

Northern Ireland Electricity Ltd

Participate in Transmission Licence

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PART I GRANT AND TERMS OF THE LICENCE

- 1 The Department, in exercise of the powers conferred by Articles 10(1), 10(6), 11 and 13 of the Electricity (Northern Ireland) Order 1992 (hereinafter referred to as the "**Order**") hereby grants to Northern Ireland Electricity plc a licence to transmit electricity for the purpose of giving a supply to any premises or enabling a supply to be so given in the authorised transmission area during the period specified in paragraph 2.
- 2 The licence hereby granted shall come into force on the transfer date appointed under Article 69(3) of the Order and, unless revoked in accordance with the terms specified in Schedule 3, shall continue in force until determined by not less than 25 years' notice in writing given by the Department to the licensee in relation to that licence, such notice not to be served earlier than the tenth anniversary of the transfer date appointed under Article 69(3) of the Order.

31 March 1992

Assistant Secretary
Department of Economic Development

- 3 In accordance with and pursuant to Regulation 90(1) of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 [SR 2011/155] (the **Internal Markets Regulations**), the licence granted under paragraph 1 above has effect from 15 April 2011 as if it were:
 - (a) a licence under Article 10(1)(b) of the Order (the **successor transmission licence**);
and
 - (b) a licence under Article 10(1)(bb) of the Order (the **successor distribution licence**).
- 4 This is the successor transmission licence, as provided for under Regulation 90(1)(b), modified under Regulation 90(5), and published under Regulation 90(8) of the Internal Markets Regulations (the **Licence**).
- 5 The Licence authorises Northern Ireland Electricity Ltd (previously Northern Ireland Electricity plc) to participate in the transmission of electricity, for the purpose of giving a supply to any premises or enabling a supply to be so given, in the authorised area designated in paragraph 1 of Schedule 1.
- 6 The Licence is subject to the Conditions set out in Part II, to the terms set out in this Part I and to the terms of revocation specified in Schedule 2.

- 7 The Conditions referred to in paragraph 6 are subject to modification or amendment in accordance with their terms and/or with any lawful power of modification as may exist from time to time.

Monday 11 March 2013

The Northern Ireland Authority for Utility Regulation

PART II THE CONDITIONS

Condition 1. Interpretation and Construction

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

“affiliate” in relation to any person means any holding company of that person, any subsidiary of that person, or any subsidiary of a holding company of that person, in each case within the meaning of section 1159 of the Companies Act 2006, and references in that Act to a “company” shall be deemed to include the Electricity Supply Board;

“All-Island Transmission Networks” means the transmission system and the Republic of Ireland transmission system taken together;

“Auditors” means the Licensee’s auditors for the time being holding office in accordance with the requirements of Chapter 2 of Part 16 of the Companies Act 2006;

“authorised” in relation to any business or activity means authorised by licence granted under Article 10 or exemption granted under Article 9 of the Order;

“Authorised Area” means the area from time to time comprised in paragraph 1 of Schedule 1;

"authorised electricity operator"	means any person (other than the Licensee in its capacity as the holder of the Licence) who holds a licence granted pursuant to Article 10 of the Order or whose activities are exempt pursuant to Article 9 of the Order, and any person transferring electricity across a Northern Ireland Interconnector or who has made application for use of a Northern Ireland Interconnector which has not been refused;
"Authority"	means the Northern Ireland Authority for Utility Regulation;
"Commission for Energy Regulation"	means the body established as such under the Republic of Ireland Electricity Act.
"competent authority"	means the Department, the Authority and any local or national agency, authority, department, inspectorate, minister, ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom or the European Community;
"Consumer Council"	means the Consumer Council for Northern Ireland;
"Department"	means the Department of Enterprise, Trade and Investment;
"designated"	in relation to any agreement, arrangement, code, notice, proposal therefor or other document, means designated by the Department or the Authority (as the case may be) or on its behalf by means of initialling or descriptive reference whether for the purposes of any Condition of this Licence or otherwise, but so that an agreement, arrangement, code, notice, proposal therefor or other document so designated may at the discretion of the Department or the Authority (as the case may be) cease to be designated if amended or modified in any material respect;
"Directive"	means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in

	electricity;
"Directive Regulations"	means the Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 2005 and/or the Electricity Regulations (Northern Ireland) 2007;
"Distribution Business"	means the business of the Licensee (or, as permitted under Condition 14 of the Licence, of the Relevant Subsidiary) in or ancillary to the transport (whether for its own account or that of third parties) of electricity through the Distribution System, and shall include any business in providing connections to the Distribution System and any business in providing the Market Registration Services and/or the Market Data Services, but shall not include any other business of the Licensee or any affiliate or related undertaking of the Licensee in the provision of other services to or on behalf of any one or more persons;
"Distribution Code"	means the code of that name required to be prepared and approved in accordance with Condition 27 of the successor distribution licence;
"Distribution System"	means the system comprising of electric lines owned and operated by the Licensee within the Authorised Area (excepting lines forming part of the transmission system or any Interconnector), and any other electric lines which the Authority may specify as forming part of the Distribution System, and includes any electrical plant and meters of the Licensee which are used in connection with distribution by the Licensee;
"Electricity Supply Board"	means the body corporate established in accordance with the Republic of Ireland Electricity (Supply) Act 1927;
"electricity undertaking"	means an authorised electricity operator and/or a Republic of Ireland electricity operator;
"Energy Order"	means the Energy (Northern Ireland) Order 2003;

"enforcement matter"	means any matter in respect of which any functions of the Authority under Article 42 of the Energy Order are or may be exercisable;
"existing transmission licence"	means the transmission licence held by Northern Ireland Electricity Ltd immediately before the date the Internal Markets Regulations came into operation.
"financial year"	bears the meaning ascribed to it in paragraph 1 of Condition 2;
"generator"	means a person authorised by a licence granted under Article 10(1)(a) of the Order;
"Grid Code"	means the code of that name to be prepared and approved in accordance with the Transmission System Operator Licence;
"holding company"	means a holding company within the meaning of section 1159 of the Companies Act 2006;
"Interconnector"	means a Republic of Ireland Interconnector and/or a Northern Ireland Interconnector;
"Internal Markets Regulations"	means The Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 [SR2011/155];
"Island of Ireland"	means Northern Ireland and the Republic of Ireland.
"land"	includes any right, easement or other interest in land and any wayleave;
"Land Bank Business"	means the business of the Licensee in the discharge of its obligations under Condition 23 of the successor distribution licence;
"lease"	means a lease of premises, and includes an underlease and a sub-underlease;
"Licence"	means this licence, as defined in paragraph 4 of Part I (Grant and Terms of the Licence), having effect as a licence under Article 10(1)(b) of the Order by virtue of Regulation 90(1)(a) of the Internal Markets Regulations;

"Licensee"	means Northern Ireland Electricity Ltd (a body corporate registered in Northern Ireland under company number NI026041) and (where the context so requires) shall include any business in respect of which the Licensee is a successor company;
"Market Data Service"	means the service described in paragraph 3 of Condition 28 of the successor distribution licence;
"Market Registration Service"	means the service described in paragraph 2 of Condition 28 of the successor distribution licence;
"modification"	includes any addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;
"megawatt" or "MW"	includes an equivalent megawatt;
"NIE Energy Supply Licence"	means the licence granted under Article 10(1)(c) of the Order to Northern Ireland Electricity plc on 31 March 1992 and transferred to NIE Energy Limited (a body corporate registered in Northern Ireland under company number NI27394) on 1 November 2007 pursuant to a statutory transfer scheme;
"Northern Ireland Fuel Security Code"	means the document of that title designated as such by the Department as from time to time amended in accordance with its provisions, dealing with the co-operation of licence holders in strategic contingency planning in respect of fuel stocks, the modification of the merit order and certain other systems and procedures under the Grid Code during periods when the Department has given and there is in force one or more directions under Article 37(4) of the Order, the entitlement of the Licensee and authorised electricity operators to and the collection of certain payments in anticipation of, during and after the expiry of any such periods, and connected matters;
"Northern Ireland Interconnector"	means electric lines and electrical plant and meters used for conveying electricity only directly to or from a substation or converter station within Northern Ireland

	into or out of Northern Ireland, but excluding the North/South Circuits;
"Northern Ireland Market Operator Licence"	means the licence granted, under Article 10(1)(d) of the Order, to SONI Limited (a body corporate registered in Northern Ireland under company number NI038715) on 3 July 2007.
"Northern Ireland Market Operator Licensee"	means the person authorised, from time to time, under the Northern Ireland Market Operator Licence in its capacity as the holder of that licence.
"North/South Circuits"	means the electric lines and electrical plant and meters used for conveying electricity only directly to or from a substation or converter station within Northern Ireland directly to or from a substation or converter station within the Republic of Ireland;
"notice"	means (unless otherwise specified) notice given either in writing or by electronic data transfer;
"Order"	means the Electricity (Northern Ireland) Order 1992;
"Permitted Purpose"	means the purpose of all or any of the following: <ul style="list-style-type: none">(a) the Transmission Owner Business;(b) any business or activity carried on in accordance with paragraph 8 of Condition 14;(c) any business or activity within the limits of paragraph 9 (e) of Condition 14;(d) without prejudice to the generality of sub-paragraphs (a) to (c), any payment or transaction lawfully made or undertaken by the Licensee in relation to the disposal of or relinquishment of operational control over any relevant asset in accordance with Condition 9;(e) and without prejudice to the generality of sub-paragraphs (a) to (c), any payment or transaction lawfully made or undertaken by the Licensee for

a purpose within sub-paragraphs (i) to (vi) of paragraph 6(b) of Condition 9.

"Power Procurement Business"	has the meaning given to that expression in the NIE Energy Supply Licence;
"related undertaking"	in relation to any person means any undertaking in which that person has a participating interest within the meaning of section 421A of the Financial Services and Markets Act 2000;
"relevant licensed supplier"	means a person authorised by a licence granted under Article 10(1)(c) of the Order;
"Relevant Subsidiary"	means, provided it is a wholly owned subsidiary of the Licensee, NIE Powerteam Limited (a company registered in Northern Ireland under company number NI032214);
"Republic of Ireland Board"	means the Electricity Supply Board in the Republic of Ireland;
"Republic of Ireland distribution system"	means all electric lines of the Republic of Ireland Board in the Republic of Ireland which the Republic of Ireland Board may, with the approval of the Commission for Energy Regulation, specify as forming part of the Republic of Ireland Board's distribution system and includes any electric plant, transformers and switchgear of the Republic of Ireland Board which is used for conveying electricity to final customers;
"Republic of Ireland Electricity Act"	means the Republic of Ireland legislation known as the Electricity Regulation Act 1999;
"Republic of Ireland electricity operator"	means any person engaged in the generation, transmission, distribution or supply of electricity in the Republic of Ireland, including any holder of a licence or authorisation to do so, or a person who has been granted a permit under Section 37 of the Electricity (Supply) Act 1927 and any person transferring electricity across a Republic of Ireland Interconnector

	or who has made an application for use of a Republic of Ireland Interconnector which has not been refused;
"Republic of Ireland Interconnector"	means electric lines and electrical plant and meters used for conveying electricity only directly to or from a substation or converter station within the Republic of Ireland into or out of the Republic of Ireland, but excluding the North/South Circuits;
"Republic of Ireland Network"	means the Republic of Ireland transmission system and the Republic of Ireland distribution system taken together;
"Republic of Ireland System Operator"	means the person, holding from time to time, the Republic of Ireland System Operator Licence in its capacity as the holder of that licence;
"Republic of Ireland System Operator Licence"	means the licence granted under Section 14 (1) (e) of the Republic of Ireland Electricity Act, to Eirgrid plc (a company formed pursuant to regulation 34 of the Republic of Ireland legislation known as the European Communities (Internal Market in Electricity) Regulations 2000);
"Republic of Ireland transmission system"	means the system of electric lines in the Republic of Ireland comprising wholly or mainly the Republic of Ireland Board's high voltage lines and electric plant and which is used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another or to or from any Republic of Ireland Interconnector or to final customers (including such part of the North/South Circuits as is owned by the Republic of Ireland Board) (but shall not include any such lines which the Republic of Ireland Board may, with the approval of the Commission for Electricity Regulation, specify as being part of the Republic of Ireland Board's distribution system), and shall include any Republic of Ireland Interconnector owned by the Republic of Ireland Board.
"representation"	includes any objection or other proposal made in

writing;

“SEM Go-Live”

means the time and date designated as such by the Authority (with the consent of the Department) for the purpose of licences granted under the Order, being the commencement date for a number of matters including the Single Electricity Market.

“SEM Order”

means the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007;

“Severe Weather Event”

- (1) Means an event where a minimum, verified, number of incidents affecting the distribution high voltage network linked to severe weather conditions has occurred within a 24 hour period.
- (2) Is deemed to begin at the start of a 24-hour period when the number of incidents caused by the severe weather event at distribution high voltage in that period is equal to or greater than the commencement threshold number; and
- (3) Is deemed to end at the earlier of:
 - the time of restoration of the last customer off supply due to an LV incident linked to the severe weather event, or
 - the end of a 48-hour period that commences when the number of customers off supply due to high voltage incidents linked to the severe weather event has fallen to zero.
- (4) Where any conflict arises between this definition and the Regulations, the Regulations shall have precedence.
- (5) This definition shall come into force on such date as the Authority may direct and shall cease to have effect on such other date as the

Authority may direct.

For the purposes of this definition:

- a) "commencement threshold number" means 13 times the average daily fault rate experienced by NIE's distribution high voltage network.
- b) "distribution high voltage" means 6.6kV, 11kV and 33kV.
- c) "incidents" are defined as any occurrence on the NIE distribution system or other connected distributed generation, transmission or distribution system, which:
 - Results in an interruption of supply to customer(s) for one minute or longer; or
 - Prevents a circuit or item of equipment from carrying normal load current or being able to withstand "through fault current" for one minute or longer.
- d) "weather conditions" means the effect of one or more of wind, lightning, rain, snow, ice, flooding, thermal heating and other recognised weather phenomena as the Authority may from time to time deem appropriate for inclusion in this list.
- e) "the Regulations" means the Electricity (Standards of Performance) Regulations (Northern Ireland) 1993, as amended or replaced.

"Single Electricity Market"

means the single wholesale electricity market for the Island of Ireland, implemented in Northern Ireland pursuant to Section 23 of the Northern Ireland (Miscellaneous Provisions) Act 2006;

"Single Electricity Market Trading and Settlement Code"	has the meaning given to that term in the Northern Ireland Market Operator Licence;
"subsidiary"	means a subsidiary within the meaning of section 1159 of the Companies Act 2006;
"successor company"	bears the meaning ascribed to it for the purposes of Part III of the Order;
"successor distribution licence"	means the licence, held by the Licensee, which has effect as a licence under Article 10(1)(bb) of the Order pursuant to Regulation 90(1)(b) of the Internal Markets Regulations;
"Surplus Shadow ACT"	has the meaning given to it in the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999;
"transfer scheme"	means the transfer scheme made under Article 69(1) of the Order approved by the Department (and whether or not it has modified it before approving it);
"Transmission and Distribution Business"	means the Transmission Owner Business and the Distribution Business taken together;
"Transmission System Security and Planning Standards"	means either the document designated as such by the Authority or, until the Authority designates such a document, that part of the document which relates to transmission system security and planning standards in the document entitled Transmission and Distribution System Security and Planning Standards and designated by the Authority on or before SEM Go-Live, as modified from time to time in accordance with Condition 20 of the Transmission System Operator Licence;
"Transmission Connection Agreement"	means an agreement between the Transmission System Operator and any person in respect of connection to the All-Island Transmission Networks at entry or exit points on the transmission system;
"Transmission Interface"	means the transmission interface arrangements

Arrangements"	provided for in Condition 17;
"Transmission Owner Business"	means the business of the Licensee (or, as permitted under Condition 14 of the Licence, of the Relevant Subsidiary) in the development, construction, ownership and maintenance of the transmission system (to the extent authorised by the Licence, including making the transmission system available for use), and in any other activity ancillary to the ownership of the transmission system, but shall not include any other business of the Licensee or any affiliate or related undertaking of the Licensee;
"transmission services"	means those services outlined in Condition 18;
"transmission system"	means the system of electric lines owned by the Licensee and comprising high voltage lines and electrical plant and meters used for conveying electricity from a generating station to a substation, from one generating station to another, and from one substation to another within the Authorised Area (including such part of the North/South Circuits as is owned by the Licensee) (except any such lines which the Authority may approve as being part of the Distribution System) and any other electric lines which the Authority may specify as forming part of the transmission system, but shall not include any Interconnector;
"Transmission System Operator"	means the person authorised, from time to time, under the Transmission System Operator Licence in its capacity as the holder of that licence;
"Transmission System Operator Licence"	means the licence granted under Article 10(1)(b) of the Order to SONI Limited (a body corporate registered in Northern Ireland under company number NI038715) on 3 July 2007;
"Transmission Use of System Agreement"	means an agreement between the Transmission System Operator and an eligible person (as defined in condition 25 of the Transmission System Operator Licence) for

use of the All-Island Transmission Networks in respect of generation or supply in Northern Ireland;

“undertaking” bears the meaning ascribed to it by section 1161 of the Companies Act 2006;

“year” means a period of 12 months commencing on 1st January.

4 Unless otherwise specified:

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

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

6 Where any obligation of the Licensee is expressed to require performance within a specified time limit that obligation shall continue to be binding and enforceable after that time limit if the Licensee fails to perform that obligation within that time limit (but without prejudice to all rights and remedies available against the Licensee by reason of the Licensee’s failure to perform within the time limit).

7 The provisions of section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply for the purposes of the delivery or service of any document, direction or notice to be delivered or served pursuant to this Licence and directions issued by the Authority pursuant to this Licence shall be delivered or served as aforesaid.

