



PUBLIC CONSULTATION

BORD GÁIS ÉIREANN

DISTRIBUTION CODE OF OPERATIONS

**FOR THE INITIAL PHASE OF THIRD PARTY ACCESS ON
THE BGE DISTRIBUTION SYSTEM**

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DISTRIBUTION CODE OF OPERATIONS: EXECUTIVE SUMMARY

Note: This Summary is intended to provide a general explanation of the way in which the Distribution Code of Operations (the DCOP) will operate. The provisions of this Summary have no legal effect and in the event of any conflict between the provisions of this Summary and the provisions of the DCOP the latter shall prevail.

1. BACKGROUND INFORMATION

- 1.1 Bord Gáis has been developing third party access (TPA) to its gas pipeline system since 1995 - consistent with principles of TPA referenced in the Gas Act 1976 (as amended by the Energy (Miscellaneous Provisions) Act 1995) and the Gas (Interim)(Regulation) Act, 2002 - in order to fully implement the EC Directive 98/30/EC.
- 1.2 The Transmission Code of Operations was introduced with effect from October 1999 to further facilitate the first phase of gas market opening in Ireland.
- 1.3 The Gas (Interim)(Regulation) Act, 2002, enacted with effect from 30 April 2002, requires that Bord Gais make an offer, in response to a request by a licensed applicant or the relevant end user, to transmit gas to gas-fired generators irrespective of the annual consumption or to a final customer with an annual rate of consumption not less than 2,000,000 standard cubic metres per annum at a single meter installation for the purposes of delivery to that installation. This has resulted in around 100 eligible consumers, many of who are connected to the Distribution System - that part of the gas transportation system through local or regional pipelines.
- 1.4 The Minister for Communications, Marine and Natural Resources, announced on 25th November 2002 the further liberalisation of the gas market from January 1st 2003. The new Order signed on this date reduced the threshold further to 500,000 standard cubic metres per annum, bringing the total number of industrial and commercial sites eligible from about 100 to over 250.
- 1.5 The Commission for Energy Regulation – renamed and further empowered by the 2002 Act – will grant separate licences for each of the licensable activities, namely supply, transmission, distribution and storage. The relevant market players should be aware of their obligations to obtain and comply with the conditions in the relevant licence(s). Only licensed parties will be allowed to sign onto the Code.

2. INTRODUCTION TO THE DISTRIBUTION CODE OF OPERATIONS

- 2.1 This Distribution Code of Operations (DCOP) is part of Bord Gais' response to the above developments. The DCOP is a document intended to record certain

rights and responsibilities of each of the parties involved in the transportation of Natural Gas through the Distribution System. As such, it is intended to provide a clear, fair, transparent and equitable framework for Shippers wishing to use the Distribution System. It describes how the technical and operational issues are to be addressed by the parties involved. The DCOP may be extended at a later date to provide for transportation to other sites as they become eligible consistent with the further opening of the gas market in Ireland.

- 2.2 The Distribution System currently conveys Natural Gas from Entry Points (being the point at which Natural Gas enters the Distribution System from Bord Gáis' Transmission System) to each of the registered Exit Points from the Distribution System. Each Shipper will accede to the DCOP by signing a Framework Agreement. This will give effect to the DCOP and bind the parties signing the Framework Agreement to the terms and conditions of the DCOP, as they are amended from time to time. Therefore, the duration of the transportation contract for a Shipper is determined by the duration of the Shipper's Framework Agreement. In addition, the Distribution Transporter may require the Shipper to sign an Ancillary Agreement in certain circumstances.
- 2.3 The Shipper will also be expected to sign onto the Transmission Code of Operations (the TCOP) and any other relevant agreements, including a Zonal Standard Transportation Agreement (Zonal STA), necessary to deliver gas to the Entry Points of a Distribution Zone. The Distribution System will consist of up to three Distribution Zones.
- 2.4 Bord Gáis currently owns and operates both the Transmission and Distribution Systems. In order to ensure the effective interoperability of both systems, there are a number of internal procedures and processes between the respective Bord Gáis Business Units dealing with a range of issues including information flows, system planning, maintenance and emergencies.

3. GENERAL OUTLINE OF KEY PROVISIONS

Definitions

- 3.1 The definitions are set out in Section 1 of the DCOP. The following outline definitions are included here to assist in the interpretation of this summary:
 - Supply Point – one or more Gas Points;
 - Gas Point – a metered point at which gas may be offtaken from the System for the purposes of supply direct to a particular final customer premises; and
 - Shipper – the party shipping (and supplying) gas to a particular final customer premises. The Shipper may be a final customer, but must be licensed consistent with the terms of the Gas (Interim)(Regulation) Act 2002.

Capacity

- 3.2 The standard service will be provided by the Distribution Transporter to a Shipper under the DCOP, the terms of which will provide for the instantaneous transfer of a quantity of Natural Gas, properly nominated (if required) and delivered into the Distribution System, subject to such Shipper not exceeding its maximum daily and/or hourly quantities at the Supply Point.
- 3.3 Each Shipper on the Distribution System will register Supply Point Capacity in their name at each Supply Point, using the supply point administration procedures (see below). This Registered Supply Point Capacity will set the Maximum Daily Quantity (MDQ) which cannot be less than the Minimum Supply Point Capacity, a quantity determined by the Distribution Transporter. The Shipper will also have to register the Maximum Hourly Quantity (MHQ) at each Supply Point, which shall not be less than 1/24th or greater than 1/8th of the MDQ.
- 3.4 Registered Supply Point Capacity is allocated to the Registered Shipper at the relevant Supply Point. It may not be transferred to another Supply Point.
- 3.5 Registered Shippers may apply for an increase or decrease to the MDQ and/or MHQ, subject to the terms of the DCOP.
- 3.6 Supply Point Capacity will be automatically allocated to the Registered Shipper with effect from the start of the new Contract Year, subject to any adjustments to the quantity of capacity as set out in the DCOP (such as a revised Minimum Supply Point Capacity, Shipper or Distribution Transporter adjustments).
- 3.7 If a Shipper exceeds its Registered Supply Point capacity on any Day, it will be subject to Overrun Charges. Additionally, the Distribution Transporter may increase the Registered Supply Point Capacity to the maximum quantity offtaken by the Shipper.
- 3.8 Interruptible Supply Point Capacity may be made in areas where all available Firm Supply Point Capacity has been allocated, and only until such time as when adequate Firm Supply Point Capacity becomes available again.

Balancing

- 3.9 The Distribution System will be a “pull only” system where the offtake of gas at Exit Points is deemed to be exactly the same as offtake from the Transmission System at Entry Points to the Distribution System for each Shipper. No balancing charges will be incurred under the DCOP.

Shrinkage

- 3.10 Shrinkage costs will be included as part of the Transportation Charges. As such, no specific shrinkage related terms and conditions are included in the DCOP. The Distribution Transporter will remain Cash Neutral in respect of all gas shrinkage costs.

Supply Point Administration

- 3.11 The Supply Point Administration (SPA) procedures provide for Shippers to book capacity and other relevant terms at each Supply Point, to amend these parameters and facilitate the change of Shipper arrangements, with effect from the start of each Month throughout the Gas Year. The Gas Point Registration Operator (GPRO) will, on behalf on the Distribution Transporter, maintain a Gas Point Register that contains all the relevant site, Supply Point and Gas Point details and which Shipper is registered against each Supply Point. The GPRO will also administer the SPA procedures, with the exception of Siteworks.
- 3.12 The main procedures include:
- Request – when a Shipper wishes to sign a new final customer, the process by which it will inform the Distribution Transporter;
 - Offer – when the Distribution Transporter receives a Supply Point Request, the process by which it provides a formal offer to the Shipper including Supply Point details and Transportation Charges;
 - Confirmation – the process by which a Shipper confirms its acceptance of responsibility for transportation of gas to the Supply Point;
 - Amendment – the process to allow a Shipper to request a change to the Supply Point details;
 - Withdrawal – the process by which a Shipper ceases to be the Registered Shipper at the Supply Point and withdraws from its responsibility for transportation of gas to the Supply Point;
 - Isolation – to allow a Shipper to secure that gas cannot be offtaken from the System at the Gas Point(s) in question; and
 - Siteworks – the processes required to allow Shippers/End Users to arrange connection of a new Supply Point to the Distribution System, to increase capacity and to arrange any other appropriate physical alterations to the gas installation.

Nominations

- 3.13 Nominations (and re-nominations) are only required from Registered Shippers at certain pre-determined Nominating Supply Points. The appropriate arrangements for such Supply Points will be contained in an Ancillary Agreement.

Allocation

- 3.14 The quantity of Natural gas offtaken at each eligible Gas Point will be measured on a daily basis. Allocations will be based on these measurements.

Measurement and testing

- 3.15 The Distribution Transporter will be responsible for the installation, maintenance and operation of all metering equipment. Each eligible Gas Point will have appropriate equipment needed to send daily meter readings to the Distribution Transporter.

Quality and pressure

- 3.16 Where Non-Compliant Gas is delivered to the Distribution System the Distribution Transporter will take steps in conjunction with the Transmission Transporter to recover the costs and expenses properly incurred by the Distribution Transporter in consequence of the delivery of Non-Compliant Gas.
- 3.17 Where Off-Spec Gas is delivered at the Exit Point of the Distribution System the Distribution Transporter may be liable to pay certain amounts to the Shipper as determined in the DCOP.
- 3.18 The Distribution Transporter will use reasonable endeavours to make Natural Gas available for offtake from the Distribution System at an Exit Point at a minimum pressure in accordance with Section 12 of the DCOP.

System planning and maintenance

- 3.19 The Distribution Transporter will use all reasonable endeavours to liaise with the Transmission Transporter with the aim of achieving a co-ordinated reinforcement and development programme for both systems.
- 3.20 Scheduled Maintenance will be planned by the Distribution Transporter so as to minimise, where practical, any disruption to, or curtailment of, the Distribution System or the provision of the Standard Service to Shippers.

Emergencies and throughput restrictions

- 3.21 The DCOP makes provision for addressing emergencies, including Emergency Steps, Emergency Contacts and Exit Control, as set out in Section 15 of the DCOP.
- 3.22 During declared Difficult Days and/or Restricted Capacity Days, the Distribution Transporter may restrict the aggregate offtake rate by Shippers and/or restrict the offtake rate at a particular Supply Point(s) to a uniform offtake rate and/or allocate the restricted capacity in a fair and not unduly discriminatory basis.
- 3.23 The Distribution Transporter shall at all times ensure that the integrity of the Distribution System is preserved and may do so, inter alia, through curtailing service on the Distribution System (or any part thereof) whenever local and/or network-wide circumstances so require.

Invoicing and payment

- 3.24 Each month, the Distribution Transporter shall submit a Monthly Invoice to each Shipper (with reasonable supporting detail) no later than 10 days after the start of the month regarding the previous month, showing the amounts payable by that Shipper. Each Shipper shall pay the sums set out in the Monthly Invoice by the defined Due Date (the later of the 20th day of each month or 12 days after receipt of the invoice). Allowance is made for bona fide queries or disputes.

Modifications to the DCOP

- 3.25 Either the Distribution Transporter or the Shippers may propose Modifications to the DCOP in accordance with the provisions of the DCOP. Such consultations in relation to the proposed Modifications in accordance with the provisions of the DCOP, the regulatory regime and the guidelines in place at the time.

4. SUMMARY OF RESPONSIBILITIES

Shippers' Responsibilities

- 4.1 The nature and extent of a Shipper's responsibilities and obligations in respect of the transportation of Natural Gas through the Distribution System are set out in detail in the operative sections of the DCOP. By way of summary, such responsibilities and obligations shall include:
- Deliveries of Natural Gas at an Entry Point conforming to the specifications;
 - The payment of all appropriate charges;
 - The acceptance of Natural Gas at an Exit Point in accordance with the terms of this DCOP (and any Ancillary Agreement) at a quantity not in excess of a Shipper's Registered Supply Point Capacity;
 - The nomination (if required) and offtake of Natural Gas in accordance with the provisions of any Ancillary Agreement (if required);
 - Compliance by a Shipper with, or a Shipper procuring compliance by a Third Party Shipper and/or an End User with,
 - Any applicable law or regulation; or
 - Any provision of the DCOP and the relevant Ancillary Agreement.
 - Compliance, by a Shipper and/or End User, with appropriate instructions and directions of the Distribution Transporter if, in the reasonable opinion of the Distribution Transporter a Shipper and/or End User fails to comply with its responsibilities and obligations such as to have a material and adverse effect on the operation of the Distribution System or any part thereof.

Distribution Transporter's Responsibilities

- 4.2 The nature and extent of a Distribution Transporter's responsibilities and obligations in respect of the transportation of Natural Gas through the Distribution System are set out in detail in the operative sections of the DCOP. By way of summary, such responsibilities and obligations shall include:
- Transporting through the Distribution System quantities of Natural Gas properly nominated (if required) and delivered at an Entry Point by a Shipper;
 - Making available for offtake quantities of Natural Gas from the commingled gas stream in the Distribution System at the Exit Point(s);
 - Carrying out its obligations under the DCOP as a Reasonable and Prudent Operator;

- Operating the Distribution System as a Reasonable and Prudent Operator in a fair, transparent and equitable manner;
- Ensuring that measurement and testing requirements are carried out in accordance with the provisions of the DCOP;
- Carrying out any system planning and scheduled maintenance, in conjunction with the Transmission Transporter, in such a manner as to ensure that the interests of all Shippers (subject to preserving the integrity of the Distribution System) are taken into account as appropriate in accordance with the relevant CEN and Irish Standards;
- Implementing such emergency and related provisions as may be necessary to preserve the integrity of the Distribution System;
- Ensuring there is a mechanism for developing and implementing modifications to the DCOP;
- Ensuring that it is cash neutral in respect of its operations as Distribution Transporter; and
- Complying with relevant Directives (including those referenced in the Introduction of this Executive Summary) and all relevant legislative and regulatory requirements.

The Gas Point Registration Operator (GPRO) Role

4.3 To facilitate the opening of the gas supply market an administrative function within Bord Gáis Distribution has been established. This function is known as the Gas Point Registration Operator or GPRO and will have the following role:

- Maintaining a list of eligible Customers and the associated eligible Gas Points in accordance with the eligibility criteria.
- Maintaining on behalf of the Distribution Transporter, the Gas Point Register that contains all the relevant site, Supply Point and Gas Point details (including supplier details where relevant) and which Shipper is registered against each Supply Point.
- Administration of the SPA procedures as contained in section 7 of the DCOP (with the exception of Siteworks)
- Provision of Daily Meter (DM) data and consumption histories in respect of Supply Points, to End Users, Shippers and suppliers as appropriate and authorised.
- Provision of information to the CER consistent with the performance of its duties as regulator.
- The main point of contact for any queries related to the SPA process

1. DEFINITIONS AND INTERPRETATION

1.1 In this DCOP:

“**Affected Party**” has the meaning given to it in Section 20.1.2.1;

“**Affiliate**” in relation to either the Distribution Transporter or a Shipper means:

(a) a company or corporation which is either a Holding Company or a Subsidiary of such Party; or

(b) a company or corporation which is a Subsidiary of a Holding Company of which such Party is also a Subsidiary;

and the words “Holding Company” and “Subsidiary” shall have the same meaning assigned to them, regardless of the place of incorporation of the Party, as in Section 155 of the Companies Act 1963;

“**Allocation**” means that quantity of Natural Gas allocated to each Shipper for the relevant Day on the Distribution System calculated to have been delivered at an Entry Point(s) and/or offtaken at an Exit Point(s) based on the principles outlined in Section 10;

“**Ancillary Agreement**” means an agreement between the Distribution Transporter and a Shipper, which may be required by the Distribution Transporter, detailing any site specific provisions and /or the terms and conditions of any Enhanced Service Provisions;

“**Annual Consumption**” means in respect of each Shipper's offtake at a Supply Point, the Shipper's actual offtake for the previous Gas Years or the anticipated offtake by the Shipper for the following Gas Year;

“**Annual Quantity**” means the total quantity of natural gas offtaken at a Gas Point during a twelve month period ending on the last day of the last Quarter, as measured according to this DCOP;

“**Arbitration**” means arbitration arranged in accordance with Section 17.1.3;

“**Bar**” has the meaning specified or defined in ISO 1000:1981(E);

“**Business Day**” shall be construed as a reference to a Day (other than a Saturday or Sunday) on which banks are generally open for business in Dublin;

“**Cash Neutral**” means in respect of certain commitments or arrangements as identified within the DCOP, such commitments or arrangements as will result in no financial gain or loss for the Distribution Transporter fulfilling its obligations under the DCOP;

“**CEN**” means the European Committee for Standardisation, of which the NSAI is the national member organisation for Ireland;

“**Charges**” has the meaning given to it in Section 27.1

“**Commission**” or “**CER**” shall mean the Commission for Energy Regulation;

“Commodity Charges” and **“Commodity Charge Elements”** means the commodity tariff element of Transportation Charges;

“Competent Authority” means the CER or any local, national or supra-national agency, authority, department, inspectorate, official, court, tribunal or public or statutory person (whether autonomous or not) of the European Union (including any Member State thereof) which has jurisdiction where relevant over the Distribution Transporter or the Distribution System in relation to any provision contained herein;

“Confidential Information” has the meaning given to it in Section 18.1;

“Confirmed Supply Point Capacity” means the Supply Point Capacity confirmed as being registered with a Shipper at the Supply Point;

“Confirmed MHQ” means the MHQ confirmed as being registered with a Shipper at the Supply Point;

“Consequential Loss” means losses, damages and expenses (including legal expenses) whether or not foreseeable in respect of loss of use of property, loss of contract, profit, production (other than unavoidable loss of production directly caused by a Party) or revenue, or business interruption, or other economic or consequential losses, or increased costs of working of either Party (and/or Third Party’s) howsoever caused under or in connection with the DCOP;

“Contract Year” means a year commencing 0600 1st October and ending the following 0600 1st October;

“Credit Limit” has the meaning given to it in Section 19.1.2;

“D-1” means the day immediately prior to the applicable Gas Day;

“D” means the applicable Gas Day;

“Daily Input” means the input which is deemed to equal the allocated offtake for each Shipper;

“Daily Offtake” means the allocated daily offtake at each Supply Point;

“Daily Overrun Charge” means the charge calculated in accordance with Section 2.9;

“Day” means a period beginning at 06.00 hours on any day and ending at 06.00 hours on the following day;

“Defaulting Party” has the meaning given to it in Section 26.2;

“Difficult Day” has the meaning given to it in Section 15.10;

“Directive” means any present or future directive, regulation, request, requirement, instruction, code of practice, direction or rule of any Competent Authority (but only, if not having the force of law, if it is reasonable in all the circumstances for it to be treated as though it had legal force), and any modification, extension or replacement thereof;

“Disbursement Account” has the meaning given to it in Section 27.1.

“Disclosing Party” has the meaning given to it in Section 18.1.3;

“Discontinuing Shipper” has the meaning given to it in Section 18.4.2;

“Dispute” has the meaning given to it in Section 17.1.1.1;

“Dispute Notice” has the meaning given to it in Section 17.1.2;

“Distribution Network” means a defined network (as determined by the Distribution Transporter) consisting of part of the Distribution System to be used for system planning purposes pursuant to Section 13;

“Distribution Code of Operations” its abbreviation **“DCOP”** means this set of rules for the operation of the Distribution System (as amended, modified or revised) which governs certain aspects of the relationship between the Distribution Transporter and the Shippers on the Distribution System;

“Distribution System” means the distribution pipeline system and associated and ancillary facilities to such pipeline system operated by the Distribution Transporter ;

“Distribution Transporter” means that division of Bord Gais Eireann and its permitted successors and/or assigns with specific responsibilities for operation of the distribution transportation system for the transportation of Natural Gas and other related services to Shippers;

“Distribution Zone” means a geographical area of the Distribution System encompassing one or more Entry Points and their associated Exit Points;

“DM” means daily metered;

“DM Check Read” has the meaning given to it in Section 11.4.1;

“DM Read” has the meaning given to it in Section 11.3.2;

“DM Reconciliation” has the meaning given to it in Section 10.2.1;

“Due Date” has the meaning given to it in Section 19.4.1;

“Eligibility Criteria” means the criteria applicable to a site determined from time to time by the Distribution Transporter that must be satisfied in order for a party to register as a Shipper to that site, including meeting the Single Premises Requirement and the requirement for all eligible Gas Points to be classified as DM. For the avoidance of doubt, the criteria will be consistent with those set out in the Gas (Interim)(Regulation) Act 2002;

“Emergency” has the meaning given to it in Section 15.2;

“Emergency Steps” has the meaning given to it in Section 15.3;

“End of Day Quantity” or its abbreviation **“EODQ”** means the quantity of Natural Gas Offtaken by the end of a Gas Day;

“End User” means a third party who has entered into an agreement with a Shipper to purchase and/or utilise Natural Gas to be offtaken from the Distribution System by that Shipper at an Exit Point. For the avoidance of doubt, an End User can also be a Shipper;

“End User’s Facilities” means any facilities, equipment or other property of an End User, or of a Shipper downstream of the Exit Point(s), in respect of which Natural Gas is offtaken from the Distribution System at such Exit Point(s), which Natural Gas is to be used in respect of such End User’s Facilities (including any plant or equipment in which Natural Gas is compressed or otherwise treated before being consumed);

“Enhanced Service Provisions” means a service provided by the Distribution Transporter to a Shipper over and above the Standard Service which shall be supplemental to the Standard Service and which shall be the subject of a separate Ancillary Agreement between them;

“Entry Point” means a point at which Natural Gas is (or may, in the future be) transferred from the Transmission System to the Distribution System;

“Euro” means the single currency of participating member states of the European Union (as described in any EMU Legislation);

“EURIBOR” means, in relation to any amount to be advanced to, or owing by either the Transporter or a Shipper hereunder on which interest for a given period is to accrue:

(a) the percentage rate per annum equal to the offered quotation which appears on the page of the Telerate Screen which displays an average rate of the Banking Federation of the European Union for the Euro (being currently page 248) for such period at or about 11.00 a.m. (Brussels time) on the quotation date for such period or, if such page or such service shall cease to be available, such other page or such other service for the purpose of displaying an average rate of the Banking Federation of the European Union as the Distribution Transporter shall select; or

(b) if no quotation for the Euro for the relevant period is displayed and the Distribution Transporter has not selected an alternative service on which a quotation is displayed, the arithmetic mean (rounded upwards to four decimal places) of the rates (as notified to the Distribution Transporter) at which each of the Reference Banks was offering to prime banks in the European interbank market deposits in the Euro of an equivalent amount for such period at or about 11.00 a.m. (Brussels time) on the quotation date;

“Exit Point” has the meaning given to it in Section 5.1.2;

“Exit Provisions” has the meaning given to it in Section 5;

“Expert” means any expert appointed in accordance with Section 17;

“Failed Meter Read” has the meaning given to it in Section 11.3.4;

“Failed Meter Read Day” has the meaning given to it in Section 11.3.5;

