



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Revised Natural Gas Storage Licence
Proposed Safety and Enforcement Conditions**

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Abstract

The CER is consulting on proposed modifications to the natural gas storage licence granted by the CER under Section 16(1) (c) of the Gas (Interim) (Regulation) Act 2002 (hereinafter referred to as “the Act of 2002”).

Comments are requested by close of business on 15th October 2014 as outlined in Section 1.7 of this document

Target Audience

This paper is for the attention of current holders of a natural gas storage licence granted by the CER, industry participants, the general public and all interested parties.

Responses to this consultation should be provided as detailed in Section 1.7 of this paper.

Executive Summary

The CER is consulting on proposed modifications to the natural gas storage licence granted by the CER under Section 16(1) (c) of the Gas (Interim) (Regulation) Act 2002 (hereinafter referred to as “the Act of 2002”). Under the Act of 2002 the CER may issue a licence to any person or company who intends to operate a natural gas storage facility for the purposes of a storage business (both terms as defined hereafter).

The current Natural Gas Storage licence was issued in 2006 prior to the establishment of the Gas Safety Regulatory Framework. To date the natural gas storage licence has primarily consisted of economic conditions. The proposed modifications take into account legislative developments with respect to safety regulation and the CER’s enforcement powers. In particular;

- The CER’s responsibility for safety regulation of Natural Gas undertakings, including Storage, under the Energy (Miscellaneous Provisions) Act, 2006, and
- The CER’s enforcement powers with regard to Natural Gas undertakings, including Storage, as provided by the Energy (Miscellaneous Provisions) Act, 2012.

The proposed modifications will update the safety conditions of the natural gas storage licence. The update will bring the licence in line with the CER’s legislative remit and the safety conditions contained in other licences issued by the CER.

A modification regarding the CER’s responsibility concerning common rules for the internal market in natural gas under Directive 2009/73/EC has also been proposed.

The modifications discussed in this document are highlighted in the draft natural gas storage licence in Appendix 1.

Notice of the proposed modifications to the Natural Gas Storage Licence will also be published in national press on 5th September 2014.

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1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation (CER) is Ireland's independent energy and water regulator. The CER was established in 1999 and now has a wide range of economic, customer protection and safety responsibilities in energy. The CER is also the regulator of Ireland's public water and wastewater system.

The CER's primary economic responsibilities in energy cover electricity generation, electricity and gas networks, and electricity and gas supply activities. As part of its role, the CER jointly regulates the all-island wholesale Single Electricity Market (SEM) with the Utility Regulator in Belfast. The SEM is governed by a decision-making body known as the SEM Committee, consisting of the CER, the Utility Regulator and an independent member. The overall aim of the CER's economic role is to protect the interests of energy customers. The CER has an important related function in customer protection by resolving complaints that customers have with energy companies.

The CER's core focus in safety is to protect lives and property across a range of areas in the energy sector. This includes safety regulation of electrical contractors, gas installers and gas pipelines. In addition the CER is the safety regulator of upstream petroleum safety extraction and exploration activities, including on-shore and off-shore gas and oil.

In 2014 the CER was appointed as Ireland's economic regulator of the Irish public water and wastewater sector. Further information on the CER's role and relevant legislation can be found on the CER's website at www.cer.ie.

1.2 Background

Any person or company who intends to operate a natural gas storage facility for the purposes of a storage business requires a Natural Gas Storage Licence from the CER. The CER may grant, or refuse to grant, a natural gas storage licence to a person under Section 16(1) (c) of the Gas (Interim) (Regulation) Act, 2002 (“the Act of 2002”). To date the CER has issued one natural gas storage licence for the storage facility at Kinsale, Co. Cork. A copy of the licence can be viewed at the following link [CER/06/101](#). Recent legislative developments have extended the CER’s remit with regard to the safety regulation of, and the enforcement powers available to the CER with regard to natural gas undertakings. Therefore the CER is now proposing to update the existing Natural Gas Storage Licence to take account of these legislative developments. A modification regarding the CER’s responsibility concerning common rules for the internal market in natural gas under Directive 2009/73/EC has also been proposed.

