

**Bord Gais Eireann<sup>1</sup>**

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

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<sup>1</sup> Licence assigned to BGE (NI) Supply Ltd from 20 June 2005. BGE (NI) Supply Ltd changed name to Firmus Energy (Supply) Limited from 4 May 2006.

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## **GRANT AND TERMS OF LICENCE**

### **LICENCE FOR THE SUPPLY OF GAS**

1. Grant and Terms of Licence

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

- (a) in the area designated as a term of the licence in Schedule 1 hereto;
- (b) from the date of this grant, on which date the licence shall be deemed to come into force, until:
  - (i) the licence is determined by not less than 25 years’ notice in writing given by the Authority to the Licensee, which notice shall not be served earlier than the date which is ten years after the date of this grant; or
  - (ii) the date, if earlier, on which the licence is revoked in accordance with the provisions specified as a term of the licence in Schedule 2 hereto; and
- (c) by virtue of Article 9(1) of the Order, on an exclusive basis in accordance with the provisions specified as a term of the licence in Schedule 3 hereto.

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

2. Conditions of Licence

The grant of the licence shall be deemed:

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

24 March 2005

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Douglas McIldoon

Chairman  
The Northern Ireland Authority for Energy Regulation

**PART 1**  
**GENERAL CONDITIONS APPLICABLE TO THE LICENCE HOLDER**

**Condition 1.1: Interpretation and Construction**

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

Unless the contrary intention appears:

- (a) words and expressions used in this or any of the following Parts of the licence or in the Schedules hereto shall be construed as if they were in an enactment and the Interpretation Act (Northern Ireland) 1954 applied to them;
- (b) references to an enactment shall include subordinate legislation and in both cases any statutory modification or re-enactment thereof after the date when the licence comes into force; and
- (c) words and expressions defined in the Gas (Northern Ireland) Order 1996 or the Energy (Northern Ireland) Order 2003 shall have the same meaning when used in this or any of the following Parts of the licence or in the Schedules hereto.

1.1.2 General Rules of Construction

Unless otherwise specified:

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

- (e) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than this licence), code or other instrument shall include a reference to such agreement, licence, code or other instrument as varied, supplemented or replaced from time to time.

### 1.13 Headings

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

#### 1.1.4 Time Related Obligations

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

#### 1.1.5 Natural Persons

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

#### 1.1.6 Definitions

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

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

"amount" means, in relation to gas, the energy content thereof expressed in therms or Kilowatt hours; except with effect from 1st January 2000, it means the said

	content expressed in kilowatt hours;
“Associated Conveyance Licence”	means the licence to participate in the conveyance of gas granted to Bord Gais Eireann on the same date as the date of the Grant;
"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies Act 1985;
"authorisation of persons"	means the power of the Licensee to authorise persons, pursuant to Schedule 5 of the Order;
“Authority”	means the Northern Ireland Authority for Energy Regulation;
"balancing"	means (in relation to a Network Operator's Network and any relevant period for balancing under that Network Operator's Network Code), taking such measures as may be available to the Network Operator, in particular, measures: <ul style="list-style-type: none"> <li>(i) for managing the relationship between deliveries of gas to and offtakes of gas from that Network during that period; and</li> <li>(ii) to maintain pressures in that Network at levels;</li> </ul> <p>which will, in the reasonable opinion of the Network Operator, ensure the safety and efficiency of the Network in that or any subsequent relevant period;</p>



'bill"	includes an invoice, account, statement or other instrument of like character;
"business premises"	means premises used wholly or mainly for commercial purposes being supplied with gas at a rate reasonably expected to exceed 73,250 kilowatt hours a year;
"charges for the supply of gas"	includes in relation to the Licensee and a particular consumer, charges made by the Licensee in respect of the provision to that consumer of a gas meter and cognate expressions shall be construed accordingly;
"chronically sick person"	means any person who, by reason of chronic sickness has special needs in connection with gas supplied to him, its use or the use of gas appliances or other gas fittings;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 or any other body corporate;
"consumer"	means any person supplied or requiring to be supplied with gas by the Licensee (including any affiliate or related undertaking of the Licensee), or where the context requires, by any other gas supplier, at any premises in Northern Ireland;
“Contract”	means a contract for the supply of gas made between the Licensee and a consumer but does not include a Deemed Contract;
“Deemed Contract”	means, as between the Licensee and a consumer, a contract for the supply of gas to have been made under section 12 of the Energy Act (Northern

Ireland) 2011;

“Department”	means the Department of Enterprise, Trade and Investment;
“Directive”	means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in gas and repealing Directive 2003/55/EC;
"disabled person"	means any person who, by reason of any disability, has special needs in connection with gas supplied to him, its use or the use of gas appliances or other gas fittings and includes any person who is in receipt of a social security benefit by reason of any disability;
“distribution pipe-line”	means any pipe-line which is not a transmission pipeline;
"domestic consumer"	means a consumer supplied, or requiring to be supplied, with gas at Domestic Premises;
“Domestic Premises”	means premises at which, at the time of the Licensee entering into a contract for the supply of gas to such premises, the normal annual consumption of gas is reasonably expected not to exceed 73,250 kilowatt hours a year or where the supply of gas is taken wholly or mainly for domestic purposes;
“Eligible Customers”	means persons who are free to purchase gas from the supplier of their choice;
“Eligible Customer Supply Business”	means the activities of the Licensee pursuant to the licence connected with the supply of gas to Eligible Customers;

“Energy Consumer Checklist”	means the document of that name which constitutes the guidance for consumers of gas and electricity as prepared and published, from time to time, by the Authority in accordance with Article 7(5) of the Energy Order;
“Energy Order”	means the Energy (Northern Ireland) Order 2003;
"exemption holder"	means the holder of an exemption under Article 7 of the Order;
"exercise of powers of entry"	means the Licensee entering any premises, in accordance with the powers conferred by Schedule 5 of the Order;
"gas supplier"	means any person authorised by licence under Article 8 of the Order or by exemption under Article 7 of the Order to supply gas including the Licensee as so authorised or exempted;
“General Consumer Council”	means the General Consumer Council for Northern Ireland;
"Grant"	means the commencing section of this licence by which the Authority grants the Licensee the licence;
"information"	includes documents, accounts, estimates, returns, reports or other information;
“Internal Markets Regulations”	means the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011;
“Last Resort Supply Direction”	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;

"licence"	means the Grant together with those Conditions and Schedules referred to in paragraph 1 thereof (as modified from time to time);
"Licensed Area"	means the area in which the Licensee is authorised to supply gas pursuant to the Licence;
"Licensed Business"	means the activities connected with the supply of gas pursuant to the licence;
"Licensee"	means the person referred to as such in the Grant, and/or any person to whom the licence is subsequently assigned in accordance with the Order, the Energy Order or the Licence;
"Network"	“means all the pipe-lines (as defined by the Gas (Northern Ireland) Order 1996, and shall also include any plant, equipment or apparatus used for, or for any purposes connected with, the conveyance of gas) within the licensed area that are owned and/or operated by any licensee, which pipe-lines shall, in the case of conveyance to consumer’s premises and for the purposes of this definition, be deemed to terminate immediately prior to the inlet of the first gas meter at such premises:”
"Network Code"	means that document so described and published by a Network Operator by virtue of the Network Operator's licence granted under Article 8 of the Order;
"Network Operator"	means a person licensed to convey gas under Article 8 of the Order who is conveying gas for the Licensee.

“Non-Eligible Customers”	means those persons who are not Eligible Customers;
“Non-Eligible Customer Supply Business”	means the activities of the Licensee pursuant to the licence connected with the supply of gas to Non-Eligible Customers;
"Order"	means the Gas (Northern Ireland) Order 1996;
"person"	means any company, firm, partnership, association, body corporate or individual;
“Principal Terms”	<p>means in respect of any Contract or Deemed Contract, the terms and conditions that relate to:</p> <ul style="list-style-type: none"> <li>(i) the duration of the Contract or Deemed Contract;</li> <li>(ii) the charges for the supply of gas, including the applicable tariff and the unit rate, expressed in “pence per kWh” of the applicable tariff;</li> <li>(iii) any requirement to pay charges for the supply of gas through a prepayment meter;</li> <li>(iv) any requirement for a Security Deposit;</li> <li>(v) the termination of the Contract (including any requirement to pay a termination fee) or the circumstances in which the Deemed Contract will terminate,</li> </ul> <p>and any other term or condition that may reasonably be considered to significantly affect the evaluation by the consumer of the Contract;</p>

“Promotional Materials”	means any document which contains information about the Licensee’s gas supply activities, and is handed out, or sent directly, by or on behalf of the Licensee to consumers;
“quarter”	means each successive period of three calendar months, commencing on 1 January;
"related undertaking"	means any undertaking in which any person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986;
“Security Deposit”	means a deposit of money as security for the payment of charges for the supply of gas;
"separate accounts"	means the accounts which are to be prepared for each Separate Business and for each of the Eligible Customer Supply Business and the Non-Eligible Customer Supply Business;
"Separate Business"	means each of the activities of the Licensee connected with: <ul style="list-style-type: none"> <li>(a) the conveyance of gas by means of a transmission pipe-line pursuant to a licence granted in accordance with Article 8(1)(a) of the Order;</li> <li>(b) the conveyance of gas by means of a distribution pipe-line pursuant to a licence granted in accordance with Article 8(1)(a) of the Order;</li> <li>(c) the storage of gas pursuant to a licence granted in accordance with Article 8(1)(b) of the Order;</li> <li>(d) the supply of gas pursuant to this licence; and</li> </ul>

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

each taken separately from one another and from any other business of the Licensee or any affiliate or related undertaking of the Licensee, but so that where all or any part of any such business is carried on by an affiliate or related undertaking of the Licensee (save in respect of an affiliate or related undertaking which has a separate licence or exemption), such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any other such business of the Licensee (and of any other affiliate or related undertaking of the Licensee) so as to form a single Separate Business; and

"subsidiary"

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

"transmission pipe-line"

means any pipe-line having a design operating pressure exceeding 7 bar gauge.

#### 1.1.7 References to energy

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

#### 1.1.8 Singular/plural

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

## **Condition 1.2: Separate Accounts for Separate Businesses**

### 1.2.1 Financial years

For the purposes of this Condition, the first financial year of the Licensee shall run from the date of the Grant to 31st December 2005 and thereafter each financial year of the Licensee shall run from 1st January to the following 31st December .

### 1.2.1A Definition of Eligible Period

In this Condition 1.2, the “Eligible Period” shall mean the period commencing on the date of the Grant and ending on the later of:

- (a) the date by which all persons to whom the Licensee is licensed to supply gas pursuant to the Licence are Eligible Customers; and
- (b) 1st July 2007.

### 1.2.2 Separate Business Accounting

This Condition applies for the purposes of ensuring that the Licensee (in conjunction with any relevant affiliate or related undertaking of the Licensee) maintains internal accounting and reporting arrangements which:

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

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business and each of the



Eligible Customer Supply Business and the Non-Eligible Customer Supply Business) prepared under Article 236 of the Companies (Northern Ireland) Order 1986, but shall be required to prepare such accounts in accordance with this Condition.

### 1.2.3 Separation of Internal Accounts

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

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

### 1.2.4 Apportionment

The financial statements prepared under Condition 1.2.3 shall set out and fairly present the costs (including depreciation), revenues, assets employed and liabilities of, or as may be reasonably attributable to, each Separate Business or, in those financial statements prepared for the Eligible Customer Supply Business or the Non-Eligible Customer Supply Business, that business and showing separately and in appropriate detail the amounts of any revenue, cost, asset or liability which has been:

- (a) charged from or to any other business of the Licensee (or of any affiliate or related undertaking of the Licensee); and/or

- (b) apportioned between that Separate Business and any other business (such apportionment to be undertaken in accordance with the basis of apportionment approved by the Authority in accordance with Condition 1.2.5),

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

#### 1.2.5 Basis of apportionment

The Licensee shall, no later than three months after the date of the Grant, notify the Authority of the basis of apportionment that it proposes to use for the financial statements in respect of each Separate Business and in respect of the Eligible Customer Supply Business and the Non-Eligible Customer Supply Business for the financial year commencing on 1st January 2005, and:

- (a) the basis of apportionment in respect of those financial statements shall be the basis so proposed by the Licensee unless the Authority following consultation with the Licensee gives a direction requiring the use of any other basis; and
- (b) except in so far as the Authority consents to the Licensee doing so the Licensee shall not change any basis of charge or apportionment used in the financial statements in respect of any Separate Business or in respect of the Eligible Customer Supply Business or the Non-Eligible Customer Supply Business for any financial year subsequent to the financial year commencing on 1st January 2005 from the basis used in the financial statements in respect of that Separate Business or in respect of the Eligible Customer Supply Business or the Non-Eligible Customer Supply Business for that financial year.

#### 1.2.6 Auditor's Reports

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

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

Business to which they relate or, as appropriate, the Eligible Customer Supply Business or the Non-Eligible Customer Supply Business; and

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

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

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

#### 1.2.8 Form of financial statements

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

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the Companies Act 1985.

#### 1.2.9 Publication of Accounting Statements

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

#### 1.2.10 Construction of "costs or liabilities"

References in this Condition to costs or liabilities of, or reasonably attributable to, any Separate Business, the Eligible Customer Supply Business, or the Non-Eligible Customer Supply Business shall be construed as excluding taxation, capital liabilities which do not relate principally to a particular Separate Business, the Eligible Customer Supply Business, or the Non-Eligible Customer Supply Business, and interest thereon; and references to any accounting statement shall be construed accordingly.

#### 1.2.11 Additional Definition

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

#### 1.2.12 Associated Undertakings

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

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

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

1.2.13 Separate accounts for different classes of consumer

The Authority may, from time to time, direct that the definition of “Separate Business” is, for the purposes of this Condition 1.2, modified so that the activities of the Licensee connected with the supply of has to such class, or classes, of consumer as may be designated in the direction shall each be treated as a Separate Business.

1.2.14 Provision of Accounts to the Department

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

## **Condition 1.3: Provision of Information to the Authority**

### **1.3.1 Furnishing information**

Subject to Conditions 1.3.2 and 1.3.3 below, the Licensee shall, furnish to the Authority, in such manner and at such times as the Authority may reasonably require, such information or as may be necessary for the purpose of performing any of its functions relating to gas as conferred on, or assigned or transferred to, it by or under any legislation.

