1 as to whether such disposal or relinquishing of control is such as aforesaid shall be determined by the Authority.

**1.12.2 Notice to be given to Authority**

Save as provided in Condition 1.12.3 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.

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### **1.12.3 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 £25,000 in January 2004 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 £250,000 in January 2004 prices (such sum to be adjusted annually by reference to the retail price index), in any period of twelve months.

### **1.12.4 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 1.12.2.

### **1.12.5 Consultation with other licence holders**

Any consent of the Authority pursuant to Condition 1.12.4 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.

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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 and any gas meter connected to the Network, together with any estate or interest in land required for the utilisation of the Network and any intangible assets (including patents, copyright, design rights and other similar rights) relating to or arising from Licensed Business.

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**Condition 1.13: Payment of Fees to the Authority**

1.13.1 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).

1.13.2 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.

1.13.3 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; and

(c) 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 year immediately preceding the relevant year (the **previous year**) had such fee been calculated in relation to the actual costs of:

(A) the Authority for the previous year; and

(B) the Consumer Council with regard to the exercise of its functions relating to gas consumers for 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.

1.13.4 Where:

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- (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 1.13.3(c), 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 1.13.4(c) above.

1.13.5 Where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph 1.13.2 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.

1.13.6 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; and
  - (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

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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.

“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 as 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.

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**Condition 1.14: Notices**

1.14.1 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 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: Bord Gais Eireann  
PO Box 51,  
Gasworks Road,  
Cork,  
Ireland  
Facsimile Telephone Number (021) 453 4297

Authority: Northern Ireland Authority for Energy Regulation  
Brookmount Buildings,  
42 Fountain Street,  
Belfast, BT1 5EE  
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

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1.14.2 Receipt

Any notice given under the provisions of Condition 1.14.1 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.

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Condition 1.15: Not Used

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**Condition 1.16: Independence of the Licensed Business**

**1.16.1 Application**

This Condition shall apply to the Licensee where:

- (a) it conveys, or is authorised to convey, gas through low pressure pipe-lines;
- (b) any affiliate or related undertaking of the Licensee is carrying on the activities of an Associated Business; and
- (c) the Licensee and/or any Relevant Affiliate of the Licensee has (whether individually or in aggregate) at least 100,000 premises connected to any gas conveyance network consisting of low pressure pipe-lines which is owned or operated by the Licensee or any Relevant Affiliate of the Licensee.

Where this Condition has begun to take effect by virtue of paragraphs (a), (b) and (c) above being satisfied, it shall have effect at all times following that date.

**1.16.2 Managerial and Operational Independence**

Where this Condition applies the Licensee shall:

- (a) unless it has already done so prior to this Condition coming into force, establish; and
- (b) at all times thereafter maintain,

the full managerial and operational independence of the Authorised Business from any Associated Business.

**1.16.3 Branding of the Licensed Business**

Where this Condition applies the Licensee shall use its best endeavours to ensure that:

- (a) any Brand used by the Licensed Business; and
- (b) any communication (including advertising) that:
  - (i) includes or refers to a Brand used by the Licensed Business; and

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- (ii) is issued, published or sent to any person by or on behalf of the Licensed Business,

does not create confusion as to the separate identities of:

- (c) the Licensed Business; and
- (d) any Associated Gas Supply Business.

**1.16.4 Conduct of the Authorised Business**

Where this Condition applies the Licensee shall ensure that the Authorised Business is conducted in the manner best calculated to secure that it does not unduly discriminate as between any persons or any classes of person, or unduly prefer itself (or any affiliate or related undertaking) over any other persons or any classes of person.

**1.16.5 Means of achieving Managerial and Operational Independence**

In order to facilitate its compliance with Condition 1.16.2, the Licensee shall use all reasonable endeavours to ensure that:

- (a) the Authorised Business is provided with such premises, systems, equipment, facilities, property, personnel, data and management resources as are necessary for its efficient and effective managerial and operational independence;
- (b) it does not hold or acquire shares in any Associated Gas Supply Business or in any Holding Company of any such Associated Gas Supply Business;
- (c) subject to any financial supervisory rights of a Holding Company of the Licensee as provided for in the Licensee's financial plan, commercial and operational decisions relating to the operation, maintenance and development of the Licensee's Network are taken only by those persons who are employed by, and are engaged in the operation and management of, the Authorised Business;
- (d) any Associated Business may not use or have access to:

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- (i) premises or parts of premises occupied by persons engaged in the management or operation of the Authorised Business;
  - (ii) systems for the recording, processing or storage of data to which persons engaged in the management or operation of the Authorised Business also have access;
  - (iii) commercially sensitive or confidential information relating to, or derived from, the Authorised Business;
  - (iv) equipment, facilities or property employed for the management or operation of the Authorised Business;
  - (v) the services of persons who are (whether or not as their principal occupation) engaged in the management or operation of the Authorised Business (save to the extent the Authority consents to such use or access); and
- (e) it can and does, insofar as is legally possible:
- (i) ensure that any director of the Licensee is not at the same time also a director of a company which carries on an Associated Gas Supply Business; and
  - (ii) prevent any person who has ceased to be engaged in the management or operation of the Authorised Business from being employed by, or engaged in the activities of, any Associated Business until the expiry of an appropriate time from the date on which he ceased to be engaged by the Authorised Business.

### **1.16.6 Provision and Use of Information**

In order to facilitate its compliance with condition 1.16.4 the Licensee shall ensure that:

- (a) any communications made by the Licensee, or on its behalf, in the course of the Licensee's Marketing Activities:

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- (i) do not mislead consumers;
  - (ii) do not enable the Associated Gas Supply Business to obtain any unfair commercial advantage; and
  - (iii) are fair, and do not show any undue preference towards or undue discrimination against any gas supplier, including the Associated Gas Supply Business, both in terms of their content and presentation; and
- (b) commercially sensitive or confidential information relating to a licence holder and furnished to or otherwise acquired by the Authorised Business is not disclosed or accessible to any Associated Business without the prior written consent of the relevant licence holder.

**1.16.7 Additional Definitions**

In this Condition:

“Act”	means the Gas Act 1986, as amended from time to time;
“Associated Business”	means any business, other than the Authorised Business, of the Licensee (or of any affiliate or related undertaking of the Licensee) which is carrying out any activity, that requires authorisation in accordance with either Article 6(1) of the Order or section 5(1) of the Act or which is involved in the production or purchase of gas;
“Associated Gas Supply Business”	means any Gas Supply Business not forming part of the Authorised Business.
“Authorised Business”	means the Licensed Business, taken together with any other business of the Licensee (or of any affiliate or related

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undertaking of the Licensee) which is carrying on activities requiring authorisation in accordance with Article 6(1)(a) of the Order or section 5(1)(a) of the Act and which:

- (a) relate to the conveyance of gas through distribution pipelines; and
- (b) where the Licensee has so notified the Department and the Authority, relate to the conveyance of gas through transmission pipelines;

“Brand” means any name, trade name, term, sign, symbol or design or any combination of them that identifies the Licensed Business;

“Gas Supply Business” means any business carrying out activities that require authorisation in accordance with Article 6(1)(c) of the Order or section 5(1)(b) of the Act;

“Holding Company” has the meaning given to it in Article 4 of The Companies (Northern Ireland) Order 1986; and

“Marketing Activities” means any activities of the Licensee that are directed at, or incidental to identifying and communicating with, consumers for the purpose of promoting the activities of the Licensed Business to them.

“Relevant Affiliate” means any affiliate or related undertaking of the Licensee which is carrying on

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activities which:

- (a) require authorisation in accordance with Article 6(1)(a) of the Order or section 5(1)(a) of the Act; and
- (b) relate to the conveyance of gas through low pressure pipe-lines.

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**Condition 1.17: Business Separation Compliance Plan**

1.17.1 Application

This Condition shall apply where Condition 1.16 applies to the Licensee.

1.17.2 Submittal of plan

The Licensee shall, no later than 28 days after Condition 1.16 first applies to the Licensee, prepare and submit to the Authority (for its approval) a compliance plan (the “**Compliance Plan**”) setting out the practices, procedures, systems and rules of conduct which the Licensee has adopted, or intends to adopt, together with the timescales for adoption, to ensure its compliance with Condition 1.16.

1.17.3 Complying with Compliance Plan

The Licensee shall use its best endeavours to comply with the Compliance Plan as approved by the Authority and revised from time to time in accordance with this Condition 1.17.

1.17.4 Authority’s role

The Authority may:

- (a) within 30 days of the Licensee submitting an initial or revised Compliance Plan; or
- (b) following any review of the Compliance Plan that the Authority may conduct from time to time,

serve notice on the Licensee:

- (c) informing the Licensee that, in the Authority’s opinion, the Compliance Plan is not, or is no longer, sufficient for the purposes of the Licensee’s compliance with Condition 1.16; and
- (d) directing the Licensee to make such revisions to the Compliance Plan as, in the Authority’s opinion, are necessary or expedient in order for the

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Compliance Plan to be sufficient for the purposes of ensuring the Licensee's compliance or continued compliance with Condition 1.16.

### **1.17.5 Brand Separation**

Without prejudice to the generality of Condition 1.17.4, the Authority may, where it is satisfied that a Brand being used by the Licensed Business, or the manner in which that Brand is being used, causes confusion as to the separate identities of the Licensed Business and any Associated Gas Supply Business, give notice directing the Licensee to make such revisions to the Compliance Plan as will provide for the Licensee to ensure that the Licensed Business does not:

- (a) use any Brand that is the same as a Brand used by the Associated Supply Business; or
- (b) use any Brand that has characteristics which are the same as or similar to those of a Brand used by the Associated Supply Business.

### **1.17.6 Revision of Compliance Plan**

Where the Licensee receives a notice in accordance with Condition 1.17.4 or Condition 1.17.5, it shall within 30 days or by such later date, if any, as may be specified in the direction, revise the Compliance Plan, in such manner and to such extent that will reflect the Authority's direction and ensure that it is sufficient for the purposes of ensuring the Licensee's compliance with Condition 1.16.

### **1.17.7 Review of Compliance Plan**

The Licensee shall, on at least an annual basis during the period in which Condition 1.16 is in force, review its Compliance Plan so as to ensure:

- (a) its continued compliance with its obligations under Condition 1.16; and
- (b) that the information set out therein shall continue to be accurate in all material respects.

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1.17.8 Authority approval

Where the Licensee revises its Compliance Plan, either in accordance with Condition 1.17.6 or following a review conducted by it in accordance with Condition 1.17.7, it shall submit the revised Compliance Plan to the Authority for its approval.

1.17.9 Facilitating compliance with the Compliance Plan

The Licensee shall ensure that persons engaged in the management and operation of the Licensed Business:

- (a) are made aware of the practices, procedures, systems and rules of conduct set out in the Compliance Plan;
- (b) have the necessary information and facilities to comply with their respective obligations as provided for in the Compliance Plan; and
- (c) are aware of the disciplinary procedures that may be activated should they fail to comply with their obligations under the Compliance Plan.

1.17.10 Compliance Manager

The Licensee shall, following consultation with the Authority, appoint an independent person (the “**Compliance Manager**”) for the purpose of facilitating compliance with its obligations under Condition 1.16 and with its Compliance Plan.

1.17.11 Assisting the Compliance Manager

The Licensee shall ensure that the Compliance Manager has access to such staff, premises, systems, information, documentation, equipment, facilities and other resources as he might reasonably expect to require to fulfil the duties and tasks assigned to him.

1.17.12 Duties of the Compliance Manager

The duties and tasks assigned to the Compliance Manager shall include:

- (a) providing relevant advice and information to the Licensee for the purpose of ensuring its compliance with Condition 1.16 and with the Compliance Plan;

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- (b) monitoring the effectiveness of, and the Licensee's compliance with, the Compliance Plan;
- (c) investigating any complaint or representation received by the Licensee from any person in respect of any matter arising under or by virtue of Condition 1.16 or in relation to the Compliance Plan;
- (d) recommending and advising upon the remedial action which any such investigation has demonstrated to be necessary or desirable, including where necessary revising the Compliance Plan to reflect such recommendation and advice; and
- (e) reporting, at such frequency as is determined in writing by the Authority, to the directors of the Licensee on his activities during the period covered by the report, the investigations he has conducted and on progress implementation of the Compliance Plan.

1.17.13 Report of Compliance Manager

The Licensee shall, at such frequency as is determined in writing by the Authority, but no less than twice every twelve months, submit a report to the Authority:

- (a) detailing the activities of the Compliance Manager during the period covered by the report;
- (b) providing a progress update on the Licensee's implementation of the Compliance Plan;
- (c) setting out the details of any investigations conducted by the Compliance Manager, including:
  - (i) the number, type and source of the complaints or representations on which such investigations were based;
  - (ii) the outcome of such investigations; and
  - (iii) any remedial action taken by the Licensee following such investigations.

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1.17.14 Additional Definitions

In this Condition the terms ‘Associated Gas Supply Business’, ‘Brand’, and ‘Gas Supply Business’ have the meaning given to them in Condition 1.16.

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**Condition 1.18: Not Used**

**Condition 1.19: Not Used**

**Condition 1.20: Not Used**

**Condition 1.21: Not Used**

**Condition 1.22: Not Used**

**Condition 1.23: Systems to Facilitate Change of Supplier**

1.23.1 Practices, Procedures and Systems

The Licensee shall ensure that its practices, procedures and systems facilitate Supplier Transfers taking place within 15 working days of the Licensee receiving a valid Registration Request from a gas supplier.

1.23.2 Maintaining Records and Reporting

The Licensee shall no later than one month after the end of each quarter year ending on 30 June, 30 September, 31 December and 31 March, give to the Authority a report which sets out –

- (a) the number of Registration Requests received by it in each month of that quarter,
- (b) the number of actual Supplier Transfers completed in each month of that quarter, and
- (c) of the number of Supplier Transfers completed in each month of that quarter, the number which took more than 15 working days to complete from the date of the valid Registration Request being received by the Licensee.

1.23.3 Notifying the Authority

The Licensee shall inform the Authority as soon as it becomes aware that its practices, procedures and systems may, as a result of the number of Registration Requests likely to be received by it, cease to be adequate to ensure the Licensee's compliance with paragraph 1.23.1.

1.23.4 Authority Directions

The Authority may, following such consultation with the Licensee as the Authority considers appropriate, direct the Licensee to take such steps as may be specified in a written direction, and in such manner as may be so specified, to review and improve the practices, procedures and systems it has established to comply with this Condition.

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1.23.5 Compliance with Directions

The Licensee shall comply with any direction issued under paragraph 4 from the date specified in the direction.

1.23.6 Definitions

In this Condition:

“Registration Request” means an application from a gas supplier for it to be registered as the supplier responsible for supplying gas to the supply meter point at the premises specified in the application; and

“Supplier Transfer” means the transfer of responsibility for the supply of gas, to a supply meter point at premises connected to the Licensee’s Network, from one gas supplier to another gas supplier.

1.23.7 Compliance with this Condition

The Licensee is not required to comply with this Condition until the date from which the Supply Licensee ceases to have the exclusive right to supply a premises it was previously entitled to supply exclusively.

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**Condition 1.24: Prohibition of Discrimination in provision of services**

1.24.1 Non-Discrimination

The Licensee shall in:

- (a) meeting its obligations under this Licence;
- (b) providing services consisting of, or connected with:
  - (i) the conveyance of gas; and
  - (ii) connections to its Network; and
- (c) providing services under or pursuant to the Network Code,

not show any undue preference towards or undue discrimination against any gas supplier or case or classes of cases of gas supplier, including in particular undue preference towards any affiliate or related undertaking of it which is a gas supplier.

**Condition 1.25: Provision of Information to Gas Suppliers**

1.25.1 Practices, Processes and Systems

The Licensee shall ensure that its practices, processes and systems facilitate the provision of information to, and between, Gas Suppliers which:

- (a) by virtue of or in accordance with the Network Code or other industry code, agreement or practice, is available to or held by the Licensee; and
- (b) relates to or ascertains the consumption of gas by a Customer at premises connected to the Licensee's Network.

1.25.2 Customer Information Requests

The Licensee shall within five working days of receiving a Customer Information Request from a gas supplier, provide to that gas supplier the information specified in the Customer Information Request where that information is available to or held by the Licensee.

1.25.3 Definitions

In this Condition:

<b>Customer Information Request</b>	means a request, made in such form and in such manner as may be determined from time to time by the Authority, for information relating to the consumption of gas by the Customer at the premises identified, and for the period specified, in the request.
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**Condition 1.26: Regulatory Instructions and Guidance**

**1.26.1 Introduction**

- (a) The purpose of this Condition 1.26 is to set out the scope, contents, and common governance arrangements for the Regulatory Instructions and Guidance (“RIGs”) published by the Authority pursuant to this condition.
- (b) The RIGs are the primary means by which the Authority directs the Licensee to collect and provide the information to the Authority that the Authority needs to enable it to administer Part 4 (Price Control Conditions) of this licence and any determinations made by the Authority under or for the purposes of the Price Control Conditions.

**1.26.2 Licensee’s obligation under this condition**

- (a) Unless and so far as the Authority otherwise consents, the Licensee must have in place and maintain appropriate systems, processes, and procedures to enable it:
  - (i) to estimate, measure, and record the information detailed in the RIGs (“specified information”); and
  - (ii) to provide such information to the Authority in respect of such periods and within such timeframes as are specified in the RIGs.
- (b) To facilitate compliance with paragraph (a) of this Condition 1.26.2, the accounting records and other records kept by the Licensee with respect to the specified information must:
  - (i) be so arranged as to ensure that such information can be separately identified and reasonably attributed as between the Licensee’s business and the business of any affiliate or related undertaking of the Licensee; and
  - (ii) be maintained for a period of eight years, or such shorter period as set out in the RIGs, from the date that they are made.

**1.26.3 Scope and content of RIGs**

- (a) Subject to paragraphs (b) and (c) of this Condition 1.26.3, the matters that may be included, or for which provision may be made, in the RIGs are:
- (i) instructions and guidance on the establishment of systems, processes, procedures, and ways for recording and providing specified information;
  - (ii) instructions and guidance on the standards of accuracy and reliability that are applicable to the recording of specified information (including different classes of such information);
  - (iii) a timetable for the development of such systems, processes, and procedures as are required to achieve such standards;
  - (iv) the methodology for calculating or deriving numbers comprising specified information;
  - (v) provision with respect to the meaning of words and phrases used in defining specified information;
  - (vi) requirements as to the form and manner in which, or the frequency with which, specified information must be recorded;
  - (vii) requirements as to the form and manner in which, or the frequency with which, specified information must be provided to the Authority;
  - (viii) requirements as to which (if any) of the specified information is to be subject to audit, the terms on which an auditor is to be appointed by the Licensee for that purpose, and the nature of the audit to be carried out by that person;
  - (ix) requirements as to the circumstances in which the Authority may appoint an examiner to examine the recording of the specified information by the Licensee;

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- (x) a statement on whether and to what extent each category of the specified information is required for the purposes of the RIGs; and
  - (xi) provision about how the Authority intends to monitor, assess, and enforce compliance with the RIGs (as to which, see also Condition 1.26.6).
- (b) The provisions of the RIGs must not exceed what is reasonably required to achieve the purposes of this condition, having regard to the materiality of the costs likely to be incurred by the Licensee in complying with those provisions.
- (c) No specified information may exceed what could be requested from the Licensee by the Authority under Condition 1.3.1.

**1.26.4 Development and modification of the RIGs**

- (a) The Authority may issue new RIGs or modify any existing RIGs by issuing a direction for that purpose to the Licensee.
- (b) Data collected in relation to each formula year must be reported according to the RIGs issued to the Licensee by the Authority as they may be (where applicable) modified in line with this Condition 1.26.4 and with Condition 1.26.5.
- (c) A direction issued by the Authority under paragraph (a) of this Condition 1.26.4 will be of no effect unless the Authority has first:
- (i) given notice to the Licensee that it proposes to issue new RIGs or (as the case may be) to modify the RIGs:
    - (A) specifying the date on which it proposes that the provisions of the document to be issued or modified should take effect;
    - (B) setting out the text of the RIGs to be issued or (as the case may be) modified and the Authority's reasons for proposing to issue or modify it; and

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- (C) specifying the time (which will not be less than a period of 28 days from the date of the notice) within which representations in response to such proposals may be made; and
- (ii) considered any representations in response to the notice that are duly made and not withdrawn.
- (d) The requirements for the issuing of new RIGs or modification of existing RIGs set out in paragraph (c) of this Condition 1.26.4 may be satisfied by actions taken by the Authority before as well as after the coming into effect of this condition.

**1.26.5 Requirements for new or more detailed information**

- (a) This Condition 1.26.5 applies if any modified or new RIGs have the effect of introducing a requirement to provide:
  - (i) a new category of specified information; or
  - (ii) an existing category of specified information to a greater level of detail,

which has not previously been collected by the Licensee, whether under the provisions of the RIGs or otherwise.

- (b) Where this Condition 1.26.5 applies, the Licensee may provide estimates to the Authority in respect of the relevant category of specified information for any formula year specified by the Authority.
- (c) The estimates that are mentioned in paragraph (b) of this condition may be derived from such other information available to the Licensee as may be appropriate for that purpose.

**1.26.6 Compliance with the provision of the RIGs**

- (a) The Licensee must at all times comply with the provisions of the RIGs for the time being in force pursuant to this condition.

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- (b) Where the Licensee is a distribution system operator and operates one or more low pressure pipe-line networks in a single legal entity, it must comply with the requirements of this condition separately in respect of each such network.
- (c) Nothing in this condition requires the Licensee to provide any documents or give any information that it could not be compelled to produce or give in evidence in civil proceedings before a court.

**1.26.7 Definitions**

For the purposes of this condition:

- "examiner"** means, in relation to the RIGs, a person whose degree of knowledge and experience of the matters that are the subject of the RIGs will enable him to properly carry out and complete the tasks required of him under the terms of his nomination by the Authority pursuant to the provisions of the RIGs;
- "specified information"** means information (or a category of information) that is so described or defined in the RIGs.

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PART 2

**CONDITIONS APPLICABLE TO THE CONVEYANCE OF GAS BY THE  
LICENCE HOLDER**

**Condition 2.1**      **Not Used**

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**Condition 2.2: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services**

2.2.1 Determination of conveyance charges by the Licensee

The Licensee shall establish the methods and principles on which conveyance charges shall be determined for gas suppliers wishing and entitled to use the Network and the Licensee shall publish the same in accordance with Condition 2.2.2 and 2.2.8.

2.2.2 Publication of conveyance charges and other terms for the conveyance of gas

Subject to Condition 2.2.2A and Condition 2.2.3:

(a) the Licensee shall no later than 1 October in each preceding year for the forthcoming year publish a statement of:

- (i) its conveyance charging methodology for the use of the Network by gas suppliers for the forthcoming year, by which any such gas supplier may reasonably be able to calculate applicable conveyance charges; and
- (ii) its other terms for the use by them of the Network (and in relation to the Network Code by reference to the Network Code);

in such manner as will secure adequate publicity for it; and

(b) the Licensee shall send a copy of any such statement to any person who asks for one;

and subject to Condition 2.2.4(b) such statement shall clearly distinguish cases and classes of cases of gas supplier for whom the conveyance charging methodology may result in differing conveyance charges.

2.2.2A No obligation until end of supply exclusivity

The Licensee shall have no obligation under Conditions 2.2.1, 2.2.2, 2.2.3, 2.2.4 or 2.2.6 at the date of the Grant, and shall only be obliged to comply with those Conditions, in respect of each Development Area (as defined in Condition 3.1) and each class of consumer, from the earlier of:

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- (a) the beginning of the year in which the Supply Licensee is scheduled (in accordance with its licence) to cease to have exclusivity of supply in respect of that Development Area and that class of consumer; and
- (b) two months after the Supply Licensee ceases to have exclusivity of supply in respect of that Development Area and that class of consumer.

**2.2.3 Approval of Authority conveyance charges and other terms for the conveyance of gas**

No later than one month and five working days before it intends to publish its statement under Condition 2.2.2 the Licensee shall notify the Authority of the contents of that statement, and:

- (a) provide the Authority with such information as will enable the Authority to be reasonably satisfied that the methodology and principles for the conveyance charges have been determined in accordance with the provisions of Part 4;
- (b) provide the Authority with an explanation of the other terms for conveyance set out in the statement; and
- (c) prior to publication, obtain the Authority's approval to the form and content of the statement.

**2.2.4 Charging for the conveyance of gas and prohibition on undue discrimination**

The Licensee shall:

- (a) unless the Authority otherwise consents, not charge for the conveyance of gas in the Network during any year or apply other terms for the conveyance of gas on any basis other than contained in its statement of conveyance charges published under Condition 2.2.2 in respect of that year;
- (b) not show any undue preference towards or undue discrimination against any gas supplier or class of gas suppliers in the conveyance charges made or other terms for the conveyance of gas applied in relation to the Network; and
- (c) within 28 days of receiving a request for the quotation of conveyance charges for specified conveyance services by a gas supplier, provide the gas supplier with a

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specific statement of the conveyance charges and other terms for the conveyance of gas applicable to the conveyance services for which the gas supplier requested a quotation; and for the purposes of Condition 2.2.4(c) and the Licensee's obligation to provide a specific statement of conveyance charges, a request for the quotation of conveyance charges for specified conveyance services shall be treated as such if it is in such form as the Licensee can reasonably be expected to provide a specific statement of conveyance charges in return.