The CER is required to carry out modifications to ‘the terms, conditions or requirements’ of natural gas storage licences in accordance with sections 20 to 22 of the Electricity Regulation Act, 1999. Pursuant to Section 20, the CER is commencing the licence modification procedure with the publication of a notice drawing the public’s attention to the proposed modification, their nature and the reasoning for them.

The notice is being published today in the Irish Times and a copy of the notice has been provided to the licensed natural gas storage undertaking. The notice informs that any comments on/objections to the modification should be submitted to the CER before 15th October (this provides 28 days for comment). In accordance with the requirements of section 20 of the Electricity Regulation Act, 1999 a copy of the Notice has also been furnished to the Minister for Communications, Energy and Natural Resources. A copy of the proposed modified licence are published in Appendix 1 of this consultation paper (changes are highlighted).

1.3 Legislative Landscape

This section sets out the key pieces of legislation with respect to the safety regulation of natural gas storage and the CER's enforcement powers.

1.3.1 Gas (Interim) Regulations Act 2002 and Associated Regulations (The Act of 2002)

The CER assumed its responsibilities and functions for the regulation of the onshore natural gas market under the Act of 2002. The Act of 2002 provides that the CER may grant to any person the licence required to carry out the supply or shipping of natural gas or the operation of a transmission system, a distribution system, a LNG facility or a natural gas storage facility. Regulations arising from the Act of 2002 set down criteria on the basis of which the CER must determine an application for consent of licence, and how a licence holder must operate and maintain its facility. The Act of 2002 also gives the CER enforcement powers in terms of licence and consent holders.

1.3.2 The Electricity Regulations Act, 1999 (The Act of 1999)

The Act of 1999 is the principal piece of legislation in the context of the CER's gas safety responsibilities. The Act of 1999 gives the CER certain enforcement powers against natural gas undertakings. The ultimate sanction under the Act of 1999 is the revocation of a natural gas undertaking's licence. The Act of 1999 is amended by the 2006 Act and the 2012 Act. Further details are outlined below.

1.3.3 The Energy (Miscellaneous Provisions) Act, 2006 (The 2006 Act)

The 2006 Act amended the Act of 1999 to give the CER its responsibility for safety regulation of natural gas undertakings, including the establishment of a regulatory framework against which natural gas undertakings are regulated. The Gas Safety Regulatory Framework¹ was established in 2007 following a public consultation process and operates through a Safety Case regime.

¹ The most recent version of this document is CER/14/296.

1.3.4 The Energy (Miscellaneous Provisions) Act, 2012 (The 2012 Act)

The 2012 Act further amends the Act of 1999 to give the CER increased enforcement powers over natural gas undertakings (including storage facilities). The decision of the CER to take enforcement action and the most appropriate enforcement action to be taken in any given case will depend on the nature and seriousness of the contravention. Specifically the 2012 Act gives the CER the powers to take the following progressive enforcement steps:

- (a) Improvement Plan (Section 9JA of the Act of 1999),
- (b) Improvement Notice (Section 9JB of the Act of 1999),
- (c) Prohibition Notice (Section 9JC of the Act of 1999),
- (d) Restricting/Prohibiting LPG or Natural Gas Activities in Emergencies (Section 9JD of the Act of 1999).

The 2012 Act also gives the CER responsibility for the regulation of certain areas of the LPG industry with respect to safety as well as enforcement powers over LPG undertakings.

1.4 Scope and Purpose of this Paper

This paper sets out proposed changes to the Natural Gas Storage Licence. These changes will update the licence to include safety conditions. It will bring the licence in line with both the Gas Safety Regulatory Framework¹ and the safety conditions contained in other licences issued by the CER.

Feedback is requested from industry and the public on these proposed changes. The draft Natural Gas Storage Licence is included in Appendix 1 of this document for comment.