### **1.3.2 Licensee to comment on accuracy of information**

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

### **1.3.3 Condition 1.3 exclusive of other powers to require information**

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

### **1.3.4 Condition 1.3 and other powers to require information**

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

### **1.3.5 Limitation on obligation to furnish information**

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

## **Condition 1.4: Consultation with the General Consumer Council**

### 1.4.1 Policy statements for General Consumer Council

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

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

## **Condition 1.5: Powers of Entry**

### 1.5.1 Arrangements for powers of entry

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

- (a) submit to the Authority a statement of its proposed arrangements in respect of the matters mentioned in Condition 1.6;
- (b) if within 30 days of such submission the Authority notifies the Licensee that, in its opinion, the arrangements are not sufficient for the purposes of Condition 1.6, make changes to the arrangements requisite to secure compliance with such conditions as are specified by the Authority; and
- (c) make such arrangements;

and the arrangements so made in this Condition and in Condition 1.6 are referred to as "the arrangements".

### 1.5.2 Changes in arrangements for extensions to licence

In the event of an extension of its licence, the Licensee shall ensure that the arrangements remain sufficient for the purposes of Condition 1.6 and shall make, subject to Condition 1.5.3, any necessary changes.

### 1.5.3 Consent of Authority to changes

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



#### 1.5.4 Conduct with domestic consumers

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

## **Condition 1.6: Authorisation of Persons**

### 1.6.1 Steps to be included in the arrangements

The arrangements shall comprise all reasonable steps:

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

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

The Licensee shall not authorise any person to exercise any powers of entry conferred by Schedule 5 to the Order unless the steps provided for in the arrangements described in Condition 1.6.1(a), (b) and (c) have been complied with and it appears to the Licensee that he is such a fit and proper person.

1.6.3 Licensee to take reasonable steps to keep relevant persons informed

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

1.6.4 Information provided in invoice

It shall be a sufficient compliance with Condition 1.6.3 for the information to be given an or with an invoice or account which is rendered to a consumer in respect of the supply of gas within four months of the appointment of an agent being made or varied.

## **Condition 1.7: Exercise of Powers of Entry**

### 1.7.1 Licensee to avoid undue disturbance

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

### 1.7.2 Construction of Condition

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

## **Condition 1.8: Modifications**

### 1.8.1 Modification of Licence Conditions

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

## **Condition 1.9: Assignment of Licences**

### 1.9.1 Licensee's ability to assign its licence

For the purposes of Article 12 of the Order, the Licensee with the prior consent of the Authority may assign the licence either generally, or so far as relating to the whole or any part of the Licensed Area.

### 1.9.2 Matters affecting an assignment

In deciding whether to give its consent under Condition 1.9.1 the Authority shall apply those criteria contained in Article 12(3) of the Order, and any consent shall be subject to compliance with the matters determined by the Authority under Article 12(4) of the Order.

### 1.9.3 Licensee may not otherwise assign its licence

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

### 1.9.4 Immediate assignment following the Grant

The Licensee shall, as soon as is reasonably practicable following the date of the Grant (and in any event within three months thereof), assign the licence generally to BGE (NI) Supply Limited (a company registered in England & Wales, with registered number 5369108). For the purposes of this Condition and Article 12 of the Order, the Authority shall be deemed to have consented to such assignment.<sup>3</sup>

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<sup>3</sup> Licence assigned to BGE (NI) Supply Ltd from 20 June 2005

### **Condition 1.10: Transfer of Business**

1.10.1 Subject to Condition 1.10.2, the Licensee shall not transfer to another person (the "transferee") all or part of its business comprising the supply of gas being carried out under the licence unless:

- (a) the Authority is satisfied that the transferee:
  - (i) is or will be licensed to carry out the relevant business from the proposed date of the transfer; and
  - (ii) will have the technical and financial capability to comply with the conditions of its licence (subject to any modifications pursuant to Condition 1.10.1 (b) in respect of the relevant business; and
- (b) if the licence contains additional conditions which, in the opinion of the Authority, are for the purpose of protecting the interests of consumers, the transferee has given the Authority its consent (in order to give continued effect to those additional conditions) to the modification of the conditions of its licence by way of the insertion of like conditions or ones to the like effect, taking account of the purpose of such conditions, and the Licensee has consented to the modification of such additional conditions in order to give continued effect to the purpose of such conditions.

#### 1.10.2 Exception to Conditions 1.10.1

Nothing in Conditions 1.10.1 shall prevent the Licensee from transferring all or the relevant part of its business to the assignee where the Authority has consented to the assignment of all or the relevant part of the licence under Article 12 of the Order or the Licensee has assigned all or the relevant part of the licence in accordance with Condition 1.9.

### **Condition 1.11: Payment of Fees to the Authority**

1.11.1 In respect of each year, beginning on 1 April, during which the Licence is in force, the Licensee shall pay to the Authority a fee of the amount determined in accordance with this Condition (the **licence fee**).

1.11.2 The Licensee shall pay to the Authority the licence fee for each year (the **relevant year**) within 30 days of the Authority giving notice to the Licensee of the amount due from the Licensee for the relevant year.

1.11.3 For each relevant year, the licence fee shall be the total of:

- (a) an amount that is the Relevant Contribution to the Estimated Costs of the Authority for the relevant year;
- (b) an amount that is the Relevant Contribution to the Estimated Costs of the Consumer Council with regard to the exercise of its functions relating to gas consumers for the relevant year;
- (c) an amount that is the Relevant Contribution to the Estimated Costs of the Competition Commission, in connection with any reference made to it in respect of the Licence or any other licence granted under Article 8(1)(c) of the Order, for the year immediately preceding the relevant year (the **previous year**); and
- (d) an amount which is the difference (which may be a positive or negative amount), if any, between:
  - (i) the licence fee that would have been due from the Licensee for the previous year had such fee been calculated in relation to the actual costs of:
    - (A) the Authority for the previous year;
    - (B) the Consumer Council with regard to the exercise of its functions relating to gas consumers for the previous year; and



(C) the Competition Commission, in connection with references of the type referred to in sub-paragraph 1.11.3(c), for the year immediately preceding the previous year; and

(ii) the licence fee paid by the Licensee for the previous year,

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

1.11.4 Where:

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

the Authority may, where it is reasonable for it to do so taking into consideration the timing of the Revised Costs and the provisions of paragraph 1.11.3(d), refund to the Licensee the difference between the amount of the licence fee paid by the Licensee and the amount of the lower licence fee referred to in paragraph 1.11.4(c) above.

1.13.5 Where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph 1.11.2 above within the 30 day period specified, it shall with effect from the end of that 30 day period pay simple interest on the amount at the rate which is from time to time equivalent to the base lending rate of an institution designated by the Authority for this purpose.

1.13.6 In this Condition:

- “Estimated Costs”
- (i) in relation to the costs of the Authority, means the costs estimated by the Authority as likely to be its costs for the relevant year as calculated in

accordance with the Principles;

(ii) in relation to the costs of the Consumer Council, means either:

(A) the costs notified to the Authority by the Consumer Council as its estimated costs for the relevant year as approved by the Department; or

(B) in the event that the Authority does not receive such notification by 31 July in the relevant year, the costs estimated by the Authority (having regard to any estimate of such costs in any forward work programme published by the Consumer Council in respect of the relevant year) as likely to be the costs of the Consumer Council for the relevant year; and

(iii) in relation to the costs of the Competition Commission, means the costs estimated by the Authority following consultation with the Competition Commission as likely to be the costs of the Competition Commission for the previous year in connection with references of the type referred to in sub-paragraph 1.11.3(c) above.

“Principles”

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

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

## **Condition 1.12: Notices**

### 1.12.1 Notices

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

Licensee:                   Bord Gais Eireann  
                                  PO Box 51,  
                                  Gasworks Road,  
                                  Cork,  
                                  Ireland  
                                  Facsimile Telephone Number (0121) 453 4297

Authority:                 Northern Ireland Authority for Energy Regulation,  
  
                                  Brookmount Buildings,  
                                  42 Fountain Street,  
                                  Belfast, BT1 5EE  
                                  Facsimile Telephone Number (02890) 311740

Department:             Department of Enterprise, Trade and Investment,  
                                  Energy Division,  
                                  Netherleigh House,  
                                  Massey Avenue,  
                                  Belfast, BT4 2JP  
                                  Facsimile Telephone Number (02890) 529549

### 1.12.2 Receipt

Any notice given under the provisions of Condition 1.12.1 shall be deemed to have been duly delivered and received:

- (i) at the actual time of delivery, if delivered personally;

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

## PART 2

### CONDITIONS APPLICABLE TO THE SUPPLY OF GAS BY THE LICENCE HOLDER

#### Condition 2.1: Deemed Contracts

- 2.1.1 The Licensee shall, in accordance with section 12 of the Energy Act (Northern Ireland) 2011, make a scheme for determining the terms and conditions of its Deemed Contracts.
- 2.1.2 The Licensee shall ensure that each of its Deemed Contracts provides that it will terminate automatically in the event that a Last Resort Supply Direction is given to another Gas Supplier in relation to the premises supplied under that Deemed Contract.
- 2.1.3 Subject to paragraph 2.1.5, the Licensee must take all reasonable steps to ensure that the terms of each of its Deemed Contracts are not unduly onerous.
- 2.1.4 For the purposes of paragraph 2.1.3, the terms of a Deemed Contract shall be unduly onerous for any class of domestic consumers, or for any class of non-domestic consumers, only if the revenue derived from supplying gas to the premises of the relevant class of consumers on those terms:
- (a) significantly exceeds the Licensee's costs of supplying gas to those premises; and
  - (b) exceeds such costs of supplying gas by significantly more than the Licensee's revenue exceeds its costs of supplying gas to the premises of the generality of its domestic consumers or, as the case may be, to the premises of the generality of its non-domestic consumers (in each case excluding from the calculation premises supplied under a Last Resort Supply Direction).
- 2.1.5 Where a Customer is being supplied by the Licensee with gas under a Deemed Contract as a result of a Last Resort Supply Direction being issued in relation to his premises, paragraph 2.1.3 shall not apply until that direction stops having effect.
- 2.1.6 The Licensee shall ensure that each of its Deemed Contracts shall provide that, where a consumer intends his premises to be supplied with gas under a Contract agreed with the Licensee or any other gas supplier, the Deemed Contract will continue to have

effect until the Licensee or the other gas supplier, as appropriate, begins to supply gas to the premises under such a Contract.

- 2.1.7 If the Licensee supplies gas to a consumer under a Deemed Contract, the Licensee may not demand of the consumer any sum of money or other compensation (whether financial or otherwise) solely because the Deemed Contract is terminated (by whatever means).
- 2.1.8 If the Licensee supplies gas to a consumer's premises under a Deemed Contract, it must take all reasonable steps to:
- (a) provide that consumer with a notice:
    - (i) setting out the Principal Terms of the Deemed Contract;
    - (ii) informing the consumer that Contracts with terms and conditions that may be different from the terms and conditions of Deemed Contracts may be available from the Licensee and of how further information about such terms may be obtained; and
  - (b) enter into a Contract with the consumer as soon as reasonably practicable.
- 2.1.9 If any person requests a copy of a Deemed Contract that the Licensee has available, the Licensee must provide it to that person within a reasonable period of time after receiving the request.
- 2.1.10 In determining the number of kilowatt hours of gas that are to be treated as supplied to or taken at premises under a Deemed Contract, the Licensee must act reasonably and take into account available gas consumption data for the premises and any other relevant factor.

**Condition 2.2: Security and Continuity of Supply**

2.2.1 Licensee to maintain its financial affairs

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

2.2.2 Licensee to maintain supply/demand match

The Licensee shall at all times act to maintain the balance of its supplies of gas and demands for gas such that it can maintain a continuous and reliable supply of gas to its existing consumers from time to time, and without prejudice to the generality of the foregoing can meet all such demands for gas in accordance with the security standard.

2.2.3 Security Standard

The security standard means:

- (a) the availability of a supply of gas which would at least equal the daily firm demand which, having regard to historical weather and other data derived from at least the previous 50 years, is likely to be exceeded (whether on one or more days) only in 1 year out of 20 years; and
- (b) the availability of supplies of gas over a year which would equal the aggregate amount of daily firm demand over a year which, having regard to such data as aforesaid, is likely to be exceeded only in 1 year out of 50 years.

2.2.4 Additional Definitions

In this Condition:

"daily firm demand"	means the peak aggregate daily demand for gas by the Licensee's consumers from time to time which might reasonably be expected after the Licensee had interrupted or reduced the supply of gas to
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	each consumer to the extent that (otherwise than in the circumstances mentioned in Condition 2.14.4) it was entitled to do so under its contract with that consumer;
"day"	means a period beginning at 6 am on one day and ending immediately before 6 am on the following day and "daily" shall be construed accordingly; and
"year"	means a period of 12 months beginning with 1st October.

## **Condition 2.3: Use of the Network**

### **2.3.1 Compliance with the Network Code**

The Licensee shall:

- (a) comply with the provisions of every Network Code in so far as applicable to it; and
- (b) act in a reasonable and prudent manner in the use it makes of each Network,

provided that the Authority may (following consultation with the Network Operator responsible for the relevant Network Code) issue directions relieving the Licensee from its obligation under Condition 2.3.1(a) in respect of such parts of a Network Code and to such extent and subject to such conditions as may be specified in those directions.

### **2.3.2 Particular compliance obligations**

Without prejudice to the generality of Condition 2.3.1, the Licensee shall enter into arrangements with each relevant Network Operator for the conveyance of the Licensee's supplies of gas in accordance with that Network Operator's Network Code and the Licensee shall not knowingly or recklessly pursue any course of conduct (either alone or with some other person) which is likely to prejudice:

- (a) the safe and efficient operation, from day to day, by a Network Operator of its Network; or
- (b) the efficient balancing by that Network Operator of its Network; or
- (c) the due functioning of the arrangements provided for in its Network Code.

### **2.3.3 Information not intentionally to mislead**

The Licensee shall not knowingly or recklessly act in any manner likely to give a false impression to a Network Operator as to the amount of gas to be delivered by the Licensee on a particular day to that Network Operator's Network or as to the amount of gas to be comprised in its offtakes of gas therefrom on that day.

