

30 September 2013

Transportation Network Code Proposed Modification No. 12

Initial Modification Report

1. Introduction

This proposed code modification is required to ensure compliance with EC Regulation 715/2009 (the Regulation), amended by the European Commission Decision of 24 August 2012. CMP is required to address the issue of contractual congestion at Interconnection Points where Shippers cannot gain access to Capacity notwithstanding the physical availability of such Capacity. CMP mechanisms aim to maximise the Capacity which is available to Shippers and bring unused Capacity back to the market to be resold through regular Capacity booking procedures.

Further background information in relation to this proposed modification may be found in the Business Rules document which was jointly issued by BGE(NI) and PTL on 9th August 2013. In parallel with the Initial Modification Report, PTL is also issuing PTL Modification Report No. 25

2. Proposed Modification

It is proposed that the existing concepts in the BGE(NI) Code; Annual Review of Firm Capacity and Reduction of Firm Capacity be amended in order to align with the 'Surrender of Contracted Capacity' and the 'Long Term Use it or Lose It' requirements of the Regulation. The modification will also introduce a new concept of 'Oversubscription and Capacity Buyback'.

As per the Business Rules, it should be noted that where a Shipper offers Capacity to the Transporter for surrender, the Shipper remains liable for payment of Capacity charges until such time as the capacity is resold by the Transporter.

3. Modification Proposed by:

The Transporter.

4. Proposed Modification Submitted

'Congestion Management Procedures (CMP) in Northern Ireland – Business Rules' was jointly issued by BGE(NI) and PTL on 9th August 2013.

5. Transporter's Opinion of Proposed Modification

This proposal introduces the Congestion Management Procedures outlined in Regulation 715/2009 to the BGE(NI) Code, while seeking to minimising the changes to

existing processes in the Code. The drafting also seeks to reflect the alignment with the PTL proposal and the presentation of streamlined processes across the NI network.

6. Impact on other DPO's Codes

BGE(NI) has worked closely with PTL in the preparation of this code modification to ensure consistency with PTL Initial Modification Report No. 25 and in doing so the resulting codes will be closely aligned.

7. Proposed Implementation Date

8 November 2013

8. Consultation Period for Initial Modification Report

Comments are requested on or before 28 October 2013.

by email to; aegan@bge.ie

by fax to; +00 353 (0)21 500 6101

or by post to; BGE(NI) c/o Gaslink,
Gasworks Road,
Cork.

9. Proposed Legal Drafting:

Please find legal drafting attached below.

BGE (Northern Ireland)

TRANSPORTATION NETWORK CODE

Version 1.06

[\(Mark-Up re Code Modification No. 12: Congestion Management Procedures - 20 Sep 2013\)](#)

1 August 2012

CONTENTS

Section	Page
1. FIRM CAPACITY	2
2. NOMINATIONS	23
3. ALLOCATION.....	41
4. BALANCING AND SCHEDULING CHARGES	53
5. BALANCING AND SHRINKAGE GAS	59
6. CAPACITY REDUCTION AND EMERGENCIES	62
7. ENTRY REQUIREMENTS	75
8. EXIT REQUIREMENTS.....	80
9. MEASUREMENT AND TESTING	90
10. MAINTENANCE	97
11. NETWORK FORECAST STATEMENT, SYSTEM PLANNING AND NI PRESSURE CAPACITY REPORT	100
12. CHARGES, PAYMENT AND TAX.....	103
13. CREDIT PROCEDURES	118
14. LIABILITIES AND INDEMNITIES	133
15. FORCE MAJEURE	141
16. TERMINATION.....	143
17. ACCESSION TO THE CODE, EXIT POINT REGISTRATION, DOWNSTREAM LOAD STATEMENTS AND RETIREMENTS FROM THE CODE	149
18. CONFIDENTIALITY.....	155
19. GENERAL.....	159
20. GOVERNING LAW AND DISPUTE RESOLUTION.....	165
APPENDIX 1	169
APPENDIX 2	187
APPENDIX 3	188
APPENDIX 4.....	195

1. **FIRM CAPACITY**

1.1 **Introduction and Definitions**

1.1.1 A Shipper shall be entitled to book Firm Capacity (and utilise Available Interruptible Capacity) in the Transportation System subject to and in accordance with the provisions of this Code.

1.1.2 For the purposes of this Code:

(a) "**Available Firm Capacity**" means the capacity which the Transporter determines is, from time to time, available on a Day for the purposes of allocating Firm Capacity based upon the following information:

- (i) the capacity of the Transportation System;
- (ii) the capacity at each Exit Point from the Transportation System;
- (iii) the capacity at each Entry Point to the Transportation System;
- (iv) the aggregate of all Firm Capacity allocated to Shippers at each Exit Point;
- (v) the capacity at the relevant Exit Point;
- (vi) the aggregate of all Firm Capacity allocated to Shippers at the relevant Exit Point;
- (vii) the pressure available at the Carrickfergus Entry Point;
- (viii) the pressure available at the South-North Entry Point; ~~and~~
- (ix) the capacity which the Transporter has reserved or otherwise retained pursuant to arrangements approved by the Authority; and
- (x) available Oversubscription Capacity.

(b) "**Daily Capacity**" means Firm Capacity which is allocated to a Shipper for a duration of one Day in accordance with Section 1.5.

(c) "**Firm Capacity**" means the firm capacity in the Transportation System of any duration (including a duration of one Day), comprising MDQ and MHQ, which has been booked and allocated to a Shipper (including at an Entry Point and an Exit Point) for the transportation of Shipper's Natural Gas set out in a Firm Capacity Notice and as may be varied in accordance with the provisions of this Code and shall where the context so requires include capacity reserved pursuant to the Transportation Agreement and therein referred to as Reserved Capacity;

- (d) **"Firm Capacity Notice"** means a notice, in the Prescribed Form, issued by the Transporter to a Shipper notifying the Shipper of its initial allocation of, or an increase or decrease in, Firm Capacity from time to time in accordance with the provisions of this Code and specifying the relevant Entry Point, Exit Point and the capacity booking reference ("**Capacity Booking Reference**") with respect to such Firm Capacity such that a Shipper shall have a separate Capacity Booking Reference for each capacity booking at an Exit Point unless all such capacity bookings specify the same Entry Point;
- (e) **"Maximum Daily Quantity"** or **"MDQ"** means the maximum quantity of Natural Gas which may be offtaken from an Exit Point by a Shipper in any Day in respect of the Firm Capacity set out in its Firm Capacity Notice as may be varied in accordance with the provisions of this Code; and
- (f) **"Maximum Hourly Quantity"** or **"MHQ"** means the maximum quantity of Natural Gas which may be offtaken from an Exit Point by a Shipper in any hour in respect of the Firm Capacity set out in its Firm Capacity Notice as may be varied in accordance with the provisions of this Code.
- (g) **"VRF Interruption"** means any interruption made by the Transporter for operational reasons such that the Maximum Available Interruptible VRF Capacity (Carrickfergus) or Maximum Available Interruptible VRF Capacity (South-North) shall be reduced to zero.
- (h) **"Oversubscription Capacity"** means additional firm capacity made available for allocation as Daily Capacity as a result of the OS Scheme.

1.1.3 The Transporter:

- (a) shall endeavour to maximise the level of Available Firm Capacity by acting in accordance with the provisions of this Code; and
- (b) act as an RPO in the manner in which it calculates and determines the level of Available Firm Capacity from time to time in accordance with the provisions of this Code.

1.1.4 If any Dispute arises regarding the Transporter's determination of the level of Available Firm Capacity which is not first resolved by mediation in accordance with Section 20.3, the Transporter or a Shipper may refer the matter to an Expert for an Expert Determination in accordance with Section 20.4.

1.1.5 The Transporter shall notify Shippers not later than one (1) Month before the Mid Year Date and in each Network Forecast Statement of its reasonable

estimate of the level of the Available Firm Capacity in respect of the five (5) Gas Years immediately following the relevant Mid Year Date.

1.2 Indicative Application for Firm Capacity

- 1.2.1 This Section 1.2.1 does not apply to Daily Capacity.
- 1.2.2 A Shipper may, from time to time, and a Prospective Shipper may provide the Transporter with the following information:
 - (a) the MDQ and MHQ that it anticipates it will apply for; and
 - (b) the length of time, the Exit Point and the Entry Point in respect of which it anticipates it will wish to apply for Firm Capacityin the Prescribed Form (an "**Indicative Application for Firm Capacity**").
- 1.2.3 Within five (5) Business Days of receipt of an Indicative Application for Firm Capacity the Transporter shall notify the Shipper or Prospective Shipper of the extent to which the Transporter anticipates it will be able to provide the Firm Capacity which the Shipper or Prospective Shipper has indicated it wishes to apply for.
- 1.2.4 The Transporter offers no guarantee that the Firm Capacity which it stated it anticipated would be available in accordance with Section 1.2.3 will be so available or available at all after an Indicative Application for Firm Capacity is made and shall have no liability to the Shipper or Prospective Shipper to the extent that Firm Capacity is not so available or available at all.
- 1.2.5 A Shipper or Prospective Shipper shall receive no priority over any other Shipper or Prospective Shipper in respect of an application for Firm Capacity under this Section 1 as a result of the Transporter stating that it anticipates Firm Capacity will be available to that Shipper or Prospective Shipper in accordance with Section 1.2.3.

1.3 Firm Capacity Application requirements

- 1.3.1 A Shipper may apply to the Transporter for Firm Capacity at an Exit Point in respect of which it has an Exit Point Registration. An application for Firm Capacity (other than Daily Capacity) shall be in accordance with this Section 1.3 and Section 1.7 or 1.9.
- 1.3.2 An application for Daily Capacity shall be in accordance with this Section 1.3 and Section 1.4.
- 1.3.3 An application for Firm Capacity, shall be made in the Prescribed Form (a "**Firm Capacity Application**") and shall specify the following information:
 - (a) the MDQ applied for;
 - (b) the MHQ applied for;

- (c) the length of time for which a Shipper wishes to book Firm Capacity or in the case of Daily Capacity the Day in respect of which the capacity is requested;
- (d) whether or not the Shipper will accept an allocation of Firm Capacity of less than it has applied for in accordance with Section 1.8.2, 1.8.3 or 1.9.2;
- (e) the Exit Point in respect of which the Firm Capacity is applied for;
- (f) the Entry Point at which the Firm Capacity is applied for,
- (g) where the Shipper has existing Firm Capacity at the same Exit Point and associated Entry Point the Capacity Booking Reference with respect to such Firm Capacity;
- (h) confirmation that the Shipper has adhered to, or has applied to adhere to, any applicable Entry Point Agreement; and
- (i) any other information that the Transporter may reasonably require which shall include an indication of the Daily Profile that the Shipper reasonably anticipates it will typically nominate in respect of the Exit Point;

provided always that an application for Daily Capacity pursuant to Section 1.4 shall omit the information in Section 1.3.3(d).

1.3.4 A Shipper may only apply for Firm Capacity:

- (a) no earlier than two (2) Gas Years before the first Gas Year in which it requires Firm Capacity (other than Daily Capacity);
- (b) no later than ten (10) Business Days (or any such shorter period as the Transporter may agree in relation to that application) before the first Day of the calendar month in which it requires Daily Capacity; and
- (c) in multiples of one (1) Gas Year, except in the Gas Year in which the application for Firm Capacity is made, in which case the application may be for each complete Month in the remainder of the Gas Year.

1.3.5 If, by virtue of the level of Firm Capacity for which a Shipper has applied in respect of any Gas Year in accordance with Section 1.3.3, the Transporter believes that a Shipper has applied for Firm Capacity in respect of that Gas Year with a view to gaining priority over any other Shipper in respect of the allocation of Firm Capacity, the Transporter shall request the Shipper to provide the information referred to in Section 1.3.6.

1.3.6 The Transporter shall, in accordance with Section 1.3.5, request the Shipper to provide any of the information referred to in Section 17.5.3(f) in respect of the utilisation, supply or shipment of Natural Gas in each of such Gas Years.

The Shipper shall provide such information promptly after being requested to do so.

- 1.3.7 The Transporter may reject a Firm Capacity Application if:
- (a) any requirement of this Section 1.3 is not complied with;
 - (b) Section 13.5.2 applies;
 - (c) the Shipper has applied for Firm Capacity with an MHQ which, when taken into account with the Firm Capacity already allocated to the Shipper, would be at a level exceeding one twenty-fourth of the MDQ applied for combined with that already allocated to the Shipper;
 - (d) the Shipper shall fail to provide any of the information requested in accordance with Section 1.3.6 within twenty (20) Business Days of being requested to do so.
 - (e) the Shipper's registration at the Exit Point does not extend to or include the Entry Point specified in the Firm Capacity Application.
 - (f) the Shipper has not adhered to any applicable Entry Point Agreement at the Entry Point specified in the Firm Capacity Application.
 - (g) the application is in respect of Daily Capacity and the Transporter is entitled to reject the application in accordance with the Capacity Booking Optimisation Methodology.
- 1.3.8 All Shippers acknowledge that under the terms of the Licence the Transporter is required to secure an adequate contract to underwrite the costs of the North-West Pipeline. Such a contract has been secured by the Transporter with ESBII and ESB under the terms of the Pipeline Agreement dated 18th October 2002. It is contemplated that the Pipeline Agreement will be superseded by the Transportation Agreement to be entered into by the Transporter, CESB and ESB.
- 1.3.9 All Shippers further acknowledge that, under the terms of the Transportation Agreement, 18,766,000 kWh/day of Firm Capacity has been or will be allocated to CESB at the Coolkeeragh Exit Point for a period of twenty (20) years from the Payment Start Date, as defined in the Pipeline Agreement.
- 1.3.10 Shippers acknowledge that there may be two or more separate Firm Capacity bookings with respect to the same Exit Point and such Firm Capacity bookings may each specify different Entry Points. A Shipper may book Firm Capacity pursuant to separate Firm Capacity bookings (each specifying a different Entry Point) which in aggregate may exceed the amount of capacity required to offtake Natural Gas at the Maximum Offtake Rate in respect of the Exit Point. Shippers acknowledge that notwithstanding such Firm Capacity bookings the Transporter shall not accept Nominations or

Renominations in excess of the Maximum Offtake Rate prescribed in the Network Exit Parameter Schedule applicable to the Exit Point.

1.4 Application for Daily Capacity

1.4.1 A Shipper may apply for Daily Capacity;

(a) during a period of two (2) Business Days commencing no later than twelve (12) Business Days before the first day of the calendar month in which the capacity is required (the “**Daily Capacity Application Window**”); and

(b) in accordance with the relevant provisions of Section 1.3; and

(c) using the GTMS or such other methodology as may be notified by the Transporter to Shippers from time to time.

1.4.2 Shippers authorise the Transporter to share information in relation to Shipper’s application for Daily Capacity with the Upstream Operator for the purpose of Section 1.5.

1.5 Daily Capacity Allocations

1.5.1 Daily Capacity shall be allocated in accordance with the remaining provisions of this Section 1.5. Firm Capacity (other than Daily Capacity) shall be allocated in accordance with Sections 1.8 and 1.9.

1.5.2 For the purposes of allocating Daily Capacity the Transporter will coordinate and undertake the allocation process with the Upstream Operator in accordance with the applicable Capacity Booking Optimisation Methodology (where relevant) such that where the Firm Capacity Application specifies the Carrickfergus Entry Point, Shippers are allocated corresponding quantities of Daily Firm Capacity on the Transportation System and the Upstream Transportation Systems in respect of the relevant Exit Point.

1.5.3 In the event that the Upstream Operator fails to provide the necessary information to the Transporter, the Transporter shall allocate the available Firm Capacity in the Transportation System such that:

(a) where there is sufficient available Firm Capacity to meet all the applications made by Shippers all such applications will be met; and

(b) where there is insufficient available Firm Capacity to meet all applications made by Shippers the available Firm Capacity shall be allocated pro rata to the amount of capacity applied for by each Shipper;

for the avoidance of doubt Shippers acknowledge that Daily Capacity allocated to a Shipper pursuant to Section 1.5.2 or 1.5.3 may be less than Daily Capacity applied for by the Shipper in accordance with Sections 1.3 and 1.4.

- 1.5.4 The Transporter shall issue a Firm Capacity Notice within two (2) Business Days of the closure of the Daily Capacity Application Window to each Shipper to which Available Firm Capacity shall be allocated in accordance with this Section 1.5. The Firm Capacity Notice shall identify separately a Shipper's Firm Capacity (other than Daily Capacity), the Shipper's Daily Capacity in respect of a Day and Shipper's aggregate Firm Capacity (all in respect of the same Entry Point and the same Exit Point) in respect of a Day.
- 1.5.5 A Firm Capacity Notice issued by the Transporter pursuant to Section 1.5.4 shall in respect of any Day(s) supersede any previously issued Firm Capacity Notice with respect to the same Entry Point and Exit Point with respect to the same Day(s) but shall retain the same Capacity Booking Reference.
- 1.6 Aggregation of Firm Capacity**
- 1.6.1 For each Gas Flow Day for which a Shipper has an allocation of Daily Capacity in respect of an Entry Point and Exit Point the MDQ of the Shipper's Daily Capacity for such Gas Flow Day shall be aggregated with the MDQ of the other Firm Capacity which is held by that Shipper for the same Gas Flow Day at the same Exit Point and where the Shipper has specified the same Entry Point as the Entry Point at which Natural Gas will be delivered to the Transportation System for offtake at the Exit Point in accordance with this Code.
- 1.7 Application for Firm Capacity in future Gas Years**
- 1.7.1 By no later than the Mid Year Date in each Gas Year (or any such later date as the Transporter and the Authority may agree in relation to the relevant application), a Shipper which has no Firm Capacity in a future Gas Year shall submit to the Transporter:
- (a) a Firm Capacity Application in respect of any future Gas Year; or
 - (b) confirmation that it does not wish to book Firm Capacity in any future Gas Year.
- 1.7.2 If the Transporter does not receive any submission from a Shipper in accordance with Section 1.7.1 a Shipper shall be deemed to have confirmed that it does not wish to book Firm Capacity in any future Gas Year.
- 1.7.3 By no later than the Mid Year Date in each Gas Year, a Shipper which has Firm Capacity in a future Gas Year shall submit to the Transporter:
- (a) confirmation that it does not wish to vary its Firm Capacity in any future Gas Year;
 - (b) an application for additional Firm Capacity in any future Gas Year; or
 - (c) an application to reduce its Firm Capacity in any future Gas Year.

- 1.7.4 If the Transporter does not receive any submission in accordance with Section 1.7.3 a Shipper shall be deemed to have confirmed that it does not wish to vary, reduce or apply for additional Firm Capacity in any future Gas Year.
- 1.7.5 Sections 1.7, 1.8, 1.9 and 1.11 shall not apply with respect to Daily Capacity.
- 1.8 Allocation of Firm Capacity in future Gas Years**
- 1.8.1 If a Shipper applies to book Firm Capacity:
- (a) in any future Gas Year on or before the Mid Year Date in the Gas Year in which it applies, its Firm Capacity Application shall be treated in accordance with Section 1.8.2 in the Gas Year in which it applies;
 - (b) in any future Gas Year after the Mid Year Date in the Gas Year unless the Transporter shall agree to treat its application as though it were submitted before the Mid Year Date in accordance with section 1.8.1(a) in which it applies, its Firm Capacity Application shall be treated in accordance with Section 1.8.2 in the next Gas Year;
 - (c) one (1) or two (2) Gas Years before the Gas Year in respect of which it is seeking Firm Capacity, its Firm Capacity Application shall be treated in accordance with Section 1.8.2 in the Gas Year preceding the Gas Year in respect of which it is seeking Firm Capacity.
- 1.8.2 If the Shippers applying for Firm Capacity in any future Gas Year apply, in aggregate, for an amount of capacity exceeding the Available Firm Capacity in that Gas Year, then those Shippers which so applied and specified in accordance Section 1.3.3(d):
- (a) that they would not accept an allocation of Firm Capacity of less than they had applied for shall have no capacity allocated to them;
 - (b) that they would accept an allocation of Firm Capacity of less than they had applied for shall have capacity allocated to them in accordance with section 1.8.3 or 1.8.4.
- 1.8.3 The Transporter shall subject to Section 1.8.4, allocate Firm Capacity to the Shippers referred to in Section 1.8.2(b) according to the number of future Gas Years in respect of which Shippers have applied for Firm Capacity, so that the Shipper applying for Firm Capacity:
- (a) in the most number of Gas Years shall have its application met first to the extent that there is Available Firm Capacity at the requested Entry Point and Exit Point;
 - (b) in the next most number of Gas Years shall have its application met second to the extent that there is Available Firm Capacity at the requested Entry Point and Exit Point;
- and so on.

- 1.8.4 If the Shippers referred to in Section 1.8.2(b) applying for Firm Capacity in an equal number of Gas Years, such Shippers shall have their Firm Capacity Applications met by the Transporter pro rata to the amounts of Firm Capacity for which they have applied to the extent that there is Available Firm Capacity [at the relevant Entry Point and Exit Point.
- 1.8.5 The Transporter shall issue a Firm Capacity Notice to each Shipper to which Available Firm Capacity shall be allocated in accordance with Section 1.8.3 or 1.8.4 not later than forty (40) Business Days after the Mid Year Date or such other date as the Transporter may agree with the Authority, in the Gas Year in which the Firm Capacity Applications are made.
- 1.9 **Application for an allocation of Firm Capacity in the same Gas Year**
- 1.9.1 If a Shipper applies for Firm Capacity in the Gas Year in which its Firm Capacity Application is made, Firm Capacity shall, subject to Section 1.9.2, be allocated by the Transporter (on a first come first served basis) and a Firm Capacity Notice shall be issued to the Shipper within five (5) Business Days of receipt of a Firm Capacity Application.
- 1.9.2 If, in any Gas Year, there is less Available Firm Capacity than the amount of Firm Capacity for which a Shipper has applied in that Gas Year and the Shipper specified, in accordance with Section 1.3.3(d) that:
- (a) it will accept an allocation of Firm Capacity of less than it has applied for, the Transporter shall allocate such Available Firm Capacity to such Shipper; or
 - (b) it will not accept an allocation of Firm Capacity of less than it has applied for, no Firm Capacity shall be so allocated to such Shipper.
- 1.10 Review of Firm Capacity – Long Term Use It or Lose It Mechanism
- 1.10.1 Not later than 30 April in each Gas Year, the Transporter shall prepare a usage report(s) in respect of the period starting at the beginning of that Gas Year and ending on 31 March in that Gas Year.
- 1.10.2 Not later than 31 October in each Gas Year, the Transporter shall prepare a usage report(s) in respect of the period starting on 1 April in the immediately preceding Gas Year and ending on 30 September in such preceding Gas Year (each such period, and each such period referred to in section 1.10.1, being a "Semi-Annual Period").
- 1.10.3 The Transporter shall deliver a copy of each usage report to the Authority. Prior to the delivery of such report to the Authority, the Transporter shall consult with the Upstream Operator (where relevant) and take into account in the usage report submitted to the Authority, any comments made by the Upstream Operator.
- 1.10.4 Each usage report shall state:

- (a) whether or not the Transporter has formed the view that there has been a systematic underutilisation of Firm Capacity (within the meaning ascribed in Section 1.10.6(b)) by any given Shipper; and
- (b) (if the Transporter has formed such view) the level of such systematic underutilisation by the Shipper(s) in question; and
- (c) (irrespective of whether or not the Transporter has formed such view) the average usage of Firm Capacity with an effective contract duration of more than one year or recurring quarters covering at least two years.

1.10.5 The obligation to prepare (and deliver to the Authority) a usage report in respect of any given Semi-Annual Period pursuant to this section 1.10 shall apply irrespective of whether or not there is unfulfilled demand for firm capacity.