1.5 Relevant Documents

A non-exhaustive list of relevant documents is provided below:

- *Gas Safety Regulatory Framework for Ireland – Decision Paper (CER/14/296)*,
- *Natural Gas Storage Licence (CER/06/101)*,
- *Natural Gas Safety Regulatory Framework Safety Case Guidelines (CER/07/226)*.

1.6 Structure of the Paper

This paper is structured as follows:

- Section 1.0** provides background and legislative information.
- Section 2.0** contains the detail of the proposed changes to the Natural Gas Storage Licence.
- Section 3.0** outlines the CER's proposed timetable for this consultation process.
- Appendix 1** provides the draft Natural Gas Storage Licence.

1.7 Responding to this paper:

Responses to the Consultation Paper should be returned by email, post or fax by close of business on 15th October 2014 and marked for the attention of Tara O'Beirne at the CER. The responses should be sent to:

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The CER intends to publish all submissions received. Respondents who do not wish part of their submission to be published should mark this area clearly and separately, or enclose it in an appendix stating the rationale for not publishing this part of their comments.

2.0 Natural Gas Storage Licence

2.1 Proposed Changes to Natural Gas Storage Licence

The CER is presently the licensing authority for various licences in the energy sector. The CER is working to include safety conditions applicable to undertakings within their licences. Safety and enforcement conditions are already included in LPG safety licences² and the CER intends to consult on their inclusion in other relevant natural gas licences in the coming months.

With regards to the Natural Gas Storage Licence the CER is proposing:

- The existing Natural Gas Storage Licence should be modified to include safety and enforcement related conditions in line with the CER's remit in these areas,
- All existing Natural Gas Storage Licences be replaced with the revised Natural Gas Storage Licence, and
- Those undertakings that are involved in the storage of natural gas will be required to comply with the revised Natural Gas Storage Licence.

Specifically it is proposed that the Natural Gas Storage Licence be revised to include:

1. specific conditions, which relates to a Licensee's requirement to report on relevant safety requirements (Condition 6);
2. specific conditions, which relate to the Gas Safety Framework (Condition 8);
3. specific conditions, which relate to Gas Safety Officers and Authorised Officers (Condition 9);
4. specific conditions, which relate to enforcement (Condition 10);
5. specific conditions, which relate to the right of the Commission to revoke a Natural Gas Storage Licence (Schedule 2).

² Decision Paper CER/14/096

2.1.1 Provision of information to the Commission, records and reporting

Condition 6 of the current Natural Gas Storage Licence specifies the Licensee's obligations with regard to records and reporting. The CER proposes to include additional details with regard to reporting on relevant safety requirements. Please see the proposed Natural Gas Storage Licence provided in Appendix 1 for details.

2.1.2 Safety Framework – Condition 8

The 2006 Act enables the CER establish a Gas Safety Framework¹ to discharge its responsibilities with respect to the safety regulation of natural gas and LPG undertakings. The overall strategic objective of the Framework is:

To ensure that adequate measures are taken to protect life and property from the dangers associated with natural gas and LPG by ensuring that gas and LPG related activities within the scope of the CER's responsibilities are carried out in a safe manner, which takes account of and mitigates against the risks associated with the storage, transportation, supply and use of natural gas and LPG, as applicable.

The Framework sets out how the CER intends to discharge its responsibilities with respect to the regulation of natural gas and LPG undertakings and natural gas and LPG installers with respect to safety.

A main component of the Gas Safety Framework is a Gas Safety Case regime, which uses a risk and outcomes based approach to manage gas safety risks to a level that is as low as reasonably practicable (ALARP), for each licensed undertaking. Natural gas undertakings must submit Safety Cases to the CER for assessment. The Safety Case must be drafted in line with the guidelines set out in the decision paper "*Natural Gas Safety Regulatory Framework Safety Case Guidelines*" (CER/07/226). The focus of the safety case is on the safe management of the storage and flow of gas and the undertakings response to emergencies. In particular this relates to the management of the safety risks associated with the design, construction,

operation, maintenance, and modification/refurbishment and de-commissioning of gas infrastructure.