“Failure to Interrupt Charge” and its abbreviated form “FTI” has the meaning given to it in Section 2.15;

“Firm Allowance” has the meaning given to it in Section 2.15.1;

“Firm Capacity” has the meaning given to it in Section 2.3;

“Firm Supply Point” is a Supply Point for which Firm Capacity has been confirmed;

“Flow Rate” shall be the instantaneous rate of flow of Natural Gas expressed in kW ;

“Force Majeure” means in respect of the Distribution Transporter and/or any Shipper, any event or circumstance or combination of events or circumstances which is beyond its reasonable control and which prevents the Distribution Transporter and/or Shipper from, or causes delay or impediment to the Distribution Transporter and/or Shipper in fulfilling all or any of its/their obligations under this DCOP. Without prejudice to the generality of the foregoing, such events or circumstances shall include without limitation any act or event which arises out of or is attributable to an act of god, war, hostilities (whether or not war has been declared), acts of any civil or military authority, any Legal Requirement, E.U., or Republic of Ireland governmental direction or restriction, the laws, regulations, orders, direction or restriction of the European Union, or suspension or withdrawal of any consent, disaster, fire, flood, epidemic, explosion, the order of any court or regulatory authority in any of the jurisdictions through which the Distribution System passes, or the order of any governmental authority materially affecting industry generally in any of the jurisdictions through which the Distribution System passes, shortage or unavailability of property goods labour or services, breakage of or accidental damage to machinery or pipes, strike, lock-out or other industrial trade dispute, riot, civil commotion, archaeological and historical investigations and/or discoveries, structural shift or subsidence affecting generally a part or parts of the Distribution System or any area or areas of the route of the Pipeline;

“Framework Agreement” is the agreement signed by Shippers by which they accede to the terms of the DCOP;

“Gas Flow Day” means, in relation to the application of any provision of the DCOP, the Day in relation to deliveries, offtakes or flow of Natural Gas or other operations on which such provision is to apply;

“Gas Point” means a metered point at which gas may be offtaken from the System for the purposes of supply direct to a particular final customer premises;

“Gas Point Register” is the register of relevant information established by the Distribution Transporter, including all Gas Points, Supply Points, Supply Point Premises, Registered Shipper and associated information;

“Gas Point Registration Number” means a unique number to record the physical location of the Gas Point;

“Gas Year” means the period of time beginning at 06.00 hours from 1 October of any year to 06.00 hours on 1 October of the next succeeding calendar year;

“Gross Calorific Value” shall be measured "real" and shall mean that number of Megajoules produced by the complete combustion at a constant pressure of one decimal zero one three two five (1.01325) Bar of one (1) Standard Cubic Metre of Natural Gas being free of water vapour at fifteen (15) degrees Celsius with excess air at the same temperature and pressure as the Natural Gas when the products of combustion are cooled to fifteen (15) degrees Celsius and when the water formed by combustion is condensed to the liquid state and the products of combustion contain the same total mass of water vapour as the Natural Gas and air before combustion;

“Hour” shall mean any period of sixty (60) consecutive minutes within the period of a Day;

“IEI” means the Institution of Engineers of Ireland;

“Interruptible Capacity” has the meaning given to it in Section 2

“Interruptible Supply Point” has the meaning given to it in Section 2.10.2;

“Interruption” has the meaning given to in Section 2.14.2;

“Interruption Commencement Time” means the time at which the interruption of offtake of gas becomes effective as specified in the Interruption Notice;

“Interruption Notice” has the meaning given to it in Section 2.14.2;

“Interruption Period” means the period of time for which interruption remains in force;

“Invoice” has the meaning given to it in Section 19.1.3.1;

“Invoice Amount” has the meaning given to it in Section 19.1.3.3;

“Invoice Item” has the meaning given to it in Section 19.1.3.2;

“Isolated Supply Point” has the meaning given to it in Section 7.7.2;

“Isolation” means physical isolation of a Gas Point in order to prevent gas flows to the meter and **“Isolated”** shall be construed accordingly;

“Isolation Sitework Agreement” has the meaning given to it in Section 7.7.7;

“Joule” means the Joule as defined in ISO 1000 - 1981(E);

“kWh” means 3,600,000 Joules;

“kW” means a rate expressed in kWh per hour;

“Legal Requirement” means any Act of The Oireachtas/Parliament, and any Directive;

“Maintenance” has the meaning given to it in Section 14.1.3

“Maintenance Days” has the meaning given to it in Section 14.1.3.2

“Maintenance Programme” has the meaning given to it in Section 14.3.2;

“Maximum Daily Quantity” and its abbreviation **“MDQ”** means the maximum Quantity of Natural Gas which may be offtaken by a Shipper at a Supply Point on any Day consistent with the Registered Supply Point Capacity;

“Maximum Hourly Quantity” and its abbreviation **“MHQ”** shall mean the maximum offtake quantity (expressed in kWh) for any hour during the Day for a Shippers Natural Gas to be offtaken at a Supply Point . The MHQ will be not less than $1/24^{\text{th}}$ and not greater than $1/8^{\text{th}}$ of the MDQ;

“mbar” means one thousandth of a Bar;

“Measurement Equipment” has the meaning given to it in Section 11.2.1;

“Measurement Provisions” has the meaning given to it in Section 11.1.1;

“Mediator” has the meaning given to it in Section 17.2.1;

“Meter Location Details” means the full postal address of the Gas Point;

“Metering Charges” has the meaning given to it in Section 11.8.1;

“Minimum Pressure” has the meaning given to it in Section 12.2.1;

“Minimum Supply Point Capacity” has the meaning given to it in Section 2.3.2;

“Minimum MHQ” has the meaning given to it in Section 7.4.12;

“Modification” has the meaning given to it in Section 22.1.1;

“Month” means a period beginning at 0600 hours on the first (1st) day of any calendar month and ending at 0600 hours on the first day (1st) day of the next succeeding calendar month and the word “Monthly” shall be construed accordingly;

“NSAI” means the National Standards Authority of Ireland.

“Natural Gas” means any hydrocarbons or mixture of hydrocarbons and all associated gases consisting primarily of methane which at 15 degrees Celsius and at atmospheric pressure is (or are) predominantly in a gaseous state;

“New Gas Point” means a Gas Point that has not previously been registered as a Gas Point in the Gas Point Register;

“New Supply Point” means a Supply Point that has not previously been registered as a Supply Point in the Gas Point Register;

“Nominating Supply Point” is a supply point for which the Distribution Transporter requires a gas nomination to be provided on a daily basis. The nomination procedure for which will be set out in an Ancillary Agreement;

“Non-Compliant Gas” has the meaning given to it in Section 12.3.2;

“Non-Defaulting Party” has the meaning given to it in Section 26.2.1 below;

“Notice of Discontinuance” has the meaning given to it in Section 5.8.1

“Objection Deadline” has the meaning given to it in Section 7.4.14;

“Off-Spec Gas” has the meaning given to it in Section 12.3.6;

“Offered Supply Point Capacity” means the Capacity amount shown in a Supply Point Offer;

“Offered MHQ” means the MHQ amount shown in a Supply Point Offer;

“Offtake Profile” means the quantities offtaken for each hour during a Gas Day;

“Offtake Rate” means the Flow Rate of Natural Gas expressed in MW for offtake of Natural Gas at an Exit Point;

“Opening Meter Read” has the meaning given to it in Section 11.3.6;

“Operational Flow Order” has the meaning given to it in Section 15.10.1;

“Other Party” has the meaning given to it in Section 20.1.2.2;

“Party” means a party to this DCOP and “Parties” shall be construed accordingly;

“Permitted Range” means the acceptable range of meter reading accuracy, pursuant to the relevant specifications prevailing at that time, as determined by the Distribution Transporter;

“Plant Trip” means the unexpected technical failure of an End User’s Facilities to operate on any Day under the anticipated operating conditions for that Day;

“President” has the meaning given to it in Section 17.3.1.2;

“Prevailing MHQ” is the reserved MHQ held at any point in time by the Registered Shipper;

“Proposed Supply Point” is a Supply Point that is the subject of a Supply Point Request;

“Quantity” or **“Quantities”** means a quantity of Natural Gas expressed in MWh;

“Quarter” shall mean a period of three (3) months, with each successive Quarter commencing at 06:00 hrs on 1 October, 1 January, 1 April and 1 July respectively;

“Quotation Date” means, in relation to any period for which an interest rate is to be determined hereunder, the day on which quotations would ordinarily be given by prime banks in the relevant interbank market is for deposits in the currency in relation to which such rate is to be determined for delivery on the first day of that period, provided that, if, for any such period, quotations would ordinarily be given on more than one date, the Quotation Date for that period shall be the last of those dates;

“Reasonable and Prudent Operator” and its abbreviation **“RPO”** means a person seeking in good faith to perform its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and

foresight which would reasonably and ordinarily be expected of a skilled and experienced operator complying with applicable law and engaged in the same type of undertaking and under the same or similar circumstances and conditions, and the expression “the Standard of a Reasonable and Prudent Operator” shall be construed accordingly;

“**Receiving Party**” has the meaning given to it in Section 18.1.4;

“**Reconciliation Charges**” means the total of any Reconciliation Transportation Charge Adjustments;

“**Reconciliation Transportation Charge Adjustment**” has the meaning given to it in Section 10.2.2;

“**Referral Notice**” has the meaning given to it in Section 7.2.6;

“**Registered Shipper**” in respect of a Supply Point is the Shipper in whose name the Supply Point is registered;

“**Registered Supply Point Capacity**” means a quantity of daily capacity (the MDQ) which is registered in the name of the Shipper (in the Gas Point Register) for the purposes transportation of Shipper’s Natural Gas subject to and in accordance with the provisions of the DCOP;

“**Registered MHQ**” means a quantity of hourly capacity (the MHQ) which is registered in the name of the Shipper (in the Gas Point Register) for the purpose of transportation of Shipper’s Natural Gas subject to and in accordance with the provisions of the DCOP;

“**Restricted Capacity**” has the meaning given to it in Section 15.10.3;

“**Restricted Capacity Day**” has the meaning given to it in Section 15.10.3;

“**Resumption Notice**” has the meaning given to it in Section 2.14.4;

“**Scheduled Maintenance**” has the meaning given to it in Section 14.1.3.3;

“**Shipper**” means any person, that has been granted a Natural Gas Licence for the purpose of shipping Natural Gas by the CER under the Gas (Interim)(Regulation) Act, 2002, and having an entitlement by way of a Framework Agreement to the DCOP with the Distribution Transporter to transport Natural Gas through the Distribution System or any part thereof for offtake at a Supply Point, whether for its own use or for use by a third party as an End User (the term “Shipper” shall include a Shipper’s permitted successors and/or assigns);

“**Single Premises Requirement**” is the requirement that where a Supply Point is comprised of more than one Gas Points, then Natural gas offtaken from the Distribution System at all of such Gas Points is to be supplied to premises:

- i) owned and occupied by one person;
- ii) in close geographical proximity to each other;
- iii) comprised within a common curtilage; and

iv) which serve each other in some necessary or reasonably useful way.

“**Siteworks**” has the meaning given to it in Section 7.8.1;

“**Siteworks Applicant**” has the meaning given to it in Section 7.8.2;

“**Siteworks Completion Date**” has the meaning given to it in Section 7.8.2;

“**Siteworks Contract**” has the meaning given to it in Section 7.8.2;

“**Siteworks target Completion Date**” has the meaning given to it in Section 7.8.2;

“**Specifications**” has the meaning given to it in Section 12.1;

“**Standard Cubic Metre**” when applied to Natural Gas means that quantity which is free of water vapour at fifteen degrees Celsius (15°) and, at an absolute pressure of one decimal zero one three two five (1.01325) Bar, occupies the volume of one (1) cubic metre;

“**Standard Service**” has the meaning given to it in Section 2.3;

“**Supply Point**” means a System Exit Point comprising of one or more Gas Points registered in the name of a Registered Shipper pursuant to a Supply Point Registration (or the subject of a Proposed Supply Point Registration);

“**Supply Point Adjustment Quantity**” has the meaning given to it in Section 11.5.2;

“**Supply Point Amendment Request**” and its abbreviated form “**SPAR**” has the meaning given to it in Section 7.5.1;

“**Supply Point Amendment Decision**” has the meaning given to it in Section 7.5.4;

“**Supply Point Capacity**” means the amount of exit capacity held by the Registered Shipper at that Supply Point in terms of MDQ;

“**Supply Point Confirmation**” has the meaning given to it in Section 7.4;

“**Supply Point Confirmation Cancellation**” means a proposing Shippers right to withdraw its confirmation prior to the Objection Deadline;

“**Supply Point Request**” has the meaning given to it in Section 7.1;

“**Supply Point Objection**” means a Registered Shipper’s right to object to a Supply Point Confirmation;

“**Supply Point Offer**” has the meaning given to it in Section 7.3;

“**Supply Point Premises**” means the identified premises to which gas offtaken at a Supply Point is to be supplied;

“**Supply Point Ratchet**” has the meaning given to it in Section 2.9.7.

“Supply Point Reference Number” means the number generated by the Distribution Transporter for each shipper as a result of Supply Point Registration;

“Supply Point Registration” means the registration of one or more Supply Points in the name of a Shipper.

“Supply Point Registration Date” has the meaning given to it in Section 7.4.9;

“Supply Point Withdrawal” has the meaning given to it in Section 7.6;

“System” has the same meaning as **“Distribution System”**;

“Tariff” shall mean the charges as determined by the Distribution Transporter;

“Termination Notice” has the meaning given to it in Section 26.2.1;

“Third Party” means a person who can demonstrate to the reasonable satisfaction of the Distribution Transporter that such person has a direct interest in the DCOP including (but not limited to) an End User and a bona fide future Shipper;

“Third Party Access” and its abbreviation **“TPA”** means access to transportation services for parties that meet the Eligibility Criteria;

“Transportation Charges” means charges payable by Shippers to the Distribution Transporter in respect of transportation services in accordance with the statement of transportation charges;

“Transmission Code of Operations” its abbreviation **“TCOP”** means the set of rules for the operation of the Transmission System (as amended, modified or revised);

“Transmission Transporter” means that division of Bord Gais Eireann and its permitted successors and/or assigns with specific responsibilities for operation of the transmission transportation system for the transportation of Natural Gas to the Distribution Transporter and other related services;

“Transmission System” means the transmission pipeline system and associated facilities operated by the Bord Gais Eireann Transmission business unit.;

“Valid Meter Read” has the meaning given to it in Section 11.3.3;

“Validation Procedures” are the procedures adopted by the Distribution Transporter for the purposes on validating DM Reads;

“Value” means the amount by which a claimant or plaintiff is reasonably likely to gain if it succeeds in its claim in the Dispute. Where the Dispute Notice claims an amount, then that amount shall be the Value of the Dispute, provided that such amount is a reasonable estimation of the amount likely to be awarded by an Expert or court ;

“Winter Period” means the period from 0600 hours on the 1st December up to 0600 hours on the 1st April;

“Wilful Misconduct” means, in relation to the Distribution Transporter or a Shipper, a wilful or deliberate disregard for its obligations under this DCOP or any Ancillary Agreement with the intent to create or confer a material commercial advantage on the said Distribution Transporter or Shipper or to deprive the other party of, commercial advantage;

“Withdrawing Gas Points” has the meaning given to it in Section 7.6.2;

“Withdrawing Shipper” has the meaning given to it in Section 7.6.2;

“Withdrawing Supply Point” has the meaning given to it in Section 7.6.2;

1.2 Interpretation

1.2.1 Unless the context otherwise requires, any reference in this DCOP to:

1.2.1.1 any gender includes the other;

1.2.1.2 a statute, by-law, regulation, delegated legislation or order is to the same as amended, modified or replaced from time to time and to any by-law, regulation, delegated legislation or order made thereunder;

1.2.1.3 any agreement or instrument is to the same as amended, novated, modified, supplemented, revised or replaced from time to time;

1.2.1.4 "including" means comprising, but not by way of limitation, any class, list or category;

1.2.1.5 a person shall be construed as a reference to any person, firm, company, corporation, government or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing;

1.2.1.6 time shall be construed by reference to whatever time may from time to time be in effect in Ireland; and

1.2.1.7 the singular shall include the plural and vice versa.

1.2.1.8 Where a word or expression is defined in this DCOP, cognate words and expressions shall be construed accordingly.

1.2.1.9 Section and Section headings in this DCOP are for ease of reference only and shall not affect its construction.

1.2.1.10 References to “the DCOP” shall mean the Sections, Schedules and Appendices of this code and shall be read as one document.

2. CAPACITY

2.1 Overview

- 2.1.1 A Shipper shall be entitled to Supply Point Capacity in the Distribution System to offtake Natural Gas from the Distribution System subject to and in accordance with the terms of this DCOP.
- 2.1.2 The Distribution Transporter shall act as a Reasonable and Prudent Operator and Shippers shall act in a reasonable and prudent manner in performing its respective rights and obligations under this DCOP other than in respect of those circumstances set out in Section 2.1.3.
- 2.1.3 Each of the Distribution Transporter and Shippers shall be relieved from all liability for failure to perform their respective rights and obligations in accordance with section 2.1.2 where such failure arises:
 - 2.1.3.1 during an Emergency (Section 15.2) and/or
 - 2.1.3.2 in any other unusual or exceptional circumstances provided that in the event of a dispute as to what is meant by “unusual or exceptional circumstances”, either the Distribution Transporter or the Shippers may refer the matter to the CER. The decision of the CER shall be final and binding on the Distribution Transporter and the Shippers.

2.2 Registered Supply Point Capacity

- 2.2.1 Supply Point Capacity shall be made available to Shippers subject to the prevailing Natural Gas pressure at the distribution Entry Points and the capacity of the Distribution System provided that the Distribution Transporter, shall at all times use all reasonable endeavours to co-ordinate with the Transmission Transporter to ensure sufficient pressure is available to meet the delivery requirements of each Shipper’s Registered Supply Point Capacity in accordance with the DCOP.
- 2.2.2 Supply Point Capacity may only be reserved in accordance with the procedures at Section 7 in respect of a Supply Point that meets the Eligibility Criteria.
- 2.2.3 Any Registered Supply Point Capacity made available to a Shipper shall not be deemed to confer on any Shipper any entitlement to manage or control or participate in the management or control of the Distribution System. The Shipper expressly acknowledges that the Distribution Transporter shall have and retain full, complete and unencumbered rights to control and manage the operation of the Distribution System and the flow and pressure of Natural Gas in the Distribution System in whatever manner as the Distribution Transporter deems fit, provided always that the Distribution Transporter shall act in a not unduly discriminatory manner in the exercise of its rights, or the performance of its obligations, under the DCOP.

2.2.4 Capacity registration occurs as a part of the process to become the Registered Shipper at a Supply Point in accordance with Section 7.

2.3 Standard Service

2.3.1 A Shipper shall be allocated a quantity of Registered Supply Point Capacity in respect of each of the Supply Points for which it is the Registered Shipper in accordance with the procedures in Section 7.

2.3.2 The Distribution Transporter will determine the minimum level of Supply Point Capacity to be registered at each Supply Point based on the expected consumption derived from recent historical analysis (where available) or such other information as the Distribution Transporter deems as appropriate (the “Minimum Supply Point Capacity”). For the avoidance of doubt, this will be a daily quantity.

2.3.3 The Registered Supply Point Capacity will set the MDQ which cannot be less than the Minimum Supply Point Capacity. For the avoidance of doubt, Shippers may request to reserve a higher level of capacity than the Minimum Supply Point Capacity which may be granted at the sole discretion of the Distribution Transporter.

2.3.4 The MDQ shall not be greater than 24 times or less than 8 times the MHQ .

2.3.5 In accordance with Section 7.1, the Shipper shall request an MDQ and MHQ for each Supply Point. The Distribution Transporter will then confirm the applicable MDQ and MHQ in the Supply Point Offer in accordance with Section 7.4.

2.3.6 All Registered Supply Point Capacity will be deemed not to be subject to interruption to the offtake of Natural Gas in accordance with this Section 2 (“Firm Capacity”) unless the capacity has been registered as interruptible in accordance with Section 7.

2.4 Shipper Adjustments to the MDQ

2.4.1 Shippers may apply to the Distribution Transporter for adjustments (either an increase or decrease) to the MDQ by submitting a SPAR in accordance with Section 7.3.

2.4.2 A Shipper may apply for a reduction in MDQ effective from the commencement of the next Contract Year at least 3 calendar months prior to the start of the next Contract Year.

2.4.3 Where a reduced MDQ is accepted by the Distribution Transporter for a Supply Point it will apply to the Supply Point for a minimum of one (1) full Contract Year.

2.4.4 A Shipper may apply for an increase in MDQ at any time effective after the end of one full Contract Year during which the capacity was registered at the reduced amount ;

- 2.4.5 The Distribution Transporter may allow an increase in the MDQ before the end of one full Contract Year in the event that in its opinion the Supply Point has undergone any significant development resulting in an increase in gas demand.
- 2.4.6 The Distribution Transporter may:
 - 2.4.6.1 allow the adjustment to the MDQ;
 - 2.4.6.2 refuse the adjustment to the MDQ on the basis that it would not be economically efficient, or, in the case of a request for an increase, on the basis that insufficient capacity is available; or
 - 2.4.6.3 allow the adjustment to the MDQ subject to the Shipper entering into an Ancillary Agreement.
- 2.4.7 For the avoidance of doubt, development of a Supply Point (or Siteworks) will not automatically entitle a Shipper to additional capacity at that Supply Point.
- 2.4.8 Shipper requests for a shorter notice period and/or a different start date pursuant to Section 2.4.2 will be considered by the Distribution Transporter who may agree to the request where in its sole discretion it considers that this is beneficial to the economic and efficient operation of the System.
- 2.4.9 An application for an increase in MDQ (other than pursuant to Section 2.4.4) shall be effective to commence at the start of the next Month subject to same being available to the Distribution Transporter.

2.5 Shipper Adjustments to the MHQ

- 2.5.1 Shippers may apply to the Distribution Transporter for adjustments (either an increase or decrease) to the MHQ at any time by submitting a SPAR in accordance with Section 7.4 who may agree to such adjustments in accordance with this section.
- 2.5.2 The Distribution Transporter may:
 - 2.5.2.1 allow the adjustment to the MHQ;
 - 2.5.2.2 refuse the adjustment to the MHQ on the basis that it would not be economically efficient, or, in the case of a request for an increase, on the basis that insufficient capacity is available; or
 - 2.5.2.3 allow the adjustment to the MHQ subject to the Shipper entering into an Ancillary Agreement.
- 2.5.3 For the avoidance of doubt, development of a Supply Point (or Siteworks) will not automatically entitle a Shipper to additional capacity at that Supply Point.
- 2.5.4 For the avoidance of doubt, an Ancillary Agreement will be required if :
 - 2.5.4.1 The MHQ range is outside the limits of Section 2.3.4; or

2.5.4.2 Any limitations to the periods when the MHQ applies.

2.6 Capacity Transfer

2.6.1 Registered Supply Point Capacity in respect of a particular Supply Point:

2.6.1.1 may not be transferred to another Supply Point

2.6.1.2 will be allocated to the Registered Shipper in accordance with Section 7.

