

**LPG SAFETY LICENCE**  
**GRANTED BY**  
**THE COMMISSION FOR ENERGY REGULATION**  
**TO**  
**FLOGAS IRELAND LIMITED**

**DATE: 17 DECEMBER 2015**

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**PART I: TERMS OF THE LICENCE**

1. The Commission, in exercise of the powers conferred on it by Section 9(JE)(3) of the Act (as inserted by Section 18(1) of the Energy (Miscellaneous Provisions) Act 2012) hereby grants to the Licensee an LPG safety licence to make available LPG to final customers by way of piped LPG distribution network(s):
  - a. during only the period specified in paragraph 6; and
  - b. subject to the Conditions set out in Part 2 of this Licence.
2. The Licence may be revoked by the Commission in accordance with Section 9(JE)(14) of the Act, subject to the terms as to revocation specified in Schedule 1.
3. The Commission may monitor the activities of the Licensee with a view to ensuring that the Licensee complies with this Licence.
4. The Licence is subject to modification or amendment in accordance with Sections 9(JE)(16) and 9(JE)(17) of the Act.
5. The Licensee acknowledges and agrees that the Commission may, in accordance with Section 9JE(15), publish a copy of this Licence in the manner prescribed by the Commission from time to time.
6. This Licence comes into force on the date specified in Schedule 2 and, unless and until revoked in accordance with paragraph 2 or replaced by a new LPG safety licence, continues in full force and effect.

Sealed with the common seal of the Commission for Energy Regulation on  
December 2015.

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Chairperson

Commission for Energy Regulation

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

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

1. Unless the contrary intention appears:
  - a. words and expressions used in the Licence are construed as if they were in an enactment and the Interpretation Act 2005 applied to them; and
  - b. references to any provision of any legislation includes any secondary legislation made under it and any modification, amendment, re-enactment, extension or consolidation of the legislation 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 has, unless the contrary intention appears, the same meaning when used in the Licence.
3. 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 in this Licence with that number;
  - 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 limiting or affecting any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than this Licence), code or other instrument includes a reference to such agreement, licence, code or other instrument as varied, supplemented or replaced from time to time.
4. The heading or title of any Part, Condition, Schedule or paragraph does not affect its construction.
5. Any obligation of the Licensee that is expressed to require performance within a specified time limit continues to be binding and enforceable after that time limit if the Licensee fails to perform that obligation within that time limit (but without limiting or affecting all rights and remedies available against the Licensee by reason of the Licensee's failure to perform within the time limit).
6. Any obligation in this Licence not to do or omit to do any act or thing is deemed to include an obligation not to permit or suffer such act or thing to be done or omitted, as the case may be.
7. Section 4 of the Act applies for the purposes of the delivery or service of any document, direction or notice to be delivered or served pursuant to this Licence. Any directions issued by the Commission pursuant to any Condition shall be delivered or served in this way.

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, acceptance, 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.

9. The rights of the Commission under or pursuant to any provision in this Licence do not limit or affect the Commission's power or rights under or pursuant to any other provision in this Licence or under or pursuant to the Act or any other Applicable Law.
10. Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and may extend, but shall not limit, the sense of the words preceding those terms.
11. Nothing in this Licence, and no act or omission of the Commission under or in connection with this Licence (including the acceptance of the Safety Case):
  - a. implies or suggests that the Licensee has complied with Applicable Laws or Safety Requirements in any respect;
  - b. passes any liability, duty or responsibility to the Commission in respect of any matter; and/or
  - c. dilutes the Licensee's liability, duty or responsibility in respect of any matter.
12. Nothing in this Licence shall be read so as to be restrictive of any other duty, requirement or obligation imposed by Applicable Law or the Safety Requirements which would otherwise apply to the Licensee.
13. A word importing the singular shall be read as also importing the plural, and a word importing the plural shall be read as also importing the singular.
14. In the Licence, unless otherwise specified or the context otherwise requires:

**"Act"** means the Electricity Regulation Act 1999.

**"Applicable Laws"** means:

(a) any requirement imposed by or under any applicable law, including by or under Irish or European legislation, case law, common law or any order, direction, licence, decision, instruction or rule given or granted by any competent authority; and

(b) any guidelines or industry codes applicable to the making available of LPG by way of piped LPG distribution network,

including the LPG Legislation and Safety Laws.

**“Commission”** means the Commission for Energy Regulation.

**“final customer”** means a person being supplied with LPG by way of a piped LPG distribution network at a single domestic premises for consumption on those premises.