Condition 8 of the current Natural Gas Storage Licence³ relates to the licensee's obligation to comply with the Gas Safety Framework. The CER intends that compliance with the Gas Safety Framework will remain as a Condition in the revised Natural Gas Storage Licence. However the details of the condition have been revised. Please see the proposed Natural Gas Storage Licence provided in Appendix 1 for details.

2.1.3 Gas Safety Officers and Authorised Officers – Condition 9

The CER may appoint a Gas Safety Officer or an Authorised Officer in connection with the audit, inspection or investigation of a natural gas undertakings activity under the Gas Safety Framework. Gas Safety Officers and Authorised Officers have specific functions and powers in connection with the audit, inspection or investigation of any activities authorised by a Natural Gas Storage Licence, natural gas incidents and/or the implementation of, and any investigations under or pursuant to, the Gas Safety Framework. The CER proposes to include a Condition related to a Gas Safety Officer or an Authorised Officer in the revised Natural Gas Storage Licence. Please see the proposed Natural Gas Storage Licence provided in Appendix 1 for details.

2.1.4 Enforcement Actions – Condition 10

The CER has enforcement powers over natural gas undertakings (including storage facilities) under the Act of 2002 and the Act of 1999 (as amended). The Act of 2002 enables the CER issue a direction to certain specified natural gas entities (including holders of a Natural Gas Storage Licence) to discontinue or refrain from specified practices. The Act of 1999 (as amended) gives the CER the powers to carry out various progressive enforcement steps, including;

- Issuing a Direction to Submit an Improvement Plan,

³ CER/06/101

- Serving an Improvement Notice,
- Serving a Prohibition Notice,
- Restricting or prohibiting activities in emergencies.

The Licensee shall fully comply with any directions, requirements or determinations made by the Commission pursuant to the Act of 1999, the Safety Framework or other relevant law.

The CER proposes that relevant enforcement powers will be included as a Condition in the revised Natural Gas Storage Licence. Please see the proposed Natural Gas Storage Licence provided in Appendix 1 for details.

2.1.5 Right of the Commission to Revoke a Natural Gas Storage Licence – Schedule 2

The CER may at any time revoke a Natural Gas Storage Licence under certain conditions. These conditions are outlined in Schedule 2 of the licence. The CER proposes including details of the specific safety conditions under Section 9J of the Act of 1999 under which the CER may revoke a natural gas storage licence. Please see the proposed Natural Gas Storage Licence provided in Appendix 1 for details.

The CER requests comments regarding the proposed inclusion of the safety and enforcement conditions (outlined above and in detail in Appendix 1 of this paper) within Natural Gas Storage Licences.

3.0 Implementation of Proposed Changes

The Commission intends, following consideration of the responses to this consultation and any required revision of the draft Natural Gas Storage Licence, to publish a decision on the revised licence.

On that same date all existing Natural Gas Storage Licences will be replaced with the revised Natural Gas Storage Licence. The CER is currently proposing the following outline timeline for the implementation of the revised Natural Gas Storage Licence:

Publish Consultation Paper	5 th September 2014
Closing date of Consultation	15 th October 2014
Publish Decision Paper and Replace existing Natural Gas Storage Licences	Q4 2014

Appendix 1: Draft Natural Gas Storage Licence

NATURAL GAS STORAGE LICENCE

GRANTED BY

THE COMMISSION FOR ENERGY REGULATION

TO

[INSERT]

DATE:

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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)(c) of the Gas (Interim) (Regulation) Act 2002 (hereinafter referred to as "the Act of 2002") hereby grants to [insert undertakings name] and any permitted assignee (hereinafter referred to as the "Licensee") a licence to operate a natural gas storage facility for the purposes of a storage business (both terms as defined hereafter) in at the locations specified in Schedule 1 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 of 2002. The licence hereby granted (hereinafter referred to as "this licence") is further subject to the terms as to revocation specified in Schedule 2.
3. This licence shall come into force on [insert date] and, unless revoked in accordance with the provisions of Schedule 2, shall continue in full force and effect until determined by not less than 5 years' notice in writing given by the Commission to the Licensee, with such notice not to be served earlier than the 5th anniversary of the date 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 [Insert Date].

