

# **NATURAL GAS SUPPLY/SHIPPING LICENCE**

## **GRANTED TO**

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### **Document Reference: CER/03/128**

**This document presents the proposed licence for natural gas supply activities which the Commission for Energy Regulation may issue under Section 16(1) of the Gas (Interim) (Regulation) Act, 2002.**

**This document accompanies the consultation paper “Transmission, Distribution and Supply Licences for Natural Gas” (Reference CER/03/093). Please refer to that paper for further comments put forward by the Commission on the proposed licensing regime.**

## **TABLE OF CONTENTS**

### **PART I: TERMS OF THE LICENCE**

### **PART II: CONDITIONS OF THE LICENCE**

#### **Section A: Conditions of general application**

- Condition 1: Interpretation and construction**
- Condition 2: Codes of operations**
- Condition 3: Security and emergency arrangements**
- Condition 4: Co-operation with the Gas Point Registration Operator**
- Condition 5: Provision of information to the Commission**
- Condition 6: Safety Framework**
- Condition 7: Payment of levy**
- Condition 8: Prohibition of anti-competitive behaviour**
- Condition 9: Assignment of licence and transfer of Eligible Supply Business**
- Condition 10: Change in control of Licensee**

#### **Section B: Further Conditions relating to economic regulation**

- Condition 11: Terms of supply to Eligible Customers**
- Condition 12: Regulatory accounts**
- Condition 13: Ring-fencing of the Supply Business and restriction on use of certain information**
- Condition 14: Compliance Officer**
- Condition 15: Prohibition of cross-subsidies**
- Condition 16: Purchasing of natural gas**
- Condition 17: Prohibition of discrimination, etc**

#### **Section C: Conditions relating to supply to final customers**

- Condition 18: Duty to offer supply**
- Condition 19: Duty to comply with Section 2(1) orders**
- Condition 20: Emergency response service**
- Condition 21: Metering and data services**
- Condition 22: Information given to final customers**
- Condition 23: Contracts for supply to domestic customers**
- Condition 24: Code of practice on payment of bills and dealing with customers in difficulty**
- Condition 25: Code of practice on complaint handling**
- Condition 26: Vulnerable customers**
- Condition 27: Code of practice on disconnection**
- Condition 28: Code of practice on marketing to domestic customers**
- Condition 29: Prohibition on tying**
- Condition 30: Preparation, review of and compliance with codes of practice, etc**
- Condition 31: Change of supplier process**
- Condition 32: Supplier of last resort**
- Condition 33: Directions in connection with suppliers of last resort**
- Condition 34: Provision for termination upon direction**

**SCHEDULE 1: RIGHT OF COMMISSION TO REVOKE THE LICENCE**

## **PART I: TERMS OF THE LICENCE**

1. The Commission for Energy Regulation (hereinafter referred to as the "Commission"), in exercise of the powers conferred by Section 16(1)(a) of the Gas (Interim) (Regulation) Act, 2002 (hereinafter referred to as the "Act") hereby grants to *[insert name of Licensee]* and any permitted assignee (hereinafter referred to as the "Licensee") a licence to supply natural gas to all persons of a type mentioned in subsection (1) of Section 10A of the Gas Act, 1976 and customers of a type mentioned in Article 19 of Directive 98/30/EC during the period specified in paragraph 3, subject to the Conditions (hereinafter referred to as the "Conditions") set out in Part II.
2. The Conditions are subject to modification or amendment in accordance with their terms or with Section 16(16)(b) of the Act. The licence hereby granted (hereinafter referred to as "this licence") is further subject to the terms as to revocation specified in Schedule 1.
3. This licence shall come into force on *[date]* and, unless revoked in accordance with the provisions of Schedule 1, shall continue in full force and effect until determined by not less than 10 years' notice in writing given by the Commission to the Licensee, such notice not to be served earlier than the 15<sup>th</sup> anniversary of the date on which this licence comes into force.
4. For the purposes of paragraph 1, "permitted assignee" means a person to whom this licence has been assigned in accordance with the Conditions (so far as relevant).

Sealed with the common seal of the Commission for Energy Regulation on *[date]*.

Member of Commission

Member of staff of Commission

## **PART II CONDITIONS OF THE LICENCE**

### **SECTION A: CONDITIONS OF GENERAL APPLICATION**

#### **Condition 1: Interpretation and construction**

1. Unless the contrary intention appears:
  - a) words and expressions used in the Conditions or the Schedules shall be construed as if they were in an enactment and the Interpretation Act, 1937 (as amended) applied to them; and
  - b) references to an enactment shall include primary and subordinate legislation and in both cases any modification or re-enactment thereof and any successor or replacement legislation thereto after the date when this licence comes into force.
2. Any word or expression defined in the Act for the purposes of any provision of the Act shall, unless the contrary intention appears, have the same meaning when used in the Conditions or in the Schedules.
3. In the Conditions and in the Schedules, unless otherwise specified or the context otherwise requires:

**“affiliate”** in relation to any person means a holding company of such person, any subsidiary of such person or any subsidiary of a holding company of such person;

**“Auditors”** means the Licensee’s auditors for the time being holding office (where applicable, in accordance with the requirements of the Companies Acts, 1963 to 2001) ;

**“chronically sick”** means, in relation to a customer, any customer who, by reason of chronic sickness, has special needs in connection with the natural gas supplied to him, its use or the use of natural gas appliances or other natural gas fittings;

**“code of operations”** means a code of operations required to be prepared by the holder of a natural gas licence pursuant to Section 13(1) of the Act, and

	approved by the Commission, as from time to time revised, amended, supplemented or replaced with the approval or at the direction of the Commission;
<b>“customer”</b>	in relation to the supply of natural gas, means any person supplied or, as appropriate, requiring to be supplied with natural gas at any premises, and includes wholesale or final customers of natural gas undertakings and natural gas undertakings which purchase natural gas;
<b>“disabled”</b>	means, in relation to a customer, a customer who, by reason of any disability, has special needs in connection with natural gas supplied to him, its use or the use of natural gas appliances or other natural gas fittings and includes any customer who is in receipt of a social security benefit by reason of any disability;
<b>“Distribution Business”</b>	means the business (if any) of the Licensee and any affiliate or related undertaking of the Licensee consisting in the operation of any one or more distribution pipelines;
<b>“distribution system”</b>	means a system made up of distribution pipelines (as specified by the Commission under the Act);
<b>“domestic customer”</b>	means a final customer purchasing natural gas other than for commercial or industrial purposes;
<b>“Eligible Customer”</b>	means a customer of the Eligible Supply Business;
<b>“Eligible Supply Business”</b>	means the business of the Licensee consisting in the supply of natural gas as authorised by this licence;