## **Condition 2.4: Charges for Gas and Other Terms for the Supply of Gas**

### 2.4.1 Control over Charges in the absence of competition

If at any time after the fifth anniversary of the date of the Grant, consumers of different cases or classes of cases or for different areas, whose consumption of gas at any premises is reasonably expected not to exceed 2,197,500 kilowatt hours in any period of twelve months:

- (a) do not have the opportunity of taking a supply of gas from another gas supplier (or if there is such an opportunity it does not safeguard the interests of consumers); and
- (b) the Authority determines that competition from fuels other than gas is not safeguarding the interests of those consumers;

then the Licensee shall take all reasonable steps to secure that in any period of 12 months the average price per therm of gas supplied to such consumers shall not exceed a maximum price to which the Authority has consented (and the Authority having consulted with the Licensee before deciding whether to give or withhold its consent), and (without prejudice to any other means of modifying the licence under Condition 1.8 and the Order and the Energy Order), failing consent then:

- (c) within 28 days of the date on which the Authority gives notice of its withholding consent, the Licensee may request the Authority by notice to the Authority (a "disapplication notice") not to apply this Condition 2.4.1 in which event it shall not apply;
- (d) unless within six months of the date of the disapplication notice the Authority makes a reference to the Competition Commission under Article 15 of the Order relating in whole or in part to the modification of this Condition 2.4.1, this Condition 2.4.1 will continue not to be applied after that period has passed in respect of those consumers; and
- (e) in the event of such a reference to the Competition Commission under paragraph (d) above, the Commission gives a report, then until the licence shall be modified in accordance with the Order in relation to that reference, the

Licensee may continue to charge for the supply of gas notwithstanding that the Authority has not consented to such charges;

and in relation to charges imposed by the Licensee with the consent of the Authority where this Condition 2.4.1 applies, then the Licensee shall continue to comply with charging arrangements to which the Authority has consented until the Authority otherwise agrees with the Licensee that such consent may be modified or the need for such consent is no longer relevant.

#### 2.4.2 Principles to be applied in consenting to Charging Basis

For the purposes of Condition 2.4.1, in giving consent, the Authority shall have regard to the need of the Licensee to:

- (a) be able to finance the carrying on of its activities;
- (b) recover its reasonable costs of supply, including costs attributable to the purchase of natural gas at short notice; and
- (c) make a return on capital equal to that which, in the reasonable opinion of the Authority, is appropriate.

#### 2.4.3 Statement of charges for the supply of gas

The Authority may direct the Licensee to provide it with a statement of the charges being made or proposed to be made to consumers by the Licensee for the supply of gas.

#### 2.4.4 Publication of statement of charges for the supply of gas

The Licensee shall comply with any direction given by the Authority to publish in such manner as determined by the Authority the statement prepared by the Licensee under Condition 2.4.3 so as to give adequate publicity to the matters contained in that statement with respect to consumers whose demand for gas at any premises is not reasonably expected to exceed 732,500 kilowatt hours in any period of twelve months.

#### 2.4.5 Classes of consumers

In determining which consumers constitute different cases or classes of cases for the purposes of this Condition, due regard shall be had to all the circumstances of supply (including, in particular, volumes, pressure of supply, load factors, conditions of load management including interruptibility, seasonality of supply, location of premises being supplied, date, duration and terms of agreement).

#### 2.4.6 Standard terms for the supply of gas to consumers of gas

The Authority may direct the Licensee to determine in so far as is reasonably practicable standard terms on which it would be prepared to enter into contracts to supply gas to consumers, and:

- (a) different standard terms may be determined for consumers of different cases or classes of cases, or for different areas;
- (b) where it is not reasonably practicable to prepare standard terms as above in respect of any consumer or for consumers of different cases or classes of cases or for different areas, the Licensee shall prepare a summary of the terms on which it would contract to supply gas; and
- (c) the Licensee shall give written notice of those terms and of any material variation therein (or if the Authority so requires, a revised notice of the terms) to the Authority and, with respect to contracts for the supply of gas where the supply is to individual premises and is not reasonably expected to exceed 732,500 kilowatt hours in any period of twelve months, the Licensee shall:
  - (i) on request by any other person, furnish that person with a copy of any such notice; and
  - (ii) shall publish the standard terms for such a supply and any variation thereto in such manner as in the reasonable opinion of the Licensee will secure adequate publicity for them,

and, for the purposes of this Condition 2.4.6, "standard terms" means terms as to charges and all such other matters as concern the rights and obligations of the contracting parties.

#### 2.4.7 Refusal of supply

The Licensee shall not refuse to supply any consumer at any premises within the Licensed Area that is connected to a Network, where that consumer is willing to pay the Licensee's charges for the supply and take such supply in accordance with the Licensee's terms of supply for that person.

## **Condition 2.5: Undue Discrimination and Undue Preference**

### 2.5.1 Dominant position

If the Licensee, together with any of its affiliated or related undertakings operating in the same market, is in a dominant position in a market for the supply of gas to consumers whose demand for gas at any premises is not reasonably expected to exceed 2,197,500 kilowatt hours in any period of twelve months, then the Licensee, in the terms on which it supplies or offers to supply gas to consumers in that market:

- (a) shall not show undue preference to any consumer or class of consumer; and
- (b) shall not exercise any undue discrimination against any consumer or class of consumers;

and shall not set prices for the supply of gas to consumers at premises:

- (c) in any market or markets in which it has a dominant position which are unduly onerous; or
- (d) in any market or markets which are predatory.

### 2.5.2 Established competition

Condition 2.5.1 shall not prevent the Licensee from supplying or offering to supply gas to all or any class of consumers on terms which are reasonably necessary to meet established competition in relation to such consumers, provided that the Licensee:

- (a) does not set terms in respect of the consumers in question which:
  - (i) are predatory; or
  - (ii) show undue preference or unduly discriminate as between any such consumers; and
- (b) does not set terms in respect of the supply of gas at premises to consumers of any other class in relation to whom the Licensee has a dominant position, which are unduly onerous.

### 2.5.3 Predatory/unduly onerous terms

For the purposes of Conditions 2.5.1 and 2.5.2,

- (a) terms shall be taken to be predatory if but only if:
  - (i) charges in accordance with those terms do not cover such avoidable costs as, in the opinion of the Authority, they ought reasonably to cover; and
  - (ii) the terms are made available for the purposes of, or are likely to have the effect of, unfairly excluding or limiting competition between the Licensee and one or more other gas suppliers;
- (b) terms in respect of particular consumers shall be taken to be unduly onerous if the revenue from supply on those terms:
  - (i) significantly exceeds costs in respect of those consumers; and
  - (ii) exceeds such costs by significantly more than in the case of the generality of consumers supplied with gas at premises by the Licensee save for those in any market which is by virtue of Condition 2.5.7 considered to be a separate market,

but, unless the converse is manifestly the case, terms shall not be taken to be unduly onerous if other gas suppliers to consumers at the premises in question are only willing to do so on more onerous terms, having regard to the costs of market entry they have incurred or would thereby incur.

### 2.5.4 Class of consumers

In distinguishing consumers and classes of consumer for the purposes of Conditions 2.5.1 and 2.5.2, due regard shall be had to all the circumstances of supply (including, in particular, volumes, pressure of supply, load factors, conditions of load management including interruptibility, seasonality of supply, location of premises being supplied, date, duration and terms of agreement).



### 2.5.5 Determination by Authority

Any question arising under this Condition as to whether the Licensee or any other gas supplier (whether alone or together with any of its affiliated or related undertakings operating in the same markets) is in a dominant position in a market shall be determined by the Authority, having regard to any representations made to it.

### 2.5.6 Additional Definitions

In this Condition:

"avoidable costs" means those costs which would not be incurred by the Licensee if he did not supply the consumers in question, including (but with due regard to the timing thereof all relevant future outlays affected by the decision to supply; and

"terms" means all the terms on which a supply of gas is provided or offered, whether as respects charges, methods of payment or otherwise.

### 2.5.7 Separate market for domestic consumers

For the purpose of this Condition, any market for the supply of gas to domestic consumers shall be considered to be a separate market from any market for the supply of gas to non-domestic consumers.

## **Condition 2.6: Facilitating Supplier Transfers**

- 2.6.1 The Licensee shall ensure that its practices, procedures and systems facilitate Supplier Transfers to take place within the Relevant Period.
- 2.6.2 The Licensee shall inform the Authority as soon as it becomes aware that its practices, procedures and systems may not, as a result of the number of notifications it is receiving from any relevant Network Operator, be able to facilitate compliance with paragraph 2.6.1.
- 2.6.3 The Authority may issue directions requiring the Licensee to take steps to review and improve its practices, procedures and systems to facilitate a Supplier Transfer in such manner as may be specified in the directions and the Licensee shall comply with any such directions from the date specified.
- 2.6.4 In this Condition –

**Objection Period** means any period within which the Licensee or the Registered Supplier (as the case may be) may in accordance with the industry rules and procedures raise and/or withdraw (as the case may be) an objection to the Supplier Transfer.

**Relevant Date** has the meaning given in Condition 2.18.

**Relevant Period** means:

- (i) where the Licensee is the Registered Supplier for the premises, the 15 working day period (excluding the Objection Period) following notification to it by the relevant Network Operator that another gas supplier has applied to be the Registered Supplier for the relevant premises;
- (ii) where the Licensee has entered into a Contract with a consumer, the 15 working day period

(excluding the Objection Period) following the Relevant Date.

**Registered Supplier** has the meaning given in Condition 2.18.

**Supplier Transfer** has the meaning given in Condition 2.18.

## **Condition 2.7: Supply and Inspection of Meters**

### 2.7.1 Supply of meters

The following provisions shall apply with respect to the supply of meters:

- (a) subject to Conditions 2.7.1(b) to (g), the Licensee shall make such arrangements with the relevant Network Operator for the provision and/or installation of a gas meter of an appropriate type by the Network Operator to any consumer to whom the Licensee supplies gas for registering the quantity of gas supplied by the Licensee to that consumer;
- (b) the Licensee shall, if so requested by one of its domestic consumers or a person who has agreed to become a domestic consumer of the Licensee, arrange for the provision to that consumer of a meter owned by it or the relevant Network Operator which is of an appropriate type for registering the quantity of gas supplied to him by:
  - (i) arranging with the relevant Network Operator for the meter owned by the Network Operator and installed in the premises to remain in place; or
  - (ii) arranging with the owner of the meter installed in the premises to purchase or otherwise acquire that meter and for it to remain in place; or
  - (iii) arranging for the installation of a meter where there is no meter in place, or the meter in place is inappropriate or cannot be purchased or acquired on reasonable terms; or
  - (iv) making such other arrangements for the provision of a meter as may be agreed between the Licensee and the consumer;
- (c) where the Licensee is obliged under Condition 2.7.1(b) to arrange for the provision of a meter to a consumer, it shall not require, as a condition of making such an arrangement as is mentioned in Conditions 2.7.1(b)(i), (ii) or (iii), that the consumer takes the meter otherwise than on hire or loan.
- (d) where a consumer of the Licensee transfers possession of a meter to the Licensee and that meter is owned by the relevant Network Operator, the

Licensee shall so inform that Network Operator, and hold the meter to the Network Operator's order for a period of one month in the condition in which it was received and with the index unaltered;

(e) where a domestic consumer terminates a contract with the Licensee for the supply of gas, the Licensee shall not:

(i) exercise any right to recover any meter owned by the Licensee at, or by reason of, the termination of such contract, or

(ii) authorise any of its officers to enter the consumer's premises for the purpose of removing any such meter;

if another gas supplier undertakes prior to the date of such termination to make an arrangement with the Licensee of the type contemplated in Condition 2.7.1 (b)(ii) above on terms that the Licensee receives such compensation (if any) as may be appropriate having regard to the value of the meter;

(f) subject to Condition 2.7.1(g), the Licensee shall not be required to supply or continue to supply gas to a person, or to offer a new contract where that person takes his supply through a meter which belongs to him or if the meter is lent or hired to him otherwise than by the Licensee or by the relevant Network Operator, or if the meter is ordinarily to be read in accordance with arrangements made otherwise than by the Licensee, unless the meter is or the arrangements in question are acceptable to the Licensee; and

(g) from such date no earlier than as may be designated in writing for the purposes of this Condition generally by the Authority following such trials and consultation as it considers appropriate (the "metering liberalisation date"), the Licensee shall not:

(i) refuse to accept a meter requested by the consumer the use of which does not contravene Article 22 of the Order and which is appropriate for registering the quantity of gas supplied, except on the ground that:

(aa) the Licensee requires the supply to be taken through a prepayment meter and the meter is not one of that type; or

- (bb) the meter does not offer the facilities requisite for the purposes of the contract or having regard to its terms; or
- (ii) refuse to accept arrangements made by the consumer for the ordinary reading of the meter which comply with such requirements, designed to secure accurate reading of the meter and prompt transmission of data in an appropriate form as may be set out in such document (the "metering code") or variation thereof as may be designated in writing for the purposes hereof by the Authority following consultation with any relevant licence or exemption holders or such other persons as the Authority considers appropriate.

#### 2.7.2 Adjustment of Charges for erroneous meter readings

Where a consumer is supplied with gas through a meter at a rate not exceeding 2,197,500 kilowatt hours a year, this Condition shall apply if the meter is examined and found to register erroneously (otherwise than in circumstances where the meter is found to have been tampered with);

- (a) where the error found is one of over-registration, the charges made by the Licensee in respect of gas supplied through the meter before it was found to register erroneously shall be adjusted by reference to the extent to which the meter is deemed to have registered erroneously; and, accordingly, allowance shall be made to the consumer by the Licensee; and
- (b) where the error found is one of under-registration, the Licensee shall not surcharge the consumer in respect of gas supplied through the meter before it was found to register erroneously.

#### 2.7.3 Extent of erroneous meter readings

Where the meter is found, when examined by a meter examiner appointed under Article 22 of the Order to register erroneously to a degree exceeding the degree permitted by regulations under that Article, the meter shall be deemed to have registered erroneously to the degree so found since the relevant date, except in a case where it is proved to have begun to do so on some later date and in this Condition 2.7.3 "the relevant date" means:

- (a) the penultimate date on which, otherwise than in connection with the examination, the register of the meter was ascertained; or
- (b) if regulations so provide, such other date as may be determined by or under the regulations.

### **Condition 2.8: Code of Practice on Complaints Handling Procedure**

- 2.8.1 The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs, prepare, submit to and have approved by the Authority a code of practice for the handling of consumer complaints (the **Code of Practice**).
- 2.8.2 The Code of Practice shall include arrangements by which the Licensee will establish and operate an accessible, equitable and transparent, simple and inexpensive complaints procedure which shall enable any person who is being supplied with gas by the Licensee or has at any time received a supply of gas from the Licensee, to bring and have promptly dealt with any complaint he may have in respect of the Licensee's activities in providing such a supply.
- 2.8.3 The complaints procedure established and operated by the Licensee in accordance with the Code of Practice shall as a minimum:
- (a) specify the period, which may differ for different types of complaint but which shall not be longer than three months, within which it is intended that complaints will be processed and resolved;
  - (b) be made available to any person without charge;
  - (c) facilitate the fair and prompt settlement of complaints and disputes; and
  - (d) provide for a system, where required by the Authority under Condition 2.20 or otherwise warranted, of making a reimbursement and/or compensation payment to complainants.
- 2.8.4 This Condition is subject to Condition 2.13: Preparation, Revision Of and Compliance with Codes of Practice.