8

- (a) Each relevant legal instrument shall, if the condition under which it was issued was modified at SEM Go-Live, continue to have effect under any corresponding provision as modified, as if it had been made under that corresponding provision.
- (b) For the purposes of paragraphs 8(a) and 8(c) a “relevant legal instrument” means any direction, consent, approval, determination, designation or other instrument issued by the Authority or the Department, prior to SEM Go-Live, in accordance with a condition of the existing transmission licence.
- (c) For the purposes of paragraph 8(a), a “corresponding provision” shall be any provision which, following its modification at SEM Go-Live, had (notwithstanding that it had been renumbered, moved, deleted and replaced, or otherwise amended in any way) substantially the same purpose and effect as the provision under which a relevant legal instrument was issued.

9 Without prejudice to any Condition which provides otherwise:

- (a) any legal instrument:
 - (i) issued to the Licensee pursuant to a condition of the existing transmission licence; and
 - (ii) in force on the date immediately before the Internal Market Regulations came into operation;
- (b) any document:
 - (i) submitted by the Licensee pursuant to a condition of the existing transmission licence; and
 - (ii) valid or in force on the date immediately before the Internal Markets Regulations came into operation;

shall, if it is a legal instrument or document which is required to be issued or submitted in accordance with a Condition of this Licence, continue to have effect as it were a legal instrument issued or document submitted in accordance with that Condition of this Licence for such period as the legal instrument continues to be valid or in force in accordance with that Condition or the applicable legal instrument.

10 For the purposes of paragraph 9, a ‘legal instrument’ means any direction, consent, approval, determination, designation or other instrument issued by the Authority or the Department.

Condition 2. Preparation of Accounts

- 1 The first financial year of the Licensee shall run from 1 April 1992 to 31 March 1993 and thereafter each financial year of the Licensee shall run from 1 April to the following 31 March.
- 2 The remaining paragraphs of this Condition apply for the purpose of ensuring that the Licensee (and any affiliate or related undertaking of the Licensee) maintains accounting and reporting arrangements which enable separate accounts to be prepared for the Transmission Owner Business and showing the financial affairs of the Transmission Owner Business.
- 3 The Licensee shall, in respect of the Transmission Owner Business:
 - (a) keep or cause to be kept for the period referred to in section 388 of the Companies Act 2006 and in the manner referred to in that section, such accounting records in respect of the Transmission Owner Business as would by section 386 of the Companies Act 2006 be required to be kept if it were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Transmission Owner Business are separately identifiable in the books of the Licensee (and any affiliate or related undertaking of the Licensee) from those of any other business; and
 - (b) prepare on a consistent basis from such accounting records in respect of the financial year commencing on 1 April 1992 and each subsequent financial year, accounting statements comprising a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, and showing separately in respect of the Transmission Owner Business and in appropriate detail the amounts of any revenue, cost, asset, liability, reserve or provision which has been either:
 - (i) charged from or to any other business of the Licensee (or the Relevant Subsidiary) together with a description of the basis of that charge; or
 - (ii) determined by apportionment or allocation between the Transmission Owner Business and any other business of the Licensee (or the Relevant Subsidiary) together with a description of the basis of the apportionment or allocation;
 - (c) procure, under joint obligation with the Authority, in respect of the accounting statements prepared in accordance with this Condition in respect of a financial year, a report by the Auditors and addressed to both the Licensee and the Authority stating whether in their opinion those statements have been properly prepared in

accordance with this Condition and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Transmission Owner Business;

- (d) take all appropriate steps within its power to procure a report by the Auditors and addressed to the Authority verifying whether the obligation to avoid discrimination and cross-subsidies, as referred to in paragraph 3 of Article 31 of the Directive, has been respected; and
 - (e) facilitate the completion of the Auditor's reports referred to in sub-paragraphs (c) and (d) above and the accounting statements referred to in sub-paragraph (b) above as soon as reasonably practicable and in any event not later than six months after the end of the financial year to which they relate provided that in the case of the account, report and statements which but for this proviso, would have been due on 31 December 1992, they shall instead be due on 31 January 1993.
- 4 The Licensee shall not (and shall procure that the Relevant Subsidiary shall not), in relation to the accounting statements in respect of a financial year, change the bases of charge, apportionment or allocation referred to in sub-paragraph (b) of paragraph 3 from those applied in respect of the previous financial year, unless the Authority shall previously have issued directions for the purposes of this Condition directing the Licensee to change such bases in a manner set out in the directions or the Authority gives its prior written approval to the change in such bases. The Licensee shall (and shall procure that the Relevant Subsidiary shall) comply with any directions issued for the purposes of this Condition.
- 5 Where, in relation to the accounting statements in respect of a financial year, the Licensee (or the Relevant Subsidiary) has changed such bases of charge, apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if so directed in directions issued by the Authority for the purposes of this Condition, in addition to preparing accounting statements on those bases which it (or the Relevant Subsidiary) has adopted, prepare (and procure that the Relevant Subsidiary shall prepare) such accounting statements on the bases which applied in respect of the immediately preceding financial year.
- 6 Accounting statements in respect of a financial year prepared under sub-paragraph (b) of paragraph 3 shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:
 - (a) have the same content and format (in relation to the Transmission Owner Business) as the annual accounts of the Licensee (and any affiliate or related undertaking of the Licensee) prepared under Part 15 of the Companies Act 2006 and conform to

the best commercial accounting practices including International Accounting Standards and International Financial Reporting Standards issued by the International Accounting Standards Board and adopted for use in the European Union; and

- (b) state the accounting policies adopted; and
 - (c) (with the exception of the part of such statements which shows separately the amounts charged, apportioned or allocated and describes the bases of charge or apportionment or allocation respectively), be published with the annual accounts of the Licensee.
- 7 References in this Condition to costs or liabilities of, or reasonably attributable to, the Transmission Owner Business shall be construed as excluding taxation, capital liabilities which do not relate principally to the Transmission Owner Business, and interest thereon; and references to any accounting statement shall be construed accordingly.
- 8 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 3. Availability of Resources and Undertaking of Ultimate Controller

Availability of Resources

- 1 The Licensee shall at all times act in a manner calculated to secure that it has sufficient resources (including, without limitation, management and financial resources, personnel, fixed and moveable assets, rights, licences, consents and facilities), on such terms and with all such rights, as shall ensure that it is at all times able to:
 - (a) carry on the Transmission Owner Business; and
 - (b) comply with its obligations under the Order, the Energy Order, the SEM Order and this Licence.
- 2 The Licensee shall submit a certificate addressed to the Authority, approved by a resolution of the Board of Directors of the Licensee and signed by a director of the Licensee pursuant to that resolution. Such certificate shall be submitted on 30 September 1999 and thereafter on 30 September of each subsequent year. Each certificate shall be in one of the following forms:
 - (a) "After making enquiries, the directors of the Licensee have a reasonable expectation that the Licensee will have available to it, after taking into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid, sufficient resources including management and financial resources, personnel, fixed and moveable assets, rights, licences, consents and facilities to enable the Licensee to carry on the Transmission Owner Business for a period of 12 months from the date of this certificate."
 - (b) "After making enquiries, the directors of the Licensee have a reasonable expectation, subject to the Terms of this certificate, that the Licensee will have available to it, after taking into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid, sufficient resources including management and financial resources, personnel, fixed and moveable assets, rights, licences, consents and facilities to enable the Licensee to carry on the Transmission Owner Business for a period of 12 months from the date of this certificate. However, they would like to draw attention to the following factors which may cast doubt on the ability of the Licensee to carry on the Transmission Owner Business."
 - (c) "In the opinion of the directors of the Licensee, the Licensee will not have available to it sufficient resources including management and financial resources, personnel, fixed and moveable assets, rights, licences, consents, and facilities to enable the

Licensee to carry on the Transmission Owner Business for a period of 12 months from the date of this certificate."

- 3 The Licensee shall submit to the Authority together with the certificate referred to in paragraph 2 of this condition a statement of the main factors which the directors of the Licensee have taken into account in giving that certificate, together with copies of the key documents and information taken into account by the directors of the Licensee in deciding upon the main factors and in giving the certificate.
- 4 The Licensee shall inform the Authority in writing immediately if the directors of the Licensee become aware of any circumstances which cause them no longer to have the reasonable expectation expressed in the then most recent certificate given under paragraph 2.
- 5 The Licensee shall use its best endeavours to obtain and submit to the Authority with each certificate provided for in paragraph 2 a report prepared by the Auditors and addressed to the Authority stating whether or not the Auditors are aware of any inconsistencies between, on the one hand, that certificate and the statement submitted with it and, on the other hand, any information which they obtained during their audit work.

Undertaking of ultimate controller

- 6 The Licensee shall procure from each company or other person which the Licensee knows or reasonably should know is at any time an ultimate controller of the Licensee a legally enforceable undertaking in favour of the Licensee in a form specified by the Authority that the ultimate controller will refrain from any action, and will procure that every subsidiary of the ultimate controller (other than the Licensee and its subsidiaries) will refrain from any action, which would then be likely to cause the Licensee to breach any of its obligations under the Order, the Energy Order, the SEM Order or the Licence. Such undertaking shall be obtained within 7 days after the date when these modifications first become effective, or after the person in question becomes an ultimate controller (as the case may be) and shall remain in force for as long as the Licensee remains the holder of this Licence and the giver of the undertaking remains an ultimate controller of the Licensee.
- 7 The Licensee shall:
 - (a) deliver to the Authority evidence (including a copy of each such undertaking) that the Licensee has complied with the obligation to procure undertakings pursuant to paragraph 6;
 - (b) inform the Authority immediately in writing if the directors of the Licensee become aware that the undertaking has ceased to be legally enforceable or that its terms

have been breached; and

(c) comply with any direction from the Authority to enforce any such undertaking.

8 The Licensee shall not, save with the written consent of the Authority, enter (directly or indirectly) into any agreement or arrangement with an ultimate controller of the Licensee or any of its subsidiaries (other than subsidiaries of the Licensee) at a time when:

(a) an undertaking complying with paragraph 6 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 paragraph 7.

9 In this Condition 3, unless the context otherwise required, "ultimate controller" means:

(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 influence over, the policy of the Licensee, or any holding company of the Licensee, by virtue of:

(i) rights under contractual arrangement to which he is a party or of which he is a beneficiary;

(ii) rights of ownership (including rights attached to or deriving from securities or rights under a trust) which are held by him or of which he is a beneficiary,

but shall exclude any director or employee of a corporate body in his capacity as such and any minister, ministry, department, agency, authority, official or statutory person,

and a person shall be considered to be connected with another person if he is a party to any arrangement regarding the exercise of any such right as are described in paragraph (b) above.

Condition 3A. Board Independence and Contractual Arrangements for Directors and Executive Officers

- 1 Within one year from the date upon which this Condition becomes effective, and at all times thereafter, the Licensee shall:
 - (a) ensure that its board of directors comprises a majority of independent non-executive directors who are persons of standing who individually possess:
 - (i) relevant experience and knowledge of the energy industry; or
 - (ii) relevant experience and knowledge of any other regulated industry; or
 - (iii) substantial private sector commercial or financial experience gained at board level (or equivalent) in another organisation of comparable size and standing to the Licensee,provided that at least one independent non-executive director must possess relevant experience and knowledge of the energy industry; and
 - (b) demonstrate to the satisfaction of the Authority, prior to any appointment from time to time of a board director, that the said appointment will not cause the Licensee to enter into any breach of the requirements contained in sub-paragraph (a).
- 2 If at any time the Licensee, by virtue of any person being appointed as, or ceasing to be, a director of the Licensee (for the purposes of this Condition, an “Event”), is unable to comply with the requirements of paragraph 1, the Licensee shall take such steps as are necessary to ensure that compliance is achieved as soon as reasonably practicable after that Event and in any case within two months (or such longer period as may be agreed by the Authority) of that Event.
- 3 The Licensee shall ensure that:
 - (a) no person acts as, or undertakes the role of, a director or an executive officer (a **relevant person**) of the Licensee (or of the Relevant Subsidiary) unless and until that person is appointed or employed (as the case may be) by the Licensee pursuant to contractual arrangements entered into directly between Licensee (or, as the case may be, the Relevant Subsidiary) and the relevant person; and
 - (b) the terms and conditions pursuant to which any such relevant person is appointed or employed (as the case may be) do not confer any benefit, right, or entitlement on or for that person which is (whether directly, indirectly, expressly or impliedly)

linked to, dependent on, or arises from any current, past or future appointment or employment with:

- (i) where the relevant person is appointed or employed by the Licensee, any affiliate or related undertaking (other than the Relevant Subsidiary) of the Licensee;
- (ii) where the relevant person is appointed or employed by the Relevant Subsidiary, any affiliate or related undertaking (other than the Licensee) of the Relevant Subsidiary.

4 In this Condition:

“executive officer”	includes (i) any person holding the position of chief executive officer, chief financial officer, chief operating officer, and general counsel (or any equivalent of these positions), and (ii) any person not already captured in (i) carrying out executive duties.
“executive duties”	means duties which (i) relate to day-to-day management responsibility for the Licensee and the Relevant Subsidiary, and (ii) are delegated by the Licensee’s board of directors to senior personnel.
“independent non-executive director”	means a person who has not been employed by the Licensee, its ultimate controllers or any affiliate or related undertaking of the Licensee within the last five years; and who does not have a material business relationship with the Licensee, its ultimate controllers or any affiliate or related undertaking of the Licensee.
“ultimate controller”	has the meaning given to that expression in Condition 3.

Condition 4. Restriction on Dividends

- 1 The directors of the Licensee shall not declare or recommend a dividend, and the Licensee shall not make any other form of distribution within the meaning of section 263 of the Companies Act 2006, or redeem or repurchase any share capital of the Licensee, unless prior to the declaration, recommendation or making of the distribution (as the case may be) the Licensee has issued to the Authority a certificate in the following form:

“After making enquiries, the directors of the Licensee are satisfied:

- (a) that the Licensee is in compliance in all material respects with all the obligations imposed on it by conditions 3, 5, 8, 9, 9A, 13 and 14 of the Licence; and
 - (b) that the making of a distribution of [*amount*] on [*date*] will not, either alone or when taken together with other circumstances reasonably foreseeable at the date of this certificate, cause the Licensee to be in breach to a material extent of any of those obligations in the future.”
- 2 The certificate given under paragraph 1 must be signed by a director of the Licensee and must have been approved by a resolution of the board of directors of the Licensee passed not more than 14 days before the date on which the declaration, recommendation or payment in question will be made.
- 3 Where the certificate given under paragraph 1 has been issued in respect of the declaration or recommendation of a dividend, the Licensee shall be under no obligation to issue a further certificate prior to payment of that dividend, provided that such payment is made within six months of the issuing of that certificate.

Condition 5. Prohibition of Cross-Subsidies

- 1 The Licensee shall procure that the Transmission Owner Business does not give any cross-subsidy to, or receive any cross-subsidy from, any other business of the Licensee or of an affiliate or related undertaking of the Licensee.
- 2 Nothing which the Licensee is obliged to do or not do pursuant to this Licence or any other document which grants a licence to the Licensee under the Order shall be regarded as a cross-subsidy for the purposes of this Condition.

Condition 6. Health and Safety of Employees

- 1 The Licensee shall:
 - (a) acting jointly and in co-operation with the holders of other licences granted under the Order, consider and discuss matters of mutual concern in respect of the health and safety of persons employed within the Transmission Owner Business; and
 - (b) establish and maintain appropriate processes for consultation with representatives of the Licensee's (and the Relevant Subsidiary's) employees in respect of the health and safety of those employees.

Condition 7. Payment of Fees

- 1 The Licensee shall, at the times stated hereunder, pay to the Authority fees of the amount specified in or determined under the following paragraphs of this Condition.
- 2 In respect of each year beginning on 1 April, the Licensee shall pay to the Authority a fee which is the aggregate of the following amounts:
 - (a) an amount equal to the proportion which the Authority shall determine of the amount estimated by the Authority, according to a method which has previously been disclosed in writing to the Licensee, as likely to be its costs during the year in question in the exercise of its functions relating to electricity conferred on, or assigned or transferred to, it by or under any legislation ("electricity functions");
 - (b) an amount which is a proportion, as determined by the Authority, of the amount notified to the Authority by the Consumer Council and approved by the Department as being the Consumer Council's estimate of its likely costs during the year in question in the exercise of the functions relating to electricity assigned to it by or under the Order, the Energy Order, the SEM Order, the Directive Regulations or the Internal Markets Regulations and any other such functions as it has been or may be required to exercise by the Authority, or, in the event that the Authority shall not have received such notification by 31 July in the year in question, an amount which is the relevant proportion of the Authority's estimate of such likely costs (having regard to any estimate of such costs in any forward work programme published by the Consumer Council in respect of the year in question);
 - (c) an amount which is a proportion as determined by the Authority of the amount estimated by the Authority (in consultation with the Competition Commission) as having been incurred in the calendar year immediately preceding the 1 April in question by the Competition Commission in connection with references made to it under Article 15 of the Order with respect to the Licence or any other licence granted or having effect as granted under Article 10(1)(b) of the Order; and
 - (d) the difference (being a positive or negative amount), if any, between:
 - (i) the amount of the fee paid by the Licensee in respect of the year immediately preceding the 1 April in question less any refund paid to the Licensee in respect of that year under paragraph 3 below; and
 - (ii) the amount which that fee would have been in respect of that year had:
 - (A) the amount comprised therein under sub-paragraph (a) above been calculated by reference to the total costs of the Authority in

connection with its electricity functions , and the proportion of those costs actually attributable to this Licence; and

- (B) the amount comprised therein under sub-paragraph (b) above been calculated by reference to the relevant proportion of the total costs of the Consumer Council in connection with the functions referred to in sub-paragraph (b) above and, where appropriate, the proportion of those costs actually attributable to this Licence,

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

and the fee shall be paid by the Licensee to the Authority within one month of the Authority giving notice to the Licensee of its amount if that notice is given within 6 months of the beginning of the year in respect of which the fee is payable.