2.6.1.3 will be transferred to the new Registered Shipper in accordance with Section 7.

2.7 Capacity Renewal

2.7.1 Prior to the commencement of each Contract Year the Distribution Transporter will review the Minimum Supply Point Capacity for each Supply Point.

2.7.2 Where the Registered Supply Point Capacity is greater than the new Minimum Supply Point Capacity, it will remain at the prevailing level and will automatically be allocated to the Registered Shipper with effect from the start of the next Contract Year.

2.7.3 Where the Registered Supply Point Capacity is less than the new Minimum Supply Point Capacity, it will be increased to this new minimum level with effect from the start of the next Contract Year. The Registered Shipper will be informed of the increase in capacity at least two months prior to the start of the Contract Year in which the increased capacity is applicable.

2.8 Distribution Transporter Adjustments to the Registered Supply Point Capacity and Registered MHQ

Increases

2.8.1 The Distribution Transporter may increase the Registered Supply Point Capacity in accordance with

(i) Section 2.7.3; and

(ii) Section 2.9 where a Shipper has exceeded its Registered Supply Point Capacity entitlement and incurred Overrun Charges in accordance with section 2.9.7.

2.8.2 The Distribution Transporter may increase the Registered MHQ to a level consistent with that determined (by measurement or deeming) to be the prevailing MHQ. This change will be with effect from the start of the next Month until the end of the Contract Year. The Shipper will be informed of any such change by the Distribution Transporter.

Decreases

2.8.3 If a Registered Shipper does not utilise all or any of its Registered Supply Point Capacity for a period of at least one year or more (other than where, and to the

extent that, such non utilisation is due to an event of Force Majeure), the Distribution Transporter, if it considers such non utilisation will be prejudicial to the economic integrity of the Distribution System, or system planning, may serve notice of not less than 3 months on such Shipper of its intent to cancel such unused Registered Supply Point Capacity of such Shipper. Unless the Shipper is able to demonstrate, to the Distribution Transporter's reasonable satisfaction having due regard to all circumstances including the Shippers' obligations under this Code, that such non utilisation is justified, such unused capacity may be cancelled with effect from the expiry of any notice served and the Distribution Transporter may amend accordingly, by notice, the Registered Supply Point Capacity to the extent necessary to reflect such cancelled Registered Supply Point Capacity. Any decision by the Distribution Transporter to cancel a Shipper's unused Registered Supply Point Capacity in accordance with the provisions of this Section 2, may be disputed by a Shipper and referred by such a Shipper to the CER to resolve and until such time as the CER determines the matter in the Distribution Transporter's favour, the said cancellation shall not take effect.

2.8.4 If, in the course of the planning process as specified in Section 13, it becomes apparent that the Distribution Transporter is unable to fulfil its obligations to transport Natural Gas up to the prevailing level of Firm Capacity booked in any part of the Distribution System the Distribution Transporter will take the following steps.

2.8.4.1 All Registered Shippers of Firm Supply Points with an expected annual take greater than [3,000,000] kWh within the affected area will be informed that an interruptible capacity service is available for the affected Supply Points.

2.8.4.2 The Distribution Transporter will accept applications for the transfer of Firm Supply Point capacity to Interruptible Supply Point capacity to the extent necessary to alleviate a constraint.

2.9 Daily Overrun Charges

2.9.1 If a Shipper exceeds the MDQ (Registered Supply Point Capacity), the Shipper shall (i) incur a Daily Overrun Charge, and (ii) may be required on notice by the Distribution Transporter to reduce forthwith its offtake/throughput to the level of the MDQ .

2.9.2 The Daily Overrun Charge will be a multiple of the annual capacity Tariff applying to the MDQ (Registered Supply Point Capacity), subject to a maximum annual cap as set out in Section 2.9.3, for each and every Day that the Registered Supply Point Capacity is exceeded and shall be levied in respect of, and only to the extent of, the amount by which the Registered Supply Point Capacity is so exceeded.

2.9.3 The multiplier and cap referred to in Section 2.9.2 shall vary as follows:

Period	Multiplier	Cap
Gas Year	1.5	3

- 2.9.4 For the avoidance of doubt, the cap refers to the limit of the number of multiples of the annual capacity Tariff that will be applied in that Contract Year. The cap will be applied to the maximum amount by which the MDQ is exceeded in any Contract Year.
- 2.9.5 On a day declared by the Distribution Transporter as a Difficult Day, the multiplier will be two times those shown in Section 2.9.3.
- 2.9.6 The Daily Overrun Charge applicable in the case of an overrun at an Interruptible Supply Point will be calculated at the rate applicable to a Firm Supply Point multiplied in accordance with Section 2.9.2.
- 2.9.7 If a Shipper exceeds the Registered Supply Point Capacity at a Supply Point on [two] or more Days in a Contract Year, such Shipper shall, if the Distribution Transporter so decides and determines that such additional capacity is available on the System, be obliged to take and pay for such increased level of Registered Supply Point Capacity up to the maximum quantity offtaken in any Day by such Shipper in the said Contract Year. This will be notified by the Distribution Transporter and the relevant Registered Supply Point Capacity shall be amended accordingly (and the Shipper shall pay for the revised level of capacity) with effect from the start of the next Month until the end of the Contract Year (a “Supply Point Ratchet”). For the avoidance of doubt, this process may be repeated if the Shipper subsequently exceeds the revised Registered Supply Point Capacity (following the application of the most recent Supply Point Ratchet), subject to this Section 2.9.7.
- 2.9.8 If, in the Distribution Transporter’s sole opinion the Shipper’s exceeding its Registered Supply Point Capacity represents a threat to the safe operation of the system, the Distribution Transporter may isolate the Supply Point at which the Registered Supply Point Capacity has been exceeded.

2.10 Interruptible Service

- 2.10.1 Interruptible Supply Point Capacity may, at the sole discretion of the Distribution Transporter, be made available in areas where all available Firm Supply Point Capacity has been allocated.
- 2.10.2 Interruptible Supply Points are Supply Points for which interruptible capacity has been registered.
- 2.10.3 Supply Points with an expected annual consumption of more than [3,000,000] kWh will be eligible to be Interruptible Supply Points, subject to Section 2.10.1.

2.11 Registering Interruptible Capacity

- 2.11.1 Interruptible capacity should be registered for the Supply Point in accordance with the procedures in Section 7.
- 2.11.2 Capacity for any one Supply Point must be either entirely Firm Supply Point capacity or entirely Interruptible Supply Point capacity.

- 2.11.3 A Shipper who is the proposing Shipper for an Interruptible Supply Point shall provide the following information to the Distribution Transporter prior to the Supply Point Registration Date:
- 2.11.3.1 A single telephone number and a single facsimile number of a representative(s) of the Shipper available for contact by the Distribution Transporter 24 hours a Day and on each Day of a Gas Year, for any purpose pursuant to Section 2.14.
- 2.11.3.2 The Shipper warrants that each such Shipper representative is a person having appropriate authority and responsibilities within a Shipper's organisation to act as the primary contact for the Distribution Transporter in the event of an interruption at a Supply Point in accordance with Section 2.14.

2.12 Firm to Interruptible

- 2.12.1 For Firm Supply Points where an interruptible service becomes available and is offered by the Distribution Transporter, the Registered Shipper may apply to transfer Firm Supply Point capacity to Interruptible Supply Point capacity by submitting a SPAR in accordance with Section 7.5.
- 2.12.2 A transfer of a Firm Supply Point to an Interruptible Supply Point can only take place with effect from the beginning of a Contract Year and must be applied for at least 3 months before the start of the Contract Year to which the application relates.
- 2.12.3 Shipper requests for a shorter notice period other than as specified above will be considered by the Distribution Transporter who may agree to the request where in its sole discretion it considers that this is beneficial to the Distribution System.

2.13 Interruptible to Firm

- 2.13.1 A Registered Shipper of an Interruptible Supply Point may apply, by submitting a SPAR, to transfer the Interruptible Supply Point Capacity to Firm Supply Point Capacity at any time. The Distribution Transporter will permit the transfer to Firm Supply Point Capacity where in its sole discretion it determines that sufficient Firm Supply Point Capacity is available on the Distribution System.
- 2.13.2 If the Distribution Transporter deems that sufficient firm capacity is available, Interruptible Supply Point Capacity will be transferred to Firm Supply Point Capacity with effect from the start of the following Contract Year.
- 2.13.3 The Distribution Transporter will give the relevant Shipper as much notice as is reasonably practicable, and in any event this shall not be less than 2 months prior to the start of the following Contract Year and the transfer will be effective from the start of the following Contract Year.

2.14 Interruption Rights of the Distribution Transporter

- 2.14.1 The Distribution Transporter will have the right to interrupt the offtake of gas to Interruptible Supply Points on up to 30 Days in each Contract Year.

- 2.14.2 When in the opinion of the Distribution Transporter demand is likely to exceed the available physical capacity of the System the Distribution Transporter will issue a notice (“the Interruption Notice”) to the Registered Shipper(s) or its representative of the Supply Point(s) affected that the offtake of gas shall be interrupted (“the Interruption”) with effect from the time specified in any such notice until the Interruption Termination Time specified in a Resumption Notice is served by the Distribution Transporter as hereinafter contemplated.
- 2.14.3 The Interruption Notice will be issued by facsimile at least 5 hours prior to the commencement of the Interruption and will be deemed to have been received when fax confirmation sheet is received by Distribution Transporter.
- 2.14.4 The Interruption will remain in force from the time specified in the Interruption Notice until the Distribution Transporter issues a notice (“the Resumption Notice”) specifying the time at which the Interruption shall cease as soon as is reasonably practicable to do so.
- 2.14.5 If the Interruption is continued into the next Day the Distribution Transporter will issue another Interruption Notice.
- 2.14.6 Interruption for a part of a Day will count as a full day towards the Distribution Transporter’s interruption entitlement.

2.15 Failure to Interrupt

- 2.15.1 All Interruptible Supply Points will be allocated an allowance (the “Firm Allowance”) specifying the quantity of gas that may be offtaken whilst an interruption is in force.
- 2.15.2 The Firm Allowance is ten (10) percent of the MDQ/24 for each hour during which the interruption is in force.
- 2.15.3 If gas offtaken at a Supply Point exceeds the Firm Allowance, the Registered Shipper will pay the Failure to Interrupt Charge (FTI) which will be calculated based on the MDQ.
- 2.15.4 The FTI charge will be two (2) times the annual capacity charge and will be levied in respect of the full MDQ that would be payable if the Supply Point was designated as a Firm Supply Point. The Charge will be incurred for each and every Day (or part thereof) that the Supply Point offtake exceeds the Firm Allowance.
- 2.15.5 Where for any reason there is a failure to interrupt at a Supply Point (including Force Majeure) , the Distribution Transporter may take any steps available to it to isolate or disconnect any or all of the Gas Points at the Supply Point.
- 2.15.6 The Distribution Transporter reserves the right to isolate any Supply Point for which a Failure to Interrupt Charge has been levied.

3. BALANCING

- 3.1 The quantity of Natural Gas oftaken from the Distribution System at the Supply Point for each Shipper is deemed to be exactly the same quantity oftaken from the Transmission System for that Shipper.
- 3.2 For the avoidance of doubt, the Distribution Transporter will inform the Transmission Transporter of the quantity of Natural Gas oftaken by each Shipper. No balancing charges will be incurred under the DCOP.

4. ENTRY POINTS

4.1 Overview

- 4.1.1 Entry Points are the points where the Natural Gas is transferred to the Distribution System from the Transmission System. .
- 4.1.2 Natural Gas entering the Distribution System at an Entry Point shall comply with the quality specification specified in the TCOP.
- 4.1.3 The Distribution Transporter will make all relevant Entry Point arrangements with the Transmission Transporter .
- 4.1.4 Entry Points and Supply Points will be assigned to a Distribution Zone.
- 4.1.5 The quantity of Natural Gas entering the Distribution System at an Entry Point in a Distribution Zone from each Shipper, will be deemed to be the same as the quantity of Natural Gas allocated to that Shipper at the Supply Points assigned to the Entry Point. No further allocation process will be carried out in respect of the Entry Points.

4.2 Gas Entry Conditions

- 4.2.1 “Gas Entry Conditions” are the limits or other requirements (including, without limitation, those matters referenced in Section 12) as to the composition, pressure, flow rate, temperature and other characteristics of Natural gas delivered or tendered for delivery to the Distribution System at the point(s) of delivery.

5. EXIT REQUIREMENTS

5.1 Overview

- 5.1.1 The provisions of this Section 5 shall apply in respect of the offtake of Natural Gas from the Distribution System at Exit Points. Nothing in the DCOP confers on any person any entitlement to have any premises, pipeline, plant or other installation connected to the Distribution System for the purposes of offtaking Natural Gas from the Distribution System.
- 5.1.2 An “**Exit Point**” shall be that point within a Distribution Zone at which Natural Gas is offtaken by Shippers from the Distribution System. There may be specific requirements in respect of each Exit Point for the offtake of Natural Gas from the Distribution System to include, inter alia, pressure, volumes, measurement, ramp rates, offtake rates, MDQ, MHQ and notice periods which will be embodied in an Ancillary Agreement between each Shipper and the Distribution Transporter.
- 5.1.3 The metering and measurement conditions required at an Exit Point are set out in Section 11 of this DCOP (Measurement and Testing). Specific measurement requirements relevant to each Exit Point (if any) will be set out in the relevant Ancillary Agreement with each Shipper.

5.2 DCOP/Statutory obligations

- 5.2.1 Nothing in the DCOP shall prevent the Distribution Transporter from exercising any statutory and/or regulatory entitlement or discharging any statutory and/or regulatory duty. This may involve the disconnection of or refusal to convey Natural Gas, or to allow Natural Gas to be conveyed, to any End User’s Facilities.
- 5.2.2 Where under the DCOP or under any applicable legislation, Legal Requirements or directive the Distribution Transporter has, inter alia, exercised or is entitled to exercise any right to isolate, or is required to isolate, any End User’s Facilities, the Distribution Transporter will not be in breach of its obligation to make Natural Gas available for offtake from the Distribution System at the relevant Exit Point(s).

5.3 Offtake Metering

- 5.3.1 At each Exit Point there shall be installed, operated and maintained an offtake point DM meter installation for measuring and registering the volume of Natural Gas offtaken from the Distribution System at such Exit Point in accordance with the provisions of Section 11.

5.4 Offtake Requirements

- 5.4.1 Offtake requirements as to Natural Gas composition and Minimum Pressure shall be established in accordance with Section 12 of the DCOP and with any Legal Requirements or directives or regulations from time to time applying and set out, where appropriate, in section 12 of this DCOP or the relevant Ancillary Agreement in respect of Natural Gas to be delivered to an Exit Point.

5.5 Offtake of Natural Gas from the Distribution System

- 5.5.1 For the avoidance of doubt, a Shipper's obligation to pay Transportation Charges shall not be affected by the existence of any circumstances under which, in accordance with the DCOP, the Distribution Transporter is not obliged to, or is not in breach of its obligation to, make Natural Gas available for offtake from an Exit Point.
- 5.5.2 Shippers will indemnify the Distribution Transporter against all claims, charges, demands and payments due or arising downstream of an Exit Point in respect of any person (including itself and any End Users) offtaking directly or indirectly Natural Gas from the Distribution System at an Exit Point subject to Section 12.3.

5.6 Shippers' Offtake Obligations

- 5.6.1 In any Day, a Shipper shall, subject to Section 15, be entitled to offtake such Quantities as it shall have delivered to the Distribution System, up to the MDQ.

- 5.6.2 Where in the Distribution Transporter's judgement:

- 5.6.2.1 Natural Gas is being offtaken from the Distribution System at a rate which exceeds the MHQ ; and

- 5.6.2.2 the integrity of the Distribution System is prejudiced as a result, or where the service to other Shippers may be adversely affected or compromised;

the Distribution Transporter may take any appropriate steps available to it to secure the required reduction in the rate of, or the discontinuance of, the offtake of Natural Gas from the Distribution System at the Exit Point.

These steps may, following (where practicable) appropriate notice, include the disconnection of the relevant offtake but (without prejudice to any provision of the DCOP) the Distribution Transporter will endeavour not to take this step where in its opinion alternative steps are available and adequate in the circumstances.

- 5.6.3 The Distribution Transporter will not be obliged under any provision of the DCOP to make Natural Gas available for offtake from the Distribution System by a Shipper at an Exit Point:

- 5.6.3.1 at any time, at a rate which exceeds the MHQ;

- 5.6.3.2 on any Day, of a quantity which exceeds the Shipper's MDQ .

5.7 Gas Offtaken at Exit Point: Compressors

- 5.7.1 Where an End User uses Natural Gas for supplying a compressor the Shipper shall immediately notify the Distribution Transporter and the Shipper shall enter into an Ancillary Agreement with the Distribution Transporter.

- 5.7.2 The Shipper shall, if so required by the Ancillary Agreement, fix (or procures that an End User fixes) an appliance which will effectively prevent pressure fluctuation in the supply mains and any other inconvenience or danger being

caused to the Distribution Transporter or the Distribution System or other consumers of Natural Gas.

- 5.7.3 Where a Shipper is required by this Section 5.7 to keep in use any such appliance, the Shipper shall at its own expense keep it in proper order and repair and replace it if it is not in proper order or repair or procure that the End User will do so.
- 5.7.4 If the Shipper defaults in complying with any provision of this Section 5.7, the Distribution Transporter may suspend offtake of Natural Gas by a Shipper at the relevant Exit Point and shall not be required to resume the supply of such Natural Gas until the default has been remedied to the reasonable satisfaction of the Distribution Transporter.

5.8 Discontinuance of Supply at Exit Point

- 5.8.1 If the Distribution Transporter has reason to believe that any Shipper (or End User, for whom the Shipper has procured Natural Gas,) has offtaken Natural Gas other than in accordance with the DCOP (including the provisions of Section 12.3) and the relevant Ancillary Agreement (if any), or has offtaken Natural Gas so as to prejudice the integrity of the Distribution System or any part thereof or interfere with the offtake of Natural Gas elsewhere on the Distribution System, the Distribution Transporter may discontinue the supply of Natural Gas to the Exit Point until the interference is remedied or, the integrity of the Distribution System is restored to the reasonable satisfaction of the Distribution Transporter and there shall be no obligation on the Distribution Transporter to provide a notice of such discontinuance (“**Notice of Discontinuance**”) in those circumstances where the Distribution Transporter deems it necessary to effect such discontinuance without notice. Offtaken Natural Gas, in the context of this Section 5.8, means Natural Gas offtaken from the Distribution System at an Exit Point.
- 5.8.2 Notwithstanding discontinuance of Supply the Shipper will remain liable for all Transportation Charges in respect of the Supply Point for so long as the Shipper is the Registered Shipper at that Supply Point.

5.9 Access to Facilities

- 5.9.1 The Distribution Transporter shall have such right of access at all reasonable and necessary times to the End User Facilities (including where such facilities are located downstream of the Exit Point) and to the premises (if any) of any third party to whose property or premises Natural Gas is delivered, without charge and as may be required, for the sole purposes of exercising its rights in accordance with the relevant sections of the DCOP and/or to verify compliance with the requirements of the Ancillary Agreement (if any). Where such premises do not belong to the Shipper, the Shipper shall ensure that it enters into an agreement with such End User (or third party) to enable such rights of access to be available to the Distribution Transporter.
- 5.9.2 Without limiting the foregoing provisions of this Section 5.9, where any Natural Gas offtaken at an Exit Point is for use by an End User, not being the Shipper, the Shipper shall ensure that such End User is bound by the provisions of the DCOP to the extent necessary and the relevant Ancillary Agreement (if any) by a deed of

adherence or otherwise so as to ensure compliance therewith by such End User. In the event the Shipper does not procure such End User to be so bound by the provisions of the DCOP and Ancillary Agreement (whether by a deed of adherence or otherwise) the Distribution Transporter shall be entitled to stop transporting such Shipper's Natural Gas and the rights of the Shipper under DCOP (but not the obligations) shall be suspended accordingly until such time as such End User does become so bound by the provisions of the DCOP but without prejudice to the continuing obligation on the Shipper to pay the capacity component of the Tariff.

6. SHRINKAGE

6.1 Overview

- 6.1.1 For the avoidance of doubt, shrinkage cost will be included as part of the Transportation Charges only. As such, no shrinkage related terms and conditions are included in this DCOP.
- 6.1.2 The Distribution Transporter shall remain Cash Neutral in respect of all gas shrinkage costs.

7. SUPPLY POINT ADMINISTRATION

7.1 Introduction

- 7.1.1 The Distribution Transporter may appoint an agent to carry out supply point administration. The Distribution Transporter will clearly indicate where procedures carried out by such an agency fulfil the requirements of this section 7.

7.2 Supply Point Requests

Purpose

- 7.2.1 A Shipper will make a Supply Point Request for the purposes of instigating the process of registering a Supply Point (new or existing) in its name. The request process is the first step in the Supply Point Registration procedure.

Information Required

- 7.2.2 A Supply Point Request to register a Supply Point in a Shipper's name shall contain the information referred to in Appendix 1.
- 7.2.3 For the avoidance of doubt, the procedures of the agent referenced in 7.1.1 may include requests for additional sources of information from those specified in Appendix 1. In such an instance, the procedures will identify such information as being optional and failure to supply such optional information will not be deemed a cause for rejection of a Supply Point Request in accordance with 7.2.5.

The Distribution Transporter Response to a Supply Point Request

- 7.2.4 Where a Shipper makes a Supply Point Request, the Distribution Transporter will within five Business Days either:
- a) Reject the Supply Point Request stating the reason(s) for rejection;
 - b) Submit a Referral Notice; or.
 - c) Submit a Supply Point Offer (as per Section 7.3).

Rejection

- 7.2.5 The Distribution Transporter may reject a Supply Point Request where:
- a) It is not satisfied that the Eligibility Criteria is adequately met; or
 - b) The Supply Point Request is not made in accordance with the requirements of Section 7.2.2; or

- c) Any of the Gas Point Registration Numbers given as per Section 7.2.2 do not match the Meter Location Details in the Distribution Transporter’s Gas Register; or
- d) For any other reason as provided for in the DCOP.

Referral Notice

- 7.2.6 The Distribution Transporter may submit a notice (a “Referral Notice”) if the Proposed Supply Point is a New Supply Point or if the Distribution Transporter requires more time to assess the feasibility of making gas available for offtake from its system at the Proposed Supply Point.
- 7.2.7 Within 15 Business Days of issuing a Referral Notice, the Distribution Transporter shall either:
 - a) Submit a Supply Point Offer (as per Section 7.3); or
 - b) Reject the Supply Point Request (as per Section 7.2.4).

7.3 Supply Point Offers

Purpose

- 7.3.1 Supply Point Offers are provided by the Distribution Transporter to the proposing Shipper in order to confirm the terms and conditions under which the Proposed Supply Point will be registered in that proposing Shipper’s name.