### **Condition 2.9: Code of Practice on Services for Prepayment Meter Consumers**

- 2.9.1 This Condition shall apply where the Licensee supplies, or offer to supply, gas to Domestic Premises.
- 2.9.2 The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs prepare, submit to and have approved by the Authority a code of practice describing the services the Licensee will make available for its domestic consumers who pay by prepayment meter (the **Code of Practice**).
- 2.9.3 The Code of Practice shall include arrangements by which the Licensee will:
- (a) provide advice, information, services and facilities, including the availability of emergency credit, which will assist the domestic consumer to avoid being without a supply of gas at particular times or in particular circumstances;
  - (b) instructions for the operation of the prepayment meter system, including token availability, emergency credit and other such facilities;
  - (c) details of the advantages and disadvantages of prepayment meters, including situations or types of consumer for which they are particularly suited or unsuited;
  - (d) details of any additional charges which may be payable for the use of prepayment meters and the basis on which these charges are calculated;
  - (e) details of where the consumer may obtain information or assistance if the prepayment meter or any device used to allow the charges for the supply of gas to be paid through the prepayment meter is not operating effectively; and
  - (f) information about the procedures the Licensee will follow when removing or resetting the prepayment meter, including the timescale and any conditions for removing or resetting it.
- 2.9.4 The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs establish, and submit to the Authority, such arrangements as will ensure that in an event in which:

- (a) the Authority considers that circumstances have arisen that would entitle the Authority to revoke the Licence; or
- (b) the Licensee proposes to assign or transfer its business to another gas supplier or cease its business as a gas supplier,

each of the Licensee's prepayment domestic consumers is able to continue using, and to do so on the same basis, the prepayment meter services being provided to that domestic consumer by the Licensee until at least such time as another gas supplier starts to supply gas to the domestic consumer.

2.9.5 In this Condition "prepayment meter services" means the system of services for the operation of prepayment meters operated by the use of tokens, keys or cards.

2.9.6 Paragraphs 2.9.2 and 2.9.3 of this Condition are subject to Condition 2.13: Preparation, Revision Of and Compliance with Codes of Practice.

**Condition 2.10: Code of Practice on the efficient use of gas**

2.10.1 The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs, prepare, submit to and have approved by the Authority a code of practice setting out the ways in which the Licensee will make available to consumers information and guidance on the efficient use of gas (the **Code of Practice**).

2.10.2 The Code of Practice shall include arrangements by which the Licensee will make available information and advice about:

- (a) the efficient use of gas such as will enable consumers to make informed judgments about measures to improve the efficiency with which they use the gas supplied to them;
- (b) the availability of heating systems and controls which are best calculated to make efficient use of gas and the selection and operation of such systems and controls;
- (c) the financial costs and benefits of energy efficient gas appliances;
- (d) sources, including the availability of a telephone information service, within the Licensee's organisation from which consumers may obtain further information about the efficient use of gas supplied to them;
- (e) sources (to the extent that the Licensee is aware of them) outside the Licensee's organisation from which consumers may obtain additional information or assistance about measures to improve the efficiency with which they use the gas supplied to them, including information:
  - (i) which is publicly available about financial assistance towards the costs of such measures available from Central or Local Government;
  - (ii) which is available through bodies in receipt of financial support from Government in connection with measures to promote the efficiency of energy use.

2.10.3 This Condition is subject to Condition 2.13: Preparation, Revision Of and Compliance with Codes of Practice.

**Condition 2.11: Code of Practice on Provision of Services for persons who are of Pensionable Age or Disabled or Chronically Sick**

2.11.1 This Condition shall apply where the Licensee supplies, or offers to supply, gas to Domestic Premises.

2.11.2 The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs, prepare, submit to and have approved by the Authority a code of practice describing the particular services the Licensee will make available for each of its domestic consumers who is:

- (a) of pensionable age;
- (b) disabled, including in particular domestic consumers who are disabled by virtue of being blind, partially sighted, deaf or hearing impaired; or
- (c) chronically sick,

(the Code of Practice).

2.11.3 The Code of Practice shall set out the arrangements by which the Licensee will at the request of any such domestic consumer, where reasonably practicable and appropriate, and in each case free of charge:

- (a) provide special controls and adaptors for gas appliances and meters and reposition meters (including in both cases prepayment meters);
- (b) provide special means, including agreeing a password with the consumer, of identifying officers authorised by the Licensee;
- (c) give advice on the use of gas and gas appliances and other gas fittings;
- (d) send bills in respect of the supply of gas to the consumer's premises to any other person as nominated by the consumer where that person agrees to receive them (irrespective of whether or not the bill is also sent to the consumer); and
- (e) where neither the consumer nor any other person occupying his premises is able to read the gas meter at the premises, arrange to read that meter at least

once each quarter and inform the consumer of that reading; and

- (f) where all of the occupants of the household are either of pensionable age, disabled, chronically sick or minors, arrange for a safety inspection of the gas appliances and other gas fittings on the consumer's side of the meter to be undertaken by a person possessing appropriate expertise on at least an annual basis, other than an appliance for which the landlord of the consumer is responsible for the annual inspection in accordance with the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004.

2.11.4 The Code of Practice shall include arrangements by which the Licensee will:

- (a) on request and free of charge:
  - (i) provide services which will enable a domestic consumer who is blind or partially sighted to receive, by means that are readily accessible to such consumers, information about (or set out in) any bill or statement relating to the supply of gas or any other services provided to the consumer by the Licensee;
  - (ii) make available facilities which will assist any domestic consumer who is blind or partially sighted or deaf or hearing impaired and in possession of appropriate equipment, to enquire or complain about any bill or statement relating to the supply of gas to him or any service provided by the Licensee;
- (b) not cut off, in any month from October to March, the supply of gas to the Domestic Premises in respect of which the domestic consumer has not paid Charges for the Supply of Gas if the Domestic Consumer at the Domestic Premises:
  - (i) is of pensionable age, disabled or chronically sick; and
  - (ii) lives alone or only with other persons who are of pensionable age, disabled, chronically sick or under the age of 18;
- (c) take all reasonable steps to avoid, in any month from October to March, cutting off the supply of gas to a Domestic Premises in respect of which the

domestic consumer has not paid the charges for the supply of gas to the Domestic Premises where the occupants of the Domestic Premises include a person who is of pensionable age, disabled or chronically sick and to whom paragraph 2.11.4(b) does not apply;

- (d) take all reasonable steps to ascertain, before it exercises any right it may have to cut off the supply of gas to Domestic Premises, whether the Domestic Premises is one that falls within the scope of paragraph 2.11.4(b) or 2.11.4(c) above.

2.11.5 The Code of Practice shall include the Licensee's arrangements for:

- (a) establishing and maintaining a register which:
  - (i) lists all of the Licensee's domestic consumers who are of pensionable age, disabled or chronically sick and have asked to be included in the register; and
  - (ii) contains sufficient information about the age, disability or chronic sickness of each such domestic consumer in order to identify his special needs or requirements;
- (b) informing on at least an annual basis each of its domestic consumers of the existence of the register and how domestic consumers who are of pensionable age, disabled or chronically sick can be included on it;
- (c) providing, without charge, to a domestic consumer included on the register, advice and information on the services that can be provided to him by the Licensee because of his age, disability or chronic sickness; and
- (d) providing the information in the register to any relevant party licensed under the Gas Order to convey gas to the domestic consumer's premises in an appropriate form and at appropriate intervals.

2.11.6 The Licensee shall, in respect of each Domestic Premises to which it cuts off the supply of gas:

(a) maintain for at least a period of six months, or (where a complaint has been made in respect of the Licensee's actions to cut off the supply) for at least a period of six months after the complaint has been resolved; and

(b) provide to the Authority on request,

evidence of the reasonable steps it took pursuant to the arrangements set out in its Code of Practice in accordance with paragraph 2.11.4(e) above.

2.11.7 For the purposes of this Condition a person is 'disabled' if he/she has a 'disability' within the meaning given to that term in the Disability Discrimination (Northern Ireland) Order 2006.

2.11.8 This Condition is subject to Condition 2.13: Preparation, Revision Of and Compliance with Codes of Practice.



**Condition 2.12: Code of Practice on payment of bills**

2.12.1 This Condition shall apply where the Licensee supplies, or offers to supply, gas to Domestic Premises.

2.12.2 The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs, prepare, submit to and have approved by the Authority a code of practice which sets out the services the Licensee will make available to assist domestic consumers who through misfortune or inability to cope with credit terms, may have difficulty in paying their gas bills (the **Code of Practice**).

2.12.3 The Code of Practice shall set out the arrangements by which the Licensee will:

- (a) distinguish, so far as is reasonably practicable, those consumers who may have difficulty in paying bills through misfortune or inability to cope with credit terms (“**consumers in difficulties**”) from other consumers in default;
- (b) provide relevant information as to how consumers in difficulties might be able to reduce their bills in the future by the more efficient use of gas;
- (c) make arrangements, taking into account consumers’ ability to comply with such arrangements, which enable consumers in difficulties to pay in instalments the charges accrued for the supply of gas (“instalment arrangements”);
- (d) detect failures by consumers in difficulties to comply with the instalment arrangements;
- (e) ascertain, with the assistance of any information provided by other persons or organisations, the ability of consumers in difficulties to comply with the instalment arrangements;
- (f) provide for consumers who have failed to comply with the instalment arrangements, or procure for them the provision of, a prepayment meter (where safe and practicable to do so);
- (g) calibrate any prepayment meter provided, whether in accordance with paragraph (f) above or otherwise, so as to take into account consumers’ ability

to pay any outstanding charges due from them to the Licensee in addition to the other charges lawfully being recovered through the prepayment meter;

- (h) ensure that any calibration of the prepayment meter to recover outstanding charges due from any consumer does not operate so as to recover more than 40% (except where the consumer has in writing requested for a higher percentage to apply) from each amount that is purchased by the consumer in any single transaction (and thereby transferred to the token, key or card by which the prepayment meter is operated), as payment of or towards the outstanding charges; and
- (i) in so far as is reasonable and practicable to do so, take all reasonable steps to avoid cutting off the supply of gas to Domestic Premises occupied by consumers in difficulties unless it has first taken all reasonable steps to recover the charges accrued for the supply of gas to the premises by means of a prepayment meter.

2.12.4 This Condition is subject to Condition 2.13: Preparation, Revision Of and Compliance with Codes of Practice.

**Condition 2.13: Preparation, Revision Of and Compliance with Codes of Practice**

2.13.1 This Condition applies to any Code of Practice (**Code**) which the Licensee is, pursuant to Conditions 2.8 – 2.12 of this Licence, required to prepare, submit to and have approved by the Authority.

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

2.13.3 The Licensee shall, whenever requested to do so by the Authority, review any Code and the manner in which it has been operated, with a view to determining whether any modification should be made to that Code or to the manner of its operation.

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

2.13.5 The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to Conditions 2.8 – 2.12, as the Authority considers are necessary or expedient.

2.13.6 Where the Authority modifies a Condition in accordance with paragraph 2.13.5:

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

2.13.7 Where the Licensee revises a Code:

- (a) in accordance with paragraph 2.13.6(b) above; or
- (b) following a review undertaken in accordance with paragraphs 2.13.3 and 2.13.4,

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

2.13.8 The Licensee shall:

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

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

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

2.13.11 The Authority may (following consultation with the Licensee) issue directions relieving the Licensee of any of its obligations under Conditions 2.8-2.12 and this Condition to such extent as may be specified in those directions and subject to such

terms and conditions as the Authority thinks fit.

## **Condition 2.14: Emergencies**

### 2.14.1 Application to Network emergencies

Condition 2.14.2 shall apply:

- (a) in the case of an escape, or suspected escape, of gas; or
- (b) in the case of a Network emergency, that is to say, where the circumstances are such that, in the opinion of the relevant Network Operator:
  - (i) the safety of its Network or any part of its Network is significantly at risk; or
  - (ii) the safe conveyance of gas by its Network is significantly at risk; or
  - (iii) the gas conveyed by its Network is at such a pressure or of such a quality as to constitute, when supplied to premises, a danger to life or property;

and that opinion is not manifestly unreasonable.

### 2.14.2 Licensee to use best endeavours

Where this Condition applies, the Licensee shall use its best endeavours to comply with all requests made by any Network Operator (save those which are manifestly unreasonable) for the purpose of as may be appropriate:

- (a) averting or reducing danger to life or property; or
- (b) securing the safety of that Network Operator's Network or the safe conveyance of gas thereby or reducing the risk thereto.

### 2.14.3 Discontinuance of supply

Subject to Condition 2.14.4, the Licensee shall include in its contracts for the sale of gas to consumers, a term to the effect that, for the duration of a Network emergency, within the meaning of Condition 2.14.1(b):

- (a) the Licensee is entitled at the request of the relevant Network Operator to discontinue the supply of gas to the premises; and
- (b) the consumer shall use its best endeavours to refrain from using gas immediately upon being notified by the Licensee that he must do so.

#### 2.14.4 Direction under the Energy Act

The Licensee shall include in its contracts for the supply of gas to consumers, whether or not domestic consumers, a term to the effect that, if it is given a direction under Section 2(1)(b) of the Energy Act 1976 prohibiting or restricting the supply of gas to specified persons, then, for so long as the direction is in force and so far as is necessary or expedient for the purposes of, or in connection with, the direction:

- (a) the Licensee is entitled to discontinue or restrict the supply of gas to the consumer; and
- (b) the consumer shall refrain from using, or restrict his use, of gas, on being told by the Licensee that he should do so.

## **Condition 2.15: Standards of Performance**

### **2.15.1 Supply to domestic premises**

The Licensee shall establish, unless it has already done so before the coming into effect of this licence, and shall diligently take all reasonable steps for the achievement of standards of performance ("the established standards") relating to the supply of gas by the Licensee to domestic consumers). The established standards shall be subject to approval by the Authority pursuant to Condition 2.20.