- 3 In respect of each year beginning on 1 April 1998, and in each subsequent year, the Authority may pay the Licensee an amount ("the refund") calculated in accordance with the method previously disclosed in writing to the Licensee and by reference to the difference between:

- (a) the proportion of the fee for that year paid by the Licensee which is attributable to the Authority's estimate in accordance with paragraph 2(a) and the estimate of the Consumer Council or the Authority (as appropriate) in accordance with paragraph 2(b); and
- (b) the Authority's reasonable revised estimate of those costs (taking account of any revised estimate of the costs referred to in paragraph 2(b) which is approved by the Department and notified to the Authority by the Consumer Council),

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

Condition 8. Provision of Information to the Authority

- 1 Subject to paragraphs 6 and 7, the Licensee shall furnish to the Authority, in such manner and at such times as the Authority may require, such information and shall procure and furnish to it such reports, as the Authority may consider necessary in the light of the Conditions or any Schedule or as it may require for the purpose of performing any of its functions relating to electricity conferred on, or assigned or transferred to, it by or under any legislation.
- 2 The Licensee shall, within 7 days after the date when these modifications first become effective or after the person in question becomes an ultimate controller (as the case may be), procure from each person which the Licensee knows (or reasonably should know) is at any time an ultimate controller of the Licensee a legally enforceable undertaking in favour of the Licensee in a form specified by the Authority, which shall provide that that ultimate controller will give to the Licensee, and will procure that each subsidiary of that ultimate controller (other than the Licensee and its subsidiaries) will give to the Licensee, all such information as may be necessary to enable the Licensee to comply fully with paragraph 1 of this Condition. Such undertaking shall remain in force for as long as the Licensee remains the holder of this Licence and the giver of the undertaking remains an ultimate controller of the Licensee.
- 3 The Licensee shall:
 - (a) deliver to the Authority evidence (including a copy of each such undertaking) that the Licensee has complied with the obligation to procure any undertakings pursuant to paragraph 2;
 - (b) inform the Authority immediately in writing if the directors of the Licensee become aware that any such undertaking has ceased to be legally enforceable or that its terms have been breached; and
 - (c) comply with any direction from the Authority to enforce any such undertaking.
- 4 The Licensee shall not, save with the consent in writing of the Authority, enter (directly or indirectly) into any contract or arrangement with an ultimate controller of the Licensee or any of the subsidiaries of that ultimate controller (other than the subsidiaries of the Licensee) at a time when:
 - (a) an undertaking complying with paragraph 2 is not in place in respect of that ultimate controller; or
 - (b) there is an unremedied breach of such an undertaking; or

- (c) the Licensee is in breach of the terms of any direction issued by the Authority under paragraph 3 in respect of such an undertaking.
- 5 Without prejudice to the generality of paragraph 1, the Authority may call for the furnishing of accounting information which is more extensive than or differs from that required to be prepared and supplied to the Authority under Condition 2.
- 6 The Licensee may not be required by the Authority to furnish it under this Condition with information for the purpose of the exercise of its functions under Article 7 of the Energy Order.
- 7 The Licensee may not be required by the Authority to furnish it under this Condition with any information in relation to an enforcement matter which the Licensee could not be compelled to produce or give in evidence in civil proceedings in the High Court.
- 8 The power of the Authority to call for information under paragraph 1 is in addition to the power of the Authority to call for information under or pursuant to any other Condition or any Schedule.
- 9 In this Condition:
- “**information**” shall include any documents, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Authority) of any description specified by the Authority; and
- “**ultimate controller**” means:
- (a) any person which is a holding company of the Licensee, and which is not itself a subsidiary of another company; and/or
- (b) any person who (whether alone or with a person or persons connected with him) is in a position to control, or to exercise significant influence over, the policy of the Licensee, or any holding company of the Licensee, by virtue of:
- (i) rights under contractual arrangements to which he is a party or of which he is a beneficiary;
- (ii) rights of ownership (including rights attached to or deriving from securities or rights under a trust) which are held by him or of which he is a beneficiary,
- but shall exclude any director or employee of a corporate body in his capacity as such and any minister, ministry, department, agency, authority, official or statutory person;

and a person shall be considered to be connected with another person if he is party to any arrangement regarding the exercise of any such rights as are described in paragraph (b) above.

Condition 9. Disposal of Relevant Assets and Indebtedness

Disposal of Relevant Assets

- 1 The Licensee shall not (and shall procure that the Relevant Subsidiary shall not) dispose of or relinquish operational control over any relevant asset otherwise than in accordance with the following paragraphs of this Condition.
- 2 Save as provided in paragraphs 3 and 4, the Licensee shall give to the Authority not less than 2 months' prior written notice of its (or the Relevant Subsidiary's) 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.
- 3 Notwithstanding paragraphs 1 and 2, the Licensee (or, as the case may be, the Relevant Subsidiary) may relinquish operational control over the transmission system to the Transmission System Operator in accordance with the Transmission Interface Arrangements.
- 4 Notwithstanding paragraphs 1 and 2, the Licensee (or, as the case may be, the Relevant Subsidiary) may dispose of or relinquish operational control over any relevant asset:
 - (a) where:
 - (i) the Authority has issued directions for the purposes of this Condition containing a general consent (whether or not subject to conditions) to:
 - (A) transactions of a specified description; and/or
 - (B) the disposal of or relinquishment of operational control over relevant assets of a specified description; and
 - (ii) the disposal or relinquishment of operational control in question is effected pursuant to a transaction of a description specified in the directions, or the relevant asset in question is of a description so specified, and the disposal or relinquishment of operational control is in accordance with any conditions to which the consent is subject; or
 - (b) where the disposal or relinquishment of operational control in question is required by or under any enactment or by or under the transfer scheme.
- 5 Notwithstanding paragraph 1, the Licensee (or, as the case may be, the Relevant Subsidiary) may dispose of or relinquish operational control over any relevant asset specified in any notice given under paragraph 2 in circumstances where:

- (a) subject to paragraph 8, the Authority confirms in writing that it consents to such disposal or relinquishment (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 paragraph 2.

Indebtedness

- 6 Without prejudice to paragraphs 1 to 5, the Licensee shall not (except where permitted by a provision in the successor distribution licence), and shall procure that the Relevant Subsidiary shall not, after the date when these modifications became effective, without the written consent of the Authority after disclosure of all material facts by the Licensee to the Authority:

- (a) create, or permit to remain in effect, any mortgage, charge, pledge, lien or other form of security or encumbrance whatsoever, undertake any indebtedness to any other person or enter into any guarantee of any obligation otherwise than:
 - (i) on an arm's length basis;
 - (ii) on normal commercial terms;
 - (iii) for a Permitted Purpose; and
 - (iv) (if the transaction is within the ambit of paragraph 1) in accordance with paragraphs 4 and 5,

provided that nothing in this Condition shall prevent the Licensee (or, as the case may be, the Relevant Subsidiary) guaranteeing any obligations owed by an affiliate or related undertaking of the Licensee which has been or is to be incurred for a Permitted Purpose;

- (b) transfer, lease, license or lend any sum or sums, asset, right or benefit to any affiliate or related undertaking of the Licensee otherwise than by way of:
 - (i) a dividend or other distribution out of distributable reserves;
 - (ii) repayment of capital;
 - (iii) payment properly due for any goods, services or assets provided on an arm's length basis and on normal commercial terms;

- (iv) a transfer, lease, licence or loan of any asset, right or benefit on an arm's length basis and on normal commercial terms and made in compliance with the payment requirement referred to in paragraph 7;
- (v) repayment of any loan or payment of any interest on a loan not prohibited by sub-paragraph (a);
- (vi) payments for group corporation tax relief or for the intra-group allocation of Shadow Surplus ACT calculated on a basis not exceeding the value of the benefit received;
- (vii) a transfer for the purpose of satisfying paragraph 8 of Condition 14;
- (viii) an acquisition of shares in conformity with paragraph 7 of Condition 14; or
- (ix) a loan to any affiliate or related undertaking of the Licensee, which is made for a Permitted Purpose,

provided however, that paragraph 7 of Condition 9A shall prevail where that paragraph applies;

- (c) enter into an agreement or incur a commitment incorporating a cross-default obligation;
- (d) save for the Northern Ireland Power Project Finance Contract made between European Investment Bank and Northern Ireland Electricity plc on 16 December 1999, continue, or permit to remain in effect, any agreement or commitment incorporating a cross-default obligation subsisting at the date this paragraph 5(d) first takes effect, save that the Licensee may permit any cross-default obligation in existence at that date to remain in effect for a period not exceeding twelve months from that date, provided that the cross-default obligation is solely referable to an instrument relating to the provision of a loan or other financial facilities granted prior to that date and the terms on which those facilities have been made available as subsisting on that date are not varied or otherwise made more onerous,

provided, however, that the provisions of sub-paragraphs (c) and (d) shall not prevent the Licensee (or the Relevant Subsidiary) from giving any guarantee permitted by and compliant with the requirements of sub-paragraph (a).

- 7 The payment requirement referred to in paragraph 6(b)(iv) is that the consideration due in respect of the transfer, lease, licence or loan of the asset, good, right or benefit in question is paid in full prior to such transfer, lease, licence or loan unless:

- (a) the counter-party to the transaction has, and maintains until payment is made in full, an investment grade credit rating; or
 - (b) the obligations of the counter-party to the transaction are fully and unconditionally guaranteed throughout the period during which any part of the consideration remains outstanding by a guarantor which has and maintains an investment grade credit rating.

- 8 In relation to a material disposal, any consent of the Authority pursuant to paragraph 5 shall be given after the Authority shall have consulted and taken into consideration any representations timeously made by any electricity undertaking liable to be materially affected by the disposal in question.

- 9 Notwithstanding paragraph 6, the Licensee shall be entitled to guarantee the payment obligations of the Power Procurement Business under the cancellable generating unit agreements.

- 10 In this Condition, unless the context otherwise requires:

<p>"cancellable generating unit agreement"</p> <p>"cross-default obligation"</p>	<p>has the meaning given to that expression in the NIE Energy Supply Licence.</p> <p>means a term of any agreement or arrangement whereby the Licensee's (or as the case may be the Relevant Subsidiary's) liability to pay or repay any debt or other sum arises or is increased or accelerated or could reasonably be expected to be capable of arising, increasing or of being accelerated by reason of a default (howsoever such default may be described or defined) by any person other than the Licensee (or the Relevant Subsidiary), unless:</p> <ul style="list-style-type: none"> (a) that liability can arise only as a result of a default by a subsidiary of the Licensee; (b) the Licensee holds a majority of the voting rights in that subsidiary and has the right to appoint or remove a majority of its board of directors; and (c) that subsidiary carries on business solely for the purposes of a Permitted Purpose (but not a purpose identified in sub-paragraphs (b) to (e) of the
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	definition of Permitted Purpose).
“disposal”	includes any sale, assignment, gift, 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.
“indebtedness”	means all liabilities now or hereafter due, owing or incurred, whether actual or contingent, whether solely or jointly with any other person and whether as principal or surety, together with any interest accruing thereon and all costs, charges, penalties and expenses incurred in connection therewith.
“investment grade credit rating”	has the meaning given to that expression in Condition 9A.
“relevant asset”	means: <ul style="list-style-type: none"> (a) any asset for the time being forming part of the transmission system; (b) any interest in an Interconnector; (c) any other asset for the time being employed or held for employment by the Licensee (or the Relevant Subsidiary) in the performance of any obligation, in the Licensee’s role as the holder of a licence under Article 10(1)(b) of the Order, under the Order, the Energy Order, the SEM Order or the Licence; (d) any asset that, the disposal or relinquishment of operational control by the Licensee (or by the Subsidiary) of, would adversely affect the ability of: (i) the Transmission System Operator; (ii) the Republic of Ireland System Operator; (ii) the Northern Ireland Market Operator Licensee; and/or (iv) the Republic of Ireland Market Operator Licensee, to comply with their respective

obligations in those capacities under any applicable licence, law or regulation; and

- (e) any legal or beneficial right, title or interest in land upon which any of the foregoing is situate.

“relinquishment of operational control”

includes entering into any agreement or arrangement whereby operational control of a relevant asset (or relevant assets) is not, or ceases to be, under the sole management of the Licensee (or, as the case may be, the Relevant Subsidiary).

“Republic of Ireland Market Operator Licensee”

has the meaning given to that expression in the Northern Ireland Market Operator Licence.

Condition 9A. Financial Gearing and Credit Rating

1 The Licensee shall, within 14 days of this Condition 9A first taking effect and thereafter by 30 June of each year, submit to the Authority a certificate, approved by a resolution of the board of directors of the Licensee and signed by a director of the Licensee pursuant to that resolution, showing the Financial Gearing as at the end of the preceding Financial Year. The Licensee shall provide the Authority with such information to support that certificate as the Authority may request.

2 For the purposes of paragraph 1:

“Financial Gearing” means Net Debt as a percentage of the regulatory asset base of the Transmission and Distribution Business such regulatory asset base being equivalent to the value of the term $CRAB_t$ as calculated in accordance with Annex 2.

“Net Debt” means the Licensee’s (and the Relevant Subsidiary’s) total borrowings (including bank loans, debt securities, finance leases, hire purchase contracts and non-equity shares), but excluding any inter-company loans and borrowings between the Licensee and the Relevant Subsidiary, less the Licensee’s (and the Relevant Subsidiary’s) cash and cash equivalents.

“Transmission and Distribution Business” means the Transmission Owner Business and the Distribution Business taken together.

3 The following paragraphs of this condition shall only apply where the Authority has issued a direction stating that they are to apply, and shall cease to apply on the expiry of any period specified for such purpose in that direction or on the Authority directing that they are no longer to apply.

4 The Licensee shall take all appropriate steps to ensure that the Licensee obtains and thereafter maintains an investment grade credit rating.

5 In this condition, an “investment grade credit rating” means:

(a) unless sub-paragraph (b) below applies:

(i) an issuer rating of not less than BBB- by Standard & Poor’s Ratings Group or any of its subsidiaries;

- (ii) an issuer rating of not less than Baa3 by Moody's Investors Service Inc. or any of its subsidiaries;
 - (iii) an issuer senior unsecured debt rating of not less than BBB- by Fitch Ratings Ltd or any of its subsidiaries; or
 - (iv) an equivalent rating from any other reputable credit rating agency which, in the opinion of the Authority, notified in writing to the Licensee, has comparable standing in both the United Kingdom and the United States of America; or
 - (b) such higher rating as may be specified by those agencies from time to time as the lowest investment grade credit rating.
- 6 Paragraph 7 shall apply if at any time which is not less than 4 months after the Authority has issued the direction referred to in paragraph 3:
- (a) the Licensee does not hold an investment grade credit rating;
 - (b) where the Licensee has a rating with more than one of the rating agencies referred to in paragraph 5, one or more of the ratings held is below those referred to in paragraph 5; or
 - (c) the Licensee has one of the ratings referred to in paragraph 5 and:
 - (i) is on review for possible downgrade; or
 - (ii) the rating outlook of the Licensee as specified by one or more of the credit rating agencies referred to in paragraph 5 has been changed from stable or positive to negative.
- 7 Where paragraph 6 applies, the Licensee may not (and shall procure that the Relevant Subsidiary shall not) without the prior written consent of the Authority (following disclosure of all material facts) transfer, lease, license or lend any sum or sums, asset, right or benefit to any affiliate or related undertaking of the Licensee as described or referred to in paragraph 6(b) of Condition 9, otherwise than by way of:
- (a) payment properly due for any goods, services or assets in relation to commitments entered into prior to the date on which the circumstances described in paragraph 6 arise, and which are provided on an arm's length basis and on normal commercial terms;
 - (b) a transfer, lease, licence or loan of any sum or sums, asset, right or benefit on an arm's length basis, on normal commercial terms and where the value of the

consideration due in respect of the transaction in question is payable wholly in cash and is paid in full when the transaction is entered into;

- (c) repayment of, or payment of interest on, a loan not prohibited by paragraph 6(a) of Condition 9 and which was contracted prior to the date on which the circumstances in paragraph 6 arise, provided that such payment is not made earlier than the original due date for payment in accordance with its terms; and
- (d) payments for group corporation tax relief or for the intra-group allocation of Surplus Shadow ACT calculated on a basis not exceeding the value of the benefit received, provided that the payments are not made before the date on which the amounts of tax thereby relieved would otherwise have been due.

Condition 10. Restriction on Use of Certain Information

- 1 Where the Licensee, or any affiliate or related undertaking of the Licensee, is in possession of any protected information, the Licensee shall (and shall procure that such affiliate or related undertaking shall) procure:
 - (a) that neither the Licensee nor any other person shall use that protected information for the purpose of obtaining any unfair commercial advantage in relation to the Transmission Owner Businesses or any other business;
 - (b) that the protected information is not disclosed to any other person (including any affiliate or related undertaking of the Licensee but excluding the Relevant Subsidiary) except with the prior consent in writing of each person to whose affairs that information relates; and
 - (c) that the protected information in the possession of the Transmission Owner Business is not disclosed to any other business of the Licensee (or of any affiliate or related undertaking of the Licensee) except with the prior consent in writing of each person to whose affairs that information relates (provided that for the purposes of this sub-paragraph protected information divulged by the Transmission Owner Business to the Distribution Business shall not be regarded as disclosure of information).
- 2 The Licensee's obligation under paragraph 1 to procure any action on the part of an affiliate or related undertaking shall be taken, in relation to any affiliate or related undertaking which has control of the Licensee, as an obligation to use all reasonable endeavours to procure the taking of that action by obtaining (and enforcing) an appropriate contractual undertaking from that affiliate or related undertaking in respect of the protected information.
- 3 The Licensee shall implement such measures and procedures and take all such other steps as may be specified in directions issued by the Authority from time to time for the purposes of this Condition and considered by the Authority to be reasonably necessary for the purpose of securing compliance by the Licensee with its obligations under paragraph 1.