Chairperson

PART II: CONDITIONS OF THE LICENCE

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 applied to them; and
 - (b) references to an enactment shall include, without limitation, 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 of 2002 for the purposes of any provision of the Act of 2002 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:

“the Act of 2002”	means the Gas (Interim) (Regulation) Act, 2002;
“the Act of 1999”	means the Electricity Regulation Act, 1999, as amended;
“Environmental Laws”	means those European Union and Irish laws which are from time to time in force, whose purpose is the protection of the environment, which includes, but is not limited to, the protection of human health, flora, fauna and the eco-systems on which they depend, and for the avoidance of doubt shall include but shall not be limited to the Environmental Protection Act, 1992, the Waste Management Acts, 1996 to 2005 and all legislation relating to the assessment of environmental impacts, and the protection of air, land and waters.
“Holding Company”	means a holding company within the meaning of Section 155 of the Companies Act, 1963;
“Information”	shall include, without limitation, 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;
“Levy Order”	means an order made pursuant to paragraphs 16 and 17 of the Schedule to the Act of 1999 as amended by Section 22 of the Act of 2002
“Licensee”	means [insert name of undertaking];

- “Modification”** includes, without limitation, addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;
- “Natural Gas Legislation”** means any Irish or European legislation applicable to natural gas, including but not limited to the Gas Acts 1976 to 2002 as amended and any Order made thereunder and any regulations applicable to natural gas;
- “Natural gas undertaking”** has the meaning given in the Act of 2002;
- “Related Undertaking”** 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);
- “Relevant Authority”** means the Minister for Communications, Energy and Natural Resources (or any successor thereof) or any other authority designated by the Commission for the purposes of this Condition and notified to the Licensee by the Commission;
- “Safety Case”** means, at any given time:
- (a) the most recent version of the safety case developed by the Licensee pursuant to the Safety Framework and accepted in writing by the Commission;
 - (b) together with any modifications or amendments made by the Licensee to that version of its Safety Case provided that each modification or amendment concerned either:
 1. has been accepted in writing by the Commission; or
 2. is of a type that the Licensee is permitted to make under the Safety Framework without the modification or amendment first being accepted in writing by the Commission.
- “Safety Case Guidelines”** means the Commission’s decision paper CER/07/226: Gas Safety Regulatory Framework for Ireland - Safety Case Guidelines for NG Undertakings, as amended by the Commission from time to time by Commission decision (or any Commission decision paper replacing it).
- “Safety Framework”** means the LPG and natural gas safety regulatory framework established by the Commission further to Section 9(1G)(a) of the Act of 1999, insofar as it is relevant to the storage of natural gas, as that framework is reviewed or amended by the Commission from time to time.

“Safety Laws” means any requirement imposed by or under any Applicable Law that is relevant to safety in respect of the storage of natural gas.

“Safety Requirements” means the requirements of the Safety Case Guidelines, Safety Framework and Safety Laws.

“Separate Business” means each of the businesses of supply, storage, distribution and transmission of natural gas 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;

Notwithstanding the foregoing, none of the following activities shall constitute a Separate Business for the purpose of this licence:

- (i) the production of natural gas
- (ii) Processing of natural gas for 3rd parties
- (iii) the purchase of natural gas for storage and subsequent resale.
- (iv) the shipping of natural gas
- (v) the supply of wholesale customers

“Storage Business” means the injection, storage and withdrawal of natural gas from any source on behalf of customers, using the Storage Facility in accordance with the terms of the Standard Storage Agreement.

“Standard Storage Agreement” means the agreement setting out the terms and conditions (excluding commercial terms) under which the Licensee and its customers will contract for the provision of a natural gas storage service, as provided for in Condition 3 of this licence

“Transporter” means a person who operates one or more transmission or distribution pipelines.

