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ANQ_m = the aggregate of all Shipper's Nominated Quantities on the Gas Flow Day at the Carrickfergus Entry Point (determined in accordance with Section 2.2.3).

3.4 Allocation at an Exit Point

3.4.1 The Initial Allocation of Natural Gas in respect of any Gas Flow Day at an Exit Point where two or more Shippers offtake Natural Gas (a "**Shared Exit Point**") shall, subject to Section 3.6, be made in accordance with the formula set out below:

$$SQ_e = \frac{Q_e \times SNQ_e}{ANQ_e}$$

where:-

SQ_e = the quantity of Gas Allocated to a Shipper on the Gas Flow Day at the Shared Exit Point;

Q_e = the Exit Quantity of Natural Gas on the Gas Flow Day at the Shared Exit Point;

SNQ_e = the Shipper's Nominated Quantity on the Gas Flow Day at the Shared Exit Point;

ANQ_e = the aggregate of all Shipper's Nominated Quantities on the Gas Flow Day at the Shared Exit Point:

3.4.2 The Initial Allocation of Natural Gas in respect of any Gas Flow Day at an Exit Point, where only one Shipper has submitted a Nomination or Renomination in respect of offtaking Natural Gas on that Gas Flow Day, shall allocate all of the Exit Quantity of Natural Gas to that Shipper at such Exit Point.

3.5 Change to the Initial Allocation at a Shared Exit Point after it is made

3.5.1 Any Shippers who offtakes Natural Gas from a Shared Exit Point may agree between themselves on a different allocation from the Initial Allocation at that Shared Exit Point (but not between Shared Exit Points) in respect of their aggregate Allocated Quantity of Natural Gas for D (a "**Reallocation**").

3.5.2 A Reallocation may only be requested:

- (a) by all Shippers whose allocations would change as a result of any such Reallocation writing jointly to the Transporter;
- (b) during the period between the commencement of D+1 and 16:00 on D+5; and
- (c) not more than once in each Day unless the Exit Quantity is adjusted in accordance with Section 9 in which case a further Reallocation may be requested.

where the weighted average shall, for the purposes of (i) and (ii), be the aggregate of all purchases and/or sales (price per kWh multiplied by amount in kWh purchased or sold) divided by the total amount in kWh purchased and/or sold.

- 4.1.6 If for any reason the Daily Gas Price is not available or is disputed then Shippers will be cashed out at such alternative price as the Transporter may reasonably determine.
- 4.1.7 "**Balancing Charge**" means the charge payable to a Shipper in respect of a Positive Balance or the charge payable by a Shipper in respect of a Negative Balance as set out below;
- (a) a "**Negative Balance**" is where any Final Allocation of a Shipper at the Carrickfergus Entry Point in respect of an Exit Point is less than its corresponding Final Allocation at that Exit Point on any Day; and
 - (b) a "**Positive Balance**" is where any Final Allocation of a Shipper at the Carrickfergus Entry Point in respect of an Exit Point exceeds its corresponding Final Allocation at that Exit Point on any Day.

4.2 Exit Point Tolerance

- 4.2.1 The Transporter shall, within ten (10) Business Days of first receiving a Downstream Load Statement in respect of an Exit Point in accordance with Section 17.8, calculate a tolerance, expressed as a percentage, at that Exit Point using the information contained in the Downstream Load Statement as set out below (an "**Exit Point Tolerance**"):

$$\text{Exit Point Tolerance} = \frac{100 - \text{TCvm} \times (a + b + c + d)}{\text{TCvm}}$$

where:

$$a = (\text{Cvm} \times \text{Cf for Un1})$$

$$b = (\text{Cvm} \times \text{Cf for Un2})$$

$$c = (\text{Cvm} \times \text{Cf for Un3})$$

$$d = (\text{Cvm} \times \text{Cf for Un4})$$

Cvm = the maximum quantity in kWh/day which may reasonably be required to supply the relevant downstream load category listed in column (2) in the table below (a "**Downstream Load Category**") at an Exit Point on a Gas Flow Day as set out in the relevant Downstream Load Statement;

TCvm = aggregate of each Cvm of each Downstream Load Category;

- (b) pay to the Shipper any balance specified in a CC Invoice in accordance with Section 12.6.4 by the Due Date.