Exceptions

- 4 Sub-paragraphs 1(b) and 1(c) shall not apply to any disclosure of information which is:
 - (a) authorised by Article 63(3) or (4) of the Energy Order;
 - (b) made in compliance with the duties of the Licensee, or of any affiliate or related undertaking of the Licensee, in accordance with any:

- (i) licence granted under the Order (including the Licence);
 - (ii) applicable law (including the Order, the Energy Order, the SEM Order and the Directive Regulations);
 - (iii) requirement of a competent authority;
 - (iv) judicial or arbitral process of a competent jurisdiction; or
 - (v) requirement of a relevant stock exchange, or of the Panel on Takeovers and Mergers;
- (c) permitted by and made in compliance with any document referred to in this Licence with which the Licensee or any affiliate or related undertaking of the Licensee is required to comply;
- (d) necessary in order to enable the Licensee (or the Relevant Subsidiary) to enter into or give effect to arrangements for the purpose of carrying on the Transmission Owner Business; or
- (e) made to any person that is, pursuant to the requirements of the Directive, certified as a transmission system operator by a regulatory authority designated as a national regulatory authority in accordance with the Directive, where:
 - (i) the disclosure is made for the purposes of furthering the interests of electricity consumers in Northern Ireland; and
 - (ii) the certified transmission system operator has provided written confirmation to the Licensee that it will not disclose any such information received by it to any other person (including any affiliate or related undertaking of the certified transmission system operator).

Restrictions Regarding Personnel and Advisers

- 5 The Licensee shall ensure that protected information received by the Licensee (or any affiliate or related undertaking of the Licensee) is:
- (a) (except where one of the exceptions under paragraph 4 applies) not divulged by any business person to any person unless that person is an authorised recipient; and
 - (b) not used by any business person otherwise than for the purpose of pursuing an authorised purpose or advising in relation to the pursuit of an authorised purpose.

Evidence

6 The Licensee shall:

- (a) procure and furnish to the Authority, in such manner and at such times as the Authority may require, such information and reports as the Authority may consider necessary concerning the performance by the Licensee of its obligations under paragraphs 1 and 5 and the effectiveness of the measures, procedures and steps specified in the directions referred to in paragraph 3;
- (b) procure that access to any premises of the Licensee (and the Relevant Subsidiary) shall be given at any time and from time to time to any nominated person(s) for the purpose of investigating whether the Licensee has performed its obligations under paragraphs 1, 3 and 5, and shall procure that the Licensee, the Relevant Subsidiary, its and the Relevant Subsidiary's employees, co-operate in any such investigation to the extent requested by the nominated person(s); and
- (c) procure that nominated person(s) shall be entitled to inspect and/or take copies of such records and data of the Licensee (and the Relevant Subsidiary) as they shall consider to be reasonably necessary for the purpose referred to in sub-paragraph (b) above.

Definitions

7 In this Condition, unless the context otherwise requires:

"authorised adviser"	means such professional advisers of the Licensee (or of any affiliate or related undertaking of the Licensee), engaged and acting in that capacity, as require access to any protected information;
"authorised purpose"	means the management and operation of the Transmission Owner Business or the Distribution Business, or, where protected information is disclosed to another business of the Licensee (or of an affiliate or related undertaking of the Licensee) in accordance with paragraph 4, the purpose for which such disclosure was made;
"authorised recipient"	means, in relation to any protected information, any business person who, before the protected information had been divulged to him by the Licensee (or any other business person), had been informed of the nature and

effect of this Condition and who requires access to such protected information for the proper performance of his duties as a business person in relation to the pursuit of an authorised purpose;

“business person”

means any employee, subcontractor or agent of the Licensee (or of any affiliate or related undertaking of the Licensee) or any authorised adviser to such persons;

“control”

has the meaning attributed to it by section 450 (as read in conjunction with section 451) of the Corporation Tax Act 2010;

“nominated person(s)”

means the person(s) from time to time nominated by the Authority for the purposes of this Condition by notice to the Licensee;

“protected information”

means any information which is held or obtained by the Licensee (or any affiliate or related undertaking of the Licensee) pursuant to or by virtue of its carrying on of the Transmission Owner Business, but excluding information which is in, or comes into, the public domain other than as a result of any breach by the Licensee of this Licence (or any other legal obligation of the Licensee).

Condition 11. Security arrangements

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

Condition 12. Independence of the Transmission Owner Business

General Duty

- 1 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 Transmission Owner Business from any Associated Business. Nothing in this Condition 12 shall prevent any director of a relevant holding company from being a director of an Associated Business.
- 2 Without limiting:
- (a) the ability of the Authority to require revisions to the Compliance Plan pursuant to paragraph 12 to ensure its compliance with this Condition (including paragraph 1);
or
 - (b) the obligation of the Licensee to review the Compliance Plan in accordance with paragraph 14 to ensure its compliance with this Condition (including paragraph 1),
- the Licensee shall be taken to have complied with paragraph 1 where it complies with paragraphs 3 and 11.

Specific Duties

- 3 The Licensee shall ensure that:
- (a) the Transmission Owner Business is provided with the premises, systems, equipment, facilities, property, personnel, data and management resources that are necessary for its efficient and effective managerial and operational independence from any Associated Business;
 - (b) it does not hold or acquire shares in a holding company of the Licensee or in any electricity undertaking engaged in the generation or supply of electricity;
 - (c) decisions for which it is responsible relating to the operation, maintenance and/or development of the transmission system (or any part of it) are taken by those persons who are directors of the Licensee or who are employed by, and are engaged in, the operation and management of, the Transmission Owner Business (or in the Distribution Business but no others), provided that this paragraph 3(c) shall not

prevent a holding company approving the Licensee's capital expenditure budget nor exercising its corporate governance role in relation to the Licensee where it does so in a way calculated to ensure that such exercise does not restrict, prevent or distort competition in the supply or generation of electricity;

- (d) any Associated Business does not use or have access to:
 - (i) premises or parts of premises occupied by persons engaged in the management or operation of the Transmission Owner Business, except where access is allowed to electricity undertakings (or a class of electricity undertakings not limited to one or more Associated Businesses) generally, in which case Associated Businesses may be allowed access to the same extent, as further detailed in the Compliance Plan;
 - (ii) systems for the recording, processing or storage of data to which persons engaged in the management or operation of the Transmission Owner Business also have access (save to the extent the Authority consents to such use or access);
 - (iii) equipment, facilities or property employed for the management or operation of the Transmission Owner Business (save to the extent the Authority consents to such use or access); and
 - (iv) the services of persons who are (whether or not as their principal occupation) engaged in the management or operation of the Transmission Owner Business (save to the extent the Authority consents to such use or access);
- (e) it can and does, in so far 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 Business engaged in the supply or generation of electricity; and

prevent any person who has ceased to be engaged in the management or operation of the Transmission Owner Business from being engaged in the activities of any Associated Business that is engaged in the generation or supply of electricity until the expiry of an appropriate time from the date on which he ceased to be engaged by the Transmission Owner Business; and
- (f) an up-to-date register of all persons engaged by the Transmission Owner Business, confirming that the provisions of paragraph (e) have been complied with in respect of each person so engaged, is established.

- 4 The Licensee shall procure from each holding company, a legally enforceable undertaking in favour of the Licensee in a form approved by the Authority that the holding company will not exercise its corporate governance role in relation to the Licensee other than in a manner calculated to ensure that such exercise does not restrict, prevent or distort competition in the supply or generation of electricity. Such undertaking shall be obtained within 7 days after the date when this paragraph first becomes effective, or after the person in question becomes a holding company (as the case may be) and shall remain in force for as long as the Licensee remains the holder of this Licence and the giver of the undertaking remains a holding company of the Licensee.
- 5 The Licensee shall:
- (a) deliver to the Authority evidence (including a copy of each such undertaking) that the Licensee has complied with the obligation to procure undertakings pursuant to paragraph 4;
 - (b) inform the Authority immediately in writing if the directors of the Licensee become aware that any such undertaking has ceased to be legally enforceable or that its terms have been breached; and
 - (c) comply with any direction from the Authority to enforce any such undertaking.
- 6 The Licensee shall not, save with the written consent of the Authority, enter (directly or indirectly) into any agreement or arrangement with a holding company at a time when:
- (a) an undertaking complying with paragraph 4 is not in place in relation to that holding company; 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 paragraph 5.
- 7 Where and to the extent that a holding company exercises its corporate governance role in relation to the Licensee, unless that exercise falls within the relevant part of the Compliance Plan permitting such exercise in specified circumstances, the Licensee shall within 3 days of such exercise notify the Authority of that fact and provide such other information regarding such exercise as the Authority may require.
- 8 The Licensee shall ensure that in carrying on the Transmission Owner Business, it does not, in any of the names, brands, trade names or advertising of the Transmission Owner Business, use a name, brand or trade name used by or associated with any Supply Business.

Compliance Plan

- 9 The Licensee shall, by no later than SEM Go-Live, prepare and submit to the Authority for its approval a 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 this Condition.
- 10 The Licensee shall comply with its approved compliance plan (the “**Compliance Plan**”) and shall publish the up to date Compliance Plan on its website.
- 11 The Authority may:
- (a) within 30 days of the Licensee submitting an initial or revised Compliance Plan; and
 - (b) following any review of the Compliance Plan that the Authority may conduct from time to time,
- notify the Licensee that, in its opinion, the Compliance Plan is not, or is no longer, sufficient for the purposes of the Licensee’s compliance with this Condition, and require such revisions to be made to the Compliance Plan as are in the Authority’s opinion necessary or expedient in order for it to be sufficient for the purposes of ensuring the Licensee’s compliance or continued compliance with this Condition.
- 12 Where the Licensee receives a notification in accordance with paragraph 12, it shall within 30 days revise the Compliance Plan in such manner and to such extent as will reflect the Authority’s requirements.
- 13 The Licensee shall, on becoming aware of any matter which has (or may have) a material impact on the managerial and/or operational independence of the Transmission Owner Business from any Associated Business (and, in any event, at least once every year during which this Condition is in force), review the Compliance Plan so as to ensure:
- (a) its continued compliance with its obligations under this Condition; and
 - (b) that the information set out in the Compliance Plan continues to be accurate in all material respects.
- 14 Where the Licensee revises the Compliance Plan, either in accordance with paragraph 12 or following a review conducted by it in accordance with paragraph 13, it shall submit the revised Compliance Plan to the Authority for its approval.
- 15 The Licensee shall ensure that persons engaged in the management and operation of the Transmission Owner 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.

Compliance Manager

- 16 The Licensee shall, following consultation with the Authority, appoint a senior member of its personnel engaged in the operation and maintenance of the Transmission Owner Business as a manager (the “**Compliance Manager**”) for the purpose of facilitating compliance with its obligations under this Condition and with the Compliance Plan.
- 17 The Licensee shall, and shall procure that the Relevant Subsidiary 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.
- 18 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 this Condition and with the Compliance Plan;
 - (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 this Condition 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 towards implementation of the Compliance Plan.
- 19 The Licensee shall, at such frequency as is determined in writing by the Authority, 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; and
- (c) setting out the details of any investigations conducted by the Compliance Manager, including:
 - (i) the number, type and source of the complaint or representation on which such investigations were based;
 - (ii) the outcome of such investigations; and
 - (iii) any remedial action taken by the Licensee following such investigations.

Definitions

20 In this Condition, unless the context otherwise requires:

"appropriate time"	means a period of 6 months or such other period as the Authority may specify in respect of any person or class of persons.
"Associated Business"	means any business of the Licensee (or of any affiliate or related undertaking of the Licensee) other than the Distribution Business, the Transmission Owner Business, and the Land Bank Business.
"Compliance Manager"	shall have the meaning attributed to that expression in paragraph 16.
"Compliance Plan"	shall have the meaning attributed to that expression in paragraph 10.
"relevant holding company"	means each holding company of the Licensee which does not itself generate or supply electricity on the Island of Ireland and which has no holding company that itself generates or supplies electricity on the Island of Ireland (regardless of whether any subsidiaries of such companies undertake such generation or supply).

“Supply Business”

means any business of any affiliate or related undertaking of the Licensee carrying out the activity of supply of electricity.

Condition 13. Prohibited Activities

Restrictions on Transmission Owner

- 1 Except with the prior written consent of the Authority and in accordance with any conditions of that consent, the Licensee shall not (and shall procure that the Relevant Subsidiary shall not) co-ordinate or direct the flow of electricity onto or over the whole or any part of the transmission system, save to the extent it is permitted to do so under the Transmission Interface Arrangements, or is required to do so by any other Condition of this Licence.

Restriction on Acquisition and Generation of Electricity

- 2 Except with the prior written consent of the Authority and in accordance with any conditions of that consent, or as may be permitted under the successor distribution licence, the Licensee shall not (and shall procure that the Relevant Subsidiary shall not) purchase or otherwise acquire electricity, save to the extent it is necessary to do so in undertaking the Transmission Owner Business.
- 3 In paragraph 2, the reference to purchase or other acquisition of electricity shall include entering into or acquiring the benefit of a contract conferring rights or obligations (including rights or obligations by way of option) in relation to or by reference to the sale, purchase or delivery of electricity at any time or the price at which electricity is sold or purchased at any time.
- 4 Except with the prior written consent of the Authority and in accordance with any conditions of that consent, the Licensee shall not (and shall procure that the Relevant Subsidiary shall not) generate electricity, save to the extent that it generates electricity from mobile generation sets or the Rathlin Island generation sets solely for the purposes of either or both of the Transmission Owner Business and the Distribution Business.
- 5 In this Condition, unless the context otherwise requires:

“mobile generation sets” means any generation set which is not affixed to land or to a building so as to be part of such land or building.

“Rathlin Island generation sets” means those generation sets located (as of 1 January 2007) on Rathlin Island (or any comparable generation set replacing such generation sets).

Condition 14. Ring Fencing

- 1 Subject to paragraph 2, no core business of the Licensee shall be held by or carried on through any affiliate or related undertaking of the Licensee.
- 2 A core business of the Licensee may be held by or carried on through the Relevant Subsidiary.
- 3 The Licensee shall procure that all businesses of the Licensee other than the core businesses shall be held by or carried on through affiliates or related undertakings of the Licensee but shall not be held by or carried on through the Relevant Subsidiary.
- 4 Save as permitted under paragraphs 6(a) and 9 of Condition 9, the Licensee shall not guarantee the obligations of any subsidiary of the Licensee carrying on a non-core activity.
- 5 Save as permitted under paragraph 6(a) of Condition 9, the Licensee shall not create or permit to subsist any encumbrance in favour of any other person over any asset used or to be used in carrying on any core business to secure any obligation of any other person or of the Licensee in relation to any non-core activity.
- 6 Paragraphs 4 and 5 shall not apply to any guarantees or encumbrances subsisting on 6 March 1992.
- 7 Save as provided by paragraphs 9 and 10, the Licensee shall not (and shall procure that the Relevant Subsidiary shall not) conduct any business or carry on any activity other than those falling within the definition of "core businesses".
- 8 The Licensee shall not without the written consent of the Authority acquire shares in any affiliate or related undertaking after 8 February 1998 except:
 - (a) shares in any body corporate which was a subsidiary of the Licensee on the above date;
 - (b) shares acquired in a body corporate to satisfy the obligation imposed by paragraph 9;
 - (c) shares in a body corporate which conducts business only for a Permitted Purpose (but not a purpose identified in sub-paragraphs (b) to (e) of the definition of Permitted Purpose); or
 - (d) shares acquired in order to avoid dilution of a shareholding in a body corporate in which the Licensee holds shares in conformity with this Licence.

9 Notwithstanding paragraph 7, the Licensee may continue to conduct any business or carry on any activity otherwise prohibited by paragraph 7 which it was conducting or carrying on as at 8 February 1998 but by such later date as the Authority shall specify to the Licensee in writing, shall transfer any such business or activity to an affiliate or related undertaking or otherwise cease to conduct or carry on any such other business or activity.

10 Nothing in this Condition shall prevent:

- (a) any affiliate or related undertaking which is not the Relevant Subsidiary from conducting any business or carrying on any activity which the Licensee is prohibited from conducting or carrying on by virtue of paragraph 7 above;
- (b) the Licensee from holding shares as, or performing the supervisory or management functions of, an investor in respect of any body corporate in which it holds an interest consistently with the provisions of this Licence;
- (c) the Licensee from performing the supervisory or management functions of a holding company in respect of any subsidiary conducting any business or carrying out any activity which the Licensee is prohibited from conducting or carrying out by virtue of paragraph 7 above;
- (d) the Licensee from carrying on any business or conducting any activity otherwise prohibited by paragraph 7 above to which the Authority has given its consent in writing; or
- (e) the Licensee from carrying on any business or conducting any activity other than a core business provided that the aggregate turnover of all such other businesses or activities does not in any financial year exceed 5% of the aggregate turnover of the core businesses (excluding the turnover on transactions which the core businesses make with each other) in the immediately preceding financial year.

11 In this Condition:

"core business"	means the Transmission Owner Business, the Distribution Business and the Land Bank Business.
"encumbrance"	means any mortgage, charge, right of possession, assignment by way of security, right of possession or other form of security interest.
"non-core activity"	means any activity other than that carried on as part of a core business.