**“Levy Order”** means an order made under paragraph 16 of Schedule 1 to the Act.

**“Licence”** means this Licence, comprising Parts 1 and 2 and Schedules 1 and 2.

**“Licensee”** means the person identified in Schedule 2 and, subject to Condition 15, any person to whom this Licence is assigned, transferred or novated with the Commission’s prior written consent.

**“LPG”** has the meaning given to it in the Act.

**“LPG fitting”** has the meaning given to it in the Act.

**“LPG incident”** has the meaning given to it in the Act.

**“LPG Legislation”** means any Applicable Law relevant to the making available of LPG by way of piped LPG distribution network and includes:

- the Act;
- Dangerous Substances (Storage of LPG) Regulations 1990;
- the Safety, Health and Welfare at Work Act 2005;
- the Safety, Health and Welfare at Work (General Application) Regulations 2007; and
- any regulations issued by the Commission under and/or pursuant to either or both of Section 9H(1) and Section 9JG of the Act.

**“piped LPG distribution network”** has the meaning given to it in the Act and includes, where reference is made to the Licensee’s piped LPG distribution network, any one or more of its piped LPG distribution

networks or any part or parts of any or all of them, as the context admits or requires.

**"Relevant Asset"** means:

- a. any material asset for the time being forming part of the Licensee's piped LPG distribution network;
- b. any material asset under construction which may form part of the Licensee's piped LPG distribution network;
- c. any control centre for use in conjunction with the Licensee's piped LPG distribution network;
- d. any legal or beneficial interest of the Licensee in land and/or premises upon which any of the foregoing is situated and/or used by the Licensee in the exercise of its rights or discharge of its obligations under this Licence; and
- e. any other assets which can be considered material and are used by the Licensee in the exercise of its rights or discharge of its obligations under this Licence.

**"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/13/253: Gas Safety Regulatory Framework for Ireland - Safety Case Guidelines for Licenced LPG 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, insofar as it is relevant to the making available of LPG to final customers by way of piped LPG distribution network, 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 making available of LPG by way of piped LPG distribution network and/or LPG.

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

## **Condition 2: Relevant Assets**

1. The Licensee shall not dispose of any part of its piped LPG distribution network or any Relevant Asset if the disposal would adversely affect its ability to discharge its obligations under this Licence, the LPG Legislation and/or the Safety Requirements or comply with its Safety Case.
2. The Licensee shall prepare and continually maintain a complete, accurate and up-to-date register of Relevant Assets and a map of the Licensee's piped LPG distribution network in the manner and form set out in its Safety Case and, in addition, as specified by the Commission from time to time. The Licensee shall promptly provide the Commission with such register and map in such form and at such times as the Commission may specify from time to time.
3. The Commission's decision as to what is a Relevant Asset is final.
4. The Commission shall issue directions from time to time requiring the Licensee to give prior notification to the Commission of proposed disposals or uses of relevant assets of a specified description and these directions may include a direction that certain categories of such disposals may not take place until either the Commission has expressly agreed to them or a specified time period has elapsed.
5. In this Condition, "**dispose**" includes any sale, assignment, gift, lease, licence, transfer, mortgage, charge, restriction on use (whether physical or legal), or the grant of any other encumbrance or the permitting of any encumbrance to subsist or any other disposition to a third party, and "disposal" shall be construed accordingly.

### **Condition 3: Facilities, systems and standards**

1. The Licensee shall, subject to and in accordance with the Safety Requirements and Safety Case, operate, maintain and develop such facilities or systems:
  - a. as may be required to comply with the Safety Requirements and its Safety Case; and
  - b. as may be required for the purposes of carrying out the activity for which it is licensed under this Licence with due regard to safety and in accordance with the terms of this Licence.
  
2.
  - a. The Licensee shall prepare a document embodying such standards as set out in paragraph 2(c) below and publish that document in the format and manner notified by the Commission to the Licensee from time to time.
  - b. These standards and any subsequent modifications shall be subject to the acceptance of the Commission.
  - c. These standards shall cover, without limitation, the engineering of pipelines and associated equipment and the technical standards to be adopted for their design, construction, operation and maintenance, including standards relating to the physical durability of the piped LPG distribution network (including its ability to withstand internal and external pressures, shocks and damage, whether natural or man-made) and standards relating to the odourisation of LPG.
  - d. The Licensee shall ensure that the construction, operation, maintenance and development of the piped LPG distribution network is carried out in accordance with these standards.
  - e. The Commission may issue directions requiring the Licensee to revise these standards in such manner as may be specified in the directions, and the Licensee shall comply with such directions.
  - f. The Licensee may seek a derogation relieving the Licensee of its obligations under paragraph 2(c) above in respect of parts of the piped LPG distribution network and/or parts of the standards and the Commission may issue directions relieving the Licensee of its obligations under paragraph 2(c) above in respect of such parts of the piped LPG distribution system and/or parts of the standards to such extent as may be specified in those directions.