12.9.3 All payments made under this Code to:

- (a) the PoT Account shall be made in Pounds Sterling by direct bank transfer or equivalent instantaneous transfer of funds to such account as the Transporter may, from time to time, give a Shipper written notice of:

Account name: Postalisation Trustee Account

- (b) The Transporter's account shall be made in Pounds Sterling by direct bank transfer or equivalent instantaneous transfer of funds to such account as the Transporter may, from time to time, give a Shipper written notice of.

12.9.4 Any payment under this Code to a Shipper shall be made in Pounds Sterling by direct bank transfer or equivalent instantaneous transfer of funds to such place of which the Shipper may, from time to time, give the Transporter written notice.

12.9.5 All amounts payable under this Code shall be paid:

- (a) free and clear of any restriction, reservation or condition; and
- (b) except to the extent, if any, required by law or expressly required under this Code, without deduction or withholding in respect of tax or on account of any amount due or to become due to the paying party, whether by way of set-off, counterclaim or otherwise.

12.9.6 The provisions of this Section 12.9 shall be applied, *mutatis mutandis*, to payments of each invoice to be submitted by the Transporter to any Shipper which is not a Gas Supplier in respect of those charges which such Shipper has agreed to pay in accordance with Section 12.2.3 (a) save that such invoiced amounts shall be paid to the Transporter and to such account (not, for the avoidance of doubt, being the PoT Account) as the Transporter may, from time to time, give the Shipper written notice of.

12.10 Interest

If a Shipper or the Transporter fails to pay any sum due in accordance with this Section 12 on the Due Date, (other than payments which are notified by a Shipper as being the subject of a bona fide dispute in accordance with Section 12.11.3), interest on such overdue amount shall accrue, both before and after judgement, at LIBOR plus 3% compounded monthly from the Due Date until the date payment is made and be payable into the PoT Account.

14.3 **Other breach by Transporter**

14.3.1 Any claim which a Shipper may make against the Transporter in respect of any breach by the Transporter of a provision of or other act or omission of the Transporter in relation to this Code, which is not made in accordance with Section 14.1.1 or 14.2 shall not exceed in any Gas Year the following:

$$£20,000 \times \frac{RPI_n}{RPI_o}$$

14.4 **Sole liability and remedy**

14.4.1 The Transporter's sole liability to the Shipper and the Shipper's sole remedy against the Transporter at common law, in equity or otherwise in relation to or in connection with the provision of or failure to provide transportation services pursuant to this Code whether as a result of a failure by the Transporter to act as an RPO, a breach of this Code or the negligence or Wilful Misconduct of the Transporter or otherwise shall be as stated in Sections 8.9.3, 14.1, 14.2 and 14.3.

14.5 **Aggregate liability to all Shippers**

14.5.1 Notwithstanding any of the preceding provisions of this Section 14, the Shipper agrees and acknowledges that the aggregate liability of the Transporter to any and all of the Shippers in respect of any and all losses and/or damages incurred by any and all of them in respect of each Gas Year (including such loss or damage as is specifically referenced in this Code and for which compensation is specifically provided therein) and which (with the exception of a liability of the Transporter to a Shipper in accordance with Section 14.8) directly arises as a result of:

- (a) any failure by the Transporter to act as an RPO in connection with this Code;
- (b) any breach by the Transporter of any of its obligations under this Code;
- (c) the negligence or Wilful Misconduct of the Transporter in connection with this Code

or otherwise in connection with this Code, shall in no circumstances exceed, in aggregate, a maximum annual cap equal to two (2) per cent of the Total Allowed Conveyance Revenue in respect of each Gas Year calculated pursuant to the Licence.

14.5.2 If the Transporter agrees in writing, or if the court determines, that the Transporter has incurred a liability to a Shipper in respect of a matter referred to in Section 14.65.1 in a Gas Year, the Transporter and each Shipper agrees that such liability shall be treated in accordance with Section 14.65.3.

14.5.3 The Transporter shall pay any such sums properly due to Shippers in respect of any liability referred to in Section 14.65.2 in the first Invoice issued in the next Gas Year together with interest on such payment from the date that the

liability was incurred until the date of payment at LIBOR plus one (1) per cent.