Condition 15. Non-Discrimination

- 1 The Licensee shall not (and shall procure that the Relevant Subsidiary shall not) unduly discriminate as between any persons, or any class or classes of person or persons, or unduly prefer itself (or any affiliate or related undertaking) over any other person or persons, or any class or classes of person or persons, in meeting its obligations under:
- (a) Condition 17 (Transmission Interface Arrangements);
 - (b) Condition 18 (Obligation to Provide Transmission Services);
 - (c) Condition 19 (Developing and Maintaining the Transmission System); and
 - (d) Condition 20 (Obligations in Relation to Offers by the Transmission System Operator).

Condition 16. Single Electricity Market Trading and Settlement Code

- 1 The Licensee shall accede to and comply with the Single Electricity Market Trading and Settlement Code.
- 2 For the purposes of paragraph 1 the Licensee's obligation to comply with the Single Electricity Market Trading and Settlement Code is an obligation to comply with (and procure that the Relevant Subsidiary does not by any act or omission prevent the Licensee from complying with) the provisions of the Code in so far as they are applicable to activities carried out by the Transmission Owner Business.
- 3 The Authority may, following consultation with such persons as it considers may be affected or interested, issue directions relieving the Licensee of its obligation under paragraph 2 in respect of such parts of the Single Electricity Market Trading and Settlement Code and to such extent and subject to such conditions as may be specified in those directions.

Condition 17. Transmission Interface Arrangements

General Duty

- 1 The Licensee shall, in common with the Transmission System Operator, prepare, obtain the Authority's approval of, and at all times have in force and implement arrangements (the "Transmission Interface Arrangements") which:
 - (a) set out the terms and arrangements, as between the Licensee and the Transmission System Operator, referred to in paragraph 3;
 - (b) are designed to facilitate the achievement of the aims set out in paragraph 4, in so far as they relate to the transmission system; and
 - (c) set out the matters referred to in paragraph 5.
- 2 The Licensee shall be taken to have complied with paragraph 1 by:
 - (a) adopting as the Transmission Interface Arrangements, the document designated as such by the Authority, within 3 days of the Authority so designating such a document (such designation not to occur prior to 17 October 2007); and
 - (b) keeping the document under review and proposing and making modifications to it in accordance with the requirements of paragraphs 7, 8, 9 and 10.
- 3 For the purposes of this Condition, the terms and arrangements referred to in paragraph 1(a) are those which:
 - (a) are requisite for the enjoyment and discharge of the rights and obligations of:
 - (i) the Licensee in relation to the Transmission Owner Business arising under the Order, the Energy Order, the SEM Order, this Licence, the Grid Code, and such other code or document as may be specified from time to time by the Authority; and
 - (ii) the Transmission System Operator arising under the Order, the Energy Order, the SEM Order, the Transmission System Operator Licence, the Grid Code, the System Operator Agreement the Single Electricity Market Trading and Settlement Code, any Transmission Connection Agreement, any Transmission Use of System Agreement and such other code or document as may be specified from time to time by the Authority; and
 - (b) provide for matters which include:

- (i) the provision of transmission services by the Licensee;
- (ii) the technical levels to be complied with by the Transmission System Operator in relation to the transmission services;
- (iii) the operation, including the configuration, of the transmission system;
- (iv) matters to enable responses to (and to progress any works necessitated by) applications received for use of the All-Island Transmission Networks and/or new connections (or modifications of existing connections) to the All-Island Transmission Networks (at an entry or exit point on the transmission system or the Republic of Ireland transmission system);
- (v) the arrangements whereby:
 - (A) the transmission system is to be developed and maintained (by the Licensee) and planned and operated (by the Transmission System Operator);
 - (B) the respective responsibilities of, and activities undertaken by, the Licensee and the Transmission System Operator are to be co-ordinated;
- (vi) the arrangements, as between the Licensee and the Transmission System Operator, for the planning and development of the transmission system in co-ordination with the other parts of the All-Island Transmission Networks;
- (vii) planning for outages, including (where appropriate) co-ordination of outages on the transmission system with outages on the Republic of Ireland transmission system;
- (viii) the exchange of information between the Licensee and the Transmission System Operator;
- (ix) procedures to enable the Licensee or the Transmission System Operator (as the case may be) to produce information about the transmission system in accordance with its respective obligations under the Order, the Energy Order, the SEM Order, this Licence, the Transmission System Operator Licence, and the System Operator Agreement;
- (x) the performance standards to be achieved by the Licensee and the Transmission System Operator (as the case may be) in respect of the services and other matters referred to above; and

- (xi) the payment of monies to or from the Licensee in respect of the services and other matters referred to above.

4 The relevant aims referred to in paragraph 1(b) are:

- (a) the efficient discharge of the obligations imposed on the Licensee and the Transmission System Operator (in their capacities as such) under the Order, the Energy Order, the SEM Order and their respective licences;
- (b) the development, maintenance and operation of the transmission system as part of efficient, economical, co-ordinated, safe, secure and reliable All-Island Transmission Networks;
- (c) effective competition in the generation and supply of electricity on the Island of Ireland; and
- (d) the promotion of good industry practice and efficiency in the implementation and administration of the matters covered by the Transmission Interface Arrangements.

5 The matters referred to in paragraph 1(c) are that the Transmission Interface Arrangements:

- (a) shall provide for any disputes between the parties thereto over revisions to the Transmission Interface Arrangements to be referred to the Authority for determination; and
- (b) may provide for there to be referred to the Authority for determination such additional matters arising under the Transmission Interface Arrangements as may be specified in the Transmission Interface Arrangements.

6 The Licensee shall comply with the Transmission Interface Arrangements.

Review of the Arrangements

7 The Licensee shall, in common with the Transmission System Operator:

- (a) following any modification of this Condition 17;
- (b) on receipt of a request from the Authority to do so;
- (c) periodically;

review the Transmission Interface Arrangements and their implementation to:

- (d) ensure that they meet the requirements of paragraphs 1, 3, 4 and 5; and

- (e) consider whether any alternative arrangements would better achieve those requirements.
- 8 Following any such review, and where the review is undertaken pursuant to paragraph 7(a) or 7(b) within 3 months of the date of the modification or the date of the Authority's request, the Licensee shall, in common with the Transmission System Operator, send to the Authority:
- (a) a report on the outcome of the review;
 - (b) any revisions which the Licensee and the Transmission System Operator agree should be made to the Transmission Interface Arrangements (having regard to the outcome of the review); and
 - (c) any revisions on which the Licensee and the Transmission System Operator disagree and which dispute is thereby referred to the Authority for determination in accordance with the provisions included in the Transmission Interface Agreements in accordance with paragraph 5(a).

Revision of the Arrangements

- 9 The Licensee shall procure that no modifications, amendments or variations are made to the Transmission Interface Arrangements without the prior approval of the Authority.
- 10 The Authority may, following consultation with the Licensee and the Transmission System Operator and until such date as the Authority has in accordance with Article 10E of the Order certified the Licensee, direct the Licensee to make, in conjunction with the Transmission System Operator, such revisions to the Transmission Interface Arrangements as:
- (a) the Authority considers requisite or expedient for the purposes of ensuring that the certification ground set out in Article 10F(4) of the Order is met; and
 - (b) are specified in the direction.
- 11 The Licensee shall (and shall procure that the Relevant Subsidiary shall) comply with any directions issued under this Condition.

Publication of the Arrangements

- 12 Where, and to the extent, required to do so by the Authority, the Licensee shall publish the Transmission Interface Arrangements on its website.

Definitions

13 In this Condition:

“System Operator Agreement” has the meaning given to that expression in the Transmission System Operator Licence.

Condition 18. Obligation to Provide Transmission Services

- 1 The Licensee shall, in accordance with the Transmission Interface Arrangements, provide the following transmission services:
 - (a) making available, to the Transmission System Operator, those parts of the transmission system which are intended for the purposes of conveying, or affecting the flow of, electricity so that such parts are capable of doing so and are fit for those purposes;
 - (b) providing a means of enabling the Transmission System Operator to direct the configuration of those parts of the transmission system that are made available to it and, in a manner consistent with such means, giving effect to any such direction from time to time; and
 - (c) providing a means of enabling the Transmission System Operator to obtain information in relation to the transmission system which is needed by the Transmission System Operator to enable it to plan, and co-ordinate and direct the flow of electricity onto and over, the transmission system and, in a manner consistent with such means, providing such information to the Transmission System Operator.

Condition 19. Developing and Maintaining the Transmission System

- 1 The Licensee shall develop and maintain the transmission system in accordance with:
 - (a) the Transmission Interface Arrangements; and
 - (b) the objective of developing a system for the transmission of electricity in Northern Ireland that takes account of the benefits of efficient, co-ordinated and economical systems for the transmission of electricity on the Island of Ireland,

in each case as appropriate to the purpose under consideration, and in accordance with its role under the Transmission Interface Arrangements, and taking into account the Transmission System Operator's obligations in relation to the transmission system in accordance with the Transmission System Operator Licence and the Licensee's obligations under Article 12(2) of the Order.
- 2 In order to enable it to comply with its obligation under paragraph 1(c), the Licensee shall, in cooperation with the Transmission System Operator (pursuant to the Transmission Interface Arrangements), consult with the Republic of Ireland System Operator so as to:
 - (a) inform the Republic of Ireland System Operator of the Licensee's views, from time to time, regarding the development of the transmission system; and
 - (b) establish the Republic of Ireland System Operator's views, from time to time, regarding the planning and development of the Republic of Ireland transmission system.

Derogation

- 3 The Authority may from time to time (following consultation with the Licensee, the Transmission System Operator, (to the extent liable to be materially affected thereby) any electricity undertaking and the Republic of Ireland System Operator, and such (if any) other licence holders as the Authority shall consider appropriate) issue directions relieving the Licensee of its obligations under paragraph 1 in respect of such parts of the transmission system and to such extent as may be specified in the directions.

Condition 20. Obligations in Relation to Offers by Transmission System Operator

Connection

- 1 On notification by the Transmission System Operator that it has received an application for connection or modification pursuant to condition 25 or 27 of the Transmission System Operator Licence, the Licensee shall (subject to paragraph 4), as soon as reasonably practicable and in accordance with the Transmission Interface Arrangements:
 - (a) where it has all the information it reasonably requires for the purpose of formulating such an offer, offer to enter into (and, where such offer is accepted, enter into) an agreement with the Transmission System Operator on the terms referred to in paragraph 2; or
 - (b) notify the Transmission System Operator of the information the Licensee reasonably requires in order to formulate such an offer.
- 2 The terms referred to in paragraph 1(a) shall, in respect of the application for connection or modification in question, make detailed provision regarding:
 - (a) the carrying out of works (if any) on the transmission system as are required to connect the transmission system to any other system for the transmission or distribution of electricity;
 - (b) the carrying out of works (if any) on the transmission system in relation to the extension or reinforcement of the transmission system or the Distribution System rendered necessary or appropriate by reason of making the connection or modification to an existing connection;
 - (c) where the Transmission System Operator requests such meters, the carrying out of works (if any) on the transmission system to install meters that will enable the Transmission System Operator to measure electricity being accepted into the All-Island Transmission Networks at the specified entry point or points or leaving such system at the specified exit point or points;
 - (d) the carrying out of works (if any) on the transmission system in relation to the installation of such switchgear or other apparatus (if any) as may be required for the interruption of supply;
 - (e) the date by which any works so as to permit access to the All-Island Transmission Networks (including for this purpose any works to reinforce or extend the transmission system) shall be completed and so that, unless otherwise agreed by the Transmission System Operator, a failure to complete such works by such date

shall be a material breach of the agreement entitling the Transmission System Operator to rescind the agreement insofar as it relates to the application for connection or modification in question;

- (f) the installation of special metering, telemetry or data processing equipment (if any) for the purpose of enabling any person who is bound to comply with the Grid Code to comply with its obligations in respect to metering thereunder or the performance by the Transmission System Operator of any service in relation to such metering thereunder;
- (g) the charges to be paid to the Licensee in respect of the application for connection or modification in question, and the means by which such charges have been calculated (such calculation to be based on the charging principles established in accordance with Condition 22); and
- (h) such further terms as are or may be appropriate for the purpose of the agreement,

and in formulating such terms, the Licensee shall act in accordance with the Transmission Interface Arrangements, and shall (where appropriate) consult and cooperate with the Republic of Ireland Electricity Board.

Offer of terms - general

- 3 The Licensee shall offer terms for agreements in accordance with paragraphs 1 and 2 as soon as practicable and (save where the Authority consents to a longer period) in any event not more than 2 months after receipt by the Licensee of an application containing all such information as the Licensee may reasonably require for the purpose of formulating the terms of the offer.
- 4 The Licensee shall not be obliged to offer to enter into, or to enter into, any agreement pursuant to this Condition, if to do so would involve the Licensee:
 - (a) in breach of its duties under Article 12 of the Order;
 - (b) in breach of any regulations made under Article 32 of the Order, or any other enactment relating to safety or standards applicable in respect of the Transmission Owner Business; or
 - (c) in breach of the Conditions of this Licence;

and where the Licensee intends, in reliance on this paragraph, not to offer to enter into, or to enter into, an agreement with the Transmission System Operator, the Licensee shall

notify the Transmission System Operator of that fact as soon as reasonably practicable and in accordance with the Transmission Interface Arrangements.

Works on the Distribution System

- 5 Where in response to such applications as are referred to in paragraph 2, the Licensee determines that works are also required on the Distribution System the references in paragraph 2 to works on the transmission system, shall apply equally to works on the Distribution System.
- 6 The Licensee shall not offer to enter into, or enter into, any agreement which includes terms relating to works on the Distribution System pursuant to this Condition, if to do so would involve the Licensee in breach of the Distribution Code.

Definitions

- 7 In this Condition, unless the context otherwise requires:

“application for connection or modification” means an application:

- (a) by a prospective connectee in relation to a connection to the transmission system;
- (b) by an existing connectee in relation to a modification to an existing connection to the transmission system; or
- (c) by the Republic of Ireland System Operator in relation to a connection to the Republic of Ireland Network, or a modification to an existing connection to the Republic of Ireland Network, which (in either case) requires the carrying out of works on the transmission system or the Distribution System (or both).

Condition 21. Functions of the Authority - Transmission Offers

Application Disputes

- 1 If, after a period which appears to the Authority to be reasonable for the purpose, the Transmission System Operator has failed to enter into an agreement with any person entitled or claiming to be entitled thereto (an “**applicant**”) pursuant to condition 25 or 27 of the Transmission System Operator Licence and the applicant or the Transmission System Operator applies to the Authority for a determination in accordance with condition 26 or 28 of the Transmission System Operator Licence, the provisions of paragraph 2 shall apply.
- 2 Insofar as an applicant wishes to proceed, and following notification by the Transmission System Operator that such is the case, the Licensee shall, as soon as is reasonably practicable, offer to enter into (and, where such offer is accepted, enter into) an agreement with the Transmission System Operator which fully reflects the terms settled by the Authority in the relevant case pursuant to condition 26 or 28 of the Transmission System Operator Licence.

Amendment Disputes

- 3 Where either party to an agreement for connection applies to the Authority for a determination regarding a proposal to amend an agreement for connection in accordance with condition 26 or 28 of the Transmission System Operator Licence, the provisions of paragraph 4 shall apply.
- 4 Insofar as the Authority notifies the Licensee that the relevant TO agreement should be amended, supplemented or replaced, the Licensee shall, as soon as is reasonably practicable, offer to enter into (and, where such offer is accepted, enter into) an agreement with the Transmission System Operator to amend, supplement or replace the TO agreement as directed.
- 5 In this Condition, unless the context otherwise requires:

“**agreement for connection**” means:

- (a) a Transmission Connection Agreement; or
- (b) an agreement (or part of an agreement) between the Transmission System Operator and the Republic of Ireland System Operator entered into pursuant to condition 27 or 28 of the Transmission System Operator Licence;

- “application for connection”** means an application to the Transmission System Operator by:
- (a) a connectee or prospective connectee pursuant to condition 25 of the Transmission System Operator Licence; or
 - (b) the Republic of Ireland System Operator pursuant to condition 27 of the Transmission System Operator Licence;
- “TO agreement”** means, in respect of each agreement for connection, the agreement (if any) entered into by the Licensee pursuant to Condition 20 or paragraph 2 in relation to that agreement for connection.

Condition 22. Transmission Charging Statement

Statement of Charges

- 1 The Licensee shall, as soon as practicable after this Condition comes into effect (and, in any event, not later than such date as the Authority may direct) prepare (and obtain the Authority's approval to) a statement (or statements) setting out the basis upon which charges will be made to the Transmission System Operator:
 - (a) for the transmission services; and
 - (b) in relation to the works referred to in Condition 20.
- 2 A statement prepared under paragraph 1 shall be in such form and contain such detail as shall be necessary to enable the Transmission System Operator to make a reasonable estimate of the charges to which it would become liable for the provision of such services, including such of the information set out in paragraph 3 as is required by such paragraph to be included.