<b>“Franchise Customer”</b>	means a customer of the Franchise Supply Business;
<b>“Franchise Supply Business”</b>	means the business (if any) of the Licensee and any affiliate or related undertaking of the Licensee consisting in the supply of natural gas to customers other than Eligible Customers;
<b>“Gas Point”</b>	means a metered point at which natural gas may be offtaken from a distribution system or transmission system for the purposes of supply direct to a particular final customer;
<b>“Gas Point Registration Number”</b>	means the unique number allocated to a Gas Point to record its physical location;
<b>“Gas Point Registration Operator or “GPRO”</b>	means the person designated as such by the Commission under a natural gas licence, in his role as such;
<b>“holding company”</b>	means a holding company within the meaning of Section 155 of the Companies Act, 1963;
<b>“levy order”</b>	means an order made under paragraph 16 of the Schedule to the Act of 1999, or under Section 21(1) or Section 22(2) of the Act;
<b>“Licensee”</b>	means <i>[insert name here]</i> ;
<b>“metering equipment”</b>	means meters and associated equipment installed on a distribution or transmission system at points of natural gas custody transfer or for other fiscal purposes and meeting the relevant standards of accuracy set by law and/or any relevant regulatory authority;
<b>“modification”</b>	includes addition, omission, amendment and substitution, and cognate expressions shall be

	construed accordingly;
<b>“natural gas legislation”</b>	means any or all of the Gas Acts, 1976 to 2002 (as relevant in the context);
<b>“network”</b>	means the totality of transmission and distribution pipelines used for the transmission, distribution and supply of natural gas to, from or within the State;
<b>“network emergency”</b>	means an emergency endangering persons and/or property and arising from a loss of pressure in the network or any part thereof;
<b>“Network Emergency Manager”</b>	means the person designated as such by the Commission under a natural gas licence, in his role as such;
<b>“proposed change of supplier”</b>	in relation to any premises means the proposed implementation of arrangements whereunder natural gas would no longer fall to be supplied to premises by one supplier but would instead fall to be supplied to those premises by another supplier;
<b>“related undertaking”</b>	in relation to any person means any undertaking having a participating interest in that person, or any undertaking in which that person has a participating interest as defined in Regulation 35 of the European (Companies: Group Accounts) Regulations, 1992 (S.I.201 of 1992);
<b>“relevant safety requirements”</b>	means the requirements relevant to the safe operation of the Supply Business set by one or more of the bodies designated for the purpose by the Commission and notified to the Licensee by the Commission;



<b>“relevant shipper”</b>	means, in relation to any premises or to a customer supplied with natural gas at any premises, a supplier who has made arrangements with a transporter for natural gas to be transported to those premises;
<b>“relevant transporter”</b>	means, in relation to any premises or to a customer supplied with natural gas at any premises, the operator of the distribution pipeline which conveys natural gas to those premises or, where those premises are connected directly to a transmission pipeline, the operator of the transmission pipeline which conveys gas to those premises;
<b>“Section 2(1) order”</b>	means an order made under Section 2(1) of the Gas (Amendment) Act, 1987;
<b>“Separate Business”</b>	means each of the Eligible Supply, Franchise Supply, Storage, Distribution and Transmission Businesses taken separately from one another and from any other business of the Licensee, but so that where all or any part of such business is carried on by an affiliate or related undertaking of the Licensee such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any other such business of the Licensee (and of any other affiliate or related undertaking) so as to form a single Separate Business;
<b>“Storage Business”</b>	means the business (if any) of the Licensee and any affiliate or related undertaking of the Licensee consisting in the storage of natural gas;
<b>“subsidiary”</b>	means a subsidiary within the meaning of Section 155 of the

Companies Acts, 1963;

<b>“supplier”</b>	means a person engaged in the supply of natural gas (and includes shippers);
<b>“Supply Business”</b>	means the Eligible Supply Business and the Franchise Supply Business taken together;
<b>“Transmission Business”</b>	means the business (if any) of the Licensee and any affiliate or related undertaking of the Licensee consisting in the operation of any one or more transmission pipelines;
<b>“transmission system”</b>	means a system made up of transmission pipelines (as specified by the Commission under the Act);
<b>“transporter”</b>	means a person who operates one or more distribution or transmission pipelines; and
<b>“vulnerable customers”</b>	means final customers who are chronically sick, of pensionable age, disabled or otherwise disadvantaged.

4. Unless otherwise specified:
  - (a) any reference to a numbered Condition or to a numbered Schedule is respectively a reference to the Condition or the Schedule being that number in this licence;
  - (b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Condition or Schedule in which the reference occurs; and
  - (c) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than this licence), code or other instrument shall include a reference to such agreement, licence, code or other instrument as varied, supplemented or replaced from time to time.
5. The heading or title of any Part, Condition, Schedule or paragraph shall not affect the construction thereof.
6. Where any obligation of the Licensee is expressed to require performance within a specified time limit that obligation shall continue to be binding and enforceable after that time limit if the Licensee fails to perform that obligation within that time limit (but without

prejudice to all rights and remedies available against the Licensee by reason of the Licensee's failure to perform within the time limit).

7. The provisions of Section 4 of the Act of 1999 shall apply for the purposes of the delivery or service of any document, direction or notice to be delivered or served pursuant to this licence and directions issued by the Commission pursuant to any Condition shall be delivered or served as aforesaid.
8. Unless otherwise specified, where a Condition requires, or makes provision for or reference to:
  - (a) any communication from or by the Commission to the Licensee (including, without limitation, any notification, direction, approval, consent or agreement to be given by the Commission); or
  - (b) any communication from or by the Licensee to the Commission (including, without limitation, any notification, application or provision of information by the Licensee),

such communication shall be in writing.

**Condition 2: Codes of operations**

1. The Licensee shall prepare and publish a code of operations for the Eligible Supply Business so as to comply with any directions given to it by the Commission under Section 13(1) of the Act.
2. The Licensee shall comply with any directions given to it by the Commission under Section 13(3) of the Act in respect of:
  - (a) the matters to be specified in the code of operations described in paragraph 1; and
  - (b) the review and revision of that code of operations.
3. Save to the extent specified in directions issued by the Commission for the purposes of this Condition, the Licensee shall comply with the provisions of all codes of operations (whether its own or belonging to another holder of a natural gas licence) insofar as applicable to the Eligible Supply Business.

### **Condition 3: Security and Emergency Arrangements**

1. The Licensee shall accept and comply with directions from the provider of the emergency response service designated by the Commission for the purposes of Condition 20 (Emergency response service) in so far as such directions relate to an escape, or suspected escape, of natural gas.
2. Where the Network Emergency Manager declares a network emergency, the Licensee shall accept and comply with directions from the Network Emergency Manager for the duration of the network emergency.
3. The Licensee shall include in its contracts for the supply of natural gas to all customers of the Supply Business a term to the effect that, for the duration of a network emergency or in the case of an escape, or suspected escape, of natural gas:
  - (a) the Licensee is entitled at the request of the Network Emergency Manager, the provider of the emergency response service designated by the Commission for the purposes of Condition 20 (Emergency response service) or the relevant shipper (as the case may be) to discontinue the supply of natural gas to the premises; and
  - (b) the customer shall refrain from using natural gas immediately upon being told by the Licensee or relevant transporter or the relevant shipper that he should do so.
4. Any difference or dispute arising between the Licensee and any other natural gas undertaking in connection with this Condition or the matters referred to in this Condition shall be decided by the Commission for the purposes of this Condition, and the Licensee shall comply with any direction given by the Commission regarding its decision, as it sees fit, in respect of the matter in dispute.

**Condition 4: Co-operation with the Gas Point Registration Operator**

1. The Licensee shall co-operate with the Gas Point Registration Operator (“GPRO”) with a view to ensuring that the information and/or data required and used by the GPRO for the purposes of its functions and the provision of its services are complete and accurate.
2. The Licensee shall comply promptly with all requests from the GPRO for co-operation and information and/or data reasonably required by the GPRO for the discharge of its functions.
3. The Licensee shall comply with any code of practice published by the GPRO in accordance with a requirement of a natural gas licence and relating to the discharge of the functions of the GPRO.