### **2.15.2 Record of arrangements**

The Licensee shall keep a record of its general operation of the arrangements mentioned in Conditions 2.10-2.12 and compliance with Condition 2.13 and, if the Authority so directs in writing, of its operation of Condition 2.13 in particular cases specified, or of a description specified, by it. The Licensee shall also keep a statistical record of its performance in relation to the provision of gas supply services to domestic consumers including services related to:

- (a) the giving of, and the continuation of the giving of, supplies of gas;
- (b) the ascertainment of quantities of gas supplied and the recovery of gas charges;  
and
- (c) the making of visits to consumers' premises and the response made to enquiries.

### **2.15.3 Report to Authority and General Consumer Council**

As soon as is reasonably practicable after the end of each year ending on 31 December, the Licensee shall submit to the Authority and General Consumer Council a report dealing with the matters mentioned in Condition 2.15.2 which shall include a comparison of the Licensee's performance against the established standards in relation to that year and shall:

- (a) make public the report so submitted in such manner as will in the reasonable opinion of the Licensee secure adequate publicity for it; and
- (b) send a copy of it free of charge to any person requesting one



except that, in performing the obligations under Conditions 2.15.3(a) and (b), the Licensee shall exclude from the report such information as appears to it to be necessary or expedient to ensure that, save where they consent, individual consumers referred to therein cannot readily be identified.

#### 2.15.4 Standard format

The report shall be presented, so far as is reasonably practicable, in a standard format determined by the Authority.

## **Condition 2.16: Provision of Information Requested by Other Licence or Exemption Holders**

### 2.16.1 Provision of information

The Licensee shall provide information reasonably requested by any relevant licence or exemption holder for the purpose of enabling it to fulfil its licence obligations to draw up plans for the safe operation, development or maintenance of any pipe-line system and as it may reasonably request for the purpose of preventing or detecting theft of gas.

### 2.16.2 Prejudicial to commercial interests of Licensee

The Licensee shall be entitled to refuse to provide information on the grounds that its disclosure would seriously and prejudicially affect the commercial interests of the Licensee or any other person, unless and until the Authority, by notice in writing given to the Licensee, directs it to provide such information on the ground that the provision thereof is necessary for the purpose of Condition 2.16.1 above.

### 2.16.3 Civil proceedings

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

### 2.16.4 Effective arrangements

Condition 2.16.1 shall not apply in respect of any person licensed or authorised by exemption to convey gas which has not established, whether in pursuance of a licence condition or otherwise, effective arrangements designed to secure that information provided in pursuance thereof, is not communicated, directly or indirectly, to another person licensed or authorised by exemption, to supply gas.

## **Condition 2.17: Maintenance of Records**

### 2.17.1 Recorded information

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

- (a) every premises to which gas has been supplied by the Licensee during the relevant period;
- (b) insofar as the Licensee has been furnished with the information, the ownership of every meter installed at any premises referred to in Condition 2.17.1 (a) for ascertaining the quantity of gas supplied to the premises by means of that system during the relevant period;
- (c) any information contained in a notice given to the Licensee under any regulations made by the Authority under Article 22 of the Order during the relevant period; and
- (d) any information which has been provided to the Licensee by any other licence or exemption holder whether directly or indirectly pursuant to the conditions of his licence or exemption.

### 2.17.2 Additional definition

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

### **Condition 2.18: Terms and Conditions of Gas Supply Contracts**

- 2.18.1 The Licensee shall ensure that any Contract it enters, or offers to enter, into with a consumer for a supply of gas contains provisions which are in clear and comprehensible language and which incorporate all relevant information so as to enable the consumer to understand the terms and conditions under which the supply of gas is, or is to be, made.
- 2.18.2 The Licensee shall ensure that the terms and conditions of any Contract it enters into with a consumer for a supply of gas provide that the Licensee will, where the premises is at the date of the Contract connected to a Network Operator's Network, start supplying gas under the Contract by no later than 15 working days after the Relevant Date, unless:
- (a) the consumer requests that the supply starts from a later date; or
  - (b) the Registered Supplier for the premises objects to the Supplier Transfer; or
  - (c) there are other circumstances beyond the Licensee's control which prevent it from starting to supply by that date.
- 2.18.3 The Licensee shall not enter, or offer to enter, into a Contract, for the supply of gas to premises, which contains a term that requires or has the effect of requiring the consumer to:
- (a) obtain a supply of gas to the same premises from another gas supplier from a date and for such period as may be specified (whether in the Contract or otherwise) by the Licensee; and
  - (b) immediately following the expiry of that specified period, recommence taking a supply of gas at the premises from the Licensee.
- 2.18.4 Before entering into or concluding a Contract with any domestic consumer, the Licensee shall:
- (a) explain to and draw to the attention of the domestic consumer, the Principal Terms of the Contract; and
  - (b) inform the domestic consumer of the Energy Consumer Checklist and of the sources from where the consumer can obtain a copy;
  - (c) provide a copy of the Energy Consumer Checklist free of charge to any domestic consumer requesting it; and

- (d) give the domestic consumer a written copy of the full terms and conditions of the Contract, including without limitation all the information referred to in paragraph 2.18.7.

2.18.5 The Licensee:

- (a) shall determine standard terms and conditions for the supply of gas to domestic consumers;
- (b) may determine different standard terms and conditions for different cases or classes of case or for different areas;
- (c) shall ensure that each set of standard terms and conditions it determines includes all of the terms and conditions that will apply to any Contract entered into with a domestic consumer on that set of standard terms and conditions;
- (d) shall not determine standard terms and conditions which impose an obligation on the domestic consumer to pay a termination fee, unless any such obligation has been approved in advance by the Authority;
- (e) shall ensure that an up to date copy of each set of standard terms and conditions that it has determined is published on and accessible from its website;
- (f) shall not enter, or offer to enter, into a Contract for the supply of gas with a domestic consumer otherwise than on a set of standard terms and conditions as determined in accordance with this paragraph 5.

2.18.6 The Licensee shall, for any different case, class of case or area in respect of which it has determined standard terms and conditions in accordance with paragraph 5, as a minimum determine a set of standard terms and conditions:

- (a) which provide for a Contract of an indefinite length; and
- (b) in respect of which the terms as to price do not differ as between any domestic consumers who may enter into that Contract (a **standard evergreen tariff**), provided that the Licensee may have a different standard evergreen tariff for each payment method offered by it.

2.18.7 The Licensee shall ensure that each set of standard terms and conditions it determines for domestic consumers shall be fair (as between the Licensee and each domestic consumer)

and shall, as a minimum, include the following:

- (a) the identity and address of the Licensee and any other appropriate contact details;
- (b) the services to be provided, the service quality levels offered by the Licensee (which may be subject to the approval of the Authority pursuant to Condition 2.20) and the date for the commencement of the gas supply under the Contract;
- (c) the duration of the Contract, the terms and conditions for renewal and for termination of the Contract (which terms and conditions shall be compliant with the requirements of this Condition), the services provided under the Contract and the existence of any right of cancellation or termination of the Contract;
- (d) (if offered by the Licensee) the types of maintenance service offered under the Contract;
- (e) a right for the domestic consumer to withdraw from and cancel the Contract:
  - (i) where a supply of gas has at any time previously been taken at the premises, within ten working days of entering into the Contract; or
  - (ii) where a supply of gas has not previously been taken at the premises, within ten working days of entering into the Contract, or any time up to ten working days prior to the premises being connected to a Network Operator's Network, whichever is the later;
- (f) a right for the domestic consumer to terminate the Contract where the Licensee proposes a variation to the terms and conditions of the Contract and the domestic consumer does not wish to accept such new terms and conditions;
- (g) the tariffs, charges and other payments which apply to the Contract and are required to be paid by the domestic consumer, in a manner that enables the domestic consumer to:
  - (i) identify the applicable tariff and the unit rate, in terms expressed as "pence per kWh", of the applicable tariff;
  - (ii) identify any other charge or payment, including in particular:
    - (A) any applicable standing charge;

- (B) any payment which is or has the effect of being a Security Deposit;
- (iii) where the applicable tariff is not a standard evergreen tariff (because the Contract is not of an indefinite length), compare the unit rate of the applicable tariff against the unit rate of the standard evergreen tariff (in each case expressed in “pence per kWh”) that would apply if the relevant set of standard terms and conditions applied to a Contract of indefinite length;
- (h) the means by which up to date information on all applicable tariffs, charges and other payments (including any discounts and promotions) for the supply of gas and for any other services which are to be provided under the Contract:
  - (i) can be promptly obtained by the domestic consumer; and
  - (ii) will be communicated to the domestic consumer in writing by the Licensee;
- (i) the compensation and the refund arrangements (if any) which will apply if contracted service quality levels, including service quality levels relating to the timing, frequency and accuracy of bills and statements, are not met (which arrangements may be subject to the approval of the Authority pursuant to Condition 2.20);
- (j) details of how the domestic consumer may initiate the Licensee’s complaint handling procedure (as established in accordance with Condition 2.8); and
- (k) details of how the domestic consumer can contact, and the relevant address and telephone number of, the General Consumer Council for further help and advice.

2.18.8 Subject to paragraph 2.18.9, the Licensee shall not start to supply gas under a Contract entered into with a Domestic Consumer until the cancellation period referred to in paragraph 2.18.7(e) has expired.

2.18.9 The requirement in paragraph 2.18.8 does not apply where:

- (a) the Licensee or any other Gas Supplier has applied in writing to the Authority for paragraph 2.18.8 not to apply in respect of such circumstances or cases as described in the application; and

- (b) the Authority has issued a direction to the Licensee that the requirement in paragraph 2.18.8 shall not apply in respect of such circumstances or cases as are specified in direction and from such date as may be specified in the direction.

2.18.10 The Authority may, at any time and following consultation with the Licensee, by a further direction amend or revoke a direction (or part thereof) given to the Licensee under paragraph 2.18.9(b).

2.18.11 Where the Licensee proposes to vary any of the terms and conditions of a Contract it has with a domestic consumer, it shall, by way of sending a notice that:

- (a) sets out the information in clear, transparent and easy to read and understand language; and
- (b) where the variation relates to terms as to price, sets out the unit rate (expressed in each case in 'pence per kWh') of the domestic consumer's current tariff and of the proposed new tariff,

notify each such domestic consumer of the proposed variation, together with the consumer's right (as included in the Contract in accordance with paragraph 2.18.7(f)) to terminate the Contract before the proposed variation is due to take effect, at least 21 days in advance of the date the variation is due to take effect.

2.18.12 Where the Licensee enters into a Contract with a domestic consumer which has a fixed term period:

- (a) any such Contract may not include any term or condition which has the effect of:
  - (i) extending the length of that fixed term period; or
  - (ii) applying a consecutive fixed term period,

unless the domestic consumer has the right to terminate the Contract at any time in the extended or consecutive fixed term period without payment of a termination fee; and

- (b) the Licensee shall, by way of sending a notice, notify each such domestic consumer of:
  - (i) the expiry date of the fixed term period at least 28 but no more than 42 days



before that expiry date;

- (ii) the name and unit rate, expressed as “pence per kWh”, of the domestic consumer’s current tariff; and
- (iii) details of the standard evergreen tariff, including the applicable unit rate expressed as “pence per kWh”, that will apply under the Contract following the expiry date of the fixed term period.

2.18.13 The Licensee shall, on the request of a domestic consumer and without charge, send to that consumer a copy of the then current set or sets of standard terms and conditions (as determined in accordance with this Condition) that are applicable to the request (including, for the avoidance of doubt, the applicable charges and tariffs relating to each such set).

2.18.14 The Licensee shall ensure that its standard terms and conditions provide domestic consumers with a choice of payment methods, including as a minimum making payment:

- (a) in arrears (at such frequency as is set out in the terms and conditions);
- (b) by direct debit (at such frequency as is set out in the terms and conditions); and
- (c) in advance through a prepayment meter.

2.18.15 Any difference in or between the Licensee’s standard terms and conditions, including terms as to price, relating to the choice of payment methods shall be determined by the Licensee on a basis which reflects the costs to the Licensee of providing the different payment methods.

2.18.16 The Licensee shall not impose on, or request from, a domestic consumer any charge or payment for the purpose of enabling that consumer to exercise or preventing him from exercising (as the case may be) his right to receive a supply of gas from his gas supplier of choice.

2.18.17 Where a Contract also relates to or governs the provision of other goods or services, the Licensee shall ensure that the charges for such other goods or services are identified separately from the charges for the supply of gas.

2.18.18 In this Condition:

**Relevant Date**

means the earlier of:

- (i) the day after the end of any period within which the consumer has a right to withdraw from and cancel the Contract; or
- (ii) 10 working days after the day on which the consumer entered into the Contract.

**Registered Supplier**

means the gas supplier which is registered with the relevant Network Operator as being the gas supplier responsible for providing a supply of gas to the consumer at the relevant premises.

**Supplier Transfer**

means, as the case may be, the transfer of responsibility for the supply of gas to a premises from the Licensee to another gas supplier or from another gas supplier to the Licensee.

**terms and conditions**

means all the terms and conditions, including terms as to price, of the Contract.

## **Condition 2.19: Provision of Information to Consumers**

2.19.1 The Licensee shall:

- (a) make readily accessible from its website an up-to-date copy of the Energy Consumer Checklist:
  - (i) as published by the Authority; and
  - (ii) in each alternative format or language as the Licensee has, in accordance with paragraph 2.19.1(b)(ii), sent to a domestic consumer; and
- (b) on request, send to a domestic consumer a copy of the Energy Consumer Checklist:
  - (i) in the form and language that is available on its website; or
  - (ii) where practicable, in such alternative format or language as is reasonably required by a domestic consumer.

2.19.2 The Licensee shall on at least an annual basis send, by way of a paper hard copy or in such other form as agreed with the domestic consumer, to each of its domestic consumers a bill or statement (save insofar as he receives an unmetered supply).

2.19.3 The Licensee shall:

- (a) use all reasonable endeavours to take an actual meter reading in respect of each of its consumers (save insofar as he receives an unmetered supply) on at least an annual basis; and
- (b) maintain, for a period of at least three years, and provide to the Authority on request, evidence of the reasonable endeavours it has used to obtain such an actual meter reading for each of its consumers.