1.10.6 It shall be conclusively presumed for all the purposes of this Section 1.10 that:

- (a) there is an unfulfilled demand for firm capacity in respect of a given Gas Year if the Transporter or the Upstream Operator has been unable to allocate firm capacity applied for in respect of that Gas Year or part of that Gas Year (other than a Day) other than due to technical or operational limitations associated with or at an Exit Point or an exit point on the Upstream Transportation System; and:
- (b) there is a systematic underutilisation of Firm Capacity by a given Shipper if:
 - (i) that Shipper has used less than on average 80% of its contracted capacity, which shall conclusively be presumed to be the case where the aggregate of the Firm Allocated Quantities of that Shipper at a given Exit Point in respect of the Days in any consecutive two Semi-Annual Periods is less than 80 per cent of the aggregate of that Shipper's Long Term Firm Capacity at such Exit Point for each of such Days; or
 - (ii) (during any Semi-Annual Period commencing on or after the FDA UIOLI Implementation Date) the Shipper in question systematically makes Nominations for close to 100 per cent of its Firm Capacity at a given Exit Point and makes downwards Renominations with a view to circumventing the FDA UIOLI Rules; or
 - (iii) the manner in which the Shipper in question uses (or fails to use) its Firm Capacity at a given Exit Point is such that the Transporter concludes (on a ground other than the grounds indicated in (i) and (ii) above) that the Shipper is systematically underutilising its Firm Capacity.

1.10.7 Subject to Section 1.10.8, if and when the Transporter forms the view that there has been a systematic underutilisation of Firm Capacity by a Shipper, the following procedures shall apply, namely:

- (a) the Transporter shall give notice (an "**Indicative Capacity Reduction Notice**") to the Shipper in question indicating:
 - (i) that the Transporter intends to reduce that Shipper's Long Term Firm Capacity [at an Exit Point] with effect from a date which is not earlier than three (3) Months after the date of the notice; and
 - (ii) the level and duration of such intended reduction;

where the Shipper in receipt of the Indicative Capacity Reduction Notice also holds related firm capacity on the Upstream Transportation System the Transporter shall notify (the "**Upstream Indicative Capacity Reduction Notification**") the Upstream Operator of the issue, and relevant terms of the Indicative Capacity Reduction Notice.

- (b) the Long Term Firm Capacity of the Shipper will be reduced in the manner provided for in the Indicative Capacity Reduction Notice if the Shipper agrees to such reduction if the Shipper does not make written submissions ("Written Submissions") to the Transporter within a period of 30 Days after the date of the Indicative Capacity Reduction Notice setting out grounds for the Shipper's belief that its systematic underutilisation of Firm Capacity is properly justified (which submission may include evidence that the Shipper in question has sub-let (or used reasonable endeavours to sub-let) under objectively reasonable conditions, the Shipper's Unused Long Term Firm Capacity and the grounds on which the Shipper believes that such evidence constitutes proper justification for the systematic underutilisation of Firm Capacity);
- (c) if the Shipper makes Written Submissions within the said period of 30 Days, the Transporter shall review the Written Submissions (in conjunction with the Upstream Operator where an Upstream Transporter Indicative Capacity Reduction Notification has issued) and give notice to the Shipper pursuant to (d) or (e) below within 10 Business Days after its receipt of the Written Submissions;
- (d) the Long Term Firm Capacity of the Shipper will not be reduced if, having reviewed the Written Submissions, the Transporter gives notice to the Shipper that it has concluded (in conjunction with Upstream Transporter where relevant) that the Shipper's systematic underutilisation of Firm Capacity is properly justified;
- (e) if, having reviewed the Written Submissions (in conjunction with the Upstream Operator (where relevant), the Transporter gives notice to

the Shipper that it has not reached the conclusion referred to in (d) above, the Shipper may, within a period of 10 Business Days of receiving such notice, refer for determination by the Authority the question of whether the Shipper's systematic underutilisation of Firm Capacity is properly justified;

(f) if:

(i) no referral is made by the Shipper to the Authority within the said period of 10 Business Days; or

(ii) a referral is made by the Shipper to the Authority within the said period of 10 Business Days and the Authority determines that the systematic underutilisation of Firm Capacity was not properly justified

the Long Term Firm Capacity of the Shipper will be reduced to the extent and for the duration provided for in the Indicative Capacity Reduction Notice or (if some other extent and / or duration is specified in the Authority's determination) to the extent and / or for the duration so specified

(g) if a referral is made by the Shipper to the Authority within the said period of 10 Business Days, the determination of the Authority as to whether the Shipper's systematic underutilisation of Firm Capacity is properly justified shall be final and binding on the Transporter and the Shipper for all purposes; and

(h) if a Shipper makes a referral to the Authority pursuant to (e) above, there shall be no reduction in the Long Term Firm Capacity of the Shipper (i) unless and until the Authority makes a determination that the Long Term Firm Capacity of the Shipper is to be reduced or (ii) prior to the start of the Month which next follows the Month in which the determination is made.

1.10.8 The procedure in Section 1.10.7 shall commence within one month following the delivery of a copy of a usage report to the Authority where there is or has been unfulfilled demand for firm capacity within the meaning ascribed in section 1.10.6 in the Semi-Annual Period to which the usage report relates.

1.10.9 Subject to Sections 1.10.10 and 1.10.11, a Shipper from the date of an Indicative Capacity Reduction Notice shall retain all its rights and continue to be bound by all its obligations (including its obligations to pay PS Transmission Amounts) in respect of the LTFC Reduction.

1.10.10 If all or any part of a Shipper's LTFC Reduction is allocated to another Shipper or required in order to facilitate allocation by the Upstream Operator of firm capacity to another shipper on the Upstream Transportation System, the Shipper whose Long Term Firm Capacity is reduced shall cease to have

any rights or obligations in relation to the amount of the LTFC Reduction which is allocated to a Shipper or used to facilitate allocation of firm capacity to another shipper on the Upstream Transportation System for the period for which such LTFC Reduction (or any part thereof) has been so allocated.

1.10.11 If only part (whether by quantity and / or duration) of the LTFC Reduction is allocated to another Shipper (or is used to facilitate allocation of firm capacity to a shipper on the Upstream Transportation Systems), the Shipper shall retain all its rights and continue to be bound by all its obligations (including obligations to pay PS Transmission Amounts) with respect to the part of the LTFC Reduction which is not so allocated to another Shipper, or required to facilitate allocation to another shipper on the Upstream Transportation System.

1.10.12 If all or part of the LTFC Reduction is allocated to another Shipper (or used to facilitate allocation to a shipper on the Upstream Transportation Systems) the Transporter shall (not later than the date on which such capacity is allocated) issue a Firm Capacity Notice to the Shipper notifying the Shipper of its reduced Firm Capacity at that Exit Point and the duration of such reduction.

1.10.13 Any reference in this section 1.10 to a given number of Months after any given date or Day is a reference to a period of such number of Months starting on the first day of the Month which immediately succeeds the Month in which the date or Day falls.

1.10.14 If a Shipper's MDQ is reduced pursuant to this section 1.10, the level of its MHQ shall be reduced pro rata to the reduction of its MDQ.

1.10.15 A Shipper's LTFC Reduction shall not be allocated as Daily Capacity however a Shipper's LTFC Reduction may be utilised in connection with any other shipper's LTFC Reduction including as that term is defined in the Upstream Operator's Network Code in order to make firm capacity available to another Shipper for a Year or Years.

1.10.16 For the purpose of this Section 1.10:

(a) all references to a Shipper's Firm Capacity (and to a Shipper's booked MDQ) shall be a reference to a Shipper's Firm Capacity and booked MDQ at an Exit Point or to Firm Capacity of all Shippers shall mean Firm Capacity and booked MDQ at the same Entry Point; and

(b) all references to a Shipper's Firm Capacity shall be to Firm Capacity (excluding Daily Capacity) and to Firm Capacity Applications (or applications for firm capacity) other than Daily Capacity Applications or applications for daily capacity.

~~1.10 Annual review of Firm Capacity~~

~~1.10.1 For the purpose of the calculations pursuant to this section 1.10:~~

- ~~(a) all references to "MDQ" and to a Shippers booked MDQ shall be a reference to MDQ or the Shipper's booked MDQ in respect of Firm Capacity (excluding Daily Capacity); and~~
- ~~(b) references to Firm Capacity and Firm Capacity Applications shall be references to Firm Capacity (excluding Daily Capacity) and Firm Capacity Applications other than Daily Capacity Applications.~~

~~1.10.2 If:~~

- ~~(a) the aggregate of any Shippers Firm Allocated Quantity and Interruptible Allocated Quantity at an Exit Point (a "**Relevant Exit Point**") on each and every Day during the period from the commencement of the Gas Year to one Month before the Mid Year Date is less than 80% of the MDQ of the Shipper's booked MDQ on each such Day (a "**Relevant Shipper**"); and~~
- ~~(b) on any Day in the next Gas Year or any subsequent Gas Year (a "**Relevant Day**") any Relevant Shipper has an MDQ of 80% or more on the Day during such period when the aggregate of the Relevant Shipper's Firm Allocated Quantity and Interruptible Allocated Quantity were greatest (the "**Day of Greatest Allocated Quantity**")~~

~~the Transporter shall, as soon as reasonably practicable, and in any event not later than:~~

- ~~(c) twenty (20) Business Days before the Mid Year Date, inform the Authority and any Relevant Shipper of the quantity of Natural Gas so allocated to the Shipper and the Shipper's MDQ on the Day of Greatest Allocated Quantity; and~~
- ~~(d) ten (10) Business Days after the Mid Year Date, perform the calculation set out in Section 1.10.3 and provide a copy of it to the Authority and any Relevant Shipper.~~

~~1.10.3 The Transporter shall calculate whether, if, in respect of each Relevant Day at any Relevant Exit Point:~~

- ~~(a) the aggregate of any Relevant Shipper's MDQs were reduced by 20%;~~
- ~~(b) all applications for Firm Capacity (other than Daily Capacity), in accordance with Section 1.4, were met; and~~
- ~~(c) all applications to reduce Firm Capacity, in accordance with Section 1.11, were met~~

~~the aggregate level of MDQs held by all Shippers would increase, reduce or remain the same.~~

- ~~1.10.4 If such level would increase or remain the same, any Relevant Shipper's MDQ shall, subject to Sections 1.10.6 to 1.10.11, be reduced by 20% if to do so would facilitate the achievement of the relevant objective as set out in Condition 2.4.1 of the Licence (the "**Relevant Objective**").~~
- ~~1.10.5 If such level would reduce, any Relevant Shipper's MDQ shall, subject to Sections 1.10.6 to 1.10.11 and 1.11.6, be reduced pro rata the Relevant Shipper's MDQ on the Relevant Day by such amount as would result in such level not reducing if to do so would facilitate the achievement of the Relevant Objective.~~
- ~~1.10.6 The Transporter shall, in accordance with Condition 2.3.3 of the Licence, refer to the Authority for his determination on the question of whether the proposed reduction referred to in Section 1.10.5 would achieve the Relevant Objective.~~
- ~~1.10.7 If the Authority determines, taking into account any representations which the Authority received from any Relevant Shipper, that the proposed reduction referred to in Section 1.10.6 would achieve the Relevant Objective, the Transporter shall reduce any Relevant Shipper's MDQ by the amount proposed.~~
- ~~1.10.8 If the Authority determines that any such reduction would not achieve the Relevant Objective, or makes no determination within thirty (30) Business Days after the Mid Year Date, the Transporter shall not reduce any Relevant Shipper's MDQ.~~
- ~~1.10.9 Any reduction shall only be proposed to the extent that it would not reduce a Shipper's MDQ on any Day in any Gas Year below a quantity of MDQ equal to the aggregate of the Shipper's Firm Allocated Quantity and Interruptible Allocated Quantity on the Day of Greatest Allocated Quantity.~~
- ~~1.10.10 If any Relevant Shipper's MDQ is reduced, in accordance with this Section 1.10, the level of its MHQ shall be reduced pro rata to the reduction in its MDQ.~~
- ~~1.10.11 The Transporter shall not reduce any Relevant Shipper's MDQ, in accordance with this Section 1.10, if all Firm Capacity Applications can be met.~~
- ~~1.10.12 The Transporter shall issue a Firm Capacity Notice to any Relevant Shipper whose MDQ or MHQ is reduced in accordance with this Section 1.10 by no later than forty (40) Business Days after the Mid Year Date in the Gas Year in which a Firm Capacity Application is made.~~
- 1.11 **SurrenderReduction of Firm Capacity**
- 1.11.1 A Shipper may apply to the Transporter to ~~reduce~~surrender its Firm Capacity in accordance with this Section 1.11.

1.11.2 A Shipper may apply to ~~reduce~~surrender its Firm Capacity by no later than the Mid Year Date in respect of the next Gas Year and at any time in respect of any Gas Year following the next Gas Year. ~~A Shipper~~ may only apply to ~~reduce~~surrender its Firm Capacity in respect of a whole Gas Year. Any such application (a "Surrender Application") shall specify:

(a) the amount of Firm Capacity, including MDQ which the Shipper applies to surrender;

(b) the Gas Year in respect of the application is made;

~~(a)(c)~~ the reduction in MDQ and MHQ applied for Firm Capacity (identifying both the Exit Point and the Entry Point) in respect of which the application is made;

~~(b)(d)~~ whether or not the Shipper will accept a surrender of Firm Capacity of less than it has applied for; and reduction of Firm Capacity of less than it has applied for; and

~~(e)(e)~~ where the Surrender Application refers to Firm Capacity and the Shipper has booked corresponding firm capacity on the Upstream Transporter System confirmation that a corresponding application (the "Upstream Surrender Application") to surrender Firm Capacity on the Upstream System has been submitted to the Upstream Operator ~~the Exit Point in respect of which the application is made.~~

1.11.3 If a Shipper submits a Surrender Application to reduce the Shipper's Firm Capacity (and the Shipper holds corresponding firm capacity on the Upstream Transportation System), the Shipper shall submit at the same time the Upstream Surrender Application to the Upstream Operator to reduce such Shipper's firm capacity on the Upstream Transportation System and shall provide a copy of such application to the Transporter.

1.11.4 If in respect of any Gas Year there are no applications for Firm Capacity or acceptance of any Surrender Applications is not required, or will not enable the Transporter, to meet Shippers Firm Capacity Applications all Surrender Applications shall be rejected.

1.11.5 If, in respect of any Gas Year, the aggregate of:

(a) the firm capacity requested by Shippers pursuant to Firm Capacity Application(s); and

(b) the Firm Capacity booked by Shippers

which refers to the same Entry Point exceeds the Available Firm Capacity (excluding OS Capacity), the Transporter may accept Surrender Applications in order to allocate Firm Capacity to Shippers submitting Firm Capacity Applications which refer to the relevant Entry Point. ~~the Firm Capacity for~~

~~which Shippers apply exceeds or is equal to the aggregate of the Firm Capacity which Shippers apply to reduce, the Transporter shall accept those applications to reduce Firm Capacity:-~~

1.11.6 The Transporter (in consultation with the Upstream Operator where Upstream Surrender Applications have been submitted) shall consider and accept or reject Surrender Applications and Upstream Surrender Applications (if any) as follows:

- (a) the Surrender Applications (and Upstream Surrender Applications where relevant) which facilitate the allocation of capacity to Shippers who have submitted Firm Capacity Applications shall be accepted in whole or in part; and
- (b) where two or more Surrender Applications equally facilitate the allocation of capacity to Shippers who have submitted Firm Capacity Applications, Surrender Applications will be accepted in the order in which they were submitted

Provided always:

- if an Upstream Operator confirms that it has not received an Upstream Surrender Application (where relevant) then any applicable Surrender Application shall be rejected;
- if a Shipper has indicated that it is not willing to surrender an amount of Firm Capacity less than it has applied for then unless the Transporter requires all of the Firm Capacity specified in the Shippers Surrender Application such Shippers Surrender Application shall be disregarded;
- if a Shipper has submitted a Surrender Application and an associated Upstream Surrender Application, the Surrender Application and the Upstream Surrender Application shall be accepted/rejected in respect of equal amounts.

~~1.11.31.11.7 All Surrender Applications not accepted in accordance with 1.11.6 shall be rejected.If, in respect of any Gas Year, the aggregate of the Firm Capacity for which Shippers apply is less than the aggregate of the Firm Capacity which Shippers apply to reduce, the Transporter shall accept those applications to reduce Firm Capacity made by the Shippers which confirmed to the Transporter that they would accept a reduction of Firm Capacity of less than they had applied for in accordance with Section 1.11.2(b), pro rata to the amount of Firm Capacity which the relevant Shippers applied to reduce.~~

~~1.11.4 If, in respect of any Gas Year, there are no Firm Capacity Applications, the Transporter shall reject any application to reduce Firm Capacity.~~

~~1.11.51.11.8~~ ~~The Transporter shall not accept any application to reduce Firm Capacity if the level of MHQ for which the Shipper has applied is less than one twenty fourth of the MDQ for which the Shipper has applied. Following acceptance of a Shippers' Surrender Application (in whole or in part) the Shipper's MHQ shall be deemed to be equal to 1/24 of the MDQ of the Shipper's remaining Firm Capacity.~~

~~1.11.61.11.9~~ The Transporter shall issue a Firm Capacity Notice to a Shipper whose Firm Capacity ~~is reduced~~ Surrender Application is accepted (in whole or in part) in accordance with this ~~S~~section 1.11 ~~by no later not less~~ than forty (40) ~~B~~business ~~D~~days after the Mid Year Date in the Gas Year in which ~~theits~~ application is made.

1.12 **Sub-letting**

1.12.1 A Shipper may, subject to this Section 1.12, sub-let part, or all, of its Firm Capacity (excluding Daily Capacity) to any third party from time to time.

1.12.2 A Shipper shall, if it sub-lets any Firm Capacity:

- (a) remain liable to the Transporter for the performance of all of its obligations under this Code; and
- (b) be liable to the Transporter for and indemnify, defend and hold harmless the Transporter from and against any and all Indemnified Liabilities, in respect of any claim which any sub-lessee of a Shipper may make against the Transporter arising out of or in connection with any act or omission of the Transporter in respect of this Code or the service to which it relates.

1.12.3 The Transporter shall not be obliged to:

- (a) accept or otherwise recognise any Nomination or Renomination which is submitted by any sub-lessee of a Shipper;
- (b) invoice any sub-lessee of a Shipper; or
- (c) otherwise deal with or acknowledge any sub-lessee of a Shipper.

1.13 **Effective Date of Allocated and Reduced Firm Capacity**

1.13.1 Whilst the effective date of allocated or reduced Firm Capacity shall be the date upon which a Firm Capacity Notice is issued by the Transporter, Firm Capacity shall be capable or cease to be capable (as appropriate) of being utilised with effect from the first Day of the first Month or in the case of an application for Daily Capacity on the Gas Flow Day for which the capacity is allocated in each case as set out in the Firm Capacity Notice. A Shipper shall pay or cease to be liable to pay (as appropriate) PS Transmission Amounts in respect of Firm Capacity in respect of the period from the date on which that Firm Capacity shall be capable or cease to be capable of being utilised and shall be liable for PS Code Charges in accordance with this Code.

1.14 **Transporter's Utilisation of Capacity**

- 1.14.1 The Transporter shall be entitled at all times to utilise all or any part of a Shipper's Firm Capacity to the extent the same (or any part of it) is not utilised by the Shipper.

1.15 Firm Capacity Buyback

1.15.1 Where the Transporter has allocated Daily Capacity to a Shipper(s) in respect of a Day in reliance on the availability of Oversubscription Capacity or where the Transporter receives a notice from the Upstream Transporter that the Upstream Transporter has allocated Daily Capacity to shippers in respect of a Day on the Upstream Transportation System in reliance on the availability of Oversubscription Capacity (as that term is defined on the Upstream Operators Network Code) then where it becomes necessary in accordance with the OS Scheme the Transporter may purchase Firm Capacity from Shippers in respect of that Day.

1.15.2 The Transporter may enter into an advance buyback agreement (an "**Advance Buyback Agreement**") with a Shipper whereby a Shipper commits to sell Firm Capacity to the Transporter (as and when the Transporter wishes to purchase such Firm Capacity) at a price calculated in accordance with the Advance Buyback Agreement for a Day or Days within a defined period of time.

1.15.3 Where the Transporter has a requirement pursuant to the OS Scheme to purchase Firm Capacity in respect of any given Day (which shall include a requirement as a result of a receipt of a notice from the Upstream Transporter that the Upstream Transporter has such a requirement) it shall publish an invitation (a "**Buyback Invitation**") to Shippers to submit an offer to sell Firm Capacity to the Transporter. The Buyback Invitation shall specify:

- (a) the Exit Points and related Entry Point in respect of which Firm Capacity is required;
- (b) the Day in respect of which Firm Capacity is required;
- (c) the estimated amount of Firm Capacity required; and
- (d) the latest time by which Buyback Offers should be submitted.

1.15.4 In response to a Buyback Invitation and in accordance with the timelines specified in the Buyback Invitation, Shippers may submit an offer (a "**Buyback Offer**") via GTMS or such other method as may be specified by the Transporter from time to time, specifying:

- (a) the identity of the Shipper;
- (b) the Firm Capacity (including the Exit Point and related Entry Point) in respect of which the Buyback Offer is made;

(c) the Day for which the Firm Capacity is offered;

(d) the amount of Firm Capacity offered;

(e) the unit price (in pence/kWh) at which the Firm Capacity is offered.

1.15.5 Any Buyback Offer not made in accordance with 1.15.4 shall be rejected and the Transporter shall inform the Shipper of such rejection within thirty minutes after the last time for submission of Buyback Offers as specified in the applicable Buyback Invitation. A Buyback Offer which is not rejected shall be considered to be a valid Buyback Offer (a "**Valid Buyback Offer**").

1.15.6 Before committing to purchase Firm Capacity (and notwithstanding that a Buyback Invitation may have been issued) and unless the purchase of Firm Capacity is a requirement of the Upstream Transporter the Transporter shall assess whether it may maintain the integrity of the Transportation System in a more cost effective manner by other operational or commercial means.

1.15.7 In accordance with the OS Scheme, the Transporter shall and, where relevant jointly and in co-ordination with the Upstream Transporter:

(a) decide whether to accept Valid Buyback Offers and/or to purchase Firm Capacity pursuant to an Advance Buyback Agreement; and

(b) undertake the acceptance of Valid Buyback Offers and/or the purchase of Firm Capacity pursuant to an Advance Buyback Agreement as decided in accordance with (a) above and having regard to those Valid Buyback Offers and/or Advance Buyback Agreements which [best] meet the economic and operational requirements of the NI Network.

1.15.8 The Transporter may accept a Valid Buyback Offer in whole or in part with respect to the quantity of Firm Capacity.

1.15.9 Where the Transporter accepts a Buyback Offer or purchases Firm Capacity pursuant to an Advance Buyback Agreement it shall notify the Shipper(s) by issuing a notification (a "**Buyback Notification**") specifying:

(a) the identity of the Shipper;

(b) the reference number of the Buyback Offer or Advance Buyback Agreement;

(c) the Firm Capacity (including the Exit Point and related Entry Point) in respect of which the Buyback Offer is accepted;

(d) the Day for which the Firm Capacity is purchased;

(e) the amount of Firm Capacity purchased;

(f) the unit price (in pence/kWh) to be paid for the Firm Capacity purchased.

1.15.10 Where applicable the Transporter will send a copy of the Buyback Notification to the Upstream System Operator.

1.15.11 Where the Transporter accepts a Buyback Offer or purchases Firm Capacity pursuant to an Advance Buyback Agreement it shall pay to the Shipper the price specified in the Buyback Offer or Advance Buyback Agreement. The Shipper shall remain liable for the PS Transmission Amounts in respect of the Firm Capacity purchased.

1.15.12 The amount of Firm Capacity purchased by the Transporter may vary from the amount specified in the Buyback Invitation, the Transporter issues a Buyback Notification to a Shipper it shall also issue a Firm Capacity Notice specifying the remaining Firm Capacity of the Shipper in respect of the Day.

1.15.13 Where the Transporter purchases Firm Capacity following receipt of a notification from the Upstream Transporter that such Upstream Transporter requires to purchase Firm Capacity the Upstream Operator will make a corresponding reduction on the Shipper's firm capacity on the Upstream Transportation System and issue a revised Firm Capacity Notice accordingly.

1.15.14 This Section 1.15 does not apply to a Virtual Exit Point or a Virtual Entry Point.

1.15.15 The Transporter's rights and obligations pursuant to Section 6 with respect to the declaration of a D-1 Predicted Capacity Shortfall, a Day D Capacity Shortfall, issue of Flow Order or with respect to an emergency shall not be effected by the availability of Oversubscription Capacity and/or the exercise or otherwise of the Transporter's right to purchase Firm Capacity in accordance with this Section 1.15.