14.5.4 The Transporter shall, to the extent that any sums due to Shippers in accordance with Section 14.65.3 in aggregate exceed two (2) per cent of the Total Allowed Conveyance Revenue, pro rata payments due to Shippers such that the total payments do not exceed two (2) per cent of the Total Allowed Conveyance Revenue.

14.6 **Exclusive remedies**

14.6.1 Save as expressly provided elsewhere in this Code, the liabilities of the Transporter set out in this Section 14 shall constitute the entire liability of the Transporter to the Shipper in respect of the matters to which this Section 14 relates and the Transporter's obligations under this Code (whether arising under contract, tort or howsoever else arising) and shall be in lieu of any and all other rights, claims or remedies which a Shipper may possess howsoever arising, and in the event of any conflict between the provisions of this Section 14 and the other provisions of this Code this Section 14 shall prevail.

14.7 **Consequential loss**

14.7.1 Subject to Section 14.9, neither the Transporter nor a Shipper nor any of their respective officers, employees or agents shall in any circumstances be liable, whether in contract or tort, for any breach of, or otherwise in relation to, this Code in respect of any Consequential Loss.

14.8 **Liability for death/injury**

14.8.1 Without prejudice to Sections 14.14 and 14.15, nothing in this Code shall exclude or limit the liability of the Transporter or a Shipper for death or personal injury resulting from the negligence of the Transporter or a Shipper or any of its officers, employees or agents.

14.9 **Pre-estimate of loss**

14.9.1 Where any provision of this Code provides for any amount to be payable by a party upon or in respect of that party's breach of any provision of this Code, each party agrees and acknowledges that the remedy conferred by such provision is exclusive of and is in substitution for any remedy in damages in respect of such breach or the event or circumstances giving rise thereto and has been the subject of discussion and negotiation, and the amount provided to be payable is reasonable and represents no more than a genuine pre-estimate of the loss of the party to which such amount is payable.

14.10 **Mitigation of loss**

14.10.1 Each of the Transporter and Shippers shall use reasonable endeavours to mitigate the loss and/or damage (if any) incurred by them:

- (a) in the case of loss and/or damage suffered by the Transporter, as a result of a breach by a Shipper of its obligations under this Code

17. **ACCESSION TO THE CODE ~~AND~~, EXIT POINT REGISTRATION, DOWNSTREAM LOAD STATEMENTS AND RETIREMENT FROM THE CODE**

17.1 **Application to accede**

17.1.1 Any person wishing to become a Shipper shall apply to the Transporter by giving the Transporter twenty (20) Business Days written notice (a "**Prospective Shipper**").

17.2 **Provision of information to Prospective Shippers**

Within five (5) Business Days of receipt of such the application referred to in Section 17.1, the Transporter shall provide any Prospective Shipper with:

17.2.1 an Indicative Application for Reserved Capacity to complete in accordance with Section 1.2;

17.2.2 an Exit Point Registration to complete in accordance with Section 17.5;

17.2.3 the Prescribed form of Credit Application to complete in accordance with Section 13;

17.2.4 an Accession Agreement for execution;

17.2.5 this Code;

17.2.6 the Modification Rules;

17.2.7 the Network Forecast Statement;

17.2.8 the Prescribed Form of Nomination, Renomination, Reserved Capacity Notice, Reserved Capacity Application, Indicative Application of Reserved Capacity, Shipper's Allocation Arrangement, Downstream Load Statement, and Exit Point Registration Application.

17.3 **Provision of information to Transporter**

A Prospective Shipper wishing to become a Shipper or a Shipper:

17.3.1 shall provide to the Transporter a completed Exit Point Registration and a completed Credit Application;

17.3.2 shall provide to the Transporter a Downstream Load Statement if required in accordance with Section 17.8.1 or 17.8.3;

17.3.3 may provide to the Transporter an Indicative Application of Reserved Capacity; ~~and~~

17.3.4 shall provide to the Transporter its postal address and e-mail address; and

~~17.3.4~~ 17.3.5 shall provide such other information as the Transporter may reasonably require.

17.9 Retirement from the Code

17.9.1 A Shipper (a “Retiring Shipper”) may make an application to terminate its Accession Agreement by giving the Transporter not less than thirty-five (35) Business Days written notice at any time.