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, without limitation, 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: General Duties of Licensee

1. The Licensee shall comply with the following obligations as required by Section 16 (13) of the Act of 2002 as amended by Regulation 10 of S.I. No. 452 of 2004.
 - (a) operate, maintain and develop under economic conditions such secure reliable and efficient facilities or systems as required for the purpose of operating the Storage Facility with due regard to the environment and public safety,
 - (b) not discriminate between system users or classes of system users particularly in favour of related undertakings,
 - (c) provide any natural gas undertaking to whose system its Storage Facility is connected with sufficient information to ensure that transport or storage of natural gas may take place in a manner compatible with the safe, secure and efficient operation of the natural gas system,
 - (d) without prejudice to any legal obligation to disclose information, preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its business,
 - (e) provide all documents, records, accounts, estimates and other information, whether oral or written, requested from time to time by the Commission, in the form and at the times specified by the Commission, for the purpose of verifying that the holder of the license is complying with the Conditions of the licence, or as may be required by the Commission in the performance of its duties or functions,
 - (f) provide system users with the information they need for efficient access to the Storage Facility.

Condition 3: Access to and use of the Storage Facility

1. The Commission has previously concluded that access to the Storage Facility specified at schedule 1 is not subject to the provisions on 3rd Party Access set out in Article 33 of Directive 2009/73/EC as transposed by S.I. no. 630 of 2011. The Commission will keep this conclusion under review and, pending the outcome of any such review, may give directions to the Licensee to prepare and submit to the Commission generic contract conditions (the "Standard Storage Agreement"). The Commission may issue directions from time to time in relation to these generic contract conditions, acting reasonably at all times and the Licensee shall comply with such directions. Any such direction shall be without prejudice to the contractual rights and obligations of the Licensee and its customers prevailing at the date of the direction.
2. In order to ensure openness in the market for energy supply, the Licensee shall not contract with any one party for access to the Storage Facility for a period longer than three years without the prior approval of the Commission.
3. The Licensee shall not contract with any one party for access to more than 75 percent of the capacity of the Storage Facility without the prior approval of the Commission. The remaining 25 percent of the Storage Capacity may be made available to other parties including, subject to the prior approval of the Commission, a party already contracted for some or all of the 75 percent. In this latter event, any Commission approval shall not extend to a contract period exceeding 12 months. This Condition will not operate to prevent the Licensee from contracting with any one party for access to 100 percent of the capacity for the gas year [insert year].

Condition 4: Interaction with other natural gas undertakings

1. The Licensee shall:
 - (a) furnish to other natural gas undertakings to whose systems its Storage Facility is connected, in such manner and at such times as may reasonably be required, such information as may be reasonably required by such undertakings in order to ensure the safe, secure and efficient operation, co-ordinated development and inter-operability of the Storage Facility and such systems; and
 - (b) negotiate in good faith with other natural gas undertakings to whose systems its Storage Facility is connected, with a view to entering into such agreements as are required and perform such other acts as are required, and in the time periods required, to ensure the safe, secure and efficient operation, co-ordinated development and inter-operability of the Storage Facility and such systems.
 - (c) co-operate with the **National Gas** Emergency Manager, who has been appointed by the Commission to direct other natural gas undertakings to take such action as is necessary to prevent or end an emergency as the case maybe.

Condition 5: Confidentiality and restriction on use of certain information

1. Without prejudice to any legal duty to disclose information, the Licensee shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its business.
2. The Licensee shall not abuse commercially sensitive information obtained from third parties in the context of providing or negotiating access to the Storage Facility.
3. Without prejudice to the generality of paragraphs 1 and 2 of this Condition, the Licensee shall ensure that no information relating to, or derived from, the Storage Business is disclosed for the benefit of, or used for the purposes of, any other Separate Business. This paragraph 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 with the relevant person to whose affairs such information relates;
 - (c) The information is in the public domain (otherwise than as a 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
 - (iii) the information is disclosed pursuant to any judicial or other arbitral process or tribunal of competent jurisdiction.
4. The Licensee shall provide the Commission with any information or access to information the Commission may reasonably deem necessary in relation to the compliance by the Licensee with this Condition.
5. The Licensee shall (and shall procure that its affiliates and related undertakings shall) comply with any directions as may from time to time be issued by the Commission requiring the Licensee (or its affiliates and related undertakings) to take such steps or desist from such action as the Commission reasonably considers appropriate to secure compliance with this Condition.