#### **Condition 5: Provision of information to the Commission**

1. The Licensee shall procure and furnish to the Commission, in such form and manner and at such times as the Commission may require, such information, and shall procure and furnish to it such reports, as the Commission may consider necessary or relevant in the light of the Conditions or as it may require in the performance of its duties or functions under the Act or assigned or transferred to it by the Act.
2. Without prejudice to the generality of paragraph 1, the Commission may call for the furnishing of accounting information which is more extensive than, or differs from, that required to be prepared and supplied to the Commission under Condition 12 (Regulatory accounts).
3. The power of the Commission to call for information under paragraph 1 is without prejudice to the power of the Commission to call for information under or pursuant to any other Condition of this licence or under or pursuant to the Act or any other enactment.
4. In this Condition "**information**" shall include any documents, records, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Commission) of any description, whether oral or written, and in any format specified by the Commission.
5. The Licensee shall publish information (save for confidential information) in such form and manner and at such times as the Commission may require.
6. Any question arising as to what constitutes confidential information for the purposes of this Condition shall be determined by the Commission.

## **Condition 6: Safety Framework**

1. Without prejudice to the obligations of the Licensee under or pursuant to any relevant safety requirement, the Licensee shall, at a time decided by the Commission after this licence has come into force, produce and thereafter maintain, in a form approved by the Commission, a document to be known as the Safety Framework.
2. The Safety Framework shall set out the Licensee's criteria, systems and procedures for ensuring that, so far as applicable to the Licensee in carrying out the Supply Business the Licensee applies the practices applied by, and achieves the standards achieved by, a prudent natural gas undertaking, including without limitation in respect of:
  - (a) the organisation, reporting and other arrangements relating to the deployment of staff, and the standards of qualification and competence to be applied to their recruitment and training;
  - (b) the composition and quality of natural gas supplied, so as to ensure these are maintained within safe limits;
  - (c) the assessment of risk and of appropriate measures to reduce such risk in relation to natural gas activities;
  - (d) the drawing up, implementation and compliance with any applicable codes of operations, codes of practice and standards with which this licence requires compliance; and
  - (e) compliance with:
    - (i) the conditions or provisions of any Section 2(1) order made in respect of the Licensee and any consent granted, or direction given to, the Licensee under or pursuant to natural gas legislation;
    - (ii) the Licensee's obligations and duties under this licence; and
    - (ii) relevant safety requirements.
3. The Licensee's obligations under this Condition shall include, without limitation, the application and observance of all generally accepted practices and standards, whether deriving from the recommendations or requirements of a relevant authority or from best practice in the natural gas industry.
4. Once in every twelve month period (and at any other time on direction from the Commission), the Licensee shall procure, on terms of reference approved by the Commission, the services of an independent consultant suitably qualified in natural gas safety matters as approved by the Commission to examine and report on the Licensee's compliance with the Safety Framework, such report to be concluded within a time period specified by the Commission and provided to the Commission at the same time as it is provided to the Licensee.



5. In this Condition:

**“relevant authority”**

means an authority designated by the Commission for the purposes of this Condition and notified to the Licensee by the Commission.

**Condition 7: Payment of levy**

1. The Licensee shall pay to the Commission any amounts specified in, or determined under, a levy order, in accordance with the provisions of such levy order.

**Condition 8: Prohibition of anti-competitive behaviour**

1. In carrying on the Supply Business, the Licensee shall not prevent, restrict or distort competition to any appreciable extent in any market relating to the supply, distribution, transmission or storage of natural gas.
2. In carrying on the Supply Business, the Licensee shall not abuse any dominant position it may have.
3. Any question arising as to whether the Licensee holds a dominant position for the purposes of paragraph 2 shall be determined by the Commission.

### **Condition 9: Assignment of licence and transfer of Eligible Supply Business**

1. The Licensee shall not, without the prior consent of the Commission, assign this licence to another person (the “assignee”).
2. The Licensee shall not, without the prior consent of the Commission, transfer to another person (the “transferee”) all or part of the Eligible Supply Business.
3. Any consent of the Commission to assignment of this licence shall be subject to the Commission being satisfied that the assignee will be a fit and proper person to hold this licence, and may be subject to compliance by the Licensee or assignee with any conditions imposed by the Commission, including the modification of this licence where deemed necessary by the Commission.
4. Any consent of the Commission to a transfer of all or part of the Eligible Supply Business may be subject to the transferee being granted or holding a natural gas licence authorising supply to Eligible Customers and may be subject to compliance by the Licensee or transferee with any conditions imposed by the Commission, including the modification of this licence where deemed necessary by the Commission.
5. Nothing in this Condition shall prevent the Licensee transferring all or part of the Eligible Supply Business to an assignee where the Commission has consented to the assignment provided that such transfer is effected as soon as practicable after such consent has been given.

**Condition 10: Change in control of Licensee**

1. The Licensee shall, as soon as practicable following its becoming aware of the relevant circumstances, notify the Commission of any change in control of the Licensee.
2. For the purposes of this Condition there is a change in control of the Licensee whenever a person gains control of the Licensee who did not have control of the Licensee when this licence was granted.

## **SECTION B: FURTHER CONDITIONS RELATING TO ECONOMIC REGULATION**

### **Condition 11: Terms of supply to Eligible Customers**

1. Except where the Licensee is required to supply such Eligible Customers pursuant to a last resort supply direction issued in accordance with Condition 32 (Supplier of last resort), the Licensee shall comply with any directions given by the Commission under this Condition as to the terms (including as to price) on which the Licensee may supply natural gas to Eligible Customers.
2. The Licensee shall publish the terms on which it supplies natural gas to Eligible Customers.

## Condition 12: Regulatory accounts

1. For the purposes of this Condition, the Licensee's financial year shall be determined as follows:
  - (a) the Licensee's first financial year shall run from (and including) the date of the grant of this licence up to (and including) the last day of the Licensee's accounting period, provided that if the period between the date of the grant of this licence and the last day of the Licensee's accounting period is three calendar months or less, then the Licensee's first financial year shall run from (and including) the date of the grant of this licence up to (and including) the last day of the Licensee's next accounting period;
  - (b) each subsequent financial year shall run from the day immediately following the last day of the preceding accounting period up to (and including) the last day of the accounting period.
2. Without prejudice to the provisions of Section 17 of the Act, the remaining paragraphs of this Condition apply for the purpose of ensuring that the Licensee (and any affiliate or related undertaking of the Licensee):
  - (a) maintains accounting and reporting arrangements which enable separate accounts to be prepared for each Separate Business and showing separately the financial affairs of each such Separate Business; and
  - (b) makes available, in a form and to a standard reasonably satisfactory to the Commission, such regulatory accounting information as will:
    - (i) enable the Commission and the public to assess the financial position of the Licensee and the financial performance of each Separate Business on a consistent basis, distinct from each other and any other business of the Licensee and its affiliate or related undertakings; and
    - (ii) assist the Commission to assess the Licensee's compliance with this Licence in respect of the financial relationship between the Licensee and its affiliate or related undertakings.
3. The Licensee shall draw up in consultation with the Commission, publish and implement in a form approved by the Commission (such approval not to be unreasonably withheld), guidelines governing the format and content of regulatory accounting information and the basis on which it is to be prepared so as to fulfil the purpose set out in paragraph 2 (the "Regulatory Accounting Guidelines").
4. The Licensee shall keep, and shall procure that any affiliate keeps and, so far as it is able, procure that any related undertaking keeps the accounting records which each is required by Section 17(1)(b) of the Act or by the Companies Acts, 1963 to 2001 to keep in such form as is necessary to enable the Licensee to comply with this Condition and the Regulatory Accounting Guidelines.