1.16 Allocation of Capacity; Priority Order

1.16.1 The Transporter shall allocate capacity to Shippers submitting Firm Capacity Applications, utilising capacity available pursuant to this Network Code as follows:

- (a) firstly, Available Firm Capacity (excluding O.S. Capacity);
- (b) secondly, capacity available pursuant to Section 1.11 (Surrender of Firm Capacity);
- (c) thirdly, Capacity available pursuant to Section 1.10 (Review of Firm Capacity – Long Term Use It or Lose It Mechanism); and
- (d) fourthly, Oversubscription Capacity.

2. **NOMINATIONS**

2.1 **Introduction**

2.1.1 A Shipper shall make Nominations to the Transporter in accordance with this Section 2 for the quantities in which it wishes to deliver Natural Gas to and offtake Natural Gas from the Transportation System on a Day.

2.1.2 Renominations shall allow a Shipper to renominate quantities to the Transporter in accordance with this Section 2, as the Shipper's requirements change.

2.1.3 For the purposes of this Code:

(a) “**Available Interruptible Capacity**” means the capacity of the Transportation system which the Transporter determines is, from time to time, available to meet Interruptible Nominated Quantities based upon:

- (i) The capacity of the Transportation System;
- (ii) The aggregate of all Firm Nominated Quantities in respect of the Transportation System; and
- (iii) The aggregate of all Firm Nominated Quantities at each relevant Entry Point to and Exit Point from the Transportation System

So that for the avoidance of doubt it shall not be less than the aggregate of all Firm Capacity allocated less the aggregate of all Firm Nominated Quantities in respect of each Exit Point and associated Entry Point.

(b) ”**Available Interruptible VRF Capacity**” means the capacity of the Transportation System which the Transporter determines is, from time to time, available to meet Interruptible VRF Nominated Quantities which shall be determined on the basis of, inter alia:

- (i) the Available Interruptible Capacity;
- (ii) the level of Firm Nominated Quantities at the Carrickfergus Entry Point;
- (iii) the level of Interruptible Nominated Quantities at the Carrickfergus Entry Point;
- (iv) the level of Carrickfergus Interruptible VRF Nominations at the Carrickfergus Virtual Exit Point;
- (v) the level of Firm Nominated Quantities at the South-North Entry Point;
- (vi) the level of Interruptible Nominated Quantities at the South-North Entry Point;

(vii) the level of Interruptible VRF Nominations at the South-North Virtual Exit Point;

and in any event shall not exceed in respect of South-North Virtual Exit Point the Maximum Available Interruptible VRF Capacity (South-North) and in respect of the Carrickfergus Virtual Exit Point shall not in aggregate exceed the Maximum Available Interruptible VRF Capacity (Carrickfergus).

- (c) “**Aggregate Nominated Quantity**” is the aggregate of any Firm Nominated Quantity and Interruptible Nominated Quantity of a Shipper at an Exit Point and where each such Nomination specifies the same Entry Point in respect of a Day;
- (d) a “**Nomination**” is a Shipper's nomination to the Transporter of a Firm Nominated Quantity or an Interruptible Nominated Quantity of Natural Gas to be delivered to and offtaken from the Transportation System on a Gas Flow Day. For the avoidance of doubt a Shipper shall submit separate Nominations in respect of a Firm Nominated Quantity pursuant to each Firm Capacity booking and separate Nominations of an Interruptible Nominated Quantity for each Exit Point where a different associated Entry Point is specified. A Nomination shall be made in accordance with this Section 2;
- (e) a “**Renomination**” is a Shipper's nomination to the Transporter of a Firm Nominated Quantity or an Interruptible Nominated Quantity which revises an earlier Nomination or Renomination in respect of a Nominated Quantity or Renominated Quantity of Natural Gas to be delivered to and offtaken from the Transportation System on a Gas Flow Day or is submitted in accordance with Section 2.11.2 in the event that no Nomination has been submitted before 18:00 on D-1;
- (f) An “**Interruptible VRF Nomination**” is a Shipper’s nomination to the Transporter of an Interruptible VRF Nominated Quantity to be virtually offtaken at a Virtual Exit Point on a Day.
- (g) “**Carrickfergus Interruptible VRF Nomination**” shall mean a Carrickfergus (Stranraer) Interruptible VRF Nomination, a Carrickfergus (Ballylumford) VRF Nomination, a Carrickfergus (BGEP1) Interruptible VRF Nomination and a Carrickfergus (Moffat) Interruptible VRF Nomination [confine definition to all of them or to mean any one or more?]
- (h) “**Carrickfergus (Stranraer) Interruptible VRF Nomination**” means an Interruptible VRF Nomination to the Transporter of a quantity of Natural Gas which will virtually exit the Transportation System at the Carrickfergus Virtual Exit Point VExitP and which will exit the NI

Network at the Stranraer Exit Point on the Upstream Transportation System.

- (i) **“Carrickfergus (Ballylumford) Interruptible VRF Nomination”** means an Interruptible VRF Nomination of a quantity of Natural Gas which will virtually exit the Transportation System at the Carrickfergus Virtual Exit Point and will exit the NI Network at the Ballylumford Exit Point on the Upstream Transportation System.
- (j) **“Carrickfergus (BGEP1) Interruptible VRF Nomination”** means an Interruptible VRF Nomination to the Transporter of a quantity of Natural Gas which will virtually exit the Transportation System at the Carrickfergus Virtual Exit Point and will exit the NI Network at Belfast Gas Exit Point number 1.
- (k) **“Carrickfergus (Moffat) Interruptible VRF Nomination”** means an Interruptible VRF Nomination to the Transporter of a quantity of Natural Gas which will virtually exit the Transportation System at the Carrickfergus Virtual Exit Point and which will virtually exit the NI Network at the Moffat Virtual Exit Point.
- (l) **“South-North Interruptible VRF Nomination”** means an Interruptible VRF Nomination to the Transporter of a quantity of Natural Gas which will virtually exit the Transportation System at the South-North Virtual Exit Point.
- (m) **“Interruptible VRF Renomination”** is a Shipper’s nomination to the Transporter of a Interruptible VRF Nominated Quantity which revises an earlier VRF Nomination of a quantity of Natural Gas to be delivered to and virtually offtaken from the Transportation System on a gas flow day and which is submitted following a VRF Interruption.
- (n) A Nomination, Renomination, Interruptible VRF Nomination or Interruptible VRF Renomination is made by a Shipper where the Shipper has submitted a Nomination, Renomination or Interruptible VRF Nomination which has not been rejected (nor been deemed to have been rejected) by the Transporter in accordance with this Section 2.

2.1.4 The Transporter may require the Shipper, as part of a Nomination or Renomination which relates to the Carrickfergus Entry Point or as part of a Carrickfergus Interruptible VRF Nomination, to specify a corresponding Upstream Shipper. Any corresponding nomination or renomination made by the Upstream Shipper will be made on the transportation system directly upstream of the Carrickfergus Entry Point (**“Upstream Nomination”** or **“Upstream Renomination”**).

- 2.1.5 Should the Transporter require the information specified in 2.1.4 the Shipper shall ensure that the Upstream Shipper provides the information specified in Sections 2.9 and 2.13 to the Upstream Operator to allow the Upstream Operator to provide the information to the Transporter by the times specified in Sections 2.9 and 2.13.
- 2.1.6 When information relating to Upstream Nominations and Upstream Renominations has been received from the Upstream Operator pursuant to a request of the Transporter, the Transporter shall carry out a matching process with the Nominations or Renominations on the Transportation System in respect of the Carrickfergus Entry Point.
- 2.1.7 The Transporter may require the Shipper as part of a Nomination or Renomination which relates to the South-North Entry Point or as part of an Interruptible VRF Nomination at the South-North Virtual Exit Point to specify a corresponding Third Party Shipper.
- 2.1.8 Subject always to Section 8.2, to the extent only that there is an instantaneous loss of electrical generation infeed in Northern Ireland or the Republic of Ireland (other than at the power station at Coolkeeragh), or significant disturbance on the electrical transmission system (which is an electrical transmission system operating above 110 kVA) in Northern Ireland including the Moyle interconnector or the Republic of Ireland, which gives rise to a need for the power station connected at the Coolkeeragh Exit Point to ramp-up its offtake rate:
- (a) any Shipper nominating in respect of the Coolkeeragh Exit Point shall be relieved of any obligation it has under this Code to provide a Nomination or a Renomination in advance of such ramp-up; and
 - (b) in the case of any such ramp-up occurring after 01:00 hours on any Gas Flow Day (but not otherwise), any Balancing Charge which any Shipper nominating in respect the Coolkeeragh Exit Point shall incur or receive in respect of such Day shall, notwithstanding Section 4.3.2, be calculated so that such Shipper pays or is paid for all Balancing Gas (whether above or below the Exit Point Tolerance) at the Daily Gas Price, provided that in the case of (a) and/or (b) above such Shipper shall
 - (i) nominate appropriately as soon as practicable after such ramp-up occurring provided that in the case of such ramp-up occurring before 12:00 hours such Shipper shall nominate appropriately not later than 01:00 hours; and
 - (ii) provide reasonable evidence to the Authority and the Transporter of why such need to ramp-up arose within 24 hours of such ramp-up occurring.

2.2 **Firm Nominated Quantities, Interruptible Nominated Quantities and VRF Nominated Quantities**

- 2.2.1 A Shipper holding Firm Capacity shall be entitled to submit a Nomination or Renomination in respect of any amount less than or equal to its MDQ pursuant to each Firm Capacity booking on the Day to which the Nomination or Renomination relates (a “**Firm Nominated Quantity**” provided always that such Nomination or Renomination shall not in respect of any Exit Point either on its own or in aggregate with any other Nomination or Renomination require the offtake of Natural Gas at the Exit Point in excess of the quantity which might be offtaken at the Maximum Offtake Rate as specified in the applicable Network Exit Parameter Schedule.
- 2.2.2 A Shipper which is registered shall be entitled to submit a Nomination or Renomination in respect of any amount less than or equal to the Available Interruptible Capacity in respect of the relevant Exit Point and Entry Point on the Day to which the Nomination or Renomination relates (an “**Interruptible Nominated Quantity**”). The submission of a Nomination relating to an Interruptible Nominated Quantity shall be deemed an application for an equivalent amount of Available Interruptible Capacity at the Exit Point and the relevant Entry Point referred to in the Nomination.
- 2.2.3 A Shipper which is registered at a Virtual Exit Point in accordance with Section 17 shall be entitled to submit an Interruptible VRF Nomination [in respect of an amount up to Available Interruptible VRF Capacity] in respect of a relevant Virtual Exit Point to which the Interruptible VRF Nomination relates (an “**Interruptible VRF Nominated Quantity**”). The submission of an Interruptible VRF Nomination relating to an Interruptible VRF Nominated Quantity shall be deemed to be an application for an equivalent amount of Available Interruptible VRF Capacity at the Virtual Exit Point referred to in the Interruptible VRF Nomination.
- 2.2.4 Any reference in this Code to a Firm Nominated Quantity, Interruptible Nominated Quantity or Interruptible VRF Nominated Quantity shall be to a Shipper's Firm Nominated Quantity, Interruptible Nominated Quantity or Interruptible VRF Nominated Quantity (as the case may be) as amended, from time to time, whether by a Renomination, a Flow Order, Section 2.9 or 2.13 or otherwise in accordance with the provisions of this Code.
- 2.2.5 A Shipper which has a Firm Nominated Quantity or Interruptible Nominated Quantity shall, notwithstanding any other provision of this Code, be deemed, from time to time, to have a Firm Nominated Quantity or Interruptible Nominated Quantity (as the case may be) at both the Entry Point and the Exit Point specified in the applicable Nomination (as the case may be) of an equal quantity (except in the case of Natural Gas delivered in response to a request by the Transporter for the purposes of making up Balancing Gas or in an Emergency pursuant to Sections 5 and 6 respectively)

- 2.2.6 A Shipper shall, where the Nomination relates to the Carrickfergus Entry Point, procure that a corresponding Upstream Nomination or Upstream Renomination is submitted when the Shipper submits a Nomination or Renomination irrespective of whether or not the Transporter requires information with respect to the Upstream Shipper, the Upstream Nomination or the Upstream Renomination pursuant to Section 2.1.4.
- 2.2.7 A Shipper which has an Interruptible VRF Nominated Quantity in respect of the Carrickfergus Virtual Exit Point shall notwithstanding any other provision of this Code be deemed from time to time to have an Interruptible VRF Nominated Quantity with respect to a quantity of Natural Gas to be physically delivered at the South-North Entry Point in respect of an equal quantity.
- 2.2.8 A Shipper which has an Interruptible VRF Nominated Quantity at the South-North Virtual Exit Point shall notwithstanding any other provision of this Code be deemed from time to time to have an Interruptible VRF Nominated Quantity to be physically delivered at the Carrickfergus Entry Point of an equal quantity.

2.3 Content of Nomination and an Interruptible VRF Nomination

- 2.3.1 A Nomination shall specify:
- (a) the Gas Flow Day or Gas Flow Days to which it relates;
 - (b) the Exit Point and the Entry Point to which it relates;
 - (c) a Firm Nominated Quantity or Interruptible Nominated Quantity, in thousands of kWh;
 - (d) the Capacity Booking Reference of the Firm Capacity Booking (where relevant)
 - (e) a profile of the quantity of Natural Gas nominated for delivery and offtake in each hour over the Gas Flow Day to which it relates (the "**Daily Profile**");
 - (f) the identity of the nominating Shipper; and
 - (g) where relevant and requested by the Transporter the identity of the Upstream Shipper which shall deliver the corresponding quantities of Natural Gas at the Carrickfergus Entry Point and where there is more than one Upstream Shipper the quantity which is attributable to each such Upstream Shipper.
- 2.3.2 An Interruptible VRF Nomination shall:
- (a) specify the Gas Flow Day(s) to which it relates;
 - (b) specify whether the Interruptible VRF Nomination is a South-North Interruptible VRF Nomination, a Carrickfergus (Stranraer),

Interruptible VRF Nomination, at Carrickfergus (Ballylumford), Interruptible VRF Nomination, at Carrickfergus (BGEP) Interruptible VRF Nomination or at Carrickfergus (Moffat) Interruptible VRF Nomination;

- (c) specify the Interruptible VRF Nominated Quantity;
- (d) if required by the Transporter specify the identity and contact details of the Third Party Shipper or the Upstream Shipper (as the case may be) which shall, in the case of a South-North Interruptible VRF Nomination, or in the case of a Carrickfergus Interruptible VRF Nomination offtake, the corresponding quantity of Natural Gas at the South-North Virtual Exit Point or the Carrickfergus Virtual Exit Point (as the case may be) and where there is more than one such Third Party Shipper or Upstream Shipper the quantity which is attributable to each;
- (e) specify the identity of the nominating Shipper.

2.4 **Submission of Nominations**

2.4.1 A Shipper shall always use its reasonable endeavours to submit Nominations as soon as practicable and to ensure that its Nominations are accurate as practicable.

2.4.2 A Shipper may only submit a Nomination:

- (a) if it relates to a single Exit Point and a single Entry Point;
- (b) if it has an Exit Point Registration in respect of the Exit Point to which the Nomination relates;
- (c) if the Shipper's Exit Point Registration extends to the Entry Point specified in the Nomination;
- (d) in respect of a Firm Nominated Quantity if the Shipper has sufficient Firm Capacity booked under the specified Capacity Booking Reference;
- (e) in respect of an Interruptible Nominated Quantity if there is Available Interruptible Capacity at the relevant Exit Point and the associated Entry Point specified in the Nomination;
- (f) if the Shipper has adhered to any applicable Entry Point Agreements at the Entry Point specified in the Nomination;
- (g) in the Prescribed Form; and
- (h) in accordance with Section 19.1 or 19.2 (as determined by the Transporter under those Sections) so that a Nomination or

Renomination not so submitted will not be valid (whether or not the Transporter received it).

- 2.4.3 A Shipper shall, without prejudice to the generality of Section 2.4.1, to the extent that it has the necessary information available, submit, not later than 09:00 on each Wednesday before each week commencing at 06:00 hours the following Sunday, a Nomination to the Transporter for each Day of that week.
- 2.4.4 A Shipper shall, without prejudice to the generality of Section 2.4.1:
- (a) to the extent that it has the necessary information available and has not submitted a Nomination in accordance with Section 2.4.3; or
 - (b) to the extent that it has more accurate information available than it submitted in an earlier submitted Nomination
- submit, not later than 08:00 on the Day before ("**D-1**") the commencement of each Day ("**D**"), a Nomination to for the following Day which, in the case of (b) above, shall amend any inaccuracy in the Nomination submitted in accordance with Section 2.4.3.
- 2.4.5 If a Shipper submits a Nomination between 08:00 and 18:00 on D-1 it shall be deemed to be a Renomination submitted at 18:00 on D-1 unless it is submitted in accordance with Section 2.9.3.
- 2.4.6 This Section 2.4 does not apply to Interruptible VRF Nominations which shall be submitted in accordance with Sections 2.3 and 2.6.
- 2.5 Acceptance or Rejection of a Nomination (other than Interruptible VRF Nominations)**
- 2.5.1 The Transporter shall accept or reject a Nomination in accordance with Sections 2.5.2 as soon as reasonably practicable and in any event not later than 18:00 on D-1 and give a Shipper notice of any such rejection.
- 2.5.2 The Transporter shall reject a Nomination:
- (a) if the Nomination specifies a Firm Nominated Quantity greater than the booked MDQ pursuant to the specified Capacity Booking Reference;
 - (b) or if the Nomination specifies an Interruptible Nominated Quantity which is greater than the Available Interruptible Capacity at the relevant Exit Point and associated Entry Point;
 - (c) where applicable if notwithstanding a request from the Transporter in accordance with Section 2.3 no information relating to an Upstream Nomination is received from the Upstream Operator;

- (d) if the Nomination has not been submitted in accordance with Section 2.3 or otherwise in accordance with this Section 2;
- (e) if the Shipper fails to supply any of the information listed in Section 2.4.2;
- (f) if a Nominated Quantity exceeds the level prescribed in a Flow Order or;
- (g) if the Nominated Quantity when aggregated with any other Nominated Quantity with respect to the same Gas Flow Day in respect the same Exit Point would exceed the Maximum Offtake Rate in respect of the Exit Point;
- (h) for any other reason as the Transporter shall determine that it would not be reasonable to accept such a Nomination acting as an RPO.

In addition to the foregoing the Transporter may reject a Nomination if the Nomination(s) at the Exit Point specify or will result in:

- (i) an Implied Nomination Flow Rate which is greater than the aggregate booked MHQ at that Exit Point; or
- (ii) or an implied Nomination Flow Rate which exceeds in respect of that Nomination and any other Nomination with respect to the same Gas Flow Day at the Exit Point exceeds the Maximum Offtake Rate

with respect to the Exit Point.

2.5.3 Where Section 2.9 or Section 2.13 apply, a Shipper's Aggregate Nominated Quantity shall, notwithstanding any other provision of this Code be deemed from time to time to be an amount equal to the Daily Gas Quantity determined by the Transporter pursuant to Section 2.9 or 2.13.

2.5.4 The Transporter may adjust a Nomination or Renomination to match the Upstream Nomination(s) or Upstream Renomination(s) in accordance with Section 2.7 or 2.11 if the Shipper's Nominated Quantity does not match that of the Upstream Nomination(s) or Upstream Renominations.

2.5.5 Implied Nomination Flow Rate

- (a) In respect of any Nomination, the "**Implied Nomination Flow Rate**" is the rate (in kW) determined as:
 - (i) in the case of a Nomination which is not the subject of a Renomination

$$INFR = \frac{NQ}{24}$$

- (ii) in the case of any Renomination

$$INFR = \frac{RQ}{T}$$

Where:

INFR = Implied Nomination Flow Rate

NQ = Nominated Quantity (kWh/day)

24 = 24 hours (h)

RQ = the part of the Renominated Quantity which has not been transported at the time the Renomination becomes effective (kWh/day)

T = means the period of time from when the Renomination becomes effective until the end of the Gas Flow Day, rounded up to the nearest hour (h).

2.6 Submission of Interruptible VRF Nominations

- 2.6.1 An Interruptible VRF Nomination shall not be submitted before 12:00 on D-1 or later than 22:00 on D-1.
- 2.6.2 Shippers may only make Renominations in respect of an Interruptible VRF Nomination in response to a VRF Interruption and in accordance with this instruction of the Transporter.
- 2.6.3 The Transporter and PTL may, but shall not be required to, carry out matching of Interruptible VRF Nominations at the Carrickfergus Virtual Exit Point.
- 2.6.4 The Transporter and the Connected System Operator may, but shall not be required to exchange information with respect to aggregate Interruptible VRF Nominated Quantities at the South-North Virtual Exit Point.

2.7 Acceptance reduction or rejection of Interruptible VRF Nominations

- 2.7.1 The Transporter shall accept, reject or reduce an Interruptible VRF Nomination in accordance with this Section 2.7 and shall give notice of any such acceptance, rejection or reduction.
- 2.7.2 A Shipper may only submit an Interruptible VRF Nomination:
- (a) if it relates to a single Virtual Exit Point;
 - (b) if it is a Carrickfergus Interruptible VRF Nomination where the Interruptible VRF Nomination relating to the Carrickfergus Virtual Exit Point relates to a single Exit Point Registration.

- (c) if it has an appropriate Virtual Exit Point Registration in respect of the Virtual Exit Point to which the Interruptible VRF Nomination relates;
- (d) is in the Prescribed Form; and
- (e) utilising such means of communication as may be prescribed by the Transporter from time to time.

2.7.3 The Transporter shall reject an Interruptible VRF Nomination:

- (a) if PTL advises of rejection of corresponding Interruptible VRF Nomination on the Upstream System;
- (b) if the Connected System Operator notifies the Transporter that corresponding Nomination by Third Party Shippers on the Connected System will not be accommodated;
- (c) which is not in accordance with Section 2.7.2; or
- (d) if it receives a direction of the Credit Committee in accordance with paragraph 6.1(k) of the terms of reference that it should do so.

2.7.4 The Transporter shall reduce an Interruptible VRF Nominated Quantity by 23:00 on D-1 if the aggregate of the Interruptible VRF Nominated Quantities received prior to 22:00 on D-1 in respect of a Virtual Exit Point is greater than the applicable Maximum Available Interruptible VRF Exit Capacity at that Virtual Exit Point, in which case the Transporter shall reduce the Interruptible VRF Nominated Quantities pro rata such that the reduced Interruptible VRF Nominated Quantities do not exceed the applicable Maximum Available Interruptible VRF Capacity;

2.7.5 The Transporter shall notify the Shippers who have submitted Interruptible VRF Nominations or Interruptible VRF Renominations:

- (a) of the acceptance, rejection or reduction of Interruptible VRF Nominations pursuant to Section 2.7.4(a) by 23:00 on D-1; and
- (b) of any VRF Interruption; and
- (c) the acceptance or rejection of an Interruptible VRF Renomination.

2.8 **Zero Nomination**

2.8.1 A Shipper shall save in respect of the Lisburn Exit Point be deemed to have submitted a Nomination for a zero quantity of Natural Gas in respect of an Exit Point and the associated Entry Point pursuant to a Shipper's Firm Capacity booking or an Interruptible VRF Nomination in respect of a Gas Flow Day if:

- (a) the Shipper has not submitted a Nomination in relation to that Gas Flow Day with respect to that Firm Capacity booking in accordance with Section 2.4; or
- (b) the Shipper's Nomination in relation to that Gas Flow Day is rejected in accordance with Section 2.5.2; or
- (c) the Shipper has not submitted an Interruptible VRF Nomination in respect of a Gas Flow Day or the Shipper's Interruptible VRF Nomination in respect of the Gas Flow Day is rejected in accordance with Section 2.7.3.