**Condition 4: Gas works**

1. The Licensee shall not carry out, or engage a person to carry out, gas works, including "works which are gas works" within the meaning of the Electricity Regulation Act 1999 (Liquefied Petroleum Gas Works) Regulations 2011, unless the person carrying out the gas works is permitted under Section 9G(3) of the Act to carry out gas works.

**Condition 5: 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 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.
3. 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.

**Condition 6: Safety Case**

1. The Licensee shall, subject to and in accordance with the Safety Framework, produce and maintain, in a form accepted by the Commission, a document to be known as the Safety Case.
2. 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 make under the Safety Framework without the modification or amendment first being accepted in writing by the Commission.
4. The Commission may revoke its acceptance of the Licensee's Safety Case. If the Commission revokes its acceptance of the Licensee's Safety Case, the Licensee shall immediately cease making available LPG by way of its piped LPG distribution network (unless, and only to the extent, otherwise agreed in writing by the Commission).
5. The Licensee shall not make available LPG by way of its piped LPG distribution network unless the Commission has accepted its Safety Case.
6. Within three years of the date of issue of this licence and thereafter at such times as the Commission may direct, the Licensee shall procure, on terms of reference approved by the Commission, the services of an independent consultant suitably qualified in distribution 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 7: Safety promotion**

1. The Licensee shall promote the safety of LPG customers and the public generally as respects the supply and use of LPG.
2. The Licensee shall comply with its obligations and duties under both the Safety Framework and its Safety Case in relation to safety promotion.
3. The Licensee shall comply with any requirement and/or direction of the Commission under and/or pursuant to Section 9(1H) of the Act.

**Condition 8: LPG incidents**

1. The Licensee shall prepare, maintain and implement emergency response procedures subject to, and in accordance with, its Safety Case.
2. The Licensee shall respond to any reports made to it by members of the public or anyone else, in respect of:
  - a. any reports of any LPG incident, or
  - b. any LPG escape or leakage from, or any faults in or damage to, its piped LPG distribution network(s) or LPG fittings,in accordance with its emergency response procedures (as set out in its Safety Case).
3. The Licensee shall comply with its obligations under the Liquefied Petroleum Gas Safety (Liquefied Petroleum Gas Incident Reporting and Investigation) Regulations 2013.
4. The Licensee shall fully co-operate with the Commission and any gas safety officer appointed by the Commission in connection with an investigation into an actual or suspected LPG incident or any other incident involving or connected in any way to, or suspected to involve or be connected in any way to, LPG or its piped LPG distribution network.



### **Condition 9: Information and reporting**

1. The Licensee shall provide the Commission with sufficient information to ensure that LPG activities authorised under this Licence may take place in a safe and secure manner.
2. The Licensee shall provide all documents, records, accounts, financial information, 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 purposes of verifying that the Licensee is complying with the Licence, Safety Requirements, Safety Case and the LPG Legislation, or as may be required by the Commission in the performance of its duties or functions imposed under the Act or other Applicable Laws relevant to LPG safety.
3. The Licensee shall ensure that all information and reports it provides to the Commission under or pursuant to this Licence are accurate, complete, up-to-date and not misleading.
4. The Licensee shall publish information (except for confidential information) in such form and manner and at such times as the Commission may require.
5. Any question arising as to what constitutes confidential information for the purposes of this Condition shall be determined by the Commission after consultation with the Licensee and, at the Commission's discretion, any other party affected by that determination. The Commission's decision is final in such respect.
6. In this Condition "**information**" includes 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.

**Condition 10: Records**

1. The Licensee shall keep such records as:
  - a. the Commission may specify from time to time;
  - b. are required by the Safety Requirements; and/or
  - c. are required by the Safety Case.
2. The Licensee shall, as required by the Commission in writing from time to time and within the time period specified by the Commission, provide to the Commission the records kept in accordance with this Condition.

**Condition 11: Improvements, prohibitions and emergencies**  
**Improvement plans**

1. The Licensee shall, where directed to do so by the Commission under and/or pursuant to Section 9JA of the Act, 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.
2. 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).

**Improvement notices**

3. 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 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), provided the improvement notice has taken effect in accordance with Section 9JB of the Act.

**Prohibition notices**

4. 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 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.

**Emergency order**

5. The Licensee shall fully comply with any order of the High Court under and/or pursuant to Section 9JD of the Act within such time period as may be specified by the High Court in the order.