Information Provided

- 7.3.2 A Supply Point Offer shall contain the information referred to in Appendix 2.

Offer Validity

- 7.3.3 A Supply Point Offer will remain valid for 3 months after it is made unless
 - (a) A Supply Point Confirmation for the Proposed Supply Point is submitted by another Shipper and accepted by the Distribution Transporter; or
 - (b) The Gas Point Register details are changed for the Proposed Supply Point; or
 - (c) The Registered Supply Point Capacity becomes greater than the Offered Supply Point Capacity as a result of any relevant condition(s) in the DCOP.
- 7.3.4 If the situations in Sections 7.3.3 b) or c) above arise, the Distribution Transporter will notify the proposing Shipper within 5 Business Days, providing details of the changes. The Supply Point Offer will then be deemed to be amended accordingly, subject to the capacity being available in accordance with Section 2.

- 7.3.5 Details of any revision to the applicable Transportation Charges as a result of changes to the information in Section 7.3.2 or a revision to Transportation Charges or otherwise will be notified to the proposing Shipper when it makes a Supply Point Confirmation that becomes effective.
- 7.3.6 Where any information contained in a Supply Point Offer is stated in error the Distribution Transporter or the proposing Shipper shall not be bound and such error may be corrected by the Distribution Transporter. Any such error shall not prejudice the proper determination of such detail. The Distribution Transporter will provide corrected details to the proposing Shipper in a revised Supply Point Offer before the relevant Supply Point Confirmation is submitted, which will supercede the original Supply Point Offer, as soon as is reasonably practicable.
- 7.3.7 The Distribution Transporter will inform the proposing Shipper if the existing Shipper submits a Supply Point Withdrawal in respect of the Supply Point for which a Supply Point Offer has been made within 2 Business Days of receiving the Supply Point Withdrawal.

7.4 Supply Point Confirmation

Purpose

- 7.4.1 By providing confirmation to the Distribution Transporter in respect of a Proposed Supply Point, a “Supply Point Confirmation”, a proposing Shipper agrees to be the Registered Shipper and to comply with the terms of the DCOP including payment of all relevant Transportation Charges and to be registered as holding the relevant capacity required.

Shipper Warranty

- 7.4.2 By making a Supply Point Confirmation in respect of a Proposed Supply Point, the proposing Shipper, if not the End User, warrants to the Distribution Transporter that as at the proposed Supply Point Registration Date there will be in force a contract(s) for the supply to the consumer of the Natural Gas which is offtaken by the Shipper from the System at the Proposed Supply Point.

Information Required

- 7.4.3 A Supply Point Confirmation shall contain the following information:
- a) The Supply Point Offer in question (quoting the unique reference number);
 - b) The proposed Supply Point Registration Date;
 - c) Emergency Contact Details as specified in the Section 15.5.
 - d) Where the shipper is not the Party that has signed a supply contract with the End User, the identity of that Party (the gas supplier).
- 7.4.4 No other details may be specified that conflict with or qualify the details in the corresponding Supply Point Offer.

Timing of Confirmations

- 7.4.5 Subject to Section 7.4.7 Supply Point Confirmations can be made on any Business Day provided they are in response to a valid Supply Point Offer and comply with all the relevant terms and conditions in the DCOP.

Rejection of Confirmations

- 7.4.6 A Supply Point Confirmation may not be made, and the Distribution Transporter will reject a Supply Point Confirmation in the following circumstances:
- a) If any Gas Point in the Proposed Supply Point is the subject of any other Supply Point Confirmation which has been submitted and is outstanding; or
 - b) Except in the case of a New Supply Point, if any Gas Point in the Proposed Supply Point has a request for Siteworks outstanding or any Siteworks Contract that has not been completed (other than for Isolation) and/or if the Siteworks Applicant is not the proposing Shipper; or
 - c) For any reason permitted in the DCOP.
- 7.4.7 Where a Supply Point Confirmation has been provided by the proposing Shipper and the Distribution Transporter subsequently determines that the original Supply Point Offer contained incorrect information [as the result of a bona fide error], the confirmation shall be valid, notwithstanding such error. However, any such error shall not prejudice the proper determination of such information. The Distribution Transporter will provide the revised information to the proposing Shipper as soon as is reasonably practicable. The proposing Shipper can submit a Supply Point Confirmation Cancellation within 3 Business Days of receiving such revised information, provided that such date is prior to the Proposed Supply Point Registration Date. If no such cancellation is received by the Distribution Transporter by this time, the revised information will be deemed to be accepted by the proposing Shipper.

Supply Point Registration Date

- 7.4.8 The proposed Supply Point Registration Date shall be:
- a) The first day of a Calendar Month; and
 - b) Not less than 20 and not more than 30 Business Days after the Supply Point Confirmation is submitted, or
 - c) Not less than 8 Business Days after the Supply Point Confirmation is submitted where either a Supply Point Withdrawal has been submitted by the existing Registered Shipper and/or there is no change in the identity of the Registered Shipper.
- 7.4.9 A Supply Point Confirmation shall be outstanding until it is either accepted or rejected by the Distribution Transporter, lapses in accordance with the DCOP or, where it becomes effective, until the Supply Point Registration Date.

- 7.4.10 The Distribution Transporter will either accept or reject the Supply Point Confirmation and will notify its decision to the proposing Shipper within 5 Business Days.

Effect of an increase in Supply Point Capacity

- 7.4.11 At any time after a Supply Point Confirmation is submitted and before the Supply Point Registration Date if either:

- a) The Registered Supply Point Capacity becomes greater than the Offered Supply Point capacity; or
- b) The Minimum Supply Point Capacity becomes greater than the Offered Supply Point Capacity (at the start of the Gas Year)

Then the Confirmed Supply Point Capacity will be either the increased Registered Supply Point Capacity or the Minimum Supply Point Capacity, as the case may be.

- c) If the Registered Supply Point Capacity becomes greater than the Offered Supply Point Capacity as a result of the Registered Shipper applying for an increase in its Registered Supply Point Capacity, the Confirmed Supply Point Capacity will be the Offered Supply Point Capacity.

In the circumstances in Sections 7.4.11 a) or b) the Distribution Transporter shall notify the proposing Shipper of the revised Confirmed Supply Point Capacity and revised details of Transportation Charges as soon as is practicable but not later than 5 Business Days after the Supply Point Registration Date.

Effect of an increase in MHQ

- 7.4.12 At any time after a Supply Point Confirmation is submitted and before the Supply Point Registration Date:

- a) If the Prevailing MHQ becomes greater than the Offered MHQ as a result of the Registered Shipper applying for an increase in its Registered MHQ, then the Confirmed MHQ will be the Offered MHQ.
- b) If the Prevailing MHQ becomes less than 1/24th of the MDQ (the “Minimum MHQ”) as a result of the Registered Shipper applying for a decrease in its Registered MHQ , then the confirmed MHQ will be the Minimum MHQ based on the revised MDQ (in accordance with Section 7.4.11).

- 7.4.13 In the circumstances in Section 7.4.12, the Distribution Transporter shall notify the proposing Shipper of the revised MHQ and revised details of Transportation Charges (if applicable) as soon as is practicable but not later than 5 Business Days after the Supply Point Registration Date.

Effect of Confirmation - Existing Supply Points Not Already Withdrawn

7.4.14 Where a Supply Point Confirmation has been submitted and not rejected in respect of an existing Supply Point for which no Supply Point Withdrawal has been submitted by the existing Registered Shipper:

- a) The Distribution Transporter will, within 5 Business Days after the submission, notify the existing Registered Shipper of the submission and the Proposed Supply Point Registration Date (but not the identity of the proposing Shipper);
- b) The existing Registered Shipper may submit an objection to the Supply Point Confirmation to the Distribution Transporter a (“Supply Point Objection”) no later than the 7th Business day after the notification (the “Objection Deadline”); and
- c) The proposing Shipper may submit to the Distribution Transporter a Supply Point Confirmation Cancellation up to but not after the Objection Deadline.

7.4.15 A Supply Point Objection will not be valid if submitted :

- a) By an existing Registered Shipper after the Objection Deadline, nor
- b) For an existing Supply Point where the existing Registered Shipper has submitted a Supply Point Withdrawal, nor
- c) With a reason required by 7.4.16 c) which is not one the reasons published by the CER at the time of objection as a valid objection reason, where these valid reasons have been published by the CER.
- d) For an existing Supply Point where the existing Registered Shipper is in breach of Section 19 .

7.4.16 A Supply Point Objection shall contain the following information:

- a) The identity of the objecting Shipper;
- b) The identity of the Supply Point in question (by quoting the Supply Point Reference Number);
- c) The reason for its objection.

7.4.17 The Distribution Transporter will:

- a) reject a Supply Point Objection within two Business Days if any of the information required in Section 7.4.16 is not supplied by the objecting Shipper and notify the objecting Shipper within two Business Days.
- b) not be concerned as to whether the reason for such an objection is well founded.
- c) notify the proposing Shipper of any such objection within 2 Business Days after the Supply Point Objection was submitted.

- 7.4.18 A Shipper may withdraw a Supply Point Objection up to but not after the Objection Deadline.
- 7.4.19 Where a Supply Point Objection is made and is not withdrawn in accordance with Section 7.4.18, the Supply Point Confirmation shall lapse and be of no effect. The Distribution Transporter shall inform the relevant Shippers not later than the 5th day before the proposed Supply Point Registration Date.
- 7.4.20 Subject to Section 7.4.30, where either no Supply Point Objection is made, or all (if any) Supply Point Objections made are withdrawn, or the Supply Point Objection has been rejected by the Distribution Transporter, then:
- a) The Supply Point Confirmation shall be effective and the Gas Points comprised in the Proposed Supply Point shall be registered in the name of the Proposing Shipper with effect from the proposed Supply Point Registration Date; and
 - b) Each existing Registered Shipper shall be deemed to have submitted a Supply Point Withdrawal in respect of the relevant existing Supply Point in accordance with Section 7.6 .
- 7.4.21 The Distribution Transporter will notify the proposing Shipper after the Objection Deadline and no later than the 5th Day before the Proposed Supply Point Registration Date whether the Supply Point Confirmation has become effective, setting out the details of the Supply Point to be recorded in the Gas Point Register.
- 7.4.22 A Supply Point Confirmation Cancellation may not be submitted by a proposing Shipper nor (if submitted) shall be effective after the Objection Deadline.

Effect of Confirmation - Existing Supply Points Already Withdrawn

- 7.4.23 For a Supply Point Confirmation submitted and not rejected by the Distribution Transporter in respect of an existing Supply Point for which a Supply Point Withdrawal has been submitted by the existing Registered Shipper, then the Supply Point Confirmation shall be effective, subject to Section 7.4.30. The Gas Points comprised in the Proposed Supply Point shall be registered in the name of the proposing Shipper with effect from the proposed Supply Point Registration Date.
- 7.4.24 Where Section 7.4.23 applies, the Distribution Transporter will notify the proposing Shipper as soon as is reasonably practicable, and no later than the 5th Day before the proposed Supply Point Registration Date, that the Supply Point Confirmation has become effective and setting out the details of the Supply Point to be recorded in the Gas Point Register.

Effect of Isolation

- 7.4.25 Any Gas Point in a Proposed Supply Point for which a Supply Point Confirmation has been submitted may, at the request of the existing Registered Shipper, be Isolated on any Day before the Proposed Supply Point Registration Date. Any such request on or after the Proposed Supply Point Registration Date will be invalid and will be deemed to have been cancelled.

- 7.4.26 By requesting an Isolation in accordance with 7.4.25, the Shipper warrants that the relevant End User has agreed to the Isolation.
- 7.4.27 For the avoidance of doubt, in order to effect an Isolation, a Shipper will be required to enter into a Siteworks Agreement in accordance with Section 7.8.
- 7.4.28 Where such Isolation request pursuant to Section 7.4.25 has been made, the Distribution Transporter will notify the proposing Shipper as soon as is reasonably practicable after such request is submitted.
- 7.4.29 Where any Gas Point in a Proposed Supply Point for which a Supply Point Confirmation has been submitted has been isolated, the Supply Point Confirmation may become effective and the proposing Shipper will be the Registered Shipper of such Supply Point which contains the isolated Gas Point. The Registered Shipper may then apply for reconnection pursuant to the relevant Siteworks procedures in Section 7.8.

New Supply Points

- 7.4.30 A Supply Point Confirmation in respect of a New Supply Point which contains one or more Gas Points forming part of an existing Supply Point(s), shall not become effective and shall lapse (whether or not the existing Registered Shipper submitted or withdrew a Supply Point Objection) unless:
- a) The Registered Shipper for the existing Supply Point(s) shall have submitted Supply Point Confirmation(s) (which becomes effective) in respect any Gas Points (within the existing Supply Point(s)) not included in the proposed New Supply Point (including any Gas Points which are or are to be Isolated); and
 - b) The proposed Supply Point Registration date(s) of the Supply Point Confirmation(s) referred to in (a) above is the same as that for such New Supply Point.
- 7.4.31 The Distribution Transporter will not be concerned with the fact that, or the reason for which, any Existing Registered Shipper may not submit a Supply Point Confirmation for the purposes of Section 7.4.30.
- 7.4.32 For the avoidance of doubt, it will be necessary for the existing Registered Shipper(s) to have submitted a Supply Point Request in sufficient time to have received a Supply Point Offer to allow any Supply Point Confirmation required under Section 7.4.30 to be submitted.

7.5 Supply Point Amendment Requests

Purpose

- 7.5.1 A Shipper must submit to the Distribution Transporter a Supply Point Amendment Request (SPAR) in order to:

7.5.1.1 Request an adjustment to the Registered Supply Point Capacity at that Supply Point; and/or

7.5.1.2 Change any other details included in the Gas Point Register.

7.5.2 Where a shipper is aware of any changes in the details contained within the Gas Point Register, it must submit a SPAR in accordance with 7.5.1.2 as soon as reasonably possible.

Information Required

7.5.3 A SPAR shall specify the following information:

- a) Identity of the proposing Shipper (who is also the Registered Shipper);
- b) The Supply Point Reference Number;
- c) One of the Gas Point Registration Numbers;
- d) The Supply Point parameter to be amended;
- e) Details of the proposed amendment.

The Distribution Transporter Response to a Supply Point Amendment Request

7.5.4 Where a Shipper makes a SPAR to request an adjustment to the Registered Supply Point Capacity, the Distribution Transporter will issue a decision (“Supply Point Amendment Decision”) to the Shipper within fifteen (15) Business Days indicating either

7.5.4.1 the acceptance of the SPAR in whole or in part which in the case of an adjustment to the Supply Point Capacity and/or MHQ the extent to which the adjustment can be made and the effective date of the Supply Point Amendment Decision which will be the start of the following Contract Year subject to meeting notice periods specified in this DCOP and subject to Section 7.5.5 (b); or

7.5.4.2 the rejection of the SPAR in whole or in part, giving the reasons for such rejection;

7.5.5 The Shipper may within five (5) Business Days of receiving the Supply Point Amendment Decision

- (a) Withdraw the SPAR; or
- (b) request an alternative effective date of the Supply Point Amendment Decision which may be granted at the sole discretion of the Distribution Transporter.

7.6 Supply Point Withdrawal

Purpose

- 7.6.1 A Shipper must submit a Supply Point Withdrawal (or will be deemed to have submitted a Supply Point Withdrawal in accordance with Section 7.4.20) in order to cease to be the Registered Shipper in respect of the Supply Point. This will occur when the Supply Point Withdrawal becomes effective in accordance with this Section 7.6.

Information Required

- 7.6.2 The Registered Shipper in respect of a Supply Point (the Withdrawing Supply Point) may at any time submit to the Distribution Transporter a Supply Point Withdrawal specifying:
- a) The identity of the Shipper (the Withdrawing Shipper);
 - b) The Supply Point Registration Number of the Withdrawing Supply Point; and
 - c) One of the Gas Point Registration Numbers of the Gas Point(s) comprised in the Withdrawing Supply Point (the “Withdrawing Gas Points”).

General Terms

- 7.6.3 Where a Shipper submits or is deemed to submit a Supply Point Withdrawal the Shipper may but is not obliged to secure Isolation of any of the Withdrawing Gas Points.
- 7.6.4 The Distribution Transporter will make available to all Shippers details of those Withdrawing Gas Points which at any time have not become comprised in a Proposed Supply Point in respect of which a Supply Point Confirmation has become effective, identifying each Gas Point (if any) which is or is to be Isolated.
- 7.6.5 Where any Withdrawing Gas Point is in a Proposed Supply Point in respect of which a Supply Point Confirmation becomes effective, the Distribution Transporter will so notify the Withdrawing Shipper not later than 3 Business Days after the date on which it is known that the Supply Point Confirmation will become effective.

Effect of Withdrawal

- 7.6.6 A Supply Point Withdrawal shall become effective only where each of the Withdrawing Gas Points either is in another Supply Point or has been Isolated, in accordance with Section 7.7; and the date with effect from which the Supply Point Withdrawal is effective shall be the later of the Supply Point Registration Date (of such other Supply Point) or the date of such Isolation.
- 7.6.7 For so long as a Supply Point Withdrawal has not become effective in accordance with Section 7.6.6, the Withdrawing Shipper shall remain liable for the relevant Transportation Charges in respect of the Withdrawing Supply Point.
- 7.6.8 Where a Supply Point Withdrawal becomes effective, by reason of Isolation of any Gas Point comprised therein in accordance with Section 7.7, in respect of a

Supply Point, the Withdrawing Shipper shall continue to pay to the Distribution Transporter, unless these charges are waived by the Distribution Transporter, the amounts which would have been payable by the Shipper by way of the relevant Transportation Charges if the Shipper had continued to be the Registered Shipper of the Supply Point, until the earlier of:

- a) The 30th September following the Day before that on which the Supply Point Withdrawal became effective, or
- b) The Day before the Supply Point Registration Date in respect of a Supply Point which includes such Isolated Gas Point.

7.6.9 When a Supply Point Withdrawal has become effective in accordance with Section 7.6.6, the Shipper shall cease to be the Registered Shipper and the Supply Point (and the Supply Point Registration) relevant to that Shipper shall be cancelled.

Closing Meter Read

7.6.10 Where in relation to a Supply Point Withdrawal the meter reading is a Failed Meter Read, then the DM Read will be deemed to be the next Valid Meter Read apportioned to the date on which the Supply Point Withdrawal becomes effective, in accordance with Section 11.

7.7 Supply Point Isolations

Purpose

7.7.1 This is to allow a Shipper to secure that gas cannot be offtaken from the System at the Gas Point(s) in question, thereby ensuring that the Shipper shall cease to be responsible for the gas offtaken (and the corresponding Transportation Charges) from the System at such Gas Point(s), subject to Section 7.6.8.

General Terms

7.7.2 Where a Gas Point has been Isolated (and unless and until it is reconnected) the person who is or was the Registered Shipper of the Supply Point shall cease to be responsible for gas offtaken from the System at the Gas Point.

7.7.3 Where a Gas Point has been Isolated, it may only be reconnected pursuant to Siteworks in accordance with Section 7.8.

7.7.4 For the avoidance of doubt, isolation of a Gas Point for the purposes of enabling Siteworks other than Isolation to be carried out shall not be regarded as Isolation.

Isolation Request & Siteworks Agreement

7.7.5 A Shipper may request the Distribution Transporter to Isolate a Registered Gas Point, subject to and in accordance with this Section 7.7.

7.7.6 A Shipper may only request an Isolation where the Shipper has entered into a Siteworks Contract for Isolation ("Isolation Siteworks Agreement") with the

Distribution Transporter which is in force at the time both of the Shipper's request and at which the Isolation is carried out.

Information Required

- 7.7.7 The Shipper's Isolation request must specify:
- a) The identity of the Shipper,
 - b) The relevant Supply Point Reference Number, and the Gas Point Registration Number of the relevant Gas Point(s),
 - c) The date, not less than 10 Business Days after the Shipper's request is submitted, on which Isolation is requested (which date shall not be binding on the Distribution Transporter);
 - d) Such further details (including details of the reason for the Isolation and details of the consumer) as may be required .
 - e) Whether the isolation is to be a service Isolation and/or a meter lock removal.
- 7.7.8 The Distribution Transporter will respond to the Shipper's request confirming that the Isolation request has been accepted, and specifying the date on which the Isolation is to be carried out, subject to and in accordance with the Isolation Siteworks Agreement. The date given will be not earlier than the date requested or as soon as is in the circumstances reasonably practicable after the requested date.
- 7.7.9 Where a Shipper requests an Isolation the Distribution Transporter will be entitled to assume that any Legal Requirement or code of practice relating to the cessation of supply to the consumer has been complied with and that the End User's permission has been obtained.
- 7.7.10 A Shipper's request for Isolation in accordance with section 7.4.25 will be cancelled where the Shipper is or will no longer be the Registered Shipper of the Gas Point on the Day on which the Isolation is to be carried out.
- 7.7.11 A Shipper may cancel a request made by it for Isolation by notice to the Distribution Transporter not later than 12:00 hours on the Day preceding the Day on which the Isolation is to be carried out; provided that the Distribution Transporter will use reasonable endeavours to accept notice of such cancellation given later than such time.
- 7.7.12 The terms (as to payment and otherwise) upon which the Distribution Transporter carries out an Isolation will be those of the Isolation Siteworks Agreement (which does not form a part of and is not incorporated into this DCOP) and accordingly nothing in this DCOP shall make the Distribution Transporter liable to the Shipper for any failure or delay in carrying out a requested Isolation.

- 7.7.13 A Gas Point will be treated as Isolated for the purposes of this DCOP (until and unless reconnected) with effect from the end of the Gas Day on which the Isolation was carried out.

Emergency Isolations

- 7.7.14 Nothing in this DCOP shall prevent the Distribution Transporter from Isolating any Gas Point at the request of any person or otherwise where it appears to the Distribution Transporter that it is necessary to do so for the purposes of ensuring safety; and, for the avoidance of doubt, where it does so the Distribution Transporter shall not be in breach of its obligation to make gas available for offtake.
- 7.7.15 Where pursuant to Section 7.7.14 the Distribution Transporter Isolates a Gas Point at the request of a person other than the Registered Shipper it will inform the Registered Shipper of such Isolation as soon as reasonably practicable after carrying out the Isolation;

7.8 Siteworks

Purpose

- 7.8.1 “Siteworks” are the works undertaken by the Distribution Transporter at the request of a Shipper or other person in connection with the System for the purposes of:
- a) the establishment of a New Gas Point;
 - b) enabling an increase in the rate or pressure at or quantities in which it is feasible to make gas available for offtake from the System at an existing Gas Point;
 - c) modifying or replacing the Measurement Equipment and/or service pipe or any part thereof (at an existing Gas Point) and/or any part of the System located on the Supply Point Premises;
 - d) undertaking an Isolation or reconnecting any Gas Point which has been Isolated;
 - e) enabling the Firm Transportation Requirement to be satisfied in respect of an Interruptible Supply Point, or for the construction and/or installation (and connection to the System) by the Distribution Transporter of the Measurement Equipment and/or service pipe or any part thereof.