### **2.2.5 Licensee's obligation to provide services for the conveyance of gas in accordance with the Network Code**

The Licensee shall provide gas suppliers with conveyance services in accordance with the Network Code.

### **2.2.6 Resolution of disputes**

- (a) This condition 2.2.6 applies where there is a dispute, between the Licensee and any person entitled, or claiming to be entitled, to be provided with conveyance services by the Licensee pursuant to this Condition 2.2, in respect of the terms of the agreement offered by the Licensee to such person pursuant to this Condition 2.2.
- (b) Where this condition 2.2.6 applies, any party to the dispute may make an application to the Authority to determine the terms of the agreement in dispute.
- (c) Paragraph (d) applies where the Authority receives an application pursuant to sub-paragraph (b) above and the dispute:
  - (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 the Authority that it has not concluded its investigation of the dispute.
- (d) Where this paragraph applies 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 of the dispute.

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- (e) Where the Authority refers the dispute to the General Consumer Council it will at the same time inform the parties of that referral.
- (f) 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 (the 'applicable timescale'), either party to the dispute may refer the matter back to the Authority for determination.
- (g) Paragraph (h) applies in respect of a dispute:
  - (i) which is not referred by the Authority to the General Consumer Council under paragraph (d); or
  - (ii) which has been referred back to the Authority for determination under paragraph (f).
- (h) Where this paragraph applies the Authority may, having given both parties not less than one month in which to make any further representations, settle the terms of the agreement dispute in such manner as appears to the Authority to be reasonable having (insofar as is relevant) regard in particular to the following considerations:
  - (i) the efficient and safe operation of the Network by the Licensee;
  - (ii) the conveyance by the Network of:
    - (A) the quantities of gas which the Licensee requires or may reasonably be expected to require to be conveyed by the Network to enable the Licensee to comply with the conditions of the licence; and
    - (B) the quantities of gas of any person who has a right to have gas conveyed by the Network is entitled to require to be so conveyed in exercise of that right.
- (i) Where the person entitled or claiming to be entitled to conveyance services from the Licensee wishes to proceed on the basis of the terms of the agreement as settled by the Authority, the Licensee shall forthwith enter into and implement such agreement in accordance with its terms.

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**2.2.7 Additional duty to provide information**

The Licensee shall advise the Authority by its report under Condition 3.2.6 in respect of each year whilst that Condition applies, and thereafter by a report provided to the Authority no later than 31<sup>st</sup> December of each year in respect of that year, of:

- (a) the number of separate arrangements with gas suppliers for gas conveyancing services provided; and
- (b) the volumes of gas offtaken from the Network by gas suppliers including its own Separate Business, if any, engaged in the supply of gas.

**2.2.8 Direction by the Authority**

- (a) Where the Authority determines that it is necessary for the Licensee to revise:
  - (i) the methods and principles on which it has determined the conveyance charges as provided in the Licensee's latest published statement; and/or
  - (ii) the conveyance charges and other terms for the conveyance of gas 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.

- (b) The Licensee shall comply with the requirements of any direction issued by the Authority under this Condition 2.2.8 and shall publish a revised statement in accordance with Condition 2.2.3.

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**Condition 2.2A: Terms and Conditions of Gas Contracts with Domestic Consumers**

2.2A.1 The Licensee shall ensure that any contract it enters or offers to enter into with a domestic consumer for the provision of any gas service (a **Gas Contract**) contains provisions which are in clear and comprehensible language and which incorporate all relevant information so as to enable the consumer to understand the terms and conditions under which the services are, or are to be, provided.

2.2A.2 Before entering into, or concluding, a Gas Contract with any domestic consumer, the Licensee shall give the domestic consumer:

- (a) a written copy of the full terms and conditions of the Gas Contract, including without limitation all the information referred to in paragraph 2.2A.3; and
- (b) details of how the domestic consumer can contact, and the relevant address and telephone number of, the General Consumer Council for further help and advice, including in particular with regard to their rights in relation to the supply of gas services provided by the Licensee.

2.2A.3 The Licensee shall ensure that every Gas Contract (as between the Licensee and each domestic consumer) shall, as a minimum, include the following:

- (a) the identity and address of the Licensee and any other appropriate contact details;
- (b) the services to be provided, the service quality levels offered by the Licensee and, where the Gas Contract relates to the provision of a connection between the domestic consumer's premises and the Licensee's Network, the time within which the connection will be made;
- (c) the duration of the Gas Contract, the terms and conditions for renewal (where the Gas Contract provides for its renewal) and for termination of the Contract (which terms and conditions shall be compliant with the requirements of this Condition), and the existence of any right of cancellation or termination by the domestic customer of the Gas Contract;
- (d) (if offered by the Licensee) the types of maintenance service offered under the Gas Contract;

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- (e) a right for the domestic consumer to terminate the Gas Contract where:
  - (i) the Licensee proposes a variation to that Gas Contract; and
  - (ii) the proposed variation:
    - (A) relates to terms and conditions as to price; or
    - (B) would vary, effect, or impact the rights and obligations of the domestic customer, and
  - (iii) the domestic consumer does not wish to accept the proposed variation;
- (f) the charges and/or other payments to be paid by the domestic consumer in a manner that enables the domestic consumer to identify all such charges and payments due under the Gas Contract and the dates or times at which such charges or payments are to be paid;
- (g) the compensation and the refund arrangements (if any) which will apply if contracted service quality levels, including in relation to inaccurate and delayed billing, are not met; and
- (h) details of how the domestic consumer may initiate the Licensee's complaint handling procedure (as established in accordance with the Condition relating to Complaints Handling Procedure).

2.2A.4 The Licensee shall ensure that any Gas Contract it enters or offers to enter into provides the domestic consumer with a choice of payment methods.

2.2A.5 Any difference in or between any of the Licensee's Gas Contracts arising from the choice of payment method shall be determined by the Licensee on a basis which reflects the costs to the Licensee of providing that different payment method.

2.2A.6 Where:

- (a) the Licensee proposes to vary any of the terms and conditions of a Gas Contract it has with a domestic consumer; and
- (b) the proposed variation:

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- (i) relates to terms and conditions as to price; or
- (ii) would vary, effect, or impact the rights and obligations of the domestic customer under the Gas Contract,

it shall at least 21 days in advance of the date that the proposed variation is due to take effect:

- (c) send to the domestic customer a notice of the proposed variation, together with the consumer's right (as included in the Gas Contract in accordance with paragraph 2.2A.3(e)) to terminate the Gas Contract before the proposed variation is due to take effect; and
- (d) ensure that the notice sets out the proposed variation and any supporting information in clear, transparent and easy to read and understand language.

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**Condition 2.3: Connection Charges and Obligation to permit a Connection**

**2.3.1 Statement of connection charges and, terms for connection and meter connections and disconnections**

Subject to Conditions 2.3.2 and 2.3.3, the Licensee shall, at no later than 3 months after the coming into force of (i) this licence or (ii) any modification of this condition 2.3 (as the case may be) give the Authority a statement, for the approval of the Authority as to form and content, showing the methods by which and the principles on which charges are to be determined by the Licensee, for:

- (a) connecting any premises to the Network, maintaining, repairing and renewing the connection and disconnecting the premises and removing gas fittings owned by it and comprised in the connection;
- (b) connecting and disconnecting non standard gas meters and gas meters not owned by the Licensee in any premises; and
- (c) connecting to the Network any pipe-line system to or from which gas will be conveyed by means of the Network and maintaining, repairing and renewing the connection,

and in any such case the Licensee shall when giving such a statement include in that statement the Licensee's other terms for the connection and an explanation of those terms together with the Licensee's technical design and operational requirements which apply to the making of a connection to its Network.

**2.3.2 The statement and cases and classes of cases**

The statement given by the Licensee under Condition 2.3.1 shall:

- (a) subject to Condition 2.3.5(b), clearly distinguish cases and classes of cases of person for whom the Licensee proposes different methods or principles for connection; and
- (b) in respect of any such case, or class of cases, 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.

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**2.3.3 The statement to give likely indication of costs and additional duty to provide information**

The statement given under Condition 2.3.1 shall also for the Authority's information where practicable indicate the costs likely to arise in respect of work done and materials used in connecting any premises, non standard gas meters, gas meters not owned by the Licensee or pipe-line system and the Licensee shall:

- (a) prepare the statement in such a manner as will reasonably enable a person to estimate the Licensee's connection charges in those circumstances; and
- (b) enable a person requesting a connection in those circumstances to determine what works 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, for the Licensee to provide the connection.

**2.3.4 Authority's approval required to stated connection charges and publication of statement**

Subject to the Authority's prior approval to the form and contents of the statement given by the Licensee under Condition 2.3.1 as they relate to charges for connection, the Licensee shall:

- (a) publish that statement in such manner as will secure adequate publicity for it; and
- (b) send a copy of any such statement to any person who asks for one;

and in approving the basis for charging for connection the Authority shall have regard to the need of the Licensee to be able to finance the carrying on of its activities and a return equal to that which in the reasonable opinion of the Authority is appropriate.

**2.3.5 Connection charges and terms for connection and prohibition on undue discrimination and connection of pipe-line systems**

The Licensee shall:

- (a) not charge for a connection of premises, of any non standard gas meter, gas meter not owned by it or any pipe-line system to the Network on any basis or establish other terms for the connection on any basis other than that contained in the statement published under Condition 2.3.4;

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- (b) not show any undue preference towards or undue discrimination against any person or case or classes of cases of person (including any Other Business) seeking a connection of premises to the Network, or of any non standard gas meter, or gas meter not owned by the Licensee (or any affiliate or related undertaking of the Licensee) or any person who operates or proposes to operate a pipe-line system (including any Other Business), in relation to the connection of that system to the Network, and the Licensee shall not refuse a request for connection where the person seeking the connection is willing to pay the Licensee's charges for connection and comply with the Licensee's other terms for connection, including any terms as to technical and safety matters; and
- (c) within 28 days of receiving a request for the quotation of connection charges covered by the published statement, provide the person requesting the quotation with a specific statement of the connection charges and other terms of connection applicable to the request for a quotation;

and for the purposes of Condition 2.3.5(c) and the Licensee's obligation to provide a specific statement of connection charges, a request for the quotation of connection charges shall be treated as such if it is in such form as the Licensee can reasonably be expected to provide a specific statement of connection charges in return.

#### **2.3.6 Direction by the Authority**

- (a) Where the Authority determines that it is necessary for the Licensee to revise:
  - (i) the methods and principles on which it has determined the charges and other terms for connection in the latest published statement; and/or
  - (ii) 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.

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- (b) The Licensee shall comply with the requirements of any direction issued by the Authority under this Condition 2.3.6 and shall publish revised statements as soon as reasonably practicable in accordance with Condition 2.3.4. .

The Licensee shall comply with the requirements of any direction issued by the Authority under this Condition 2.3.6 and shall publish revised statements

#### **2.3.7 Revising connection charges**

Without prejudice to Condition 2.3.6, the Licensee shall not revise the basis of its charges for a connection of any premises, any non standard gas meter, any gas meter not owned by it or any pipe-line system to the Network, or the other terms for the connection, without first giving the Authority a revised statement in the same terms as in Condition 2.3.1 and obtaining the consent of the Authority to such a revision in the same terms as Condition 2.3.4.

#### **2.3.8 Resolution of disputes by the Authority**

The Authority may, on the application of any person entitled (or claiming to be entitled) to require a connection to the Network will refer the application in the first instance to the General Consumer Council who will try to resolve the dispute, provided the General Consumer Council shall give the Licensee not less than one month in which to make representations regarding such application:

- (a) the General Consumer Council will settle any dispute between the applicant and the Licensee in so far as it relates to the provision or making of a connection by the Licensee; and
- (b) in particular, determine the charges and other terms on which the Licensee shall (notwithstanding Condition 2.3.5) provide or make the connection in question (where the applicant is willing to accept the same), in such manner as the Authority considers appropriate having regard to (in so far as is appropriate) the obligations that would otherwise have applied to the Licensee under Condition 2.3.5 and the relevant objective as defined in Condition 2.4.1. If the General Consumer Council is unable to resolve the dispute the application will be referred back to the Authority. The Authority will try to resolve the dispute with reference to conditions 2.3.8 (a) and 2.3.8 (where the applicant is willing to accept the same), in such

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manner as the Authority considers appropriate having regard to (in so far as is appropriate) the obligations that would otherwise have applied to the Licensee under Condition

#### **2.3.9 Explanation of connection charging methodology for introducing gas to the Network**

The Licensee shall comply with any direction given by the Authority to furnish it with a statement 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 the pipe-line; or
- (b) supplying and installing any pipe-line or works;

including where practicable an indication of likely costs and the other terms for doing so.

#### **2.3.10 Authority's consent required for charges and other terms for introducing gas to the Network and prohibition on undue discrimination and connections for introducing gas to the Network**

The Licensee shall not:

- (a) charge for a connection to introduce gas to the Network on any basis or on any other terms without the consent of the Authority; and
- (b) show any undue preference towards or undue discrimination against any person (including any Other Business) seeking a connection to introduce gas to the Network and, in the case of a connection to introduce gas to the Network, the Licensee shall not refuse a request for connection where the person seeking the connection is willing to pay the Licensee's charges for connection and comply with the Licensee's other terms for connection, including any terms as to technical and safety matters.

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2.3.11 Publication of connection charge statements

The Licensee shall:

- (a) publish a statement of the basis of its connection charges for introducing gas to the Network and its other terms for connection as the Authority has consented to under Condition 2.3.8 in such manner as will secure adequate publicity for it; and
- (b) send a copy of any such statement to any person who asks for one.

2.3.12 Interpretation and construction

References in this Condition to:

“charges” shall include references to means whereby such charges may be ascertained.

2.3.1. (where the applicant is willing to accept the same), in such manner as the Authority considers appropriate having regard to (in so far as is appropriate) the obligations that would otherwise have applied to the Licensee under Condition

Obligation to permit a connection

Subject to a person who has a licence or exemption to convey gas within the Licensed Area

- (a) satisfying any technical and safety criteria contained in the Network Code;
- (b) satisfying the Licensee’s technical design and operational requirements; and
- (c) paying to the Licensee a connection fee (determined by the Licensee except insofar as the Authority otherwise directs or determined under Condition 2.3.8(b)), to connect a pipe- line between the Network and the premises,

The Licensee shall permit a connection to the Network by that person.

2.3.14 Relief where Start Date not yet occurred

Notwithstanding the other provisions of this Condition 2.3, the Licensee shall be entitled to refuse a request for a connection to the Network of:

- (a) any premises;

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- (b) any non standard gas meter; or
- (c) any gas meter not owned by the Licensee;

if the Start Date (as defined in Condition 3.1) for the Development Area (as defined in Condition 3.1) in which the premises or gas meter in question is located has not, at the time such request is made, occurred.

**2.3.15 General relief from obligation to offer a connection**

Notwithstanding the other provisions of this Condition 2.3, the Licensee shall be entitled to refuse a request for a connection to the Network of:

- (a) any premises;
- (b) any non standard gas meter;
- (c) any gas meter not owned by the Licensee, or
- (d) any pipe-line system;

if making such a connection would be likely to cause the Licensee to be in breach of: (i) the relevant objective as defined in Condition 2.4.1; (ii) any regulations relating to safety or standards made under the Order or any other enactment, which are applicable to the Licensed Business; or (iii) any Conditions or the Network Code.

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**Condition 2.4: Network Code**

2.4.1 The relevant objective

The Licensee shall establish transportation arrangements, being arrangements other than those to which Conditions 2.2 and 2.3 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 2.4.1(c)(i), the promotion of effective competition between Users .

2.4.2 The Network Code

The Licensee shall:

- (a) by the earlier of the date:
  - (i) 12 months after the Authority issues a direction requiring the Licensee to do so;
  - (ii) 12 months before the Supply Licensee is scheduled (in accordance with its licence) to cease to have the exclusive right to supply a premises it was previously entitled to supply exclusively; and

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(iii) two months after the Supply Licensee ceases to have the exclusive right to supply a premises it was previously entitled to supply exclusively,

prepare and provide the Authority for its approval a “Network Code”, that is to say a document setting out the arrangements established under Condition 2.4.1 and the terms on which it will enter into such arrangements with gas suppliers for the conveyance of gas;

(b) where pursuant to Condition 2.14.1 the Licensee is designated as a transmission system operator, ensure that the Network Code contains provisions that establish:

(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;

the methodology by which the charges to be levied on Users for the (where the applicant is willing to accept the same), in such manner as the Authority considers appropriate having regard to (in so far as is appropriate) the obligations that would otherwise have applied to the Licensee under Condition balancing of the Network are to be determined;

(c) where, pursuant to Condition 2.14.2 the Licensee is designated as a distribution system operator, ensure that the Distribution Network Code contains provisions that establish:

(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

(iv) the technical safety criteria applicable to the operation of the Network;

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- (d) put such Network Code in place except as the Authority otherwise consents and comply with the provisions of the approved Network Code;
- (e) 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
- (f) except in so far as the Authority consents to the Licensee doing so, not enter into any arrangements for the conveyance of gas (including with any Other Business) except in accordance with the provisions of the Network Code applicable from time to time to the circumstances of the case.

2.4.3 Where a term of the Network Code or of the modification rules referred to in Condition 2.4.5 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 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.

#### 2.4.4 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;
  - (aa) the Network Code to be reviewed so as to enable gas suppliers to have gas conveyed in the Network to premises in the Licensed Area at such times as it can reasonably be anticipated that a gas supplier may supply such premises;
- (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;

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- (ii) sending a copy of it to anyone who asks for one; 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.

#### **2.4.5 Modification Rules**

The Licensee shall:

- (a) prepare “the modification rules”, that is to say a document setting out the terms of the procedures established under Condition 2.4.4, 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.

#### **2.4.6 Prohibition on irregular modification**

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

- (a) to comply with Condition 2.4.7(c); or
- (b) with the consent of the Authority;

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

**2.4.7 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 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.

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2.4.8 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 modification rules as modified from time to time to any person who asks for one 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.

2.4.9 Authority to determine material affect 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.

2.4.10 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.

2.4.11 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.

2.4.12 Definitions

In this Condition 2.4, "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.

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**2.4.13 Performance of Obligations**

- (a) The Licensee shall in fulfilling its obligations under Conditions 2.4.1 to 2.4.2 and 2.4.4 to 2.4.5:
  - (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 2.4.13.

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### **Condition 2.4A Compliance with System Operator Agreements**

#### **2.4A.1 Ability to require other licence holders to enter into agreements**

Subject to Condition 2.4A.2, where the Licensee is designated under this Licence as either a transmission system operator or a distribution system operator, it may require any other person holding a licence granted under Article 8(1)(a) of the Order (whether or not that person is also designated as a transmission system operator or a distribution system operator) to enter into an agreement relating to the interaction or interoperability of its Network with that person's network such that will ensure the conveyance of gas in a manner compatible with the secure and efficient operation of both systems.

#### **2.4A.2 Approval by the Authority**

The Licensee shall not require any person to enter any agreement of the type referred to in Condition 2.4A.1 unless the agreement, and where applicable any amendment to the agreement, has first been submitted to and approved by the Authority.

#### **2.4A.3 Obligation to enter into agreements**

Where the Licensee is required, either by a designated transmission system operator or by a designated distribution system operator (and in accordance with that person's licence), to enter into an agreement of the type mentioned in Condition 2.4A.1, the Licensee shall enter into any such agreement as may be reasonably required by that designated transmission system operator or distribution system operator (as the case may be).

#### **2.4A.4 Network operator agreement**

Without prejudice to Condition 2.4A.3, where the Licensee is a designated transmission system operator it shall enter into and comply with the Northern Ireland Network Operators Agreement (being the document of that name specified as such from time to time by the Authority).

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**Condition 2.5: Provision and Return of Meters**

**2.5.1 Provision of Standard Meters**

The following provisions shall apply with respect to standard gas meters:

- (a) the Licensee shall at the request of any gas supplier wishing to supply gas to premises, install at those premises a standard gas credit or pre-payment meter to register the quantity of gas supplied to those premises. The Licensee shall, in setting its charges for the conveyance of gas, be entitled to recover from gas suppliers the additional cost in respect of the installation and maintenance of a pre-payment meter in accordance with principles and methodologies which the Authority has approved; provided that
- (b) the provisions of Condition 2.5.1(a) shall not apply, and the Licensee shall be entitled to charge its full costs of providing installing and operating a replacement standard gas meter requested by the gas supplier in accordance with principles and methodologies approved by the Authority, if the gas suppliers' request is to replace an existing standard gas credit or prepayment meter at premises connected to the Network by means of a service pipe, with a like standard gas credit or prepayment meter, and the existing standard gas credit or prepayment meter may otherwise be utilised by the gas supplier and is operational within the limits of required accuracy;
- (c) the Licensee shall comply with the gas supplier's request prior to the commencement of the supply of gas to those premises by the gas supplier or at the request of the gas supplier at any time thereafter as soon as is reasonably practicable.

**2.5.2 Provision of Non Standard Credit Meters and Pre-payment meters**

The Licensee shall:

- (a) comply with any reasonable request by any gas supplier wishing to supply gas to premises to provide and install at those premises a gas meter owned by the

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Licensee being a non standard gas credit or pre-payment meter (but being of an appropriate type), specified by the gas supplier, if a meter of that type is readily available to the Licensee; and:

- (i) if the Licensee's capital, installation and (if any) operational costs of the non standard gas credit or pre-payment meter are greater than those like costs of a corresponding standard gas credit or pre-payment meter, as the case may be, then the Licensee shall be entitled to receive from the gas supplier the difference in the costs in accordance with principles and methodologies which the Authority has approved; or
  - (ii) if the Licensee's capital, installation and (if any) operational costs of the non standard gas credit or pre-payment meter are less than those like costs of a corresponding standard gas credit or pre-payment meter, as the case may be, then the Licensee shall pay the gas supplier the difference in the costs in accordance with the principles and methodologies which the Authority has approved; provided that
  - (iii) if the gas supplier's request is to replace an existing gas meter at premises connected to the Network by means of a service pipe, and that meter may otherwise be utilised by the gas supplier and is operational within the limits of required accuracy, then the provisions of Condition 2.5.2(a)(i) and (ii) shall not apply and the Licensee shall be entitled to charge its full costs of providing, installing and operating the gas meter requested by the gas supplier in accordance with principles and methodologies approved by the Authority;
- (b) comply with a request under Condition 2.5.2(a) prior to the commencement of the supply of gas to those premises by the gas supplier or at the request of the gas supplier at any time thereafter as soon as is reasonably practicable.

### 2.5.3 Installation of Gas Suppliers Meter

The Licensee shall:

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- (a) comply with any reasonable request by any gas supplier wishing to supply gas to premises to install at those premises a gas meter of an appropriate type owned by the gas supplier (or the owner or occupier of the premises); and
  - (i) if the Licensee's, installation and (if any) operational costs relating to such a gas meter are greater than the capital, installation and (if any) operational costs of a corresponding standard gas credit or pre-payment meter, as the case may be, then the Licensee shall be entitled to receive from the gas supplier the difference in accordance with principles and methodologies which the Authority has approved; or
  - (ii) if the Licensee's installation and (if any) operational costs relating to such a gas meter are less than the capital, installation and (if any) operational costs of a corresponding standard gas credit or pre-payment meter, as the case may be, then the Licensee shall pay the gas supplier the difference in accordance with the principles and methodologies which the Authority has approved; provided that
  - (iii) if the gas supplier's request is to replace an existing gas meter at premises connected to the Network by means of a service pipe, and that meter may otherwise be utilised by the gas supplier and is operational within the limits of required accuracy, then the provisions of Condition 2.5.3(a)(i) and (ii) shall not apply and the Licensee shall be entitled to charge its full costs of installation and operation of the gas meter requested by the gas supplier in accordance with principles and methodologies approved by the Authority;
- (b) comply with a request under Condition 2.5.3(a) prior to the commencement of the supply of gas to those premises by the gas supplier or at the request of the gas supplier at any time thereafter as soon as is reasonably practicable.

**2.5.3A Overall pre-payment percentage for gas meters owned by the gas supplier**

In the case of a request by a gas supplier under Condition 2.5.3 for a pre-payment gas meter, and where the number of pre-payment gas meters installed at premises supplied by him is greater than or equal to 33% (or such higher percentage as the Authority may from time to time direct) of the total number of gas meters installed at premises supplied by him,

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then, for the purposes of Condition 2.5.3(a), the comparison of costs undertaken in respect of such pre-payment gas meter shall be as against a standard gas credit meter.

**2.5.4 Prohibition on undue discrimination**

The Licensee shall not show any undue preference towards or undue discrimination against any gas supplier seeking the provision and/or installation of a gas meter under this Condition.