Connections

- 3 Except to the extent that the Authority may otherwise direct, the statement referred to in paragraph 1(b) shall include:
 - (a) a schedule listing those items (including the carrying out of works and the provision and installation of electric lines or electrical plant or meters) of significant cost liable to be required for the purpose of connection (at entry or exit points) to the transmission system for which site specific charges may be made or levied and including (where practicable) indicative charges for each such item and (in other cases) an explanation of the methods by which and the principles on which such charges will be calculated;
 - (b) the methods by which and the principles on which connection charges will be made in circumstances where the electric lines or electrical plant to be installed are (at the Licensee's discretion) of greater size or capacity than that required for use of system by the person seeking connection;
 - (c) the methods by which and the principles on which any charges (including any capitalised charge) will be made for maintenance and repair required of electric lines, electrical plant or meters provided and installed for making a connection to the transmission system;
 - (d) the methods by which and the principles on which any charges will be made for the

provision of special metering or telemetry or data processing equipment by the Licensee for the purposes of enabling any person which is bound to comply with the Grid Code to comply with its obligations in respect of metering thereunder, or for the performance by the Licensee of any service in relation thereto;

- (e) the methods by which and principles on which any charges will be made for disconnection from the transmission system and the removal of electrical plant, electric lines and ancillary matters following disconnection; and
 - (f) such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of this Condition.
- 4 Site specific charges for those items referred to in paragraph 3 shall be set at a level which will enable the Licensee to recover:
- (a) the appropriate proportion of the costs directly or indirectly incurred (or to be incurred) in carrying out the works, extension or reinforcement in question and in providing, installing, maintaining and repairing (and, following disconnection, removing) the electrical lines, electrical plant, meters, special metering, telemetry, data processing equipment or other items in question; and
 - (b) a reasonable rate of return on the capital represented by such costs.

Alternative Statement

- 5 In addition to, and without prejudice to, the Licensee's obligations under paragraph 1, the Licensee shall, upon being required to do so in directions issued by the Authority (and within such period as the Authority may specify), prepare a statement or statements approved by the Authority providing that charges for the matters set out in paragraph 1 will be made on such basis as shall be specified in the directions. Such statement or statements shall be in such form and contain such detail as shall be necessary to enable the Transmission System Operator to make a reasonable estimate of the charges to which it would become liable for the provision of such services and (without prejudice to the foregoing) including such information as shall be specified in the directions. Each statement prepared in accordance with this paragraph shall, with effect from the date on which it is approved by the Authority or such later date as the Authority shall specify, replace the corresponding statement prepared by the Licensee in accordance with paragraph 1 or, as the case may be, this paragraph (as from time to time revised in accordance with paragraph 6) which is in force at such date and the Licensee shall, with effect from such date make charges in accordance with the statement (as from time to time revised in accordance with paragraph 6) which has replaced such corresponding statement.

Revision of Statements

- 6 The Licensee may periodically revise the information set out in and, with the approval of the Authority, alter the form of the statements prepared in accordance with paragraph 1 or 5 and shall, at least once in every year this Licence is in force, revise such statements in order that the information set out in the statements shall continue to be accurate in all material respects. Each such revision shall require to be approved by the Authority and shall not become effective until approved by the Authority.
- 7 The Licensee shall give or send a copy of the statements prepared in accordance with paragraphs 1 and 5 or (as the case may be) of the latest version of such statements in accordance with paragraph 6 approved by the Authority pursuant to such paragraph to any persons who requests a copy of such statement or statements.
- 8 The Licensee may make a charge for any statement given or sent pursuant to paragraph 7 of an amount reflecting the Licensee's reasonable costs of providing such a statement which shall not exceed the maximum amount specified in directions issued by the Authority from time to time for the purposes of this Condition.

Condition 23. Priority Dispatch of Renewable Generation

- 1 The Licensee shall comply with the Priority Dispatch Principles.
- 2 For the purposes of paragraph 1 the Licensee's obligation to comply with the Priority Dispatch Principles is an obligation to comply with the provisions of the Priority Dispatch Principles in so far as they are applicable to the activities undertaken by the Transmission Owner Business.
- 3 The Authority may from time to time (following consultation with the Licensee and such (if any) other licence holders as the Authority shall consider appropriate) issue directions relieving the Licensee of its obligations under paragraph 2 in respect of such parts of the Priority Dispatch Principles and to such extent and subject to such conditions as may be specified in those directions.
- 4 In this Condition:

Priority Dispatch Principles

means the principles, processes, rules and criteria determined and published by the Authority for the purposes of ensuring that certain types of generation sets are afforded priority dispatch in accordance with the requirements of Article 16(2) of Directive 2009/28/EC on the promotion of the use of energy from renewable sources, as amended from time to time by the Authority.

Condition 24. TSO Certification

Certification

- 1 Where the Licensee is certified, in accordance with Article 10E of the Order, it shall:
 - (a) as soon as practicable after it becomes aware of it, give notice (in writing) to the Authority of:
 - (i) any proposed or actual change in control of the Licensee;
 - (ii) any event, change in circumstance, or transaction undertaken (or proposed to be undertaken) by the Licensee or any affiliate or related undertaking of the Licensee, which:
 - (A) affects, or is likely to affect, the Licensee continuing to be certified on the certification ground on which it is certified; or
 - (B) requires, or is likely to require, a review by the Authority of whether the grounds for certification continue to apply;
 - (b) use its reasonable endeavours to ensure that:
 - (i) the certification ground on which it is certified continues to apply; or
 - (ii) where there is an actual change of control of the Licensee:
 - (A) the certification ground on which it is certified continues to apply; or
 - (B) it meets the requirements of another certification ground.
- 2 Where the Transmission System Operator is certified, in accordance with Article 10E of the Order, the Licensee shall:
 - (a) as soon as practicable after it becomes aware of it, give notice (in writing) to the Authority of any event, change in circumstance, or transaction undertaken (or proposed to be undertaken) by the Licensee or any affiliate or related undertaking of the Licensee, which:
 - (i) affects, or is likely to affect, the Transmission System Operator continuing to be certified on the certification ground on which it is certified; or

- (ii) requires, or is likely to require, a reassessment by the Authority of whether the grounds for certification continue to apply in respect of the Transmission System Operator.

Definitions and Interpretation

- 3 In this Condition, the terms “certified” and “certification ground” have the meaning given to them in Article 10L of the Order.

Condition 24A. Not Used

Condition 25. Not Used

Condition 26. Grid Code

- 1 The Licensee shall comply with the Grid Code.
- 2 For the purposes of paragraph 1 the Licensee's obligation to comply with the Grid Code is an obligation to comply with (and procure that the Relevant Subsidiary shall comply with) the provisions of the Grid Code in so far as they are applicable to activities carried out by the Transmission Owner Business.
- 3 The Authority may, following consultation with any electricity undertakings directly affected thereby, issue directions relieving the Licensee of its obligation under paragraph 1 in respect of such parts of the Grid Code and to such extent and subject to such conditions as may be specified in those directions.

Condition 27. Not Used

Condition 28. Not Used

Condition 29. Not Used

Condition 30. Not Used

Condition 31. Not Used

Condition 32. Not Used

Condition 33. Not Used

Condition 34. Not Used

Condition 35. Not Used

Condition 36. Not Used

Condition 37. Not Used

Condition 38. Not Used

Condition 39 Not Used

Condition 40. Relations with the Consumer Council

- 1 The Licensee shall, if requested by the Consumer Council with regard to the Transmission Owner Business, meet the Consumer Council at least once in every year during the period of the Licence.

Condition 41. Not Used

Condition 42. Charge Restriction Applicable to the Transmission and Distribution Business

- 1 The Licensee shall comply with the conditions set out in Annex 2.
- 2 In accordance with and by virtue of Regulation 90(3) of the Internal Markets Regulations this Condition and Annex 2 shall be taken as relating to the activities authorised by the Licence and by the successor distribution licence taken together.

Condition 43. Not Used

Condition 44. Not Used

Condition 45. Not Used

ANNEX 1. Not Used

ANNEX 2. Transmission and Distribution Charge Restriction Condition

1. Definitions

1.1 In this Annex:

"2006 Direction"	means the direction issued by the Authority to the Licensee dated 19 December 2006;
"adjusted quantity transmitted and distributed"	means the regulated quantity transmitted and distributed plus an amount equal to the units consumed on the Licensee's premises in Northern Ireland (insofar as not already included) plus any wheeled units;
"average specified rate"	means the arithmetic mean of the daily base rates of Northern Bank Limited (or such other bank as the Authority shall specify from time to time) current from time to time during the period in respect of which the calculation falls to be made;
"CAIR_t"	has the meaning given to that expression in paragraph 2.2;
"Directive 2003/54/EC"	means Directive 2003/54/EC of the European Parliament and Council of 26 June 2003 concerning common rules for the internal market in electricity;
"distribution services"	means all services provided as part of the Distribution Business other than excluded services;
"excluded services"	means those services provided as part of the Transmission and Distribution Business which in accordance with the principles set out in paragraph 5 fall to be treated as excluded services;
"first relevant year"	means the financial year commencing on 1 April 2002;
"maximum core revenue"	means the revenue calculated in accordance with the formula in paragraph 2.2 or 2.3 as the case may

be;

"maximum regulated transmission and distribution revenue"	means the aggregate of the maximum core revenue and the Moyle revenue;
"metered"	means in relation to any quantity transmitted and/or distributed, as measured by metering required pursuant to and defined in the Grid Code or (where no such meter is installed) as otherwise reasonably calculated;
"Moyle revenue"	means the revenue which the Licensee is allowed to recover in respect of CAIR _t in accordance with paragraph 2(B) (such revenue being zero where CAIR _t is zero);
"quantity entering the total system"	means the aggregate quantity of units metered on entry to the total system in relevant year t (minus any units consumed by generation sets and imported from the total system);
"regulated quantity transmitted and distributed"	means the aggregate quantity of units transmitted and distributed through the total system in relevant year t metered at grid supply points (excluding (a) any units consumed by generation sets and imported from the total system, and (b) any wheeled units);
"regulated transmission and distribution revenue"	means the revenue (measured on an accruals basis) derived from transmission and distribution charges (including to any Separate Business) in relevant year t, after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived;
"relevant year"	means a financial year commencing on or after 1 April 2002 and ending in each case, on 31 March in the year following its commencement;
"relevant year t"	means that relevant year for the purposes of which

any calculation falls to be made, such that relevant year 2003 means the relevant year ending on 31 March 2003: “relevant year t-1” means the relevant year preceding relevant year t or, in respect of the period prior to 1 April 2002, the period of 12 calendar months commencing on 1 April 2001; and similar expressions shall be construed accordingly;

“RPI_t”

means the Retail Prices Index (1987=100) published or determined with respect to October in relevant year t;

“Sustainable Networks Programme”

means the programme of that name to be established by the Licensee comprising planning and research activities aimed at identifying the best options for the operation and development of the transmission and distribution system to accommodate the Government’s published sustainability objectives from time to time;

“transmission and distribution charge restriction conditions”

means the paragraphs set out in this Annex 2 as from time to time modified or replaced in accordance therewith or pursuant to Article 14, 17, 17A or 18 of the Order, under the Energy Order, under the SEM Order or under the Directive Regulations;

“transmission and distribution charges”

means all charges for the provision of transmission and distribution services and for wheeling, but excluding charges levied under the PSO Agreements (as defined in Condition 24A);

“transmission and distribution services”

means transmission services and distribution services taken together;

“transmission services”

means all services provided as part of the Transmission Business other than excluded services;

“uncollected T&D revenue”

means:

- (a) any amount owed to the Licensee in respect of regulated transmission and distribution revenue (other than an amount owed to the Licensee by SONI), which amount remains unpaid for six months after the date it first fell due for payment or which amount the Licensee deems (in accordance with the payment security policy) to be unrecoverable before the expiry of that six months period; plus the reasonable recovery costs incurred by the Licensee in respect of such amount and the reasonable interest attributable to such amount (calculated, in both cases, in accordance with the payment security policy); and
- (b) where the Licensee is not an affiliate of SONI Limited (a body corporate registered in Northern Ireland under company number NI038715), any amount owed to the Licensee by SONI in respect of regulated transmission and distribution revenue which is to be included in the uncollected T&D revenue amount in accordance with the payment security policy; plus the reasonable recovery costs incurred by the Licensee in respect of such amount and the reasonable interest attributable to such amount (calculated, in both cases, in accordance with the payment security policy).

“unit”

means a kilowatt hour;

“Vulnerable Customer Programme”

means the programme of that name to be established by the Licensee comprising projects specifically targeted at combating fuel poverty by assisting low income households to identify unclaimed social security benefits and facilitate the

making of relevant claims to the Social Security Agency;

“wheeled unit”

means a unit (whether generated inside or outside Northern Ireland) which enters the total system at any point and is delivered to a place outside Northern Ireland;

“wheeling”

means the transportation of wheeled units on any part of the total system;

2. Restriction of transmission and distribution charges: basic formula

Without prejudice to paragraph 6 the Licensee shall in setting its transmission and distribution charges use its best endeavours to ensure that in any relevant year the regulated transmission and distribution revenue shall not exceed the maximum regulated transmission and distribution revenue, which shall be the aggregate of:

(A) the maximum core revenue in relevant year t (M_{Dt});

Plus

(B) $CAIR_t$

2.1 where $CAIR_t$:

- (i) in respect of relevant years ending prior to SEM Go-Live, has the same meaning as it has in the Moyle Interconnector Collection Agency Agreement in respect of relevant year t ; and
- (ii) in respect of the relevant year t in which SEM Go-Live occurs, means an amount submitted by the Licensee to the Authority (following agreement with the Transmission System Operator) and approved by the Authority (subject to such adjustments as the Authority reasonably determines following consultation with the Licensee) based on the meaning such expression has in the Moyle Interconnector Collection Agency Agreement in respect of that relevant year, but reflecting the portion of that relevant year that has expired at SEM Go-Live; and
- (iii) in respect of relevant years commencing after SEM Go-Live, is zero.

2.2 where in each of the relevant years 2003 to 2007 inclusive M_{Dt} shall be calculated as follows:

$$M_{Dt} = h F_{Dt} + (1-h) V_{Dt} Q_{Dt} + E_{et} N_{Dt} + Y_t + W_{Dt} + NSI_{Dt} + D_t + K_{Dt}$$

where:

h means 0.75.

F_{Dt} means an amount for relevant year t derived using the following formula:

$$F_{Dt} = C_{Dt} * N_{Dt}$$

where:

$$C_{Dt} = C_{Dt-1} (1 + (rpi_t - 5)/100)$$

but, in relation to the first relevant year, C_{Dt-1} shall have a value equal to £226.472181.

rpi_t means the percentage change (whether a positive or negative value) in the Retail Prices Index between that published or determined with respect to October in the relevant year t and that published or determined with respect to the immediately preceding October; and

N_{Dt} means the number of customers connected for each relevant year t as specified in the table immediately below:-

Relevant year ended (t)	N_{Dt} (No. of customers connected)
31 March 2003	716,700
31 March 2004	726,750
31 March 2005	736,900
31 March 2006	747,200
31 March 2007	757,650

V_{Dt} means an amount for relevant year t derived using the following formula:

$$V_{Dt} = V_{Dt-1} (1 + (rpi_t - 5) / 100)$$

but in relation to the first relevant year, V_{Dt-1} shall have a value equal to 2.044239 pence.

Q_{Dt} means the regulated quantity transmitted and distributed in relevant year t.

E_{et} means an allowance in respect of energy efficiency derived using the following formula:

$$E_{et} = E_{et-1} (1 + rpi_t/100)$$

but, in relation to the first relevant year, E_{et-1} shall be equal to 489.88 pence and in relation to relevant years from and including third relevant year E_{et} shall be equal to zero pence.

Y_t means an incentive, in pounds sterling, in respect of energy efficiency in relevant year t derived using the following formula:

$$Y_t = 0.004415 * Q_{Et} \text{ except in relation to relevant years from and including third relevant year } Y_t \text{ shall be equal to zero.}$$

Where:

Q_{Et} means the amount (in kWh) by which the energy saved in relevant year t, as a result of expenditure raised under the $E_{et} N_{Dt}$ term and as certified by the Energy Saving Trust, exceeds the target level of energy savings for that year specified in a direction to be issued by the Authority to the Licensee no later than [Insert Date];

but where the energy saved in the relevant year t equals or is less than the value specified in the direction, Q_{Et} shall equal zero, and

and

in any relevant year t, the sum of $E_{et} N_{Dt}$ and Y_t must not exceed the values as specified in the table immediately below:-

Relevant year ended (t)	Cap on $E_{et} * N_{Dt} + Y_t$ (in pounds sterling (£))
31 March 2003	£4,100,000
31 March 2004	£4,100,000
31 March 2005	£4,200,000
31 March 2006	£4,200,000
31 March 2007	£4,300,000

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W_{Dt} means for each relevant year, an amount not less than zero calculated in accordance with a method notified to the Licensee by the Authority (after consultation with the Licensee and such other persons as the Authority shall consider appropriate), representing amounts which the Authority is satisfied are likely to be equal to the Licensee's costs of wheeling in respect of the relevant year in question;

NSI_{Dt} means the Licensee's regulated revenue entitlement associated with any interconnectors with the Republic of Ireland for each relevant year t , as specified in the table immediately below:-

Relevant year ended (t)	NSI_{Dt} (Regulated revenue entitlement in pounds sterling (£))
31 March 2003	£335,000
31 March 2004	£319,000
31 March 2005	£304,000
31 March 2006	£290,000
31 March 2007	£277,000

D_t means an allowance (in pounds sterling) for excluded transmission and distribution costs in relevant year t calculated by adding together (whether a positive or negative amount) the following amounts:

- i) the difference between the actual rates incurred by the Transmission and Distribution Business and the allowance for rates assumed in setting the notified values for C_{Dt-1} and V_{Dt-1} in this Annex.
- ii) an amount up to £250,000 which represents expenditure under NIE's SMART 1 programme (Sustainable Management of Assets and Renewables Technology) designed to stimulate pilot projects using new technologies that are not yet commercially viable;

- iii) amounts arising out of the refinancing of the Moyle Interconnector as recorded in the document "Summary of Arrangements between Moyle and the Viridian Group" and the letter from the Authority dated 5 June 2003;
- iv) any reasonable costs incurred by the Licensee in complying with the requirements of Condition 27, Part III in the existing transmission licence as it existed on 2 July 2007 in respect of the renewable output factor arrangements;
- v) amounts that become uncollected T&D revenue in relevant year t , less any amount or part of an amount treated as uncollected T&D revenue in respect of a preceding relevant year that has been paid to the Licensee in relevant year t ;
- vi) amounts arising under the arrangements approved by the Authority which are designed to incentivise investment in Demand Side Management schemes; and
- vii) any other costs which the Authority shall determine, upon an application to it by the Licensee shall be included as excluded transmission and distribution costs.