General Terms

- 7.8.2 In respect of any Siteworks:
- a) the Siteworks Applicant is the Shipper or other person who has requested that the Siteworks be undertaken;

- b) the Siteworks Contract is the contract between the Distribution Transporter and the Siteworks Applicant under which the Distribution Transporter is to undertake the Siteworks;
 - c) the Siteworks Completion Date is the date of substantial completion (as defined or described in the Siteworks Contract) of the Siteworks;
 - d) the Siteworks Target Completion Date means the intended Completion Date of the Siteworks as specified in or determined under the Siteworks Contract.
- 7.8.3 Where the Siteworks Applicant is a Shipper the Siteworks Contract shall not (unless it expressly provides to the contrary) be an Ancillary Agreement and does not form a part of and is not incorporated into the DCOP.
- 7.8.4 Where the Siteworks Applicant is not the Registered Shipper of the relevant Gas Point:
- a) nothing in the DCOP shall make the Registered Shipper liable for any payment becoming due under the Siteworks Contract;
 - b) The Distribution Transporter will have no liability to the Registered Shipper in respect of any breach of the Siteworks Contract.
- 7.8.5 The Registered Shipper of a Gas Point will not be liable for any breach of the DCOP that results from a breach by the Distribution Transporter of a Siteworks Contract relating to that Gas Point.
- 7.8.6 The Distribution Transporter may provide a siteworks quotation to the requesting party on receipt of the appropriate information. A Siteworks Contract may be entered into by the Shipper (or other person).
- 7.8.7 The Siteworks Contract does not form part of the DCOP and nothing in the DCOP requires the Distribution Transporter to undertake any Siteworks or to do so on any particular terms.

8. NOMINATIONS AND RENOMINATIONS

- 8.1 For the avoidance of doubt, nominations and re-nominations are only required from Registered Shippers at Nominating Supply Points. The terms and conditions regarding nominations and renominations for such supply points will be contained in the relevant Ancillary Agreement.

9. DELIVERY OF GAS: TITLE AND RISK

9.1 Overview

- 9.1.1 Title and risk in Natural Gas delivered to the Distribution System at an Entry Point shall pass to the Distribution Transporter at the relevant point of delivery and shall revert to the Shipper at the relevant Exit Point.
- 9.1.2 Each Shipper warrants to the Distribution Transporter:
- a) that such Shipper will have title (at the point of delivery) to all Natural Gas delivered or tendered for delivery to the Distribution System at an Entry Point by that Shipper; and
 - b) that all such Natural Gas (at such point) is free of any lien, charge, encumbrance or adverse claim (as to title or otherwise), including any claim for any tax, royalty or other charge in respect of the production, gathering, processing and tendering of Natural Gas arising on or before delivery thereof to the Distribution System.
- 9.1.3 Each Shipper shall indemnify the Distribution Transporter and hold it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense suffered or incurred by or made or brought against the Distribution Transporter (including but not limited to any claim by a third party to title in Natural Gas delivered at an Entry Point) in consequence of any breach of the warranties in Section 9.1.2.
- 9.1.4 The warranty in paragraph 9.1.2a) shall be treated as satisfied where the Shipper has arranged for delivery or tender for delivery of Natural Gas to the Distribution System by a person or persons who has or jointly have title (at the point of delivery) to such Natural Gas and such person passes, or persons jointly pass, title to such Natural Gas to the Distribution Transporter.
- 9.1.5 The Distribution Transporter shall have and retain (subject to the provisions of the DCOP) full, complete and unencumbered rights of action with respect to certain commercial non-regulated aspects of the Distribution System, in respect of the delivery of Natural Gas into, or the offtake of Natural Gas from, the Distribution System.

10. ALLOCATIONS AND RECONCILIATION

10.1 Allocation

- 10.1.1 The quantity of Natural Gas offtaken at each eligible Gas Point will be measured on a daily basis.
- 10.1.2 The Distribution Transporter will endeavour to ensure that Valid Meter Reads are obtained on each day.
- 10.1.3 At each eligible Supply Point, the relevant Shipper will be allocated the quantity of Natural Gas metered at each of the relevant Gas Points on each day.
- 10.1.4 The Shipper will be deemed to have input the same quantity of Natural Gas into the Distribution System as the quantity of Natural Gas allocated for offtake at each Supply Point where the Shipper is recorded as the Registered Shipper in accordance with Section 7.
- 10.1.5 Subject to 11.7.2, where a Valid Meter Read is unavailable at a Gas Point, the Shipper will be allocated:
 - a) In the case of a Business Day, the quantity of Natural Gas offtaken on the preceding Business Day for which a Valid Meter Read is available.
 - b) In the case of a Non-Business Day, the quantity of Natural Gas offtaken on the preceding Non-Business Day for which a Valid Meter Read is available.

10.2 Reconciliation

- 10.2.1 "DM Reconciliation" is a reconciliation and adjustment in respect of certain Transportation Charges, in relation to a DM Gas Point, in respect of:
 - 10.2.1.1 differences between:
 - a) the quantities of Natural Gas assumed to be offtaken on Failed Meter Read Day(s), and
 - b) the quantities of Natural Gas subsequently determined to have been offtaken upon the obtaining of a Valid Meter Read; or
 - 10.2.1.2 differences between:
 - a) the quantities of Natural Gas determined to have been offtaken by Meter Reads by DM Read Equipment, and
 - b) the quantities of Natural Gas subsequently determined to have been offtaken pursuant to a DM Check Read.
- 10.2.2 "Reconciliation Transportation Charge Adjustments" are the adjustments in respect of commodity charges and the commodity component (if any) of customer charges.

11. MEASUREMENT AND TESTING

11.1 Overview

- 11.1.1 Measurement Provisions shall include, standards of accuracy and the procedures for the testing and calibration of the Measurement Equipment; the terms by which the volume and calorific value of Natural Gas delivered may be estimated if the Measurement Equipment fails or is defective, and terms upon which any difference or dispute between the Distribution Transporter and a Shipper as to volume, calorific value or quantity of Natural Gas delivered is resolved.
- 11.1.2 The Distribution Transporter will be responsible for the installation operation and maintenance of all metering equipment including any equipment needed to send daily meter readings to the Distribution Transporter in accordance with this Section 11.
- 11.1.3 “Measurement Provisions” mean the procedures, methods and standards by which:
- a) Natural Gas made available for offtake at the Exit Points is measured, sampled and analysed; and
 - b) the standard volume and calorific value of such Natural Gas are determined.
- 11.1.4 The procedures, methods and standards pursuant to Section 11.1.3 shall be in accordance with:
- a) Bord Gais standards and policies;
 - b) The relevant standards of CEN and the NSAI; and
 - c) Relevant legislation (if any).
- 11.1.5 Measurement Provisions may include:
- 11.1.5.1 standards of accuracy and procedures for testing and calibration of Measurement Equipment;
- 11.1.5.2 terms by which volume, calorific value, quantity, or any Delivery Characteristic of Natural Gas delivered or tendered for delivery may be estimated in the case of failure or defect of any Measurement Equipment, non-compliance with any of the Entry Point Measurement Provisions, or otherwise;
- 11.1.5.3 terms upon which any difference or dispute between the the Transmission Transporter and the Distribution Transporter as to the volume, calorific value, quantity or Delivery Characteristic of Natural Gas delivered or tendered for delivery will be resolved (which may include resolution by agreement between them).

11.1.6 The Distribution Transporter shall be responsible for the interpretation of the Measurement Provisions.

11.2 Measurement Equipment

11.2.1 “Measurement Equipment” is the metering, sampling, analysis and other equipment which the Distribution Transporter requires to be installed from time to time at a Supply Point.

11.2.2 The “Measurement Equipment” includes any device for remotely obtaining data that gives the meter reading and the telephone line or transmitter required to transmit such data to the Distribution Transporter.

11.2.3 The Distribution Transporter has installed and shall install and/or shall procure the installation of (as the case may be) Measurement Equipment at each relevant Supply Point and shall operate and maintain and/or shall procure the operation and maintenance of (as the case may be) Measurement Equipment at each relevant Supply Point.

11.2.4 Measurement Equipment shall be in accordance with the relevant metering specifications and any applicable legal requirements in relation to, inter alia, accuracy and design current at the time of installation.

11.3 Supply Point Measurement

11.3.1 The quantity of Natural Gas delivered to a Shipper at a Supply Point shall be the standard volume of Natural Gas determined as having been offtaken at such Supply Point multiplied by the applicable calorific value.

11.3.2 A meter reading will be taken daily by the appropriate methodology at each Supply Point, a “DM Read”.

11.3.3 The Distribution Transporter will carry out a validation on meter reads. A Valid Meter Read is a read that has not been rejected as part of the Validation Procedures.

11.3.4 A Failed Meter Read is a reading that has been rejected by the Distribution Transporter as part of the Validation Procedures.

11.3.5 A Failed Meter Read Day is a day on which a read that has been rejected by the Distribution Transporter as part of the Validation Procedures.

11.3.6 An Opening Meter Read is the first DM Read taken after registration of a Supply Point in accordance with Section 7.

11.3.7 An Opening Meter Read will be taken at the beginning of the relevant Gas Day.

11.3.8 In the event of an Opening Meter Read failing the Validation Procedures the Meter Reading will be deemed to be the next Valid Meter Read apportioned to the Supply Point Registration Date as reasonably determined by the Distribution Transporter.

- 11.3.9 Except in the case of Supply Point Disconnection, a Closing Meter Read for a Withdrawing Shipper will be deemed the Opening Meter Read for the new Shipper.
- 11.3.10 Where a Supply Point is to be Isolated, the Closing Meter Read will be a DM Read taken the day after the Disconnection of the Supply Point.
- 11.3.11 In the event of the Closing Meter Read being a Failed DM Read, the Closing Meter Read will be the next Valid DM Read apportioned to the date on which the Supply Point Withdrawal is confirmed (in accordance with Section 7) as reasonable determined by the Distribution Transporter.
- 11.3.12 If requested by a Shipper, the Distribution Transporter shall provide the Shipper, subject to such Shipper reimbursing the Distribution Transporter for its reasonable costs in providing such information, the following data from the Supply Point at which the Shipper is offtaking Natural Gas, in respect of such offtaken Natural Gas, where and as soon as the same is reasonably available:
- a) Daily volume offtaken;
 - b) Offtake Profile
 - c) The relevant daily calorific value.

11.4 Verification of Supply Point Measurement Equipment

- 11.4.1 The Distribution Transporter shall verify the Measurement Equipment at each relevant Supply Point at least once in each Gas Year by carrying out a “DM Check Read”.
- 11.4.2 A Shipper shall have a right of access, on giving reasonable notice to the Distribution Transporter, to the Measurement Equipment at each Supply Point at which such Shipper is offtaking Natural Gas provided that such Shipper utilises such access rights at reasonable times and at such Shipper's own risk.
- 11.4.3 A Shipper may at any time request a verification of the Measurement Equipment at each Supply Point at which such Shipper is offtaking Natural Gas, in which case such verification shall be carried out as soon as reasonably practicable. If the Measurement Equipment is found to read within the Permitted Range such Shipper shall, subject to Section 11.4.4, pay the costs and expense of such verification. If the Measurement Equipment is found to read outside the Permitted Range the Distribution Transporter shall pay the costs of such verification.
- 11.4.4 In the event a Shipper requests a verification of the Measurement Equipment and the previous verification took place more than thirteen (13) months previously, the Distribution Transporter shall bear the costs of such verification.
- 11.4.5 The Distribution Transporter may at its own expense undertake a verification of the Measurement Equipment at any time.

- 11.4.6 Following a verification in accordance with this Section 11, the Measurement Equipment shall be adjusted or replaced as necessary in order to comply with the relevant metering specifications.
- 11.4.7 Any verification of the Measurement Equipment shall be conducted by or on behalf of the Distribution Transporter and the Distribution Transporter shall give at least two (2) weeks notice of such verification to the Shipper who shall be entitled to be present. The Distribution Transporter shall provide a verification report to the Shipper within fifteen (15) Business Days of any verification stating the results of the verification. Such verification shall be binding on both the Distribution Transporter and the Shipper (even if the Shipper does not attend) unless the Shipper disputes the accuracy of the verification within fifteen (15) business days after such verification. In the event of such a dispute, the Shipper and Distribution Transporter will meet in good faith to try to resolve the dispute and either party will produce supporting evidence as necessary. In the event that such dispute is not resolved within a further six (6) month period either the Distribution Transporter or the Shipper may refer the matter to the Expert in accordance with Section 17.

11.5 Supply Point Measurement Equipment Inaccuracy

- 11.5.1 Following a verification in accordance with Section 11.4, if the Measurement Equipment is found once verified to register in a manner inconsistent with the relevant Bord Gais metering specifications, the Measurement Equipment shall be assumed to have registered inaccurately during the latter half of the period since last verified except where it is proved that the Measurement Equipment has begun to register inaccurately on some other date.
- 11.5.2 The quantities of Natural Gas registered as offtaken at a Supply Point during the period when the Measurement Equipment at such Supply Point is assumed to have registered inaccurately shall be adjusted by a quantity corresponding to the quantity by which the Measurement Equipment was found on verification to register inaccurately beyond levels consistent with the relevant metering specifications (the "Supply Point Adjustment Quantity").
- 11.5.3 The Supply Point Adjustment Quantity in relation to the Shipper delivering Natural Gas at the Supply Point in question shall be shown in the next monthly statement rendered by the Distribution Transporter.

11.6 Entry Point Measurement

- 11.6.1 Measurement at the Entry Points to Distribution System will be supplied by the Transmission Transporter in accordance with the relevant conditions in the TCOP.

11.7 Absence of Valid Meter Reads at Supply Points

- 11.7.1 Subject to 11.7.2, if a Valid Meter Read is unavailable at a Supply Point, a quantity of Natural Gas will be allocated in accordance with section 10.1.5.

- 11.7.2 If a Valid Meter Read is unavailable for more than 5 consecutive days, the Distribution Transporter will reasonably determine the most appropriate solution and inform the Shipper within 2 days.

11.8 Metering Charges

- 11.8.1 Metering Charges comprise charges for supply, installation and maintenance of meters, supply of data loggers, line rental for the telephone line and call charges.

- 11.8.2 Shippers will incur charges for the supply and installation of meters and data loggers. The charges will be in accordance with the statement of Transportation Charges.

- 11.8.3 Shippers will pay charges in respect of the data logger at each of the Supply Points for which the shipper is a Registered Shipper. The charges will be in accordance with the statement of Transportation Charges.

11.9 Interpretation of Standards

- 11.9.1 The Distribution Transporter shall be responsible for the interpretation of standards, guidelines and specifications used in the design, installation, operation and maintenance of the Measurement Equipment.

11.10 Data Ownership

- 11.10.1 For the avoidance of doubt, all data arising from the use of the Measurement Equipment and the associated intellectual property rights shall belong to the Distribution Transporter who may use such data as it reasonably thinks fit, subject to Section 18 of this DCOP.

12. SPECIFICATIONS: QUALITY AND PRESSURE

12.1 Quality

12.1.1 Natural Gas delivered at an Entry Point and offtaken at an Exit Point shall comply with the specification for Natural Gas entering or exiting the Distribution System as set out in the TCOP

12.1.2 Each Shipper shall use all reasonable endeavours (including, without limitation, ensuring the appropriate contractual arrangements are in place) to ensure that the quality of all Natural Gas tendered for delivery by a Shipper to the Distribution Transporter is, prior to an Entry Point, subject to such quality control as is required to ensure that such Natural Gas is delivered according to the Specifications as provided in the DCOP.

12.2 Pressure

12.2.1 The Distribution Transporter will use reasonable endeavours to make Natural Gas available for offtake from the Distribution System at an Exit Point at a minimum pressure as measured upstream of the Measurement Equipment (“**Minimum Pressure**”) not less than 20 mbar.

12.2.2 Any arrangement for delivery of Natural Gas at a Minimum Pressure in excess of such limits may only be supplied, at the sole discretion of the Distribution Transporter, under the terms of Enhanced Service Provisions of an Ancillary Agreement.

12.2.3 Such availability at such pressure and within such limits shall in any event be subject to:

- a) maximum Flow Rate (MDQ and MHQ) not being exceeded;
- b) the provisions of Section 15.

The Distribution Transporter shall be relieved of its obligations under this Section 12.2 if;

12.2.3.1 to the extent it would be necessary, in order to maintain the Minimum Pressure specified in this Section 12.2, for the Distribution Transporter to undertake work or other measures as a result of building, mining or engineering developments of third parties or changes in population density which have occurred in the vicinity of the Distribution System which supply the Exit Point following the implementation of the DCOP and the work or other measures would be necessary in order to comply with the recommendations or standards recognised or promulgated by any independent standard making authority or professional engineering institution of Ireland and/or the United Kingdom concerning the maximum permissible operating pressure of Natural Gas pipelines, or

12.2.3.2 it is not or ceases or will cease to be feasible safely or in accordance with any recognised standard to maintain at any Exit Point a pressure of at least the Minimum Pressure specified in Section 12.2.1, the Distribution Transporter will:

- a) as soon as reasonably practicable after becoming aware that (by reason of such circumstances) such Minimum Pressure cannot be maintained, so inform the Shipper specifying the date with effect from which it will be necessary to reduce such pressure and the reduced pressure which can (after such date) be so maintained; and
- b) with effect from the date specified by Distribution Transporter (and as respects any Shipper), the reduced pressure so specified shall be the Minimum Pressure. The Distribution Transporter will not be in breach of its obligation to make Natural Gas available for offtake from the Distribution System at an Exit Point if for any reason the pressure of the Natural Gas immediately downstream of the point of offtake exceeds the Minimum Pressure.

12.2.4 Subject to Section 14 (Maintenance), the Distribution Transporter shall not knowingly schedule operations which would result in the Distribution System pressures falling to operationally unacceptable levels or which would otherwise jeopardise the integrity of the Distribution System and the ability of the Distribution Transporter to provide transportation services.

12.3 Non-Compliant Gas and Off-Spec Gas

12.3.1 Each Shipper shall use all reasonable endeavours (including, without limitation, ensuring that appropriate contractual arrangements are in place) to ensure that Natural gas tendered for delivery at an Entry Point shall conform with the provisions of Sections 12.1 and 12.2 (“Specifications”) provided that if Natural Gas delivered by a Shipper forms part of a commingled stream, and if the commingled stream fails to conform to the Specifications, then whatever may be the reason for such failure, the Natural gas tendered for delivery shall be deemed not to conform to the Specifications, notwithstanding that it would have so conformed had it been delivered un-commingled.

12.3.2 If Natural Gas for delivery to the Distribution System fails to conform to the Specifications in accordance with Section 12 or the Gas Entry Conditions in Section 4.2 (“**Non-Compliant Gas**”), and the Distribution Transporter is aware of such failure in sufficient time prior to such Non-Compliant Gas being tendered for delivery, then the Distribution Transporter may either:-

- a) refuse to accept delivery or continued delivery of such Non-Compliant Gas or any part thereof, and/or
- b) (subject to any Legal Requirement) accept delivery of all or part of such Non-Compliant Gas, and/or
- c) take any steps available to it to limit the rate at which Non-Compliant Gas is delivered to the Distribution System or to secure that such Non-

Compliant Gas is not so delivered or is treated in such a way as to enable it to comply with the Gas Entry Conditions and Specifications.

- 12.3.3 Steps to limit the rate at which Non-Compliant Gas is delivered to the Distribution System may include interruption of offtake at Supply Points.
- 12.3.4 Where Non-Compliant Gas is delivered to the Distribution System, irrespective of whether such Non-Compliant Gas is accepted pursuant to Section 12.3.1 (or where the Distribution Transporter becomes aware that such Natural Gas is Non-Compliant Gas after the delivery of such Natural Gas to the Distribution System), the Distribution Transporter will take steps in conjunction with the Transmission Transporter to recover the costs and expenses properly incurred by the Distribution Transporter in consequence of the delivery of Non-Compliant Gas.
- 12.3.5 The costs incurred as a result of delivery of non-compliant gas include (without limitation), costs and expenses incurred:-
- a) in paying compensation to Shippers in accordance with this Section 12;
 - b) in cleaning or cleaning any part of its Distribution System or rectifying any other damage thereto causes by the acceptance of such Non-Compliant Gas; and
 - c) in taking reasonable measures to secure that the Distribution System can be operated in accordance with applicable Legal Requirements notwithstanding the delivery or continued delivery of such Non-Compliant Gas; and/or
 - d) in any measures taken by the Distribution Transporter which are reasonably required to bring such Natural Gas within the Gas Entry Conditions and Specifications.
- 12.3.6 If Natural Gas fails to conform to the Specifications when made available for delivery by the Distribution Transporter at a Supply Point (“**Off-Spec Gas**”), then the Shipper may (from time to time until such time as the Natural Gas made available for offtake at such point conforms to the Specifications), in its discretion, either:
- a) offtake or continue to offtake such Off-Spec Gas, in which case Section 12.3.8 shall apply, or
 - b) decline to offtake or to continue to offtake such Off-Spec Gas.
- 12.3.7 Where Off-Spec Gas has been offtaken on any Day from the Distribution System, the Distribution Transporter shall only be liable for, and shall only pay to each Shipper, an amount determined in accordance with Section 12.3.88 save that if the Distribution Transporter shall have advised the Shipper that such gas was Off-Spec Gas prior to making the same available for delivery (such advice to be given to the Shippers by the Distribution Transporter as soon as is reasonably possible following the Distribution Transporter becoming aware of the existence of Off-Spec Gas) the Distribution Transporter shall have no liability as a consequence of

the delivery of such Off-Spec Gas (whether or not such Off-Spec Gas was physically offtaken by the Shipper at such Exit Point) or in respect of the non-delivery of Natural Gas (where the same was nonetheless available for delivery at such Exit Point notwithstanding the Distribution Transporter's expectation that Off-Spec Gas would be available) or otherwise howsoever arising as a result of the advice given by the Distribution Transporter in the Sections 12.3.6 and 12.3.7.