5. The Licensee shall in respect of each Separate Business:
- (a) keep or cause to be kept such accounting records in accordance with the Companies Acts, 1963 to 2001, as would be required to be kept in respect of the Business if it were carried on by a separate company to which the Companies Acts, 1963 to 2001 apply, and, where appropriate, consolidated accounts for other activities, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Business are separately identifiable in the books of the Licensee (and any affiliate or related undertaking of the Licensee) from those of any other business of the Licensee and in accordance with the Regulatory Accounting Guidelines; and
  - (b) prepare on a consistent basis from such accounting records in respect of:
    - (i) the first financial year and each subsequent financial year, accounting statements comprising a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, and showing separately in respect of each Separate Business and in appropriate detail any transactions with a value of €100,000 or more, and any related transactions with an aggregated value of €100,000 or more, which the Licensee has conducted with any of its affiliates or related undertakings, and the amounts of any revenue, cost, asset, liability, reserve or provision which has been either:
      - (A) charged from or to any other business (whether or not a Separate Business) together with a description of the basis of that charge; or
      - (B) determined by apportionment or allocation between any Separate Business and any other business (whether or not a Separate Business) together with a description of the basis of the apportionment or allocation; and
    - (ii) the first 6 months of the second financial year of the Licensee and the first 6 months of each subsequent financial year, an interim profit and loss account; and
  - (c) procure, in respect of the accounting statements prepared in accordance with this Condition (with the exception of interim accounts prepared in accordance with paragraph 5(b)(ii) of this Condition) in respect of a financial year, a report by the Auditors and addressed to the Commission stating whether in their opinion those statements have been properly prepared in accordance with this Condition and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Separate Business to which the statements relate; and
  - (d) deliver to the Commission a copy of the account referred to in sub-paragraph (b)(ii), the Auditors' report referred to in sub-paragraph (c), and the accounting



statements referred to in sub-paragraph (b)(i), as soon as reasonably practicable, and in any event not later than three months after the end of the period to which it relates in the case of the account referred to in sub-paragraph (b)(ii), and six months after the end of the financial year to which they relate in the case of the accounting statements and Auditors' report referred to in sub-paragraphs (b)(i) and (c).

6.
  - (a) The Licensee shall not in relation to the accounting statements in respect of a financial year change the bases of charge, apportionment or allocation referred to in sub-paragraph (b)(i) of paragraph 5 from those applied in respect of the previous financial year, unless the Commission shall previously have issued directions for the purposes of this Condition directing the Licensee to change such bases in a manner set out in the directions or the Commission shall have given its prior approval to the change in such bases. The Licensee shall comply with any directions issued for the purposes of this Condition.
  - (b) Where, in relation to the accounting statements in respect of a financial year, the Licensee has changed such bases of charge, apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if so directed in directions issued by the Commission for the purposes of this Condition, in addition to preparing accounting statements on those bases which it has adopted, prepare such accounting statements on the bases which applied in respect of the immediately preceding financial year.
7. Accounting statements in respect of a financial year prepared under sub-paragraph (b)(i) of paragraph 5 shall, so far as reasonably practicable and unless otherwise approved by the Commission having regard to the purposes of this Condition:
  - (a) conform to the best commercial accounting practices including Statements of Accounting Practice and Financial Reporting Standards currently in force; and
  - (b) state the accounting policies adopted; and
  - (c) (with the exception of the part of such statements which show separately the amounts charged, apportioned or allocated and describe the bases of charge or apportionment or allocation respectively), be published with the annual accounts of the Licensee.
8. References in this Condition to costs or liabilities of, or reasonably attributable to any Separate Business shall be construed as excluding taxation and capital liabilities which do not relate principally to a particular Separate Business and interest thereon; and references to any accounting statement shall be construed accordingly.
9. In this Condition:  
  
“accounting period” means the period for which the Licensee prepares annual accounts under the Companies Acts, 1963 to 2001, provided that if the Licensee is not required to prepare annual accounts

under the Companies Acts, 1963 to 2001 or is not a company within the meaning of the Companies Acts, 1963 to 2001, then the accounting period shall run from (and including) 1 January up to (and including) the following 31 December.

**Condition 13: Ring-fencing of the Supply Business and restriction on use of certain information**

1. For the purposes of this Condition only:
  - (a) the Supply Business is a Separate Business;
  - (b) the Eligible Supply Business and the Franchise Supply Business are not Separate Businesses.
2. The Licensee shall designate a division to exercise the functions of the Supply Business.
3. The Licensee shall establish and shall thereafter maintain the full managerial and operational independence of the Supply Business from each other business of the Licensee and of its affiliates and related undertakings.
4. Subject to paragraph 5, the Licensee shall secure that no information relating to, or derived from, the Supply Business is disclosed for the benefit of, or used for the purposes of, any other Separate Business.
5. Paragraph 4 shall not apply in so far as:
  - (a) the Commission so consents;
  - (b) the Licensee is expressly permitted or required to disclose that information under the terms of any agreement or arrangement (including any code of operations) with the relevant person to whose affairs such information relates;
  - (c) the information is in the public domain (otherwise than in consequence of a contravention of any Condition of this licence);
  - (d) the information has been published or is to be disclosed:
    - (i) pursuant to any Condition of this licence; or
    - (ii) in compliance with any requirement imposed on the Licensee by or under any natural gas legislation or any other requirement of law; or
  - (e) the information is disclosed pursuant to any judicial or other arbitral process or tribunal of competent jurisdiction.
6. Except in so far as the Commission consents to the Licensee not doing so, the Licensee shall take all steps necessary to ensure compliance with paragraph 3 and all necessary precautions against the risk of failure to comply with paragraph 4 including:
  - (a) restrictions on the communication of information to persons engaged in any other Separate Business;

- (b) restrictions on use of or access to (for any purpose whatsoever) any assets of the Supply Business, or recorded information relating to the Supply Business, by persons engaged in any other Separate Business, and for the purposes of this paragraph, "asset" shall include (without limitation) any information systems, software, hardware, electronic systems, equipment, materials, resources, intellectual property, telephone numbers or lines, mobile telephones, email systems or addresses, websites or computer services;
  - (c) not without the prior approval of the Commission engaging in any capacity whatsoever in the Supply Business any person who has worked in any other Separate Business at any time during the previous three months; and
  - (d) the prevention (so far as the Licensee can require it) of any person who has ceased to be engaged in the Supply Business from being engaged in any other Separate Business until the expiry of three months since he or she ceased to be engaged in the Supply Business.
7. Without prejudice to paragraph 6:
- (a) the Licensee shall ensure that, except in so far as the Commission consents, no person engaged in any other Separate Business shall have use of or access to (for any purposes whatsoever) any premises used by the Supply Business;
  - (b) the Licensee shall procure that, except in so far as the Commission consents, no employee, officer, agent or consultant of the Supply Business solicits information from, or discloses or uses information obtained from, any Separate Business where such information may confer a competitive advantage on the Supply Business, unless the information is made available to competing undertakings on comparable terms;
  - (c) the Licensee shall not offer to supply natural gas to any Eligible Customer where any information used to formulate that offer has been obtained in breach of paragraph (b);
  - (d) the Licensee shall ensure that, except in so far as the Commission consents, the Supply Business shall not market its services or products in conjunction with any other Separate Business.
8. The Licensee shall no later than three months after this Licence has come into force prepare and publish a statement in a form approved by the Commission setting out the practices, procedures and systems which the Licensee has adopted (or intends to adopt) to ensure its compliance with the obligations set out in this Condition.
9. The Licensee may periodically revise the information set out in and, with the approval of the Commission, alter the form of the statement prepared in accordance with paragraph 8 and shall, at least once in every year during which this Licence is in force, review such statement in order that the information set out therein shall continue to be accurate in all material respects.