2.19.4 Each bill or statement sent to a consumer shall include:

- (a) the name and address of the Licensee;
- (b) the relevant Supply Meter Point Number;
- (c) details of the consumer's applicable tariff including:
  - (i) the full name of the tariff;
  - (ii) the unit rate, expressed where applicable in "pence per kWh", of the tariff;

and

- (iii) any discount or premium that applies to the tariff when compared with the Licensee's standard evergreen tariff and the period for which the discount or premium is applicable;
- (d) the total charges, setting out separately any applicable standing charge and showing the charges both inclusive and exclusive of any value added tax, for the period of the bill or statement;
- (e) the amount of gas which the Licensee's records show has been consumed by the consumer since the last bill or statement sent to that consumer, in each case by reference to a meter reading; and
- (f) where the Licensee has provided a supply of gas to the consumer at the same premises continuously for:
  - (i) 12 months or more, the amount of gas which the Licensee's records show has been consumed by the consumer at those premises in the previous 12 months;
  - (ii) less than 12 months, the amount of gas which the Licensee's records show has been consumed by the consumer at those premises since the date the Licensee started to provide the supply of gas;
- (g) where the consumer is eligible to take a supply of gas from another gas supplier, a statement to the effect that the consumer may change his gas supplier and details of where the consumer can obtain impartial advice and information about changing gas supplier; and
- (h) a statement to the effect that the Licensee has a Code of Practice which sets out the services, advice and assistance it provides to customers who may be having difficulty in paying for the supply of gas.

2.19.5 The Licensee shall, on request, provide to a consumer information on the quantity of gas which the Licensee's records show as consumed by that consumer:

- (a) where the Licensee has provided a supply of gas to the consumer at the same premises continuously for 12 months or more, in the 12 months preceding the date

of the request; or

- (b) where the Licensee has provided a supply of gas to the consumer for less than 12 months, in the period from the date the Licensee started to provide the supply of gas to the date of the request.

2.19.6 The amount of gas calculated as having been consumed by the consumer shall be determined:

- (a) according to the reading taken of the meter through which he is supplied; or
- (b) where no meter reading is available, according to the estimate of the Licensee.

2.19.7 Where the Licensee provides a bill showing an estimated current meter reading, the Licensee shall on or with the bill provide the consumer with details of how the consumer can:

- (a) read his own meter (to be known as a self-read); and
- (b) register the self-read with the Licensee.

2.19.8 Where the consumer receives a bill showing an estimated meter reading and registers a self-read with the Licensee, the Licensee shall:

- (a) take all reasonable steps to reflect the self-read in the next bill sent to the consumer;  
or
- (b) where requested by the consumer, send an updated bill to the consumer reflecting the self-read.

2.19.9 Where a domestic consumer terminates the Contract in accordance with its provisions and exercises his right to receive a supply of gas at the Domestic Premises from another gas supplier, the Licensee shall send a final bill to the domestic consumer within six weeks of the Licensee ceasing to provide a supply to him.

2.19.10 The Licensee shall keep each of its consumers informed:

- (a) of the consumer's rights to initiate the Licensee's complaints handling procedure (as established in accordance with the requirements of Condition 2.8);
- (b) that the General Consumer Council can assist in resolving complaints which the Licensee has not resolved to the consumer's satisfaction;

- (c) that the consumer has the right to refer complaints which relate to billing matters to the Authority where the General Consumer Council has not been able to resolve the complaint to the consumer's satisfaction;
- (d) that the Energy Consumer Checklist can be accessed from the Licensee's website and that the Licensee will, on request, send a copy to the consumer free of charge; and
- (e) of the contact address and telephone number of:
  - (i) the Licensee's complaints handling department; and
  - (ii) the General Consumer Council.

2.19.11 The Licensee shall discharge its obligations:

- (a) under paragraphs 2.19.10(a)–(d) by providing the relevant information:
  - (i) on or with each bill or statement given to a consumer in respect of charges for the supply of gas, or
  - (ii) annually to each consumer to whom no such bills or statements are rendered; and
- (b) under paragraph 2.19.10(e) by providing the relevant information:
  - (i) on or with each bill or statement given to a consumer in respect of charges for the supply of gas, or
  - (ii) annually to each consumer to whom no such bills or statements are rendered; and in each case,
  - (iii) in all of its Promotional Materials.

2.19.12 The Licensee shall provide the information required under paragraphs 2.19.4, 2.19.7 and 2.19.10 above on or with each bill or statement in such detail and in such format as has been determined by the Licensee in consultation with the Authority and the General Consumer Council.

## **Condition 2.20: Approval of the Authority to the Licensee's Arrangements**

### **2.20.1 Provision of arrangements to the Authority**

The Licensee shall, within 28 days of any notice from the Authority requiring it to do so, provide to the Authority full details of the arrangements which it has in place in respect of any of the matters set out in Condition 2.20.3 and referred to in that notice.

### **2.20.2 Modification to arrangements**

If the Authority shall, within three months of the Licensee providing such details to the Authority, by notice in writing to the Licensee require the Licensee to make any modifications to those arrangements, the Licensee shall, use all reasonable endeavours to modify such arrangements within 60 days of the date of the notice.

### **2.20.3 Detail of arrangements**

The matters referred to in Condition 2.20.1 are:

- (a) the service quality levels offered by the Licensee to domestic consumers under and in accordance with any contract for the supply of gas to such consumers;
- (b) the compensation and refund arrangements which are to apply where the Licensee is unable to meet such contracted service quality levels; and
- (c) the standards of performance established by the Licensee for domestic consumers pursuant to Condition 2.15 which are not also provided for within the service quality levels offered under or in accordance with a contract for the supply of gas to such consumers.

**Condition 2.21: Marketing of Gas**

2.21.1 This Condition shall apply, from the date of the direction, where the Authority has directed that it shall apply to the Licensee. This Condition applies to the selling methods and marketing activities of the Licensee in respect of the supply or proposed supply of gas.

2.21.2 The Licensee shall (and shall procure that its agents or sub-contractors shall) comply with the Marketing Code of Practice.

2.21.3 The Licensee shall (and shall procure that its agents or sub-contractors shall):

(a) establish appropriate procedures for the selection of persons employed or engaged in roles the principal duties of which involve verbal communications with domestic consumers for the purpose of selling to such consumers the Licensee's services in respect of the supply of gas;

(b) take all reasonable steps to ensure that each such person is sufficiently trained so as to have a sufficient understanding of:

(i) the gas supply market in Northern Ireland;

(ii) the terms and conditions of the Licensee's Contracts available for domestic consumers; and

(iii) matters relating to the efficient use of gas (in order to provide energy efficiency advice to domestic consumers including details of other organisations that may be able to assist the domestic consumer on such matters),

so that any advice given to domestic consumers by such persons is not misleading; and

(c) take all reasonable steps to ensure that a domestic consumer is:

(i) made aware or will readily understand that he has entered, or is about to enter, into a Contract with the Licensee for the supply of gas to the domestic consumer's premises;



- (ii) where the domestic consumer is to receive a supply of gas for the first time at the premises, made aware or will readily understand that he should take appropriate action to ensure that he is able to continue the use of his existing fuel source (if any) until the commencement of the supply of gas; and
- (d) take all reasonable steps to ensure that any unsolicited contact made on behalf of the Licensee with any domestic consumer takes place at a reasonable time of the day.

2.21.4 Where the Licensee enters into a Contract with a domestic consumer in the course of:

- (a) a visit to that consumer's premises by a representative of the Licensee;
- (b) a conversation in a place to which the public have access; or
- (c) a telephone conversation between a representative of the Licensee and the consumer,

the Licensee shall use its reasonable endeavours to contact the consumer between 1 to 14 days after the Contract has been entered into to confirm that the consumer understands that he has entered into the Contract and is content to have done so but that the supply of gas will not commence until the supply start date notified, or to be notified, to him.

2.21.5 If in the course of, or in response to, the Licensee's contact in accordance with paragraph 2.21.3 the domestic consumer indicates that he is not content to have entered into the Contract and wishes to cancel the Contract, the Licensee shall use all reasonable endeavours to ensure that the Contract is cancelled and that the Licensee does not commence the supply of gas to the consumer's premises.

2.21.6 In this Condition:

**marketing activities**

means any activities of the Licensee that are directed at or incidental to identifying and communicating with domestic consumers for the purpose of promoting the Licensee's gas supply

contracts to them, and includes entering into contracts with such consumers;

**Marketing Code of Practice** means the document of that name, prepared and published from time to time by the Authority, relating to marketing activities; and

**Representative** means any person directly or indirectly authorised to represent the Licensee in its dealings with domestic consumers.

**Condition 2.22: Security Deposits**

2.22.1 The Licensee shall not require a domestic consumer to pay a Security Deposit in respect of the supply of gas to the domestic consumer's premises:

- (a) where the domestic consumer agrees for the gas to be supplied through a prepayment meter and it is safe and reasonably practicable in all the circumstances of the case for the Licensee to supply the premises through such a meter; or
- (b) where it is unreasonable in all the circumstances of the case to require the domestic consumer to pay a Security Deposit.

2.22.2 Any Security Deposit required by the Licensee shall be of an amount that:

- (a) is reasonable in all the circumstances of the case; and
- (b) does not exceed the charges for the supply of gas likely to be applicable for an average three month period of supply, as calculated by reference to the consumption of gas reasonably expected at the relevant premises by the domestic consumer.

2.22.3 The Licensee shall, where it requires a domestic consumer to pay a Security Deposit, at the same time inform the domestic consumer of the effect of paragraph 2.22.5.

2.22.4 Subject to paragraph 2.22.5, any Security Deposit given by a domestic consumer shall be repaid by the Licensee:

- (a) within 28 days where, in the previous 12 months, the domestic consumer has paid all charges for the supply of gas demanded from him within 28 days of each written demand made; or
- (b) as soon as reasonably practicable, and in any event within 1 month, where the Licensee has ceased to supply the domestic consumer and the consumer has paid all charges for the supply of gas demanded from him.

2.22.5 Sub-paragraph 2.22.4(a) shall not apply where it is reasonable in all the circumstances for the Licensee to retain the Security Deposit.

### **Condition 2.22A: Consumer Protection: Modification of Conditions**

2.22A.1 The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time modify the Conditions of the Licence in accordance with paragraph 2.22A.2.

2.22A.2 The Authority may modify the Conditions of the Licence under this paragraph where both:

- (a) the effect of the modification is to require the Licensee to prepare, submit and have approved by the Authority one or more codes of practice relating to the services or arrangements, as set out in the modification, to be provided or made available by the Licensee to such persons or class of persons as are specified in the modification; and
- (b) the Authority is satisfied that the modification is necessary or expedient for the purposes of:
  - (i) ensuring that any activity authorised by the Licence is carried out in compliance with the requirements and prohibitions, relating to the protection of consumers, laid down by the Directive;
  - (ii) ensuring a high level of protection for consumers, in accordance with the purpose of the Directive; or
  - (iii) giving effect to Article 10A(9) of the Order.

2.22A.3 Where in accordance with this Condition 2.22A the Authority modifies the standard conditions of licences for the supply of gas (as determined under Article 11(1) of the Order), it:

- (a) shall also make (as nearly as may be) the same modifications of the standard conditions of licences for the supply of gas for the purpose of their incorporation in licences granted under Article 8(1)(c) of the Order after the date of the modification made under this Condition 2.22A; and
- (b) may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of licences granted under Article

8(1)(c) of the Order before the date of the modification made under this Condition 2.22A.

### **Condition 2.23: Report on Performance**

2.23.1 The Licensee shall keep a record of the operation of the arrangements set out in any Code of Practice prepared in accordance with Conditions 2.8 – 2.12 and, if the Authority so directs in writing, of the operation of any Code of Practice in particular cases specified, or of a description specified, by it.

2.23.2 The Licensee shall also keep for each quarter ending 30 June, 30 September, 31 December and 31 March, a statistical record of its performance in that quarter in relation to the provision of gas supply services to domestic consumers including:

- (a) the number of the different type of services offered by the Licensee to domestic consumers on the register maintained by it pursuant to Condition 2.11 and the number of domestic consumers included on the register;
- (b) the number of the Licensee's domestic consumers using each payment method offered by the Licensee;
- (c) the number of Domestic Premises to which the supply of gas was cut off by the Licensee for reason of non-payment of charges;
- (d) the quantities of gas supplied and the recovery of gas charges;
- (e) the number of consumer complaints, whether made in writing, in person or by telephone;
  - (i) received by the Licensee;
  - (ii) resolved by the Licensee; and
- (f) the number of visits made to consumers' premises and the number of responses made to enquiries.

2.23.3 As soon as reasonably practicable after 31 December in each year, the Licensee shall submit to the Authority and the General Consumer Council a report dealing with the matters mentioned in this Condition which shall include a comparison of the Licensee's performance against any established standards in relation to that year and shall:

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

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

except that, in performing the obligations under paragraphs 2.23.3(a) and 2.23.3(b), the Licensee shall exclude from the report such information as appears to it to be necessary or expedient to ensure that, save where they consent, individual consumers referred to therein cannot readily be identified.

2.23.4 The report shall be presented, so far as is reasonably practicable, in a standard format determined by the Authority.

## **Condition 2.24: Safety of Supplies**

### **2.24.1 Duty to inform consumers**

The Licensee shall keep each of its consumers informed:

- (a) that an escape, or suspected escape, of gas should be reported immediately; and
- (b) of a telephone number which should be used for that purpose.

### **2.24.2 Means of discharging obligation**

The Licensee will discharge the duty imposed by Condition 2.24.1 by providing the requisite information to each of its consumers:

- (a) on the occasion of the consumer first commencing to take a supply from the Licensee; and
- (b) either:
  - (i) where bills in respect of charges for the supply of gas are rendered to the consumer, on a quarterly basis (it being sufficient that the information is included on or with any bill); or
  - (ii) where no bills in respect of charges for the supply of gas are rendered to the consumer, on an annual basis, and by publishing such information in such manner as will in the opinion of the Licensee secure adequate publicity for it.

### **2.24.3 Emergency telephone number**

The Licensee shall:

- (a) inform a consumer of the telephone number for the service referred to in Condition 2.24.1(b) if so requested; and



- (b) in so far as is practicable, take steps to inform each of its consumers of any change to such telephone number prior to such change becoming effective.

## **Condition 2.25: Reading, Inspection and Testing of Meters**

### 2.25.1 Obligation to inspect

The Licensee shall use all reasonable endeavours to ensure that at intervals of not more than 2 years an inspection of the meter and associated installation at any premises for which it is the gas supplier shall take place in accordance with this Condition 2.25.

### 2.25.2 Supplier for less than two years

Where the Licensee has supplied a premises for less than 2 years, the period of 2 years referred to in Condition 2.25.1 shall be deemed to expire on such date as is specified for that purpose in a notice given to the Licensee by the relevant Network Operator and which has been submitted to the Licensee at least 4 months in advance of the deemed expiry date.