K_{Dt} means the correction factor (whether a positive or negative value) to be applied to the maximum core revenue in relevant year t which is derived from the following formula:

$$K_{Dt} = (M_{Dt-1} - R_{Dt-1})(1 + I_t/100)$$

(but in relation to the first relevant year, K_{Dt} shall be equal to
- £804,000);

where:

M_{Dt-1} means the maximum core revenue in relevant year $t - 1$;

R_{Dt-1} means the regulated transmission and distribution revenue (other than the Moyle revenue which is attributable to the financing and other costs associated with the Moyle Interconnector, as

referred to in the definition of the term CAIR_t above) in relevant year t-1; and

I_t means the average specified rate.

2.3 where in relevant year 2008 and in subsequent relevant years MD_t shall be calculated in accordance with the following formula:

$$MD_t = \min(PC_t, CPA_t) - PPS_t + COL_t + D_t + NSI_t + KD_t$$

where

min(PC_t, CPA_t) means the lower of the values of PC_t and CPA_t.

PC_t means the price capped regulated revenue entitlement in relevant year t in pounds sterling calculated in accordance with the following formula:

$$PC_t = (0.0181 * FQ_t * (RPI_t / RPI_{2005})) + PCA_t$$

where:

FQ_t means the number of forecast units transmitted and distributed in each of the relevant years 2008 to 2012 inclusive as specified in the table immediately below:

FQ _t	kWh
FQ2008	8,490,000,000
FQ2009	8,620,000,000
FQ2010	8,750,000,000
FQ2011	8,881,000,000
FQ2012	9,014,000,000

PCA_t means an adjustment (whether a positive or negative amount) within the price capped revenue entitlement in relevant year t calculated in accordance with the following formula:

$$PCA_t = UO_t - FUO_t$$

where:

UO_t means the level of uncontrollable operating costs in relevant year t calculated as the aggregate of the following amounts in pounds sterling:

- (i) amounts paid by the Licensee in respect of rates levied on transmission and distribution assets in accordance with the Valuation (Electricity) Order (Northern Ireland) 2003 or its successor legislation whether under such successor legislation such payments are still characterised as rates or not;
- (ii) amounts incurred by the Licensee in respect of wayleaves;
- (iii) amounts apportioned or allocated to the Transmission and Distribution Business in respect of the fees paid by the Licensee under Condition 7 of this Licence.

FUO_t means the forecast level of uncontrollable operating costs in relevant year t as set out in the table immediately below:

FUO _t	Pounds sterling
FUO ₂₀₀₈	£15.917m
FUO ₂₀₀₉	£17.042m
FUO ₂₀₁₀	£17.879m
FUO ₂₀₁₁	£18.730m
FUO ₂₀₁₂	£19.619m

CPA_t means the composite proposal allowance in relevant year t in pounds sterling calculated in accordance with the following formula

$$CPA_t = CO_t + P_t + UO_t + Ret_t - TA_t + Dep_t + Tax_t + RRF_t$$

where:

CO_t means the allowance for controllable operating costs in relevant year t calculated in accordance with the following formula

$$CO_t = ACO_{t-5} * (RPI_t / RPI_{t-5})$$

where:

ACO_{t-5} means the level of actual controllable operating costs in relevant year t-5 and in relation to relevant years 2008, 2009 and 2010, ACO_{t-5} shall have the values specified in the table immediately below:

Relevant year _t	ACO _{t-5} Pounds sterling
2008	£41.5m
2009	£37.9m
2010	£38.3m

In relation to relevant years 2011 and 2012, ACO_{t-5} shall be calculated in accordance with the method specified in the 2006 Direction, such method being the same as the calculation that produces the values for ACO_{t-5} in the table immediately above.

P_t means the allowance for pension costs in relevant year t calculated according to the following formula

$$P_t = P_{t-5} * (RPI_t / RPI_{t-5})$$

and in relation to relevant years 2008, 2009 and 2010, P_{t-5} shall be set equal to the value specified in the table immediately below:

Relevant year _t	P _{t-5} Pounds sterling
2008	£0
2009	£4.7m
2010	£4.4m

In relation to relevant year t = 2011, P_{t-5} shall be set equal to the actual cash contributions paid into the relevant pension scheme in relevant year 2006 less an amount equal to (£225,000 * RPI₂₀₀₆ / RPI₂₀₀₅).

In relation to relevant year t = 2012, P_{t-5} shall be set equal to the actual cash contributions paid into the relevant pension scheme in relevant year 2007 less an amount equal to (£225,000 * RPI₂₀₀₇ / RPI₂₀₀₅).

UO_t means the level of uncontrollable operating costs in relevant year t calculated as defined above.

Ret_t means the allowed return in relevant year t calculated in accordance with the following formula:

$$Ret_t = RAB_t * VWACC_t$$

where:

RAB_t means the average value of the transmission and distribution regulatory asset base in year t in pounds sterling calculated in accordance with the following formula:

$$RAB_t = 0.5 * (CRAB_{t-1} * RPI_t / RPI_{t-1} + CRAB_t)$$

CRAB_t means the closing regulatory asset base in relevant year t and shall be calculated in accordance with the methodology for rolling forward the regulatory asset base set out in the 2006 Direction.

VWACC_t means the vanilla weighted average cost of capital in relevant year t and in relevant years 2008, 2009 and 2010, VWACC_t shall be set equal to 0.05545.

In relevant years t = 2011 and 2012, VWACC_t shall be set equal to the lower of:

- (i) 0.05545; and
- (ii) VWACC₂₀₁₀,

where VWACC₂₀₁₀ means the weighted average cost of capital (stated as a decimal number) calculated on the basis of the values for the pre tax return on debt and the post tax return on equity used in determining the regulated revenue entitlement for the Distribution Network Operators (DNOs) in Great Britain for the distribution price control commencing on 1 April 2010. If more than one value is determined for different DNOs, the highest value determined shall be used as the basis for the calculation. VWACC shall be calculated using the same method as that applied in Ofgem's final proposals (November 2004) for the DNO price control which commenced on 1 April 2005. This assumed a pre tax cost of debt of 4.1%, a post tax cost of equity of 7.5% and gearing of 57.5% (VWACC = (4.1% * 57.5%) + (7.5% * 42.5%) = 5.545%, or 0.05545 stated as a decimal number).

TA_t means an adjustment in respect of the allowed return on transmission assets calculated in accordance with the following formula

$$TA_t = RAB_t * 0.18 * TAF_t$$

where:

TAF_t means the transmission adjustment factor, which for relevant years $t = 2008, 2009$ and 2010 shall be equal to 0.005 .

For relevant years $t = 2011$ and 2012 , TAF_t shall be calculated according to the following formula

$$TAF_t = PTWACC_t - 0.064$$

where PTWACC means the pre-tax weighted average cost of capital stated as a decimal number calculated on the basis of the values for the pre tax return on debt and pre tax return on equity used in determining the regulated revenue entitlement for the DNOs in Great Britain for the distribution price control commencing on 1 April 2010. PTWACC shall be calculated using the same method as that referred to in Ofgem's final proposals (November 2004) for the DNO price control which commenced on 1 April 2005. This assumed a pre tax cost of debt of 4.1% , a post tax cost of equity of 7.5% (10.7% pre tax) and gearing of 57.5% ($PTWACC = (4.1\% * 57.5\%) + (10.7\% * 42.5\%) = 6.9\%$ or 0.069 stated as a decimal number).

Dep_t means the allowance for depreciation of the regulatory asset base in year t and calculated according to the following formula

$$Dep_t = Fdep_t + Vdep_t$$

where:

$Fdep_t$ means fixed depreciation and represents depreciation in year t on pre-vesting assets calculated in accordance with the profile determined by the Monopolies and Mergers Commission and recorded in its March 1997 report entitled "Northern Ireland Electricity plc - A report on a reference under Article 15 of the Electricity (Northern Ireland) Order 1992", together with depreciation on network assets acquired pre 2006 and depreciation on non-operational capital expenditure incurred in

the period 1994 to 1997, as further specified in the 2006 Direction.

Vdep_t means variable depreciation and represents depreciation on network assets acquired post 2005, and shall be calculated in accordance with the method specified in the 2006 Direction.

Tax_t means an amount in respect of the allowance for tax costs in relevant year t calculated in accordance with the following formula

$$\text{Tax}_t = 0.3/0.7 (\text{Ret}_t + \text{NNC}_t + \text{Dep}_t - \text{Int}_t - \text{CA}_t)$$

where

NNC_t means an amount in respect of non network capital expenditure in relevant year t calculated in accordance with the following formula

$$\text{NNC}_t = \text{ANNC}_{t-5} * (\text{RPI}_t / \text{RPI}_{t-5})$$

where

ANNC_{t-5} means capital expenditure on non-network assets undertaken by the Transmission and Distribution Business in relevant year t-5 and in relation to relevant years 2008, 2009 and 2010, ANNC_{t-5} shall be set equal to the value specified in the table immediately below:

Relevant year _t	ANNC _{t-5} Pounds sterling
2008	£1.0m
2009	£1.8m
2010	£1.6m

Capital expenditure on non-network assets includes: (a) non-operational IT: IT equipment that is either located separately from the network assets or that does not directly relate to the control of network assets (this includes infrastructure and IT applications but excludes operational IT assets); (b) non-operational new assets and replacement of non-operational assets: plant and machinery, tools and equipment, office equipment, land & buildings used for administrative purposes; and

(c) non-operational premises: premises used by persons (e.g. stores, depots and offices) and excluding assets (such as substations) which are used for the control of network assets.

Int_t means an amount equal to the interest on the value of the regulatory asset base in relevant year t calculated in accordance with the following formula

$$\text{Int}_t = \text{RAB}_t * 0.575 * 0.067025$$

CA_t means an amount in pounds sterling equal to the level of capital allowances agreed with HM Revenue & Customs in respect of relevant year t calculated in accordance with the Capital Allowances Act 2001 (or successor legislation) and relevant industry agreements or rules.

RRF_t means an amount in relevant year t in respect of the recovery of revenue foregone in prior years as a result of the price cap. RRF_t shall be set in accordance with the following rule:

If CPA_{t-1} is greater than PC_{t-1} then

$$\text{RRF}_t = (\text{CPA}_{t-1} - \text{PC}_{t-1}),$$

otherwise

$$\text{RRF}_t = 0$$

For the avoidance of doubt, in relevant year $t = 2008$, $\text{RRF}_t = 0$.

PPS_t means the adjustment in relevant year t in respect of the NIE Powerteam Limited profit sharing scheme calculated as follows:

If P_t / R_t is greater than 0.1 then $\text{PPS}_t = (P_t - 0.05 * R_t)$

If P_t / R_t is less than or equal to 0.1 then $\text{PPS}_t = 0.5P_t$

But if P_t is less than 0 then $\text{PPS}_t = 0$

Where P_t and R_t mean the operating profit and revenue respectively of NIE Powerteam Limited in relevant year t as stated in the statutory accounts of NIE Powerteam Limited for that year.

The Licensee shall submit to the Authority a copy of the statutory accounts for NIE Powerteam Limited not less than 10 months after the end of each relevant year.

COL_t means the allowance in relevant year t for change of law costs calculated in accordance with paragraph 8 below.

D_t means an allowance in relevant year t for excluded transmission and distribution costs calculated by adding together (whether a positive or negative amount) the following amounts, where not recovered by the Licensee under another element of the transmission and distribution charge restriction conditions or under any other charge restriction conditions:

- (i) an amount up to £727,000 (07/08 prices) which represents expenditure under NIE's SMART 1 programme (Sustainable Management of Assets and Renewables Technology);
- (ii) any reasonable costs incurred by the Licensee in complying with the requirements of Condition 27, Part III in the existing transmission licence as it existed on 2 July 2007 in respect of the renewable output factor arrangements;
- (iii) amounts arising under the arrangements approved by the Authority which are designed to incentivise investment in Demand Side Management schemes;
- (iv) amounts arising under the arrangements approved by the Authority which are designed to incentivise efficiency in network capital investments, and which shall be calculated in accordance with the 2006 Direction;
- (v) any reasonable costs incurred by the Transmission and Distribution Business in complying with the requirements imposed on the Licensee under legislation and other legal requirements through which Directive 2003/54/EC is implemented;
- (vi) amounts that become uncollected T&D revenue in relevant year t, less any amount or part of an amount treated as uncollected T&D revenue in respect of a preceding relevant year that has been paid to the Licensee in relevant year t;
- (vii) an amount not less than zero calculated in accordance with a method notified to the Licensee by the Authority (after consultation with the Licensee and such other persons as the Authority shall consider appropriate), representing amounts which the Authority is satisfied are

likely to be equal to the Licensee's costs of wheeling in respect of the relevant year in question; and

- (viii) any other costs which the Authority shall determine, upon an application to it by the Licensee shall be included as excluded transmission and distribution costs.

NSI_t means the Licensee's regulated revenue entitlement associated with any interconnectors with the Republic of Ireland for each relevant year t, as specified in the table immediately below:-

Relevant Year t	NSI _t (£ sterling)
2008	£138,000 * RPI ₂₀₀₈ /RPI ₂₀₀₆
2009	£132,000 * RPI ₂₀₀₉ /RPI ₂₀₀₆
2010	£126,000 * RPI ₂₀₁₀ /RPI ₂₀₀₆
2011	£120,000 * RPI ₂₀₁₁ /RPI ₂₀₀₆
2012	£114,000 * RPI ₂₀₁₂ /RPI ₂₀₀₆

K_{Dt} means the correction factor (whether a positive or negative value) to be applied to the maximum core revenue in relevant year t which is derived from the following formula:

$$K_{Dt} = (MD_{t-1} - RD_{t-1})(1 + I_t/100)$$

where:

M_{Dt-1} means the maximum core revenue in relevant year t - 1;

R_{Dt-1} means the regulated transmission and distribution revenue (other than the Moyle revenue which is attributable to the financing and other costs associated with the Moyle Interconnector, as referred to in the definition of the term CAIR_t above) in relevant year t-1; and

I_t means the average specified rate.

- 2.4 The 2006 Direction shall not be capable of being revoked or modified (either by revocation or modification of the 2006 Direction or by the issue of another direction) without the prior written consent of the Licensee.

3. Restriction of transmission and distribution charges: adjustments

3.1 If, in respect of any relevant year, the regulated transmission and distribution revenue exceeds the maximum regulated transmission and distribution revenue by more than the permitted one-year percentage, the Licensee shall furnish an explanation to the Authority and in the next following relevant year the Licensee shall not effect any increase in transmission and distribution charges unless it has demonstrated to the reasonable satisfaction of the Authority that the regulated transmission and distribution revenue would not be likely to exceed the maximum regulated transmission and distribution revenue in that next following relevant year.

3.2 If, in respect of any 3 successive relevant years, the sum of the amounts by which the regulated transmission and distribution revenue has exceeded the maximum regulated transmission and distribution revenue is more than the permitted 3-year percentage, then in the next following relevant year the Licensee shall, if required by the Authority, adjust its transmission and distribution charges such that the regulated transmission and distribution revenue would not be likely, in the judgment of the Authority, to exceed the maximum regulated transmission and distribution revenue in that next following relevant year.

3.3 In this paragraph:

“permitted one-year percentage” means 4 per cent of the maximum regulated transmission and distribution revenue; and

“permitted 3-year percentage” means 5 per cent of the maximum regulated transmission and distribution revenue in the second of the relevant years.

4. **Information to be provided to the Authority in connection with the transmission and distribution charge restriction conditions**

4.1 Where any change is intended to be made in transmission and distribution charges regulated under paragraph 2, the Licensee shall not later than 14 days prior to the time of publication of such change provide the Authority with:

- (i) a written forecast of the maximum regulated transmission and distribution revenue, together with its components, in respect of the relevant year t in which such change is to take effect and in respect of the next following relevant year $t+1$;
- (ii) a written estimate of the maximum regulated transmission and distribution revenue, together with its components, in respect of the relevant year $t-1$ immediately preceding the relevant year in which the change is to take effect

unless a statement complying with paragraph 4.5 in respect of relevant year t-1 has been furnished by the Licensee to the Authority more than 14 days before the publication of the proposed change.

- 4.2 If within 3 months of the commencement of any relevant year t the Licensee has not made any such change in charges as is referred to in paragraph 4.1, the Licensee shall provide the Authority with a written forecast of the maximum regulated transmission and distribution revenue, together with its components, in respect of relevant year t.
- 4.3 Any forecast or estimate provided in accordance with paragraph 4.1 or 4.2 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the Authority to be satisfied that the forecast or estimate has been properly prepared on a consistent basis.
- 4.4 Not later than 6 weeks after the commencement of each relevant year t, the Licensee shall send to the Authority a statement as to:
- (a) whether or not the provisions of paragraph 3 are likely to be applicable in consequence of the regulated transmission and distribution revenue in the preceding relevant year t-1 or the 3 preceding relevant years t-1, t-2 and t-3; and
 - (b) its best estimate as to the relevant correction factor K_{Dt} calculated in accordance with the formula set out in paragraph 2 to be applied in calculating the maximum regulated transmission and distribution revenue in respect of relevant year t.
- 4.5 Not later than 3 months after the end of each relevant year the Licensee shall send to the Authority a statement, in respect of that relevant year, showing the specified items referred to in paragraph 4.7.
- 4.6 The statement referred to in the preceding paragraph shall be:
- (a) accompanied by a report from the Auditors that in their opinion such statement fairly presents each of the specified items referred to in paragraph 4.7 in accordance with the requirements of the transmission and distribution charge restriction conditions and that the amounts shown in respect of each of the specified items are in accordance with the accounting records which have been maintained in accordance with Condition 2; and
 - (b) certified by a director of the Licensee on behalf of the Licensee that to the best of his knowledge, information and belief after having made all reasonable enquiries:

- (i) there is no amount included in its calculations under paragraph 2 which represents other than bona fide consideration for the provision of transmission and distribution services the revenue from which is regulated under this Annex;
- (ii) no service has been treated as an excluded service other than a service permitted to be so treated in accordance with paragraph 5;
- (iii) no amount included in the revenues stated in respect of excluded services represents other than bona fide consideration for the provision of the excluded service to which it relates.