**2.5.5 Disconnection of Meters**

Subject to Condition 2.5.6, where any gas meter owned by the Licensee is disconnected by or returned to the Licensee, it shall promptly make an appropriate record of the details displayed on the register of the meter at the time of disconnection or return and of such other information in its possession as shall subsequently enable the identity and time of disconnection or return of the meter and the premises from which it was disconnected to be ascertained and shall keep such a record for a period of not less than two years from the date of the later of such disconnection or return.

**2.5.6 Safe Custody of Meters**

Where the Licensee has reasonable cause to believe that any gas meter owned by it and disconnected by or returned to it is the subject of:

- (a) any investigation in relation to proceedings or possible proceedings relating to the alleged theft of gas by any person; or
- (b) a dispute as to the accuracy of the meter;

the Licensee shall use all reasonable endeavours to keep the meter in safe custody in the condition in which it was disconnected or returned and with the register unaltered:

- (a) during the period of six months beginning with the date on which the meter was disconnected or returned, for so long as the Licensee continues to have reasonable cause to believe that the meter is or may be so relevant; and
- (b) thereafter for as long as, to the Licensee's knowledge, the meter is so relevant.

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2.5.7 Provision of Information

Where the Licensee is notified, pursuant to any regulations made under Article 22 of the Order, of the connection or disconnection of any meter at any premises for the purposes of that Article, it shall promptly give to the gas suppliers in respect of those premises the information so notified and furnish any further information as such gas suppliers may reasonably request relating to the meter and which the Licensee either has or may readily obtain.

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**Condition 2.6: Conduct of Transportation Business**

**2.6.1 Conduct of business activities**

The Licensee shall conduct its business activities relating to the conveyance of gas (including any activities related to making of arrangements with other network operators for the conveyance of gas through their networks for the purposes of Condition 2.12) in the manner best calculated to:

- (a) facilitate effective competition in the gas supply market in Northern Ireland; and
- (b) secure that neither:
  - (i) the Licensee or any affiliate or related undertaking of it or any company of which the Licensee is an affiliate or related undertaking; nor
  - (ii) any other licence holder or exemption holder;

obtains any unfair commercial advantage in any business in the storage, supply or conveyance of gas including, in particular, any such advantage from a preferential or discriminatory arrangement.

**2.6.2 Disclosure of information**

Without prejudice to Condition 1.5, the Licensee shall:

- (a) use its best endeavours to secure that no information relating to or derived from its business activities relating to the conveyance of gas (including any activities related to making of arrangements with other network operators for the conveyance of gas through their networks for the purposes of Condition 2.12) is disclosed for the benefit, or used for the purposes, of a trading business of the Licensee or any affiliate or (so far as the Licensee can require it) related undertaking of the Licensee or a company of which the Licensee is an affiliate or related undertaking; and
- (b) subject to paragraph (a) above, not show any undue discrimination against, or undue preference towards, any person or class of person, in disclosing any information relating to its Licensed Business which may be commercially advantageous to any other person.

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### 2.6.3 Exempt information

Without prejudice to Condition 1.5, Condition 2.6.2(a) shall not extend to:

- (a) information specified in any consent to non-compliance with that Condition given by the Authority to the Licensee;
- (b) information relating to a particular licence or exemption holder which that party has consented in writing to being used or disclosed in accordance with the terms of that consent;
- (c) information which it is necessary for the trading business to use or disclose in order to enter into and comply with arrangements for the conveyance of gas;
- (d) information which is in the public domain (other than as a result of contravention by the Licensee of any Condition of the Licence); or
- (e) information which is required to be disclosed pursuant to a Condition of the Licence.

### 2.6.4 Market Statements

The Licensee shall not, without the prior consent of the Authority, publish any statement or otherwise give any information in writing to consumers which is about or refers to:

- (a) the arrangements for, or the level of, competition in the gas supply market in Northern Ireland; or
- (b) the activities, position or status of any person competing or proposing to compete in the gas supply market in Northern Ireland.

### 2.6.5 Additional definition

In this Condition "**trading business**" means activities connected with the acquisition and disposal of gas in Northern Ireland other than for the efficient operation of the Network operated by the Licensee or for replacing gas lost from the Network.

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**Condition 2.6A: Provision of information to a relevant gas licence holder**

2.6A.1 Obligation to provide information

The Licensee shall furnish to any relevant gas licence holder such information concerning the operation and technical specifications of the Network in such manner and at such times as may:

- (a) reasonably be required by that relevant gas licence holder to enable it to comply with its obligations under its own gas conveyance or gas storage licence or under any document established pursuant to a gas licence; or
- (b) be specified in directions issued from time to time by the Authority to the Licensee for the purpose of this Condition 2.6A.1, having taken into consideration any representations made to the Authority by the Licensee and any relevant gas licence holder, and in accordance with any conditions contained in such directions.

2.6A.2 Ability to refuse

The Licensee shall be entitled to refuse to provide information under Condition 2.6A.1 on the grounds that its disclosure would seriously and prejudicially affect the commercial interests of the Licensee unless and until the Authority, by notice in writing given to the Licensee, directs it to provide that information on the ground that provision thereof is necessary or expedient for the purpose mentioned in Condition 2.6A.1.

2.6A.3 Excluded information

This Condition 2.6A shall not require the Licensee to produce any documents or give any information which it could not be compelled to produce or give in evidence in civil proceedings before the High Court.

2.6A.4 Arrangements for protecting confidentiality

The Licensee shall not be obliged under Condition 2.6A.1(a) to provide information to any relevant gas licence holder which has not established, whether in pursuance of a licence condition or otherwise, effective arrangements designed to secure that information provided in pursuance of this condition (and similar licence conditions) is

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not communicated, directly or indirectly, to any gas supplier or any person acting on behalf of a gas supplier who has made or seeks to make arrangements with that licensee in pursuance of which gas is conveyed through that licensee's network.

**2.6A.5 Definitions and interpretation**

In this Condition 2.6A, unless the context otherwise requires:

- (a) "relevant gas licence holder" means any holder of a licence granted pursuant to Article 8(1)(a) or 8(1)(b) of the Order and/or any holder of a licence to convey (whether by transmission pipe-lines or distribution pipe-lines) or store gas granted under the relevant legislation of a jurisdiction other than Northern Ireland; and
- (b) references to "licence" and "gas supplier" shall not be limited to licences granted under, or gas suppliers operating pursuant to licences or exemptions granted under, the Order.

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**Condition 2.7: Emergency Services and Obligations**

**2.7.1 Emergency telephone service**

The Licensee shall arrange with other licence or exemption holders for:

- (a) the maintenance by the Licensee (jointly with such other persons as the Authority may from time to time direct) of a single continuously attended telephone service (including reasonable facilities to communicate with deaf or partially hearing persons) for the receipt of reports of escapes of gas in respect of which the Licensee or such other licence or exemption holders may have obligations under Article 60 of the Order or under any regulations made by the Department under Schedule 5 paragraph 2 of the Order and for the Licensee to be informed of any escapes of gas in respect of which it may have such obligations;
- (b) the securing of adequate publicity for the service and its telephone number, having regard, in particular, to the special needs of blind or partially sighted persons.

**2.7.2 Prevention of gas escapes**

Where any gas escapes from the Network the Licensee shall, as soon as reasonably practicable of being informed of the escape, attend the place where gas is escaping and the Licensee shall take all necessary steps to prevent an escape of gas from any part of the Network or otherwise in any premises within 12 hours of receiving a report of such an escape (or of (if earlier) becoming aware of the escape); and subject to Condition 2.7.3, the Licensee shall make arrangements whereby, in preventing an escape of gas in any premises to which it conveys gas:

- (a) the prevention is effected, so far as it is reasonably practicable and safe to do so:
  - (i) in such a way as to maintain the supply of gas to those premises and to appliances designed for use by domestic consumers for heating or cooking;
  - (ii) by carrying out any appropriate minor appliance repairs; and
  - (iii) by a person adequately trained in recognising the signs of leakage of carbon monoxide and instructed to report any such signs to the owner or occupier of the premises; and

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- (b) if further repair work is required, information is given to the owner or occupier of the premises or, in their absence, left at the premises as to persons in the locality who are permitted pursuant to regulations under the Health and Safety at Work (Northern Ireland) Order 1978 to perform repairs on gas fittings.

#### **2.7.3 Carrying out of work**

Nothing in Condition 2.7.2 shall oblige the Licensee to carry out any work which cannot be completed within 30 minutes of entering the premises for the purpose of preventing the escape or would use materials costing more than £5.00 adjusted annually in line with the retail price index from the month of the date of the Grant.

#### **2.7.4 Special arrangements for pensioners, etc**

Unless it has already done so, the Licensee shall make arrangements whereby, so far as is reasonably practicable, the occupier of any premises to which gas is conveyed by the Licensee who:

- (a) is a domestic consumer;
- (b) is chronically sick, disabled or of pensionable age;
- (c) does not share the occupancy of the premises with any person who is not chronically sick, disabled or of pensionable age or a minor; and
- (d) is included in the list of domestic consumers which has been provided to the Licensee by any gas supplier under the conditions of that party's licence or exemption;

is not deprived of adequate heating and cooking facilities where the conveyance of gas to those premises has been disconnected for the purpose of averting danger to life or property.

#### **2.7.5 Modification of arrangements**

The Licensee shall maintain the arrangements made by it in relation to the matters referred to in Condition 2.7.4, with such modifications to which the Authority consents.

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**2.7.6 Application of Condition 2.7.7**

Condition 2.7.7 shall apply in relation to:

- (a) non-domestic consumers who are supplied with gas on terms on which the supply of gas may only be interrupted or reduced in pursuance of such a term of that consumer's contract for the supply of gas or in pursuance of directions given under section 2(1)(b) of the Energy Act 1976; and
- (b) the premises of such non-domestic consumers.

**2.7.7 Priority for maintenance of supply**

Where the Licensee considers that, for reasons of safety (unrelated to particular premises or a particular locality), the supply of gas to any non-domestic consumer to whom this Condition applies or the conveyance of gas to their premises needs to be interrupted, reduced or restricted, it shall, so far as is reasonably practicable in the circumstances having regard to the over-riding importance of safety:

- (a) when telling a non-domestic consumer that he should use his best endeavours to refrain from using gas, in pursuance of such a term of that consumer's contract for the supply of gas or
- (b) when interrupting or restricting the conveyance of gas,

give priority to the maintenance of the supply of gas to consumers on the priority list required by Condition 2.7.9 and the conveyance of gas to their premises.

**2.7.8 Consultation with the Department**

Where the reasons of safety referred to in Condition 2.7.7 relate to the whole or a substantial part of Northern Ireland or there is a significant shortage of gas affecting the whole or a substantial part of Northern Ireland, the Licensee shall consult with the Department on the taking of any such steps as are mentioned in Condition 2.7.7 (a) or (b) and, so far as is reasonably practicable in the circumstances having regard to the over-riding importance of safety, shall do so before taking any such steps.

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2.7.9 Priority List

The Licensee shall:

- (a) unless it has done so before being licensed, establish a list of non-domestic consumers who should be given priority as respects the maintenance of a supply of gas and the maintenance of the conveyance of gas to their premises; and
- (b) review, and so far as appears appropriate, amend the list from time to time, after consultation with relevant gas suppliers, and, without prejudice as aforesaid, shall conduct such a review and make any such amendments on being directed so to do by the Department;

and, if the Department has designated criteria to be taken into account when such a list is established or revised, the Licensee shall so take account of those criteria.

2.7.10 Determination by the Department

Any question arising under this Condition as to whether a particular non-domestic consumer satisfies the designated criteria shall be determined by the Department.

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**Condition 2.7A: Distribution Marketing Code**

**2.7A.1 Requirement to Prepare etc. a Code**

The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs and together with every other distribution system operator, prepare, submit to and have approved by the Authority a code of practice to be known as the Distribution Marketing Code.

**2.7A.2 The Code**

The Distribution Marketing Code shall:

- (a) be designed to facilitate achievement of the relevant objectives set out in paragraph 2.7A.3; and
- (b) make provision relating to the relevant matters set out in paragraph 2.7A.4.

**2.7A.3 The Relevant Objectives**

The relevant objectives are that:

- (a) the marketing activities of distribution system operators in respect of the conveyance of gas through distribution pipelines:
  - (i) are conducted in a fair, transparent, appropriate and professional manner;
  - (ii) avoid any preference or discrimination being shown to or against any gas supplier;
  - (iii) do not restrict, distort or prevent competition in the supply of gas;
  - (iv) do not lead to consumer confusion about the relationship between and activities of gas distribution and gas supply; and
- (b) any information provided by the Licensee (whether in writing, by electronic display or verbally) to consumers about the Licensee's business, including in particular about connections between consumers' premises and the Licensee's Network:
  - (i) is complete and accurate;

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- (ii) is capable of being easily understood by consumers;
- (iii) does not name or otherwise show preference to or discrimination against any gas supplier;
- (iv) does not mislead consumers to whom it is directed and is otherwise fair and accurate both in terms of its content and its presentation.

**2.7A.4 The Relevant Matters**

The relevant matters are:

- (a) the establishment and implementation of procedures for the selection of staff or other representatives who are employed or engaged in roles which involve or are likely to involve communication with consumers for the purpose of the Licensee's marketing activities;
- (b) the provision or procurement of appropriate training for staff or other representatives who will or are likely to communicate with consumers for the purpose of the Licensee's marketing activities, which training shall at least include training about the role, position and obligations of the Licensee as a gas distributor in respect of the Northern Ireland gas sector and about the Licensee's obligations under this Condition; and
- (c) the establishment and implementation of procedures for the written approval, by a senior officer of the Licensee, that such information as is referred to in paragraph 2.7A.4(b) is compliant with the relevant objectives set out in paragraph 2.7A.3.

2.7A.5 [not used]

2.7A.6 [not used]

2.7A.7 [not used]

2.7A.8 [not used]

2.7A.9 [not used]

2.7A.10 [not used]

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2.7A.11 [not used]

2.7A.12 [not used]

2.7A.13 This Condition is subject to Condition 2.9B: Preparation, Revision Of and Compliance with Codes of Practice.

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**Condition 2.8: Standards of Performance**

**2.8.1 Licensee to take steps for the achievement of performance standards**

The Licensee shall establish, unless it has done so before the coming into effect of the licence, and shall diligently take all reasonable steps for the achievement of standards of performance (“the established standards”) relating to:

- (a) the connection of the premises of domestic consumers to be supplied with gas to the Network and the maintenance of such connections;
- (b) the arrangements made under Condition 2.7.4;
- (c) the prevention of escapes of gas in or into the premises of domestic consumers,

which established standards shall be subject to approval by the Authority.

**2.8.2 Visits to premises, etc**

The established standards shall, in particular:

- (a) govern the making of visits to premises and the response to complaints and enquiries made in person, by telephone, in writing or otherwise in respect of the matters specified in Condition 2.8.1; and
- (b) take into account the interests of those who are chronically sick, disabled or of pensionable age (having reference, where relevant, to those persons listed as such in the list referred to in Condition 2.7.4(b)).

**2.8.3 Report to Authority and General Consumer Council**

As soon as is reasonably practicable after the end of each year ending on 31 December, the Licensee shall submit to the Authority and General Consumer Council a report dealing with the matters mentioned in Conditions 2.8.1 and 2.8.2 which shall include a comparison of the Licensee's performance against the established standards in relation to that year and shall:

- (a) make public the report so submitted in such manner as will in the reasonable opinion of the Licensee secure adequate publicity for it; and

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(b) send a copy of it free of charge to any person requesting one

except that, in performing the obligations under Conditions 2.8.3(a) and (b), the Licensee shall ensure that individual consumers cannot readily be identified except where they have consented.

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**Condition 2.8A: Complaints Handling Procedure**

2.8A.1 Requirement to Prepare etc. a Code

The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs, prepare, submit to and have approved by the Authority a code of practice for the handling of consumer complaints (the **Code**).

2.8A.2 The Code

The Code shall include arrangements by which the Licensee will establish and operate an accessible, equitable and transparent, simple and inexpensive complaints procedure which shall enable any person to bring and have promptly dealt with any complaint he may have in respect of the Licensee's activities.

2.8A.3 Minimum Requirements

The complaints procedure established and operated by the Licensee in accordance with the Code shall as a minimum:

- (a) specify the period, which may differ for different types of
- (b) complaint but which shall not be longer than three months, within which it is intended that complaints will be processed and resolved;
- (c) be made available to any person without charge; and
- (d) facilitate the fair and prompt settlement of complaints and disputes.

2.8A.4 [not used]

2.8A.5 [not used]

2.8A.6 [not used]

2.8A.7 [not used]

2.8A.8 [not used]

2.8A.9 [not used]

2.8A.10 [not used]

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2.8A.11 [not used]

2.8A.12 This Condition is subject to Condition 2.9B: Preparation, Revision Of and Compliance with Codes of Practice.

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**Condition 2.9: Maintenance of Records**

**2.9.1 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 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 2.9.1(a) during the relevant period;
- (c) insofar as the Licensee has been furnished with the information, in respect of each premises referred to in Condition 2.9.1(a) every gas supplier who has supplied during the relevant period gas which has been conveyed to those premises by means of the Network;
- (d) 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 2.9.1(a) for ascertaining the quantity of gas conveyed to the premises by means of that system during the relevant period;
- (e) 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
- (f) 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.

**2.9.2 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.

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**Condition 2.9A: Consumer Information Code**

**2.9A.1 Requirement to Prepare etc. a Code**

The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs prepare, submit to, and have approved by the Authority a code of practice to be known as the Consumer Information Code.

**2.9A.2 The Code**

The Consumer Information Code shall:

- (a) be designed to facilitate achievement of the relevant objectives set out in paragraph 2.9A.3; and
- (b) make provision relating to the relevant matters set out in paragraph 2.9A.4.

**2.9A.3 The Relevant Objectives**

The relevant objectives are that:

- (a) consumers are on a regular basis provided with and have regular access to information about:
  - (i) the Licensee's business and the services that consumers can receive or expect to receive from the Licensee; and
  - (ii) the Licensee's performance, including performance against any applicable mandatory or voluntary standards, in relation to the provision of such services; and
- (b) any information provided by the Licensee (whether in writing, by electronic display or orally) to consumers about the Licensee's business, including in particular about connections between consumers' premises and the Licensee's Network is complete, accurate, transparent and capable of being easily understood by consumers.

**2.9A.4 The Relevant Matters**

The relevant matters are the provision of information to consumers in relation to:

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- (a) the processes and procedures which consumers need to follow in order to obtain a connection between their premises and the Licensee's network;
- (b) the standard terms and conditions governing such connections;
- (c) the handling of consumer complaints; and
- (d) the provision of contact details or other special services in the event of an emergency.

2.9A.5 Standard Form

The Licensee shall in conjunction and co-operation with every other distribution system operator ensure that the Consumer Information Code includes such content and is presented in such a format as is consistent with and comparable to the consumer information code of each such other distribution system operator.

2.9A.6 [not used]

2.9A.7 [not used]

2.9A.8 [not used]

2.9A.9 [not used]

2.9A.10 [not used]

2.9A.11 [not used]

2.9A.12 [not used]

2.9A.13 [not used]

2.9A.14 This Condition is subject to Condition 2.9B: Preparation, Revision Of and Compliance with Codes of Practice.

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**Condition 2.9B: Preparation, Revision Of and Compliance with Codes of Practice**

2.9B.1 This Condition applies to any Code of Practice (**Code**) which the Licensee is, pursuant to Conditions 2.7A, 2.8A and 2.9A of this Licence, required to prepare, submit to and have approved by the Authority.

2.9B.2 The Licensee shall, before submitting any Code to the Authority for its approval, consult the General Consumer Council and shall consider any representations made by it about the Code or the manner in which it is likely to be operated.

2.9B.3 The Licensee shall:

- (a) whenever requested to do so by the Authority; and
- (b) where the request relates to the Distribution Marketing Code, in conjunction with all other distribution system operators,

review the relevant Code to which the request relates and the manner in which it has been operated, with a view to determining whether any modification should be made to that Code or to the manner of its operation.

2.9B.4 In carrying out any review under paragraph 2.9B.3 the Licensee shall consult the General Consumer Council and shall consider any representations made by it about the Code or the manner in which it is likely to be or has been operated.

2.9B.5 The Authority, following consultation with the Licensee, the General Consumer Council, any other person who in the opinion of the Authority is likely to be interested or affected, may

- (a) direct the Licensee to make such modifications to any Code as the Authority considers are necessary or expedient to meet the relevant objectives of that Code;
- (b) from time to time make such modifications to Conditions 2.7A, 2.8A and 2.9A, as the Authority considers are necessary or expedient.

2.9B.6 Where the Authority modifies a Condition in accordance with paragraph 2.9B.5(b):

- (a) it shall:
  - (i) send a copy of the modification to the Licensee and the Department;

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- (ii) publish a copy of the modification in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modification; and
- (b) the Licensee shall revise the Code to which the modification relates in such manner and to such extent as is required to ensure that the Code reflects and complies with the modified Condition.

**2.9B.7** Where the Licensee revises a Code:

- (a) in accordance with paragraph 2.9B.6(b) above;
- (b) following a review undertaken in accordance with paragraphs 2.9B.3 and 2.9B.4; or
- (c) following a direction from the Authority under paragraph 2.9B.5(a),

it shall submit the revised Code to, and have it approved by, the Authority.

**2.9B.8** The Licensee shall as:

- (a) soon as practicable following the Authority's approval of a Code (including following a revision):
  - (i) send a copy of the Code to the Authority and the General Consumer Council; and
  - (ii) draw the attention of its consumers to the Code and of how they may inspect or obtain a copy of it;
- (b) publish on and make readily accessible from its website a copy of the Code;
- (c) give or send free of charge a copy of the Code (as from time to time revised) to any person who requests it; and
- (d) make available to members of the public, in such form and in such manner as the Authority considers appropriate, information published by the Authority pursuant to Article 7 of the Energy Order.

**2.9B.9** Subject to paragraph 2.9B.11, the Licensee shall comply with each Code to which this Condition applies and which has been approved by the Authority.

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2.9B.10 The Licensee shall provide the Authority with all assistance reasonably necessary to enable the Authority to monitor the implementation and operation of any Code and this assistance shall include providing statistical data at such times and in such a format as the Authority reasonably requires and permitting the Authority access to relevant documentation held by the Licensee.

2.9B.11 The Authority may (following consultation with the Licensee, and in the case of the Distribution Marketing Code, other distribution system operators) issue directions relieving the Licensee of any of its obligations under Conditions 2.7A, 2.8A and 2.9A and this Condition to such extent as may be specified in those directions and subject to such terms and conditions as the Authority thinks fit.

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Condition 2.10: Powers of Licensee under Article 13 of the Order

2.10.1 The provisions of:

- (a) Schedule 2; and
- (b) Schedule 3;

of the Order shall apply to the Licensee.

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**Condition 2.11: Network Forecasts**

**2.11.1 Network Forecasts**

The Licensee shall comply with a direction given by the Authority to prepare a statement in such form as may be specified in the direction giving, for the year commencing with the twelfth anniversary of the licence coming into force and each year thereafter, with respect to each of the 10 succeeding years, such information as to forecasts of:

- (a) the use to the best of the Licensee's knowledge and belief, likely to be made of the Network or any part of the Network by persons authorised to convey, store or supply gas under Article 8 of the Order (including the Licensee and any affiliate or related undertaking of the Licensee); and
- (b) the likely developments to the Network which the Licensee expects from time to time to be taken into account in determining the charges for making connections to that system and for entering into arrangements for the conveyance of gas;

as will assist a person seeking to connect a pipe-line of his to the Network or enter into arrangements for the conveyance of gas in identifying and evaluating the opportunities for so doing.

**2.11.2 Revised Network forecasts**

Except in so far as the Authority consents to the Licensee not doing so, the Licensee shall, on an annual basis, prepare a revision of any statement prepared under Condition 2.11.1 so as to ensure that, so far as reasonably practicable, the information in the revised statement is up to date.

**2.11.3 Provision and publication of forecasts**

The Licensee shall, subject to any requirement to comply as is appropriate with the listing rules (within the meaning of Part IV of the Financial Services Act 1986) of the Stock Exchange and with Condition 2.11.4:

- (a) furnish the Authority with a copy of the statement prepared under Condition 2.11.1 and of each revision of the statement prepared under Condition 2.11.2;

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- (b) in such form and manner as the Authority may direct, publish a description of the statement and of each revision; and
- (c) send a copy of the statement and of each revision to any person who asks for one 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.

2.11.4 Particular interests

In complying with the requirements of Condition 2.11.3 (b) and (c), the Licensee shall have regard to the need for excluding, so far as practicable:

- (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporated where publication of that matter would or might seriously and prejudicially affect the interests of that body.

2.11.5 Determination by Authority of particular interests

Except in so far as the Authority consents to the Licensee not doing so, the Licensee shall refer for determination by the Authority any question as to whether any matter seriously and prejudicially affects the interests of an individual or a body of persons.