- 12.3.8 The amount payable by the Distribution Transporter to a Shipper under this Section 12.3 and the only amounts payable by the Distribution Transporter to a Shipper hereunder, and the only liability to such Shipper by the Distribution Transporter, shall be the costs and expenses properly incurred by the Shipper in consequence of the offtake of the Off-Spec Gas, including (without limitation) costs and expenses incurred such that the Off-Spec Gas can be made fit for use in the relevant End User's Facility' Provided always that the amount payable by the Distribution Transporter to a Shipper hereunder shall in any event not exceed ten (10) percent of the amount calculated as the Shipper's proportion of the total quantity of Off-Spec Gas offtaken from the Distribution System at the relevant Supply Points on the relevant Day multiplied by the balancing gas price as defined in the TCOP.
- 12.3.9 Where any amount has become payable to a Shipper pursuant to this Section 12.3 the Shipper shall as soon as reasonably practicable notify Distribution Transporter specifying:
- a) the relevant Supply Points and the Day or Days on which Off-Spec Gas was offtaken from the Distribution System;
 - b) the total quantity of Off-Spec Gas referred to in 12.3.1 and reasonable details of the respect(s) in which the Off-Spec Gas did not comply with the Specifications and;
 - c) reasonable details of the costs and expenses referred to in 12.3.8 and the person(s) by whom and purposes for which they were incurred.
- 12.3.10 For the avoidance of doubt, failure to comply with the pressure requirements of Section 12.2.1 shall not render (or be deemed to render) Natural Gas Off-Spec Gas for the purposes of this Section 12.3 and the Distribution Transporter shall not be liable hereunder as a result thereof.
- 12.3.11 Each Shipper acknowledges that the volume, calorific value, quantity and Delivery Characteristics of Natural Gas delivered to the Distribution System at an Entry Point, and the compliance or non-compliance with the applicable Gas Entry Conditions in respect thereof, will be established by the Distribution Transporter and the Transmission Transporter and each Shipper shall be bound (for the purposes of the DCOP) by what is so established.

13. SYSTEM PLANNING

13.1 Introduction

- 13.1.1 The Distribution Transporter will use all reasonable endeavours to liaise with the Transmission Transporter with the aim of achieving a co-ordinated reinforcement and development programme for the Transmission and Distribution Systems
- 13.1.2 The Distribution Transporter will provide information to the Transmission Transporter for the purposes of assisting in the production of the the Transmission Transporter's ten (10) year plan and any other relevant system planning information.
- 13.1.3 For planning purposes, each Shipper shall supply the Distribution Transporter with such bona fide estimates of its aggregate Natural Gas requirements anticipated for the short, medium and long term as detailed below in section 13.2. The estimates will not be binding on a Shipper nor shall they impose any obligations on that Shipper or the Distribution Transporter.

13.2 Shipper Estimates

Nominating Supply Points

- 13.2.1 Not later than the first Day of June preceding the start of a Gas Year each Shipper shall notify the Distribution Transporter of the Shipper's bona fide estimate of the maximum energy requirements (expressed in kWh per day) and the maximum Flow Rate requirements (expressed in kW) at each Nominating Supply Point for such following five (5) year period.
- 13.2.2 Not later than the first Day of June preceding the start of a Gas Year, each Shipper shall notify the Distribution Transporter of the Shipper's bona fide estimate of the quantity of energy (expressed in kWh per day) and the Flow Rate requirements (expressed in kW) to be transported for offtake at an Nominating Supply Point by the Shipper for each month of the immediately following Gas Year.
- 13.2.3 Not later than thirty (30) Days before the first day of the Quarter commencing on 1 October of a Gas Year, and 30 Days before the first Day of each subsequent Quarter of a Gas Year, each Shipper shall notify the Distribution Transporter of the Shipper's bona fide estimate of the quantity of energy (expressed in kWh) and the Flow Rate requirements (expressed in kW) to be transported for offtake at the relevant Nominating Supply Point on each Day (expressed as a maximum daily quantity) during each such subsequent Quarter.

All Supply Points

- 13.2.4 Not later than the first Day of June preceding the start of a Gas Year, each Shipper shall notify the Distribution Transporter of the Shipper's bona fide estimate of their aggregate MDQ, MHQ and customer numbers for each Distribution Network, as advised by the Distribution Transporter for:

- a) the next Gas Year; and
- b) each year up to and including the fifth (5th) Gas Year:

13.3 Additional Information

- 13.3.1 Each Shipper shall provide the Distribution Transporter with such information as may be necessary for the Distribution Transporter to act in accordance with Section 15.7.3, including, inter alia, information regarding stand-by fuels, planned maintenance and the potential impacts for the End User associated with an interruption of gas supply in accordance with this DCOP.
- 13.3.2 Each Shipper shall use all reasonable endeavours to provide any additional information reasonably requested by the Distribution Transporter which is required for the purposes of enabling the Distribution Transporter to fulfil any statutory or regulatory duty to any Competent Authority and/or which would aid the Distribution Transporter in planning the future deliveries of Natural Gas to or from the Distribution System.

14. MAINTENANCE

14.1 Overview

- 14.1.1 The Distribution Transporter shall operate, maintain and repair the Distribution System in accordance with the provisions of the DCOP.
- 14.1.2 In maintaining the Distribution System, the Distribution Transporter shall comply fully with all statutes, regulations and relevant codes of conduct (whether or not having statutory force) that are in force in the jurisdiction where the Distribution System is situated.
- 14.1.3 For the purposes of this Section 14:
- 14.1.3.1 “Maintenance” includes any inspection, modification, repair, renewal, reinforcement, replacement, reinstatement, re-commissioning, upgrade or extension of any part of the Distribution System and includes any works preparatory to such maintenance or required for the return to service of a part of the Distribution System after such maintenance.
- 14.1.3.2 “Maintenance Days” means the Days, whether consecutive or not, nominated by the Distribution Transporter pursuant to this Section 14 as Days during which acceptance of Natural Gas for delivery from that part of the Distribution System as may be subject to maintenance, or making Natural Gas available for offtake from that part of the Distribution System as may be subject to maintenance, may be reduced (if necessary down to zero) due to Scheduled Maintenance on the Distribution System.
- 14.1.3.3 “Scheduled Maintenance” means planned maintenance, planned repair, planned renewal, planned reinforcement, planned replacement, planned modifications, upgrades or extensions of the Distribution System which would affect or limit the Distribution Transporter’s ability to transport Natural Gas through the Distribution System.
- 14.1.4 The Distribution Transporter will endeavour to limit Maintenance to Scheduled Maintenance. The Distribution Transporter and Shippers acknowledge that unscheduled Maintenance may become necessary due to unforeseen circumstances. The Distribution Transporter reserves the right to carry out unscheduled Maintenance as and when required.

14.2 Maintenance

- 14.2.1 The Distribution Transporter shall carry out all Scheduled Maintenance on the Distribution System and, given the nature of the Distribution System and its expansion, it is anticipated that some maintenance activity may occur on the majority of days within any year. However, a Shipper’s Supply Point is protected from the impact of most Scheduled Maintenance by the limitation on the number of Maintenance Days as set out in section 14.6.1.

14.2.2 The Distribution Transporter shall determine the Maintenance required in respect of the Distribution System.

14.3 Maintenance Planning

14.3.1 The Shippers shall provide the Distribution Transporter as soon as reasonably practicable with the information the Distribution Transporter may require to:

- a) plan the Maintenance of the Distribution System;
- b) comply with its obligations in respect of the Legal Requirements in relation to the Maintenance of the Distribution System; and
- c) prepare Maintenance Programmes.

14.3.2 The Distribution Transporter shall establish a provisional maintenance programme (the “Maintenance Programme”) which the Distribution Transporter shall publish to the Shippers prior to the commencement of the Gas Year. The Maintenance Programme will identify the geographical locations affected by Scheduled Maintenance.

14.3.3 The Distribution Transporter shall plan the Scheduled Maintenance to minimise disruption to the Distribution System during Maintenance Days in as cost-effective, efficient and commercially prudent manner as possible and to reconcile maintenance on the Transmission System and Nominating Supply Points by co-ordinating where possible the Maintenance Days with the maintenance of the Transmission System and Exit Points. Scheduled Maintenance relating to reinforcement projects are normally planned to take place outside the Winter Period in order to minimise disruption to gas availability at Supply Points.

14.4 Timetable

14.4.1 The timetable for preparation of the Maintenance Programme for each Gas Year shall be as follows:

- a) the Distribution Transporter will meet with the Shippers to discuss Maintenance Plans for the following Gas Year during April and May of the preceding Gas Year and such consultations shall conclude before 31 May of the preceding Gas Year.

14.4.2 The Distribution Transporter shall notify the Shippers of Scheduled Maintenance for the following Gas Year by 30 September of the preceding Gas Year, informing Shippers which geographical locations may be affected and the planned extent and duration of the works planned.

- b) The Distribution Transporter shall update the Maintenance Programme on a quarterly basis and provide such updates to Shippers as soon as is reasonably practicable. The updated Maintenance Programme will take account of any Local Authority works planned. The updated Maintenance Programme will normally contain a list of the Supply Points affected relevant to each Shipper.

- c) The Distribution Transporter will notify each Shipper regarding which Supply Point will be affected by Maintenance, together with an estimate of the extent and duration of interruption, no later than 7 days before the relevant Maintenance Day (or with the Shippers consent less notice).
- d) For the avoidance of doubt, when the Maintenance Programme involves reinforcement or a system extension providing gas to an area previously not supplied with gas the Distribution Transporter will provide details of such projects to all Shippers at the same time. This will ensure that any sales campaign may be conducted by all Shippers on a non-discriminatory basis.

14.4.3 For each Gas Year, the Shippers will notify the Distribution Transporter of the maintenance requirements of their plant or systems (including any End User Facilities) prior to 31 May of the preceding Gas Year.

14.4.4 The Distribution Transporter may revise the nature, timing and duration of any Maintenance Days notified to the Shippers as a result of circumstances that a Reasonable and Prudent Operator would not have foreseen by providing for additional Maintenance and/or by varying the dates or period(s) of any Scheduled Maintenance by giving affected Shippers not less than 7 days notice unless a shorter period of notice is agreed between the Distribution Transporter and the affected Shippers.

14.5 Distribution Transporter's Obligations

14.5.1 To the extent that the Distribution Transporter cannot make Natural Gas available for offtake at a Supply Point or accept into the Distribution System Natural Gas tendered for delivery at an Entry Point as a result of Maintenance, the Distribution Transporter will be relieved of its obligations to transport Natural Gas under the DCOP, to such extent.

14.6 Maintenance Limits

14.6.1 The Distribution Transporter will be limited to a maximum of eight (8) Maintenance Days affecting the offtake of any one Supply Point in aggregate in any Gas Year for the carrying out of Scheduled Maintenance on the Distribution System.

14.6.2 The above limitation shall be without prejudice to the rights of the Distribution Transporter to carry out any additional unscheduled maintenance which may be considered by the Distribution Transporter to be necessary and/or prudent in relation to the operation of the Distribution System, subject to the Distribution Transporter having given each affected Shipper such notice as is reasonably practicable, recognising that such maintenance is unscheduled.

14.6.3 The Distribution Transporter will endeavour to minimise the impact of unscheduled Maintenance.

14.7 Capacity

- 14.7.1 Shippers shall remain liable for Transportation Charges during Maintenance Days in accordance with the provisions of the DCOP and any associated Ancillary Agreements.
- 14.7.2 The Distribution Transporter shall apply any reduction of capacity in the Distribution System resulting from Maintenance Days amongst any or all the Shippers directly affected by such Maintenance Days on a fair, open (subject to relevant confidentiality obligations) and not unduly discriminatory basis. In applying any reduction in capacity between Shippers, the Distribution Transporter shall apply the order of priority set out in Section 15.7.
- 14.7.3 In respect of Shippers using part of the Distribution System, the Distribution Transporter shall apply any reduction in such part of the Distribution System arising as a result of Maintenance Days amongst such Shippers on a fair, open (subject to relevant confidentiality obligations) and not unduly discriminatory basis.
- 14.7.4 The Shippers shall assist the Distribution Transporter in its Scheduled Maintenance by using reasonable endeavours to take delivery of Natural Gas at a Supply Point in the manner requested by the Distribution Transporter.

15. EMERGENCIES AND THROUGHPUT RESTRICTIONS

15.1 Introduction

15.1.1 This Section provides for the requirements to be complied with by Shippers on the Distribution System so that the Distribution Transporter can satisfy its responsibilities in the event of an Emergency or where throughput restrictions need to be imposed by the Distribution Transporter in respect of the Distribution System.

15.2 Emergency

15.2.1 The existence of an Emergency shall be determined by the Distribution Transporter, irrespective of the cause of the Emergency and of whether the Distribution Transporter or any other person may have caused or contributed to the Emergency.

15.2.2 An Emergency may exist:

15.2.2.1 by reason of an escape, or suspected escape, of Natural Gas; or

15.2.2.2 in circumstances which, in the opinion of the Distribution Transporter:

- a) the safety of the Distribution System is significantly at risk;
- b) the safety of the Transmission System is significantly at risk
- c) the safe conveyance of Natural Gas by the Distribution System is significantly at risk,
- d) Natural Gas conveyed by the Distribution System is at such a pressure or of such a quality as to constitute, when supplied to premises, a danger to life or property; or
- e) any other circumstances reasonably believed by the Distribution Transporter to constitute an Emergency (which, for the avoidance of doubt, may include events on the Transmission System that necessitate changes to gas flows on the Distribution System in order to operate the Transmission System safely),

and, where the context requires, a reference to an Emergency includes the event or circumstance which gives rise to such Emergency.

15.2.3 In particular, but without limitation, an Emergency may exist where the Distribution Transporter's ability to maintain safe pressures within the Distribution System is affected or threatened by an interruption or disruption to the Distribution System, an insufficiency of deliveries of Natural Gas to the Distribution System, or by any actual or potential failure of or damage to any part of the Distribution System.

- 15.2.4 An Emergency will continue until such time as the Distribution Transporter determines that the circumstances referred to in this Section 15.2 no longer apply, that no further Emergency Steps are required, and that normal operation of the Distribution System and implementation of the DCOP may be resumed.
- 15.2.5 The Distribution Transporter shall take steps to restore Natural Gas transportation and normal operation of the Distribution System as soon as reasonably possible after an Emergency.

15.3 Emergency Steps

- 15.3.1 The Distribution Transporter, to the extent it deems necessary, may take steps (“Emergency Steps”) to avert and/or reduce the probability of, or probable scale of, an Emergency or to overcome or contain an Emergency and/or to avert or reduce the hazard presented by an Emergency and/or to restore Natural Gas supply and normal operation of the Distribution System in the course of and/or following the taking of any such Emergency Steps. Emergency Steps may include action to be taken by the Distribution Transporter or a Shipper (at the Distribution Transporter’s request).
- 15.3.2 The Distribution Transporter and Shippers acknowledge that in an Emergency their interests will be subordinated to the need to take Emergency Steps in accordance with this Section 15.
- 15.3.3 In view of the importance of co-ordination of Emergency Steps, a Shipper shall only take Emergency Steps in accordance with this Section 15 and pursuant to a request made by the Distribution Transporter.
- 15.3.4 No Emergency Step taken including any act or omission in connection therewith by the Distribution Transporter or any Shipper, in compliance with any requirements of this Section 15 shall be a breach of any provision of the DCOP (however, for avoidance of doubt, the financial obligations of Shippers under the DCOP shall remain in effect), and in particular the Distribution Transporter will not be in breach of its obligation to make Natural Gas available for offtake from the Distribution System at an Exit Point to the extent that (as a result of any Emergency Step taken (including any act or omission in connection therewith)) Natural Gas is not made available for offtake.

15.4 Emergency Preparedness

- 15.4.1 In the event of an Emergency and in addition to the measures referenced in this Section 15, the Distribution Transporter will implement its emergency procedure.

15.5 Emergency Contacts

- 15.5.1 Each Shipper shall provide to the Distribution Transporter as required:
- 15.5.1.1 a single telephone number and a single facsimile number of a representative of the Shipper and the name(s), title(s) and addresses of the Shippers' representatives who may be contacted at such numbers and addresses, at which

the Distribution Transporter may contact, 24 hours a Day and on each Day of a Gas Year in an Emergency for any purpose pursuant to this Section 15;

15.5.1.2 a single telephone number and a single facsimile number of a representative of each End User at a Supply Point for which the Shipper is the Registered Shipper and the name(s), title(s) and addresses of the End Users' representatives who may be contacted at such numbers and addresses. The Distribution Transporter may contact such End Users' representative, 24 hours a Day and on each Day of a Gas Year, in an Emergency for any purpose pursuant to this Section 15.

15.5.2 Each such Shipper representative shall be a person having appropriate authority and responsibilities within a Shipper's organisation to act as the primary contact for the Distribution Transporter in the event of an Emergency.

15.5.3 The details required under this Section 15.5 shall be provided by an applicant Shipper before becoming a Shipper and shall at all times be maintained up to date, and for these purposes a Shipper shall notify to the Distribution Transporter any change in such details promptly and where possible in advance of such change.

15.5.4 If a Shipper does not provide such details, or cannot be contacted forthwith at the contact point(s) referred to in Section 15.5, the Distribution Transporter may discontinue the offtake by such Shipper of Natural Gas. In such circumstances, the Distribution Transporter shall not be liable for any costs incurred in connection with such discontinued offtake of Natural Gas, and the Shipper shall indemnify the Distribution Transporter in respect of any costs incurred in respect of such discontinued offtake.

15.5.5 The details required under Section 15.5 shall be provided by the Shipper as part of the SPA procedures in accordance with Section 7.

15.6 Occurrence of an Emergency

15.6.1 Where an Emergency arises, the Distribution Transporter will inform Shippers of the commencement, and (so far as practicable) the nature, extent and expected duration of the Emergency. The Distribution Transporter will (so far as practicable) thereafter keep Shippers informed of any material changes and developments in respect of the Emergency and will notify Shippers as soon as reasonably practicable of the time at which the Distribution Transporter considers the Emergency is no longer continuing.

15.6.2 During an Emergency each Shipper shall:

15.6.2.1 co-operate with Distribution Transporter, to the extent within the Shipper's power (and without thereby rendering the Shipper unable to comply with any requirement to take Emergency Steps itself), so as to enable the Distribution Transporter to take Emergency Steps; and

15.6.2.2 in so doing comply with the Distribution Transporter instructions and requests as soon as reasonably practicable.

15.6.3 The Distribution Transporter shall at all times during an Emergency retain the absolute right to impose upon Shippers any obligations or responsibilities it

considers may be reasonable or necessary to resolve and/or minimise the impact of such Emergency and Shippers shall comply with such obligation and responsibilities immediately (where practicable) upon being notified of same.

15.7 Exit Control

- 15.7.1 Where Emergency Steps include the reduction or discontinuance of offtake of Natural Gas at an Exit Point, the Distribution Transporter will, where feasible, seek voluntary reductions by Shippers and if the Distribution Transporter cannot achieve the requisite reduction voluntarily in a timely manner, it will reduce demand on the Distribution System (so far as the Distribution Transporter deems practicable and necessary) in the following order subject to any future Directive issued by a relevant Competent Authority impacting upon such order and requiring compliance by the Distribution Transporter and any subsequent modification resulting therefrom:
- 15.7.1.1 firstly, any large industrial/commercial End Users which have an Annual Consumption greater than [9,000,000] kWh;
 - 15.7.1.2 secondly End Users with an Annual Consumption less than or equal to [9,000,000] kWh and greater than or equal to [3,000,000] kWh;
 - 15.7.1.3 thirdly, commercial and small industrial End Users with an Annual Consumption less than [3,000,000] kWh;
 - 15.7.1.4 lastly, residential and priority institutional End Users,
- 15.7.2 Each End User within each of the above categories listed in 15.7.1.1 to 15.7.1.4 being treated as between themselves on a not unduly discriminatory basis.
- 15.7.3 In so reducing demand, the Distribution Transporter will give due consideration to the relevant information that has been supplied to the Distribution Transporter in accordance with Section 13.3.1. The Distribution Transporter will, where practicable, enable End Users to discontinue offtake in such a manner as to protect so far as possible essential or major capital items of plant, or to allow the End User to change to alternative fuels.
- 15.7.4 Where, pursuant to the Emergency, Distribution Transporter instructs a Shipper to give any notification or communication to an End User or supplier, the Shipper shall comply with that instruction.
- 15.7.5 Without prejudice to Distribution Transporter's ability to take any Emergency Steps, the Distribution Transporter may take steps physically to isolate any Exit Point where a Shipper does not comply with any instruction given under this Section 15.
- 15.7.6 The order in which, following an Emergency, offtake of Natural Gas at Exit Points is restored will (so far as is practicable) be the inverse of that under Section 15.7.1.
- 15.7.7 The Emergency will be deemed to cease at the time specified in the notice issued by the Distribution Transporter in accordance with Section 15.6.1.

15.8 Consequences of Emergency

Suspension of provisions of the DCOP

15.8.1 In the event of an Emergency, the Distribution Transporter may suspend all or any of the provisions of the DCOP (but for the avoidance of doubt not financial obligations of a Shipper) with respect to the Shippers who comply with the relevant Emergency Steps and the Distribution Transporter's requests. The provisions of the DCOP that may be suspended include, without limitation, those in relation to the Capacity Overrun Charges.

Further Consequences

15.8.2 The Distribution Transporter and the Shippers acknowledge that during an Emergency it may be necessary for each of them to divert resources from other activities which may potentially result in a temporary impairment of their abilities subsequently to perform their respective obligations pursuant to the DCOP and acknowledge that any such impairment resulting from such diversion of resources may be regarded as Force Majeure for the purposes of Section 21.

15.8.3 Costs

15.8.3.1 The Distribution Transporter subject to Section 15.9 shall:

- a) not be liable for any costs incurred by a Shipper which arise out of an Emergency; and
- b) shall be Cash Neutral with regard to any costs incurred by the Distribution Transporter in respect of an Emergency.

15.8.3.2 Each Shipper shall be liable for its own costs incurred in respect of an Emergency.

15.9 Audit

15.9.1 In the event of an Emergency, the affected Shippers may require within 6 months of the end of the Emergency that an audit shall be conducted by a reputable, independent auditor to determine the cause and what, if any, remedial actions may need to be taken to minimise the likelihood of such Emergency arising again. The cost of such audit shall be shared between such affected Shippers as requested the audit. The cost of any remedial measures resulting from the audit will be shared amongst all Shippers.

15.9.2 In the event the above referenced audit determines that the Emergency would not have occurred but for the Wilful Misconduct of the Distribution Transporter, then (subject to the Distribution Transporter disputing such determination in accordance with Section 17, the Distribution Transporter shall be liable to the Shipper only up to the extent specified in Section 21.

15.10 Difficult Days and Restricted Capacity Days in Non-Emergency Conditions

- 15.10.1 In this DCOP “Operational Flow Order” means an order issued by the Distribution Transporter to Shippers on a Difficult Day or a Restricted Capacity Day (as the case may be), or in anticipation of a Difficult Day or a Restricted Capacity Day (as the case may be), to prevent a Difficult Day or a Restricted Capacity Day (as the case may be) occurring in respect of the Distribution System or any localised part thereof, instructing the Shippers in accordance with this Section 15.10.
- 15.10.2 In this DCOP “Difficult Day” means a Day declared by the Distribution Transporter where there is insufficient flexibility available on the system to accommodate Shippers’ within Day profiles.
- 15.10.3 In this DCOP, “Restricted Capacity Day” means a Day declared by the Distribution Transporter on which there is reduced capacity (“Restricted Capacity”) available on the whole of, or part of, the Distribution System for reasons of physical or operational constraints such that a Shipper is unable to offtake the quantities it has anticipated using the Distribution System or a part thereof.