4.7 The specified items to be shown in the statement referred to in paragraph 4.5 shall be the following:

- (a) the regulated transmission and distribution revenue;
- (b) the regulated quantity transmitted and distributed;
- (c) the adjusted quantity transmitted and distributed;
- (d) the quantity entering the total system;
- (e) the revenue derived from excluded services (showing separately the revenue from each category of excluded service) as provided for in paragraph 5.6;
- (f) the details relating to security costs referred to in paragraph 6.4; and
- (g) such other items as shall be specified in directions issued by the Authority from time to time for the purposes of this Annex.

4.8 Where the Authority issues directions under paragraph 5.7, the Licensee shall, if so required by the Authority and within such period as the Authority shall specify, send to the Authority a revised statement in substitution for the Licensee's statement under paragraph 4.5 in respect of the relevant year in question and such revised statement shall give effect to such directions.

5. Excluded services for purposes of Transmission and Distribution Business

5.1 There may be treated as excluded services provided by the Transmission and Distribution Business such services in respect of which charges are made which:

- (a) do not fall within paragraph 5.2; and

- (b) may (subject to paragraph 5.7) be determined by the Licensee as falling under one of the principles set out in paragraphs 5.3 to 5.5.
- 5.2 No service provided as part of the Transmission and Distribution Business shall be treated as an excluded service insofar as it relates to the provision of services remunerated under use of system charges in accordance with Condition 32 including (without prejudice to the foregoing):
 - (a) the transport of electricity;
 - (b) the carrying out of works for the installation of electric lines or electrical plant (not otherwise payable in the form of connection charges) for the purpose of maintaining or upgrading the Licensee's transmission system and distribution system;
 - (c) the carrying out of works or the provision of maintenance or repair or other services for the purpose of enabling the Licensee to comply with Conditions 19, 26 and 27, the Electricity Supply Regulations (Northern Ireland) 1991 as amended by the Electricity Supply (Amendment) Regulations (Northern Ireland) 1993 or any regulations made under Article 32 of the Order or any other enactment relating to safety or standards applicable in respect of the Transmission and Distribution Business; and
 - (d) the provision, installation and maintenance of any meters, switchgear or other electrical plant ancillary to the grant of use of system.
- 5.3 The whole or an appropriate proportion (as the case may be) of the charges of the type described in paragraph 3 of Condition 22 or paragraph 3 of Condition 32 and borne by any person as connection charges in respect of connections made after the grant of this Licence may be treated as excluded services.
- 5.4 There may be treated as an excluded service charges for the relocation of electric lines or electrical plant and the carrying out of works associated therewith pursuant to a statutory obligation (other than under Article 12(2) of the Order) imposed on the Licensee.
- 5.5 There may be treated as an excluded service any service of a type not above referred to which:
 - (a) consists in the provision of services for the specific benefit of a third party requesting the same; and

- (b) is not made available as a normal part of the Transmission and Distribution Business remunerated by use of system charges, including (without prejudice to the foregoing):
 - (i) special metering (including “time of day” metering) to facilitate energy saving programmes for the benefit of customers requesting the same;
 - (ii) prepayment metering equipment;
 - (iii) charges for moving mains, services or meters forming part of the Licensee’s distribution system to accommodate extension, re-design or re-development of any premises on which the same are located or to which they are connected; and
 - (iv) the provision of electric lines and electrical plant (a) insofar as the same are required for the specific purpose of enabling the provision of top-up or standby or (b) to provide a higher degree of security than is required for the purposes of complying with Condition 19.
- 5.6 The Licensee shall following the end of each relevant year furnish to the Authority, as being one of the specified items to be included in the statement referred to in paragraph 4.7, details specifying separately the nature of all services provided as part of the Transmission and Distribution Business and treated as excluded services by the Licensee during the course of such year and stating the revenues derived in respect of each such service so treated.
- 5.7 Where the Authority is satisfied that it is reasonable in all the circumstances that any service treated by the Licensee as being or not being an excluded service should not be so treated, the Authority shall issue directions to that effect. Any such directions may, where a service is directed to be treated as an excluded service, contain such conditions as the Authority shall see fit in relation to the charges which the Licensee may make for such excluded service and the other terms and conditions upon which the Licensee may provide such excluded service. In accordance with the terms of such directions, such service shall cease to be treated as an excluded service with effect from the date of issue of such directions or such earlier date (being not earlier than the commencement of the relevant year to which the statement last furnished to the Authority pursuant to paragraph 4.5 prior to issue of such directions related, unless such statement or the accompanying report or certificate referred to in paragraph 4.6 or any earlier such statement, report or certificate was incorrect or misleading in any material respect) as may be specified in the directions.

6. Allowances in respect of security costs

6.1 At any time during a Security Period, the Authority may (having regard to its duties under the Energy Order) by means of directions:

- (a) suspend or modify for the unexpired term of the security period the transmission and distribution charge restriction conditions or any part or parts thereof; or
- (b) introduce for the unexpired term of the security period new transmission and distribution charge restriction conditions

in either case, so as to make such provision as in the opinion or estimation of the Authority is requisite or appropriate to enable the Licensee to recover by means of appropriate equitable increases in the charges made in the course of the Transmission and Distribution Business an amount estimated as being equal to the Licensee's allowed transmission and distribution related security costs during such period, and the Licensee shall comply with the terms of any directions so issued.

6.2 Subject to paragraphs 6.3 and 6.5, the Licensee shall in any relevant year be entitled to recover an aggregate amount equal to the Licensee's allowed transmission and distribution related security costs in that year or (insofar as not previously recovered) any previous year, by means of appropriate equitable increases in the charges made by the Licensee in the course of the Transmission and Distribution Business.

6.3 Paragraph 6.2 shall not apply insofar as such Licensee's allowed transmission and distribution related security costs:

- (a) were otherwise recovered by the Licensee; or
- (b) were taken into account by the Authority in setting charge restriction conditions by means of directions issued under paragraph 6.1.

6.4 The Licensee shall following the end of each relevant year provide to the Authority details in respect of that relevant year of:

- (a) the aggregate amounts charged under paragraph 6.2 on account of the Licensee's allowed transmission and distribution related security costs; and
- (b) the bases and calculations underlying the increases in charges made by the Licensee in the course of the Transmission and Distribution Business under paragraph 6.2.

6.5 Where the Authority is satisfied that the Licensee has recovered amounts in excess of the Licensee's allowed transmission and distribution related security costs, the Authority may issue directions requiring the Licensee to take such steps as may be specified to reimburse customers of the Transmission and Distribution Business for the excess amounts charged to them, and the Licensee shall comply with any directions so issued.

6.6 No amounts charged by the Licensee under this paragraph 6 (whether or not subsequently required to be reimbursed) shall be taken into account for the purpose of applying the transmission and distribution charge restriction provisions of paragraph 2.

6.7 In this paragraph 6:

"security period" means a Security Period as defined in paragraph 2 of Part I of the Northern Ireland Fuel Security Code; and

"Licensee's allowed transmission and distribution related security costs" means any cost incurred by the Transmission and Distribution Business and approved by the Authority as being an allowed security cost in accordance with the Northern Ireland Fuel Security Code (as that term is therein defined), but excluding any cost which forms part of:

- (a) the allowed power procurement business related security costs; or
- (b) the payments to generators in relation to services provided to the power procurement business during security periods.

Duration of transmission and distribution charge restriction conditions

7.1 The transmission and distribution charge restriction conditions shall apply so long as the 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 disapplication request made in accordance with paragraph 7.2 and:

- (a) the Authority agrees in writing to the disapplication request; or

- (b) their application (in whole or in part) is terminated by notice given by the Licensee in accordance with either paragraph 7.4 or paragraph 7.5.
- 7.2 A disapplication request pursuant to this paragraph 7 shall (a) be in writing addressed to the Authority, (b) specify the transmission and distribution charge restriction conditions (or any part or parts thereof) to which the request relates and (c) state the date (being not earlier than the date referred to in paragraph 7.3) from which the Licensee wishes the Authority to agree that the specified transmission and distribution charge restriction conditions shall cease to have effect.
- 7.3 Save where the Authority agrees otherwise, no disapplication following delivery of a disapplication request pursuant to this paragraph 7 shall have effect earlier than the date which is the later of:
 - (a) the date occurring 18 months after delivery of the disapplication request; and
 - (b) in respect of the charge restriction conditions applied pursuant to paragraph 2.2 of this Annex, 31 March 2007, and in respect of the charge restriction conditions applied pursuant to paragraph 2.3 of this Annex, 31 March 2012.
- 7.4 If the Authority has not made a reference to the Competition Commission under Article 15 of the Order relating to the modification of the transmission and distribution charge restriction conditions before the beginning of the period of 12 months which will end with the disapplication date, the Licensee may deliver written notice to the Authority terminating the application of such of the transmission and distribution charge restriction conditions (or any part or parts thereof) as are specified in the disapplication request with effect from the disapplication date or a later date.
- 7.5 If the Competition Commission makes a report on a reference made by the Authority relating to the modification of the transmission and distribution charge restriction conditions (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the cessation of such transmission and distribution charge restriction conditions, in whole or in part, operates or may be expected to operate against the public interest, the Licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to it written notice terminating the application of such transmission and distribution charge restriction conditions (or any part or parts thereof) with effect from the disapplication date or a later date.
- 7.6 A disapplication request or notice served under this paragraph 7 may be served in respect of a specified geographic area.

8. Change of Law

8.1. In relation to the period comprising the five relevant years 2008 - 2012 inclusive, where it appears to the Licensee that there has been, or is likely to be, a relevant change of law which has had or is likely to have a material effect on the financial position and performance of the Transmission and Distribution Business, the Licensee may require the Authority to determine whether the relevant change of law has had or is likely to have such an effect, and if so what amounts, if any, should be treated as allowed change of law revenues in calculating COL_t for relevant year t and each succeeding relevant year in accordance with paragraph 2.3 to ensure that the financial position and performance of the Licensee is likely, so far as reasonably practicable, to be the same as if the relevant change of law had not taken place. In determining the matters provided for in the paragraph above, the Authority shall have regard, where relevant, to:

- (a) the period over which the Licensee shall incur costs by reason of the relevant change of law;
- (b) the incremental costs (including financing costs) which the Licensee has been or will be required to incur as a consequence of the relevant change of law; and
- (c) the other circumstances of the case.

8.2. A notice given to the Authority by the Licensee pursuant to paragraph 8.1 shall contain or be accompanied by all relevant details of the relevant change of law and such other information as the Authority shall require and, unless the Authority shall otherwise consent, shall be given not later than the first day of October immediately preceding the first of the relevant years in respect of which the transmission system operator wishes any change in such elements to take effect.

8.4. In this paragraph:

“legal requirement” means, in relation to the Licensee, any of the following:

- (a) any enactment to the extent that it applies to the Transmission and Distribution Business;
- (b) any regulation made by the Council or the Commission of the European Communities to the extent that it applies to the Licensee and impacts on its Transmission and Distribution Business or a decision taken by the said Commission which is binding on the Licensee and impacts on the Transmission and Distribution Business to the extent that it is so binding;

- (c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within (a) or (b) above to have effect in a way different to that in which it previously had effect;
- (d) any direction of a competent authority other than, insofar as it applies to the Licensee, the Authority (except in the exercise of its powers under paragraph 4 of Condition 27) or the Department; and

“relevant change of law” means the application to the Licensee of any legal requirement which did not previously so apply or the change of any legal requirement relating to the Licensee (including any such legal requirement ceasing to apply, being withdrawn or not being renewed).

9. **Vulnerable customer programme**

Over the period comprising the four relevant years 2007, 2008, 2009 and 2010 the Licensee shall make available funding of no less than £1 million in total to cover the costs of establishing, implementing and running the Vulnerable Customer Programme in those years. By 31 December 2006 the Licensee shall develop and submit to the Authority for its approval, a proposal for the implementation and subsequent evaluation of a number of pilot schemes with the aim of identifying a more comprehensive programme that will make effective use of the available funding. Not less than 3 months after the end of each of the four relevant years the Licensee shall submit to the Authority an annual report in a form to be approved by the Authority on the performance of the programme during the relevant year under report and its proposals for the remainder of the programme.

10. **Sustainable Networks Programme**

Over the period comprising the five relevant years 2008 to 2012 inclusive the Licensee shall make available funding of no less than £1 million in total to cover the costs of establishing implementing and running the Sustainable Networks Programme. By 31 January 2007 the Licensee shall develop and submit to the Authority for its approval, a proposal for a programme that will make effective use of the available funding. Not less than 3 months after the end of each of the five relevant years the Licensee shall submit to the Authority an annual report in a form to be approved by the Authority on the performance of the

programme during the year under report and its proposals for the remainder of the programme.

11. **Annual capex reporting**

Not less than 4 months after the end of each relevant year the Licensee shall submit to the Authority an annual report in a form to be approved by the Authority setting out the main elements comprising the network capital expenditure undertaken by the Transmission and Distribution Business in the year under review. Each report shall set out the current five-year plan for the relevant regulatory period, identify the material variations to the plan from the previous year, explain the initiatives that have assisted in optimising the investment decision-making process, the value of $CRAB_t$ (the closing RAB in the year under report) and identify the notified capex efficiency gains calculated in accordance with the method set out in the 2006 Direction.

12. **Tax report**

Not less than 12 months after the end of each relevant year the Licensee shall submit to the Authority an annual report in a form to be approved by the Authority setting out the Licensee's calculation of the tax capital allowances and the tax computation used in the calculation of Tax_t for such relevant year together with any retrospective adjustments in respect of previous years.

Schedule 1 Authorised Transmission Area

1. The authorised transmission area shall comprise Northern Ireland.

Schedule 2 Terms as to Revocation

- 1 The Authority may at any time revoke the Licence by not less than 30 days' notice in writing to the Licensee:
- (a) if the Licensee agrees in writing with the Authority that the Licence should be revoked;
 - (b) if any licence fee required to be paid under the Licence is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee notice that the payment is overdue provided that no such notice shall be given earlier than the sixteenth day after the day on which the amount payable became due;
 - (c) if the Licensee fails to comply with a final order (within the meaning of Article 42 of the Energy Order) or with a provisional order (within the meaning of Article 42 of the Energy Order) which has been confirmed under Article 42 of the Energy Order and which (in either case) has been made in respect of a contravention or apprehended contravention of a Condition or of a relevant requirement as defined in Article 41(2)(a) of the Energy Order imposed on the Licensee in its capacity as holder of the Licence and (in either case) such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 44 of the Energy Order could be made questioning the validity of the final or provisional order or before the proceedings relating to any such application are finally determined;
 - (d) if the Licensee fails to comply with an order made by a court under section 34 of the Competition Act 1998; or fails to comply with an order made under section 72, 75, 76, 81, 83, 84, 158, 160 or 161 of, or under paragraph 2, 5, 6, 10 or 11 of schedule 7 to, the Enterprise Act 2002; or any partner, director, member, secretary or manager of the Licensee is found guilty of an offence under section 188 or 201 of the Enterprise Act 2002;
 - (e) if the Licensee:
 - (i) is unable to pay its debts (within the meaning of Article 103(1) or (2) of the Insolvency (Northern Ireland) Order 1989, but subject to paragraph 3 of this Schedule) or if any voluntary arrangement is proposed in relation to it under Article 14 of that Order, or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms

and within such period as may previously have been approved in writing by the Authority);

- (ii) has a receiver (which expression shall include an administrative receiver within the meaning of Article 5(1) of the Insolvency (Northern Ireland) Order 1989) of the whole or any material part of its assets or undertaking appointed;
 - (iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989 made in relation to it;
 - (iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Authority; or
 - (v) becomes subject to an order for winding-up by a court of competent jurisdiction;
- (f) if the Licensee is convicted of having committed an offence under Article 63 of the Order or under Article 46 of the Gas (Northern Ireland) Order 1996;
- (g) if the Licensee fails to pay any financial penalty (within the meaning of Article 45 of the Energy Order) imposed in respect of a contravention or apprehended contravention of a Condition or of a "relevant requirement" as defined in Article 41(2)(a) of the Energy Order by the due date for such payment and such payment is not made to the Authority within three months after the Authority has given notice in writing of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 49 of the Energy Order could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined; or
- (h) if the Licensee ceases to carry on the Transmission Owner Business other than with the consent of the Authority.

2 For the purposes of paragraph 1(e)(i) of this Schedule, Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 shall have effect as if for "£750" there was substituted "£250,000" or such higher figure as the Authority may from time to time determine by notice in writing to the Authority and the Licensee.

3 The Licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(e)(i) of this Schedule if any such demand as is mentioned in Article 103(1)(a) of the Insolvency (Northern Ireland) Order 1989 is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures or if any such demand is

satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1 of this Schedule.