Condition 6: Provision of information to the Commission, records and reporting

1. The Licensee shall keep records of its operation of the Storage Business and, in such form as may be directed by the Commission from time to time.
2. The Licensee shall, as required by the Commission in writing from time to time, provide to the Commission the records or reports relating to the operation of the storage business.
3. The Commission acknowledges its duty to act reasonably in issuing directions or requests for information pursuant to this Condition.
4. In relation to the Licensee's relevant safety requirements the Licensee shall report in such manner, form and frequency as requested by the Commission.

Condition 7: Separate accounts

1. The Licensee shall comply with the accounting and reporting requirements provided for in Section 17 of the Act of 2002, as amended by Regulation 11 of S.I. No. 452 of 2004 relating in particular to the preparation and keeping of internal accounts for the Storage Business and showing the financial affairs of the Storage Business.
2. The Licensee shall deliver to the Commission a copy of the audited accounts and the accounting statements as soon as reasonably practicable, and in any event not later than six months after the end of the financial year to which they relate.

Condition 8: Safety Framework

1. The Licensee shall at all times comply with the Safety Framework, including any duties, obligations or requirements imposed on the Licensee under and/or pursuant to the Safety Framework or that the Commission may impose on the Licensee under and/or pursuant to the Safety Framework.
2. The Licensee shall, subject to and in accordance with the Safety Framework, produce and thereafter maintain, in a form approved by the Commission, a document to be known as the Safety Case. The Licensee shall at all times fully implement and comply with its Safety Case. The Licensee shall continually monitor its compliance with its Safety Case.
3. The Licensee shall not amend or modify its Safety Case unless the modification or amendment either:
 - a. has been accepted in writing by the Commission; or
 - b. is of a type that the Licensee is permitted to amend under the Safety Framework without the modification or amendment first being accepted in writing by the Commission.
4. The Licensee shall at all times fully co-operate with the Commission, and provide the Commission with such information as it may require in connection with the establishment and implementation of the Safety Framework by the Commission.
5. The Licensee acknowledges and agrees that the Commission may review or amend any or all of the Safety Framework as often as the Commission considers necessary. The Licensee's obligation under this Licence is to comply with the Safety Framework as amended by the Commission from time to time.
6. At such times as required by the Safety Framework, the Licensee shall procure, on terms of reference approved by the Commission, the services of an independent consultant suitably qualified in safety matters as approved by the Commission to examine and report on the Licensee's compliance with the Safety Case, 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.

Condition 9: Gas safety officers and authorised officers

1. The Licensee acknowledges and agrees that the Commission may appoint a gas safety officer or authorised officer under or pursuant to, respectively Section 9J and Section 11 of the Act of 1999 in connection with the audit, inspection or investigation of any activities authorised by this Licence, natural gas incidents and/or the implementation of, and any investigations under or pursuant to, the Safety Framework.
2. The Licensee shall not obstruct or impede any gas safety officer or authorised officer in the exercise of his or her powers and shall fully comply with any instructions or requirements of a gas safety officer or authorised officer.