10. The Licensee shall send a copy of the statement prepared in accordance with paragraph 8, and of each revision of such statement in accordance with paragraph 9, to the Commission.
11. The Licensee shall provide the Commission with any information or access to information the Commission may deem necessary in relation to the ring-fencing of the Supply Business.
12. The Licensee shall (and shall procure that its affiliates and related undertakings shall) comply with any directions as may from time to time be given by the Commission requiring the Licensee (or its affiliates and related undertakings) to take such steps or desist from such action as the Commission considers appropriate to secure compliance with this Condition.

#### **Condition 14: Compliance Officer**

1. If so directed by the Commission, the Licensee shall, with the prior approval of the Commission, appoint a competent person (hereafter referred to as “the Compliance Officer”) for the purpose of facilitating compliance by the Licensee with the relevant duties.
2. The sole role of the Compliance Officer shall be to facilitate compliance by the Licensee with the Licensee’s relevant duties.
3. The Licensee shall procure that the Compliance Officer shall report exclusively to the Chief Executive Officer and/or the board of directors of the Licensee on compliance matters.
4. The Licensee shall procure that the Compliance Officer shall hold his position for a minimum period of two years unless otherwise approved by the Commission.
5. The Licensee shall procure that the Compliance Officer:
  - (a) is provided with such staff, premises, equipment, facilities and other resources; and
  - (b) has such access to its premises, systems, information and documentation,as he might reasonably expect to require for the fulfilment of the duties and tasks assigned to him.
6. The duties and tasks assigned to the Compliance Officer shall include:
  - (a) providing relevant advice and information to the Licensee for the purpose of ensuring its compliance with the relevant duties;
  - (b) recommending and establishing practices, procedures and systems to ensure the Licensee’s compliance with the relevant duties;
  - (c) monitoring the effectiveness of the practices, procedures and systems adopted by the Licensee to ensure its compliance with the relevant duties;
  - (d) investigating any complaint or representation made available to him in accordance with paragraph 7;
  - (e) recommending and advising upon the remedial action which any such investigation has demonstrated to be necessary or desirable;
  - (f) providing relevant advice and information to the Licensee for the purpose of ensuring its effective implementation of:

- (i) the practices, procedures and systems adopted by the Licensee to ensure its compliance with the relevant duties; and
    - (ii) any remedial action recommended in accordance with sub-paragraph (e); and
  - (g) reporting annually to the directors of the Licensee in respect of each year after this Condition comes into force as to his activities and the Licensee's compliance with the relevant duties during the period covered by the report.
7. The Licensee shall make available to the Compliance Officer a copy of any complaint or representation received by it from any person in respect of a matter arising under or by virtue of the relevant duties.
8. As soon as is reasonably practicable following each annual report of the Compliance Officer, the Licensee shall produce a report:
- (a) as to its compliance during the relevant year with the relevant duties (which shall include a copy of the report of the Compliance Officer in accordance with paragraph 6(g)); and
  - (b) as to its implementation of the practices, procedures and systems adopted to ensure such compliance.
9. The report produced in accordance with paragraph 8 shall in particular:
- (a) detail the activities of the Compliance Officer during the relevant year;
  - (b) refer to such other matters as are or may be appropriate in relation to the implementation of the practices, procedures and systems adopted to ensure compliance with the relevant duties; and
  - (c) set out the details of any investigations conducted by the Compliance Officer, including:
    - (i) the number, type and source of the complaints or representations on which such investigations were based;
    - (ii) the outcome of such investigations; and
    - (iii) any remedial action taken by the Licensee following such investigations.
10. The Licensee shall submit to the Commission:
- (a) a copy of the report produced in accordance with paragraph 8; and

- (b) a version of the report produced in accordance with paragraph 8 from which commercially sensitive information has been excised and which is fit for publication by the Commission; and shall give or send a copy of the version of the report to any person who requests such a copy.

11. In this Condition:

**“relevant duties”** means:

- (a) the Licensee’s obligations and duties under this licence;  
and
- (b) any other obligation or duty under the Act notified to the Licensee by the Commission for the purposes of this Condition.



#### **Condition 15: Prohibition of cross-subsidies**

1. The Licensee shall ensure that the Eligible Supply Business does not give any direct or indirect cross-subsidy to, or receive any direct or indirect cross-subsidy from, any other business or part of a business of the Licensee or any affiliate or related undertaking of the Licensee (whether or not a Separate Business).
2. Where the Commission is satisfied that cross-subsidisation of the type described in paragraph 1 is taking place or has taken place, the Licensee shall take such steps, as directed by the Commission, as are necessary to ensure compliance with paragraph 1.
3. Nothing which the Licensee is required to do or not do pursuant to this licence or any other natural gas licence shall be regarded as a cross-subsidy for the purposes of this Condition.
4. Any question arising as to:
  - (a) what constitutes a cross-subsidy; or
  - (b) what constitutes a business or part of a business

shall be determined by the Commission for the purposes of this Condition.

**Condition 16: Purchasing of natural gas**

1. The Licensee shall purchase natural gas at the best effective price reasonably obtainable having regard to:
  - (a) the sources of supply available from time to time; and
  - (b) any considerations liable to affect its ability to discharge its obligations under this Condition in the future, including the future security, reliability and diversity of sources of natural gas available for purchase.

### **Condition 17: Prohibition of discrimination, etc. in supply**

1. The Licensee shall not, in supplying or offering terms for the supply of natural gas:
  - (a) show undue preference to any person (or class of persons); or
  - (b) exercise undue discrimination between any persons (or classes of person).
2. In determining, for the purposes of this Condition, whether any persons constitute a class of person, due regard shall be had to the circumstances of supply to such persons including (without limitation) volumes, load factors, conditions of interruptibility, location of premises being supplied and date and duration of the supply contract.
3. Without prejudice to paragraphs 1 and 2, the Licensee shall not, in supplying or offering terms for the supply of natural gas to final customers:
  - (a) show undue preference to Eligible Customers over Franchise Customers or vice versa;
  - (b) unduly discriminate between Eligible Customers and Franchise Customers.
4. The Licensee shall not supply or offer to supply natural gas to final customers on terms which are unduly onerous.
5. The Licensee shall not supply or offer to supply natural gas to final customers on terms which are predatory.
6. For the purposes of this Condition, terms are unduly onerous if the revenue from the supply of natural gas to final customers on those terms significantly exceeds the costs of supply to those customers, unless supply must be given on those terms in order to comply with a direction from the Commission.
7. For the purposes of this Condition, terms are predatory if they:
  - (a) incorporate charges which do not reasonably cover the avoidable costs incurred in consequence of supplying the customers in question; and
  - (b) are intended or are likely to restrict, distort or prevent competition in the supply of natural gas.
8. In this Condition:

**“terms”** means all the terms on which a supply of natural gas is offered or provided, including the basis on which the costs of natural gas purchased under natural gas supply contracts are recovered from different customers or classes of customer, and other terms affecting the actual or effective price, which significantly affect the evaluation of that supply.