2.9 Matching Nominations at Carrickfergus

2.9.1 The Transporter may if information has been provided by Shippers as a result of a request by the Transporter pursuant to Section 2.3, perform a matching process on the Nominations upon receipt by the Transporter:

- (a) of a Shipper's Nomination by 08:00 on D-1; and
- (b) of the following information in relation to the corresponding Upstream Shipper(s) by 08:30 on D-1:
 - (i) the Upstream Nomination to the Upstream Transporter; and
 - (ii) a breakdown of such Upstream Nomination, including the identity of the Shipper(s) and the amount of Natural Gas to be delivered to the Carrickfergus Entry Point for such Shipper(s).

2.9.2 Subject to the provision of all the information referred to in Section 2.9.1, the Transporter shall inform a Shipper of any Nomination Mismatch which relates to that Shipper's Nomination by 13:00 on D-1.

2.9.3 A Shipper which has been informed of a Nomination Mismatch in accordance with Section 2.9.2 may no later than 14:30 on D-1 submit to the Transporter a revised Nomination amending its Firm Nominated Quantity or Interruptible Nominated Quantity with the aim of achieving Matching Nominations.

2.9.4 On receipt of the Upstream Operator's confirmation by 16:00 on D-1 of all the Upstream Shippers' Upstream Nominations identifying the corresponding Shippers and the amounts of Natural Gas to be delivered to Carrickfergus for such Shippers, the Transporter shall apply the default of the Upstream Shipper's Nomination.

2.9.5 If in accordance with Section 2.9.4 a Shipper's Aggregate Nominated Quantity will (a) be reduced and the Shipper has a Firm Nominated Quantity and an Interruptible Nominated Quantity the Transporter will first reduce the Shipper's Interruptible Nominated Quantity and thereafter its Firm Nominated Quantity or (b) be increased and the Shipper has a Firm Nominated Quantity, and an Interruptible Nominated Quantity the

Transporter will first increase the Shipper's Firm Nominated Quantity up to the level of its MDQ and thereafter its Interruptible Nominated Quantity.

- 2.9.6 The Transporter shall, as soon as practicable, after 16.00 on D-1 inform a Shipper of the Daily Gas Quantity which will be adopted as the Aggregate Nominated Quantity if this Daily Gas Quantity is different to that Shipper's Aggregate Nominated Quantity.
- 2.9.7 In the event that the Transporter has requested and does not receive the information referred to in Section 2.9.1 or 2.9.4 to allow the Transporter to match Nominations and to resolve any Nomination Mismatch, and provided the Nomination is not rejected pursuant to Section 2.5.2, the Transporter may, at its own discretion, adopt the Shipper's Firm Nominated Quantity and/or Interruptible Nominated Quantity as the case may be.
- 2.9.8 Without prejudice to Section 2.9.7 for the avoidance of doubt, in the event that the Transporter has requested and does not receive the information relating to a Upstream Nomination contemplated by Section 2.9.1 and/or 2.9.7, and the Transporter does not adopt the Shipper's Nomination as the Nominated Quantity in accordance with Section 2.9.7 then the Upstream Nomination shall be deemed to be zero.

2.10 Content of Renomination

- 2.10.1 A Renomination shall specify the following information:
- (a) the Gas Flow Day or Gas Flow Days to which it relates;
 - (b) the Exit Point and the Entry Point to which it relates;
 - (c) the Nomination or Renomination in respect of which the Renomination is made. For the avoidance of doubt a Renomination may relate to a Firm Nominated Quantity or an Interruptible Nominated Quantity only;
 - (d) the time at which the Shipper wishes the Renomination to become effective;
 - (e) the Renominated Quantity, in thousand(s) of kWh;
 - (f) a revised Daily Profile;
 - (g) where the Transporter has requested information relating to the Upstream Shipper pursuant to Section 2.3 the identity and contact details of the Upstream Shipper who shall deliver the corresponding renominated quantities of Natural Gas at the Carrickfergus Entry Point and where there is more than one Upstream Shipper the quantity which is attributable to each such Shipper; and
 - (h) the identity of the renominating Shipper.

2.11 Submission of Renominations

- 2.11.1 A Shipper shall always use its reasonable endeavours to submit Renominations as soon as practicable and to ensure that its Renominations are accurate as practicable.
- 2.11.2 A Shipper shall only be entitled to submit a Renomination between 18:00 on D-1 and 01:00 on D.
- 2.11.3 A Shipper shall, subject to Section 2.11.2, submit a Renomination as soon as is practicable but in any event not later than 3.5 (three and half) hours commencing on the hour before it wishes the Renomination to take effect.
- 2.11.4 A Shipper acknowledges that the Transporter shall, regardless of the number of Renominations a Shipper submits in any one (1) hour period before the Hour Bar, use the information contained in the last Renomination it receives from the Shipper before the Hour Bar.
- 2.11.5 A Shipper may only submit a Renomination in accordance with Section 2.4.2 applied mutatis mutandis.
- 2.11.6 A Shipper may only submit an Interruptible VRF Renomination where the Transporter has notified the Shipper of a VRF Interruption in which case the Shipper shall submit an Interruptible VRF Renomination [in respect of a revised Interruptible VRF Nominated Quantity in accordance with the instructions of the Transporter specifying an Interruptible VRF Nominated Quantity of zero

2.12 Rejection of a Renomination

- 2.12.1 The Transporter may reject a Renomination:
 - (a) which is not submitted more than 3.5 (three and half) hours before the time the Shipper wishes the Renomination to take effect;
 - (b) which will result in an implied negative flow rate, taking into account the actual gas flows that have already occurred in the Transportation System; and
 - (c) without prejudice to the generality of Section 6, if, acting as an RPO, it anticipates that accepting the Renomination would adversely affect any part of the Transportation System, and the Renomination:
 - (i) requests a variation in any Nominated Quantity exceeding or equal to 50% where less than twelve (12) hours notice is given;
 - (ii) requests a variation in any Nominated Quantity of less than 50% but exceeding 25% where less than six (6) hours notice is given;
 - (iii) does not replace an existing Nomination or Renomination that has been submitted in respect of the Day and requests a

Nominated Quantity exceeding or equal to 50% of the Shipper's MDQ where less than twelve (12) hours notice is given; or

- (iv) does not replace an existing Nomination or Renomination that has been submitted in respect of the Day and requests an Nominated Quantity of less than 50% but exceeding 25% of the Shipper's MDQ where less than six (6) hours notice is given.
- (d) the Renomination is not submitted in accordance with Section 2.9 (including Section 2.4.2 applied mutatis mutandis).
- (e) the Renomination is an Interruptible VRF Renomination and does not specify an Interruptible VRF Nominated Quantity of zero.

2.12.2 The Transporter shall, subject to Section 2.12.4, notify a Shipper of a rejection of a Renomination in accordance with Section 2.12.1 as soon as reasonably practicable, but in any event not later than the time that the Shipper has stated in the Renomination that it wishes the Renomination to become effective.

2.12.3 If a Renomination is submitted within 3.5 (three and half) hours of the time that the Shipper wishes the Renomination to take effect the Transporter, pursuant to 2.12.1(a), shall endeavour to give notice of its rejection of the Renomination as soon as is reasonably practicable.

2.12.4 If the Transporter rejects a Renomination, the Nomination or Renomination to which it relates shall remain in effect.

2.12.5 The Transporter may adjust a Renomination to match the Upstream Renomination in accordance with Section 2.13 if the Transporter has requested information with respect to Upstream Nominations and Upstream Renominations and the Shipper's Renominated Quantity does not match that of the Upstream Renomination.

2.13 **Matching Renominations at Carrickfergus**

2.13.1 The Transporter may if information has been provided by a Shipper with respect to the Upstream Shipper at the request of the Transporter perform a matching process on the Renominations with respect to the Carrickfergus Entry Point upon receipt by the Transporter:

- (a) of a Shipper's Renomination by the Hour Bar; and
- (b) of the following information in relation to the corresponding Upstream Shipper(s) ten minutes after the Hour Bar:
 - (i) the Upstream Renomination to the Upstream Transporter; and
 - (ii) a breakdown of such Upstream Renomination, including the identity of the Shipper(s) and the amount of Natural Gas to be delivered to the Carrickfergus Entry Point for such Shipper(s).

- 2.13.2 Subject to the provision of all information referred to in Section 2.13.1, the Transporter shall inform a Shipper of any Renomination Mismatch which relates to that Shipper's Renomination as soon as practicable.
- 2.13.3 A Shipper which has been informed of a Renomination Mismatch in accordance with Section 2.13.2 may re-submit a revised Renomination up to thirty (30) minutes past the Hour Bar with the aim of achieving a Matching Renomination.
- 2.13.4 On receipt of the Upstream Operator's confirmation at fifty five (55) minutes past the Hour Bar of all the Upstream Shippers' Renominations identifying the corresponding Shippers and the amounts of Natural Gas delivered to Carrickfergus for such Shippers, the Transporter shall apply the default of the Upstream Shipper's Renomination.
- 2.13.5 The Transporter shall as soon as practicable after receiving the information from the Upstream Operator set out in Section 2.13.4 inform the Shipper of the Daily Gas Quantity that will be adopted as the Renominated Quantity if this Daily Gas Quantity is different from the Shipper's Renomination.
- 2.13.6 In the event that the Transporter has requested and does not receive the information referred to in Section 2.13.1 or 2.13.4 to allow the Transporter to match Renominations and resolve any Renomination Mismatch, and provided the Renomination is not rejected pursuant to Section 2.10, the Transporter may adopt the Shipper's Renomination as the Renominated Quantity.
- 2.13.7 Without prejudice to Section 2.13.6 for the avoidance of doubt, in the event that the Transporter does not receive the information relating to the Upstream Renomination contemplated in Sections 2.13.1 and/or 2.13.4, and the Transporter has not adopted the Shipper's Renomination as the Renominated Quantity pursuant to Section 2.13.6 then the Upstream Renomination shall be deemed to be zero.
- 2.13.8 For the avoidance of doubt the Transporter will not perform a matching process in respect of Interruptible VRF Nominations.
- 2.14 **Uniform Offtake Rate**
- 2.14.1 Whilst it is the intention of the Transporter that a Shipper's Daily Profile be accommodated up to its MHQ where circumstances allow, the Transporter shall, notwithstanding another provision of this Code and irrespective of whether or not a Nomination or Renomination has been accepted by the Transporter, be under no obligation to deliver a quantity of Natural Gas other than at a Uniform Offtake Rate.
- 2.14.2 Where the Shipper submits more than one Nomination with respect to the same Exit Point the Shippers Daily Profile shall be with respect to the aggregate of all Nominated Quantities in respect of such Exit Point.

2.15 Nominations at the Lisburn Offtake

- 2.15.1 Notwithstanding Clause 2.4 and 2.11 Shippers to the Lisburn Exit Point will not be required to submit nominations pursuant to this Code to offtake gas at the Lisburn Exit Point. The Lisburn Exit Point forms part of the Greater Belfast Exit Point from the NI Network and each Shipper offtaking Natural Gas at the Lisburn Exit Point will nominate to the Upstream Operator for the aggregate quantity of gas to be offtaken by that Shipper at the Greater Belfast Exit Point (incorporating the Lisburn Exit Point). Phoenix Distribution shall hold Firm Capacity at the Lisburn Exit Point in order to facilitate the offtake of Natural Gas at the Lisburn Exit Point.
- 2.15.2 Without prejudice to Section 2.15.1 the Transporter shall be entitled, in respect of a Gas Flow Day, to treat the quantity of Natural Gas metered as offtaken at the Lisburn Exit Point on the corresponding day in the previous week as the quantity expected to be delivered to the Transportation System for offtake at the Lisburn Exit Point on that Day for the purpose of operating and managing the Transportation System (including for the avoidance of doubt for the profiling of Natural Gas to be delivered to the Transportation System at the Carrickfergus Entry Point.
- 2.15.3 If it is not possible to determine the quantity of Natural Gas metered as offtaken at the Lisburn Exit Point from the corresponding day in the previous week as contemplated by Section 2.15.2 the Transporter shall be entitled to determine a quantity for the purposes of Section 2.15.2.
- 2.15.4 No Renominations are permitted pursuant to this Code at the Lisburn Exit Point.

2.16 VRF Interruption

- 2.16.1 The Transporter may reduce the Maximum Available Interruptible VRF Exit Capacity at Virtual Exit Point (a “**VRF Interruption**”) to zero at any time (including after receipt of Interruptible VRF Nomination at that Virtual Exit Point) if:
- (a) the Transporter is notified by the Upstream Transporter that Interruptible VRF Nominated Quantities cannot be offtaken to the Upstream Transporter;
 - (b) the Transporter is notified by such Connected System Operator that the Connected System cannot take delivery of, or virtually offtake quantities of Natural Gas as required; or
 - (c) where the Transporter acting as an RPO considers it necessary to do so in the best interest of the Transportation System.
- 2.16.2 The Transporter shall notify Shippers which are registered at a Virtual Exit Point which have submitted Interruptible VRF Nominations of a VRF Interruption.

- 2.16.3 Where a Shipper has submitted an Interruptible VRF Nomination at a Virtual Exit Point to which a VRF Interruption applies the Shipper shall submit an Interruptible VRF Renomination specifying an Interruptible VRF Nominated Quantity of zero as soon as reasonably practical after the issue by the Transporter of notice of the VRF Interruption.

3. ALLOCATION

3.1 Introduction

- 3.1.1 The Transporter shall allocate the Entry Quantity at each Entry Point, the Exit Quantity at each Exit Point and the VRF Exit Quantity at each Virtual Exit Point among the Shippers after the Gas Flow Day in accordance with this Section 3.
- 3.1.2 The Transporter and the Shipper acknowledge that the Entry Quantity, may not exactly match the Nominations or Renominations and/or VRF Entry Nominations made in respect of an Entry Point and/or, gas nominated for delivery to the NI Network for delivery to the Transportation System at the Carrickfergus Entry Point and the offtake, or virtual offtake of Natural Gas at an Exit Point or Virtual Exit Point (as the case may be) may not exactly match the Nominations, Renomination or Interruptible VRF Nominations in respect of the relevant Exit Point or Virtual Exit Point (as the case may be) and consequently under deliveries and over deliveries of Natural Gas may occur.
- 3.1.3 Shippers will deliver gas to the Transportation System at an Entry Point. The Transporter will meter gas physically delivered by Shippers in aggregate at an Entry Point.
- 3.1.4 The Transporter will accept information on which the allocations at the Carrickfergus Entry Point or allocations of the Virtual Exit Quantity at the Carrickfergus Virtual Exit Point for each Shipper shall be made (other than in respect of Natural Gas offtaken by Shippers at the Lisburn Exit Point) pursuant to the NINOA. Each Shipper shall be obliged to request the Upstream Operator to provide information, or to authorise the provision to the Transporter of information, on which Entry Allocations or VRF Allocations may be made by the Transporter at the Carrickfergus Entry Point and the Carrickfergus Virtual Exit Point as the case may be.
- 3.1.5 The Transporter shall be entitled to rely on information provided by or at the request of the Upstream Operator pursuant to the NINOA for the purpose of making Entry Allocations at the Carrickfergus Entry Point and VRF Allocations at the Carrickfergus Virtual Exit Point pursuant to this Code. The Transporter shall have no obligation to verify the information so provided and shall have no liability with respect to Allocations based on the information so provided.
- 3.1.6 The Transporter shall be entitled to rely on information provided by or at the request of the Connected System Operator:
- (a) for determining the quantity of Natural Gas metered as delivered at the South-North Entry Point; and/or
 - (b) for the purpose of determining the Entry Quantity and/or making Entry Allocations at the South-North Entry Point; and/or

- (c) for the purpose of determining the Virtual Exit Quantity and/or making Interruptible VRF Exit Allocations at the South North Virtual Exit Point.

in each case pursuant to this Code. The Transporter shall have no obligation to verify the information so provided and shall have no liability with respect to Allocations based on the information so provided.

- 3.1.7 The Entry Quantity ,the Exit Quantity and the Virtual Exit Quantity at each Entry Point, at each Exit Point and at each Virtual Exit Point respectively shall be allocated to Shippers regardless of the reason for any over deliveries or under deliveries.

3.2 **Initial and Final Allocations [and Interruptible VRF Allocations]**

- 3.2.1 On the Day after ("**D+1**") the Day ("**D**") that Natural Gas is delivered to the NI Network and the Transportation System, the Transporter shall allocate the Entry Quantity among the Shippers in accordance with this Section 3 (each an "**Initial Entry Allocation**" or an "**Initial VRF Entry Allocation**") as the case may be),shall allocate the Exit Quantity at each Exit Point among the Shippers in accordance with this Section 3 (each an "**Initial Exit Allocation**" and shall allocate the VRF Exit Quantity at each Virtual Exit Point among the Shippers in accordance with this Section 3 (each an"**Initial VRF Exit Allocation**").
- 3.2.2 Each Initial Entry Allocation and each Initial Exit Allocation shall, subject to Sections 3.2.4, 3.6 and 9, become a final allocation (a "**Final Entry Allocation**" and a "**Final Exit Allocation**" respectively) at 16:00 on the fifth Day after D ("**D+5**") each Initial VRF Entry Allocation shall be subject to Sections 3.2.4, 3.6 and 3.9 (where applicable) become a final allocation (a "**Final VRF Entry Allocation**") at 16:00 on D+5. Each Initial VRF Exit Allocation shall be the Final VRF Exit Allocation at 16:00 on D+5.
- 3.2.3 A Final Allocation shall, subject to Section 9, be binding on the Shipper.
- 3.2.4 An Initial Allocation is subject to any adjustment which the Transporter reasonably determines is necessary in order to correct any error made in the application of Section 3.4, 3.5, 3.6, or 3.8.
- 3.2.5 Allocations shall be made separately in respect of each Nomination, Interruptible VRF Nomination or Renomination such that where a Shipper submits more than one Nomination or Interruptible VRF Nomination(including in respect of the same Exit Point or the same Virtual Exit Point)the Shipper shall receive separate Initial Entry Allocations, Final Entry Allocations, Initial Exit Allocations, Final Exit Allocations, Initial VRF Entry Allocations, Final VRF Entry Allocations, Initial VRF Exit Allocations and Final VRF Exit Allocations in respect of each such Nomination and/or Renomination and/or Interruptible VRF Nomination (as the case may be).

3.3 Final Allocations to be Firm, Interruptible or VRF Interruptible

3.3.1 A Final Allocation of a Shipper and by reference to each Nomination and each Interruptible VRF Nomination made by such Shipper (whether made pursuant to Section 3.5, 3.6 or 3.7 of this Code) on a Day at an Exit Point shall for the purpose of this Code be:

- (a) a “**Firm Allocated Quantity**” to the extent that such Final Allocation is calculated by reference to the Shipper’s Nominations with respect to a Firm Nominated Quantity;
- (b) an “**Interruptible Allocated Quantity**” to the extent that such Final Allocation is calculated by reference to the Shipper’s Nominations with respect to an Interruptible Nominated Quantity; and/or
- (c) an Interruptible VRF Allocated Quantity to the extent that such Final VRF Allocation is calculated by reference to the Shipper’s Interruptible VRF Nominated Quantity.

3.4 Entry Allocations

3.4.1 Subject to Section 3.8, the Transporter shall in respect of each Gas Flow Day for which it receives relevant information on which allocations at the Carrickfergus Entry Point may be based pursuant to the NINOA, make Entry Allocations in respect of Shippers pursuant to this Code based on the information it receives pursuant to the NINOA. For the avoidance of doubt if a Shipper submits Nominations in respect of more than one Exit Point or an Interruptible VRF Nomination in respect of the South-North Virtual Exit Point in respect of which Natural Gas is delivered at the Carrickfergus Entry Point and aggregate information in respect of the Shipper is provided to the Transporter pursuant to the NINOA for the purpose of making Entry Allocations, the Transporter shall apply such aggregate quantity notified in respect of a Shipper pro rata to the relevant Shipper’s Nominations. The Transporter shall use reasonable endeavours to procure the requisite information on the basis of which Entry Allocations at the Carrickfergus Entry Point may be made.

3.4.2 In respect of each Gas Flow Day at the Carrickfergus Entry Points and the South-North Entry Point the Transporter shall make Initial Allocations of the relevant Entry Quantity in respect of Shippers in accordance with the formulae set out below:

- (a) at the Carrickfergus Entry Point where the Transporter receives information, pursuant to the NINOA, upon which the Carrickfergus Entry Allocations may be based, then the Transporter shall make Entry Allocations (and Virtual Entry Allocations) as the case may be as follows:
 - (i) Where the Shipper has only one Nominated Quantity at the Carrickfergus Entry Point the Shipper’s Initial Entry Allocation

or the Shipper's Initial VRF Entry Allocation as the case may be shall be the quantity as notified to the Transporter in respect of such Shipper pursuant to the NINOA.

- (ii) Where the Shipper has more than one Nominated Quantity at the Carrickfergus Entry Point then the Shipper's Initial Entry Allocation(s) and/or the Shipper's Initial VRF Entry Allocation(s) shall be calculated as follows:

$$SQ_a = SQC \times \frac{SQN}{SQN_{agg}}$$

were
 SQ_a = the Shipper's Initial Entry Allocation or Initial VRF Entry Allocation as the case may be.

SQC = the quantity notified to the Transporter with respect to the Shipper pursuant to the NINOA.

SQ_n = the Shipper's Initial Nominated Quantity or Initial VRF Nominated Quantity (as the case may be).

SQN_{agg} = the aggregate of the Shipper's Firm Nominated Quantities and Virtual Interruptible Entry Nominated Quantities at

the
Carrickfergus
Entry Point.

- (b) where the Transporter does not receive information pursuant to the NINOA upon which the Entry Allocations at the Carrickfergus Entry Point shall be based then the Transporter shall make Entry Allocations and Virtual Entry Allocations at the Carrickfergus Entry Point as follows:

$$SA_c = EQ_c \times \frac{SNQ}{SNQ_{agg}}$$

Where		
SA _c	=	the Shipper's Initial Entry Allocation or Initial Virtual Entry Allocation at the Carrickfergus Entry Point in respect of a Day.
EQ _c	=	the Entry Quantity at the Carrickfergus Entry Point in respect of the Day.
SNQ	=	the Shipper's Firm Nominated Quantity or the Shipper's Interruptible VRF Nominated Quantity in respect of the Day.
SNQ _{agg}	=	the aggregate of all Shipper's Firm Nominated Quantities and

all Shipper's Interruptible VRF Nominated Quantities at the Carrickfergus Entry Point in respect of the Day.

- (c) Allocations at the South/North Entry Point shall be made in accordance with the following:

$$SA_{sn} = EQ_{sn} \times \frac{SNQ}{SNQ_{agg}}$$

Where

SA_{sn} = the Shipper's Initial Entry Allocation or Initial Virtual Entry Allocation at the South-North Entry Point.

EQ_{sn} = the Entry Quantity at the South-North Entry Point.

SNQ = the Shipper's Firm Nominated Quantity or VRF Interruptible Nominated Quantity at the South-North Entry Point in respect of a Day.

SNQ_{agg} = the Aggregate of all Shipper's Firm Nominated Quantities and Interruptible VRF Nominated Quantities at the South-North

Entry Point in respect of the Day.

3.4.3 Notwithstanding that the Transporter may make an Initial Entry Allocation at the Carrickfergus Entry Point in accordance with Section 3.4.2 the Transporter may use reasonable endeavours to obtain requisite information to enable Transporter make Final Entry Allocations with respect to relevant Shippers based on information received pursuant to the NINOA.

3.5 Allocation at an Exit Point

3.5.1 The Initial Allocation of Natural Gas in respect of any Gas Flow Day at an Exit Point where only one Shipper offtakes Natural Gas and where all of the Shipper's Nominations at that Exit Point specify the same Entry Point, shall be made in accordance with the formula set out below:

$$SQ = \frac{Q \times SNQ}{ANQ}$$

where:-

SQ = the quantity of Natural Gas Allocated to the Shipper on the Gas Flow Day at the Exit Point as a Firm Allocated Quantity or as an Interruptible Allocated Quantity as the case may be;

Q = the aggregate metered quantity of Natural Gas (expressed in kWh) determined as having been offtaken on the Gas Flow Day at the Exit Point;

SNQ = the Shipper's Firm Nominated Quantity or the Shipper's Interruptible Nominated Quantity as the case may be in respect of the Gas Flow Day at the Exit Point; and

ANQ= the Shipper's Aggregate Nominated Quantity in respect of the Gas Flow Day at the Exit Point;

and for the avoidance of doubt where in respect of any Gas Flow Day the Shipper has submitted a Nomination with respect to a Firm Nominated Quantity only the Initial Allocation of Natural Gas shall be a Firm Allocated Quantity in respect of the aggregate metered quantity determined as having been offtaken on the Gas Flow Day at the Exit Point and where the Shipper has submitted a Nomination with respect to an Interruptible Nominated Quantity only in respect of the Gas Flow Day the Initial Allocation of Natural Gas shall be an Interruptible Allocated Quantity, provided that for the purposes of SNQ and ANQ on any Day on which the Shipper has an Aggregate Nominated Quantity of zero the Shipper shall be deemed to have a Firm Nominated Quantity of 1 kWh where the Shipper has a booked MDQ

and an Interruptible Nominated Quantity of 1 kWh where the Shipper does not have a booked MDQ.