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**Condition 2.11A: Forecasting Party Agreement**

**General Duty**

2.11A.1 The Licensee shall, in conjunction and co-operation with all other distribution system operators and the Forecasting Party, prepare, enter into, maintain in force and comply with, an agreement that:

- (a) is designed to facilitate the achievement of the objectives set out in paragraph 2 (the **relevant objectives**); and
- (b) makes provision relating to the matters set out in paragraph 3 (the **relevant matters**),

(the **Forecasting Party Agreement**).

2.11A.2 The relevant objectives are:

- (a) the efficient discharge of the obligations imposed on the Forecasting Party in its capacity as the person designated by the Authority as a forecasting party for the purposes of the EU Regulation;
- (b) the provision of timely and accurate Non Daily Metered offtake forecasts to Network Users for the purpose of minimising imbalance charges as calculated under and in accordance with the Forecasting Party's Network Code.

2.11A.3 The relevant matters are:

- (a) such matters as are requisite for the enjoyment and discharge of the rights and obligations of the Forecasting Party as set out in EU Regulation;
- (b) the provision of timely and accurate forecasts, from each distribution system operator to the Forecasting Party, of gas offtake data in respect of each Non Daily Metered Off take on its distribution system.

2.11A.4 The Forecasting Party Agreement:

- (a) shall provide for any disputes between the parties relating to proposed revisions to the Forecasting Party Agreement to be referred to the Authority for determination; and

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- (b) may provide for there to be referred to the Authority for determination such additional matters arising under the Forecasting Party Agreement as may be specified in the Forecasting Party Agreement.

2.11A.5 The Licensee:

- (a) shall, in conjunction with all distribution system operators and the Forecasting Party, submit the Forecasting Party Agreement to the Authority by a date to be determined by the Authority in consultation with the relevant parties ; and
- (b) shall not enter into a Forecasting Party Agreement which is not approved by the Authority.

Review of the Agreement

2.11A.6 The Licensee shall, periodically, or at any time on the receipt of a request from the Authority to do so, review in conjunction and cooperation with all other distribution system operators and the Forecasting Party, the Forecasting Party Agreement and its implementation to:

- (a) ensure that it meets the requirements of this Condition 2.11A; and
- (b) to consider whether any alternative agreement would better achieve those requirements.

2.11A.7 Following any such review, the Licensee shall, in conjunction with all other distribution system operators and the Forecasting Party, send to the Authority:

- (a) a report on the outcome of the review;
- (b) any revisions which the parties agree should be made to the Forecasting Party Agreement (having regard to the outcome of the review); and
- (c) details of any matters (including proposed revisions) in respect of which the parties are in disagreement (which matters may be referred to the Authority for determination in accordance with the terms of the Forecasting Party Agreement as provided for by paragraph 4).

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Revision of the Agreement

2.11A.8 Any revision to the Forecasting Party Agreement that is agreed by the parties shall require the Authority's approval before it may be made.

2.11A.9 The Licensee shall procure that no modification, amendment or variation is made to the Forecasting Party Agreement without the prior approval of the Authority.

Definitions

2.11A.10 In this Condition:

EU Regulation	means Commission Regulation (EU) No. 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks.
Forecasting Party	means Premier Transmission Limited, the legal entity designated by the Authority on 17 September 2015 as the forecasting party for the Northern Ireland balancing zone, pursuant to Article 39(5) of the EU Regulation.
Forecasting Party Network Code	The Premier Transmission Limited Transportation Code
Network User	Any party holding a Gas Supply Licence who is a signatory to the Premier Transmission Limited Transportation Code
Non Daily Metered Offtake	Has the meaning given to that term in Commission Regulation (EU) No. 312/2014

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**Condition 2.12: Exit Capacity Booking**

**2.12.1 Licensee to maintain conveyance arrangements**

Unless the Authority otherwise directs, the Licensee shall, in respect of each Gas Year, hold rights, in respect of use by the Licensee of Exit Capacity on the pipeline system of Other Network Operators, where such rights are available to the Licensee pursuant to and in accordance with the arrangements made by the Network Operators for such purposes, that are at least equal to the Forecast Network Exit Capacity Requirement.

**2.12.2 Forecast Network Exit Capacity Requirement Definition**

Forecast Network Exit Capacity Requirement means the amount of Exit Capacity required to ensure that sufficient gas can be conveyed to meet daily firm demand from Network Consumers, which having regard to historical weather and other data derived from at least the previous 50 years and to representations made by gas suppliers in accordance with the procedures set out at Condition 2.12.3, is likely to be exceeded only in 1 year out of 20 years.

**2.12.3 Annual Consultation**

Unless the Authority otherwise directs:

- (a) no later than 21<sup>st</sup> February each year, the Licensee shall publish a draft statement of its best estimate of Forecast Network Exit Capacity Requirement in the following Gas Year which, having regard to historical weather and other data from at least the previous 50 years, is likely to be exceeded only in 1 year out of 20 years in such form and manner as the Authority may direct and send a copy of the statement to any person who asks for one 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; and
- (b) no later than 21<sup>st</sup> March each year, the Licensee shall publish a final statement of the matters referred to in Condition 2.12.3(a) above, having regard, in addition to the considerations referred to in that Condition, to any representations received by it within 21 days of the publication of the draft statement.

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2.12.4 Additional Definitions

In this Condition:

- “daily firm demand” means the peak aggregate daily demand for gas by Network Consumers from time to time which might reasonably be expected after the supply of gas to each such consumer had been interrupted or reduced to the extent that is permitted under any contract between that consumer and its gas supplier;
- “day” means a period beginning at 05:00 on one day and ending immediately before 05:00 on the following day and “daily” shall be construed accordingly; and
- “Network Consumers” means all those persons located within the Licensed Area who are supplied with gas from the Network; and
- “Other Network Operators” means a person licensed to convey gas under Article 8(1)(a) of the Order or exempted from the requirement to be licensed to convey gas under Article 7(1) of the Order, other than the Licensee;
- “Gas Year” means the period of time beginning at 05:00 hours on 01 October in any calendar year and ending at 05:00 hours on 01 October in the next succeeding calendar year;
- “Exit Capacity” means the capacity of a pipeline system which is treated as being utilised when a quantity of gas is offtaken from that system at a system exit point.

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**Condition 2.13      Not Used**

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**Condition 2.14: System Operator Designation**

2.14.1 Transmission system operator

Not used

2.14.2 Distribution system operator

The Licensee is (for the purposes of Article 24 of Directive 2009/73/EC), hereby designated as distribution system operator for the Network.

2.14.3 Definition

In this Condition 2.14:

“Directive 2009/73/EC” means Directive 2009/73/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

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Condition 2.15: Not Used

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**Condition 2.16: Common Branding**

**2.16.1 Co-operation with other Organisations and Licensed Businesses**

The Licensee shall, in conjunction and co-operation 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') develop, implement and comply with a common branding approach in relation to the promotion of gas in Northern Ireland (the 'Common Branding Approach').

**2.16.2 Common Branding Approach**

The Common Branding Approach shall provide for a common approach to:

- (a) the promotion or use by the Licensee and any relevant licence holder, of any name, trade name, term, logo, sign, symbol, design or scheme for products and/or services relating to licensable activities;
- (b) any other issue relating to the promotion of gas in Northern Ireland as specified in directions issued, following consultation, by the Authority to the Licensee and any other relevant licence holder for the purposes of ensuring that such promotion of gas does not create confusion for consumers.

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**Condition 2.17: Common Network Tariff**

2.17.1 Co-operation with System Operators

The Licensee shall in conjunction and co-operation 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 ('relevant person') take all steps within its power to contribute to the full and timely implementation of a common low pressure network tariff in Northern Ireland.

2.17.2 Compliance with Authority Directions

The Authority may where it considers it necessary or expedient for the purposes of implementing a common low pressure network tariff in Northern Ireland, give a direction to the Licensee to take such steps as are specified or described in the direction and the Licensee shall forthwith comply with any such direction.

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**Condition 2.18: Reasonable and Prudent Operator**

2.18.1 Reasonable and Prudent Operator

The Licensee shall:

- (a) carry out the activities authorised by this Licence; and
- (b) perform its functions with respect to the Network in such manner as it considers is best designed to secure the objectives of optimising and maintaining the capacity, functionality efficiency, reliability, availability and operational life of the Network,

acting at all times as a Reasonable and Prudent Operator.

2.18.2 Definition

In this Condition:

**"Reasonable and Prudent Operator"**

means a person acting in good faith with the intention of performing its obligations under the Licence and who in so doing and in the general conduct of its undertaking, exercises that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced operator complying with applicable law and engaged in the same type of undertaking and under the same or similar circumstances and conditions.

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**Condition 2.19: Trading with Associated Businesses**

2.19.1 Prohibition of Cross-Subsidies

The Licensee shall procure that no Separate Business gives any cross-subsidy to, or receives any cross-subsidy, from any other business of the Licensee or of any affiliate or related undertaking of the Licensee (whether or not a Separate Business).

2.19.2 Contractual Arrangements

The Licensee shall ensure that:

- (a) any tender issued by or on behalf of Licensee in respect of goods and/or services to be provided to the Licensed Business includes a condition requiring the tenderer to declare whether or not it is an affiliate or related undertaking of the Licensee; and
- (b) any contract entered, or to be entered, into by the Licensee for the provision of goods and/or services to the Licensed Business (the 'primary contract') includes a condition requiring each counterparty to the primary contract to ensure that any sub-contract it enters into with a person for the purpose of fulfilling its obligations under the primary contract includes a condition requiring the sub-contractor to:
  - (i) declare whether or not it is an affiliate or related undertaking of the Licensee; and
  - (ii) procure such a declaration from any person with whom it enters into a contract for the purposes of fulfilling its obligations under the sub-contract.

2.19.3 Reporting

The Licensee shall in such manner and at such times as the Authority may require:

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- (a) furnish to the Authority information which will evidence the processes and procedures followed by the Licensee in undertaking any transaction of the type referred to in Condition 1.2.12; and
- (b) permit the Authority access to relevant documentation held by the Licensee in respect of any such transaction.

**PART 3: DEVELOPMENT PLAN**

**Condition 3.1 Definitions**

3.1.1 Except where expressly stated to the contrary, and unless the context otherwise requires, expressions used in this Part 3 shall have the meanings ascribed to them below.

“Additional Development Area” means an area within the Remaining Licensed Area that is the subject of an Additional Development Plan;

“Additional Development Plan” means a development plan in respect of an Additional Development Area prepared by the Licensee and approved by the Authority, defining the Additional Development Area to which the Additional Development Plan relates (by reference to the boundaries of the Electoral Wards comprised in such area, or in such detail so as to allow any person consulting such Additional Development Plan to determine whether any particular premises falls within that Additional Development Area), and setting out Annual Targets to apply to such Additional Development Area;

“Annual Target” means, in relation to any Development Area and a particular Gas Year, the number of premises set out in respect of that Development Area and that Gas Year in the Towns Development Plan (in the case of a Town), or in the relevant Additional Development Plan (in the case of an Additional Development Area);

“Applicable Law” means all applicable provisions of all (i) constitutions, treaties, statutes, laws, (including

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common laws), rules, regulations, ordinances or codes of any Governmental Authority, and (ii) orders, decisions, injunctions, judgements, awards and decrees of any Governmental Authority;

“Cumulative Target” means, in respect of any Gas Year, the aggregate of all the Annual Targets for all the Development Areas for that Gas Year;

“Development Area” means a Town or Additional Development Area;

“Electoral Ward” means the spatial unit used to elect local government councillors into district council areas, as at the date of the Grant (in the case of each of the Towns), or as at the date on which the relevant Additional Development Plan was approved by the Authority (in the case of any Additional Development Area which is designated as such by reference to an Electoral Ward). 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;

“Gas Year” means a period of time commencing at 00.00 on 1 October in any calendar year and ending at 24.00 on 30 September the following calendar year;

“Governmental Authority” means any federation, nation, state, sovereign or government, any federal, supranational, regional state or local political subdivision, any governmental or administrative body, department or agency, or any court, commission or other

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	similar dispute resolving body, and any other entity exercising executive, legislative, judicial, or regulatory functions;
“readily connected”	means, in relation to any premises, that the curtilage of that premises is within 50 metres of a distribution pipe-line forming part of the Network, which pipe-line is either in operation or readily capable of being brought into operation;
“Remaining Licensed Area”	means those parts of the Licensed Area which do not fall within a Town;
“Start Date”	means, in relation to any Town, the first day of the first Gas Year in which the Towns Development Plan indicates an Annual Target other than zero in respect of that Town, and, in relation to any Additional Development Area, the first day of the first Gas Year in which the relevant Additional Development Plan indicates an Annual Target other than zero;
“Town”	means one of the ten towns in the Licensed Area named in annex 1 to this Part 3, and, in each case, more particularly described therein by reference to the boundaries of the Electoral Wards comprised in such town; and
“Towns Development Plan”	means the development plan in respect of the Towns set out in annex 2 to this Part 3.

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**Condition 3.2 Development Plan**

3.2.1 Development of the Network

Subject to Conditions 3.2.3 and 3.2.5, the Licensee shall:

- (a) subject to Condition 3.2.2, install and bring into operation (or make readily capable of being brought into operation) distribution pipe-lines such that, in respect of any Development Area and each Gas Year, the number of premises that are readily connected by the end of that Gas Year is equal to or greater than 50% of the Annual Target for that Development Area and that Gas Year; and
- (b) subject to Condition 3.2.2, install and bring into operation (or make readily capable of being brought into operation) distribution pipe-lines such that, in respect of each Gas Year, the aggregate number of premises in all the Development Areas that are readily connected by the end of that Gas Year is equal to or greater than 90% of the Cumulative Target for that Gas Year.

3.2.2 Housing Executive & Regional Development Strategy

The Annual Target for any Development Area and any Gas Year shall be reduced by a number equal to the number of:

- (a) premises in that Development Area which are owned by the Northern Ireland Housing Executive or any housing association in Northern Ireland and which have not during that Gas Year been adapted for the consumption of gas; and
- (b) premises that are forecast to be constructed in that Development Area and that Gas Year in the timetable outlined in an estimated rollout plan (developed by the Licensee in accordance with the Department for Regional Development Regional Development Strategy Document for Northern Ireland 2025 “Shaping Our Future” (published on 20 September 2001) and agreed with the Authority) and which have not during that Gas Year been so constructed;

provided and to the extent that:

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- (c) the Licensee is able to demonstrate to the Authority's satisfaction that this shortfall in the number of premises so adapted and/or so constructed prevented the Licensee from meeting its obligations under Conditions 3.2.1, in which case the Authority shall make a consequent adjustment to the relevant Annual Targets for that Development Area in each subsequent Gas Year; and
- (d) in the event that any such premises are subsequently so adapted and/or so constructed, the Licensee shall inform the Authority as soon as reasonably practicable after becoming aware of the same, and the Authority may (having first consulted the Licensee), by notice in writing to the Licensee, add to the Annual Target for that Development Area and any subsequent Gas Year(s) a number of premises not exceeding that previously excluded pursuant to this Condition 3.2.2 which appears to the Authority to be appropriate in the circumstances.

**3.2.3 Revising the Licensee's Obligations to Develop the Network**

- (a) At the request of the Licensee, any Annual Target for any Development Area shall be revised as reasonably appropriate in all the circumstances:
  - (i) if the Authority is reasonably satisfied that exceptional circumstances (excluding lack of funds) which could not have been reasonably foreseen by the Licensee have prevented, or could reasonably be expected to prevent, the Licensee from complying with its obligations under Condition 3.2.1; or
  - (ii) if the Licensee and Authority so agree; or
  - (iii) if the Authority is reasonably satisfied that, due to any process required to be followed by an Applicable Law, which could not reasonably have been further expedited or avoided by the Licensee, the Licensee has been delayed in complying with its obligations under Condition 3.2.1.
- (b) Without prejudice to Condition 3.2.3(a), the Authority may, where the Licensee consents, by notice to the Licensee:

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- (i) increase the Annual Target for any Development Area and any Gas Year to such number as is agreed; and/or
  - (ii) modify the Towns Development Plan and/or any Additional Development Plan as is agreed.
- (c) Without prejudice to Article 14 of the Order, where by virtue of the provisions of Condition 3.2.2 or this Condition 3.2.3, any Annual Target is revised, the revised Annual Target shall be applied for the purposes of this Licence and the revision shall (to the extent applicable) modify the relevant Conditions (including annex 2 to this Part 3).

#### **3.2.4 General Development Plan**

Without prejudice to the generality of any other provisions of this Licence, the Licensee shall in good faith pursue the general objectives of the General Development Plan set out in annex 3 to this Part 3.

#### **3.2.5 Loss of Exclusivity**

Notwithstanding Condition 1.1.4, where the Licensee ceases, in respect of any Development Area, to be entitled to exclusively convey gas by means of distribution pipe-lines (in accordance with Schedule 3), the obligations set out in Conditions 3.2.1 and 3.2.4 shall cease to apply to such Development Area with effect from the date on which such exclusivity is lost.

#### **3.2.6 Annual Development Plan Report**

The Licensee shall, by no later than 31 December of each year, provide to the Authority a report of its progress in (i) the development of the Network (having regard to its obligations under Conditions 3.2.1 and 3.2.4) and (ii) the development of the market for gas supplies (having regard to its obligations under Conditions 3.2.4 and 3.2.10) for (in each case) the Gas Year that ended on 30 September of that year. The Licensee shall also set out in that report, for the three Gas Years following that Gas Year, its plans for developing the Network (having regard to its obligations under Conditions 3.2.1 and 3.2.4). The obligation to provide such a report shall cease

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generally in respect of the Gas Year commencing 1 October 2018 and each Gas Year thereafter; and shall cease in particular with regard to the development of the market for gas supplies in respect to those markets for gas in which the Supply Licensee is subject to competition from other gas suppliers.

#### **3.2.7 Publication of Report**

The Licensee shall, subject to any requirement to comply with Condition 3.2.8:

- (a) publish the report provided under Condition 3.2.6 in such form and manner as the Authority, having regard, so far as practicable, to the need to exclude publication of a matter that would or might seriously and prejudicially affect the commercial interests of the Supply Licensee, may direct; and
- (b) send a copy of that report to any person who asks for one on payment of a charge in respect of the cost incurred by the Licensee in complying with this requirement which shall not exceed such amount as the Authority may from time to time direct.

#### **3.2.8 Particular interests**

In complying with the requirements of Condition 3.2.7, the Licensee shall have regard to the need for excluding, so far as practicable:

- (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporated where publication of that matter would or might seriously and prejudicially affect the interests of that body.

#### **3.2.9 Determination by Authority of particular interests**

Except in so far as the Authority consents to the Licensee not doing so, the Licensee shall refer for determination by the Authority any question as to whether any matter

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seriously and prejudicially affects the interests of an individual or a body of persons or of the Licensee.

### **3.2.10 Development of the Market**

The Licensee shall act to encourage the development of the market for gas supplies throughout all Development Areas, and shall, with respect to the premises in the Development Areas to which the Supply Licensee is entitled to supply gas exclusively (and for the periods during which the Supply Licensee may supply those premises exclusively), act so as to enable the Supply Licensee to compete effectively, in so far as is reasonably practicable, with alternative fuel supplies for those premises.

### **3.2.11 Conveyance in the Remaining Licensed Area**

The Licensee shall not convey gas by means of distribution pipe-lines to any premises in the Remaining Licensed Area unless and until those premises fall within an Additional Development Area as designated under Schedule 1 of this licence.

### **3.2.12 Publication**

- (a) The Licensee shall publish each of the following documents on its website and, in addition, using such other methods as the Authority may from time to time reasonably require:-
  - (i) the Towns Development Plan and any revisions thereto; and
  - (ii) all Additional Development Plans and any revisions thereto.
- (b) Publication as required by Condition 3.2.12(a) shall be effected by the Licensee as soon as reasonably practicable, and in any event not more than:
  - (i) 6 months after the date of the Grant of the Licence in the case of the Towns Development Plan;
  - (ii) 1 month after the date of approval thereof by the Authority in the case of any Additional Development Plan; and

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- (iii) 1 month after the date of the making thereof in the case of any revisions.
- (c) The Licensee shall, in addition, provide a copy of any document referred to in Condition 3.2.12(a) to any person requesting one on payment of a charge in respect of the cost incurred by the Licensee in complying with this requirement which shall not exceed such amount as the Authority may from time to time direct.

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**Condition 3.3: Not Used**

**Condition 3.4 Provision of Information Concerning Market Development**

3.4.1 Additional duty to provide information

The Licensee shall, in respect of each Gas Year, advise the Authority, by its report given under Condition 3.2.6 whilst that Condition applies, and thereafter by a report provided to the Authority no later than 31 December each year, of:

- (a) the number of requests made by gas suppliers and owners or occupiers of premises to connect premises to the Network in that Gas Year (distinguishing between domestic consumers and non domestic consumers);
- (b) the number of connections to the Network made or agreed to be made by the Licensee in that Gas Year;
- (c) the length and route of pipe-lines comprising the Network installed by the Licensee in that Gas Year and each Development Area (and whether or not it was at operational pressure in any period); and
- (d) capital expenditure in that Gas Year on pipe-lines, gas plant, and other apparatus utilised in the Licensed Business, in aggregate for the Licensed Area and individually in respect of each Development Area.

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**Condition 3.5 Provision of Information**

**3.5.1 Provision of information**

The Licensee shall, on request, promptly provide any other person holding a licence or exemption to convey or store gas with such information as that person may reasonably require in order to ensure that the conveyance or storage of gas by such person may be conducted in a manner compatible with the secure and efficient operation of the System.

**3.5.2 Definition of “System”**

For the purposes of this Condition 3.5, “System” means:

- (a) any transmission pipe-lines;
- (b) any distribution pipe-lines; and/or
- (c) facilities for the storage of gas;

which are directly or indirectly connected to the Network; together with any other ancillary services or facilities necessary for providing access to the conveyance of gas through the Network.

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**Condition 3.6 Notification of opening of supply market**

3.6.1 Notification

Within 6 months after any time at which the Supply Licensee ceases to have a right which it previously had to supply gas exclusively to any premises (“new eligible premises”) within the Licensed Area, the Licensee shall deliver (or arrange to be delivered) to those premises which it reasonably believes to be new eligible premises a written notification in a form approved or modified by the Authority in accordance with Condition 3.6.2 informing the occupiers of such premises that, according to the Licensee’s records, they are free to purchase gas from the supplier of their choice and how they can obtain details of all the gas suppliers who are authorised to supply such premises.

3.6.2 Form of notification

Before delivering (or arranging to be delivered) to any premises a notification referred to in Condition 3.6.1, the Licensee shall provide to the Authority a draft of such notification and shall not deliver (or arrange the delivery of) such notification until the form thereof has been approved or modified by the Authority in accordance with this Condition 3.6.2. In the event that the Authority shall within 28 days of receipt by the Authority of the draft notification, notify to the Licensee any modifications which, in the reasonable opinion of the Authority, should be made to the draft notification, the notification given by the Licensee pursuant to Condition 3.6.1 shall be in the form of the draft as so modified. In the event that the Authority shall not within the said period of 28 days either notify the Licensee of its approval of the draft or notify any modifications thereof to the Licensee, the Authority shall be deemed to have approved the draft at the end of such period.

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**Condition 3.7 Prohibition on conveyance by means of transmission pipe-lines**

3.7.1 The Licensee shall not participate in the conveyance of gas by means of transmission pipe-lines.

3.7.2 Condition 3.7.1 is included in accordance with Article 8A(3) of the Order.

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**Condition 3.8 Undertaking from holding company**

3.8.1 The Licensee shall procure, from each person (if any) which is at any time an ultimate controller of the Licensee, a legally enforceable undertaking:

- (a) in favour of the Licensee;
- (b) in such form as is approved by the Authority;
- (c) within 7 days of the person in question becoming an ultimate controller of the Licensee;
- (d) that will remain in force until a further undertaking expressly stated to replace that undertaking is provided in accordance with this Condition 3.8; and
- (e) that the person in question will secure that the Licensee has available to it all such resources (including, without limitation, management and financial resources, personnel, fixed and moveable assets, rights, consents and facilities), on such terms, and with all such rights, as shall ensure that the Licensee is at all times able properly and efficiently to carry on the Licensed Business in compliance with the Order, the Energy Order and the Licence.

3.8.2 The Licensee shall:

- (a) deliver to the Authority evidence (including a copy of each such undertaking) that the Licensee has complied with its obligations to procure undertakings pursuant to Condition 3.8.1;
- (b) on becoming aware that any such undertaking is not in full force and effect or is not legally enforceable or has been breached, inform the Authority immediately in writing; and
- (c) comply with any direction from the Authority to enforce any such undertaking.

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3.8.3 The Licensee shall not, save with the consent in writing of the Authority, enter (directly or indirectly) into any agreement or arrangement with any ultimate controller of the Licensee or with any subsidiary of any such ultimate controller at a time when,

- (a) an undertaking complying with Condition 3.8.1 is not in place in relation to that ultimate controller; or
- (b) there is an unremedied breach of such undertaking; or
- (c) the Licensee is in breach of the terms of any direction issued by the Authority under Condition 3.8.2(c).