### 2.25.3 Inspections

An inspection under this Condition 2.25 shall be carried out by a person possessing appropriate expertise and shall include the following tasks:

- (a) reading the meter;
- (b) inspecting the meter and associated installation for evidence of any damage to, interference with or tampering of the meter or of the associated installation;
- (c) inspecting the meter and that installation for any evidence that the meter has not continuously been in position for the purpose of registering the quantity of gas supplied;
- (d) arranging for information in respect of any gas leakage identified in the vicinity of the meter to be passed on in accordance with the Gas Safety (Management) Regulations (Northern Ireland) 1997 as if the Licensee had been informed thereof;
- (e) inspecting the meter for any evidence of deterioration which might affect its due functioning or safety; and
- (f) where necessary and subject to the consent of the owner of the meter, changing any batteries in the meter.

#### 2.25.4 Report to Network Operator

The Licensee shall ensure that the results of each inspection undertaken in accordance with this Condition are reported promptly to the relevant Network Operator.

## **Condition 2.26: The Supply Meter Point Agreement**

### **2.26.1 Establishing Supply Meter Point Agreement**

The Licensee shall, within twelve months of this condition coming into force and in conjunction and co-operation with all other suppliers, prepare, maintain and be party to a form of agreement to be known as the Supply Meter Point Agreement, as may be designated by the Authority for the purposes of this condition generally, being a document:

- (a) designed to facilitate achievement of the relevant objectives set out in Condition 2.26.4; and
- (b) including the modification procedures and other matters required by Conditions 2.26.5 and 2.26.6.

### **2.26.2 Compliance with Supply Meter Point Agreement**

The Licensee shall comply with the relevant provisions of the Supply Meter Point Agreement.

### **2.26.3 Parties to the Supply Meter Point Agreement**

The Supply Meter Point Agreement shall be an agreement made between:

- (a) the Licensee acting in its capacity as a licensed gas supplier;
- (b) all other gas suppliers to whom this condition applies; and
- (c) such other persons as are necessary parties (as collectively determined by the gas suppliers that are party to the agreement).

### **2.26.4 Relevant objectives**

The relevant objectives referred to in Condition 2.26.1 are:

- (a) the development, maintenance and operation of efficient, coordinated and economical arrangements and systems of communications between all parties for the implementation of, and compliance with, the change of supplier process as set out in the Network Code of each Network Operator;

- (b) the furtherance of effective competition between gas suppliers and between relevant agents;
- (c) the promotion of efficiency in the implementation and administration of the Supply Meter Point Agreement; and
- (d) so far as is consistent with sub-paragraphs (a), (b) and (c), the efficient discharge of the Licensee's obligations under this licence.

#### 2.26.5 Contents of Supply Meter Point Agreement

The Supply Meter Point Agreement shall contain:

- (a) provisions for admitting as an additional party to the Supply Meter Point Agreement any person who accepts the terms and fulfils the conditions (each as specified in the Supply Meter Point Agreement) on which accession to the Supply Meter Point Agreement is offered;
- (b) provisions for the Licensee to refer to the Authority for determination, whether of its own motion or as provided in the Supply Meter Point Agreement, any dispute which shall arise as to whether a person seeking to be admitted as a party to the Supply Meter Point Agreement has fulfilled any accession conditions and, if the Authority determines that the person seeking admission has fulfilled all relevant accession conditions, for admitting such person as a party to the Supply Meter Point Agreement;
- (c) arrangements enabling modification of the Supply Meter Point Agreement:
  - (i) so as to better facilitate the achievement of the relevant objectives as set out in paragraph 2.26.4; and
  - (ii) following consultation with the parties, or representatives of the parties, to that agreement and other interested parties;
- (d) provisions (which shall be approved in advance by the Authority) by virtue of which specified parts of the Supply Meter Point Agreement shall not be capable of modification without the prior approval of the Authority;

- (e) provisions enabling parties to the Supply Meter Point Agreement to appeal against any proposed modification, proposed pursuant to the arrangements established in accordance with paragraph (c) above, of the Supply Meter Point Agreement to the Authority for determination;
- (f) provisions for the Authority to be furnished with a copy of any modification which is made; and
- (g) provisions for a copy of the Supply Meter Point Agreement to be provided to any person requesting the same upon payment of an amount not exceeding the reasonable costs of making and providing such a copy.

## **Condition 2.27: Wholesale Contracts and Gas Derivatives**

2.27.1 Subject to paragraph 2.27.2, the Licensee shall, for every Contract or Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder (the **relevant agreement**) and every transaction undertaken under or in accordance with the provisions of a relevant agreement (the **relevant transaction**), retain for a period of at least five years after the end date of the relevant agreement or the date of the relevant transaction (as the case may be) the information set out in paragraph 2.27.4.

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 40(4) of the Directive (the **Guidelines**).

2.27.3 The Licensee shall retain the relevant information in accordance with such methods and arrangements for record keeping and in such form as may be set out in the Guidelines.

2.27.4 The information to be retained shall:

- (a) provide particulars of:
  - (i) the characteristics of the relevant agreement or the relevant transaction, including characteristics relating to duration and delivery and settlement rules;
  - (ii) the amount of gas specified in the relevant agreement or relevant transaction;
  - (iii) the time and date the relevant agreement or relevant transaction was executed and the prices pertaining to that agreement or transaction;

- (iv) the means of identifying the Wholesale consumer to whom the relevant agreement or relevant transaction relates; and
- (b) include such information as is specified in a direction given to the Licensee by the Authority about relevant agreements under which any transactions continue to be unsettled.

2.27.5 The Licensee shall provide to the Authority, in such manner and at such times as the Authority may specify, such information as the Authority may require which is retained by the Licensee in accordance with this Condition.

2.27.6 In this Condition:

<b>Gas Derivative</b>	means a financial instrument, specified in points 5, 6, or 7 of Section C of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, which relates to gas;
<b>Gas Conveyance Licence Holder</b>	means any person holding a licence granted under Article 8(1)(a) of the Order; and
<b>Wholesale Consumer</b>	means any person who is purchasing gas for the purposes of reselling it to another person and not for his own use.



**Condition 2.28: Provision of Information to gas suppliers**

2.28.1 Where paragraph 2.28.2 applies, the Licensee shall within five working days of receiving a Consumer Information Request from a gas supplier, provide to that gas supplier the information specified in the Consumer Information Request.

2.28.2 This paragraph applies where the Licensee is supplying gas, or has at any time in the 12 months prior to the date of the consumer Information Request supplied gas, to the premises identified in the request and where the consumer identified in the request is, or (as the case may be) was, the Licensee's consumer.

2.28.3 The Licensee shall not submit a Consumer Information Request to another gas supplier unless it has, and retains evidence of, the consent of the consumer for it to obtain the information which is specified in the request to the other gas supplier.

2.28.4 The Licensee shall not charge the consumer for any services provided to the consumer or to another gas supplier pursuant to this Condition.

2.28.5 In this Condition:

<b>Consumer</b>	means a request, made in such form and in such manner
<b>Information Request</b>	as may be determined from time to time by the Authority, for information relating to the consumption of gas by the consumer at the premises identified, and for the period specified, in the request.

### **Condition 2.29: Business Separation**

2.29.1 This Condition applies where any affiliate or related undertaking of the Licensee is:

- (a) carrying on the activities of an Associated Business; and
- (b) that Associated Business is subject to Separation Conditions.

2.29.2 Where this Condition applies the Licensee shall not:

- (a) act in a manner which is inconsistent with the relevant affiliate or related undertaking's obligations under the Separation Condition; or
- (b) take any action that may impede or frustrate the relevant affiliate or related undertaking from fulfilling its obligations under the Separation Condition.

2.29.3 In this Condition:

<b>Associated Business</b>	means any business which is carrying on any activity that requires authorisation in accordance with either Article 8(1)(a) of the Order or section 7 of the Gas Act 1986; and
<b>Separation Conditions</b>	means any conditions: <ul style="list-style-type: none"><li>(a) which are included in a licence held by the affiliate or related undertaking of the Licensee, as granted under either Article 8(1)(a) of the Order or section 7 of the Gas Act 1986;</li><li>(b) which are at any given time applicable and in force in relation to the licence holder; and</li><li>(c) which in combination impose an obligation on the Associated Business to ensure the legal, managerial and operational separation of the Associated Business and, where applicable, to produce a compliance plan setting out how it will meet the obligation.</li></ul>

## **PART 3A**

### **GENERAL CONDITIONS FOR THE SUPPLY LICENCE OF GAS SUPPLIERS SHIPPING GAS ACROSS DESIGNATED NETWORKS**

#### **Condition 3A.1: Interpretation And Construction**

#### **DEFINITIONS FOR SUPPLIER POSTALISATION LICENCE CONDITIONS**

##### **Interpretation and Construction**

##### **Definitions**

In Part 3A of this Licence, except where expressly stated to the contrary and unless the context otherwise requires, the following terms shall have the meanings ascribed to them below:

- “Business Day” means a day, other than a Saturday or Sunday, on which banks are open for ordinary banking business in Belfast;
- “Credit Committee” means the committee which is convened and operates in accordance with the “Terms of Reference”;
- “Designated Network” means such parts of a Designated Pipe-line Operator’s Network as is or are designated from time to time pursuant to the Designation Order;
- “Designated Pipe-line Operator” means a person licensed to convey gas under Article 8(1)(a) of the Order for the Licensee through the Postalised System;
- “Designation Date” means the date specified in a Designation Order on which any part of a Designated Pipe-line Operator’s Network through which the Licensee is entitled to have gas conveyed shall be designated as postalised;
- “Designation Order” means an order made pursuant to Article 59 of the Energy (Northern Ireland) Order 2003 designating gas plant comprised within the Network as being subject to a common tariff;
- “Exit”, “Exiting” or forms thereof, refers to the offtaking of gas at an Exit Point;
- “Exit Point” means a point on the Designated Network at which gas is offtaken from the Designated Network by the Licensee, which is not a

Transit Point and which constitutes an Exit Point under the Network Code;

“Firm Capacity”

means, at any relevant time in respect of a Gas Supplier, capacity (in KWh/day) held at such time by such Gas Supplier on a firm basis in respect of an Exit Point in accordance with the provisions of the Network Code and in respect of a Gas Year (or any part thereof); except that if any Minimum Capacity Value in respect of such period and such Gas Supplier is greater than such allocated capacity then the Firm Capacity deemed to be held by such Gas Supplier shall be that Minimum Capacity Value;

“Forecast Supplier Quantity”

means the quantity of gas which the Licensee forecasts it will Exit from a Designated Network in a given period, provided that, if in relation to the Licensee such quantity is less than any applicable Minimum Quantity Value, the Forecast Supplier Quantity in relation to the Licensee shall be such Minimum Quantity Value;

“Gas Supplier”

means any person authorised by licence under Article 8 of the Order or by exemption under Article 7 of the Order to supply gas, (including the Licensee as so authorised or exempted) and who is entitled to Exit gas from the Designated Network or any person who is not so authorised, but with the Authority’s consent either: (i) holds Firm Capacity; or (ii) is entitled to Exit gas from the Designated Network as if it were a Gas Supplier;

“Gas Year”

means the period of time beginning at 06:00 hours on 01 October in any calendar year and ending at 06:00 hours on 01 October in the next succeeding calendar year;

“kWh”

means 3,6000,000 joules as defined in ISO 1000-1981(E);

“Minimum Quantity Value”

means any minimum quantity of gas (in KWh) in respect of which the Licensee is obliged under contract to a Designated Pipe-line Operator to pay transmission charges in respect of a Gas Year or part thereof;

“Network”	means all gas plant owned, operated or utilised by a Designated Pipe-line Operator through which that Designated Pipe-line Operator is conveying gas for the Licensee;
“Network Code”	means that document so described and published by a Designated Pipe-line Operator by virtue of the licence granted to that Designated Pipe-line Operator under Article 8(1)(a) of the Order;
“Order”	means The Gas (Northern Ireland) Order 1996;
“Postalised System”	means the system comprising all gas pipe-lines designated as being subject to a common tariff pursuant to all orders made pursuant to Article 59 of the Energy (Northern Ireland) Order 2003 in force at such time;
“Primary DPO”	means a Designated Pipe-line Operator holding a licence to convey gas in respect of a part of the Postalised System on which the Licensee is entitled to Exit gas;
“Primary DPO Network”	means all gas plant owned, operated or utilised by a Primary DPO through which that Primary DPO is conveying gas for the Licensee and from which the Licensee is entitled to Exit gas;
“PS Transmission Payments”	means any amount which a Primary DPO is obliged or entitled to charge to the Licensee in respect of the provision of gas conveyance services on the Postalised System under such Primary DPO’s licence to convey gas;
“Quarter”	means each successive three calendar month period in a Gas Year, the first of which shall run from and including 06:00 hours 01 October until 06:00 hours 01 January in that Gas Year; and “Quarterly” shall be construed accordingly.
“Terms of Reference”	means the terms of that name appended to the Network Code which govern the operation of the Credit Committee;
“Transit Point”	means a point of interconnection between a Designated Network and another pipeline forming part of the Postalised System;

3A.1.1 Interpretation

In Part 3A all capitalised terms shall have the meaning ascribed to them in such part, notwithstanding any other definition of any such term elsewhere in the licence. Capitalised terms within Part 3A which are not defined within such part shall have the meaning ascribed to them elsewhere in the licence.

3A.1.2 Provision of Information

Nothing in Part 3A shall require the Licensee to produce any information or provide any document to any other party which the Licensee could not be compelled to produce or provide in civil proceedings in the High Court.

## **Condition 3A.2: General Conditions Applicable To The Licence Holder In Relation To Postalisation Charges**

### **3A.2 Conveyance Charges**

#### 3A.2.1 Application of provisions relating to common tariff

In respect of the Gas Year commencing on or after the Designation Date and each Gas Year thereafter and to the extent that a Designation Order is and remains in force in respect of any Primary DPO Network, the Licensee shall be subject to the provisions of this Condition 3A.