- 3.5.2 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**”) or at an Exit Point where one Shipper submits more than one Nomination at the same Exit Point and those Nominations specify different Entry Points shall, subject to Section 3.7, be made in accordance with the formula set out below:

$$SQ = \frac{Q \times SNQ}{ANQ}$$

where:-

SQ = the quantity of Natural Gas Allocated to a Shipper on the Gas Flow Day at the Shared Exit Point and/or the Exit Point as the case may be as a Firm Allocated Quantity or as an Interruptible Allocated Quantity as the case may be;

Q = the aggregate metered quantity of Natural Gas (expressed in kWh) determined as having been offtaken on the Gas Flow Day at the Shared Exit Point or the Exit Point as the case may be;

SNQ = the Shipper’s Firm Nominated Quantity or the Shipper’s Interruptible Nominated Quantity as the case may be in respect of the Gas Flow Day at the Shared Exit Point or as applicable the Shipper’s Firm Nominated Quantity or the Shipper’s Interruptible Nominated Quantity at the Exit Point in respect of the Gas Flow Day (and applied separately in respect of each Nomination or Renomination submitted; and

ANQ = the aggregate of all Shippers’ Firm Nominated Quantities or all Shippers’ Interruptible Nominated Quantities as the case may be in respect of the Gas Flow Day at the Shared Exit Point or the Exit Point (as the case may be);

provided that for the purposes of both SNQ and ANQ on any Day on which no Shipper has a Nomination (other than a deemed Nomination of zero pursuant to Section 2.8) , each Shipper which has an Exit Point Registration and a booked MDQ in relation to the relevant Shared Exit Point or where a Shipper has more than one Firm Capacity booking at the same Exit Point shall be deemed to have a Firm Nominated Quantity of 1kWh (for each Firm Capacity booking) and all other Shippers with an Exit Point Registration at the Exit Point shall have a deemed Interruptible Nominated Quantity of 1kWh.

- 3.5.3 The Transporter shall not make Allocations in respect of the Lisburn Exit Point pursuant to this Code.
- 3.6 **Change to the Initial Allocation at a Shared Exit Point after it is made**
- 3.6.1 Any Shippers who offtake Natural Gas from a Shared Exit Point may agree between themselves on, and request a different allocation from the Initial Allocation at that Shared Exit Point (but not between Shared Exit Points and not between Firm and Interruptible Allocated Quantities) in respect of their aggregate Allocated Quantity of Natural Gas for D (a "**Reallocation**").
- 3.6.2 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 respect of each Day unless the Exit Quantity is adjusted in accordance with Section 9 in which case a further Reallocation may be requested.
- 3.6.3 A Reallocation shall be accepted by the Transporter only if it is satisfied that the aggregate Exit Quantity of Natural Gas which would be allocated to such affected Shippers if Section 3.6.1 was applied, is equal to the quantity of Natural Gas which the affected Shippers have requested be reallocated.
- 3.6.4 A Reallocation accepted in accordance with Section 3.6.3, shall, subject to Section 9, become a Final Allocation.
- 3.6.5 Where a Shipper has Exit Allocations pursuant to more than one Firm Capacity booking at the same Exit Point the Shipper may reallocate at the Exit Point as between the Firm Capacity bookings and the provisions of Section 3.6.1 to 3.6.4 (inclusive) shall apply mutatis mutandis to any such reallocation.
- 3.7 **Change to the Initial Allocation Methodology at a Shared Exit Point before it is made**
- 3.7.1 Any Shippers may enter into an agreement with each other providing for the basis upon which the Exit Quantity at a Shared Exit Point shall be allocated amongst themselves after any Gas Flow Day and shall include a summary of such agreement to the Transporter in the Prescribed Form containing the information set out in Section 3.7.3 (a "**Shippers' Allocation Arrangement**").
- 3.7.2 The Transporter shall, subject to Section 3.7.3, allocate the Exit Quantity in respect of a Shared Exit Point in accordance with the Shippers' Allocation Arrangement.

- 3.7.3 A Shippers' Allocation Arrangement shall:
- (a) be a summary of an agreement which has, as parties to it, all and only those Shippers which have an Exit Point Registration in respect of the Exit Point in relation to which the relevant Shippers wish to agree an alternative allocation;
 - (b) be provided to the Transporter not later than twenty (20) Business Days before the Day in respect of which the relevant Shippers wish to agree an alternative allocation;
 - (c) be amended not more than three (3) times in any Gas Year other than to the extent necessary to comply with Section 3.7.3.(a); and
 - (d) provide for the allocation of a quantity of Natural Gas in respect of a Day equal to the Exit Quantity in respect of the Shared Exit Point by one of the following methods:
 - (i) the allocation of a stated percentage of the Exit Quantity in respect of the Shared Exit Point to each party to the agreement to which the Shippers' Allocation Arrangement relates such that 100% is allocated;
 - (ii) the allocation of a stated quantity, firstly to one party to the agreement to which the Shippers' Allocation Arrangement relates (to the extent that the Exit Quantity in respect of the Shared Exit Point exceeds that quantity), secondly to another party to the agreement to which the Shippers' Allocation Arrangement relates (to the extent that the Exit Quantity in respect of the Shared Exit Point exceeds that quantity) and so on with all of any balance being allocated to a specified Shipper; or
 - (iii) the allocation of a quantity, firstly equal to a Shipper's Aggregate Nominated Quantity (to the extent that the Exit Quantity in respect of the Shared Exit Point exceeds that quantity), secondly equal to a Shipper's Aggregate Nominated Quantity (to the extent that the Exit Quantity in respect of the Shared Exit Point exceeds that quantity) and so on with all of any balance being allocated to a specified Shipper.
- 3.7.4 Without prejudice to the Shippers right to request are allocation at the Exit Point in accordance with Section 3.6.5 a Shipper with more than one Firm Capacity Booking at the same Exit Point may not submit a Shipper's Allocation Arrangement at that Exit Point, and the Transporter shall reject any such Shippers' Allocation Arrangement submitted.

3.8 Allocation at a Virtual Exit Point

3.8.1 The Initial Allocation and Final Allocation of Natural Gas in respect of any Gas Flow Day at a Virtual Exit Point shall be made in accordance with this Section 3.8.

3.8.2 The Initial Virtual Exit Allocation in respect of a Shipper at the Virtual Exit Point (Carrickfergus) in respect of a Day shall be equal to the Shipper’s corresponding Virtual Entry Allocation at the South-North Entry Point in respect of that Gas Flow Day.

3.8.3 The Shipper’s Initial Virtual Exit Allocation at the Virtual Exit Point (South-North) shall be calculated as follows::

$$SQ = Q \times \frac{SNQ}{ANQ}$$

where

SQ = the quantity of Natural Gas Allocated to a Shipper on the Gas Flow Day at the Virtual Exit Point as a VRF Allocated Quantity.

Q = the Virtual Exit Quantity (South-North).

SNQ = the Shipper’s Interruptible VRF Nominated Quantity in respect of the Gas Flow Day at the Virtual Exit Point (South-North).

ANQ = the aggregate of all Shipper’s Interruptible VRF Nominated Quantities at the Virtual Exit Point (South-North) in respect of that Day.

3.8.4 Subject to clause 3.8.5 the Shipper’s Final VRF Exit Allocation at the Virtual Exit Point (Carrickfergus) shall be equal to the Shipper’s Initial Virtual Exit Allocation in respect of the Day.

- 3.8.5 The Transporter may in the event of any error or in the event of any change in applicable Virtual Exit Quantity issue a revised Interruptible VRF Exit Allocations at 16:00 on D + 5. The Shipper shall not be entitled to request Reallocation at a Virtual Exit Point.

3.9 Allocation at the Lisburn Exit Point

- 3.9.1 The Lisburn Exit Point forms part of the Greater Belfast Exit Point from the NI Network. The Transporter will not make Allocations in respect of Natural Gas offtaken at the Lisburn Exit Point or in respect of quantities of gas delivered to the NI Network or the Transportation System for offtake at the Lisburn Exit Point. The Transporter shall notify the Upstream Operator of the aggregate quantity of Natural Gas offtaken from the Transportation System on a Gas Flow Day at the Lisburn Exit Point.

- 3.9.2 Allocations in respect of the Lisburn Exit Point will not be made pursuant to this Code.

- 3.9.3 The Transporter shall calculate charges at the Lisburn Exit Point in respect of the following:

- (i) Unauthorised Flow Charges in accordance with Section 4.5.2;
- (ii) such other PS Code Charges which the Transporter may invoice pursuant to Section 12.14.2;
- (iii) Monthly Postalised Commodity Payments where the Transporter may invoice such charges pursuant to Section 12.15.2;

Where any of the aforementioned charges is required to be calculated by reference to an Exit Allocation the quantity of Natural Gas metered as offtaken at the Lisburn Exit Point shall be deemed to be an allocation for such purposes.

The Transporter shall invoice Phoenix Distribution in respect of such charges in accordance with Section 12.

- 3.9.4 Phoenix Distribution shall be liable to pay to the Transporter:

- (i) all amounts calculated by the Transporter pursuant to Section 3.8.3; and
- (ii) all amounts payable in respect of unauthorised flow charges calculated by the Upstream Operator and notified to the Transporter pursuant to Section 6.17.

4. **BALANCING AND SCHEDULING CHARGES**

4.1 **Introduction and Definitions**

4.1.1 Each Shipper shall, for each Gas Flow Day, use all reasonable endeavours to ensure:

(a) that the aggregate of such Shipper's Firm and Interruptible Entry Allocations made by reference to a Firm or Interruptible Nomination is equal to the aggregate of the Shipper's Firm and Interruptible Exit Allocations in respect of the Exit Point made by reference to the same Firm or Interruptible Nomination (or Renomination) as the case may be; and

(b) that the Shipper's VRF Entry Allocation is equal to the Shipper's VRF Exit Allocation made by reference to the same Interruptible VRF Nomination.

4.1.2 The Transporter shall use reasonable endeavours to ensure the physical balance of the Transportation System.

4.1.3 A common daily price (the "**Daily Gas Price**") will apply for the NI Network and shall be:

(a) Firstly equal to the System Average Price (as defined in the GB Uniform Network Code) on the relevant Day

(b) secondly, where for any Day the System Average Price is not available, the Daily Gas Price for that Day shall be equal to the arithmetic mean of the System Average Price for each of the seven (7) preceding Days; and

(c) lastly, where for any Day for any reason the Daily Gas Price is not available under section 4.1.3 (a) or cannot be calculated under section 4.1.3(b) (c), or if it is disputed, then the Daily Gas Price for that Day shall be such alternative price as the Transporter may reasonably determine

4.1.4 All Shippers transporting Natural Gas on the Transportation System will be cashed out at the Daily Gas Price.

4.1.5 "**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:

(i) the aggregate of the Final Entry Allocations of a Shipper made by reference to a Firm or Interruptible Nomination or Renomination is less than the aggregate of the Final Exit

Allocations of the Shipper in respect of the Exit Point made by reference to the same Nomination in respect of the Day; or

- (ii) the Final VRF Entry Allocation of a Shipper is less than or equal to the corresponding Final VRF Exit Allocation in respect of the Day;
- (b) a "**Positive Balance**" is where:
 - (i) the aggregate of the Final Entry Allocations of a Shipper made by reference to Firm or Interruptible Nomination exceeds the aggregate of the Final Exit Allocations of the Shipper made by reference to the same Firm or Interruptible Nominations in respect of that Exit Point on any Day; or
 - (ii) where the Final VRF Entry Allocation of a Shipper exceeds the Final VRF Exit Allocation with respect to the Shipper on any Day.
- (c) a "**Balance**" is either a Negative Balance or a Positive Balance (as the case may be);
- (d) where a Shipper supplies an Exit Point from more than one Entry Point on a Day:
 - (i) the Shipper will have more than one Balance in relation to that Exit Point;
 - (ii) each Balance shall be treated individually for the purpose of calculating Balancing Charges, and Balancing Charges in respect of each Balance shall be shown separately on a Shipper's CC Invoice in accordance with Section 12;
 - (iii) the relevant Exit Point Tolerance for the Exit Point, as calculated in accordance with Section 4.2 shall be applied separately in relation to each Balance; and
 - (iv) a Shipper's individual Balances shall not be aggregated or netted off.

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**"):

$$\text{Exit Point Tolerance} = \frac{100}{\text{TC}_{\text{vm}}} \times (a + b + c + d)$$

where:

$a = (C_{vm} \times C_f \text{ for } Un1)$

$b = (C_{vm} \times C_f \text{ for } Un2)$

$c = (C_{vm} \times C_f \text{ for } Un3)$

$d = (C_{vm} \times C_f \text{ for } Un4)$

$C_{vm} =$ 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;

$TC_{vm} =$ aggregate of each C_{vm} of each Downstream Load Category;

$Un =$ the number identifying the Downstream Load Category listed in column (1) of the table below;

$C_f =$ Downstream Load Category weighting listed in column (3) of the table below.

Exit Point Tolerance Table

(1)	(2)	(3)
Number identifying Downstream Load Category	Downstream Load Category	Downstream Load Category weighting
1	Power generation (regardless of annual consumption)	3%
2	Loads $\geq 1,465,416,000$ kWh/annum	3%
3	Load $< 1,465,416,000$ kWh/annum and $\geq 733,000$ kWh/annum	10%
4	Loads $< 733,000$ kWh/annum	20%
5	Virtual Exit Point	0%

4.2.2 The Transporter shall, within ten (10) Business Days of receiving a revised Downstream Load Statement in respect of an Exit Point in accordance with Section 17.8, recalculate the relevant Exit Point Tolerance in accordance with Section 4.2.1.

4.2.3 If a Shipper's Positive Balance, or Negative Balance, in respect of a Day exceeds such Shippers applicable Exit Point Tolerance, the Shipper may request the Transporter to determine the reason for such excess and the Transporter shall use reasonable endeavours to determine the reason therefor.

If the Transporter determines that such excess was not attributable in whole or in part to any act, default or omission of the Shipper the Shipper's Exit Point Tolerance in respect of the Day shall be increased to the extent the Transporter considers appropriate such that the amount of the charge payable by or to such Shipper in respect of the excess (or that part of the excess) which was not attributable to any act, fault or omission of the Shipper shall be calculated at the Daily Gas Price".

4.3 **Balancing Charges**

4.3.1 On any Day on which a Shipper has a Positive Balance a charge shall, subject to Section 6.13.2, be payable to it of the aggregate of the value of:

- (a) an amount of Balancing Gas up to or equal to the Exit Point Tolerance calculated at the Daily Gas Price; and
- (b) any amount of Balancing Gas exceeding the Exit Point Tolerance calculated at the lower of the Daily Gas Price multiplied by 0.7 and the System Marginal Sell Price on the relevant Day (as defined in the GB Network Code).

4.3.2 On any Day on which a Shipper has a Negative Balance it shall, subject to Section 6.13.2, pay an amount equal to the aggregate of the value of:

- (a) an amount of Balancing Gas up to or equal to the Exit Point Tolerance calculated at the Daily Gas Price; and
- (b) any amount of Balancing Gas exceeding the Exit Point Tolerance calculated at the higher of the Daily Gas Price multiplied by 1.5 and the System Marginal Buy Price on the relevant Day (as defined in the GB Network Code)

4.3.3 This section 4.3.3 shall only apply with effect from such date (being no earlier than 1 April 2009) as the Authority may notify to The Transporter. If a Shipper has a Negative Balance and/or Positive Balance which exceeds its Exit Point Tolerance either on four (4) or more consecutive Days or on any six (6) Days in any Month, the Transporter shall reduce its Exit Point Tolerance by one half, until such time as the Shipper has avoided a Negative Balance and/or Positive Balance for five (5) consecutive Days at which point

its Exit Point Tolerance shall be reinstated at the original level. This reduction of a Shipper's Exit Point Tolerance, pursuant to this section 4.3.3, will occur only once in any particular Month.

4.4 Scheduling Charges

4.4.1 A scheduling charge (a "**Scheduling Charge**") may be payable by a Shipper in respect of an Exit Point as set out below.

4.4.2 If a Shipper's Final Exit Allocation at an Exit Point on any Day is more or less than the Aggregate Nominated Quantity of such Shipper in respect of a Nomination or Renomination at an Exit Point on that Day by an amount exceeding the applicable Exit Point Tolerance, the Transporter shall impose a Scheduling Charge calculated as follows:

$$\text{Scheduling Charge} = (5\% \times \text{Daily Gas Price}) \times (\text{QAM} - \text{Z})$$

where:

QAM = the amount by which the quantity of Natural Gas Allocated to a Shipper by reference to any Firm or Interruptible Nomination at that Exit Point is more, or less than, the quantity of Natural Gas Nominated by such Shipper for offtake from such Exit Point; and

Z = a quantity equal to a Shipper's Aggregate Nominated Quantity multiplied by the Exit Point Tolerance.

4.5 Unauthorised Flow Charge

4.5.1 An Unauthorised Flow Charge may be payable by any Shipper submitting a Nomination in respect of an Exit Point or an Entry Point to which a Flow Order relates whether or not the Shipper had submitted a Nomination before the relevant Flow Order was issued.

4.5.2 If a Flow Order is issued in relation to a Reduced Firm Capacity Day, a Reduced Interruptible Capacity Day, or an Emergency and a Shipper's Firm Allocated Quantity or a Shipper's Interruptible Allocated Quantity as the case may be in respect of an Exit Point exceeds its Firm Nominated Quantity or its Interruptible Nominated Quantity as the case may be in respect of that Exit Point (as it may be reduced by a Flow Order from time to time) by 3% or more the Transporter shall, subject to 4.5.1, impose an Unauthorised Flow Charge calculated in accordance with the following:

"UFC" = the value which shall be calculated for any day in question in respect of Shippers in accordance with the following formula:

$$\frac{\text{FPCapC}_t \times 10 \times \text{UF}}{365}$$

"UF" = the amount, if any, by which the Firm Allocated Quantity or Interruptible Allocated Quantity as the case may be, in respect of an Exit Point for Shippers, in respect of any Reduced Firm Capacity Day or Reduced Interruptible Capacity Day, or a Reduced Profile Day or an Emergency and in respect of which the Transporter has issued a Flow Order, exceeds its Firm Nominated Quantity or Interruptible Nominated Quantity as the case may be in respect of that Exit Point and/or Entry Point (as it may be reduced by a Flow Order from time to time) by 3% or more of such Firm Nominated Quantity or Interruptible Nominated Quantity as the case may be.

FPCapC_t as defined in condition 2A.2.5.2 of the Transporters Licence for the Conveyance of Gas in Northern Ireland Issued on 13th February 2002 as modified from time to time.

PROVIDED ALWAYS (1) that for the purpose of calculating any Unauthorised Flow Charges in respect of the Lisburn Exit Point as contemplated by section 6.16.4 all references in the above formula to the "Firm Allocated Quantity" or "Interruptible Allocated Quantity" as the case may be shall be deemed to be a reference to the quantity metered as offtaken at the Lisburn Exit Point on the relevant Day and all references to the Firm Nominated Quantity or Interruptible Nominated Quantity as the case may be in the above formula shall be deemed to be references to the quantity specified in the applicable Flow Order.

- 4.5.3 Where a Shipper has capacity bookings (with different Capacity Booking References) at an Exit Point a Flow Order may affect the Shipper's Nominations pursuant to one or other of the capacity bookings without necessarily affecting the other, in which case the provisions of this Section 4.5 shall be applied solely with respect to the Nomination at the Exit Point as made pursuant to the capacity booking affected by such Flow Order.
- 4.5.4 If a Shipper incurs an Unauthorised Flow Charge pursuant to Section 4.5.2 in respect of Natural Gas offtaken at an Exit Point on a Gas Flow Day and also incurs an unauthorised flow charge calculated pursuant to Section 6.17 by reference to the quantity of Natural Gas allocated as offtaken at the same Exit Point on the same Gas Flow Day, then the Shipper shall be liable to pay the greater of the Unauthorised Flow Charge calculated pursuant to Section 4.5.2 or the unauthorised flow charge calculated pursuant to Section 6.17 but not both.

5. **BALANCING AND SHRINKAGE GAS**

5.1 **Definition**

"Shrinkage Gas" means Natural Gas, of any amount, which is lost or otherwise unaccounted for, from the Transportation System or any part of the Transportation System.

5.2 **Balancing Gas**

5.2.1 The Transporter may in conjunction with the Upstream Operator and in accordance with the NINOA procure the purchase of or procure the disposal of gas reasonably required to achieve the physical balance of the Transportation System and/ or gas reasonably required to achieve the physical balance of the NI Network or any localised part thereof ("**Balancing Gas**") including that which is considered reasonably necessary to provide gas to make up Shrinkage Gas provided however nothing herein shall prevent the Transporter from time to time purchasing or procuring the purchase of or disposing or procuring the disposal of such gas as may be reasonably necessary with a view to achieving a physical balance of gas in respect of the Transportation System.

5.2.2 The Transporter shall use reasonable endeavours to procure the purchase and disposal of Balancing Gas upon the most competitive terms and conditions reasonably available.

5.3 **Postalised Network Disbursement Procedure and BGE (NI) Postalised Network Disbursement Bank Account**

5.3.1 The Transporter shall procure the set up and operation of a separate bank account (the "**BGE (NI) Postalised Network Disbursement Bank Account**") and shall procure the administration of the BGE (NI) Postalised Network Disbursement Bank Account in conjunction with the administration of the PTL Postalised Network Disbursement Bank Account in accordance with a procedure (the "**Postalised Network Disbursement Procedure**") established pursuant to the NINOA.

- (a) The Transporter shall make arrangements to have credited to the BGE (NI) Postalised Network Disbursement Bank Account
 - (i) all Balancing Charges, Scheduling Charges and Unauthorised Flow Charges paid by each Shipper pursuant to this Code;
 - (ii) all monies received by the Transporter from the sale of Balancing Gas
 - (iii) monies received from a Shipper in respect of the costs and expenses of the Verifying Accountant in accordance with Section 6.13.7(b)(ii);
 - (iv) monies received from Shippers at the Lisburn Exit Point in respect of unauthorised flow charges as referred to in Section 6.17 and

- any other charges received by the Transporter from Shippers as a result of invoices issued pursuant to Section 12.14.2;
- (v) Disbursement Amounts received from Shippers;
 - (vi) all monies received from the Upstream Operator in accordance with Postalised Network Disbursement Procedure, for the purpose of balancing the BGE (NI) Postalised Network Disbursement Bank Account;
 - (vii) any interest received in respect of payments required to be paid into the BGE (NI) Postalised Network Disbursement Bank Account; and
 - (viii) any other monies which the Transporter reasonably determines should be credited thereto.
- (b) The Transporter shall make arrangements to have debited from the BGE (NI) Postalised Network Disbursement Bank Account:
- (i) all Balancing Charges payable to each Shipper pursuant to this Code;
 - (ii) all monies payable by the Transporter for the purchase of Balancing Gas;
 - (iii) all costs and expenses of the Verifying Accountant in accordance with Section 6.13.6;
 - (iv) all monies paid by the Transporter pursuant to Section 6.13.7(a);
 - (v) all costs of administration of the BGE (NI) Postalised Network Disbursement Bank Account and/or administration of the Postalised Network Disbursement Procedure;
 - (vi) any interest payable in respect of the BGE (NI) Postalised Network Disbursement Bank Account or in respect of amounts to be discharged therefrom;
 - (vii) all monies payable to the Upstream Operator in accordance with the Postalised Network Disbursement Procedure for the purpose of balancing the PTL Postalised Network Disbursement Bank Account; and
 - (viii) any other monies which the Transporter reasonably determines should be so debited.
- (c) The Postalised Network Disbursement Procedure shall include provisions whereby the Disbursement Amount payable to or by each shipper on the NI Network (including Shippers) shall be calculated.