3.8.4 In this Condition 3.8, the following expressions shall have the following meanings:

“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

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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 of the government of the Republic of Ireland. 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.

“holding company”

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

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**Condition 3.8A: Asset Management**

3.8A.1 Asset Management System

The Licensee shall:

- (a) establish and implement an appropriate asset management system which is designed to ensure that it makes robust, evidence-based decisions in relation to the development, construction, operation and maintenance of the Network; and
- (b) demonstrate to the Authority that it has done so.

3.8A.2 Duties in relation to the Asset Management System

For the purposes of Condition 3.8A.1, the Licensee shall:

- (a) carry out an initial assessment of:
  - (i) its proposed asset management system by reference to a recognised asset management methodology;
  - (ii) the data it uses in order to prioritise asset management interventions in relation to the Network and estimate the level of capital and operational investment required in the medium-term and long-term future,and shall provide a report to the Authority on the outcome of the assessment;
- (b) prepare a plan to improve its asset management capability in the light of that assessment, which shall in particular set out:
  - (i) how it proposes to address any identified weaknesses in its existing asset management capability;
  - (ii) the additional or better-quality data needed by it to improve its existing asset management capability;

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(iii) the timescales within which it intends to address such identified weaknesses and obtain such data,

and shall provide a report to the Authority a copy of that plan;

- (c) from time to time review and update that plan and provide the Authority with a copy of the updated version;
- (d) identify such further work as would be required in order for it to achieve excellence in asset management planning; and
- (e) in preparing any business plan for submission to the Authority in relation to a Periodic Review, demonstrate the application of its asset management system in assessing the appropriate level of asset management interventions and capital and operational investment over the period to which the plan relates.

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**Condition 3.9      Relevant conditions**

3.9.1 For the purposes of Article 9(6) of the Order and of Schedule 3 to this Licence, the following conditions of this Licence shall be “relevant conditions”: Condition 1.2.3, Condition 1.2.4, Condition 1.10, Condition 1.11, Condition 1.12, Condition 2.2.4 (but excluding Condition 2.2.4(c)), Condition 2.2.5, Condition 2.2.6, Condition 2.3.5 (but excluding Condition 2.3.5(c)), Condition 2.3.8, Condition 2.3.11, Condition 2.5.1, Condition 2.5.2, Condition 2.5.3, Condition 2.5.4 and Condition 3.2.1.

**Annex 1 to Part 3**

**AREA COVERED BY THE TOWNS DEVELOPMENT PLAN**

The Towns Development Plan relates to the following Electoral Wards comprised in the following ten towns:

<b>Ballymena</b>
95DD01 Academy 95DD03 Ardeevin 95DD04 Ballee 95DD05 Ballykeel 95DD06 Ballyloughan 95DD08 Castle Demesne 95DD11 Dunclog 95DD13 Fair Green 95DD14 Galgorm 95DD16 Glenwhirry 95DD18 Harryville 95DD20 Moat 95DD21 Park 95DD24 Summerfield  95DD02 Ahoghill 95DD07 Broughshane 95DD09 Craigwarren
<b>Ballymoney</b>
95EE03 Carnany 95EE07 Fairhill 95EE08 Glebe 95EE12 Newhill 95EE13 Route 95EE14 Seacon
<b>Coleraine</b>
95JJ03 Ballysally 95JJ05 Central 95JJ06 Churchland 95JJ07 Cross Glebe 95JJ08 Dundooan 95JJ13 Knocklynn 95JJ15 Mount Sandel 95JJ20 The Cuts 95JJ21 University 95JJ22 Waterside 95JJ14 Macosquin

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<b>L'Derry</b> 95MM01 Altnagelvin 95MM02 Ballynashallog 95MM04 Beechwood 95MM05 Brandywell 95MM06 Carn Hill 95MM07 Caw 95MM08 Clondermot 95MM10 Creggan Central 95MM11 Creggan South 95MM12 Crevagh 95MM13 Culmore 95MM14 Ebrington 95MM15 Eglinton 95MM16 Enagh 95MM17 Foyle Springs 95MM19 Kilfennan 95MM20 Lisnagelvin 95MM22 Pennyburn 95MM23 Rosemount 95MM24 Shantallow East 95MM25 Shantallow West 95MM26 Springtown 95MM27 Strand 95MM28 The Diamond 95MM29 Victoria 95MM30 Westland 95MM21 New Buildings 95MM18 Holly Mount
<b>Limavady</b> 95RR01 Aghanloo 95RR03 Coolessan 95RR05 Enagh 95RR10 Greystone 95RR12 Rathbrady 95RR13 Roeside
<b>Antrim</b> 95AA01 Aldergrove 95AA02 Balloo 95AA08 Farranshane 95AA09 Fountain Hill 95AA10 Greystone 95AA11 Massereene 95AA15 Springfarm 95AA16 Steeple 95AA17 Stiles

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95AA18 Templepatrick
95AA03 Ballycraigy
<b>Armagh</b>
95CC01 Abbey Park 95CC03 Callan Bridge 95CC06 Demesne 95CC08 Downs 95CC18 Observatory 95CC22 The Mall
95CC21 Tandragee 95OO06 Benburb 95OO19 Moy
<b>Banbridge</b>
95FF01 Ballydown 95FF03 Banbridge West 95FF07 Edenderry 95FF08 Fort 95FF09 Gilford
95FF12 Lawrencetown 95FF16 Seapatrick 95FF17 The Cut
<b>Craigavon</b>
95LL02 Annagh 95LL03 Ballybay 95LL04 Ballyoran 95LL06 Brownstown 95LL07 Church 95LL08 Corcrain 95LL09 Court 95LL10 Derrytrasna 95LL12 Drumgask 95LL13 Drumgor 95LL14 Drumnacree 95LL15 Edenderry 95LL16 Kernan 95LL17 Killycomain 95LL18 Knocknashane 95LL19 Magheralin 95LL20 Mourneview 95LL21 Parklake 95LL22 Taghnevan 95LL23 Tavanagh 95LL25 Waringstown 95LL26 Woodville

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95SS21 Maghaberry
95SS24 Moira
95LL05 Bleary
<b>Newry</b>
95VV02 Ballybot
95VV10 Daisy Hill
95VV12 Derrymore
95VV14 Drumalane
95VV15 Drumgullion
95VV27 St Mary's
95VV28 St Patrick's
95VV30 Windsor Hill

Annex 2 to Part 3TOWNS DEVELOPMENT PLAN

	Towns Annual Target / Gas Year												
Town	2005/6	2006/7	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18
Ballymena	645	1,357	1,990	2,544	3,058	3,572	4,046	4,520	4,994	5,468	5,741	5,946	6,151
Ballymoney	0	229	488	716	912	1,092	1,272	1,436	1,600	1,764	1,928	2,015	2,071
Coleraine	609	1,295	1,906	2,442	2,941	3,440	3,902	4,364	4,826	5,288	5,537	5,709	5,881
L'Derry	857	3,656	6,330	8,450	10,508	12,466	14,361	15,209	16,057	16,905	17,753	18,478	19,203
Limavady	0	267	555	809	1,028	1,229	1,430	1,614	1,798	1,982	2,166	2,262	2,337
Antrim	0	322	1,168	1,967	2,559	3,127	3,695	4,240	4,785	5,330	5,875	6,122	6,327
Armagh	0	0	379	794	1,163	1,487	1,788	2,089	2,367	2,645	2,923	3,201	3,309
Banbridge	0	0	320	687	1,016	1,307	1,580	1,853	2,107	2,361	2,615	2,869	2,995
Craigavon	0	621	2,277	3,827	4,961	6,041	7,121	8,148	8,602	9,056	9,510	9,964	10,317
Newry	0	630	1,310	1,922	2,465	2,974	3,483	3,958	4,433	4,908	5,383	5,608	5,783
<b>Cumulative Target</b> (for Towns only)	2,111	8,377	16,723	24,158	30,611	36,735	42,678	47,431	51,569	55,707	59,431	62,174	64,374

Gas Year	2018/19	2019/20	2020/1	2021/2	2022/3	2023/4	2024/5	2025/6	2026/7	2027/8
<b>Cumulative Target*</b> (for Towns only)	66,737	69,100	71,463	73,826	76,189	78,552	80,915	83,278	85,641	88,004

\* No Annual Targets currently apply to the Towns for the Gas Year 2018/19 and thereafter.

**Annex 3 to Part 3**

**GENERAL DEVELOPMENT PLAN**

The Licensee has prepared this development plan for a natural gas industry in Northern Ireland outside of the Greater Belfast Area. It has been constructed based on the strengths of BGE:

- Benchmark standards of health, safety and care for the environment in all aspects of the gas conveyance, storage and supply (including utilisation) business.
- First class engineering skills in the design, construction, planning, operation, control and maintenance of gas transmission and distribution systems.
- Fuel marketing expertise in highly competitive markets including appliance retailing and customer service operations and standards.
- Financial strength.
- Understanding and working with the implications of long term investments and returns.
- International professional project management skills in capital-intensive schemes.
- Gas purchase and supply/demand matching and contracting.
- Modern metering and billing techniques.
- Technical know how in all types of gas utilisation including CHP ensuring highest thermal efficiencies and safety.
- Employment and training of local employees.
- Experience in comprehensive customer care charters and working with consumer organisations.
- Commitment to ensuring equal opportunities for all.

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The Licensee will develop an efficient and economic gas industry in accordance with this plan. It will spread the major benefits of natural gas to the Licensed Areas including environmental improvements, local employment, energy efficiency and fuel choice provision.

It will enable gas dependent industries, i.e. both those providing a service to a gas industry and those industries which can only operate with gas, to be established and it will attract industries from abroad which have experiences of using natural gas and for whose processes natural gas is the preferred fuel.

### **1. Introduction**

This development plan has been produced by the Licensee. The Licensee has all the skills needed to ensure an ongoing safe and economic scheme, which will bring the advantages of choice, increased energy competition, convenience and environmental improvements to Northern Ireland energy consumers. The plan concentrates on the provision of natural gas in and around the ten towns/cities of Armagh, Antrim, Ballymena, Ballymoney, Banbridge, Coleraine, Craigavon, L'Derry, Limavady and Newry.

### **2. Company Structure**

In order to implement this development plan the person to whom the Licence is to be assigned has been incorporated by BGE as a private limited company in the UK. It is intended that where possible local resources will be employed to produce and implement the long-term development plan for the Licensee and for the industry.

The Licensee will employ local people where possible and appropriate, while complying with Northern Ireland employment legislation. The Licensee and its contractors will provide training to ensure that all required standards are properly met.

### **3. Market and Infrastructure Development**

The development of the natural gas market is based on on-going market research and on experience of market development in similar situations in Ireland and Great Britain, when offering natural gas as an alternative fuel in areas outside the existing gas supply area. The rate of expansion of the pipelines is designed so as to provide system

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integrity and safety while meeting market needs in an optimal economic manner. The rate is capable of rapid adjustment to meet changing market needs.

#### **4. Organisation**

##### **General**

The Licensee will use best available technology and innovative arrangements with contractors and suppliers to make best use of existing and local resources to achieve the construction of a complex distribution system along with the installation of gas equipment and related services.

##### **Engineering Work**

Wherever possible the low-pressure mains and services work will be carried out by local personnel, trained to the required level of competence.

##### **Control and Emergency Services**

The safe operation and maintenance of the system will be first priority of the Licensee. The system will be constantly monitored by electronic sensors at district pressure reduction sites and other key locations on the system, and the information will be relayed to a central “grid control” and emergency service site. The centre will have the responsibility of dealing with gas escapes and other emergency procedures.

Whilst the majority of this work will be carried out by fully approved contractors, a small core team of specialists will be retained to maintain essential pressure control equipment and provide support to the emergency service. Professionally qualified and experienced engineering staff will be employed to coordinate non-routine operations involving “live gas” remedial works and to provide a call out service when required.

##### **Metering**

Advanced metering systems such as Quantum system and Automatic Meter Reading (AMR) are now in widespread use in Britain and Ireland and the Licensee wishes to adopt this technology where appropriate. Quantum is a smart card system providing for payment through local Post Offices, shops, etc in advance of gas consumption.

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This system allows consumers to budget for their gas supplies and can minimise the occurrence of debt and reduce the need for reading visits into houses.

AMR systems are available based on the new ultrasonic meter which is much smaller than the traditional design. For these meters there will be limited need for meter reading visits although visits will still be required to respond to “flags” indicating meter tampering and other warning such as those indicating the need to change batteries.

All systems require some specialist skills which will be provided by the Licensee for the initial installation and subsequent training of personnel for maintenance and operation.

## **Domestic Customer Service**

Installation work in customers’ premises is a specialist area. The registration scheme for gas installers (Confederation of Registered Gas Installers CORGI) in Northern Ireland is welcomed by the Licensee to facilitate the development of a pool of contractors qualified to work on natural gas which will be used as a resource for the industry.

Accreditation through CORGI in Northern Ireland, ongoing work between the Licensee and local training agencies and the establishment of an Approved Installers List (AIL) will minimise the risk to the public from incompetent installers.

## **Industrial and Commercial Services**

Specialist skills will be required in the industrial and commercial sectors both for installation and conversion work. Links with existing burner suppliers and equipment manufacturers will be built upon to ensure a quality service to customers which will include:

- (a) assistance in the design and installation of new plant to take advantage of the latest fuel management and gas engineering utilisation techniques;

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- (b) survey of existing plant, with detailed reports and recommendations on conversion requirements and costs, likely efficiency and performance improvements and reduced maintenance and service costs;
- (c) design of plan and controls to meet the regulations and Codes of Practice applicable at the time; and
- (d) the introduction of advanced technology, and the redesign or modification of plant to improve efficiency and increase productivity.

#### **5. Training**

To build a successful gas industry in Northern Ireland will require a highly skilled and competent work force. The Licensee will encourage the employment of local people and ensure that the necessary training and assessment is available. The company is in liaison with the Department of Education and Learning and using local training providers of Colleges of Further Education to provide the necessary skills training.

Construction of the distribution system will be undertaken by established gas contractors. An approved training scheme based on National Vocational Qualification Levels II/III will be employed (Gas Network Operations (GNO)) in order to ensure the highest standards of workmanship. All operatives will undergo a pre start assessment of competence and induction training. Safety training is regarded as an integral part of the project and this will be reflected throughout the life of the project.

For engineering, established contractors will provide for assessment of personnel. All teams will undergo an assessment of competence by the Licensee's management in the three main areas of gas safety, polyethylene pipe fusion and reinstatement.

Installers will be required to be CORGI or equivalent registered. In addition those installers who wish to join the Approved Installers List (AIL) will be required to be proven competent in additional ACOP modules including energy efficiency, system controls, gas fire, and gas fire with back boiler installation. All installers will be assessed by the training provider, e.g. DEL for competence including initial CORGI registration as well as the additional modules required to join the AIL. Depending on

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the results on the results of this assessment further training and assessment will be undertaken.

Joint training for emergencies involving management, service and engineering personnel will be undertaken prior to gas being supplied.

**PART 4 THE PRICE CONTROL CONDITIONS**

**Condition 4.1 Charging methodology for the conveyance of gas**

4.1.1 The price control set out in this Part 4 allows the Licensee to recover Expenditure reasonably expected to be incurred and the designated rate of return,  $r_t$ , over the duration of the relevant recovery period.

4.1.2 The Licensee shall use all reasonable endeavours to set the Controlled Charges so as to ensure that, in respect of each Formula Year, the amount it recovers under its conveyance charging methodology for the use of the Network by gas suppliers shall not exceed the amount calculated in accordance with the following formula:

$$M_t = R_{E,t} (RPI_{iy_t} / RPI_E) - K_t$$

4.1.3 For purposes of Condition 4.1.2:

$M_t$  = the maximum amount recoverable under the Licensee's conveyance charging methodology in that Formula Year  $t$ ;

$RPI_{iy_t}$  = the sum of the values of the Retail Prices Index for each month in Formula Year  $t$  divided by twelve (in order to establish a mean value for RPI during that Formula Year);

$RPI_E$  = the Designated Parameter of that name established at the most recent Review (as the base reference point for the Retail Prices Index);

$R_{E,t}$  = the Determined Total Conveyance Revenue for that Formula Year  $t$  calculated in accordance with Condition 4.1.4;

$K_t$  = a value representing a correction factor as set out in Condition 4.1.6.

***Calculating  $R_{E,t}$***

4.1.4  $R_{E,t}$  shall be calculated in accordance with the following formula:

$$R_{E,t} = \sum_i (P_{E,i,t} \cdot V_{E,i,t})$$

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4.1.5 For the purposes of Condition 4.1.4:

$\sum_i$  = the summation of the values across all Conveyance Categories  $i$ ;

$P_{E,i,t}$  = the Determined Revenue Per Unit in respect of Conveyance Category  $i$  for Formula Year  $t$ ;

$V_{E,i,t}$  = the determined volume (number of therms) of gas conveyed in the Formula Year  $t$ , in respect of each Conveyance Category  $i$ ;

### *Calculating $K_t$*

4.1.6 For the purposes of Condition 4.1.2,  $K_t$  shall be calculated in accordance with the following formulae:

$$\text{either, } K_t = Z_{F,t-1} (1 + I_{F,t}/100)$$

if  $Z_{F,t-1}$  is greater than  $-0.4(M_{t-1})$

$$\text{or } K_t = -0.4 M_{t-1} (1 + I_{F,t}/100)$$

if  $Z_{F,t-1}$  is less than or equal to  $-0.4(M_{t-1})$

### *The $Z_{F,t}$ Term*

4.1.7 The principal purpose of the  $Z_{F,t}$  term is, in respect of Formula Year  $t$ , to:

- (a) establish the value of any:
  - (i) under-recovery of revenue (being the extent to which Actual Revenue is less than Allowed Revenue); or
  - (ii) over-recovery of revenue (being the extent to which Actual Revenue exceeds Allowed Revenue); and
- (b) adjust that value by reference to any under-recovery or over-recovery accumulated in years prior to Formula Year  $t$ .

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4.1.8 For the purposes of Condition 4.1.6:

$$Z_{F,t} = (M_{F,t} - R_{E,t}(RPIy_t/RPI_E)) + Z_{F,t-1}(1+I_{F,t})$$

where

$M_{F,t}$  = the actual amount recovered by the Licensee under its conveyance charging methodology for the use of the Network by gas suppliers in Formula Year  $t$ ;

$I_{F,t}$  = the percentage interest rate in Formula Year  $t$ .

4.1.9 The value of  $I_{F,t}$  shall be calculated in accordance with the following formulae:

(a) where  $Z_{F,t} \geq 0$ , then  $I_{F,t} = r_t$ ,

(b) where  $Z_{F,t} < 0$ , then:

$$I_{F,t} = LIBOR_{1year,t-1} + 0.04 \quad \text{if } t=2017$$

$$I_{F,t} = LIBOR_{1year,t-1} + 0.03 \quad \text{if } t=2018$$

$$I_{F,t} = LIBOR_{1year,t-1} + 0.02 \quad \text{if } t \geq 2019$$

4.1.10 For the purposes of Condition 4.1.9:

$LIBOR_{1year,t-1}$  = the average GBP interbank lending rate with a 12 month period of maturity during Formula Year  $t-1$ . Calculated by averaging the 1 year LIBOR rates in GBP, on the 15 February, 15 May, 15 August and 15 November of year  $t-1$ ; if LIBOR is not set on any of these days then the last figure set before the day is used.

4.1.11 For the avoidance of doubt, the Licensee shall forecast values of  $RPIy_t$ ,  $V_{F,t,b}$  and  $K_t$  (to the extent that the values are not known by 1<sup>st</sup> October of the Formula Year  $t-1$ ), so as by its reasonable endeavours it makes a best estimate of them.

### Special provisions for the first year of the revenue cap price control

4.1.12 The value of  $Z_{F,t-1}$  in respect of Formula Year  $t = 2017$  will be calculated as the sum of the  $Z_{F,i,t-1}$  terms across all Conveyance Categories  $i$  determined in accordance with the

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formula set out in Condition 4.2.10 of the licence that was in effect on 31 December 2016.

4.1.13 In respect of Formula Year  $t = 2017$  and only for the purposes of Condition 4.1.6,  $M_{t-1}$  shall be calculated in accordance with the following formula:

$$M_{t-1} = \sum_i (P_{F,i,t-1} \cdot V_{F,i,t-1})$$

where

$P_{F,i,t-1}$  = is the Actual Revenue Per Unit in respect of Conveyance Category  $i$  for Formula Year  $t-1$ ;

$V_{F,i,t-1}$  = is the Actual Volume in respect of Conveyance Category  $i$  for Formula Year  $t-1$ .

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**Condition 4.2 Review Process & Disapplication Notices**

4.2.1 This Condition 4.2 sets out the process by which the core terms of the price control will be established by the Authority from time to time.

**The Review**

4.2.2 The Designated Parameters and the Determination Values applying in respect of each Formula Year  $t$  will be established in accordance with the process set out below (a “Review”).

4.2.3 A Review will take place:

- (a) at scheduled intervals by reference to the end of Formula Year  $t=n$  (a “Periodic Review”); and
- (b) from time to time in accordance with Condition 4.5 (a “Special Review”).

**Terms Relevant to Reviews**

4.2.4 In respect of each Review (the “current Review”):

- $n$  is a Designated Parameter established (subject to Condition 4.5.2) by virtue of the Review immediately preceding the current Review. It denotes the Formula Year immediately preceding the first Formula Year in which the Determination Values and the Designated Parameters that are being established as part of the current Review will apply. In the case of the first Periodic Review only it shall be determined in accordance with Condition 4.2.5;
- $q$  is a Designated Parameter established as part of the current Review. It denotes the projected longstop Formula Year up to which Best Available Values must be submitted in accordance with Conditions 4.3 and 4.4;
- $m$  denotes the Formula Year immediately preceding the first Formula Year in which the Determination Values and the Designated Parameters which were established as part of the Review immediately preceding the current Review applied. Accordingly,  $t = n$  for any Review is the same year as  $t = m$  for the following Review; and

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- a* denotes the then most recent Formula Year for which the Licensee has submitted Actual Values in accordance with Condition 4.6.

### The First Periodic Review

4.2.5 Notwithstanding the other provisions of this Condition 4.2, the following provisions shall apply to the first Periodic Review alone:

- (a) for the purposes of the first Periodic Review, the Designated Parameter *n* shall be the year ending on 31 December 2005;
- (b) unless and until Condition 4.7 is modified, the Designated Parameters set out in Condition 4.7 (as at the time of Grant) will be deemed to have been established as such at the first Periodic Review;
- (c) the Licensee shall provide to the Authority the Best Available Values for the first Periodic Review (calculated in accordance with Conditions 4.3 and 4.4) based on the Designated Parameters set out in Condition 4.7 (as at the time of Grant) within 6 weeks of the date of the Grant;
- (d) the value of  $DAV_n$  used for the purposes of the first Periodic Review shall reflect that Capital Expenditure and Operating Expenditure incurred in the period up to 1 January 2006 (adjusted for cost of capital at the rate of LIBOR + 1%);
- (e) the Authority will, as part of the first Periodic Review and having considered any Best Available Values submitted by the Licensee, determine the Determination Values to apply in those Formula Years *t* occurring during the period  $t = 1$  to  $t = q$  (inclusive) for the first Periodic Review by notice to the Licensee prior to 1 January 2006;
- (f) the Licensee may, in respect of the first Periodic Review, serve a written “disapplication notice” on the Authority at any time prior to 1 March 2006. Such disapplication notice shall have effect from 1 January 2007 (the “disapplication date”). Following service of such a disapplication notice, and unless the Licensee withdraws the disapplication notice, Condition 4.1

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shall, with effect from the disapplication date, cease to have effect, unless by the disapplication date, the Authority has made a reference to the Competition Commission under Article 15 of the Order requiring the Competition Commission to investigate and report on whether the disapplication of Condition 4.1 may be expected to operate against the public interest.

### Periodic Reviews Generally

- 4.2.6 The Authority will, at each Review, determine the Determination Values and the Designated Parameters that apply in those Formula Years  $t$  occurring during the period  $t = n+1$  to  $t = q$  (inclusive) for that Review.
- 4.2.7 The Licensee shall provide to the Authority the Best Available Values (calculated in accordance with Conditions 4.3 and 4.4) in respect of each Periodic Review, together with the Licensee's proposed Designated Parameters for that Review, by the earlier in time of:
- (a) the date occurring 18 months prior to the end of each Formula Year  $t = n$ ; and
  - (b) the date occurring two months after the date on which the Authority has provided to the Licensee its proposed values for the Designated Parameters for that Review.
- 4.2.8 For each Special Review and in accordance with the timetable established by the Authority in accordance with Condition 4.5.6, the Licensee shall (to the extent directed to do so by the Authority in accordance with Condition 4.5.6) provide to the Authority Best Available Values for that Special Review (calculated in accordance with Conditions 4.3 and 4.4) and the Licensee's proposed Designated Parameters for that Special Review.
- 4.2.9 At the same time as it submits Best Available Values to the Authority in accordance with Condition 4.2.5(c), 4.2.7 or 4.2.8 (as applicable), the Licensee shall also provide such further accompanying information, evidence and other data with regard to the values submitted and the assumptions underlying the relevant estimates and forecasts

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as will be reasonably sufficient to enable the Authority to be satisfied that the Best Available Values have been provided on a proper and consistent basis. The Licensee shall thereafter provide the Authority with any further such information, evidence or other data requested by the Authority.