## **SECTION C: CONDITIONS RELATING TO SUPPLY TO FINAL CUSTOMERS**

### **Condition 18: Duty to offer supply**

1. Subject to the provisions of this Condition, and without prejudice to any of the Licensee's obligations and rights under any natural gas legislation or this Licence, the Licensee shall, upon receipt of a request from an Eligible Customer who is a final customer, as soon as is reasonably practicable:
  - (a) offer to enter into a supply contract to supply natural gas to the premises in respect of which the supply is requested; and
  - (b) where the terms offered are accepted by the customer, give a supply of natural gas to those premises in accordance with the terms offered.
2. The Licensee shall not offer to enter into a contract with or enter into a contract with any Franchise Customer to supply natural gas other than at premises situated in an area in regard to which a Section 2(1) order has been made conferring functions on the Licensee in relation to the sale and supply of natural gas.
3. The Licensee shall not be required by paragraph 1 or by Condition 32 (Supplier of last resort) to give a supply of natural gas where:
  - (a) the premises in question are not connected to a distribution or transmission pipeline;
  - (b) the premises in question have been disconnected by a pipeline operator, or the supply of natural gas thereto has been discontinued at the request of a supplier in accordance with the Licensee's code of practice on disconnection of final customers prepared in accordance with Condition 27 (Code of practice on disconnection);
  - (c) the customer, having requested a supply of natural gas, declines to enter into a supply contract offered pursuant to paragraph 1;
  - (d) the Licensee or other supplier is bound by the provisions of a supply contract in respect of the premises where the supply is requested and such supply contract will neither expire nor have been terminated by the date from which the customer requires a supply of natural gas from the Licensee to commence;
  - (e) the Licensee has been informed by the relevant transporter that compliance with the requirement in question would give rise to an abnormal risk affecting the safety of any person, land, building or other property;
  - (f) it is not reasonable in all the circumstances for the Licensee to be required to supply natural gas, provided that the Licensee shall:

- (i) refer any question as to whether the circumstances are reasonable to the Commission for determination promptly (and in any event no later than five working days after the Licensee's receipt of the request); and
  - (ii) where the Licensee already supplies natural gas to the premises in respect of which supply is requested, give not less than three months notice of its intention to discontinue supply (or such shorter notice as has been approved by the Commission); or
- (g) to do so would be likely to involve the Licensee in a contravention or breach of:
- (i) any natural gas legislation, or any regulations made, consent or licence granted or obligation imposed thereunder;
  - (ii) the Act of 1999; or
  - (iii) any code of operations.

4. In this Condition:

- (a) "request" includes, to the extent that the Licensee so requires, the following information:
  - (i) the premises in respect of which supply is required;
  - (ii) the day on which the supply is required to commence; and
  - (iii) the minimum period for which supply is required to be given;
- (b) any reference to giving a supply of gas includes a reference to continuing to give such a supply and any reference to requesting a supply includes a reference to requesting such a supply to continue to be given; and
- (c) "supply contract" means a contract for the supply of natural gas which complies with the Licensee's obligations under this Licence.

**Condition 19: Duty to comply with Section 2(1) orders**

1. The Licensee shall comply with all requirements, duties and obligations imposed on the Licensee under and/or pursuant to a Section 2(1) order which confers on the Licensee functions relating to the supply of natural gas.
  
2. Without prejudice to paragraph 1, except where the Licensee is required to supply such Franchise Customers pursuant to a last resort supply direction issued in accordance with Condition 32 (Supplier of last resort) the Licensee shall not supply natural gas to Franchise Customers otherwise than in accordance with any direction issued to the Licensee by the Commission under Section 2(6A)(b) of the Gas (Amendment) Act, 1987.

## **Condition 20: Emergency response service**

1. The Licensee shall make arrangements to keep each of the final customers of the Eligible Supply Business informed of the postal address, telephone number, facsimile number and electronic mail address of the emergency response service designated by the Commission for the purposes of this Condition and operated for the purpose of receiving and responding to reports of actual or suspected natural gas escapes.
2. The duty imposed by paragraph 1 may be discharged by providing the requisite information to each of the final customers of the Eligible Supply Business:
  - (a) on the occasion of the final customer first commencing to take a supply from the Licensee; and thereafter
  - (b) either:
    - (i) where bills or statements in respect of charges for the supply of natural gas are rendered to the final customer, on a quarterly or more frequent basis( it being sufficient that the information is included on or with any bill or statement); or
    - (ii) in any other case, on an annual basis;

and by publishing such information in such manner as will secure adequate publicity for it.
3. The Licensee shall inform the final customer of the contact details of the emergency response service referred to in paragraph 1 if so requested.
4. The Licensee shall, in so far as is practicable, take steps to inform each of the final customers of the Eligible Supply Business of any change to the address, telephone number, facsimile number or electronic mail address of the emergency response service referred to at paragraph 1 prior to such change becoming effective.
5. Where the Licensee receives information about any matter or incident of the type described in paragraph 1, it shall communicate such information to the provider of the emergency response service referred to in that paragraph as soon as possible.

**Condition 21: Metering and data services**

1. The Licensee shall not supply natural gas to final customers of the Eligible Supply Business other than as a metered supply.
2. The Licensee shall not procure in relation to a customer of the Eligible Supply Business:
  - (a) metering equipment;
  - (b) the installation, commissioning, testing, repair or maintenance of metering equipment;
  - (c) data collection services; or
  - (d) data transfer services

other than from the transporter to whose distribution or transmission system that customer is connected.

3. In this Condition:

**“data collection”** means the collection and verification of meter reading data from natural gas meters;

**“data transfer”** means the transfer of metered data to the GPRO;



## **Condition 22: Information given to final customers**

1. The Licensee shall keep each of the final customers of the Eligible Supply Business informed of the amount of natural gas which its records show as having been consumed by that final customer since the final customer was last informed:
  - (a) according to the meter through which the final customer is supplied; or
  - (b) where no meter reading is available, according to the estimate of the Licensee.
2. The Licensee shall keep each of the final customers of the Eligible Supply Business informed:
  - (a) that the Commission can assist in resolving complaints which the Licensee has not resolved to the final customer's satisfaction; and
  - (b) of how the Commission can be contacted.
3. The Licensee may discharge its duties under paragraphs 1 and 2 by providing information on or with each bill or statement given to a final customer in respect of charges for the supply of natural gas, and annually to each final customer to whom no such bills or statements are rendered.
4. The Licensee shall inform the final customer of the most recent meter reading if so requested.
5. The Licensee shall prepare and submit to the Commission for its approval a code of practice concerning arrangements for the billing of final customers of the Eligible Supply Business which shall include details of the format of bills to final customers and the information to be included in them.