**Condition 12: Gas safety officers**

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

**Condition 13: Compliance with laws and directions**

1. The Licensee shall fully comply with all Applicable Laws, including the LPG Legislation.
2. The Licensee shall fully comply with the Safety Requirements.
3. The Licensee shall fully comply with any directions (including any directions under Sections 23 or 24 of the Act), requirements or determinations made by the Commission pursuant to the Act, this Licence, the Safety Framework or Applicable Law.
4. The Licence shall monitor and keep a record of its compliance with this Licence and any requirement, direction, determination, code, procedure or guideline it is required to comply with.
5. The Licensee shall at all times facilitate the discharge by the Commission of its functions or duties, and co-operate with the Commission in it carrying out its functions or duties, under the Act and Applicable Laws and in connection with the Commission's exercise of its rights under this Licence.
6. Any costs associated with compliance with this Condition are the exclusive responsibility of the Licensee.

**Condition 14: Payment of levy**

1. The Licensee shall, subject to and in accordance with the relevant Levy Order, pay to the Commission in euro and in full (and without any deduction, withholding, counterclaim or similar) any amounts specified in, or determined under, a Levy Order that are payable by it to the Commission and by the date specified in or required by the Levy Order.

**Condition 15: Assignment of Licence**

1. The Licensee shall not, without the prior consent of the Commission, assign, transfer or novate its rights and obligations (in whole or in part) under this Licence to another person (the “**transferee**”), without the Commission’s prior written consent (and subject to any conditions of such consent). The Commission may refuse its consent at its discretion.
2. Any consent of the Commission under paragraph 1 shall be subject, in particular, to the Commission being satisfied that the transferee will be a fit and proper person to hold this Licence, 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.
3. Any consent of the Commission to a transfer of all or part of the Licensee’s business that relates to LPG being made available LPG to final customers by way of piped LPG distribution network(s) may be subject to the transferee being granted or holding an LPG licence for that purpose and may be subject to compliance by the Licensee or transferee with any conditions imposed by the Commission, including modification of this licence where deemed necessary by the Commission.
4. Nothing in this Condition shall prevent the Licensee transferring rights and obligations to a transferee 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 16: 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.
3. In this Condition, “**control**” means the acquisition of either:
  - a. the voting rights attaching to 25% or more of the voting shares in the Licensee; or
  - b. the power to direct or cause the direction and management of the policies of the Licensee in accordance with the acquirer's wishes, whether as a result of the ownership of shares, control of the board of directors, contract or any powers conferred by the articles of association or other constitutional documents of the Licensee.



## **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 14 days after the Commission gave the Licensee notice in writing that the payment was overdue, provided that no such notice shall be given earlier than the 16<sup>th</sup> day after the day on which the amount payable became due;
  - c. 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, fails to implement the proposed remedial action in the manner and within the time period set out in the improvement plan;
  - d. if the Licensee fails to comply with an improvement notice issued under and/or pursuant to Section 9JB, provided the improvement notice has taken effect in accordance with such section;
  - e. if the Licensee fails to comply with a prohibition notice issued under and/or pursuant to Section 9JC, provided the prohibition notice has taken effect in accordance with such section;
  - f. if the Licensee fails to comply with an order issued by the High Court under and/or pursuant Section 9JD of the Act;
  - g. if the Licensee fails to comply with a direction issued by the Commission under and/or pursuant to the Act (including Sections 23 and 24), LPG Legislation or any other Applicable Law;
  - h. if the Licensee fails to comply with an order under and/or pursuant to Section 26 of the Act.
  - i. if the Licensee is, has been or is likely to be in breach of a Safety Requirement 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);
- ii. 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);
- iii. 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;
- iv. passes any resolution for winding up other than a resolution previously approved in writing by the Commission;
- v. becomes subject to an order for winding up by a court of competent jurisdiction; or
- vi. 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 16 (Change in control of Licensee); and
- ii. the Commission is satisfied that, as a result of that change in control, the person whom acquired such control does not have adequate technical, financial or managerial strength, taking into account the size of its shareholding in, or extent of its other means of control of, 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 (2) months beginning with the date of service of the notice; and
- iv. that further change does not take place within that period;

or

- i. if the Licensee fails to notify the Commission of a change in control of the Licensee as required by Condition 16 (Change in control of Licensee).

2. For the purposes of paragraph 2(j)(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.

## **SCHEDULE 2: LICENCE DETAILS**

**Effective Date of Licence:** 17 December 2015

**Licensee:**

**Name:** Flogas Ireland Limited

**Company Registration Number:** 34870

**Registered Address:** Knockbrack House  
Matthews Lane  
Donore Road  
Drogheda  
Co. Louth