#### 3A.2.2 Forecasts and information relating to following Gas Years

3A.2.2.1 The Licensee shall, each Gas Year, provide the following forecasts and information to each of its Primary DPO (in respect of each such Primary DPO Network only), in each case no later than the tenth Business Day in June in respect of the next Gas Year (GY) and each of the following four Gas Years (GY+1 to GY+4):

- (a) the Forecast Supplier Quantity together with:
  - (i) an explanation of the reasons why any Forecast Supplier Quantity in respect of any of the Gas Years GY+1 to GY+4 are expected to be greater or less than the Forecast Supplier Quantity in respect of GY;
  - (ii) a breakdown showing the proportions of the Forecast Supplier Quantity in respect of each Exit Point attributable to each Quarter of GY; and
- (b) the assumptions on which the figures provided pursuant to Condition 3A.2.1.1(a) are based. In respect of power stations this shall include but not be limited to load factors, generation output and efficiency. In respect of a Licensee supplying gas to distribution networks this shall include but not be limited to numbers of consumers and average forecast quantity per consumer.

3A.2.2.2 The Licensee shall use its reasonable endeavours to ensure that all forecasts and information supplied in accordance with Condition 3A.2.2.1 are as accurate as possible having regard to the information and forecasts available to the Licensee

and shall provide with such forecasts a full breakdown and reasoning as to how it has calculated those forecasts.

3A.2.2.3 The Licensee shall promptly submit to any Primary DPO any further information, explanation and access to relevant documents and records, in each case as such Primary DPO reasonably requires in respect of the figures provided pursuant to this Condition 3A.2.2.

3A.2.3 Payment of PS Transmission Payments

The Licensee shall pay all PS Transmission Payments in accordance with the provisions of the Network Code.



**Condition 3A      Credit Committee**

3A.3.1      The Licensee shall promptly and competently take all reasonable actions necessary to facilitate the efficient functioning of the Credit Committee, in accordance with the Terms of Reference. Excepted in certain circumstances as specified in the Terms of Reference such actions shall include:

- (a)      attendance at any meeting of the Credit Committee convened,
- (b)      full and due consideration of any matters (including all relevant information) in respect of which a Credit Committee is convened;
- (c)      reasonable participation in the decision making process in relation to any matter with respect to which any Credit Committee has been convened with a view that appropriate decisions be made by such Credit Committee in a timely manner; and
- (d)      reasonable participation in the passing of any decisions made by any Credit Committee.

3A.3.2      The Licensee shall ensure that the Credit Committee acts in a non-discriminatory and transparent manner.

**PART 4**

**SPECIAL CONDITIONS OF LICENCE**

**Condition 4.1**      **Definitions**

- .
- 4.1.1 Except where expressly stated to the contrary, and unless the context otherwise requires, the expression “Development Area” shall, when used in this Part 4, have the meaning given thereto in Condition 3.1 of the Associated Conveyance Licence as at the date of the grant thereof.

**Condition 4.2: Market Development**

4.2.1 Additional duty to provide information

The Licensee shall advise the Authority, by no later than 31 December of each year, of the number of supply arrangements made by the Licensee with consumers during the period of 12 months ending on the immediately preceding 30 September. In so advising the Authority, the Licensee shall distinguish between domestic consumers and consumers who are not domestic consumers, and shall also (unless and until the Authority otherwise directs) distinguish between any premises supplied under such arrangements at which the consumption of gas is reasonably expected to exceed 732,500 kilowatt hours in any period of twelve months.

4.2.2 Market development

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

**Condition 4.3: Not Used**

**Condition 4.5: Restriction on Use of Certain Information**

4.5.1 Use of protected information

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

- (a) that the Licensee shall not obtain any unfair commercial advantage from its possession of protected information with respect to any Separate Business;
- (b) that protected information is not used by any other person for the purpose of obtaining for that person:
  - (i) any unfair commercial advantage from its possession of protected information;
  - (ii) any licence;
  - (iii) any exemption;
  - (iv) control of any body corporate which, directly or indirectly, has the benefit of any such licence or exemption; and
- (c) that protected information is not disclosed except with the prior consent in writing of the relevant person to whose affairs the protected information relates;

provided that the obligation on the Licensee:

- (d) to procure the above in relation to an affiliate or related undertaking which has control of the Licensee (control being defined by Section 416 of the Income and Corporation Taxes Act 1988), shall be to do so by using reasonable endeavours and obtaining an appropriate contractual undertaking from that affiliate or related undertaking in respect of such protected information; and
- (e) not to obtain any unfair commercial advantage from its possession of protected information under Condition 4.5.1(a) shall be construed to exclude protected

information received independently by any Separate Business not engaged in the supply of gas.

#### 4.5.2 Compliance with directions

The Licensee shall implement such measures and procedures and take all such other steps as shall be specified in directions issued by the Department from time to time under Article 45 of the Order or otherwise for the purposes of this Condition as reasonably appear to the Department to be requisite or expedient for the purpose of securing compliance by the Licensee with its obligations under Condition 4.5.1 in the conduct of its business to supply gas.

#### 4.5.3 Limitation of non disclosure obligations

Condition 4.5.1(c) shall not apply to any disclosure of information:

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

#### 4.5.4 Additional definition

In this Condition:

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

**Condition 4.6: Relevant Conditions**

4.6.1 For the purposes of Article 9(6) of the Order and of Schedule 3 to this Licence, the following conditions of this Licence shall be “relevant conditions”: Condition 1.2.3, Condition 1.2.4, Condition 2.2, Condition 2.4.7, Condition 4.3 and Condition 4.4.



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

1 The premises designated as a term of the licence in this Schedule 1 are any person or premises in the Ten Towns Area.

2 In this Schedule:

“BGE Conveyance Licence” means the Licence for the Conveyance of Gas granted to Bord Gais Eireann by the Authority pursuant to Article 8(1)(a) of the Order;

“Ten Towns Area” means the Licensed Area within Schedule 1 of the BGE Conveyance Licence.

## **SCHEDULE 2 REVOCATION**

### **Right of Authority to Revoke Licence**

1. Circumstances allowing revocation

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

- (a) if the Licensee agrees in writing with the Authority that such licence should be revoked; or
- (b) if any amount payable under Condition 1.11 is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Authority has given the Licensee notice that the payment is overdue provided that no such notice shall be given earlier than the sixteenth day after which the amount payable becomes due; or
- (c) if the Licensee fails to comply with a Final Order (within the meaning of Article 42 of the Energy Order) or with a Provisional Order (within the meaning of Article 42 of the Energy Order) which has been confirmed under Article 42 of the Energy Order and which (in either case) has been made in respect of a contravention or apprehended contravention of a condition to which the licence is subject or of a “relevant requirement” as defined in Article 41(2)(b) of the Energy Order and such failure is not rectified to the satisfaction of the Authority within three months after the Authority has given notice of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 44 of the Energy Order could be made questioning the validity of the Final or Provisional Order or before the proceedings relating to any such application are finally determined; or
- (d) if the Licensee fails to pay any financial penalty (within the meaning of Article 45 of the Energy Order) imposed in respect of a contravention or apprehended contravention of a condition to which the licence is subject or of a “relevant requirement” as defined in Article 41(2)(b) of the Energy Order by the due date for such payment and such payment is not made to the Authority within

three months after the Authority has given notice in writing of such failure to the Licensee, provided that no such notice shall be given by the Authority before the expiration of the period within which an application under Article 49 of the Energy Order could be made questioning the validity or effect of the financial penalty or before the proceedings relating to any such application are finally determined; or

- (e) if the Licensee fails to comply with an order made by a court under section 34 of the Competition Act 1998; or fails to comply with an order made under section 72, 75, 76, 81, 83, 84, 158, 160 or 161 of, or under paragraph 2, 5, 6, 10 or 11 of schedule 7 to, the Enterprise Act 2002; or is found guilty of an offence under section 188, 193 or 194 of the Enterprise Act 2002; or
- (f) if the Associated Conveyance Licence is revoked, and the Authority reasonably considers, having regard to the then current state of the gas market within the Licensed Area, that it is appropriate that this Licence be revoked; or
- (g) if the Licensee:
  - (i) is unable to pay its debts (within the meaning of section 123(1) or 123(2) of the Insolvency Act 1986, but subject to paragraph 4 of this Schedule 2 ), or has any voluntary arrangement proposed in relation to it under section 1 of that Act, or enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Authority); or
  - (ii) has a receiver (which expression shall include an administrative receiver within the meaning of section 251 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed; or
  - (iii) has an administration order under section 8 of the Insolvency Act 1986 made in relation to it; or
  - (iv) passes any resolution for winding up other than a resolution previously approved in writing by the Authority; or

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

- (j) if the Licensee is convicted of having committed an offence under Article 46 of the Order or under Article 63 of the Electricity (Northern Ireland) Order 1992.

2. Revocation if Licensee ceases to carry on the licensed business

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

3. Licensee's deemed ability to pay its debts

- (a) For the purposes of paragraph 1(g)(i) of this Schedule 2, section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for £750 there was substituted £250,000 or such higher figure as the Authority may from time to time determine by notice in writing to the Licensee.
- (b) The Licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(g)(i) of this Schedule 2, if any such demand as is mentioned in section 123(1)(a) of the Insolvency Act 1986 is being contested in good faith by the Licensee with recourse to all appropriate measures and procedures or if any such demand is satisfied before the expiration of such period as may be stated in any notice given by the Authority under paragraph 1 of this Schedule 2.

4. Additional Definition

- (a) Except where expressly stated to the contrary, and unless the context otherwise requires, the expressions used in this Schedule 2 shall have the meanings ascribed to them in the Conditions at the date of the Grant, and shall be construed in accordance with the rules of construction and interpretation set out in the Conditions at the date of the Grant.

- (b) For the purposes of paragraph 1(i) of this Schedule 2, there is a change in the control of the Licensee whenever a person obtains control of the Licensee who did not have control of the Licensee when this licence was granted; and sub-sections (2) and (4) to (6) of Section 416 of the Income and Corporation Taxes Act 1988 shall apply for the purpose of determining whether for the purposes of this paragraph a person has or had control of the Licensee, but at any time should no person have control then for the words "the greater part" wherever they occur in the said sub-section (2) there shall be substituted the words "one-third or more".

### **SCHEDULE 3**

#### **PREMISES TO WHICH GAS MAY BE SUPPLIED EXCLUSIVELY**

##### **1 Definitions**

1.1 Except where expressly stated to the contrary, and unless the context otherwise requires, the expressions used in this Schedule 3 shall have the meanings ascribed to them in the Conditions at the date of the Grant, and shall be construed in accordance with the rules of construction and interpretation set out in the Conditions at the date of the Grant.

1.2 Except where expressly stated to the contrary and unless the context otherwise requires, the expressions “Development Area” and “Start Date” shall, when used in this Schedule 3, have the meanings given thereto in Condition 3.1 of the Associated Conveyance Licence as at the date of the grant thereof.

##### **2 Exclusivity**

2.1 The Licensee shall be entitled exclusively to supply gas to those premises in any Development Area connected by means of a service pipe to the Network operated in accordance with the Associated Conveyance Licence for the periods set out in Paragraph 3. Such supply to such premises shall be a “designated activity” for the purposes of Article 9 of the Order.

##### **2.2 Loss of exclusivity**

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

##### **3 Period of Exclusivity**

3.1 Subject to Paragraph 3.3, the period of exclusivity conferred under Paragraph 2.1 shall, in respect of premises within any Development Area and where consumption of gas at those premises is reasonably expected not to exceed 732,500 kilowatt hours in any period of 12 months, commence on the date of 1 April next following the Start Date for that Development Area, which shall not exceed March 2015, and expire on the date of 1 April 2015.

3.2 Subject to Paragraph 3.3, the period of exclusivity conferred under Paragraph 2.1 shall, in respect of premises within any Development Area and where consumption of gas at those premises is reasonably expected to exceed 732,500 kilowatt hours in any period of 12 months, commence on the date of 1 April next following the Start Date for that Development Area, which shall not exceed September 2012, and expire on the date of 1 October 2012.

3.3 Any period of exclusivity conferred under Paragraph 2.1 shall, if it has not ceased before then, cease, in respect of any premises in any Development Area, where the person authorised to participate in the conveyance of gas under the Associated Conveyance Licence ceases to be entitled to do so exclusively in that Development Area.

#### 4 Determination of Likely Gas Consumption

4.1 Where a determination is required as to the expected consumption of gas at premises and/or what constitutes premises for the purposes of this Schedule 3, the Licensee, any gas supplier, or the owner or occupier of the premises in question may apply to the Authority for such determination. Where the requested determination relates to the expected consumption of gas at premises, any determination shall take into account all the relevant circumstances including the historic energy requirements at the premises, the energy requirements at the premises further to the application and the capacity of gas consuming equipment installed or intended to be installed at the premises to consume gas.

4.2 In respect of any premises where the consumption of gas at those premises is reasonably expected to exceed 732,500 kilowatt hours in any period of 12 months, and where:

- (a) the actual consumption of gas at that premises is less than that expected; and
- (b) the Licensee had no exclusive entitlement to supply those premises by reason of that expectation but would have done on the actual consumption; and
- (c) an alternative arrangement for the supply of gas to those premises by another gas supplier is in place; then



the Licensee's exclusive entitlement shall nevertheless cease, in respect of those premises only, whilst the alternative arrangement is in place.

- 4.3 Notwithstanding the Licensee's entitlement to exclusivity set out in this Schedule 3, and without prejudice to the generality of any other provision of this Licence, the Licensee may (in its absolute discretion) during any period of exclusivity in respect of any premises in the Licensed Area consent to a supply of gas to those premises by another gas supplier.
- 4.4 In any period in which the Licensee has no entitlement to exclusivity as set out in this Schedule 3 in respect of any premises, then any other gas supplier may supply those premises.
- 4.5 Nothing in this Schedule 3 shall limit the right of the Licensee to supply gas under this Licence on a non-exclusive basis.

Note: (does not form part of the Licence)

Consolidated to include

1. Licence granted: 24 June 2005
2. Licence Modifications to implement EU Directive 2003/55/EC 16th November 2007 – signed modification notice.
3. 2011-03-31 Supply exclusivity amendments to Schedule 3 following statutory consultation
4. Licence modification re Schedule 1 – 3 May 2012 – signed letter
5. Modification dated 12 September 2012 – IME3 licence amendments as a result of Directive 2009/73/EC concerning common rules for the internal market in natural gas. Licence modifications approved by DETI
6. Licence modification of condition 1.11 Payment of fees to the Authority – September 2012
7. Licence modification of condition 1.2 to implement further IME requirements as a result of Directive 2009/73/EC concerning common rules for the internal market in natural gas – 30 April 2013
8. Modifications to conditions 1.3, 2.11, 2.18 and 2.21 to implement further IME3 licence amendments as a result of Directive 2009/73/EC concerning common rules for the internal market in natural gas - dated 28<sup>th</sup> March 2014.