**Condition 23: Contracts for supply to domestic customers**

1. This Condition shall not apply until such time as this licence authorises supply to domestic customers.
2. All contracts or arrangements for the supply of natural gas into which the Licensee enters with domestic customers shall be in a standard form (save that there may be reasonable differences between forms for different areas, cases and circumstances), which shall be approved by the Commission and shall include all the terms and conditions on which the Licensee will supply natural gas in the relevant case.
3. The Licensee shall not enter into any contracts or arrangements with domestic customers except in conformity with the approved standard form, save where the Commission shall have given its prior approval to any variation thereof.

**Condition 24: Code of practice on payment of bills and dealing with customers in difficulty**

1. This Condition shall not apply until such time as this licence authorises supply to domestic customers.
2. The Licensee shall prepare and submit to the Commission for its approval a code of practice concerning the payment of natural gas bills by domestic customers, which shall include appropriate guidance for the assistance of such customers who may have difficulty in paying such bills, and which shall set out the methods for dealing with those customers who, through misfortune or inability to cope with natural gas supplied on credit terms, incur obligations to pay for natural gas so supplied which they find difficulty in discharging.
3. The code of practice shall include methods for:
  - (a) distinguishing such customers from others in default;
  - (b) detecting failures by such customers to comply with arrangements entered into for paying by instalments charges for natural gas supplied;
  - (c) making such arrangements so as to take into account the customer's ability to comply with them;
  - (d) ascertaining, with the assistance of other persons or organisations, the ability of customers to comply with such arrangements;
  - (e) providing for a customer who has failed to comply with such arrangements a prepayment meter where safe and practical to do so; and
  - (f) calibrating any prepayment meter so provided so as to take into account the customer's ability to pay any of the charges due from the customer under such arrangements in addition to the other charges lawfully being recovered through the prepayment meter.

**Condition 25: Code of practice on complaint handling**

1. The Licensee shall prepare and submit to the Commission for its approval a code of practice detailing a procedure for handling complaints from final customers about the manner in which the Licensee conducts the Eligible Supply Business, which shall specify the periods within which it is intended that different descriptions of complaint should be processed and resolved.

**Condition 26: Vulnerable customers**

1. This Condition shall not apply until such time as this licence authorises supply to domestic customers.
2. The Licensee shall establish, maintain and keep updated a register of all vulnerable customers.
3. The Licensee shall notify details of any vulnerable customer to the transporter to whose distribution or transmission system that vulnerable customer is connected.
4. The Licensee shall prepare and submit to the Commission for its approval a code of practice detailing the special services which the Licensee will make available for domestic customers who are vulnerable customers.
5. In preparing the code of practice the Licensee shall have regard to any written guidance issued by the Commission as to what the code should cover.

**Condition 27: Code of practice on disconnection**

1. The Licensee shall prepare and submit to the Commission for its approval a code of practice detailing the Licensee's policy and procedures for causing the disconnection of Eligible Customers from the distribution or transmission system (as relevant).

**Condition 28: Code of practice on marketing to domestic customers**

1. This Condition shall not apply until such time as this licence authorises supply to domestic customers.
2. If so directed by the Commission, the Licensee shall prepare and submit to the Commission a code of practice detailing the Licensee's procedures for the selection, training and monitoring of staff and agents employed or engaged in roles the principal duties of which involve oral communications with domestic customers for the purpose of the marketing activities of the Licensee.
3. The code of practice described in paragraph 2 shall be drawn up for the purpose of avoiding inappropriate or misleading marketing practices by or on behalf of the Licensee.

**Condition 29: Prohibition on tying**

1. The Licensee shall not make its supply of natural gas to any final customer of the Eligible Supply Business conditional on the customer (or any other person) procuring any other service or product (“additional service”) from the Licensee or any affiliate or related undertaking of the Licensee.
2. The prohibition in paragraph 1 shall apply whether or not a charge is made to the customer in respect of the additional service in question.



### **Condition 30: Preparation, review of and compliance with codes of practice, etc**

1. This Condition applies to any statement, code of practice or procedure required to be prepared by the Licensee pursuant to a Condition of this licence.
2. Where the Commission notifies the Licensee that the Commission considers that the statement, code or procedure is not sufficient for the purposes of meeting the requirements of this licence, the Licensee shall make forthwith such changes as the Commission may require.
3. The Licensee shall, whenever requested to do so by the Commission, review such statement, code or procedure and the manner in which it has been operated, with a view to determining whether any modification should be made to it or to the manner of its operation.
4. The Licensee shall submit any revision of such statement, code or procedure which it wishes to make to the Commission for its approval and, following its approval, shall then revise the statement, code or procedure.
5. The Licensee shall:
  - (a) as soon as practicable following the preparation of any statement, code or procedure or any revision made to it, send to the Commission a copy of such statement, code or procedure or (as the case may be) such revision (in each case in the form approved by the Commission);
  - (b) at least once in each year, draw the attention of those customers to whom such statement, code or procedure applies to the existence of the statement or code and of each substantive revision of it and to the means by which they may inspect a copy of it in its latest form; and
  - (c) publish such statements, codes and procedures (as from time to time revised) and make them available on the Licensee's website.
6. No changes may be made to any statement, code or procedure otherwise than in accordance with this Condition.
7. The Licensee shall, so far as reasonably practicable, comply with such arrangements as are contained in or described by any statement, code or procedure to which this Condition applies and approved by the Commission or any revision to such statement, code or procedure approved by the Commission.

### **Condition 31: Change of supplier process**

1. The Licensee shall co-operate with other natural gas undertakings and the Gas Point Registration Operator to draw up a technical specification for the efficient and expeditious means by which Eligible Customers may change from one supplier to another.
  
2. The Licensee shall not take any action to prevent a proposed change of supplier in relation to any premises at which the Licensee supplies natural gas to a customer except for so long as:
  - (a) the customer fails to pay charges for the supply of natural gas to those premises or any premises previously owned or occupied by him in respect of which such charges are payable which:
    - (i) are due to the Licensee; and
    - (ii) 30 days have elapsed since a bill was first issued by the Licensee to the customer in the respect of the payment of the charges;and the Licensee has demonstrated to the Commission's satisfaction (evidenced in writing) that the charges are not the subject of a bona fide dispute; or
  - (b) the customer is bound by the provisions of a contract with the Licensee for the supply of natural gas at those premises which will neither expire nor, to the knowledge of the Licensee, be terminated on or before the date of the proposed change of supplier.

### **Condition 32: Supplier of last resort**

1. Where this paragraph applies, the Commission may direct the Licensee to supply natural gas in accordance with this Condition ("the last resort supply direction").
2. Paragraph 1 applies where it appears to the Commission that:
  - (a) circumstances have arisen which would entitle the Commission to revoke the supply licence of a natural gas supplier other than the Licensee ("the other supplier"); and
  - (b) the Licensee could comply with the last resort supply direction without significantly prejudicing its ability:
    - (i) to continue to supply its customers; and
    - (ii) to fulfil its contractual obligations for the supply of natural gas.
3. The last resort supply direction shall take effect no later than the date of revocation of the other supplier's licence and shall continue for such period (being no longer than 6 months) specified in the direction.
4. The Licensee shall supply natural gas to final customers of the other supplier at such premises as are specified or described in the last resort supply direction.
5. Within 2 working days of the last resort supply direction taking effect, the Licensee shall send to the Commission, for its approval, a draft of the notice the Licensee proposes to send to each of the premises specified or described in the direction.
6. As soon as reasonably practicable after the Commission has approved the form and content, including as to the level of charges payable for supply of natural gas under the direction or an explanation of how the charges are determined, of the notice sent to it pursuant to paragraph 5, the Licensee shall send a copy of the notice to each of the premises specified or described in the last resort supply direction. The notice to be sent to all premises specified or described in the last resort supply direction, shall:
  - (a) inform the customer in question that, notwithstanding any contract the customer may have had with the other supplier, the customer is no longer supplied by that supplier and has not been supplied by the other supplier since the date on which the direction took effect;
  - (b) inform the customer in question that the Licensee became the supplier of natural gas to the customer from the date on which the direction took effect;
  - (c) inform the customer in question that, unless the customer informs the Licensee within fourteen days of receiving the notice that he does not wish to accept a supply of natural gas from the Licensee, the customer shall be deemed to have

accepted a supply from the Licensee as from the date on which the direction took effect; and