15.11 Difficult Day

- 15.11.1 The Distribution Transporter may declare a Difficult Day by issuing an initial Operational Flow Order in respect of the entire Distribution System or any localised part thereof.
- 15.11.2 The Distribution Transporter will notify the Shippers affected by the Difficult Day (or the anticipated Difficult Day) and instruct them by means of an Operational Flow Order. Each Shipper shall comply with an Operational Flow Order as soon as is reasonably practicable, and in any event within 6 hours if the Operational Flow Order is issued on Day D-1 and within 3 hours if the Operational Flow Order is issued on Day D.
- 15.11.3 On a Difficult Day, through the issuance of an Operational Flow Order, the Distribution Transporter may:
- (a) require a Shipper to reduce its aggregate MHQ in the affected Distribution Zone, leaving the choice to the Shipper of which individual Supply Points will be affected, and/or reduce the MHQ at an individual Supply Point(s) to a uniform offtake rate (equivalent to not less than MDQ/24 or to a modified daily profile as provided by the Distribution Transporter) but without prejudice to the Shipper’s right to renominate up or down and the relevant ramp rates and notice periods as outlined in the Ancillary Agreement (if any).
- 15.11.4 without prejudice to this Section 15 take any available steps to curtail the offtake to the uniform offtake rate. For the avoidance of doubt, the non TPA sector will not be affected by the declaration of a Difficult Day.
- 15.11.5 The Distribution Transporter shall act to mitigate the effects of a Difficult Day.

15.11.6 For the avoidance of doubt, the Distribution Transporter will interrupt all available Interruptible Supply Points to the extent practicable to avoid the need to declare a Difficult Day.

15.11.7 The Distribution Transporter shall inform the CER that a Difficult Day has occurred.

15.12 Restricted Capacity Day

15.12.1 The Distribution Transporter may declare a Restricted Capacity Day in respect of the entire Distribution System or any localised part thereof and following such declaration the Distribution Transporter shall allocate the Restricted Capacity among Shippers.

15.12.2 For the avoidance of doubt, the Distribution Transporter will interrupt all available Interruptible Supply Points to the extent possible to avoid the need to declare a Restricted Capacity Day.

15.12.3 In declaring a Restricted Capacity Day the Distribution Transporter shall where practicable have regard to:

- a) individual Shippers and/or End Users requirements to enable such Shippers and/or End Users to discontinue offtake in a manner which allows them to preserve essential or major capital items of plant where Shippers and/or End Users shall have notified the Distribution Transporter of their requirement in a timely fashion;
- b) where Shippers and/or End Users have a facility to change to alternative fuels and have notified the Distribution Transporter accordingly, to allow such Shippers and/or End Users to effect such change and;
- c) the potential to mitigate serious adverse consequences on Shippers and/or End Users (who have identified such potential consequences to the Distribution Transporter in a timely fashion) having regard to the requirements of the Distribution System.

Otherwise the Distribution Transporter shall allocate such Restricted Capacity on a fair and not unduly discriminatory basis in an order of priority which is the inverse of that set out in Section 15.7.

15.12.4 The Distribution Transporter will notify the Shippers affected by the Restricted Capacity Day and instruct them by means of an Operational Flow Order. Each Shipper shall comply with an Operational Flow Order in accordance with its terms.

15.12.5 On a Restricted Capacity Day through the issuance of an Operational Flow Order the Distribution Transporter operating as an RPO may:

15.12.5.1 notify each affected Shipper of the Restricted Capacity, if any, available for transportation of that Shipper's Natural Gas on a Restricted Capacity Day provided however that a Shipper may only then renominate subject to the provisions of the DCOP and the relevant notice periods and ramp rates as

outlined in the Ancillary Agreement (if any), and Renominations upwards shall be limited to the Restricted Capacity as specified in the Operational Flow Order.

- 15.12.6 The Distribution Transporter shall act to mitigate the effects of a Restricted Capacity Day and, consistent with the other provisions of the DCOP, will not knowingly act in any manner which the Distribution Transporter acting as a Reasonable and Prudent Operator would expect to result in an increase in the probability of a Restricted Capacity Day occurring. The Distribution Transporter shall further issue a report following each such day (or series of days) to the CER and the affected Shippers after calling the Restricted Capacity Day and giving the reasons therefor.
- 15.12.7 Subject to Section 15.12.6 and Section 21, the Distribution Transporter shall not be liable for any costs incurred by a Shipper arising out of a Difficult Day or a Restricted Capacity Day however incurred.
- 15.12.8 The Distribution Transporter shall inform the CER that a Restricted Capacity Day has occurred.

16. TAXES AND DUTIES

- 16.1 Subject to Section 21, each Shipper shall be responsible for such Shipper's payment of any fiscal imposts, taxes, duties or levies imposed, whether or not at the time of entering into the DCOP, upon delivery, transportation, supply, offtake, appropriation or other disposition of Shippers Natural Gas.
- 16.2 A Shipper shall indemnify, keep indemnified and hold harmless the Distribution Transporter from all actions, proceedings, claims, demands, damages, losses, costs, charges, expenses, and fines and any interest thereon arising as a result of or in connection with any failure by each Shipper, Third Party Shipper or any of its or their subcontractors or agents to comply with this Section 16.

17. DISPUTE RESOLUTION

17.1 Overview

17.1.1 For the purposes of this Section 17:

17.1.1.1 a "Dispute" means any controversy or claim arising out of or in connection with the DCOP including any question regarding their existence, validity, interpretation, breach or termination;

17.1.1.2 in respect of any Dispute, "Parties" means the Distribution Transporter, the Shipper and/or Shippers who are party to that Dispute, and "Party" shall be construed accordingly.

17.1.2 If a Dispute arises it shall be referred, upon written notice from a Party to the other Party or Parties (a "Dispute Notice"), to mediation in accordance with Section 17.2.

17.1.3 A Dispute which is not resolved by mediation within 30 days of the date of the Dispute Notice, shall (unless all the Parties to such Dispute agree otherwise in writing) be finally settled by the Arbitration Act 1954 to 1998 (as amended from time to time) with the location of the Arbitration being in the Republic of Ireland.

17.1.4 A Dispute relating exclusively to Section 19 of the DCOP which is not resolved in accordance with that Section 19, shall be finally settled by an Expert in accordance with Section 17.3.

17.2 Mediation

17.2.1 A Dispute referred to mediation shall be referred to a single mediator (the "Mediator") to be agreed between the Parties, or failing such agreement, to be appointed by the President as defined in Section 17.3.1.2.

17.2.2 The Mediator and his assistants (if any) shall, as a pre-requisite to the Mediator's appointment, enter a confidentiality undertaking with the Parties in the same terms as required by Section 18 of the DCOP.

17.2.3 Any Mediation shall be carried out on a without prejudice basis.

17.2.4 Subject to Section 17.4, the Parties shall, unless they agree otherwise, bear their own costs and expenses arising from such mediation, and the Parties shall bear the fees and expenses of the Mediator and all administrative costs arising from such mediation equally.

17.3 Expert Determination

17.3.1 The procedure for the appointment of an Expert shall be as follows:

17.3.1.1 the Parties shall attempt to agree on the appointment of a single Expert to settle the Dispute;

- 17.3.1.2 if within forty five (45) days of the date of the Dispute Notice the Parties have been unable to agree on the choice of an Expert, any Party may inform the President of the Law Society of Ireland (the “President”) of the nature and complexity of the Dispute and request him to appoint a single Expert for the determination of the Dispute within sixty (60) days of the date of the Dispute Notice, and in doing so the President may take such independent advice as he thinks fit
- 17.3.1.3 if the President refuses to make such an appointment or fails to do so within sixty (60) days of the Dispute Notice, any of the Parties may then apply to the IEI who shall appoint an Expert within fifteen (15) days of being requested to do so. If the President does not exist at the time of the Dispute and the Parties have been unable to agree the choice of Expert the IEI shall appoint the Expert within sixty (60) days of the Dispute Notice;
- 17.3.1.4 upon the Expert being agreed on or appointed in accordance with this Section 17.3 the Parties shall immediately notify the Expert of his appointment and shall request him to confirm within seven (7) days whether or not he is willing and able to accept the appointment and, if he accepts the appointment, to confirm his independence;
- 17.3.1.5 the Expert shall be a person suitably qualified by education, experience and/or training to determine the Dispute;
- 17.3.1.6 the Expert shall be entitled to: (a) seek such independent professional (including legal) and/or technical advice; and (b) obtain secretarial assistance, as he may deem reasonably necessary; and
- 17.3.1.7 the Expert and his assistants (if any) shall, as a pre-requisite to the Expert's appointment, enter into a confidentiality undertaking with the Parties in the same terms as required by Section 18 of the DCOP.
- 17.3.2 Any and all communications between the Parties and the Expert shall be made or confirmed in writing and a copy of such communications shall be provided simultaneously to the other Party or Parties. No meeting between the Expert and any of the Parties shall take place unless all the Parties have been given a reasonable opportunity to attend.
- 17.3.3 The terms of reference of the Expert shall include the following:
- 17.3.3.1 that the Expert shall, as soon as practicable after the confirmation of his appointment, call the Parties to a meeting (which shall, together with all other meetings, be held in Ireland) at which he shall clarify, and, if necessary, define the Dispute and give directions as to the future conduct of the Dispute;
- 17.3.3.2 that the Expert may, from time to time give such directions as he sees fit;
- 17.3.3.3 that the Parties shall be entitled to supply data and information and make submissions to the Expert and that the Expert shall make his determination as soon as reasonably practicable and in any event within 30 days of his appointment or such other time as agreed in writing by the Parties;

- 17.3.3.4 that the Expert shall give full written reasons for his determination and shall furnish the Parties with a draft of his proposed determination;
- 17.3.3.5 the Parties shall be entitled to make representations to the Expert within thirty (30) days after the receipt of the draft of the Expert's proposed determination.
- 17.3.4 If an Expert becomes unwilling or unable to act, or does not act, in the matter in respect of which he is appointed, then another Expert shall be appointed by the Parties, the President or IEI as the case may be, in accordance with the procedures set out in this Section 17.3.
- 17.3.5 If, within a reasonable period, but in any event not later than one hundred and twenty (120) days after the acceptance of his appointment, the Expert has not made his determination, then, at the request of any of the Parties, another Expert shall be appointed in accordance with this Section 17.3 and, on acceptance of such appointment, the appointment of the previous Expert shall cease unless (prior to the date when the new Expert accepts his appointment) the Expert has made his determination, in which case such determination shall be binding and the instructions of the new Expert shall be withdrawn.
- 17.3.6 The Expert shall be entitled to act as an Expert notwithstanding that, at the time of the appointment or at any time before he gives determination, he has or may have some interest or duty which conflicts or may conflict with his function under such appointment provided that he has disclosed any such interest or duty of which he is aware before accepting such appointment (or promptly upon any such interest or duty arising subsequent to such appointment) and the Parties have, within seven (7) days after such disclosure, confirmed their agreement to his appointment.
- 17.3.7 Subject to Section 17.4, the costs and expenses of the Expert, any independent advisers to the Expert and any costs of his or their appointment (if he is or they are appointed by the President or IEI shall be borne equally by the Parties, but each Party shall bear its own costs provided always that the Distribution Transporter shall be cash neutral with respect to its costs.
- 17.3.8 An Expert appointed in accordance with Section 17.3.1 shall act as an expert and not as an arbitrator and the provisions of the Arbitration Act 1954 and any amendments or supplements thereto or re-enactments thereof shall not apply to his determination.
- 17.3.9 The determination of the Expert shall be final and binding upon the Parties.

17.4 Costs of Dispute

- 17.4.1 The Distribution Transporter shall be Cash Neutral in respect of those costs arising out of a Dispute in circumstances where the Distribution Transporter pursues a bona fide claim in good faith (including, but not limited to, circumstances where the Distribution Transporter has obtained a legal opinion advising that the Distribution Transporter has a viable claim) unless an Expert or court directs the Distribution Transporter has failed to act as a Reasonable and Prudent Operator in pursuing such a Dispute.

18. CONFIDENTIALITY

18.1 Definitions

18.1.1 “Confidential Information” means:

18.1.1.1 in relation to the Distribution Transporter:

- a) any written information relating to the affairs of a Shipper obtained in the course of the implementation of the DCOP; or
- b) the terms of each Ancillary Agreement (other than the DCOP).

18.1.1.2 in relation to each Shipper:

- a) any information relating to the Distribution Transporter or another Shipper which is obtained in the course of the implementation of the DCOP; or
- b) the terms of its Ancillary Agreement (other than the DCOP).

18.1.2 The terms of the DCOP (excluding any Ancillary Agreements) are not Confidential Information.

18.1.3 “Disclosing Party” means the Party disclosing Confidential Information to a Receiving Party.

18.1.4 “Receiving Party” means the Party to whom Confidential Information is disclosed by a Disclosing Party.

18.2 Disclosure

18.2.1 Confidential Information shall not be disclosed in whole or in part by a Receiving Party to any other person unless the Receiving Party obtains the prior written consent of the Disclosing Party except that the Receiving Party may, without obtaining such written consent, disclose all or any of such information:

18.2.1.1 to a professional advisor of or a consultant to the Receiving Party;

18.2.1.2 to any Affiliate of the Receiving Party other than where such Affiliate is, with respect to the Distribution Transporter, the Business Development Customer Products business unit and the Development Business Assets business unit of BGE in which case the Distribution Transporter shall only be entitled to make information relevant to the implementation and modification of the DCOP;

18.2.1.3 to any bona fide intended transferee or assignee of the whole or a significant part of the issued share capital of the Receiving Party or any Affiliate thereof or of the Receiving Party’s interest under or related to the DCOP or the relevant Ancillary Agreement (if any);

18.2.1.4 to any bank or financial institution from whom the Receiving Party is seeking or obtaining finance;

- 18.2.1.5 to the extent required by law or the regulations of a recognised stock exchange or requested by any governmental agency including the CER;
- 18.2.1.6 to the extent required by the order of any court having competent jurisdiction over the Receiving Party;
- 18.2.1.7 to any person appointed as Expert pursuant to the DCOP to the extent reasonably necessary for the performance of his duties.
- 18.2.2 The Receiving Party shall, with respect to disclosure of information according to items 18.2.1.1 to 18.2.1.7, keep the disclosure of such information to the minimum necessary for the purpose for which it is disclosed.
- 18.2.3 Where disclosure is made to any third party (including an Expert) appropriate safeguards shall be made as a pre-requisite to such disclosure by the Receiving Party to prevent that third party from making any further disclosure of such information without the consent of both the Disclosing Party and the Receiving Party, including without limitation, such third party entering into confidentiality undertakings reflecting, mutatis mutandis, the provisions of this Section 18.

18.3 Exceptions

- 18.3.1 Section 18.2 shall not apply to use or disclosure of information which:
- 18.3.1.1 at the time of disclosure or at any time thereafter becomes part of the public domain other than by reason of a breach of the DCOP or the relevant Ancillary Agreement (if any);
- 18.3.1.2 is known by the Receiving Party at the time of its receipt or acquisition without being in breach of the DCOP or the relevant Ancillary Agreement (if any); or
- 18.3.1.3 is subsequently lawfully acquired by the Receiving Party from another source in a non-confidential manner otherwise than in breach of an obligation of confidentiality.

18.4 Survival

- 18.4.1 The provisions of this Section 18 shall continue to bind the Distribution Transporter and each of the Shippers for the duration of the relevant Framework Agreement and for three years thereafter.
- 18.4.2 If a Shipper ceases to be bound by the DCOP (a “Discontinuing Shipper”) the provisions of this Section 18 shall continue to bind the Discontinuing Shipper and, in relation to the Discontinuing Shipper, the Distribution Transporter and the remaining Shippers for three years from the date the Discontinuing Shipper ceases to be bound by the DCOP (and the relevant Ancillary Agreement(s)).

18.5 Data Ownership

- 18.5.1 Subject to the preceding provisions of this Section 18, any data which is processed, recorded or maintained on the Distribution System shall belong to the Distribution Transporter, and subject to the provisions of the DCOP and/or the

relevant Ancillary Agreement, the Distribution Transporter may use such data in such manner as the Distribution Transporter sees fit.

18.5.2 If a Shipper provides the Distribution Transporter with data:

18.5.2.1 the Shipper hereby grants to the Distribution Transporter a perpetual non-exclusive, royalty free licence in respect of such data and all intellectual rights therein to use, copy and adopt and deal with such data for purposes of performance and implementation of the DCOP (and the relevant Ancillary Agreement(s)) and other purposes contemplated by the DCOP but not otherwise; and

18.5.2.2 Section 18.5.2 applies to any data derived from such data and all compilations created by or on behalf of the Distribution Transporter of such data.

18.5.3 If the Distribution Transporter provides or makes available data to a Shipper, the Shipper shall be entitled to use such data without charge for the purposes of the performance and the implementation of the DCOP and for other purposes contemplated by the DCOP, but not otherwise.

19. INVOICING AND PAYMENT

19.1 Introduction

- 19.1.1 The amounts payable by the Distribution Transporter and the Shippers under this DCOP will be invoiced and paid in accordance with this Section 19.
- 19.1.2 Shippers will be required to provide security or guarantees in respect of payments due to the Distribution Transporter. The security or guarantee will be not less than the capacity charges payable in the following three calendar months.
- 19.1.3 For the purposes of this Section 19:
 - 19.1.3.1 an "Invoice" is an invoice submitted by the Distribution Transporter to a Shipper;
 - 19.1.3.2 the "Invoice Item" is an item shown as payable by the Distribution Transporter or by a Shipper in an Invoice;
 - 19.1.3.3 the "Invoice Amount" in relation to an Invoice Item is the amount shown as payable by the Shipper or the Distribution Transporter in respect of the invoice item in the Invoice.

19.2 Content

- 19.2.1 Each Invoice will specify:
 - 19.2.1.1 the identity of the Shipper;
 - 19.2.1.2 the period to which the Invoice relates;
 - 19.2.1.3 the relevant Distribution Zone to which the Invoice relates;
 - 19.2.1.4 the Invoice Amount in respect of each Invoice Item; and
 - 19.2.1.5 a unique number by which the Invoice may be identified.

19.3 Monthly Invoice

- 19.3.1 Each Month the Distribution Transporter shall, as soon as reasonably practicable (and in any event not later than ten (10) days after the start of each Month), submit a monthly invoice (the "Monthly Invoice") to each Shipper with reasonable supporting details.
- 19.3.2 An Invoice shall, in respect of the previous Month, show the amounts payable by each Shipper, as follows:
 - 19.3.2.1 the capacity component of the Tariff;
 - 19.3.2.2 the aggregate commodity component of the Tariff;

- 19.3.2.3 Metering Charges, if any;
- 19.3.2.4 any Reconciliation Charges;
- 19.3.2.5 any charges or credits, if any, associated with the operation of the Disbursements Account;
- 19.3.2.6 any relevant charges for Nominating Supply Points, if any;
- 19.3.2.7 any other costs properly arising under this DCOP (including, without limitation, charges to ensure that the Distribution Transporter is Cash Neutral in relation to Non-Compliant Gas, Modifications and Dispute costs and any applicable interest charges);
- 19.3.2.8 any other sums due and owing at the end of that preceding Month from each Shipper to the Distribution Transporter or from the Distribution Transporter to each Shipper (as the case may be) under this DCOP and any Ancillary Agreement(s);
- 19.3.2.9 the amount of tax payable by a Shipper in accordance with Section 19.5;
- 19.3.2.10 the total sum payable under the DCOP and any Ancillary Agreement(s) by each Shipper to the Distribution Transporter or the Distribution Transporter to each Shipper (as the case may be) after taking account of all the matters set out in this Section 19.3.2.

19.4 Payments

- 19.4.1 Each Shipper shall pay to the Distribution Transporter the sum set out in the Invoice for the preceding Month by the twentieth (20th) day of each Month or twelve (12) days after the receipt of the Invoice (whichever is the later) (the "Due Date").
- 19.4.2 If the Due Date as calculated above in section 19.4.1 is not a Business Day , then the Due Date shall be the next Business Day following the Due Date as calculated above in section 19.4.1.
- 19.4.3 Payments under the DCOP shall be made in Euros by direct bank transfer or equivalent instantaneous transfer of funds to such bank in Dublin as the Distribution Transporter may from time to time specify to each Shipper in writing.
- 19.4.4 Amounts payable under this DCOP shall be paid:
 - 19.4.4.1 free and clear of any restriction, reservation or condition; and
 - 19.4.4.2 without deduction on account of any amount due or to become due to the person paying, whether by way of set off, counterclaim or otherwise (except to the extent required by law).

19.5 Taxes

- 19.5.1 An Invoice shall include the amount of any taxes (excluding Corporation Tax but including Value Added Tax) payable in respect of each Invoice Item comprising the invoice.
- 19.5.2 Except to the extent (if any) required by law, amounts payable under this DCOP shall be paid without deduction or withholding in respect of tax.

19.6 Interest

- 19.6.1 If a Shipper fails to make a payment on the Due Date, such overdue payment shall bear interest, calculated and compounded monthly, from the Due Date until the date on which the payment is received at the annual rate of:
- 19.6.1.1 in the case of payments which have been the subject of a bona fide dispute, EURIBOR plus one per cent (1%); and
- 19.6.1.2 in the case of all other late payments, EURIBOR plus one and a half per cent (1.5%).

19.7 Failure to Pay

19.7.1 If a Shipper fails to make a payment (including, without limitation, any interest due), which is not the subject of a bona fide dispute, within forty two (42) days of the Due Date, on the expiry of the period of forty two (42) days the Distribution Transporter may on twenty one (21) days notice to the Shipper ;

19.7.1.1 Suspend all the Distribution Transporters obligations to the Shipper under the DCOP and/or Isolate the Supply Points to which the Invoice relates

19.7.1.2 issue a statement to all shippers that the site is available for registration with effect from the end of the notice period.

For the avoidance of doubt, the Registered Shipper will continue to incur the relevant Transportation Charges in respect of the Isolated Supply Point unless and until the Supply Point is registered with another Shipper.

19.8 Disputes

19.8.1 If there is any bona fide question or dispute as to the proper calculation of any Invoice Amount payable by a Shipper or whether such Invoice Amount is properly payable, the Shipper shall notify the Distribution Transporter of such question or dispute and provide the Distribution Transporter with full details of the reasons why the Invoice Amount is disputed within seven (7) days of receipt by the Shipper of the Monthly Invoice to which such question or dispute relates. When any invoice sum is in dispute, the undisputed portion shall be paid when due in accordance with the foregoing provisions of this Section 19.

19.8.2 Promptly after receiving notice of a question or dispute pursuant to Section 19.8.1, the Distribution Transporter shall consult with the Shipper with a view to resolving the question or dispute. The Shipper and Distribution Transporter will in good faith endeavour to resolve the dispute within [3] months, failing which, the dispute shall be referred to an Expert by either the Distribution Transporter or the Shipper for determination in accordance with Section 17. After settlement or determination of any dispute over any amount owing and due, any amount agreed or adjudged to be due (together with interest calculated in accordance with Section 19.6.1) shall be included in the next invoice rendered hereunder.