17.9.2 The Transporter shall respond to the Retiring Shipper, within twenty-five (25) Business Days of receiving the application referred to in Clause 17.9.1, indicating the requirements with which the Shipper must comply before the termination of its Accession Agreement may take effect and these requirements shall include (but not be limited to) the requirements that the Retiring Shipper:

(a) has ceased to be a party to any agreement between the Transporter and the Shipper which incorporates the Code; and/or

(b) has ceased to hold any Reserved Capacity; and/or

(c) has made a full payment for all amounts invoiced in respect of:

(i) PS Transmission Amounts;

(ii) Code Charges;

(iii) Supplemental Payments;

(iv) Auxiliary Payments; and

(v) other amounts due pursuant to the Code

17.9.3 Within ten (10) Business Days of the Retiring Shipper confirming to the Transporter in writing (together with supporting documentation) that it has complied with the requirements of the Transporter under Section 17.9.2, the Transporter shall confirm to the Retiring Shipper that it either:

(a) agrees that the Retiring Shipper has appropriately complied with each of its requirements under Clause 17.9.2, in which case, the Retiring Shipper shall be entitled to terminate the Accession Agreement forthwith on notice to the Transporter (copied to the Authority); or

(b) does not accept that the Retiring Shipper has appropriately complied with all of its requirements under Clause 17.9.2 and giving reasons for its decision, in which case, the Retiring Shipper shall be required to comply with the outstanding requirements before being entitled to terminate the Accession Agreement in accordance with this Section 17.9.

17.9.4 Upon the termination of the Retiring Shipper’s Accession Agreement in accordance with this Section 17.9, a Retiring Shipper shall cease to be a Shipper for the purposes of the Code and the Retiring Shipper and the

Transporter shall no longer be bound in relation to each other by this Code except to the extent set out in section 17.9.5 and 17.9.6.

17.9.5 Termination of an Accession Agreement in accordance with this Section 17.9 shall not extinguish or relieve the Retiring Shipper from the performance of any obligation accrued under this Code as at the time of termination which it is agreed and acknowledged shall include payment of all or any of the following which are due, accrued or outstanding under this Code in respect of the period up to and including the date on which the Accession Agreement is terminated:

- (a) PS Transmission Amounts;
- (b) Code Charges;
- (c) Supplemental Payments;
- (d) Auxiliary Payments; and/or
- (e) Any other payments due pursuant to the Code.

17.9.6 The Retiring Shipper shall pay any sums due in accordance with Section 17.9.5 at the time by which and in the manner in which such payments would have been due and paid had the Retiring Shipper continued to be a Shipper. A Retiring Shipper that has ceased to be the Shipper at an Exit Point shall continue to be liable for all accrued payments or other amounts due to the Transporter notwithstanding that the Retiring Shipper ceases to be the Shipper at that Exit Point and any payments due and owing in respect of any agreement at or in respect of such Exit Point shall become immediately due and payable. For the avoidance of doubt (i) the conditions of the Code continue to apply to a Retiring Shipper whose application for retirement from the Code has been accepted by the Transporter until such time as that Retiring Shipper has met all its obligations under the Code (prior to and arising out of termination) and (ii) and any financial security which the Retiring Shipper was obligated to provide to the Transporter pursuant to the Code shall remain in place until all such payments have been discharged in full.

20 GOVERNING LAW AND DISPUTE RESOLUTION

20.1 Governing Law

20.1.1 This Code will be governed by and construed in accordance with the laws of Northern Ireland.

20.2 Dispute Resolution

20.2.1 In this Code a "**Dispute**" means any controversy, claim or Dispute arising out of or in connection with this Code or an Accession Agreement.

20.2.2 If a Dispute arises, it shall be referred, upon written notice from a party to the other party or parties (a "**Dispute Notice**"), to mediation in accordance with Section 20.3.

20.2.3 A Dispute which is not resolved by mediation within thirty (30) Business Days of the date of the Dispute Notice shall, subject to Section 20.2.4 and 20.4, be settled by the courts of Northern Ireland in accordance with Section 20.5.

20.2.4 Where this Code provides or the parties have agreed that a Dispute is to be resolved by the determination of an Expert and the Dispute is not first resolved by mediation within thirty (30) Business Days of the date of the Dispute Notice, it shall be settled by the Expert in accordance with Section 20.4 ("**Expert Determination**").