5.4 Provision of Information Relating to Balancing Gas and Shrinkage Gas

5.4.1 The Transporter shall notify each Shipper, after each Gas Year, in the Network Forecast Statement of:

- (a) the quantity and cost of the Balancing Gas purchased or sold in that Gas Year;
- (b) its estimate, acting as an RPO, of what proportion of such Balancing Gas was Shrinkage Gas; and
- (c) its estimate, acting as an RPO, of the level of Shrinkage Gas in the next Gas Year.

5.4.2 The Transporter shall notify each Shipper after each Month of the quantity, cost and date of each sale and purchase of Balancing Gas on the NI Network in that Month.

5.5 Shipping Balancing Gas

5.5.1 Notwithstanding any other provision of this Code, the Transporter may in respect of any Balancing Gas bought or sold in respect of the Transportation System:

- (a) Submit a Nomination and/or Renomination at an Entry Point or any Exit Point;
- (b) be deemed to have received an Initial Allocation and Final Allocation; and
- (c) be liable for or make claims for Off-Spec Gas or Non-Compliant Gas

in accordance with the relevant Section of this Code as though the Transporter was a Shipper, but solely for the purposes of these Sections. For the avoidance of doubt, the Transporter will not be liable for PS Transmission Amounts or PS Code Charges for gas nominated pursuant to this Section 5.5.

6. **CAPACITY REDUCTION AND EMERGENCIES**

6.1 **Introduction and Definitions**

6.1.1 This Section 6 relates to the declaration of:

- (a) Reduced Profile Days, Reduced Firm Capacity Days and Reduced Interruptible Capacity Days in respect of the Transportation System and
- (b) Emergencies.

6.1.2 For the purposes of this Code:

- (a) "**Flow Order**" means an order issued by the Transporter to Shippers on, or in anticipation of, a Reduced Profile Day, Reduced Firm Capacity Day or Reduced Interruptible Capacity Day instructing those Shippers in accordance with this Section 6, or an order modifying an earlier such order;
- (b) "**Reduced Firm Capacity Day**" means a Day, declared by the Transporter in a Flow Order, on which a Shipper's Firm Nominated Quantities in respect of an Exit Point shall be reduced or limited in accordance with Section 6.5;
- (c) "**Reduced Interruptible Capacity Day**" means a Day, declared by the Transporter in a Flow Order, on which a Shipper's Interruptible Nominated Quantities in respect of an Exit Point shall be reduced or limited in accordance with Section 6.3;
- (d) "**Reduced Profile Day**" means a Day, declared by the Transporter in a Flow Order, on which a Shipper's Daily Profiles in respect of an Exit Point shall be reduced or limited in accordance with Section 6.2;

6.1.3 Shippers agree and acknowledge that the Transporter shall notify the Upstream Operator and any Connected System Operator of any Flow Orders issued.

6.1.4 Shippers further agree and acknowledge that a Reduced Firm Capacity Day, a Reduced Interruptible Capacity Day and/or a Reduced Profile Day may arise for a number of reasons including as a result of issues at an Entry Point in which case a Flow Order may be addressed to Shippers which have specified the affected Entry Point in the Firm Nomination or Interruptible Nominations or Interruptible VRF Nomination (as the case may be).

6.2 **Reduced Profile Day**

6.2.1 The Transporter shall declare a Reduced Profile Day in respect of:

- (a) an Exit Point on the Transportation System if, on any Day, there is, or the Transporter anticipates, as an RPO, that there will be, insufficient flexibility on the Transportation System or any localised part thereof

to accommodate a Shipper's Daily Profiles at the Exit Point (an "**Exit Point Profile Shortfall**"); or

- (b) all Exit Points on the Transportation System if, on any Day, there is, or the Transporter anticipates, as an RPO, that there will be, insufficient flexibility on the Transportation System or any localised part thereof to accommodate any Shipper's Daily Profiles at all Exit Points (a "**System Profile Shortfall**")

(such Exit Point or Exit Points being "**Profile Reduced Exit Points**").

6.2.2 The Transporter shall declare a Reduced Profile Day by issuing a Flow Order to each Shipper which has an Exit Point Registration in respect of a Profile Reduced Exit Point as set out below.

6.2.3 If there is an Exit Point Profile Shortfall, such Flow Order shall reduce the MHQ in respect of each Shipper with an Exit Point Registration in respect of the Exit Point pro rata to the MHQs of the Shipper(s) at the Exit Point by an amount equal to the Exit Point Profile Shortfall.

6.2.4 If there is a System Profile Shortfall, such Flow Order shall reduce the Natural Gas which shall be available for offtake in each hour in a Day at all Profile Reduced Exit Points by an amount equal to the Exit Point Profile Shortfall in the following order of priority:

- (a) firstly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Profile Reduced Exit Point is supplied to power generation consumers;
- (b) secondly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Profile Reduced Exit Point is supplied to downstream consumers whose loads are greater than or equal to 1,465,416,000 kWh/annum and are not power generation consumers;
- (c) thirdly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Profile Reduced Exit Point is supplied to downstream consumers whose loads are greater than or equal to 733,000 kWh/annum but less than 1,465,416,000 kWh/annum; and
- (d) lastly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Profile Reduced Exit Point is supplied to downstream consumers whose loads are less than 733,000 kWh/annum,

(known as the "**Priority Order**" where power generation consumers are given the lowest priority and consumers whose loads are equal to or less than 733,000 kWh/annum are given the highest priority) so that if there is more

than one Profile Reduced Exit Point in any such category, quantities in respect of the Profile Reduced Exit Points shall be reduced pro rata to the quantities in the Downstream Load Statements relating to those Exit Points.

6.2.5 A Flow Order in respect of a Reduced Profile Day shall not limit the quantity of Natural Gas which may be so offtaken to a level below a Uniform Offtake Rate.

6.3 Reduced Interruptible Capacity Day

6.3.1 The Transporter shall declare a Reduced Interruptible Capacity Day in respect of any Exit Point in respect of a Day on which it anticipates, as an RPO, that it cannot accommodate all Shippers' Interruptible Nominated Quantities in respect of that Exit Point (including for avoidance of doubt as a result of issues associated with a relevant Entry Point).

6.3.2 The Transporter shall declare a Reduced Interruptible Capacity Day by issuing a Flow Order to those Shippers which have an Exit Point Registration in respect of the Exit Point to which it relates.

6.3.3 A Flow Order in respect of a Reduced Interruptible Capacity Day:

- (a) shall reduce the Interruptible Nominated Quantities of all Shippers in respect of an Exit Point by an amount by which the aggregate of all Shippers' Interruptible Nominated Quantities in respect of the Exit Point exceeds the Available Interruptible Capacity in respect of that Exit Point pro rata to the Interruptible Nominated Quantities of such Shippers prevailing at the time of such Flow Order;
- (b) shall require that a Shipper which has not submitted a Nomination in respect of Interruptible Nominated Quantities in respect of the Day to which the Flow Order relates before the Flow Order was issued does not submit any Nomination in respect of an Interruptible Nominated Quantity on that Day in respect of the affected Exit Point; and
- (c) shall, where a reduction affects more than one Exit Point, be applied pro rata to all Shippers' Interruptible Nominated Quantities at all affected Exit Points.
- (d) shall where a reduction affects an Exit Point in respect of which a Shipper has submitted more than one Interruptible Nomination be applied pro rata to the Shipper's Interruptible Nominated Quantities pursuant to each such Interruptible Nomination.

6.4 **Not Used**

6.5 Reduced Firm Capacity Day

6.5.1 The Transporter shall declare a Reduced Firm Capacity Day in respect of:

- (a) an Exit Point on the Transportation System if, on any Day, the aggregate of all Shippers' Firm Nominated Quantities in respect of the Exit Point exceed the Available Firm Capacity in respect of that Exit Point, or if the Transporter anticipates, as an RPO, that there will be such a shortfall (an "**Exit Point Capacity Shortfall**"); or
- (b) subject to Section 6.1.4 all Exit Points on the Transportation System if, on any Day, the aggregate of all Shippers' Firm Nominated Quantities in respect of all Exit Points exceeds the Available Firm Capacity in respect of the Transportation System, [or if the Transporter anticipates, as an RPO, that there will be such a shortfall where, for the purposes of this Section 6.5.1(b) only, Available Firm Capacity shall be reduced to the extent that the Transporter does not accept gas in accordance with Section 7.3.2 (a)] (a "**System Capacity Shortfall**"),
- (c) in respect of all Exit Points in respect of which Natural Gas nominated for offtake at such Exit Points is delivered or intended to be delivered at a particular Entry Point if, on any Day, the aggregate of all Shipper's Firm Nominated Quantities to be delivered at that Entry Point exceeds the Available Firm Capacity in respect of the Entry Point, or if the Transporter anticipates, as an RPO, that there will be such a shortfall where, for the purpose of this Section 6.5.1(c) only Available Firm Capacity shall be reduced to the extent that the Transporter does not accept Natural Gas pursuant to Section 7.3.2 or the Transportation System can only accept reduced deliveries of Natural Gas at an Entry Point.

(such Exit Point or Exit Points being "**Capacity Reduced Exit Points**").

6.5.2 The Transporter shall declare a Reduced Firm Capacity Day by issuing a Flow Order to each Shipper which has an Exit Point Registration in respect of a Capacity Reduced Exit Point as set out below.

6.5.3 If there is an Exit Point Capacity Shortfall, such Flow Order shall reduce:

- (a) subject to 6.1.4 the aggregate MDQs of Shippers with Exit Point Registrations in respect of the Capacity Reduced Exit Point and pro rata as between a Shipper's Firm Capacity bookings at the Exit Point by an amount equal to the Exit Point Capacity Shortfall by applying such reduction pro rata to the MDQs of such Shipper(s), or if there is one Shipper with one Firm Capacity booking, reduce its MDQ at the Capacity Reduced Exit Point by an amount equal the Exit Point Capacity Shortfall; and
- (b) such Shippers' Firm Nominated Quantities such that their Firm Nominated Quantities do not exceed their reduced MDQs, or if there is one Shipper with one Firm Capacity booking, reduce its Firm

Nominated Quantity such that its Firm Nominated Quantity does not exceed its reduced MDQ.

6.5.4 If there is a System Capacity Shortfall such Flow Order shall:

- (a) reduce the quantity of Natural Gas available for offtake from the Transportation System by an amount equal to the System Capacity Shortfall by reducing the Available Firm Capacity at each Capacity Reduced Exit Point in the following order of priority:
 - (i) firstly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Capacity Reduced Exit Point is supplied to power generation consumers;
 - (ii) secondly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Capacity Reduced Exit Point is supplied to downstream consumers whose loads are greater than or equal to 1,465,416,000 kWh/annum and are not power generation consumers;
 - (iii) thirdly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Capacity Reduced Exit Point is supplied to downstream consumers whose loads are greater than or equal to 733,000 kWh/annum but less than 1,465,416,000 kWh/annum; and
 - (iv) lastly, to the extent that the relevant Downstream Load Statement confirms that Natural Gas made available for offtake from a Capacity Reduced Exit Point is supplied to downstream consumers whose loads are less than 733,000 kWh/annum,

so that if there is more than one Capacity Reduced Exit Point in any such category, quantities in respect of the Capacity Reduced Exit Points shall be reduced pro rata to the quantities in the Downstream Load Statements relating to those Exit Points; and

- (b) reduce, in accordance with Section 6.5.3, applied mutatis mutandis, the aggregate MDQs and Firm Nominated Quantities of any Shipper with an Exit Point Registration in respect of a Capacity Reduced Exit Point which has been scaled back in accordance with (a) above.

6.6 **Flow Order**

6.6.1 A Flow Order may be issued, in accordance with Section 6.2.2, 6.3.2 and/or 6.5.2, as a result of the Available Firm Capacity or the Available Interruptible Capacity being affected by, inter alia, the occurrence of an Emergency, the occurrence of a Maintenance Day or the occurrence of an event of Force Majeure.

6.6.2 A Shipper shall, notwithstanding any other provision of this Code but without prejudice to the generality of Section 2.2.3, comply with a Flow Order within five (5) hours if it is issued on D-1 and two (2) hours if it is issued on D.

6.6.3 Where the Transporter reasonably believes;

(a) that Natural Gas is being delivered to or offtaken from the Transportation System by a Shipper at a rate which exceeds, in the case of a Flow Order in respect of:

(i) a Reduced Profile Day, the prescribed level of MHQ; or

(ii) a Reduced Reserved Interruptible Capacity Day, the prescribed Interruptible Nominated Quantity; or

(iii) a Reduced Firm Capacity Day, the prescribed level of MDQ; and

(b) that the Transportation System integrity may be prejudiced as a result, or the service to other Shippers may be affected or compromised,

the Transporter may take any steps available to it to secure a reduction in the rate of, or the discontinuance of, delivery of Natural Gas to the Transportation System or the offtake of Natural Gas from the Transportation System at the Exit Point by the Shipper. The Transporter, however, acknowledges that, where a Downstream Load Statement confirms that Natural Gas made available for offtake from the Exit Point is supplied to downstream consumers whose loads are less than 733,000 kWh/day, the ability to control rates and quantities of offtake are limited and this shall be taken in account when applying this Section 6.6.3.

6.6.4 The steps referred to in Section 6.6.3 include the isolation of the relevant Exit Point but, without prejudice to any other provision of this Code, the Transporter shall endeavour not to isolate the relevant Exit Point where, in its opinion, alternative steps are available and adequate in the circumstances. In the event that an Exit Point is so isolated, the Transporter shall explain to any affected Shipper why the Exit Point was isolated.

6.6.5 The Transporter shall, where the necessity for the Flow Order has ceased, notify:

(a) any Shipper to which the Flow Order was issued of the time after which the Flow Order shall cease to apply and after which the Shippers may, subject to the provisions of this Code, submit a Renomination; and

(b) any Shipper who requests it, an explanation of why the Flow Order was issued and the circumstances which gave rise to the need for it.

6.6.6 If on any Day the aggregate of all Shippers' MDQs at a Profile Reduced Exit Point or a Capacity Reduced Exit Point exceed the aggregate quantity which

all Downstream Load Statements relating to those Exit Points state will be required on that Day, such Downstream Load Statements shall, for the purposes of applying Sections 6.2 and 6.5 only, be deemed to have stated that such excess would be required by downstream consumers at such Exit Point which is given the lowest priority in the Priority Order.

- 6.6.7 An Unauthorised Flow Charge may be payable by any Shipper submitting a Nomination in respect of a Nominated Quantity at an Exit Point to which a Flow Order relates in accordance with Section 4.5.

6.7 Emergencies

- 6.7.1 The existence of an Emergency under this Code shall be determined by the Transporter, acting as an RPO, irrespective of the cause of the Emergency, or whether the Transporter or any other person may have caused, or contributed to, the Emergency.

- 6.7.2 An emergency (an "**Emergency**"):

(a) may exist by reason of an escape, or suspected escape, of Natural Gas;
or

(b) may exist in circumstances in which, in the opinion of the Transporter:

(i) the safety of the Transportation System is significantly at risk;

(ii) the safe conveyance of Natural Gas by the Transportation System or any localised part of it is significantly at risk;

(iii) Natural Gas conveyed by the Transportation System or any localised part of it is at such a pressure or of such a quality as to constitute, when supplied to premises, a danger to life or property;

(iv) where the Transporter's ability to maintain safe pressures within the Transportation System or any localised part of it is affected or threatened by an interruption or disruption to the Transportation System, an insufficiency of deliveries of Natural Gas to the Transportation System, or by any actual or potential failure of or damage to any part of the Transportation System; or

(v) in any other circumstances reasonably believed by the Transporter to constitute an Emergency (which, for the avoidance of doubt, includes circumstances upstream of the Carrickfergus Entry Point and/or the South-North Entry Point);
and

(c) shall exist:

(i) where the Transporter declares an Emergency in co-operation with the Northern Ireland Network Emergency Co-ordinator;

- (ii) where a reduction in the quantity of Natural Gas available for offtake in respect of downstream consumers whose loads are less than 733,000 kWh/annum is applied in accordance with Sections 6.2.4(d) or 6.5.4(a)(iv).

6.7.3 An Emergency shall continue until such time as the Transporter determines that the circumstances referred to in this Section 6.7 no longer apply, that no further Emergency Steps are required, and that normal operation of the Transportation System and implementation of this Code may be resumed.

6.8 **Emergency Steps**

6.8.1 The Transporter may take or require that a Shipper takes such steps ("**Emergency Steps**") as the Transporter deems, as an RPO , to be necessary:

- (a) to avert and/or reduce the probability of, or probable scale of, an Emergency;
- (b) to overcome or contain an Emergency and/or to avert or reduce the hazard presented by it;
- (c) to restore Natural Gas supply and normal operation of the Transportation System including making additional Natural Gas available at an Entry Point; and/or
- (d) taking into account any steps that the Northern Ireland Network Emergency Co-ordinator may request the Transporter to take.

6.8.2 In view of the importance of co-ordination of Emergency Steps, a Shipper shall only take Emergency Steps pursuant to a request made by the Transporter.

6.8.3 During an Emergency each Shipper shall:

- (a) co-operate with the Transporter, to the extent within the Shipper's power (and without thereby rendering the Shipper unable to comply with any requirement to take Emergency Steps itself), so as to enable the Transporter to take Emergency Steps and in so doing comply with the Transporter's instructions and requests as soon as reasonably practicable; and
- (b) to the extent within its power, comply with the Transporter's instructions and requests to take Emergency Steps as soon as reasonably practicable.

6.8.4 The Transporter and each Shipper acknowledges that in an Emergency their interests shall be subordinated to the need to take Emergency Steps.

6.8.5 Subject to Section 12.1.4, no Emergency Step taken by the Transporter or at the request of the Transporter, by any Shipper, shall be a breach of any provision of this Code, and in particular the Transporter shall not be in breach

of its obligation to accept Natural Gas tendered for delivery to the Transportation System at an Entry Point or to make Natural Gas available for offtake at an Exit Point to the extent that it is as a result of any such Emergency Step so taken.

6.8.6 The Transporter may at its sole discretion on notice to Shippers amend or cancel any Emergency Step..

6.9 **Emergency Contacts**

6.9.1 Each Shipper shall provide to the Transporter:

(a) a single telephone and facsimile number at which the Transporter may contact, twenty four (24) hours a Day and on each Day of a Gas Year, in an Emergency for any purpose pursuant to this Section 6:

(i) a representative of the Shipper; and

(ii) a representative of any End User at an Exit Point in respect of which a Shipper has an Exit Point Registration; and

(b) the name(s), title(s) and addresses of such representatives.

6.9.2 The details required under Section 6.9.1 shall be provided by an applicant Shipper before becoming a Shipper and where a Shipper submits an application for an Exit Point Registration in respect of an Exit Point and shall at all times be maintained up to date. A Shipper shall notify the Transporter of any change in such details promptly and, where possible, in advance of such change.

6.9.3 Each representative referred to in Section 6.9.1(a) above shall be a person having appropriate authority and responsibilities within a Shipper's or an End User's organisation (as appropriate) to act as the primary contact for the Transporter in the event of an Emergency.

6.9.4 If a Shipper does not provide such details, or cannot be contacted when required at the contact point referred to in Section 6.9.1, the Transporter may, having taken any steps to contact the relevant Shipper or End User as would an RPO and without prejudice to the generality of this Section 6, discontinue the offtake by such Shipper of Natural Gas. In such circumstances, the Transporter shall not be liable for and the Shipper shall indemnify the Transporter in respect of, any costs incurred in connection with such discontinued offtake of Natural Gas.

6.10 **The Transporter to inform Shippers of Emergency**

6.10.1 Where an Emergency arises, the Transporter shall, as quickly as is reasonably practical, inform the Shippers which have Exit Point Registrations in respect of the affected Exit Point of the commencement and, so far as practicable, the nature, extent and expected duration of the Emergency. The Transporter shall, so far as practicable, thereafter keep such Shippers informed of any material

changes and developments in respect of the Emergency and shall inform such Shippers as soon as reasonably practicable when the Transporter considers the Emergency is no longer continuing.

6.11 Entry Control in an Emergency

6.11.1 In an Emergency the Transporter may take steps to increase or decrease the delivery and/or rate of flow of Natural Gas at an Entry Point by issuing appropriate instructions to the Shippers, who in turn shall nominate on their Upstream Shippers or Third Party Shippers as necessary and/or as requested by the Transporter to the extent practical but at all times using their reasonable endeavours.

6.12 Exit Control in an Emergency

6.12.1 Where Emergency Steps include the reduction or discontinuance of the offtake of Natural Gas at an Exit Point, the Transporter shall first seek voluntary reductions by Shippers and if the Transporter cannot achieve the requisite reduction voluntarily it shall endeavour to reduce offtake from the Transportation System, in so far as is practicable, in the Priority Order.

6.12.2 The Transporter shall endeavour, in so far as it is practicable, to treat each Exit Point equally within each Downstream Load Category.

6.12.3 In so reducing offtake the Transporter shall give due consideration, upon notice from a Shipper and, where practicable, so as to enable End Users to discontinue offtake in such a manner as to preserve so far as possible essential services, or to allow the End User to change to alternative fuels (where practicable).

6.12.4 Where, pursuant to the Emergency, the Transporter instructs a Shipper to give any notification or communication to an End User or supplier, the Shipper shall comply with that instruction.

6.12.5 Without prejudice to the Transporter's ability to take any Emergency Steps, the Transporter may take steps physically to isolate any Exit Point where a Shipper does not comply with any instruction given under this Section 6.

6.12.6 The order in which, following an Emergency, offtake of Natural Gas at Exit Points is restored shall, so far as is reasonably practicable, be the reverse of the Priority Order.

6.13 Consequences of Emergency

6.13.1 The Transporter shall take steps to restore Natural Gas transportation and normal operation of the Transportation System as soon as reasonably practicable after an Emergency.

6.13.2 Notwithstanding Section 4.4 and Section 4.5 respectively, the Transporter shall not impose any Scheduling Charge or Unauthorised Flow Charge in respect of any Shipper which complies with any Emergency Step (taking into account any amendment or cancellation of an Emergency Step made pursuant

to Section 6.8.6) with which it is required to comply in respect of the duration of the Emergency.

- 6.13.3 If a Shipper's compliance with any Emergency Step shall give rise to:
- (a) a Positive Balance, notwithstanding Section 4.3.1, the Shipper shall be paid an amount equal to the Daily Gas price for such Positive Balance, whether or not the Exit Point Tolerance has been exceeded; or
 - (b) a Negative Balance, notwithstanding Section 4.3.2, the Shipper shall be charged an amount equal to the Daily Gas Price for such Negative Balance, whether or not the Exit Point Tolerance has been exceeded.

6.13.4 If:

- (a) a Shipper's compliance with any Emergency Step shall give rise to a Positive Balance; and
- (b) the Shipper claims that the amount payable to it in accordance with Section 6.13.3(a) in respect of Balancing Gas is less than the price which it has paid in respect of the relevant Natural Gas (a "**Shortfall in Price**") and requests that such Shortfall in Price be verified,

the Transporter shall promptly appoint from a nationally recognised firm of Chartered Accountants, an independent chartered accountant to verify the extent to which there was a Shortfall in Price and the Shortfall in Price was suitably evidenced and to notify the Transporter of its findings (a "**Verifying Accountant**").

6.13.5 The relevant Shipper shall provide the Verifying Accountant with such access to its books and records as the Verifying Accountant may reasonably require for the purposes of making such verification after the Verifying Accountant has provided the Shipper with any reasonable confidentiality undertaking which the Shipper may have required.

6.13.6 The costs and expenses of the Verifying Accountant shall be paid by the Transporter from the BGE (NI) Postalised Network Disbursement Bank Account.