4.2.10 The Authority will, at the conclusion of each Review and having considered any Best Available Values and proposed Designated Parameters submitted by the Licensee, determine the Determination Values and the Designated Parameters by modifying Condition 4.7 in accordance with Articles 14(8) – (10) of the Order. Such Determination Values and Designated Parameters shall be established having regard to any information provided to the Authority and any representations made to the Authority, including those previously made by the Licensee, and in particular those made by the Licensee in respect of the:

- (a) Licensee's aim of recovering the costs it has incurred by way of Capital Expenditure during the period up to the end of Formula Year q by the end of that Formula Year, together with a rate of return on those costs; and
- (b) Licensee's aim of recovering the costs it has incurred by way of Operating Expenditure during the period up to the end of Formula Year q by the end of that Formula Year.

#### **Disapplication**

4.2.11 Condition 4.1 (the "Charging Methodology" Condition") shall apply so long as this Licence continues in force but shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a request (a "Disapplication Request") made in accordance with Condition 4.2.13 and:

- (a) the Authority agrees in writing to the request; or
- (b) the application of the Charging Methodology Condition (or any part of them) is terminated by a notice (a "Disapplication Notice") given by the Licensee in accordance with Condition 4.2.14 and not withdrawn.

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4.2.12 Save where the Authority otherwise agrees, no disapplication following delivery of a Disapplication Request shall have effect earlier than the date (the "Disapplication Date") which is the later of:

- (a) the date occurring 18 months after delivery of the Disapplication Request; and
- (b) the date occurring 6 months after the end of the Formula Year denoted by the Designated Parameter n applying at the date the Disapplication Request was delivered.

4.2.13 A Disapplication Request pursuant to this Condition 4.2.13 shall:

- (a) be in writing addressed to the Authority;
- (b) specify the Charging Methodology Condition, or any part of them to which the request relates; and
- (c) state the date from which the Licensee wishes the Authority to agree that the Charging Methodology Condition or the specified part of them shall cease to have effect.

4.2.14 A Disapplication Notice pursuant to this Condition 4.2.14:

- (a) may be given in the circumstances described in either Condition 4.2.15 or Condition 4.2.16;
- (b) may be withdrawn by the Licensee at any time prior to the Disapplication Date; and
- (c) where it is given, shall:
  - (i) be in writing addressed to the Authority;
  - (ii) specify the Charging Methodology Condition, or any part of them (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates; and

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- (iii) state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.

4.2.15 The circumstances described in this Condition 4.2.15 are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:

- (a) the Charging Methodology Condition, or any part of them to which the request relates; or
- (b) Conditions 4.2.11 to 4.2.16, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.

4.2.16 The circumstances described in this Condition 4.2.16 are that:

- (a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in Condition 4.2.15;
- (b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
- (c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
  - (i) quashed the decision of the Authority under Article 14E(2)(a) of the Order; and
  - (ii) neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
- (d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.

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**Closing Regulatory Value**

4.2.17 If  $DAV_{E,t=q} > 0$ , this value shall be returned to the Licensee in those Formula Years following  $t = q$ , in accordance with the principles determined by the Authority at that time, such principles to provide (inter alia) for an allowed rate of return.

**Condition 4.3 Establishing the Basic Best Available Values**

4.3.1 The Licensee shall submit basic Best Available Values to the Authority at each Review in accordance with Condition 4.2 for, unless otherwise specified, each past, current and future Formula Year  $t$  up to and including  $t = q$  for that Review. The Licensee shall submit Actual Values in respect of the basic Best Available Values for the Formula Years up to  $t=a$ , and shall use all reasonable endeavours to make its best estimate or forecast of the basic Best Available Values submitted in respect of the Formula Years from  $t=a+1$  to  $t=q$  (inclusive).

4.3.2 The basic Best Available Values are:

$V_{B,i,t}$  Best Available Volume in Formula Year  $t$  for Conveyance Category  $i$ ;

$C_{B,t}$  Best Available Capital Expenditure in Formula Year  $t$ ;

$C_{B,i,t}$  in Formula Year  $t$  and for Conveyance Category  $i$ , that proportion of Best Available Capital Expenditure in that Formula Year attributable to that Conveyance Category, using a methodology or methodologies approved by the Authority;

$O_{B,t}$  Best Available Operating Expenditure in Formula Year  $t$ ;

$O_{B,i,t}$  in Formula Year  $t$  and for Conveyance Category  $i$ , that proportion of Best Available Operating Expenditure in that Formula Year attributable to that Conveyance Category, using a methodology or methodologies approved by the Authority;

$D_{B,t}$  Best Available Annual Depreciation in Formula Year  $t$ ;

$RPI_{i,y_{B,t}}$  the sum of the Best Available values of the Retail Prices Index for each month in that Formula Year, divided by 12 (which gives a Best Available average value across that Formula Year);

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$UAC_{B,t}$  the Best Available Uncertainty Mechanism Capex Adjustment in respect of each Formula Year  $t$  from  $t=m-1$  to  $t=n$  as calculated by the Licensee:

- (a) in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Capex Adjustment; and
- (b) by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year  $t$  for which the adjustment is calculated;

$UAO_{B,t}$  the Best Available Uncertainty Mechanism Opex Adjustment in respect of each Formula Year  $t$  from  $t=m-1$  to  $t=n$ , as calculated by the Licensee:

- (a) in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Opex Adjustment; and
- (b) by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year  $t$  for which the adjustment is calculated; and

$RORA_{B,t}$  the Best Available Uncertainty Mechanism Rate of Return Adjustment in respect of each Formula Year  $t$  from  $t=m+1$  to  $t=n$ , starting on or after 1 January 2017, as calculated by the Licensee in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Rate of Return Adjustment.

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4.3.3 To the extent the Best Available Values comprise monetary amounts, the Licensee shall express each such value in constant price terms (calculated in accordance with this Condition 4.3.3). For each of the Best Available Values submitted in respect of Formula Years  $t=a+1$  to  $t=q$  (inclusive), constant price terms shall mean that such forecasted values are all stated in the same money of the day terms as at the time they are all forecasted. For each of the Best Available Values submitted in respect of Formula Years up to  $t=a$ , constant price terms shall mean that such Actual Values are all converted to the same money of the day terms, by multiplying them by:

$$\frac{RPI_B}{RPI_{y_{B,t}}}$$

Where  $RPI_B$  is the Licensee's proposed value for that Designated Parameter, to apply to each of the Formula Years that are the subject of the current Review. It is the base reference point for the Retail Prices Index and will reflect the money of the day terms in which those Best Available Values that are forecasts were forecasted.

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**Condition 4.4 Establishing Best Available Revenue Per Unit and Total Conveyance Revenue**

4.4.1 In addition to the basic Best Available Values referred to in Condition 4.3.2, the Licensee shall also (again in accordance with Condition 4.2) submit Best Available Revenue Per Unit values for each Review for each Formula Year  $t$  that is to occur during the period  $t = n+1$  to  $t = q$  (inclusive) for that Review. The Licensee shall use all reasonable endeavours to make its best estimate of the Best Available Revenue Per Unit for each Conveyance Category and for each such Formula Year ( $P_{B,i,t}$ ). The Licensee shall also provide Best Available Total Conveyance Revenue for each Conveyance Category ( $R_{B,i,t}$ ) and for each such Formula Year ( $R_{B,t}$ ), where

$$R_{B,i,t} = P_{B,i,t} \cdot V_{B,i,t} \text{ and}$$

$$R_{B,t} = \sum R_{B,i,t}$$

4.4.2 This Condition 4.4 sets out the Best Available Value categories and the underlying calculations upon which the Licensee should base its values of  $P_{B,i,t}$ . In compliance with its obligation under Condition 4.2, the Licensee shall submit full workings of the calculations and figures upon which its values of  $P_{B,i,t}$  are based.

4.4.3 The Licensee shall estimate values for the Best Available Revenue Per Unit ( $P_{B,i,t}$ ) so that:

- (a) such values comply with the requirements set out in Condition 4.4.4;
- (b) such values reasonably reflect the differences in the respective costs of conveying gas for each of the Conveyance Categories, with reference to, without limitation,  $C_{B,i,t}$  and  $O_{B,i,t}$ ;
- (c) the values (being, by virtue of Condition 4.3.3, values stated in constant price terms) for each Conveyance Category  $i$  will not, unless otherwise agreed with the Authority, differ between Formula Years  $t$ .

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4.4.4 Each value of  $P_{B,i,t}$  shall be set so that the cash flow (adjusted to reflect the allowed rate of return) over the Formula Years in question is equal to the difference between the regulatory value at the end of Formula Year  $n$  of those assets acquired through Capital Expenditure and their depreciated value at the end of Formula Year  $q$ . This will be shown to be the case where the values of  $P_{B,i,t}$  secure the following net present value result:

$$\sum_{t=n+1}^q \left( F_{B,t} \left( \frac{1+r_{B,t} \cdot f_{B,t}}{(1+r_B)^{t-n}} \right) \right) - TRV_{B,n} + \frac{DAV_{B,q}}{(1+r_B)^{q-n}} = 0$$

4.4.5 For the purposes of Condition 4.4.4, the following terms shall have the following meanings:

$n, q$  are Formula Years as defined in Condition 4.2.4 for the Review that  $P_{B,i,t}$  is being forecast as part of. As the value of the Designated Parameter  $q$  for that Review is also being established as part of that Review, it will necessarily be the Licensee's proposed value of that Designated Parameter;

$\sum_{t=n+1}^q$  is the summation of data in respect of all Formula Years  $t$  from  $t = n+1$  to  $t = q$  inclusive;

$F_{B,t}$  is the Best Available Cash Flow for Formula Year  $t$ , (being a sum calculated in accordance with Condition 4.4.6);

$r_{B,t}, r_B$  is the Licensee's proposed value of the Designated Parameter for rate of return to apply to each of the Formula Years within the relevant period. Provided that, where the Licensee does not propose the same value for each of the relevant Formula Years,  $(1+r_B)^{t-n}$  shall be replaced with  $(1+r_{B,n+1}) \cdot (1+r_{B,n+2}) \dots (1+r_{B,t})$  and  $(1+r_B)^{q-n}$  shall be treated accordingly;

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$f_{B,t}$  is the Licensee's proposed value of the Designated Parameter  $f$  to apply to Formula Year  $t$ , where  $f$  is an averaging factor (of between zero and one) to be applied to the rate of return, in recognition of the fact that the rate of return is being applied to an end of Formula Year value, but will in practice be recovered over the course of a Formula Year;

$DAV_{B,t}$  is the Best Available Depreciated Asset Value for Formula Year  $t$  (being a sum calculated in accordance with Condition 4.4.7); and

$TRV_{B,n}$  is, the Best Available Total Regulatory Value at the end of Formula Year  $t = n$  for that Review (being a sum calculated in accordance with Condition 4.4.8).

### **Calculating $F_{B,t}$ (Cash Flow)**

4.4.6  $F_{B,t}$  is an amount equal to the sum of the Best Available Conveyance Revenues for all of the Conveyance Categories and the relevant Formula Year, less the Best Available Capital Expenditure for that Formula Year, less the Best Available Operating Expenditure for that Formula Year, which shall be calculated as follows:

$$F_{B,t} = \sum_{all\_i} (P_{B,i,t} \cdot V_{B,i,t}) - C_{B,t} - O_{B,t}$$

### **Calculating $DAV_{B,t}$ (Depreciated Asset Value)**

4.4.7  $DAV_{B,t}$  is an amount equal to the indexed, depreciated, rolled forward value of Capital Expenditure to date, measured at the end of each Formula Year. In respect of Formula Year  $t$  therefore, it shall be the value of such amount applying to Formula Year  $t-1$ , plus the Best Available Capital Expenditure in Formula Year  $t$ , less the Best Available Annual Depreciation in Formula Year  $t$ , which shall:

- (a) for each of the Formula Years  $t = n+1$  to  $t=q$  be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t}$$

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(b) for Formula Year  $t = n$  be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t} + \sum_{i=m-1}^{t=n} UAC_{B,t}$$

where  $\sum_{i=m-1}^{t=n} UAC_{B,t}$  is the summation of the Best Available Uncertainty Mechanism Capex Adjustments for each Formula Year  $t$  in the period comprising Formula Years  $t = m-1$  to  $t = n$

provided that the Licensee shall, in forecasting  $DAV_{B,t-1}$  and  $DAV_{B,t}$  for any previous Formula Years, ensure that its forecasts are consistent with the Authority's most recent determinations of the Determined Depreciated Asset Value, so that:

$$DAV_{B,a} = DAV_{E,a} \frac{RPI_B}{RPI_E}$$

Where  $a$  denotes a Formula Year as defined in Condition 4.2.4.

### *Calculating $TRV_{B,n}$ (Total Regulatory Value)*

4.4.8  $TRV_{B,n}$  is the Best Available Total Regulatory Value at the end of Formula Year  $t = n$  for the Review in question. It is the sum of the Best Available Depreciated Asset Value for Formula Year  $t = n$  (or in other words the opening position at the beginning of Formula Year  $t = n+1$ ), plus any rolling incentive adjustments and adjustments related to the allowed rate of return, which shall be calculated as follows:

$$TRV_{B,n} = DAV_{B,n} + DA_B + PA_B + ORI_B + CRI_B + \sum_{i=m+1}^{t=n} RORA_{B,t}$$

Where:

$PA_B$  is the Profile Adjustment (being an adjustment calculated in accordance with Condition 4.4.9);

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$ORI_B$  is the Operating Rolling Incentive (being an incentive calculated in accordance with Condition 4.4.10); and

$CRI_B$  is the Capital Rolling Incentive (being an incentive calculated in accordance with Condition 4.4.11).

$DA_B$  is an adjustment to take account of any difference between actual depreciation and depreciation allowed in the calculation of allowed revenues up to year n and is calculated as:

$$DA_B = \sum_{t=0}^n \left( D_{B,t} - D_{E,t} \cdot \frac{RPI_B}{RPI_E} \right)$$

$\sum_{t=m+1}^{t=n} RORA_{B,t}$  is the summation of the Best Available Uncertainty Mechanism Rate of Return Adjustments for each Formula Year t in the period comprising Formula Years t=m+1 to t=n.

### ***Calculating the Profile Adjustment***

4.4.9 The Profile Adjustment is an adjustment to reflect the long-term nature of the price control set out in the conditions in this Part 4 (The Price Control Conditions). The Determined Revenue Per Unit values are established at each Review by reference to the period to Formula Year t=q and not by reference to the period to Formula Year t=n. At each Review therefore, it is necessary to recognise the financial impact of having set a deferred recovery profile at the previous Reviews, by carrying forward the deferred value. The Best Available Profile Adjustment for each Review shall be calculated as follows:

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$$PA_B = \left( \begin{array}{l} \sum_{t=m+1}^n F_{E,t} \cdot (1+r_{E,t} \cdot f_{E,t}) \cdot (1+r_E)^{n-t} \\ - TRV_{E,m} \cdot (1+r_E)^{n-m} \\ + DAV_{E,n} \\ + \sum_{t=m-1}^n UAO_{B,t} \cdot (1+r_{E,t} \cdot f_{E,t}) \cdot (1+r_E)^{n-t} \end{array} \right) \cdot \frac{RPI_B}{RPI_E}$$

Where:

m, n are Formula Years as defined in Condition 4.2.4 for the Review in question;

$\sum_{t=m+1}^n$  is the summation of data in respect of all Formula Years from m+1 to n (inclusive);

$F_{E,t}$ ,  $r_{E,t}$ ,  $f_{E,t}$ ,  $TRV_{E,m}$ , and  $DAV_{E,n}$  are Determination Values and Designated Parameters established by the Authority at the previous Review in respect of Formula Years t, m or n (respectively);

$r_E$  is the Designated Parameter for rate of return that applies to each of the Formula Years within the relevant period. Provided that, where the Authority did not establish the same value for each of the relevant Formula Years,  $(1+r_E)^{n-t}$  shall be replaced with  $(1+r_{E,t+1}) \cdot (1+r_{E,t+2}) \dots (1+r_{E,n})$  and  $(1+r_E)^{n-m}$  shall be treated accordingly.

$\sum_{t=m-1}^{t=n} UAO_{B,t}$  is the summation of the Best Available Uncertainty Mechanism Opex Adjustments for each Formula Year t in the period comprising Formula Years t=m-1 to t=n.

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*Calculating the Operating Rolling Incentive*

4.4.10 The Operating Rolling Incentive is an incentive that guarantees the Licensee a specific number of Formula Years (w) of benefit in respect of any savings in Controllable Operating Expenditure regardless of when the saving is made. Where Formula Year n+1 occurs before the Licensee has had w Formula Years of benefit from any saving in Controllable Operating Expenditure, the Operating Rolling Incentive therefore adds to the total regulatory value an amount equal to that saving in Controllable Operating Expenditure that would have been made in the remaining Formula Years of period w. Where Formula Year n+1 occurs after the Licensee has had w Formula Years of benefit from any saving in Controllable Operating Expenditure, the Operating Rolling Incentive therefore subtracts from the total regulatory value an amount equal to that saving in Controllable Operating Expenditure that was made in the Formula Years after completion of period w. The Operating Rolling Incentive for each Review shall be calculated as follows:

$$ORI_B = g \cdot \sum_{t=0}^n \left( \begin{array}{l} \sum_{y=n+1}^{t+w-1} O_{I,t} \frac{1 + r_{B,y} \cdot f_{B,y}}{(1 + r_B)^{y-n}} \\ - \sum_{y=t+w}^n O_{I,t} \cdot (1 + r_{E,y} \cdot f_{E,y}) \cdot (1 + r_E)^{n-y} \end{array} \right)$$

where:

g is the Designated Parameter established at the preceding Review;

n is a Formula Year as defined in Condition 4.2.4 for the Review in question;

w is the Designated Parameter established at the preceding Review, and being the number of Formula Years for which the Licensee is entitled to retain an Incremental Saving;

$\sum_{t=0}^n$  is the summation of the results of the calculation within the large brackets in respect of each Formula Year t that occurs up until Formula Year t=n;

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$\sum_{y=n+1}^{t+w-1}$  is, in respect of each Formula Year  $t$ , the summation of data in respect of the Incremental Saving (if any) first made in Formula Year  $t$ , for all the Formula Years (if any)  $y$  from  $y=n+1$  to  $y=t + w - 1$  (inclusive);

$\sum_{y=t+w}^n$  is, in respect of each Formula Year  $t$ , the summation of data in respect of the Incremental Saving (if any) first made in Formula Year  $t$ , for all the Formula Years (if any)  $y$  from  $y=t + w$  to  $y=n$  (inclusive);

$O_{i,t}$  is the Incremental Saving (if any) first made in Formula Year  $t$ . An Incremental Saving is said to have occurred in any Formula Year  $t$  in which the value of an Operating Saving in one Formula Year is greater than the value of the Operating Saving (if any) in the preceding Formula Year. The Operating Saving in each Formula Year is calculated (after the end of Formula Year  $t$ , and in respect only of those Formula Years to  $t=a$ ) in accordance with the following calculation (and must be positive to be an Operating Saving):

$$O_{S,t} = O_{E,t} \frac{RPI_B}{RPI_E} - O_{B,t}$$

where  $O_{E,t}$  is the Determined Controllable Operating Expenditure for Formula Year  $t$ ; and  $O_{B,t}$  is the Best Available (at the date the calculation is made) Controllable Operating Expenditure for Formula Year  $t$ ; and

$r_y, r$  is either the Licensee's proposed value of the Designated Parameter (highlighted by use of the B subscript), or the established Designated Parameter (highlighted by use of the E subscript) for the rate of return to apply to each of the Formula Years within the relevant period. Provided that, where the Licensee does not propose the same value for each of the relevant Formula Years,  $(1 + r_B)^{y-n}$  shall be replaced with  $(1 + r_{B,n+2}) \cdot (1 + r_{B,n+3}) \dots (1 + r_{B,t+w-1})$  and  $(1 + r_E)^{n-y}$  shall be treated accordingly.

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*Calculating Capital Rolling Incentive*

4.4.11 The Capital Rolling Incentive is an incentive that guarantees the Licensee a specific number of Formula Years (w) of benefit in respect of any savings in Capital Expenditure regardless of when the saving is made. Where Formula Year n+1 occurs before the Licensee has had w Formula Years of benefit from any saving in Capital Expenditure, the Capital Rolling Incentive therefore adds to the total regulatory value an amount equal to that saving in Capital Expenditure that would have been made in the remaining Formula Years of period w. Where Formula Year n+1 occurs after the Licensee has had w Formula Years of benefit from any saving in Capital Expenditure, the Capital Rolling Incentive therefore subtracts from the total regulatory value an amount equal to that saving in Capital Expenditure that was made in the Formula Years after completion of period w. The Capital Rolling Incentive for each Review shall be calculated as follows:

$$CRI_B = h \cdot \left( \sum_{t=0}^n \left( \sum_{y=n+1}^{t+w-1} C_{S,t} \frac{r_{B,y}}{(1+r_B)^{y-n}} - \sum_{y=t+w+1}^n C_{S,t} \cdot r_{E,y} \cdot (1+r_E)^{n-y} \right) + \sum_{t=n-w+1}^n C_{S,t} \frac{r_{B,t} \cdot f_{B,t}}{(1+r_B)^{t+w-n}} - \sum_{t=0}^{n-w} C_{S,t} \cdot r_{E,t} \cdot f_{E,t} \cdot (1+r_E)^{n-(t+w)} + DI_B \right)$$

Where:

$h$  is the Designated Parameter established at the preceding Review;

$\sum$  is the summation for Formula Years t or y (as the case may be) from the number below the summation sign to the number above the summation sign (inclusive);

$C_{S,t}$  is the Capital Saving (if any) made in Formula Year t. A Capital Saving is calculated (after the end of Formula Year t, and in respect only of those

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Formula Years to t=a) in accordance with the following calculation (and must be positive to be a Capital Saving):

$$C_{S,t} = C_{E,t} \frac{RPI_B}{RPI_E} - C_{B,t}$$

where  $C_{E,t}$  and  $C_{B,t}$  are the Determined Capital Expenditure and the Best Available (at the date the calculation is made) Capital Expenditure (respectively) for Formula Year t;

$D_{E,t}$  is the Determined Annual Depreciation for that Formula Year; and

$DI_B$  is the Best Available depreciation component modifying the incentive adjustment calculated according to the following formula:

$$DI_B = d \cdot \left( \sum_{t=0}^{n-w} C_{S,t} \frac{w}{l} \cdot (1 + r_{E,t} \cdot f_{E,t}) \cdot (1 + r_E)^{n-(t+w)} \right) + \sum_{t=n-w+1}^n C_{S,t} \frac{w}{l} \cdot \frac{1 + r_{B,t} * f_{B,t}}{(1 + r_B)^{t+w-n}}$$

where  $d$  and  $l$  are the Designated Parameter established at the preceding Review.

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**Condition 4.5 Special Reviews and Informal Reviews**

4.5.1 The Determination Values and Designated Parameters established at a Review will remain unchanged until the Authority issues a further notice to the Licensee in accordance with Condition 4.2.11.

4.5.2 Notwithstanding Condition 4.5.1:

- (a) the Authority may (after consultation with the Licensee) determine a new value for the Designated Parameter  $n$  (thereby triggering a Special Review) following the occurrence of any one or more of the events referred to in Condition 4.5.4; and
- (b) where a new value is so determined, the value of the Designated Parameter  $n$  in Condition 4.7 shall be modified accordingly in accordance with Article 10(5)(b) of the Order.

4.5.3 The Licensee may, by written notice to the Authority, require the Authority to determine a new value for the Designated Parameter  $n$  in accordance with Condition 4.5.2 where the Licensee can demonstrate to the Authority's reasonable satisfaction that any one or more of the events referred to in Condition 4.5.4 have occurred.

4.5.4 The events referred to in Conditions 4.5.2 and 4.5.3 are that, at the time the Authority chooses to make a determination (in the case of Condition 4.5.2), or at the time the Licensee serves the relevant written notice (in the case of Condition 4.5.3):

- (a) the Best Available Capital Expenditure for the then current Formula Year (or any future Formula Year up to and including  $n$ ) is likely to be in excess of the applicable Determined Capital Expenditure;
- (b) the Actual Volume in the ten current, the preceding or any future Formula Year up to and including  $n$  has differed or is likely to differ by a factor of 15% (or more) from the Determined Volume, adjusted to take account of weather conditions (including temperature variability) in accordance with such rules as are approved by the Authority from time to time; and

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- (c) the Licensee's obligations under Condition 3.2.1 have not been, or can reasonably be expected not to be, complied with.