- (d) set out the charges payable for the supply of natural gas under the direction or an explanation of how the charges are determined.
7. The Licensee shall use all reasonable endeavours to secure a meter reading at each of the premises specified or described in the last resort supply direction within 14 days of the direction taking effect.
8. The Licensee is not obliged to secure a meter reading where:-
- (a) the Commission accepts that it would not be feasible or economic to do so; or
  - (b) to do so would necessitate the entering of particular premises without the consent of the occupier or the seeking of entry on more than one occasion.
9. The Licensee may not charge for the supply of natural gas to the premises specified or described in the last resort supply direction other than on terms and conditions (including as to the level of charges payable) which have been approved by the Commission.
10. The Licensee shall not be required by paragraph 9:
- (a) to make charges which are less than those which would be made under the Licensee's contracts for comparable premises with similar metering arrangements supplied with natural gas otherwise than in accordance with a last resort supply direction; or
  - (b) to make charges which may be expected, in aggregate, to amount to less than the Licensee's reasonable costs of supply.
11. Unless the Commission otherwise consents, the Licensee shall ensure that its terms and conditions (including charges) for a supply pursuant to a last resort supply direction do not show any undue preference or undue discrimination as between any persons or classes of persons.
12. Notwithstanding anything in Condition 23 (Contracts for supply to domestic customers), the terms of the Licensee's contracts for the supply of natural gas to premises in accordance with a last resort supply direction may provide that, until the direction ceases to have effect, the customer may not terminate his contract except:
- (a) with the consent of the Licensee;
  - (b) on taking a supply at the premises under a contract with another natural gas supplier; or
  - (c) on ceasing to take natural gas at the premises.

13. Where the Licensee enters into any new contract for the purchase of natural gas in order to comply with its obligations under this Condition, it shall use reasonable endeavours to make the purchase as economically as possible in all the circumstances.

14. For the purposes of this Condition:

**“reasonable costs of supply”**

means:

(i) reasonable costs of supply, including costs attributable to the purchase of natural gas at short notice; and

(ii) a reasonable rate of return on the capital represented by such costs.

**Condition 33: Directions in connection with suppliers of last resort**

1. Where the Commission has given a direction to a supplier (the “last resort supplier”) in pursuance of a Condition of its natural gas licence requiring it to make available a supply of natural gas to any premises previously supplied by another supplier and in respect of which the Licensee is or was the relevant shipper (the “relevant premises”), the Licensee shall comply with any directions given by the Commission in order to facilitate:
  - (a) the commencement of the supply of natural gas to the relevant premises by the last resort supplier; or
  - (b) the making of arrangements for the transportation of natural gas to the relevant premises.

**Condition 34: Provision for termination upon a direction**

1. The Licensee shall not enter into a contract for the supply of natural gas to any premises, whether or not the contract is for a specified period, unless it provides that it shall terminate upon a last resort supply direction given to a supplier other than the Licensee coming into effect in relation to the premises in question.
  
2. In this Condition:

**“last resort supply direction”**

means a direction given to a supplier in pursuance of a Condition of its natural gas licence requiring it to make available a supply of natural gas to premises previously supplied by another supplier.

## **SCHEDULE 1**

### **Right of Commission to revoke the Licence**

1. The Commission may at any time revoke this licence by not less than 30 days' notice in writing to the Licensee:
  - (a) if the Licensee agrees in writing with the Commission that this licence should be revoked;
  - (b) if any amount payable under a levy order is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Commission has given the Licensee notice in writing that the payment is overdue, provided that no such notice shall be given earlier than the 16th day after the day on which the amount payable became due;
  - (c) if the Licensee fails to comply with a direction under Section 16 of the Act, a direction under Section 24 of the Act of 1999, a determination under Section 25 of the Act of 1999 or an order under Section 26 of the Act of 1999 and (in respect of any of these cases) such failure is not rectified to the satisfaction of the Commission within such period as the Commission may determine, after the Commission has given notice of such failure to the Licensee, provided that in respect of a direction under Section 24 of the Act of 1999, no such notice shall be given by the Commission before the expiration of the period within which representations or objections under Section 24 of the Act of 1999 could be made questioning a direction under Section 24 of the Act of 1999 or before the proceedings relating to any such representations or objections are finally determined;
  - (d) if the Licensee fails to comply with any order made by the Minister under Section 21 of the Act;
  - (e) if the Licensee has been, is, or is likely to be in breach of a relevant safety requirement and the Commission is satisfied that, as a result, the Licensee is no longer a fit and proper person to hold this licence;
  - (f) if the Licensee:
    - (i) is unable to pay its debts (within the meaning of Section 214 of the Companies Act, 1963) or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission); or
    - (ii) has a receiver or an examiner within the meaning of Section 1 of the Companies (Amendment) Act, 1990, of the whole or any material part of its assets or undertaking appointed; or



- (iii) passes any resolution for winding-up other than a resolution previously approved in writing by the Commission; or
    - (iv) becomes subject to an order for winding up by a court of competent jurisdiction; or
    - (v) is dissolved, declared bankrupt or being of unsound mind;
  - (g) if:
    - (i) there is a change in the control of the Licensee for the purposes of Condition 10 (Change in control of the Licensee); and
    - (ii) the Commission is satisfied that, as a result of that change in control, the Licensee is no longer, or will no longer be, a fit and proper person to hold this licence; and
    - (iii) the Commission serves notice on the Licensee stating that the Commission proposes to revoke this licence in pursuance of this paragraph unless such further change in control of the Licensee as is specified in the notice takes place within the period of two months beginning with the date of service of the notice; and
    - (iv) that further change does not take place within that period;
  - (h) if the Licensee ceases to carry on the Eligible Supply Business for a period of 6 months except where the Commission is satisfied that this has occurred as a result of events beyond the reasonable control of the Licensee in which case the Commission shall substitute such longer period as it, in its sole discretion, considers reasonable in all the circumstances;
  - (i) if the Licensee has not commenced carrying on the Eligible Supply Business within 6 months of the date this licence comes into force except where the Commission is satisfied that this has occurred as a result of events beyond the reasonable control of the Licensee in which case the Commission shall substitute such longer period as it, in its sole discretion, considers reasonable in all the circumstances; or
  - (j) if the Licensee fails to notify the Commission of a change in control of the Licensee as required by Condition 10 (Change in control of Licensee).
- 2. For the purposes of paragraph 1(f)(i) of this Schedule, Section 214 of the Companies Act, 1963 shall have effect as if for "€1,269.74" there was substituted "€65,000" or such higher figure as the Commission may from time to time determine by notice in writing to the Licensee.