6.13.7 If the Verifying Accountant determines that the Shortfall in Price is:

- (a) more than £2,000 the Transporter shall pay the Shortfall in Price from the BGE (NI) Postalised Network Disbursement Bank Account (as though it were monies paid to purchase Balancing Gas in accordance with Section 5.3.1(b)(ii));
- (b) less than £2,000 the relevant Shipper shall:
 - (i) receive no payment in respect of the Shortfall in Price; and

- (ii) pay to the BGE (NI) Postalised Network Disbursement Bank Account an amount equal to the costs and expenses of the Verifying Accountant.

6.13.8 The Transporter and the Shippers acknowledge that during an Emergency it may be necessary for each of them to divert resources from other activities which may potentially result in a temporary impairment of their abilities subsequently to perform their respective obligations pursuant to this Code and acknowledge that any such impairment resulting from such diversion of resources may be regarded as Force Majeure for the purposes of Section 15.

6.13.9 Shippers agree and acknowledge that all Natural Gas used or lost in connection with an Emergency (including any emergency on the Upstream System) shall be treated as Shrinkage Gas.

6.14 Audit following an Emergency

6.14.1 In the event of an Emergency, an audit shall be conducted by a reputable, independent expert to determine the cause and what, if any, remedial actions may need to be taken to minimise the likelihood of such Emergency arising again.

6.14.2 A copy of such expert's report shall be provided to the Authority and to the Shippers with Exit Point Registrations in respect of any Exit Point in relation to which the Emergency occurred with, in the case of such Shippers, any parts of the report that the Transporter determines, in consultation with the Authority, is confidential withheld.

6.14.3 The cost of such audit and effecting such remedial measures shall be treated as an Unforeseen Operating Expenditure.

6.15 Emergency procedures

6.15.1 A Shipper shall co-operate with the Transporter in relation to the testing of the Transporter's emergency procedures provided that this shall not extend to a Shipper taking Emergency Steps.

6.16 The Lisburn Exit Point

6.16.1 The Transporter may issue a Flow Order or declare an Emergency at or in respect of the Lisburn Exit Point. The Transporter shall not be required to issue such Flow Orders to Shippers registered at the Lisburn Exit Point; any such Flow Order shall be issued to Phoenix Distribution.

6.16.2 The Transporter will copy the Upstream Operator on any Flow Orders or Emergency Steps issued in respect of the Lisburn Exit Point.

6.16.3 Phoenix Distribution will ensure that gas offtaken at the Lisburn Exit Point is consistent with the Flow Order or Emergency Steps.

6.16.4 In the event that the quantity of gas metered as offtaken at the Lisburn Exit Point exceeds the amount specified in the Flow Order Unauthorised Flow

Charges shall be payable. The Transporter will calculate the Unauthorised Flow Charge in accordance with the formula in Section 4.5.2 and request that the Upstream Operator invoice Phoenix Distribution in respect thereof and in addition to confirm to the Transporter that the relevant invoice has been issued.

- 6.16.5 If the Upstream Operator does not confirm to the Transporter that the invoice has issued to Phoenix Distribution for any charges payable under 6.16.4, then the Transporter may invoice these charges.

6.17 Flow Orders on the Upstream Transportation System

- 6.17.1 If the Transporter receives notice of a flow order having been issued on any part of the NI Network (other than the Transportation System) or of an emergency in respect thereof the Transporter may, at the request of the Upstream Operator provide details of Shippers Exit Allocations to the Upstream Operator in respect of the Days to which the flow order relates in order for the Upstream Operator to calculate unauthorised flow charges. For the purpose of this Section 6.17 flow order, emergency and unauthorised flow charge shall have the meaning ascribed thereto in the relevant Upstream Operators applicable code of operations. On notification by the Upstream Operator of the amount of the applicable unauthorised flow charge, the Transporter shall invoice the Shipper in respect thereof in accordance with Section 12 and the Shipper shall be liable to discharge such charges accordingly.

6.18 Connected System

- 6.18.1 The Transporter may agree with the Connected System Operator at the South-North Entry Point the Emergency procedures to be taken with respect to such Connected System and or the Transportation System in the event of an Emergency affecting the Transportation System or an emergency affecting the Connected System (as the case may be).The Transporter shall not be in breach of this Code or any obligation pursuant to this Code to the extent the Transporter takes action as may be required pursuant to any such Emergency Procedures agreed with any Connected System Operator.

7. **ENTRY REQUIREMENTS**

7.1 **Introduction**

7.1.1 This Section 7 sets out the terms upon which Natural Gas shall be delivered to the Transportation System at an Entry Point.

7.2 **Delivery at an Entry Point**

7.2.1 All Natural Gas delivered or tendered for delivery to the Transportation System an Entry Point on a Day shall be deemed to be delivered, or tendered for delivery, by those Shippers delivering Natural Gas or tendering Natural Gas for delivery on that Day to the Transportation System irrespective of any act or omission of the Transporter or any other person, including the Upstream Transporters, Upstream Operators or Connected System Operators.

7.2.2 If on a Day more than one Shipper delivers Natural Gas or tenders Natural Gas for delivery to the Transportation System at an Entry Point each Shipper delivering Natural Gas or tendering Natural Gas for delivery to the Transportation System at that Entry Point on that Day shall be treated as so delivering or tendering for delivery Natural Gas with the same delivery characteristics as the single homogenous Natural Gas stream delivered, or tendered for delivery at the Entry Point on that Day.

7.2.3 The Transporter may enter into a number of inter-operator agreements with Phoenix and/or PTL including;

- (a) the agreement (the “**Northern Ireland Network Operators Agreement**”) for the purpose of ensuring coordination and cooperation in the operation of the NI Network including inter alia:
 - (i) the matching of Shipper nominations;
 - (ii) requesting a profile of the Upstream Operator at the Carrickfergus Entry Point;
 - (iii) arrangements for the procurement of Balancing Gas in respect of the NI Network;
 - (iv) validation of the meter at the Carrickfergus Entry Point;
 - (v) the exchange of information with Phoenix and PTL;
 - (vi) arrangements for balancing the NI Network;
 - (vii) the administration of the Postalised Network Disbursement Procedure;
 - (viii) the management and operation and administration of the BGE (NI) Postalised Network Disbursement Bank Account;

- (ix) the provision of information to the Transporter pursuant to which the Transporter may issue Allocations to Shippers in accordance with Section 3; and
- (x) the provision by the Transporter to the Upstream Operator of information with respect to Shippers Exit Allocations on a Day upon which the Upstream Operator issues a flow order (as defined in the Upstream Operators Code) and notifies such flow order to the Transporter; and
- (b) the Transporter may enter into a number of inter operator agreements with the Connected System Operator at the South-North Entry Point including the agreement (the “**South-North CSA**”) for the purpose of providing for, inter alia,:
 - (i) the provision of Offtake Profile Notices at the South-North Entry Point (as referred to in Section 7.4.5);
 - (ii) validation of the Measurement Equipment at the South-North Entry Point;
 - (iii) the exchange of information;
 - (iv) provision of information (including metering information) to the Transporter pursuant to which the Transporter may determine the Entry Quantity at the South-North Entry Point and Virtual Exit Quantity at the South-North Virtual Exit Point)
 - (v) maintenance (including maintenance days);
 - (vi) emergencies.
- (c) the “**Balancing Gas Agreement**” for the purpose of ensuring coordination and cooperation with the Upstream Operator in the balancing of the NI Network including inter alia the supply of Balancing Gas for the Transportation System at an Entry Point.
- (d) The Transporter shall not be required (for itself or for the benefit of any Shipper) to secure in any inter operator agreement including the NINOA any remedy against the Upstream Operator or Connected System Operator nor to take steps to enforce any provisions of an inter operator agreement (including the NINOA and the South-North CSA).

7.3 **Gas Specification on entry**

- 7.3.1 A Shipper shall deliver or tender for delivery Natural Gas at an Entry Point which shall comply with the gas specification set out in Appendix 2 (the “**Gas Specification**”).
- 7.3.2 If Natural Gas is delivered or tendered for delivery at an Entry Point which does not comply with the Gas Specification (“**Non-Compliant Gas**”) the

Transporter may, from time to time, until such time as the Natural Gas so delivered or tendered for delivery complies with the Gas Specification, in its discretion:

- (a) refuse to accept or take such action as it considers appropriate to prevent delivery or continued delivery of all or part of such Non-Compliant Gas; or
- (b) subject to any Legal Requirement or the instruction of the Northern Ireland Network Emergency Co-ordinator accept delivery of all or part of such Non-Compliant Gas.

7.3.3 The Transporter's rights under Section 7.3.4 shall not be prejudiced if it accepts the delivery of Natural Gas which it is aware is Non-Compliant Gas.

7.3.4 Where, on any Day, Non-Compliant Gas is delivered to the Transportation System each Shipper which receives an Entry Allocation at the applicable Entry Point shall pay to the Transporter the proportion of that quantity in the Shipper's Entry Allocation on the Day bears to the aggregate quantity of Entry Allocations at that Entry Point in respect of all Shippers on the Day of the amount set out in Section 7.3.5. If Natural Gas is only Allocated to one Shipper at the affectedEntry Point on a Day it shall bear all of this amount.

7.3.5 The amount referred to above shall, subject to Section 7.3.6, be all costs and expenses reasonably incurred by the Transporter as a result of the delivery of Non-Compliant Gas, including those incurred:

- (a) in cleaning any part of the Transportation System or rectifying any other damage to it caused by the acceptance of Non-Compliant Gas;
- (b) in taking reasonable measures to secure that the Transportation System can be operated in accordance with applicable Legal Requirements or Recognised Standard notwithstanding the delivery or continued delivery of such Non-Compliant Gas; and/or
- (c) in taking any measures which are reasonably required to bring such Non-Compliant Gas within the Gas Specification.

7.3.6 The amount in Section 7.3.5 shall not exceed an amount equal to 10% of the quantity of Non-Compliant Gas which is Allocated to any Shippers on such Day at the Entry Point multiplied by the Daily Gas Price. Each Shipper agrees and acknowledges that any such amount exceeding such 10% level shall be treated as an Unforeseen Operating Expenditure.

7.3.7 When the Transporter first becomes aware that Non-Compliant Gas is being, or has been, delivered to the Transportation System at theEntry Point on any Day, the Transporter shall as soon as reasonably practicable notify the Shippers specifying:

- (a) the Day or Days on which Non-Compliant Gas was delivered to the Transportation System;
- (b) reasonable details of the respect in which the Natural Gas did not comply with the Gas Specification;
- (c) reasonable details of the costs and expenses referred to in Section 7.3.5 and the person to whom and purposes for which, they were incurred; and
- (d) the total quantity of Non-Compliant Gas.

7.3.8 No failure by the Transporter so to notify any Shipper shall affect the Transporter's rights under this Section 7.3.

7.4 **Title and Risk at Entry**

7.4.1 Title and risk in Natural Gas delivered to the Transportation System at an Entry Point by or on behalf of a Shipper shall transfer to the Transporter at the Entry Point.

7.4.2 A Shipper warrants to the Transporter:

- (a) that it shall have title to all Natural Gas which it delivers (or which is deemed delivered by such Shipper) or tenders for delivery to the Transportation System at the Entry Point; and
- (b) that all such Natural Gas at the Entry Point shall be free of any lien, charge, encumbrance or adverse claim, as to title or otherwise, including any claim for any tax, royalty or other charge in respect of the production, gathering, processing and tendering of Natural Gas arising on or before its delivery to the Transportation System.

7.4.3 A Shipper shall be liable to and indemnify, defend and hold harmless the Transporter from and against any and all Indemnified Liabilities suffered or incurred by or made or brought against the Transporter in consequence of any breach of either of the warranties in Section 7.4.2.

7.4.4 The warranty in Section 7.4.2(a) shall be treated as satisfied where the Shipper has arranged for delivery or tender for delivery of Natural Gas to the Transportation System by a person or persons who has or jointly have title at the Entry Point to such Natural Gas.

7.4.5 The Transporter may develop and make available to the Upstream Operator in relation to the Carrickfergus Entry Point and or the Connected System Operator in relation to the South-North Entry Point offtake profile notices ("**Offtake Profile Notices**") relating to the delivery of Natural Gas at the Carrickfergus Entry Point on any Day. The Transporter may enter into such agreements with the Upstream Transporters the Connected System Operator

or other parties relating to the provision of Offtake Profile Notices as the Transporter may consider appropriate.

- 7.4.6 The Transporter shall not be liable to the Shippers, or any one of them, in respect of the development and provision of any Offtake Profile Notice, or the failure to develop and/or provide any Offtake Profile Notice. The Shippers hereby waive any and all rights of action against the Transporter in respect of any loss, damage or otherwise that may be suffered by any Shipper as a result of the development and provision of any Offtake Profile Notices or the failure to provide the same in respect of rights of action expressly contained in such agreement(s) as may be developed and agreed between the Transporter and Shippers in connection therewith.

8. **EXIT REQUIREMENTS**

8.1 **Introduction and Definitions**

8.1.1 This Section 8 sets out the terms upon which a Shipper shall be entitled to offtake Natural Gas from the Transportation System at an Exit Point and the terms upon which a Shipper may virtually offtake Natural Gas from the Transportation System at a Virtual Exit Point.

8.1.2 Nothing in this Code confers on any person any entitlement to have any premises, pipeline, plant or other installation connected to the Transportation System for the purposes of offtaking Natural Gas.

8.1.3 For the purposes of this Code:

(a) an "**Exit Point**" is defined as a point at which Natural Gas is offtaken by Shippers from the Transportation System for the purpose of supplying Natural Gas to premises and shall be described in the Network Exit Parameter Schedule; and

(b) a "**Virtual Exit Point**" is defined as a point located at an Entry Point at which Natural Gas may be virtually but not physically offtaken by a Shipper(s) from the Transportation System. For the avoidance of doubt references in this Code to an Exit Point shall not be construed as reference to a Virtual Exit Point and vice versa.

8.1.4 Nothing in this Code shall prevent the Transporter from exercising any statutory and/or regulatory entitlement or discharging any statutory and/or regulatory duty whether under the Code or under any applicable legislation or directive which may involve the disconnection of or refusal to convey Natural Gas, or to allow Natural Gas to be conveyed, to any End User's Facilities.

8.1.5 At each Exit Point there shall be installed, operated and maintained an offtake point meter installation for measuring and registering the quantity of Natural Gas offtaken from the Transportation System at such Exit Point in accordance with the provisions of Section 9.

8.2 **Shippers' Offtake Provisions**

8.2.1 A Shipper shall not:

(a) vary the rate of offtake Natural Gas from any Exit Point by more than the ramp rate in respect of that Exit Point set out in the Shippers' Network Exit Parameter Schedule; or

(b) exceed the Maximum Offtake Rate in respect of any Exit Point as set out in the Shippers' Network Exit Parameter Schedule.

at a Shared Exit Point each Shipper shall co-operate with all other Shippers at the Shared Exit Point to procure compliance with this Section 8.2.

8.2.2 If a Shipper (or Shippers in aggregate at a Shared Exit Point)

- (a) offtakes at a rate which exceeds such ramp rate; or
- (b) exceeds such Maximum Offtake Rate;

the Transporter may take any steps available to it to secure a reduction in the rate of the offtake of Natural Gas from the Transportation System at the Exit Point by the Shipper(s) or discontinue it.

- 8.2.3 If the Shipper offtakes Natural Gas at an Exit Point on any Day a quantity of Natural Gas that exceeds the quantity of Natural Gas being delivered into the Transportation System by that Shipper at the Entry Point specified in the Shipper's applicable Nomination, the Transporter may take any steps available to it to secure a reduction in the rate of the offtake of Natural Gas from the Transportation System at the Exit Point by the Shipper or discontinue it.
- 8.2.4 The Transporter shall notify a Shipper, as soon as reasonably practicable, that it proposes to take, or it has taken (as appropriate), the steps referred to in Sections 8.2.2 or 8.2.3.

8.3 **Offtake Pressure**

- 8.3.1 The Transporter shall, subject to Section 8.3.10, 8.3.11 and any conditions on the availability of pressure as set out in the Network Exit Parameter Schedule, make Natural Gas available for offtake from the Transportation System at the Exit Point to a Shipper(s) at a pressure of no less than that set out in the Shippers' Network Exit Parameter Schedule in respect of each Exit Point (the "**Minimum Pressure**").
- 8.3.2 A Shipper may request that the Transporter makes all Natural Gas available for offtake from the Transportation System at any Exit Point in respect of which it has an Exit Point Registration at a pressure exceeding the Minimum Pressure ("**Enhanced Pressure**") not later than thirty five (35) Business Days before it requires the Enhanced Pressure to be available.
- 8.3.3 The Transporter shall:
 - (a) agree to provide such Enhanced Pressure on the date requested or offer to provide it as soon as practicable after such date, unless it determines, as an RPO, that it should not do so taking into account the following:
 - (i) the pressure available at the Carrickfergus Entry Point;
 - (ii) the pressure available at the South-North Entry Point;
 - (iii) the Transporter's reasonable forecast of Firm Capacity allocations at all Exit Points over the next thirty six (36) months;
 - (iv) the Transporter's reasonable forecast of Daily Profiles at all Exit Points over the next thirty six (36) months;

- (v) the physical capability of the Transportation System to accommodate pressure; and
 - (vi) the result of network analysis based on likely demand scenarios; and
 - (vii) the requirement of any other Shipper having an Exit Point Registration at a Shared Exit Point.
- (b) notify the Shipper(s) of the availability of the Enhanced Pressure within twenty five (25) Business Days of receiving the Shipper's request, including a list of conditions applicable to the availability of the Enhanced Pressure (the "**Applicable Conditions**").

8.3.4 If the Transporter:

- (a) notifies the Shipper together with any Applicable Conditions that it shall provide the Enhanced Pressure on the date requested, the Shipper shall be entitled to the Enhanced Pressure with effect from such date, in accordance with and subject to any Applicable Conditions; or
- (b) offers to provide the Shipper with the Enhanced Pressure
 - (i) at a date later than the date requested; and
 - (ii) subject to any Applicable Conditions,

the Shipper shall, within five (5) Business Days of receiving the Transporter's offer, confirm to the Transporter whether or not it requires the Enhanced Pressure on such date subject to any Applicable Conditions and, if it notifies the Transporter that it does, the Shipper shall be entitled to the Enhanced Pressure from such date in accordance with and subject to any Applicable Conditions.

8.3.5 The Shipper shall, with effect from the date on which the Enhanced Pressure is made available, pay an Enhanced Pressure charge each Month in respect of the provision of the Enhanced Pressure at an Exit Point during that Month. The charge shall be equal to any additional costs payable by the Transporter to any Upstream Transporter as a result of the Transporter providing the Enhanced Pressure calculated on a monthly basis in accordance with the following formula:

$$\text{Enhanced Pressure charge} = (\text{SAQ/TAQ}) \times \text{AC}$$

where:

AC = the additional costs reasonably incurred by the Transporter as a result of the Transporter obtaining the pressure and/or services that the Transporter determines are necessary to enable the

Transporter to provide any Shippers with Enhanced Pressure at the Exit Point;

TAQ = the total Firm Allocated Quantities and Interruptible Allocated Quantities of all Shippers at an Exit Point requiring Enhanced Pressure;

SAQ = the aggregate of any Firm and Interruptible Allocated Quantities allocated to a Shipper requesting the Enhanced Pressure at the Exit Point.

provided that where the Shippers requiring Enhanced Pressure at the Exit Point have aggregate Firm Allocated Quantities and Interruptible Allocated Quantities which are zero the Enhanced Pressure charge shall be allocated equally among all Shipper(s) which have an Exit Point Registration at the Exit Point.

- 8.3.6 The Transporter may, at any time, upon giving any Shipper which is entitled to Enhanced Pressure not less than two (2) years notice, withdraw or reduce the availability of its Enhanced Pressure if:
- (a) there is insufficient pressure available on the Transportation System to meet the requirements of other Shippers, from time to time, for Enhanced Pressure; and
 - (b) the allocation, in a non-discriminatory manner, of the pressure which is available requires that the Transporter withdraws or reduces the availability of such Enhanced Pressure from such Shipper.
- 8.3.7 A Shipper may require that the Transporter withdraws the availability of Enhanced Pressure not later than ten (10) Business Days before it requires that such service is withdrawn whereupon such service shall be withdrawn.
- 8.3.8 A Shipper's obligation to pay a charge for Enhanced Pressure shall cease or reduce when the Transporter withdraws or reduces, respectively, the availability of any Enhanced Pressure.
- 8.3.9 The Transporter shall, when notifying a Shipper of any determination in accordance with Section 8.3.3(a) that the provision of Enhanced Pressure is acceptable, notify all other Shippers which have an Exit Point Registration in respect of the Exit Point of such determination. The Transporter shall, after receiving notification by a Shipper in accordance with Section 8.3.4 that the Shipper wishes to receive Enhanced Pressure, notify all other Shippers which have an Exit Point Registration in respect of the Exit Point of such notification. It is agreed, for the avoidance of doubt, that, whilst any such other Shipper may receive the Enhanced Pressure, such Shipper shall, unless it requests an Enhanced Pressure in accordance with this Section 8, only be entitled to receive the Minimum Pressure at the Exit Point.

- 8.3.10 Notwithstanding any other provision of this Code, the Transporter shall be relieved of its obligation to make Natural Gas available:
- (a) at the Minimum Pressure, an Enhanced Pressure or at all, to the extent that it is prevented from doing so by reason of:
 - (i) insufficient pressure at an Entry Point to enable the Transporter to provide the Minimum Pressure or Enhanced Pressure;
 - (ii) any failure of the Transportation System other than as a result of the Wilful Misconduct of the Transporter; or
 - (iii) the pressure of the Natural Gas immediately downstream of the Exit Point exceeding the Minimum Pressure; or
 - (b) at an Enhanced Pressure to the extent that it is prevented from doing so by reason of:
 - (i) the aggregate measured offtake quantity in each hour of all Shippers at an Exit Point varying from the aggregate of such Shipper's Daily Profiles in respect of the relevant hour by more than the Exit Point Tolerance at the Exit Point; or
 - (ii) the aggregate of any Allocated Quantities allocated to all Shippers at an Exit Point on a Day varying from the aggregate of such Shipper's Nominated Quantities by more than the Exit Point Tolerance at the Exit Point.
- 8.3.11 Where at any time, by reason of any building, mining or engineering developments or changes in population density, in the vicinity of any part of the Transportation System, it is not, or ceases, or will cease to be, feasible safely or in accordance with any Recognised Standard to maintain at any Exit Point a pressure of at least the Minimum Pressure, or the Enhanced Pressure (as appropriate) applicable at the time in accordance with this Section 8.3:
- (a) the Transporter shall, subject to Section 8.3.11, as soon as reasonably practicable after becoming aware that, by reason of such circumstances, such pressure cannot be maintained, so inform the Shipper of the date with effect from which it will be necessary to reduce such pressure and the reduced pressure which can, after such date, be so maintained; and
 - (b) with effect from the date specified by the Transporter, the reduced pressure so specified shall be the Minimum Pressure, or the Enhanced Pressure (as appropriate).
- 8.3.12 The Transporter shall, if requested, discuss with any Shipper which would be affected by a reduction in pressure in accordance with Section 8.3.10 as to whether reinforcing any part of the pipeline within the Transportation System

would avoid the need to so reduce pressure at a cost to be agreed between the parties.

- 8.3.13 Subject to Section 11, the Transporter shall act as an RPO in endeavouring not to schedule operations which would result in the Transportation System pressures falling to operationally unacceptable levels or which would otherwise jeopardise the integrity of the Transportation System and the ability of the Transporter to provide transportation services.
- 8.3.14 The Minimum Pressure in respect of an Exit Point shall be measured at the Exit Point.
- 8.3.15 For the avoidance of doubt, failure to comply with the pressure requirements of this Section 8.3 shall not render (or be deemed to render) Natural Gas Off-Spec Gas for the purposes of Section 8.4 and the Transporter shall not be liable hereunder as a result thereof.