4.5.5 Where, and at the time that, the Authority determines a new value for the Designated Parameter  $n$  in accordance with Condition 4.5.2:

- (a) if the sixth month of the then current Formula Year has not yet ended, the Formula Year determined as  $n$  by the Authority shall be the then current Formula Year; or
- (b) if the sixth month of the then current Formula Year has already ended, the Formula Year determined as  $n$  by the Authority shall be the Formula Year immediately following the then current Formula Year.

4.5.6 A Special Review will (like a Periodic Review) establish revised Determination Values and Designated Parameters. However, (unlike a Periodic Review) a Special Review shall be undertaken to establish new values for (and the Licensee shall provide Best Available Values and proposed Designation Parameters for) only those Determination Values and Designated Parameters as the Authority and the Licensee agree (or, in the absence of such agreement, as the Authority directs), and the values of the other Determination Values and Designated Values established at the last Review shall remain unchanged. The Licensee shall provide the required information in accordance with such timetable as the Authority may direct.

#### **Informal Review for Increased Capital Expenditure**

4.5.7 The Licensee shall give to the Authority an annual statement, at a time, in such form and accompanied by such supporting information as the Authority may direct, setting out in respect of all Formula Years for which Determination Values have been established, details of any Best Available Capital Expenditure which is likely to be in excess of the applicable Determined Capital Expenditure. In its statement to the Authority the Licensee shall provide such further accompanying information, evidence and other data with regard to the excess of expenditure as will be sufficient to enable the Authority to be reasonably satisfied that the proposed expenditure will be Capital Expenditure. To the extent that the Authority determines that such expenditure will be

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Capital Expenditure, such Capital Expenditure shall be included as Determined Capital Expenditure at the next Review (adjusted for the applicable rate of return over the period since it was incurred).

**Informal Review for Increase in Non-Controllable Operating Expenditure**

4.5.8 Where the Licensee can demonstrate to the Authority's reasonable satisfaction that the event referred to in Condition 4.5.9 has occurred, and to the extent that the Authority determines that the additional expenditure referred to in Condition 4.5.9 is Operating Expenditure, such Operating Expenditure shall be included as Determined Operating Expenditure at the next Review (adjusted for the applicable rate of return over the period since it was incurred).

4.5.9 The event referred to in Condition 4.5.8 is that the Best Available Operating Expenditure in the Formula Year in which the Licensee is seeking the determination referred to in Condition 4.5.8, or in any future Formula Year up to and including *n*, is greater than the Determined Operating Expenditure for the Formula Year in question by a factor of 15% (or more), and that such increase is attributable to Unanticipated Operating Expenditure in respect of that Formula Year.

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### **Condition 4.6 Reporting Requirements**

#### **Statements & Other Information**

4.6.1 Following each Formula Year  $t$ , the Licensee shall give to the Authority a statement, at a time, in such form and accompanied by such supporting information (including an appropriate statement from its auditors in the form specified in Condition 1.2.6) as the Authority may direct, setting out the Actual Values for each of the factors for which Determination Values were previously established and in respect of those Formula Years during which the price control set out in this Part 4 has applied up to and including Formula Year  $t$ .

#### **Pricing Information**

4.6.2 In advance of setting the Controlled Charges in respect of Formula Year  $t$ , the Licensee shall give to the Authority a statement, at a time, in such form and accompanied by such supporting information as the Authority may direct, setting out:

- (a) the Licensee's detailed charging proposals for Formula Year  $t$ ;
- (b) the Formula Year  $t$  values used by the Licensee for each of the parameters referred to in the calculations that underpin the maximum amount recoverable under the charging methodology set out in Condition 4.1;
- (c) a demonstration of how the charging methodology requirement applying to Formula Year  $t$  would be satisfied by the adoption of the Licensee's charging proposals; and
- (d) an explanation for any significant variation from zero in the value of  $Z_{F,i,t-1}$  and an outline of the Licensee's proposals for reversing any positive value (accumulated over-recovery) or sustaining any negative value (accumulated under-recovery) in  $Z_{F,i,t}$ .

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**Further Information**

- 4.6.3 Without prejudice and in addition to any other information required to be provided under this Part 4, the Licensee shall, prior to the start of each Formula Year, provide to the Authority, in respect of that Formula Year and each Conveyance Category, Best Available Values in respect of selling prices, Volumes, gas commodity costs, cost of competing fuels, cost of swing, transmission charges, distribution costs, supply costs and revenue available to distribution.
- 4.6.4 Without prejudice and in addition to any other information required to be provided under this Part 4, the Licensee shall, following the end of each Formula Year (within such reasonable period of time as is directed by the Authority), provide to the Authority, in respect of that Formula Year and each Conveyance Category, Actual Values in respect of selling prices, Volumes, gas commodity costs, cost of competing fuels, cost of swing, transmission charges, distribution costs, supply costs and revenue available to distribution.

**Condition 4.7 Current Designated Parameters and Determination Values**

The Designated Parameters to apply to the first Formula Year (m+1) and in each subsequent Formula Year up to and including Formula Year *n* shall be:

<b>Designated Parameter</b>	<b>Value</b>
$r_t$	0.0432
n	2022
m	2016
$f_t$	0.5
$q$	2045
$RPI$	256.0
$w$	5
$g$	0
$h$	1
$d$	1
$l$	33

The Determination Values to apply in the first Formula Year (m+1) and in each subsequent Formula Year up to and including Formula Year *n* shall be:

Description (for Conveyance Categories <i>i</i> and Formula	Determination Values		All Values in £(000's) and Indexed to RPI 2014									
			t=2017	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025	t=2026
Volume (therms)	$V_{EU}$	$i=1$	11,228	12,780	14,462	16,267	18,185	20,197	22,039	23,793	25,471	27,086
	$V_{EU}$	$i=2$	8,336	8,850	9,352	9,844	10,325	10,796	11,215	11,602	11,773	12,167
	$V_{EU}$	$i=3$	6,380	6,374	6,368	6,362	6,355	6,349	6,294	6,239	6,184	6,128
	$V_{EU}$	$i=4$	1,161	327	327	327	327	327	319	311	303	895
	$V_{EU}$	$i=5$	13,375	13,361	13,361	13,361	13,361	13,361	13,245	13,128	13,012	12,896
	$V_{EU}$	$i=6$	21,500	18,152	18,152	18,152	18,152	18,152	17,994	17,836	17,679	17,521
Capital Expenditure	$C_{E,i}$		17,021	14,216	14,412	14,632	15,041	15,264	13,494	12,660	12,870	10,299
Operating Expenditure	$O_{E,i}$		6,334	6,293	6,446	6,656	6,929	7,205	7,397	7,499	7,585	7,674
Annual Depreciation	$D_{E,i}$		4,378	4,797	5,209	5,650	6,069	6,356	6,630	6,940	7,250	7,483
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{E,i}$		-5,538	-2,697	-2,163	-1,723	-1,369	-854	1,566	3,094	3,495	6,712
Revenue Per Unit	$R_{EU}$	$i=1$	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335
	$R_{EU}$	$i=2$	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046
	$R_{EU}$	$i=3$	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730
	$R_{EU}$	$i=4$	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168
	$R_{EU}$	$i=5$	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558
	$R_{EU}$	$i=6$	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324
Total Conveyance Revenue	$R_{E,i}$		17,818	17,813	18,634	19,624	20,601	21,615	22,458	23,253	23,949	24,686
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{E,i}$		118,306	127,726	136,329	145,370	154,942	163,849	170,713	176,433	182,052	184,868
Total Regulatory Value (calculated in accordance with Condition 4.4.8)	$TRV_{E,m}$						202,350					

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Description (for Conveyance Categories <i>i</i> and Formula	Determination Values		t=2027	t=2028	t=2029	t=2030	t=2031	t=2032	t=2033	t=2034	t=2035	t=2036
	Volume (therms)	$V_{Eu}$	$i=1$	28,567	29,363	31,228	32,414	33,477	34,482	35,386	36,236	37,004
$V_{Eu}$		$i=2$	12,306	12,610	12,673	12,906	12,908	13,084	13,038	13,167	13,084	13,176
$V_{Eu}$		$i=3$	6,073	6,018	5,363	5,308	5,852	5,797	5,742	5,687	5,631	5,576
$V_{Eu}$		$i=4$	887	879	871	863	855	847	838	830	822	814
$V_{Eu}$		$i=5$	12,780	12,664	12,548	12,431	12,315	12,199	12,083	11,967	11,850	11,734
$V_{Eu}$		$i=6$	17,363	17,205	17,047	16,889	16,732	16,574	16,416	16,258	16,100	15,942
Capital Expenditure	$C_{E,t}$		8,047	8,047	8,185	7,806	7,757	7,832	7,373	7,328	7,126	6,818
Operating Expenditure	$O_{E,t}$		7,835	8,039	8,151	8,249	8,311	8,247	8,153	8,137	8,256	8,450
Annual Depreciation	$D_{E,t}$		7,657	7,846	8,079	8,283	8,502	8,722	8,915	9,095	9,277	9,434
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{E,t}$		9,405	9,816	10,050	10,834	11,199	11,593	12,442	12,826	13,134	13,511
Revenue Per Unit	$R_{Eu}$	$i=1$	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335
	$R_{Eu}$	$i=2$	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046
	$R_{Eu}$	$i=3$	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730
	$R_{Eu}$	$i=4$	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168
	$R_{Eu}$	$i=5$	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558
	$R_{Eu}$	$i=6$	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324
Total Conveyance Revenue	$R_{E,t}$		25,287	25,902	26,386	26,888	27,267	27,672	27,967	28,292	28,516	28,779
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{E,t}$		185,258	185,459	185,565	185,088	184,343	183,453	181,910	180,144	177,392	175,377
Total Regulatory Value (calculated in accordance with Condition 4.4.8)	$IRV_{E,t}$		223,871					217,234				

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Description (for Conveyance Categories <i>i</i> and Formulas	Determination Values		t=2037	t=2038	t=2039	t=2040	t=2041	t=2042	t=2043	t=2044	t=2045
	Volume (therms)	$V_{Eu}$	$i=1$	38,377	38,367	39,483	39,368	40,382	40,766	41,082	41,386
$V_{Eu}$		$i=2$	13,063	13,125	12,989	13,026	12,872	12,890	12,722	12,723	12,544
$V_{Eu}$		$i=3$	5,521	5,466	5,411	5,355	5,300	5,245	5,190	5,135	5,079
$V_{Eu}$		$i=4$	806	798	790	782	774	766	758	750	742
$V_{Eu}$		$i=5$	11,618	11,502	11,386	11,270	11,153	11,037	10,921	10,805	10,689
$V_{Eu}$		$i=6$	15,784	15,627	15,469	15,311	15,153	14,995	14,837	14,680	14,522
Capital Expenditure	$C_{E,t}$		6,825	6,786	6,731	6,681	6,662	6,544	6,344	6,371	6,256
Operating Expenditure	$O_{E,t}$		8,669	8,743	8,747	8,996	9,253	9,241	9,091	9,038	8,958
Annual Depreciation	$D_{E,t}$		3,534	3,758	3,918	10,069	10,231	10,374	10,491	10,589	10,693
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{E,t}$		13,446	13,601	13,751	13,691	13,502	13,721	14,073	14,148	14,314
Revenue Per Unit	$E_{Eu}$	$i=1$	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335
	$E_{Eu}$	$i=2$	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046
	$E_{Eu}$	$i=3$	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730
	$E_{Eu}$	$i=4$	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168
	$E_{Eu}$	$i=5$	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558
	$E_{Eu}$	$i=6$	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324
Total Conveyance Revenue	$R_{E,t}$		28,939	29,130	29,229	29,368	29,417	29,506	29,508	29,557	29,529
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{E,t}$		172,607	169,635	166,448	163,060	159,491	155,661	151,514	147,296	142,859
Total Regulatory Value (calculated in accordance with Condition 4.4.8)	$TRV_{E,t}$		195,723					165,780			142,859

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Description (for Conveyance Categories <i>i</i> and Formula	Determination Values		t=2017	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025	t=2026
	Volume (therms)	$V_{E,i}$	$i=1$	11,228	12,780	14,462	16,267	18,185	20,197	22,039	23,793	25,471
	$V_{E,i}$	$i=2$	8,336	8,850	9,352	9,844	10,325	10,796	11,215	11,602	11,773	12,167
	$V_{E,i}$	$i=3$	6,380	6,374	6,368	6,362	6,355	6,349	6,294	6,239	6,184	6,128
	$V_{E,i}$	$i=4$	1,161	927	927	927	927	927	919	911	903	895
	$V_{E,i}$	$i=5$	13,375	13,361	13,361	13,361	13,361	13,361	13,245	13,128	13,012	12,896
	$V_{E,i}$	$i=6$	21,500	18,152	18,152	18,152	18,152	18,152	17,994	17,836	17,679	17,521
Capital Expenditure	$C_{E,i}$		17,021	14,216	14,412	14,692	15,041	15,264	13,494	12,660	12,870	10,299
Operating Expenditure	$O_{E,i}$		6.475	6.432	6.584	6.793	7.065	7.340	7.532	7.632	7.718	7.807
Annual Depreciation	$D_{E,i}$		4,378	4,797	5,209	5,650	6,069	6,356	6,630	6,940	7,250	7,483
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{E,i}$		-5.581	-2.738	-2.199	-1.753	-1.392	-871	1.555	3.088	3.493	6.715
Revenue Per Unit	$P_{E,i}$	$i=1$	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359
	$P_{E,i}$	$i=2$	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062
	$P_{E,i}$	$i=3$	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745
	$P_{E,i}$	$i=4$	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180
	$P_{E,i}$	$i=5$	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572
	$P_{E,i}$	$i=6$	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336
Total Conveyance Revenue	$R_{E,t}$		17.915	17.910	18.796	19.732	20.714	21.733	22.580	23.380	24.080	24.821
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{E,t}$		118,306	127,726	136,929	145,970	154,942	163,849	170,713	176,433	182,052	184,868
Total Regulatory Value (calculated in accordance with Condition 4.4.8)	$TRV_{E,t}$							202,571				

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Description (for Conveyance Categories <i>i</i> and Formula	Determination Values		t=2027	t=2028	t=2029	t=2030	t=2031	t=2032	t=2033	t=2034	t=2035	t=2036	Formatted: Font: Times New Roman
	Volume (therms)	$V_{E,i}$	<i>i</i>										
	$V_{E,i}$	<i>i=1</i>	28,567	29,963	31,228	32,414	33,477	34,482	35,386	36,236	37,004	37,738	
	$V_{E,i}$	<i>i=2</i>	12,306	12,610	12,673	12,906	12,908	13,084	13,038	13,167	13,084	13,176	
	$V_{E,i}$	<i>i=3</i>	6,073	6,018	5,963	5,908	5,852	5,797	5,742	5,687	5,631	5,576	
	$V_{E,i}$	<i>i=4</i>	887	879	871	863	855	847	838	830	822	814	
	$V_{E,i}$	<i>i=5</i>	12,780	12,664	12,548	12,431	12,315	12,199	12,083	11,967	11,850	11,734	
	$V_{E,i}$	<i>i=6</i>	17,363	17,205	17,047	16,889	16,732	16,574	16,416	16,258	16,100	15,942	
Capital Expenditure	$C_{E,i}$		8,047	8,047	8,185	7,806	7,757	7,832	7,373	7,328	7,126	6,818	
Operating Expenditure	$O_{E,i}$		7,967	8,170	8,282	8,380	8,442	8,379	8,285	8,270	8,388	8,582	
Annual Depreciation	$D_{E,i}$		7,657	7,846	8,079	8,283	8,502	8,722	8,915	9,095	9,277	9,434	
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{E,i}$		9,411	9,826	10,063	10,850	11,217	11,613	12,463	12,848	13,158	13,537	
Revenue Per Unit	$P_{E,i}$	<i>i=1</i>	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	
	$P_{E,i}$	<i>i=2</i>	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	
	$P_{E,i}$	<i>i=3</i>	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	
	$P_{E,i}$	<i>i=4</i>	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	
	$P_{E,i}$	<i>i=5</i>	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	
	$P_{E,i}$	<i>i=6</i>	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336
Total Conveyance Revenue	$R_{E,t}$		25,426	26,043	26,531	27,035	27,416	27,824	28,120	28,446	28,672	28,937	
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{E,i}$		185,258	185,459	185,565	185,088	184,343	183,453	181,910	180,144	177,992	175,377	
Total Regulatory Value (calculated in accordance with Condition 4.4.8)	$TRV_{E,m}$		224,158					217,503					

Description (for Conveyance Categories $i$ and Formula)	Determination Values	t=2037	t=2038	t=2039	t=2040	t=2041	t=2042	t=2043	t=2044	t=2045	Formatted: Font: Times New Roman
Volume (therms)	$V_{E,i}$ $i=1$	38,377	38,967	39,483	39,968	40,382	40,766	41,082	41,386	41,638	
	$V_{E,i}$ $i=2$	13,063	13,125	12,989	13,026	12,872	12,890	12,722	12,723	12,544	
	$V_{E,i}$ $i=3$	5,521	5,466	5,411	5,355	5,300	5,245	5,190	5,135	5,079	
	$V_{E,i}$ $i=4$	806	798	790	782	774	766	758	750	742	
	$V_{E,i}$ $i=5$	11,618	11,502	11,386	11,270	11,153	11,037	10,921	10,805	10,689	
	$V_{E,i}$ $i=6$	15,784	15,627	15,469	15,311	15,153	14,995	14,837	14,680	14,522	
Capital Expenditure	$C_{E,t}$	6,825	6,786	6,731	6,681	6,662	6,544	6,344	6,371	6,256	
Operating Expenditure	$O_{E,t}$	8,800	8,874	8,878	9,127	9,384	9,372	9,222	9,170	9,091	
Annual Depreciation	$D_{E,t}$	9,594	9,758	9,918	10,069	10,231	10,374	10,491	10,589	10,693	
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{E,t}$	13,473	13,629	13,780	13,720	13,532	13,751	14,103	14,178	14,343	
Revenue Per Unit	$P_{E,i}$ $i=1$	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	0.4359	
	$P_{E,i}$ $i=2$	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	0.3062	
	$P_{E,i}$ $i=3$	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	0.2745	
	$P_{E,i}$ $i=4$	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	0.2180	
	$P_{E,i}$ $i=5$	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	0.2572	
	$P_{E,i}$ $i=6$	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	0.2336	
Total Conveyance Revenue	$R_{E,t}$	29,097	29,289	29,389	29,528	29,578	29,667	29,669	29,719	29,690	
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{E,t}$	172,607	169,635	166,448	163,060	159,491	155,661	151,514	147,296	142,859	
Total Regulatory Value (calculated in accordance with Condition 4.4.8)	$TRV_{E,t}$	195,922					165,864			142,859	

**Condition 4.8 Definitions and Interpretation**

4.8.1 In this Part 4, unless the context otherwise requires, the following terms and expressions shall have the meanings attributed to them below:

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“Actual”	used as an adjective in relation to another defined word or phrase, means the Actual Value to be attributed to it;
“Actual Value”	means, in relation to any quantifiable term and in respect of any Formula Year $t$ , a value that is established as the accurate value to be attributed to that term at the end of that Formula Year by reference to verifiable data in the possession of the Licensee. The key Actual Values are set out in Condition 4.8.3. An Actual Value is denoted in the terms of formulae in this Part 4 by the use of an $F$ subscript;
“Allowed Revenue”	means, in respect of Conveyance Category $i$ in Formula Year $t$ , the Determined Total Conveyance Revenue calculated as the Revenue Per Unit multiplied by the Determined Volume in respect of that Conveyance Category in that Formula Year;
“Annual Depreciation”	means the annual depreciation of those assets, the purchase of which was initially recognised as Capital Expenditure, allocated on a systematic basis over the useful lives of such assets, using policies and asset life assumptions approved by the Authority;
“Best Available”	used as an adjective in relation to another defined word or phrase, means the Best Available Value to be attributed to it;
“Best Available Value”	means, in relation to any quantifiable term and at the time that quantifiable term is being assessed, a value which, in respect of past Formula Years and to the extent possible, is based on Actual Values, and otherwise is a forecast best estimate. A Best Available Value is denoted in the terms of formulae in this Part 4 by the use of a $B$

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subscriber;

“Capital Expenditure” means Expenditure that relates to property, plant or equipment that would be recognised as an asset under International Accounting Standard 16 ‘Property, Plant and Equipment’ (excluding any attributable interest costs), or any alternative accounting treatment specified by the Authority in any regulatory accounting guidelines issued from time to time;

“Controllable Operating Expenditure” means, in respect of any Formula Year, the monetary amounts attributable to those categories of Operating Expenditure that are deemed by the Authority to be within the reasonable control or influence of the Licensee and that are designated by the Authority as being Controllable Operating Expenditure in respect of that Formula Year at the last Review before that Formula Year;

“Controlled Charges” means all the charges levied by the Licensee in the course of the Licensed Business;

“Controlled Revenue” means the total revenue (measured on an accruals basis) derived by the Licensee from the Licensed Business, after deduction of value added tax (if any) and any other taxes based directly on such revenue, other than revenue derived under Conditions 2.5.2(a)(i) or 2.5.3(a)(i);

“Conveyance Category” means one of the following six classes of consumer:

- (i) firm gas demand of less than 2,500 therms per annum which is connected to the Network;
- (ii) firm gas demand of 2,500 - 25,000 (inclusive) therms per annum which is connected to the

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Network;

- (iii) firm gas demand of over 25,000 (up to a maximum of 75,000) therms per annum which is connected to the Network;
- (iv) firm gas demand of over 75,000 therms per annum which is connected to the Network and which is used (in whole or part) in a combined heat and power generating station;
- (v) firm gas demand of over 75,000 therms per annum which is connected to the Network and which is not used in a combined heat and power generating station;
- (vi) gas demand which can be interrupted under the terms of the supply contract and which is connected to the Network;

“Conveyance Revenue” means, in respect of each Conveyance Category *i* and any Formula Year *t*, the Controlled Revenue for that Formula Year and that Conveyance Category;

“Designated Parameters” means those parameters set out in Condition 4.8.4; the applicable values from time to time for which are set out in Condition 4.7 (and denoted in the terms of formulae in this Part 4 by the use of an E subscript); and, in respect of Best Available Values, the Licensee’s proposed values for those parameters (highlighted by use of the B subscript). The Designated Parameters set at one Review will (subject to Condition 4.5.2) apply unless and until revised at the next Review. Unless a Designated Parameter has a *t* subscript, the value set at a Review must be the same for each Formula Year in the period

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$t=n+1$  to  $t=q$ ;

- “Determined” used as an adjective in relation to another defined word or phrase, means the Determination Value to be attributed to it;
- “Determination Values” means those terms set out under that heading in Condition 4.8.3, the applicable values from time to time for which are set out in Condition 4.7 in respect of each Formula Year  $t$ . A Determination Value is denoted in the terms of formulae in this Part 4 by the use of an  $E$  subscript;
- “Expenditure” means the expenditure that the Authority deems necessary or appropriate for the carrying out by the Licensee of the Licensed Business in an economically efficient and safe manner, having regard in particular to the forecast statements provided to the Authority and to any procurement procedures and expenditure control procedures agreed between the Licensee and the Authority, but excluding:
- (i) expenditure relating to tax, financing and other returns to investors;
  - (ii) expenditure incurred in the construction of any Excluded Pipe-line,
  - (iii) expenditure that is recoverable under Conditions 2.5.2(a)(i) or 2.5.3(a)(i); and
  - (iv) an amount equal to the sum of: (A) the value of any grants received by the Licensee that are attributable to the Licensed Business; and (B) the arm’s-length value of any disposals made by the Licensee of

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assets previously used in carrying out the Licensed Business;

“Excluded Pipe-line” means, in respect of any pipe-line forming a part of the Network that runs directly from the Transmission System to one or more Supply Locations, that part of such pipe-line which commences at the point of connection with the Transmission System and ends at the first Five km Point to be reached by that pipe-line,

and, for these purposes,

“Five km Point” means, in respect of a Supply Location, any point lying on a radius of 5 kilometres drawn around the Load Centre for that Supply Location,

“Load Centre” means, in respect of a Supply Location, the location determined as such by the Authority (following consultation with the Licensee),

“Supply Location” means each Town (as defined in Condition 3.1), and any other premises or group of premises that is designated as such by the Authority on notice to the Licensee from time to time, and

“Transmission System” means the system of transmission pipe-lines owned and/or operated by the person licensed from time to time under the conveyance licence granted to Bord Gais Eireann on 12 February 2002;

“Final Determination” means the document of that title published by the Authority on 15 September 2016 for the purposes of the Review relating to the period commencing with t=2017;

“Formula Year” means a period of twelve calendar months commencing on 1 January and ending on 31 December, and for the

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purposes of this Licence the first such period shall be deemed to commence on 1 January 2006;

“Non-Controllable Operating Expenditure” means any Operating Expenditure other than Controllable Operating Expenditure;

“Operating Expenditure” means all Expenditure other than Capital Expenditure;

“Retail Prices Index” or “RPI” means the Index of that name published by the Office of National Statistics each month in respect of all items, or:

- (i) if that Index for the specified month in any year shall not have been published on or before the last day of the sixth month after the specified month, such alternative index for such month as the Authority may after consultation with the Licensee determine as appropriate in the circumstances; or
- (ii) if there is a material change in the basis of the Index, such alternative index as the Authority may after consultation with the Licensee determine as appropriate in the circumstances;

“Revenue Per Unit” means, in respect of each Conveyance Category *I* and any Formula Year *t*, the Conveyance Revenue for that Conveyance Category and that Formula Year divided by the Volume for that Conveyance Category and that Formula Year;

“Review” has the meaning attributed to it in Condition 4.2.2. A Review can be either a Periodic Review (as defined in that Condition) or a Special Review (as defined in that Condition);

“Unanticipated Operating” means, in respect of any Formula Year, and at the time it

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Expenditure”

is assessed in that Formula Year:

- (i) the amount (if any) by which the value of the Best Available Non-Controllable Operating Expenditure for that Formula Year is greater than the Determined Non-Controllable Operating Expenditure for that Formula Year; and/or
- (ii) to the extent such costs are outside the reasonable control of the Licensee, the value attributable to any categories of Operating Expenditure included within the Best Available Non-Controllable Operating Expenditure for that Formula Year, for which categories no allowance was made in the Determined Operating Expenditure for that Formula Year;

Uncertainty Mechanism  
Capex Adjustment

means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value  $C_{E,t}$  set out in Condition 4.7, as calculated by the Authority in accordance with the principles and methodology described in the Final Determination, for the purposes of establishing the Determination Value  $DAV_{E,t}$  for the Formula Years  $t$  occurring during the period  $t = n+1$  to  $t = q$  (inclusive) for that Review;

Uncertainty Mechanism  
Opex Adjustment

means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value  $O_{E,t}$  set out in Condition 4.7, as calculated by the Authority, in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value  $TRV_{E,m}$  for the Formula Years  $t$  occurring during the

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period  $t = n+1$  to  $t = q$  (inclusive) for that Review;

**Uncertainty Mechanism** means, in respect of the current Review, an adjustment to  
**Rate of Return Adjustment** reflect the financial value (if any) attributable to the difference between the value of Designated Parameter  $r$  set out in Condition 4.7 and a revised value of that Designated Parameter  $r$ , as calculated by the Authority in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value  $TRV_{E,m}$  for the Formula Years  $t$  occurring during the period  $t = n+1$  to  $t = q$  (inclusive) for that Review; and

**“Volume”** means, in respect of each Conveyance Category  $i$  and any Formula Year  $t$ , the aggregate quantity of gas, in therms or kWhs (as directed by the Authority), taken off the Network as a result of arrangements with gas suppliers in that Formula Year and for that Conveyance Category.