20. FORCE MAJEURE

20.1 Overview

20.1.1 Subject to Section 20.2, and without prejudice to any other provision of this DCOP limiting or restricting the liability of the Distribution Transporter or Shipper(s), if by reason of an event of Force Majeure, the Distribution Transporter or Shipper(s) is rendered unable wholly or in part to carry out its obligations under this DCOP and/or relevant the Ancillary Agreement (if any) then,

20.1.1.1 if the Distribution Transporter is rendered unable to so perform, the Distribution Transporter shall notify the Shipper or Shippers affected by Distribution Transporter's inability to perform and the Distribution Transporter's obligations will be suspended to the extent the Distribution Transporter's ability to perform is hindered by the Force Majeure event; or

20.1.1.2 if a Shipper is rendered unable to so perform, the Shipper shall notify the Distribution Transporter in writing of the event and its inability to perform, and, if the Distribution Transporter considers that the event is an event of Force Majeure affecting the Distribution System as a whole or any localised part thereof the Distribution Transporter shall, as soon as reasonably practicable, notify the Shipper and any other Shipper who may be affected by the event, that the event constitutes an event of Force Majeure and such Shippers' obligations will be suspended to the extent the Shippers ability to perform is hindered by the Force Majeure event.

20.1.2 In this Section 20:

20.1.2.1 "**Affected Party**" means the Party which is unable to perform as a result of an event of Force Majeure;

20.1.2.2 "**Other Party**" means the Party or Parties which are not directly affected by a Force Majeure event, but are affected by the Affected Party's inability to perform.

20.2 Liability or Obligation

20.2.1 A Force Majeure event shall not relieve either the Distribution Transporter or a Shipper from any liability or obligation to:

20.2.1.1 make payments due under this DCOP or a relevant Ancillary Agreement (including for the avoidance of doubt any capacity payments) save to the extent that the failure to pay money is caused by a Force Majeure event or circumstance affecting all reasonable means of payment, in which event, upon the cessation of such Force Majeure event, the Affected Party shall pay, in addition, interest on any amounts due hereunder at the rate of EURIBOR calculated from the due date for payment to the actual date of payment; and

20.2.1.2 give any notice due under this DCOP.

20.3 Relief

20.3.1 Relief under Section 20.1 shall not be given unless the Affected Party has:

20.3.1.1 as soon as reasonably practicable but in any event within twenty one (21) days of the occurrence of the Force Majeure event, supplied the Other Party with a detailed report as to the place of (and reason for such event so far as such information is reasonably available) the Force Majeure event, together with such other information as the Other Party may reasonably request provided that any relevant information which cannot be made available within such twenty one (21) day period will be supplied as soon as it is available, and that the Affected Party will not be prevented from using such information in support of its Force Majeure claim;

20.3.1.2 used reasonable efforts, in accordance with the standard of a Reasonable and Prudent Operator, to overcome the effects of the Force Majeure event.

20.4 Any Party whose failure to perform obligations has been relieved under the provisions of this Section 20, shall resume the performance of such obligations as soon as reasonably practicable after the removal of the cause(s) of such failure, and shall notify the Other Party prior to resumption.

21. LIABILITIES AND INDEMNITIES

- 21.1 Without prejudice to Section 21.3 and 21.4, nothing in this DCOP shall exclude or limit the liability of the Distribution Transporter or a Shipper for death or personal injury resulting from the negligence of the Distribution Transporter or a Shipper, or any of its officers, employees or agents.
- 21.2 Subject to Section 21.1, neither the Distribution Transporter nor a Shipper or any of their respective officers, employees or agents shall in any circumstances be liable, whether in contract, tort or otherwise, for any Consequential Loss.
- 21.3 Save as expressly provided elsewhere in the DCOP, each Shipper shall indemnify and keep indemnified the Distribution Transporter from and against, all actions, proceedings, suits, claims, demands, damages, losses, costs, charges, expenses and fines arising from:
- 21.3.1 personal injury to, illness or death of any of the Shipper's own officers, directors, employees and agents and/or those of its Affiliates, contractors, sub-contractors; and
- 21.3.2 loss of or damage to the Shipper's own property or the property of its Affiliates, contractors, sub-contractors and its and their respective officers, directors, employees and agents,
- howsoever arising from the Distribution Transporter's breach of any of its obligations under or in connection with this DCOP or from the Distribution Transporter's negligent act or omission save to the extent that any liability, loss or damage arises or results from Wilful Misconduct on the part of the Distribution Transporter.
- 21.4 Save as expressly provided elsewhere in the DCOP, the Distribution Transporter shall indemnify and keep indemnified each Shipper from and against, all actions, proceedings, suits, claims, demands, damages, losses, costs, charges, expenses and fines arising from:
- 21.4.1 personal injury to, illness or death of any of the Distribution Transporter's own officers, directors, employees and agents and/or those of its Affiliates, contractors, sub-contractors; and
- 21.4.2 loss of or damage to the Distribution Transporter's own property or the property of its Affiliates, contractors, sub-contractors, or their respective officers, directors, employees and agents,
- howsoever arising from a Shipper's breach of any of its obligations under or in connection with this DCOP or from a Shipper's negligent act or omission save to the extent that any liability, loss or damage arises from or results from Wilful Misconduct on the part of a Shipper.
- 21.5 Failure to make gas available for offtake

- 21.5.1 Where the Distribution Transporter is or has been in breach of its obligation under this DCOP to make gas available for offtake from the Distribution System for a period of 24 hours or more, the following provisions will apply:
- 21.5.2 the time period when gas is not available will be rounded up or down to give a figure in whole days;
- 21.5.3 the Distribution Transporter will convert the capacity component of the Tariff into a daily sum;
- 21.5.4 the Distribution Transporter will refund the capacity component to the Shipper, calculated as a daily capacity charge, of the Tariff for the period in whole days when gas was unavailable for offtake.
- 21.6 The Distribution Transporter, for the avoidance of doubt, shall not be liable for:
 - 21.6.1 the consequences of any decision taken by the Distribution Transporter acting as a Reasonable and Prudent Operator in accordance with this DCOP including, without limitation, any decision to withhold, reduce or limit any quantity of Natural Gas made available for offtake by or to a Shipper at respectively an Entry Point or from an Exit Point as a consequence of the Distribution Transporter performing its duties and obligations pursuant to this DCOP (including as a result of a Shipper's acts or omissions, or being misinformed by Shipper).
- 21.7 In respect of any claims, action or liability arising in respect of any third party (not being a Shipper or a party in any way connected, whether directly or indirectly, with the supply of Natural Gas to a Shipper and/or connected directly or indirectly with the Distribution System, including without limitation an Upstream Operator) and subject always to, and save as elsewhere specifically provided for in, the provisions of this DCOP:
 - 21.7.1 the Distribution Transporter shall indemnify a Shipper in respect of such third party claims, actions or liabilities where the same arises as a result of any breach by the Distribution Transporter of its obligations under this DCOP as a result of its Wilful Misconduct subject to the provisions of this Section 21 above; and
 - 21.7.2 a Shipper shall indemnify the Distribution Transporter in respect of such third party claims, actions or liabilities where the same arise as a result of a breach by the Shipper of its obligations under this DCOP and/or as a result of its Wilful Misconduct.
- 21.8 A Shipper shall, in addition to the indemnity set out in Section 21.7.2, indemnify the Distribution Transporter in respect of any claims, actions or liabilities brought against the Distribution Transporter by the End User(s) to whom the Shipper is transporting Natural Gas.
- 21.9 Each of the sub-sections of this Section 21 shall:
 - 21.9.1 be construed as a separate and severable contract term, and if one or more of such Sections is held to be invalid, unlawful or otherwise unenforceable the other or others of such Sections shall remain in full force and effect and shall continue to bind the Distribution Transporter and the Shippers; and

21.9.2 survive termination of the Shipper's Framework Agreement.

22. MODIFICATIONS

22.1 Proposals

- 22.1.1 A Shipper or the Distribution Transporter may propose modifications (each a “Modification”) to the DCOP, and each proposed Modification shall:
- a) be given to the Distribution Transporter in writing;
 - b) set out in sufficient detail the nature and purpose of the proposed Modification;
 - c) nominate an individual as the proposer's representative in relation to the proposed Modification; and
 - d) if the proposer considers that the Modification should be treated as urgent, the Modification proposal shall identify the Modification proposal as such.
- 22.1.2 The Distribution Transporter will prepare a written report on the proposed Modification which will be given to the CER.
- 22.1.3 Where the Modification has been proposed by a Party other than the Distribution Transporter, the report will detail the Distribution Transporter’s view of the Modification and will be issued to the CER within six weeks of receipt of the Modification proposals.
- 22.1.4 The Distribution Transporter may, from time to time, recommend the form which Modification proposals should take.

22.2 Implementation

- 22.2.1 Following discussion between the Distribution Transporter and the CER, where a proposed Modification has been accepted by the CER, Distribution Transporter shall implement the Modification.
- 22.2.2 The Distribution Transporter shall notify the Shippers of the date upon which the Modification shall become effective.
- 22.2.3 The Distribution Transporter shall give the Shippers as much notice as is reasonably practicable of any Modification to be implemented.
- 22.2.4 Following discussion between the Distribution Transporter and the CER, where a proposed Modification has been rejected by the CER, the Distribution Transporter shall inform the proposer of the Modification, in writing, giving the reasons for such rejection.

22.3 Legal & Regulatory Issues

- 22.3.1 The Distribution Transporter shall ensure that the procedure for modifying the DCOP complies with Legal Requirements.

22.4 Compatibility with TCOP

22.4.1 The Distribution Transporter shall use reasonable endeavours to maintain compatibility with the Transmission Code of Operations. If a modification under the terms of the TCOP that will / potentially have a detrimental impact on Shippers operating under this DCOP is implemented, the Distribution Transporter will inform Shippers of such event and will alert the CER as soon as is reasonably practicable.

22.5 Cash Neutrality

22.5.1 All proposed Modifications which are accepted or proposed by the Distribution Transporter (and the costs relating thereto incurred by the Distribution Transporter) shall be implemented on a Cash Neutral basis.

23. SUPPLY POINT ADMINISTRATION COMMUNICATIONS

- 23.1 All communications between the Distribution Transporter and the Shipper with respect to the Supply Point Administration terms and conditions contained in Section 7 of this DCOP will be in the form of facsimile pro-formas which will be issued by the Distribution Transporter and revised from time to time as the Distribution Transporter shall reasonably see fit.
- 23.2 Except where otherwise provided in Section 7, the facsimile transmissions will be deemed to have been received on the day of transmission, provided such day is a Business Day or on the first Business Day after that day and in all cases provide that a valid transmission report confirming good receipt is generated.
- 23.3 Where a facsimile is sent for the purposes above, the Party giving notice shall (but without prejudice to paragraph 23.2) re-send the pro-forma as soon as is reasonably practicable if so requested by the other Party.

24. NOTICES

- 24.1 Any notices required under this DCOP shall be made by facsimile or such others means the Distribution Transporter may specify from time to time, in the case of the Distribution Transporter to the principal place of business of the Distribution Transporter (as specified below) and in the case of the Shipper to the Shipper's address for service in the Republic of Ireland, as specified in the Gas Point Register.

Such notice shall be deemed delivered when received in a legible form.

- 24.2 The principal place of business of the Distribution Transporter is as follows:

Secretary (with a copy to Head of Distribution)
Bord Gais Eireann
P.O. Box 51

Gasworks Road

Cork.

Tel Number: 021 4534000

Facsimile Number: 021 4534001

- 24.3 If the Distribution Transporter changes its principal place of business it shall promptly notify the other Shippers in writing.
- 24.4 If the Shipper changes its address for service in the Republic of Ireland, it shall promptly notify the Distribution Transporter in writing.

25. ASSIGNMENT AND SUBCONTRACTING

25.1 Assignment to Affiliates

- 25.1.1 The Distribution Transporter may assign all of its interest under this DCOP to an Affiliate without the consent of the Shipper provided that in such an event the Distribution Transporter can demonstrate that the Affiliate has the legal, technical and economic ability to comply with the obligations which it will undertake.
- 25.1.2 The Shipper may assign all of its interest under this DCOP to an Affiliate without the consent of the Distribution Transporter provided that in such an event the Shipper can demonstrate to the reasonable satisfaction of the Distribution Transporter that the Affiliate has the legal, technical, financial (including its ability to satisfy the requirements of Section 19.1.2) and economic ability to comply with the obligations which it will undertake.
- 25.1.3 If the assignee ceases to be an Affiliate of the Distribution Transporter (where the assigning Party is the Distribution Transporter) or an Affiliate of the Shipper (where the assigning Party is the Shipper) the assigning Party shall ensure that all the rights and obligations assigned or transferred to such assignee under Section 25.1 are, prior to the time the assignee ceases to be an Affiliate, either assigned or transferred to another Affiliate of the Distribution Transporter or the Shipper (as the case may be) failing which all of such interests shall be deemed to be automatically assigned or transferred back to the assigning Party.

25.2 Assignment to non-Affiliates

- 25.2.1 Except as provided in Section 25.1, no Shipper shall be entitled to assign or purport to assign the whole or part of its interest under this DCOP without the prior consent in writing of the Distribution Transporter (which consent shall not be unreasonably withheld). It shall be reasonable for the Distribution Transporter to withhold consent as aforesaid if the Shipper cannot demonstrate to the reasonable satisfaction of the Distribution Transporter that the proposed assignee has the legal, technical, financial and economic ability to comply with the obligations which it will undertake.
- 25.2.2 No assignment pursuant to Section 25.2.1 shall be effective unless and until:-
- 25.2.2.1 the Shipper has procured that the proposed assignee provides to the Distribution Transporter a direct covenant (in favour of the Distribution Transporter and in a form reasonably satisfactory to the Distribution Transporter) that the assignee will observe and perform the obligations under this DCOP which are being assigned to it; and
- 25.2.2.2 a certified copy of the assignment (excluding terms relating to the consideration paid or payable) has been delivered to the Distribution Transporter by the Shipper.

Subcontracting

25.2.3 The Distribution Transporter shall at all times have the right to sub-contract or delegate in whole or in part the performance of its rights and obligations under this DCOP to a third party without the consent of the Shipper provided that the Distribution Transporter shall not thereby be relieved of any of its obligations under this DCOP and shall be responsible for any failure or non-performance of such third party as if the Distribution Transporter itself had failed to fulfil the relevant obligation.

26. TERMINATION

26.1 Standard rights of termination

- 26.1.1 The Distribution Transporter shall have the right in accordance with this Section 26 on (or after) expiry of the notice period (referred to in Section 26.2) given to a Shipper, to terminate the Framework Agreement with that Shipper forthwith.
- 26.1.2 A Shipper shall have the right to terminate the Framework Agreement forthwith on giving written instruction to the Distribution Transporter provided that the Shipper is not the Registered Shipper at any Supply Point.

26.2 Termination rights following default

- 26.2.1 Either Party (the "Non-Defaulting Party") shall have the right, by giving not less than 21 days notice in writing (the "Termination Notice") to the other party (the "Defaulting Party") and without prejudice to any other right(s) that the Non-Defaulting Party may have against the Defaulting Party in respect of any such breach, to terminate the Framework Agreement in the event that:
 - 26.2.1.1 the Defaulting Party is in breach of its obligations under the DCOP hereunder and such breach has a material adverse effect on the Non-Defaulting Party; and
 - 26.2.1.2 the Defaulting Party shall have failed to take steps to remedy such breach (if the breach is capable of being remedied) within such period as is specified for the purpose in a written notice from the Non-Defaulting Party to the Defaulting Party. The Non-Defaulting Party shall in such notice under this Section 26.2.1.2:
 - (a) specify the breach giving full particulars; and
 - (b) specify (in reasonable detail) the remedy and the period (which period shall be of such length as a Reasonable and Prudent Operator would require in order to remedy such breach) within which steps to remedy the breach are to be initiated. Such period shall, in any event, be not less than sixty (60) business days except where the breach is in respect of a payment obligation, in which case, such period shall be not less than twenty one (21) days.
- 26.2.2 Any termination pursuant to this Section 26.2 will take effect at the end of the notice period of 21 days (if such breach is not capable of remedy) or upon such later date that the Non-Defaulting Party may have specified for the purpose in its Termination Notice.

26.3 Additional rights of termination

- 26.3.1 The Non-Defaulting Party shall have the right to terminate the Framework Agreement forthwith by serving written notice on the Defaulting Party upon the occurrence of any of the following events:
- 26.3.1.1 any bona fide action or other steps are taken or legal proceedings are started (and are not withdrawn within fourteen (14) days) for the liquidation, winding-up, dissolution, or for the appointment of a receiver, liquidator, administrator, examiner or similar officer of the Defaulting Party;
 - 26.3.1.2 an encumbrancer takes possession of, or a liquidator, receiver or an administrator or examiner is appointed over a substantial part of the assets of the Defaulting Party or any security granted by the Defaulting Party becomes enforceable;
 - 26.3.1.3 the Defaulting Party is unable to pay its debts as they fall due within the meaning of relevant Insolvency legislation or enters into any composition, assignment, scheme or arrangement with creditors generally of such Party (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by (in the case of the Distribution Transporter) the Shipper or (in the case of the Shipper) the Distribution Transporter, in either case, such approval not to be unreasonably withheld or delayed);
 - 26.3.1.4 the Defaulting Party suffering a distress, execution, sequestration or other process being levied or enforced upon or sued or against all or any substantial part of its assets, rights or revenues which is not discharged, stayed, or dismissed within thirty (30) days; and
 - 26.3.1.5 any event equivalent or analogous to any of the events specified in Sections 26.3.1.1, 26.3.1.2, 26.3.1.3 or 26.3.1.4 occurs in relation to the Defaulting Party in any jurisdiction.
- 26.3.2 Termination of the Framework Agreement under Section 26.1, 26.2 and 26.3 shall not extinguish or relieve the Shipper from the performance of any obligation accrued at that time or from the payment of any amounts due to the Distribution Transporter (including without limitation payment of any and all of the capacity component of the Tariff which may be due under the terms of this DCOP).
- 26.3.3 In the event of the Distribution Transporter being the Defaulting Party, termination of the Framework Agreement under Section 26.1, 26.2 and 26.3 shall not extinguish or relieve the Distribution Transporter from the performance of any obligation accrued at that time.
- 26.3.4 Upon termination under this Section 26 arising (i) as a result of non payment by the Shipper of sums due under Section 19.7.1, and/or (ii) arising as a result of the Shipper default under Section 26.2, 26.3 or 26.3.4 the balance of all payments due, accrued or outstanding to the Distribution Transporter under this DCOP shall immediately fall due and payable by the Shipper to the Distribution Transporter Provided always that the Distribution Transporter shall have used its reasonable

efforts to mitigate such outstanding amounts as may otherwise be due to the Distribution Transporter.

26.4 Change in control of the Shipper

26.4.1 The Distribution Transporter may terminate the Framework Agreement forthwith upon written notice to the Shipper in the event of a change of control of the Shipper where such change of control, in the reasonable opinion of the Distribution Transporter, will affect materially the legal, technical, financial and/or economic ability to perform the Shipper's obligations hereunder and where "control" means the ability to direct the affairs of another whether by way of contract, ownership of shares or otherwise howsoever.

27. DISBURSEMENTS ACCOUNT

27.1 Disbursements Account

- 27.1.1 The Distribution Transporter will establish a disbursements account (the "**Disbursements Account**") which will hold any net payments received by the Distribution Transporter through this DCOP, including, inter alia, Daily Overrun Charges and Failure to Interrupt Charges (collectively "**Charges**"). The Distribution Transporter shall have the right in the proper performance of its obligations hereunder) to discharge any payments properly due in respect of Non-Compliant Gas, Modifications and Dispute Costs out of the Disbursements Account. Any funds raised from the above Charges shall be refunded to Shippers, in accordance with their annual throughput, through the Disbursements Account once all relevant costs have been paid. At the end of each Gas Year, such funds will be reconciled and balanced through refunding (or charging) Shippers, as appropriate, for any outstanding balance, pro-rata to their relevant annual throughput.
- 27.1.2 At the request of the majority of Shippers (within three (3) months of the end of the Gas Year to which such Disbursements Account relates), the Disbursements Account shall be audited by an independent, reputable auditor. The Transporter shall be Cash Neutral in respect of the costs of such audit.

28. GOVERNING LAW

- 28.1 The DCOP shall be governed by and construed in accordance with the laws of the Republic of Ireland.

29. ENTIRE AGREEMENT

- 29.1 Each Party acknowledges that it has entered into this DCOP and is contracting for the transportation of Natural Gas between the relevant Entry Point(s) and Exit Point(s) by the Distribution Transporter based solely upon the express representation and warranties set out in this DCOP (and including, for the avoidance of doubt, the Framework Agreement and any Ancillary Agreement(s)) and the Parties expressly negate any other representation or warranty, written or oral, expressed or implied prior to the execution of this DCOP.

APPENDIX 1

Information Required for Supply Point Request (Section 7.1)

- a) Identity of the proposing Shipper;
- b) Identity of the End User;
- c) If the Proposed Supply Point is an exiting or New Supply Point;
- d) If the Proposed Supply Point is a New Supply Point, a description of the basis on which the Eligibility Criteria is satisfied;
- e) All of the Gas Point Registration Numbers;
- f) The Meter Location Details (to the extent available to the Shipper);
- g) The Proposed Supply Point capacity in terms of the proposed MDQ;
- h) The proposed MHQ;
- i) The Gas Point Registration Number of any Gas Point which is to become or has ceased to be a DM Gas Point; and
- j) Any other information as may be required as stated in this DCOP

APPENDIX 2

Information to be provided in Supply Point Offer (Section 7.2)

- a) The identity of the proposing Shipper;
- b) The address(es) of the Supply Point Premises;
- c) The Supply Point Reference Number;
- d) The Gas Point Registration Number for each Gas Point at the Proposed Supply Point;
- e) The Supply Point Capacity to include details of the offered MDQ and Gas Point details.
- f) Details of dataloggers installed at each Gas Point;
- g) The offered MHQ and Gas Point details.
- h) Whether the Proposed Supply Point is a Firm or Interruptible Supply Point, and if interruptible any other relevant details as may be required to define the nature of the interruptible classification;
- i) Whether the Proposed Supply Point is a Nominating Supply Point in which case an Ancillary Agreement will be required;
- j) Whether an Ancillary Agreement will be required for the offtake of gas from the System at the Proposed Supply Point;
- k) The Distribution Zone in which the Proposed Supply Point is located;
- l) The Annual Quantity for each Gas Point;
- m) Details of Transportation Charges and any other relevant information relating to these charges;
- n) The Gas Point Registration Numbers of any Gas Point which has been isolated or a request for Disconnection/Isolation is outstanding;
- o) Whether the Existing Shipper has submitted a Supply Point Withdrawal in respect of the Supply Point; and
- p) A reference number by which the Supply Point Offer can be uniquely identified.