Condition 10: Enforcement Actions

1. The Licensee shall fully comply with any directions, requirements or determinations made by the Commission pursuant to the Act of 2002, the Act of 1999, the Safety Framework or other relevant law.
2. The Licensee shall, where directed to do so by the Commission under and/or pursuant to Section 9JA of the Act of 1999, submit (and, as the case may be, re-submit) an improvement plan to the Commission in the form, manner, with such details and within the time period specified by the Commission in the direction.
3. The Licensee shall, where the Commission has written to the Licensee stating that it is satisfied with the remedial action the Licensee proposes to take pursuant to its improvement plan, implement the proposed remedial action in the manner and within the time period set out in its improvement plan (and, if no time period is set out in the improvement plan, as soon as reasonably possible).
4. The Licensee shall comply with any direction in an improvement notice issued by the Commission under and/or pursuant to Section 9JB of the Act of 1999 within the period stated in the improvement notice (and which period shall not be earlier than the period within which an appeal may be brought under Section 9JB(5) of the Act of 1999), provided the improvement notice has taken effect in accordance with Section 9JB of the Act of 1999.
5. The Licensee shall fully comply with any prohibition and/or direction set out in a prohibition notice issued by the Commission under and/or pursuant to Section 9JC of the Act of 1999 within such time period as may be specified by the Commission in the direction, provided the prohibition notice has taken effect in accordance with Section 9JC of the Act of 1999.
6. The Licensee shall fully comply with any order of the High Court under and/or pursuant to Section 9JD of the Act of 1999 within such time period as may be specified by the High Court in the order

Condition 11: Environment

1. The Licensee shall comply with:
 - (a) its duties and obligations under all applicable Environmental Laws;
 - (b) in the case of offshore storage facilities, the requirements of any regulatory consents or conditions imposed under and/or pursuant to such regulatory consents including, without limitation any regulatory consents or approvals granted under and/or pursuant to the natural gas legislation, the Foreshore Act 1933, the Petroleum and Other Minerals Development Act 1960 and the Continental Shelf Act 1968; and
 - (c) any direction issued to it for the purposes of this Condition by the Commission or any appropriate body designated by the Commission for these purposes.

Condition 12: Competition Law

1. The Licensee shall ensure that the Storage Business is operated at all times in compliance with EU and Irish competition law.

Condition 13: 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 14: Assignment and change of control

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 Storage 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, without limitation, 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 Storage Business may be subject to the transferee being granted or holding a natural gas licence to operate the Storage Facility and may be subject to compliance by the Licensee or transferee with any conditions imposed by the Commission, including, without limitation, 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 Storage 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.
6. The Licensee shall, as soon as practicable following it becoming aware of the relevant circumstances, notify the Commission of any change in control of the Licensee.
7. For the purposes of paragraph 6 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.

SCHEDULE 1: Storage Facility which the Licensee is authorised to operate under the licence

[Insert details of storage facility].

SCHEDULE 2: 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 of 2002, 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, where the Commission has written to the Licensee stating that it is satisfied with the remedial action the Licensee proposes to take pursuant to an improvement plan submitted to the Commission under and/or pursuant to Section 9JA of the Act of 1999, fails to implement the proposed remedial action in the manner and within the time period set out in the improvement plan;
 - e. if the Licensee fails to comply with an improvement notice issued under and/or pursuant to Section 9JB of the Act of 1999, provided the improvement notice has taken effect in accordance with such section;
 - f. if the Licensee fails to comply with a prohibition notice issued under and/or pursuant to Section 9JC of the Act of 1999, provided the prohibition notice has taken effect in accordance with such section;
 - g. if the Licensee fails to comply with an order issued by the High Court under and/or pursuant to Section 9JD of the Act of 1999;
 - h. if the Licensee fails to comply with any order made by the Minister under Section 21 of the Act of 2002;
 - i. if the Licensee is, has been, or is likely to be in breach of a relevant safety requirement including the Safety Case Guidelines, Safety Case Framework and/or its Safety Case, and the Commission is satisfied that, as a result, the Licensee is no longer a fit and proper person to hold this licence;
 - j. 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;
- k. if:
- (i) there is a change in the control of the Licensee for the purposes of Condition 18 (Change in control of Licensee); and
 - (ii) the Commission is satisfied that, as a result of that change in control, the new shareholder does not have adequate technical, financial or managerial strength, taking into account the size of its shareholding in the Licensee; 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; or
- l. if the Licensee fails to notify the Commission of a change in control of the Licensee as required by Condition 18 (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.