4.8.2 In this Part 4, “revenue”, “expenditure” and “accruals” are the amounts that are confirmed by the Licensee’s auditors as such and have (to the extent that such financial statements have been produced) been included under appropriate headings in the financial statements of the Licensee’s Separate Business of conveying gas for each period in question.

4.8.3 Best Available Values, Determination Values and Actual Values

Description (for Conveyance Categories $i$ and Formula Years $t$ )	Best Available Values	Determination Values	Actual Values
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Volume	$V_{B,i,t}$	$V_{E,i,t}$	$V_{F,i,t}$
Capital Expenditure	$C_{B,t}$	$C_{E,t}$	
Operating Expenditure	$O_{B,t}$	$O_{E,t}$	
Annual Depreciation	$D_{B,t}$	$D_{E,t}$	
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{B,t}$	$F_{E,t}$	
Revenue Per Unit	$P_{B,i,t}$	$P_{E,i,t}$	$P_{F,i,t}$
Total Conveyance Revenue	$R_{B,t}$	$R_{E,t}$	
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{B,t}$	$DAV_{E,t}$	
Total Regulatory Value (calculated in accordance with Condition 4.4.8)*	$TRV_{B,n}$	$TRV_{E,m}$	
Uncertainty Mechanism Capex Adjustment	$UAC_{B,t}$		$UAC_{F,t}$
Uncertainty Mechanism Opex Adjustment	$UAO_{B,t}$		$UAO_{F,t}$
Rate of Return Adjustment	$RORA_{B,t}$		$RORA_{F,t}$

\* at end of Formula Year n (for the Review in which Best Available Values are being submitted) or at the end of Formula Year m (on and following determination of Determination Values for that Review).

4.8.4 Designated Parameters

Description	Designated Parameters	Limitation to the application of re-designated values
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Rate of return	$r_t$	Shall be 0.075 until the end of Formula Year 2016, after which time it may be any number between 0 and 1
Trigger for Reviews (as defined in Condition 4.2.3(a))	$n$	A Formula Year
The Formula Year that was $n$ for the preceding review	$m$	A Formula Year
Averaging factor to reflect in year accruals (as defined in Condition 4.4.5)	$f_t$	A number between 0 and 1
The forecasting horizon for review calculations (as defined in Condition 4.2.4)	$q$	Shall be the Formula Year 2045 or any Formula Year after 2045
The indexation base *	$RPI$	None
Incentive period (as defined in Condition 4.4.10)	$w$	A number of Formula Years
A switch for the Operating Rolling Incentive	$g$	Either 0 or 1
A switch for the Capital Rolling Incentive	$h$	Either 0 or 1
A switch for the depreciation component	$d$	Either 0 or 1
Deemed asset life	$l$	None

\* which will, in respect of the Determination Values determined at the Review in question, reflect the prices in which those Determination Values are expressed. It can therefore be used, in conjunction with  $RPI_{i,t}$ , to adjust the Determined Revenue Per Unit value to allow for changes in the Retail Prices Index in the period since the value of the Determined Revenue Per Unit was determined.

**4.8.5 Key to other formula parameters:**

- $a$                     subscript to denote a Formula Year as defined in Condition 4.2.4;
- $B$                      subscript to denote Best Available Values;
- $C_{i,t}$                 Capital Expenditure in Formula Year  $t$  allocated between Conveyance Categories  $i$ ;

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<i>CRI</i>	Capital Rolling Incentive (calculated in accordance with Condition 4.4.11);
<i>DI</i>	a depreciation component of the Capital Rolling Incentive (as defined in Condition 4.4.11);
<i>E</i>	subscript to denote Determination Values;
<i>F</i>	subscript to denote Actual Values;
<i>i</i>	subscript to denote a Conveyance Category;
<i>m</i>	subscript to denote a Formula Year as defined in Condition 4.2.2;
<i>O<sub>i,t</sub></i>	Operating Expenditure in Formula Year <i>t</i> allocated between Conveyance Categories <i>i</i> ;
<i>ORI</i>	Operating Rolling Incentive (calculated in accordance with Condition 4.4.10);
<i>PA</i>	Profile Adjustment (calculated in accordance with Condition 4.4.9);
<i>RPI<sub>E</sub>, RPI<sub>B</sub></i>	Retail Prices Index base reference points (as defined in Conditions 4.1.3 and 4.3.3);
<i>RPI<sub>i</sub><sub>t</sub></i>	in year average Retail Prices Index values;
<i>t</i>	subscript to denote any Formula Year;
<i>y</i>	subscript to denote any Formula Year (used for summations when it is necessary to differentiate from <i>t</i> ); and
<i>Z<sub>F,t</sub></i>	the Actual Value for accumulated under or over-recoveries for Formula Year <i>t</i> (calculated in accordance with Condition 4.1.8).

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**SCHEDULE 1**  
**LICENSED AREA**

1.1 The Licensed Area comprises:

- a) all areas within the boundaries of the following Electoral Wards (being the spatial unit used to elect local government councillors into district council areas, as at the date of the grant of this Licence. 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):

<b>Part 1</b>	<b>Part 3</b>
95DD01 Academy 95DD03 Ardeevin 95DD04 Ballee 95DD05 Ballykeel 95DD06 Ballyloughan 95DD08 Castle Demesne 95DD11 Dunclug 95DD13 Fair Green 95DD14 Galgorm 95DD16 Glenwhirry 95DD18 Harryville 95DD20 Moat 95DD21 Park 95DD24 Summerfield	95DD10 Cullybackey 95DD12 Dunminning 95DD15 Glenravel 95DD17 Grange 95DD19 Kells 95DD22 Portglenone 95DD23 Slemish
95DD02 Ahoghill	
95DD07 Broughshane	
95DD09 Craigwarren	
95EE03 Carnany 95EE07 Fairhill 95EE08 Glebe 95EE12 Newhill 95EE13 Route 95EE14 Seacon	95EE01 Ballyhoe and Corkey 95EE02 Benvardin 95EE04 Clogh Mills 95EE05 Dervock 95EE06 Dunloy 95EE09 Killoquin Lower 95EE10 Killoquin Upper 95EE11 Knockaholet 95EE15 Stranocum 95EE16 The Vow
95JJ03 Ballysally 95JJ05 Central 95JJ06 Churchland	95JJ01 Agivey 95JJ02 Atlantic 95JJ04 Castlerock

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<p>95JJ07 Cross Glebe  95JJ08 Dundoan  95JJ13 Knocklynn  95JJ15 Mount Sandel  95JJ20 The Cuts  95JJ21 University  95JJ22 Waterside  95JJ14 Macosquin</p>	<p>95JJ09 Dunluce  95JJ10 Garvagh  95JJ11 Hopefield  95JJ12 Kilrea    95JJ16 Portstewart  95JJ17 Ringsend  95JJ18 Royal Portrush  95JJ19 Strand    95UU04 Bushmills  95UU02 Ballylough</p>
<p>95MM01 Altnagelvin  95MM02 Ballynashallog  95MM04 Beechwood  95MM05 Brandywell  95MM06 Carn Hill  95MM18 Holly Mount  95MM21 New Buildings</p>	<p>95MM03 Banagher  95MM09 Claudy</p>
<p><b>Part 1 (continued)</b></p>	<p><b>Part 3 (continued)</b></p>
<p>95MM07 Caw  95MM08 Clondermot  95MM10 Creggan Central  95MM11 Creggan South  95MM12 Crevagh  95MM13 Culmore  95MM14 Ebrington  95MM15 Eglinton  95MM16 Enagh  95MM17 Foyle Springs  95MM19 Kilfennan  95MM20 Lisnagelvin  95MM22 Pennyburn  95MM23 Rosemount  95MM24 Shantallow East  95MM25 Shantallow West  95MM26 Springtown  95MM27 Strand  95MM28 The Diamond  95MM29 Victoria  95MM30 Westland</p>	
<p>95RR01 Aghanloo  95RR03 Coolessan  95RR05 Enagh  95RR10 Greystone  95RR12 Rathbrady</p>	<p>95RR02 Ballykelly  95RR04 Dungiven  95RR06 Feeny  95RR07 Forest  95RR08 Glack</p>

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95RR13 Roeside	95RR09 Gresteel 95RR11 Magilligan 95RR14 The Highlands 95RR15 Upper Glenshane
<b>Part 2</b>	<b>Part 4</b>
95AA01 Aldergrove 95AA02 Balloo 95AA08 Farranshane 95AA09 Fountain Hill 95AA10 Greystone 95AA11 Massereene 95AA15 Springfarm 95AA16 Steeple 95AA17 Stiles 95AA18 Templepatrick 95AA03 Ballycraigy	95AA04 Clady 95AA05 Cranfield 95AA06 Crumlin 95AA07 Drumanaway 95AA12 Parkgate 95AA13 Randalstown 95AA14 Shilvodan 95AA19 Toome 95WW02 Ballyclare North 95WW03 Ballyclare South 95WW07 Ballyrobert 95WW13 Doagh
95CC01 Abbey Park 95CC03 Callan Bridge 95CC06 Demesne 95CC08 Downs 95CC18 Observatory 95CC22 The Mall	95CC04 Carrigatuke 95CC05 Charlemont 95CC07 Derrynoose 95CC02 Ballymartrim 95CC09 Hamiltonsbawn 95CC10 Hockley
95CC21 Tandragee 95OO06 Benburb 95OO19 Moy	
<b>Part 2 (continued)</b>	<b>Part 4 (continued)</b>
	95CC11 Keady 95CC12 Killeen 95CC13 Killylea 95CC14 Laurelvale 95CC15 Loughgall 95CC16 Markethill 95CC17 Milford 95CC19 Poyntz Pass 95CC20 Rich Hill
95FF01 Ballydown 95FF03 Banbridge West 95FF07 Edenderry 95FF08 Fort 95FF09 Gilford 95FF12 Lawrencetown 95FF16 Seapattrick	95FF02 Ballyward 95FF04 Bannside 95FF05 Dromore North 95FF06 Dromore South 95FF10 Gransha 95FF11 Katesbridge 95FF13 Loughbrickland

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95FF17 The Cut	95FF14 Quilly 95FF15 Rathfriland
95LL02 Annagh 95LL03 Ballybay 95LL04 Ballyoran 95LL06 Brownstown 95LL07 Church 95LL08 Corcraín 95LL09 Court 95LL10 Derrytrasna 95LL12 Drumgask 95LL13 Drumgor 95LL14 Drumnámoe 95LL15 Edenderry 95LL16 Kernan 95LL17 Killycomain 95LL18 Knocknashane 95LL19 Magheralin 95LL20 Mourneview 95LL21 Parklake 95LL22 Taghnevan 95LL23 Tavanagh 95LL25 Waringstown 95LL26 Woodville  95SS21 Maghaberry 95SS24 Moira 95SS03 Ballymacbrennan 95SS08 Dromara  95SS15 Hillsborough 95SS23 Maze	95LL01 Aghagallon  95LL11 Donaghcloney 95LL24 The Birches
95LL05 Bleary  95VV02 Ballybot 95VV10 Daisy Hill 95VV12 Derrymore 95VV14 Drumalane 95VV15 Drumgullion 95VV27 St Mary's 95VV28 St Patrick's	
<b>Part 2 (continued)</b>	<b>Part 4 (continued)</b>
95VV30 Windsor Hill	95VV01 Annalong 95VV03 Bessbrook 95VV04 Binnian 95VV05 Burren and Kilbroney 95VV06 Camlough 95VV07 Clonallan 95VV08 Creggan

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	95VV09 Crossmaglen 95VV11 Derryleckagh 95VV13 Donaghmore 95VV16 Fathom 95VV17 Forkhill 95VV18 Kilkeel Central 95VV19 Kilkeel South 95VV20 Lisnacree 95VV21 Mayobridge 95VV22 Newtownhamilton 95VV23 Rostrevor 95VV24 Seaview 95VV25 Silver Bridge 95VV26 Spelga 95VV29 Tullyhappy
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b) the following premises which forms part of the Remaining Licence Area and which are the subject of an Additional Development Plan:

(i) The Ulster Farm By-Products Site which encompasses:

- a. Ulster Farm By-Products Limited, Glenconway Factory, 29 Ballyvannon Road, Glenavy, Crumlin, BT29 4QL.
- b. the land in, on or over which the Ulster Farm By-Products Pipeline is situated.
- c. any premises which are, at any given location, situated within a 50 metre radius of the Ulster Farm By-Products Pipeline.
- d. the land in or over which pipelines are situated for the purpose of conveying gas to premises specified in paragraph 1.1(b)(C) above.

1.2 In paragraph 1.1(b)(i), the “Ulster Farm By-Products Pipeline” means the distribution pipeline of the Licensee which pipeline follows the route from the Leap Bridge over the Glenavy River along the Lurgan Road to its junction, with the Ballyvannon Road,

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continuing along the Ballyvannon Road to, and terminating at, the premises specified in paragraph 1.1(b)(i) above.

**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' notice (or 24 hours notice in the case of (g) below) to the Licensee:

- (a) if the Licensee agrees in writing with the Authority that such Licence should be revoked; or
- (b) if any amount payable under Condition 1.13 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

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date for such payment and the 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 supply licence of the Supply Licensee that was granted on the same date as the date of the Grant is revoked and immediately prior to that time the Supply Licensee had a right to supply gas exclusively to any premises within the Licensed Area pursuant to such licence; or
- (g) if the Licensee:
  - (i) is unable to pay its debts (within the meaning of section 123(1) or 123(2) of the Insolvency Act 1986), but subject to paragraph 4 of this Schedule 2), or has any voluntary arrangement proposed in relation to it under section 1 of that Act, or 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 section 251 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed; or

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- (iii) has an administration order under section 8 of the Insolvency Act 1986 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
- (h) if 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 shareholding 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 change or reversion in control does not take place within that period; or
- (i) 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

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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
- (j) 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 the Licensed Business within nine months of the date of the Grant or thereafter ceases for a period of 3 months to carry on the 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. Revocation of Licence if Licensee does not have title in assets of business

- (a) The Licensee shall acquire ownership of the relevant assets (as the same are defined in Condition 1.12.6) required for the conduct of its Licensed Business and save as is permitted under Conditions 1.11 and 1.12, if the Licensee does not have ownership of the relevant assets required for the conduct of its Licensed Business under the Licence, then the Authority may at any time by not less than 30 days' notice to the Licensee revoke the Licence for such Licensed Business.
- (b) For the purposes of this paragraph 3 of this Schedule 2 the Licensee shall own a relevant asset if it could not otherwise be treated as having been disposed of (as disposal is defined in Condition 1.12.6).

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### 4. Licensee's deemed ability to pay its debts

- (a) For the purposes of paragraph 1(g)(i) of this Schedule 2, section 123(1)(a) of the Insolvency Act 1986 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(g)(i) of this Schedule 2 if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 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.

### 5. 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(i) 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 416 of the Income and Corporation Taxes Act 1988 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”.

**SCHEDULE 3**

**Exclusivity**

**1 Definitions**

- 1.1 Except where expressly stated to the contrary, and unless the context otherwise requires, the expressions used in this Schedule 3 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.
- 1.2 When used in this Schedule 3, the expression “Exclusive Area” shall mean the area that constitutes the Licensed Area, but excluding the land in on or over which pipe-lines are situated for the purpose of conveying gas to the premises set out in the annex to this Schedule 3.

**2 Exclusivity**

2.1 Exclusivity

- (a) The Licensee shall be entitled exclusively to participate in the conveyance of gas from one place to another in the Exclusive Area by means of distribution pipe-lines (such conveyance within such area being a “designated activity” for the purposes of Article 9 of the Order) for the period (subject to paragraph 2.1(b) below) from the date of the Grant of this Licence until the date which is the twentieth anniversary of the date of the Grant. The Authority may, after the date of the Grant and in accordance with Article 9 of the Order, modify the terms of the exclusivity conferred under this Schedule 3 (including so as to extend the period of such exclusivity under Article 9(7) of the Order).
- (b) The period of exclusivity referred to in paragraph 2.1(a) above shall, in respect of that part of the Exclusive Area falling within the Remaining Licensed Area, cease on the fifth anniversary of the date of the Grant, unless and to the extent such area has become an Additional Development Area or such period of exclusivity has been modified by the Authority in accordance with Article 9 of the Order.

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2.2 Relevant Conditions for the purposes of Article 9

For the purposes of Article 9(6) of the Order, the “relevant conditions” shall be those conditions of this Licence which are identified as such in the Licence from time to time.

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**Annex to Schedule 3**  
**PREMISES EXCLUDED FROM EXCLUSIVITY**

- 1 Tarmac Northern Ltd, 40a Boghill Road, Newtownabbey, Co. Antrim, BT36 4QS
- 2 26 Site 1 Boghill Road, Newtownabbey, Co. Antrim, BT36 4QS
- 3 Ballyearl Sports Centre, Doagh Road, Newtownabbey, Co. Antrim
- 4 26 Boghill Road Newtownabbey
- 5 34 Boghill Road Newtownabbey
- 6 Ashers Baking Co. 581 Doagh Road Newtownabbey
- 7 583 Doagh Road Newtownabbey
- 8 Miles Ash Ltd, 576 Doagh Road
- 9 Any premises which are located outside the Licensed Area.
- 10 Any premises at any location which lies within a 50 meter radius of a pipe-line which is to be constructed for the purposes of conveying gas along a route approved by the Authority which:
  - a. starts at the boundary of the District of Strabane; and
  - b. ends at a connection point on the North-West pipe-line (having the meaning given to it in the gas conveyance licence granted to BGE (UK) Ltd on 12 February 2002).

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Note: (does not form part of the Licence)

### Consolidated to include

1. To note assignment to BGE (NI) Distribution Ltd from 20 June 2005 (have copy of letter).
2. Modification dated 6 October 2005 – Amendments to Annex to Schedule 3.- (signed copy of modification).
3. Modifications dated 8 December 2005 – Amendments to price control conditions (signed copy of modification).
4. To note that BGE (NI) Distribution Limited changed name to Firmus Energy (Distribution) Limited from 4 May 2006.
5. Modification dated 7 February 2007 – timetable for Network Code – (signed copy of modification).
6. Modification dated 7 February 2007 – extension of conveyance exclusivity (signed copy of modification).
7. EU Directive 2003/55/EC dated 15 November 2007.
8. Please see modification made in January 2010 regarding the approval to extend gas to Portstewart. This can be located by clicking [here](#).
9. Modification dated 25<sup>th</sup> February 2010 - Licence Modification - 2.5, Provision and return of meters to remove cap on the number of prepayment meters for which the licence can recover their condition costs.
10. Modification dated 12 September 2012 – IME3 licence amendments as a result of Directive 2009/73/EC concerning common rules for the internal market in natural gas. Licence modifications approved by DETI.
11. Licence modification of condition 1.13 Payment of fees to the Authority – September 2012
12. Licence modification dated 6<sup>th</sup> November 2012 to extend Licensed Area to include Electoral Wards of Bushmills and Ballylough.
13. Licence modifications to conditions 1.2 and 2.4 to implement further IME requirements as a result of Directive 2009/73/EC concerning common rules for the internal market in natural gas – dated 30<sup>th</sup> April 2013.
14. Modification of the definition of Licensed Area contained in Condition 1.1.6 of the licence to include reference to “Schedule 1 of the licence” - dated 24th May 2013.
15. Modification to the definitions of “Additional Development Plan” and “Electoral Ward” contained in Condition 3.1.1 of the licence – dated 24th May 2013.

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16. Modification to Para 11 of Condition 3.2 in relation to “Conveyance in the Remaining Licensed Area”, to include reference to areas “as designated under Schedule 1....” – dated 24<sup>th</sup> May 2013.
17. Modification under Article 8(1) of the order to Schedule 1 (Licensed Area) of the licence to permit the extension of the Licensed Area by reference to individual premises as well as Electoral Wards – dated 24<sup>th</sup> May 2013.
18. Licence modification to extend the Licensed Area to include Ulster Farm By-Products – letter dated 24<sup>th</sup> May 2013.
19. Modification in relation to Network Code (proposal 001) – “Clarification on the application of Reconciliation Energy Charges” – proposed 29<sup>th</sup> May 2013 by Firmus Energy (Distribution) Ltd and applicable from 12<sup>th</sup> August 2013.
20. Modification dated 28 March 2014 – Modifications to Conditions 1.3, 2.4, 2.7A, 2.8A, 2.9A and insertion of Conditions 2.2A and 2.9B for the purposes of the EU Third Internal Energy Package. Licence modifications approved by DETI.
21. Licence modification to extend the Licensed Area to include the Electoral Wards of Benburb and Moy – dated 30 July 2015.
22. Licence modification to condition 2.13 consequential to the introduction of entry capacity and the new gas day. Effective date 7 August 2015 for licence changes for the introduction of entry charges and 1 October 2015 for licence changes giving effect to a change in gas day.
23. Licence modifications to conditions 1.1, 1.9, 1.13, 4.1, 4.4, 4.7, 4.9 and 4.10 to implement requirements resulting from the Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015. Licence modifications approved by DETI and effective from 4 August 2015.
24. Licence modification to Annex to Schedule 3 Premises Excluded from Exclusivity to facilitate a new pipeline to connect the Strabane area. Licence modification effective from 4 February 2016.
25. Licence modification to include condition 2.11A Forecasting Party Agreement. This requires the licensee to co-operate with other DNOs and the Forecasting Party to provide accurate Non Daily Metered offtake forecasts to Network Users for the purpose of minimising imbalance charges. The condition became effective from the 9 June 2016. Decision paper and notice of modifications published on 14 April 2016.
26. Licence modifications to condition 1.1 to amend the definitions of domestic and non-domestic consumer/premises and to condition 1.23 to extend the timeframe for provision of change of supplier information to the UR. These modifications became effective from 1 September 2016. Decision paper and notice of modifications published on 3 June 2016.
27. Extensive licence modifications were made for reasons including: modifications in order to bring GD17 price control into effect, change of form of price control, Gas to the West required modifications and modifications pursuant to the Gas and Electricity Licence Modifications and Appeals Regulations (NI) 2015 and other sundry modifications. These modifications

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became effective from 1 January 2017. Decision paper and notice of modifications were published on 28<sup>th</sup> October 2016.