20.3 Mediation

20.3.1 If a Dispute arises (other than a Dispute being determined by an Expert) the parties shall attempt to settle it in accordance with the Centre for Dispute Resolutions (CEDR) Model Mediation Procedure.

20.4 Expert Determination

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

- (a) the parties shall attempt to agree on the appointment of a single Expert to settle the Dispute;
- (b) if within fifteen (15) Business Days of the date of the Dispute Notice the parties have been unable to agree on the choice of an Expert, any party may inform the President of the Institution of Gas Engineers and Managers (the "**President of the IGEM**") of the nature and complexity of the Dispute and request him to appoint a single Expert for the determination of the Dispute within thirty (30) Business Days of the date of the Dispute Notice, and in doing so the President of the IGEM may take such independent advice as he thinks fit;
- (c) if the President of the ~~IGE~~IGEM does not exist at the time of such request, refuses to make such an appointment, or fails to do so within thirty (30) Business Days of the Dispute Notice, any of the parties may then apply to the President of the Law Society of Northern Ireland who shall appoint an Expert within fifteen (15) Business Days of being requested to do so;

20.4.14 Subject to Section 20.6, the costs and expenses of the Expert, any independent advisers to the Expert and any costs of his or their appointment (if he is or they are appointed by the President of the [IGEIGEM](#) or the President of the Law Society of Northern Ireland) shall be borne equally by the parties, but each party shall bear its own costs.

20.4.15 An Expert appointed under this Section 20.4 shall act as an expert and not as an arbitrator and the provisions of the Arbitration Act 1996 and any amendments or supplements to or re-enactments of them shall not apply to his determination.

20.4.16 The Expert's final determination shall be final and binding on the parties except in the event of fraud or where such final determination is so clearly erroneous on its face that it would be unconscionable for it to stand, in which case another Expert may be appointed in accordance with the provisions of Section 20.4.1.

20.5 **Courts of Northern Ireland**

20.5.1 Subject to the provisions of this Section 20, the Transporter and a Shipper irrevocably agree that the courts of Northern Ireland shall have exclusive jurisdiction to settle any Dispute which may arise out of or in connection with this Code and/or its Accession Agreement.

20.5.2 Each party irrevocably waives any objection which it may have to the laying of the venue of any proceedings in the courts of Northern Ireland and any claim that any such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgement in any proceedings brought in the courts of Northern Ireland shall be conclusive and binding upon such party and may be enforced in the courts of any other jurisdiction.

20.6 **Costs of Dispute**

20.6.1 The Transporter's costs arising out of a Dispute shall be treated as Licensee Unpredictable Operating Costs unless an Expert or court directs that the Transporter has failed to act as an RPO.

APPENDIX 1

DEFINITIONS AND INTERPRETATIONS

“**Due Date**” means the date on which payment of an invoice in respect of any PS Transmission Payment or Code Charges falls due, being the tenth Business Day in the month next after the month in which the relevant invoice was issued;

“**President of the IGEM**” has the meaning given to it in Section 20.5.1(b);

“**Transportation System**” means the Transporter's North-West Pipeline ~~System~~ and any other pipelines owned and operated by the Transporter in Northern Ireland;

APPENDIX 2

GAS SPECIFICATION

Part I

Gas combustion characteristics

Wobbe OBBE Index	47.2 to 54.7 MJ/m ³
Gross Calorific Value	36.9 to 42.3 MJ/m ³ per cubic metre
Relative Density	0.55 to 0.70

Part II

Upper limits of gas impurities

Hydrocarbon Dewpoint	<-2° C up to and including 150 bar
Water Dewpoint	<- 10° C up to and including 150 bar
Fog, Dust, Liquids	Technically Pure
Oxygen	0.5%
Non-Combustibles	7%
Total sulphur	120 mg/m ³
Mercaptan Sulphur	8 mg/m ³
Hydrogen Sulphide	5 mg/m ³

Notes;

1. The above list of impurities does not include gases which normally are not present in gases e.g. hydrogen, carbon monoxide, and olefins.
2. Measurement Reference Conditions 15°C and 101.325kPa