8.4 **Gas Specification on exit**

- 8.4.1 Provided that all Natural Gas delivered into the Transportation System is in accordance with the Gas Specification, the Transporter shall endeavour to make Natural Gas available for offtake in accordance with the Gas Specification.
- 8.4.2 If all Natural Gas entering the Transportation System is in accordance with the Gas Specification, but Natural Gas does not conform to the Gas Specification when made available for offtake by a Shipper from the Transportation System at an Exit Point ("**Off-Spec Gas**"), the Shipper may, from time to time, until such time as the Natural Gas so made available for offtake complies with the Gas Specification, in its discretion:
 - (a) offtake or continue to offtake such Off-Spec Gas; or
 - (b) decline to offtake or to continue to offtake such Off-Spec Gas.
- 8.4.3 Where Off-Spec Gas has been offtaken on any Day from the Transportation System, the liability of the Transporter to each Shipper shall be limited to an amount determined in accordance with Section 8.4.4.
- 8.4.4 The amount payable by the Transporter to a Shipper under this Section 8.4.4 shall be treated as an Unforeseen Operating Expenditure and the lesser of:
 - (a) any reasonable costs and expenses properly incurred by the Shipper as a result of the offtake of Off-Spec Gas by the Shipper at an Exit Point; and
 - (b) an amount equal to 10% of the quantity of Off-Spec Gas that is Allocated to the Shipper on such Day at the Exit Point multiplied by the Daily Gas Price.

- 8.4.5 When a Shipper first becomes aware that Off-Spec Gas is being, or has been, made available for offtake from the Transportation System at an Exit Point on any Day the Shipper shall, as soon as reasonably practicable, notify the Transporter specifying:
- (a) the relevant Exit Point and the Day or Days on which Off-Spec Gas was offtaken from the Transportation System;
 - (b) reasonable details of the respect in which the Natural Gas did not comply with the Gas Specification;
 - (c) reasonable details of the costs and expenses referred to in Section 8.4.4 and the person to whom and purposes for which, they were incurred; and
 - (d) the total quantity of Off-Spec Gas referred to in Section 8.4.2 and the Shipper's offtake proportion.

8.5 Natural Gas offtaken for compressors

- 8.5.1 Where a Shipper uses, or procures that an End User uses, Natural Gas offtaken from the Transportation System at an Exit Point for supplying a compressor the Shipper shall, if so required by the Transporter by notice, fix in a suitable position and keep in use an appliance provided by the Shipper which shall effectively prevent pressure fluctuation in the Transportation System and any other inconvenience or danger being caused to the Transporter, the Transportation System, any Shipper or any End User.
- 8.5.2 Where a Shipper is required by this Section 8.5 to keep in use any such appliance the Shipper shall at its own expense keep it in proper order and repair and replace it if it is not in proper order or repair.
- 8.5.3 If the Shipper defaults in complying with any provision of this Section 8.5 the Transporter may suspend offtake of Natural Gas by a Shipper at the relevant Exit Point and shall not be required to resume the supply of such Natural Gas until the default has been remedied to the satisfaction of the Transporter.

8.6 Discontinuance of supply at Exit Point

- 8.6.1 If any Shipper:
- (a) uses, or an End User, for whom the Shipper has procured gas, uses, Natural Gas offtaken from the Transportation System at an Exit Point other than as an RPO or other than in accordance with this Code or deals with offtaken gas so as to interfere with the efficient transportation or offtake of gas by any other Shipper; or
 - (b) inputs Non-Compliant Gas into the Transportation System,
- the Transporter may discontinue the supply of Natural Gas to the Exit Point until the interference is remedied to the satisfaction of the Transporter.

8.7 Access rights and Shipper indemnity

8.7.1 A Shipper shall, subject to Section 8.7.2, procure that the Transporter shall have the right of access to any Connected Facilities at any Exit Point in respect of which the Shipper has an Exit Point Registration without charge, for the purpose of exercising its rights in accordance with the relevant Sections of this Code. A Shipper shall procure that such access may be obtained safely at all reasonable times, save in the case of an Emergency, when such access shall be procured safely at any time.

8.7.2 A Shipper shall not be obliged to procure that the Transporter shall have such access if the End User at the Exit Point shall have granted the Transporter a right of access for such purposes.

8.7.3 A Shipper shall, subject to Section 8.4.4(a) and 8.7.4, be liable to and indemnify, defend and hold harmless the Transporter from and against any and all Indemnified Liabilities suffered or incurred by the Transporter as a result of any claim or action brought by any person (including itself or any End User) offtaking Natural Gas, directly or indirectly, from the Transportation System at an Exit Point shipped by that Shipper arising, directly or indirectly, as a result of an event or occurrence downstream of an Exit Point.

8.7.4 A Shipper shall not be obliged to indemnify the Transporter, in accordance with Section 8.7.3, to the extent that the liability of the Transporter arises in respect of a supply of Natural Gas as result of the Transporter's negligence or Wilful Misconduct.

8.8 Connected Facilities

8.8.1 The Transporter and a Shipper shall consult and cooperate with a view to ensuring that the objective in Section 8.8.2 is achieved.

8.8.2 The objective is to ensure that in all material respects the facilities of the Transporter at an Exit Point and the adjacent Connected Facilities, are and will continue to be technically and operationally compatible as facilities by which the Transportation System and the relevant Connected System may safely be connected. In the case of Connected Facilities owned by a person other than the Shipper, the Shipper alone shall have the responsibility of consulting and co-operating with such downstream owner with a view to ensuring that this objective is achieved.

8.8.3 Where, by reason of any modification, other than a modification made to comply with any Legal Requirement, made or to be made by the Transporter to the facilities of the Transporter at the Exit Point or by a Shipper or such downstream owner in respect of the Connected Facilities, the objective in Section 8.8.2 ceases or will cease to be satisfied:

- (a) the Transporter, in the case of a modification made by it; and

- (b) the Shipper in the case of a modification made by it or such downstream owner

shall promptly reimburse to the other any material expenditure demonstrated to have been reasonably incurred by the other for the purposes of ensuring that the objective continues to be or is again satisfied. In case of more than one Shipper offtaking Natural Gas from the Connected Facilities, such Shippers shall reimburse the Transporter such expenditure in six (6) equal Monthly instalments at the end of each Month commencing at the end of the Month in which such expenditure is incurred so that each such Shipper bears its pro rata share of each instalment based upon its Allocated Quantity at the relevant Exit Point during the Month that each such instalment is recoverable.

- 8.8.4 Any such expenditure reimbursed by the Transporter shall be an Unforeseen Operating Expenditure.

- 8.8.5 The Transporter and each relevant Shipper shall be entitled, upon reasonable notice, to inspect the other party's facilities at or adjacent to the Exit Point for the purposes of determining whether the objective in Section 8.8.2 is satisfied or any expenditure has been incurred in accordance with Section 8.8.3. In case of Connected Facilities owned by a person other than the Shipper, the Shipper shall ensure that the Transporter shall be entitled, upon reasonable notice, to inspect such other party's facilities at or adjacent to the Exit Point for both such purposes.

- 8.8.6 Without prejudice to any other agreement between the Transporter and a Shipper in respect of the installation of the Transporter's facilities at the Exit Point or a Shipper's Connected Facilities, subject to Sections 8.8.2, 8.8.3 and 8.8.5, nothing in this Code shall impose any obligations upon, or take effect as a warranty by, either the Transporter or the Shipper in relation to its system and neither the Transporter or the Shipper shall be liable to the other in respect of any failure or malfunction thereof.

8.9 Title and Risk on Exit

- 8.9.1 Title and risk in Natural Gas made available for offtake from the Transportation System at an Exit Point or at a Virtual Exit Point by the Transporter shall transfer to the Shipper at the relevant Exit Point or the relevant Virtual Exit Point (as the case may be).

- 8.9.2 The Transporter warrants to the Shipper that subject to Section 8.9.4:

- (a) it shall have title to all gas which it makes available for offtake from the Transportation System at an Exit Point or a Virtual Exit Point (as the case may be); and
- (b) all such Natural Gas shall be free of any lien, charge, encumbrance or adverse claim, as to title or otherwise, including any claim for any tax, royalty or other charge in respect of the production, gathering,

processing and tendering of Natural Gas arising on or before it is made available for offtake from the Transportation System.

- 8.9.3 The Transporter shall, subject to Sections 8.9.4 and 14.6, be liable to and indemnify, defend and hold harmless a Shipper from and against any and all Indemnified Liabilities suffered or incurred by or made or brought against the Shipper in consequence of any breach of either of the warranties in Section 8.9.2.
- 8.9.4 The Transporter offers no warranty under Section 8.9.2 or indemnity under Section 8.9.3 to the extent that any Shipper is in breach of either of the warranties given in Section 7.4.2.

9. **MEASUREMENT AND TESTING**

9.1 **Introduction and Definitions**

- 9.1.1 The Measurement Equipment at the Carrickfergus Entry Point is owned, read and validated by the Transporter.
- 9.1.2 The Measurement Equipment at the South-North Entry Point is owned, read and validated by the Connected System Operator.
- 9.1.3 The Measurement Equipment which is located downstream of the Coolkeeragh Exit Point is owned, read and validated by the Transporter.
- 9.1.4 The Measurement Equipment at Exit Points including the Lisburn Exit Point is owned, read and validated by the Transporter.
- 9.1.5 For the purposes of this Code:
- (a) "**Adjusted Final Allocation at Entry**" means any adjustment carried out in accordance with Section 9.2.;
 - (b) "**Adjusted Final Allocation at Exit**" means any adjustment carried out in accordance with Section 9.4;
 - (c) "**Entry Point Adjustment Day**" means a Day on which an Adjusted Final Allocation at Entry occurs;
 - (d) "**Entry Quantity**" shall mean in respect of the Carrickfergus Entry Point the aggregate quantity of Natural Gas notified to the Transporter pursuant to the NINOA as the quantity of Natural Gas to be allocated by the Transporter for the purpose of making Shipper Entry Allocations pursuant to Section 3.4 or where no such quantity is notified to the Transporter pursuant to the NINOA, the quantity determined by the Transporter pursuant to Section 9.2.2(a) and in respect of the South-North Entry Point the quantity determined by the Transporter pursuant to Section 9.2.2(b);
 - (e) "**Measurement Equipment**" means the measurement, metering, sampling, analysis and other related equipment installed from time to time by the Transporter at an Entry Point or at any Exit Point;
 - (f) "**Permitted Range**" means any inaccuracy in the Measurement Equipment an Entry Point and/or at any Exit Point which in all steady-state flow conditions does not exceed 1.1 per cent over the range of 20-100 per cent of the maximum Flow Rate for which the metering equipment is designed and such range is to be calculated using the method specified in ISO 5167/5168 , as may be amended from time to time, for the determination of uncertainties of the measurement of those volume flow rates which are used to compute Flow Rates or where different as otherwise specified in any applicable Connected System Agreement; and

- (g) "validate" means to determine by checking tolerances the validity of the reading of a meter.

9.2 **Entry Points**

9.2.1 **Entry quantity at an Entry Point**

- (a) The quantity of Natural Gas determined to have been physically delivered at an Entry Point shall, subject to Section 9.2.2, be determined by the Transporter or the Connected System Operator (as the case may be) using readings taken from the Measurement Equipment at the Entry Point.
- (b) The quantity determined pursuant to Section 9.2.1.(a) may be utilised to establish the Entry Quantity which shall be allocated to Shippers as Initial Allocations which shall become Final Allocations in accordance with Section 3.

9.2.2 **Carrickfergus Entry Quantity and South-North Entry Quantity**

- (a) The Entry Quantity in respect of the Carrickfergus Entry Point shall be:
 - (i) the aggregate quantity of Natural Gas notified to the Transporter pursuant to the NINOA as the quantity of Natural Gas delivered or deemed delivered by Shippers for the purpose of making Shipper Entry Allocations pursuant to Section 3.4; or
 - (ii) where no such quantity is notified to the Transporter pursuant to the NINOA a quantity determined by the Transporter pursuant to Section 9.2.1 plus the Virtual Exit Quantity at the Carrickfergus Virtual Exit Point in respect of the Gas Flow Day.
- (b) The Entry Quantity in respect of the South-North Entry Point shall be:
 - (i) the aggregate quantity of Natural Gas notified to the Transporter by the Connected System Operator as the quantity of Natural Gas which would have been delivered at the South-North Entry point if there were no Virtual Nominations at that Point on the Connected System on that Gas Flow Day (which aggregate Quantity shall for the avoidance of doubt be the quantity metered as delivered at the South-North Entry Point plus the aggregate of the virtual entry nominations to the Connected System at the Connected System Point in respect of that Day; or
 - (ii) where no such quantity is notified to the Transporter by the Connected System Operator the quantity determined by the Transporter pursuant to Section 9.2.1 plus the Virtual Exit Quantity in respect of that Gas Flow Day.

9.3 Adjustment to the Final Allocation at an Entry Point

9.3.1 If the Transporter, acting as a RPO, amends any Allocated Quantities of Natural Gas to Shippers after 16:00 on D+5:

- (a) the Entry Quantity may be determined by the Transporter in accordance with Section 9.2.1 including where the Transporter does not receive pursuant to the NINOA or any applicable Connected Systems Agreement information upon which amendments to the Allocations may be made;
- (b) the Transporter shall change the quantities allocated to Shippers; and
- (c) any affected Final Entry Allocation shall be adjusted in accordance with such changes.

9.3.2 If the Transporter has been notified pursuant to NINOA or any applicable Connected Systems Agreement that there has been an error in the determination of the Entry Quantity (or any information used to determine the Entry Quantity) or in the event that the Entry Quantity has been determined by the Transporter pursuant to Section 9.2.1 and the Transporter determines that there has been an error in the determination of such quantity as a result of the incorrect application of Section 3.4, the Transporter shall accept the amended Entry Quantity or information on which the Entry Quantity may be based pursuant to the NINOA or any applicable Connected Systems Agreement or shall correctly apply Section 3.4 (as the case may be) and any affected Final Allocation shall be adjusted accordingly.

9.4 Adjustment of charges

9.4.1 If there is an Adjusted Final Allocation at Entry, the Transporter shall:

- (a) recalculate any PS Code Charges or PS Transmission Amounts which it has made in respect of any Entry Point Adjustment Day on the basis that Natural Gas is deemed to have been allocated in accordance with such Adjusted Final Allocation at Entry in respect of the Entry Point Adjustment Day and invoice the Shipper accordingly; and
- (b) recover any underpayment from and repay any overpayment to Shippers accordingly in the next invoice issued to the Shipper following such recalculation.

9.5 Exit Quantity at an Exit Point

9.5.1 The quantity of Natural Gas determined to have been delivered at any Exit Point shall, subject to Section 9.6, be determined by the Transporter using readings taken from the Measurement Equipment at that Exit Point (a "**Exit Quantity**").

9.6 **Adjustment to the Exit Quantity at an Exit Point**

9.6.1 If it is determined by the Transporter that the Measurement Equipment at an Exit Point has registered beyond the Permitted Range (whether under- or over-recording the quantity of Natural Gas offtaken), the Measurement Equipment at that Exit Point shall be deemed to have registered beyond the Permitted Range during the latter half of the period since it was last validated, except where it is proven that the Measurement Equipment began to register beyond the Permitted Range on some other date, in which case such other date shall be taken.

9.6.2 A Final Allocation shall be adjusted in respect of any Day (an "**Exit Point Adjustment Day**") as set out below if:

(a) it is determined by the Transporter that the Measurement Equipment at an Exit Point has registered beyond the Permitted Range in accordance with Section 9.4.1 (such amount beyond the Permitted Range being known as an "**Exit Point Adjustment Quantity**");

(b) the Transporter reasonably determines that there has been an error in the in the allocation of the Exit Quantity determined to have been delivered at any Exit Point as a result of the incorrect application of Sections 3.5, 3.6 or 3.7; or

(c) the Transporter shall, before 16:00 hours on D+5, deem a quantity of Natural Gas to have flowed in accordance with Section 9.6.1.

9.6.3 In the case of an Exit Point Adjustment Quantity arising in accordance with Section 9.6.2(a), where any Final Allocation had been carried out in accordance with Sections 3.5.1 or 3.7, the Final Allocation shall be adjusted by applying to the aggregate of the Exit Quantity and the Exit Point Adjustment Quantity, whichever of Sections 3.5.1 or 3.7 was previously applied.

9.6.4 In the case of an Exit Point Adjustment Quantity arising in accordance with Section 9.6.2(a), where any Final Allocation had been carried out in accordance with Section 3.6, the Final Allocation shall be adjusted as follows:

(a) in the case of a Shared Exit Point from which there has been more than one Shipper offtaking Natural Gas on any Exit Point Adjustment Day (or at an Exit Point at which there is only one Shipper and that Shipper receives more than one Final Exit Allocation pursuant to capacity bookings with different Capacity Booking References), by allocating the Exit Point Adjustment Quantity to those Shippers pro rata to the proportion in which Natural Gas was allocated to those Shippers by the Final Allocation prior to the adjustment being made or pro rata to the Shippers relevant Final Allocations; or

- (b) in the case of an Exit Point where there has been only one Shipper offtaking Natural Gas on any Exit Point Adjustment Day, by allocating all of the Exit Point Adjustment Quantity to such Shipper.

9.6.5 In the case of it being determined that there has been an error in the determination of the Exit Quantity in accordance with Section 9.6.2(b) or the Transporter deems that a quantity of Natural Gas has flowed as referred to in Section 9.6.2(c), the Exit Quantity shall be correctly allocated in accordance with whichever of Sections 3.5, 3.6 or 3.7 was previously applied.

9.7 Adjustment of charges

9.7.1 If there is an Adjusted Final Allocation at Exit, the Transporter shall:

- (a) recalculate any PS Transmission Amounts or PS Code Charges which it has made in respect of the Exit Point Adjustment Day on the basis that Natural Gas is deemed to have been allocated in accordance with the Adjusted Final Allocation at Exit in respect of the Exit Point Adjustment Day and invoice the Shipper accordingly; and
- (b) recover any underpayment from and repay any overpayment to the Shippers accordingly in the next invoice issued to the Shipper following such recalculation.

9.8 Validation of Exit Point Measurement Equipment

9.8.1 The Measurement Equipment at all Exit Points shall be validated by the Transporter at least once in each Gas Year.

9.8.2 A Shipper may at any time request a validation of the Measurement Equipment at any Exit Point in respect of which it has an Exit Point Registration in which case the Transporter shall use its reasonable endeavours to ensure that such validation shall be carried out as soon as reasonably practicable.

9.8.3 Each Shipper agrees and acknowledges that all costs and expenses incurred in connection with any validation requested by the Shipper in accordance with Section 9.8.2 shall, if it is found that the accuracy of the Measurement Equipment is within the Permitted Range, be borne by the Shipper which requested the validation of the Measurement Equipment.

9.8.4 If a validation, in accordance with this Section 9.8, determines that the Measurement Equipment at an Exit Point registered beyond the Permitted Range, the Measurement Equipment shall be adjusted or replaced, as necessary, to read within the Permitted Range and centrally and accurately where this is technically possible with the existing Measurement Equipment.

9.8.5 Any validation of the Measurement Equipment at an Exit Point shall be conducted by or on behalf of the Transporter. Any Shipper which requests a validation in accordance with Section 9.8.2 shall be entitled to be present at

such validation and the Transporter shall give the Shipper reasonable advance notice of such validation.

- 9.8.6 The Transporter shall provide a report of the validation to such Shipper within ten (10) Business Days of the validation stating the results of the validation. Such validation shall be binding on both the Transporter and such Shipper (even if the Shipper does not attend) unless the Transporter or such Shipper disputes the validation within fifteen (15) Business Days of receipt of the validation report. In the event that such dispute is not resolved within a further fifteen (15) Business Days, the Transporter or such Shipper may refer the matter to an Expert for Expert Determination in accordance with Section 20.4.

9.9 Absence of reliable readings at an Exit Point

- 9.9.1 In the absence of reliable readings from the Measurement Equipment at an Exit Point, or if any of the Measurement Equipment fails to function, the Transporter shall deem that the quantity of Natural Gas flowing through such Measurement Equipment is equal to the aggregate of the Nominated Quantities in respect of such Exit Point unless, in the Transporter's reasonable opinion, a more accurate determination of the quantity of Natural Gas flowing through such Measurement Equipment would be achieved by the Transporter:

- (a) using appropriate gas engineering technology; or
- (b) relying on any written evidence of such quantities presented by a Shipper before 16:00 hours on D+5.

9.10 Access to Exit Point Measurement Equipment

- 9.10.1 The Transporter shall use its reasonable endeavours to ensure that a Shipper shall have a right of access to the Measurement Equipment at any Exit Point in respect of which it has an Exit Point Registration, for any reasonable purpose, at reasonable times, at its own risk and on giving reasonable notice to the Transporter.

9.11 Additional Exit Point information

- 9.11.1 If requested by a Shipper, the Transporter shall, only to the extent that it is available, provide the Shipper with the following data from the Exit Point in respect of which it has an Exit Point Registration, in respect of such oftaken Natural Gas, as soon as the same is reasonably available:

- (a) instantaneous Flow Rate;
- (b) cumulative volume;
- (c) instantaneous energy rate;
- (d) cumulative energy; and

(e) calorific value.

9.11.2 The Transporter shall, only to the Shipper to the extent that the Transporter is able to provide the information set out in Section 9.11.1 without incurring a material cost, provide such information without cost.

9.12 Validation of Metering Equipment at Lisburn Exit Point.

9.12.1 Shippers at the Lisburn Exit Point who request a validation of the Measurement Equipment at the Lisburn Exit Point pursuant to Section 9.8.2 may request that the Upstream Operator attend such validation.

9.13 Virtual Exit Quantity

9.13.1 The quantity of Natural Gas determined to have been virtually offtaken from the Transportation System at a Virtual Exit Point shall, subject to Section 9.13.2 be determined [by the Transporter] in accordance with the remaining provisions of this Section 9.13.

9.13.2 The Virtual Exit Quantity (Carrickfergus) shall be:

(a) the lesser of:

(i) the aggregate of the Interruptible VRF Nominated Quantities pursuant to Interruptible VRF Nominations at the Carrickfergus Virtual Exit Point on that Day.

(ii) the Maximum Available Interruptible VRF Capacity (as interrupted where applicable) at the Carrickfergus Virtual Exit Point on a Gas Flow Day; or

9.13.3 The Virtual Exit Quantity (South-North) shall be:

(a) the quantity notified by the Connected System Operator to the Transporter as the amount by which the quantity of Natural Gas which might otherwise have been delivered to the Transportation System at the South-North Entry Point has been reduced as a result of virtual reverse flow nominations on the Connected System at the Connected System Point; or

(b) where no such information has been provided by the Connected System Operator the lesser of:

(i) the Maximum Available Interruptible VRF Capacity at the South-North Virtual Exit Point; and

(ii) the aggregate of the Interruptible VRF Nominated Quantities of all Interruptible VRF Nominations at the South-North Virtual Exit Point in respect of the Day.

10. **MAINTENANCE**

10.1 **Introduction and Definitions**

10.1.1 The Transporter shall maintain the Transportation System in accordance with:

- (a) the provisions of this Code;
- (b) the standard of an RPO; and
- (c) all Legal Requirements.

10.1.2 For the purposes of this Code:

- (a) "**Maintenance**" shall include any inspection, repair, replacement, reinstatement, reinforcement, re-commissioning, upgrade or extension of any part of the Transportation System and shall include any works preparatory to such maintenance or required for the return to service of a part of the Transportation System after such maintenance;
- (b) "**Maintenance Days**" means the Days, whether consecutive or not, nominated by the Transporter pursuant to this Section 10 as Days during which the acceptance of Natural Gas for delivery to or making Natural Gas available for offtake from that part of the Transportation System as may be subject to maintenance, may be reduced (if necessary down to zero) due to Maintenance of the Transportation System; and
- (c) "**Scheduled Maintenance**" means Maintenance carried out during a Maintenance Day.

10.2 **Maintenance Planning**

10.2.1 A Shipper shall provide the Transporter, as soon as reasonably practicable, with all the information the Transporter may reasonably require to:

- (a) plan the Maintenance of the Transportation System;
- (b) comply with its obligations set out in Section 10.1.1; and
- (c) prepare Maintenance Programmes.

10.2.2 The Transporter shall establish a maintenance programme each Gas Year (the "**Maintenance Programme**") in respect of any Exit Point at which Scheduled Maintenance will be carried out. The Maintenance Programme shall specify which Days in the Gas Year shall be Maintenance Days at the affected Exit Point and the extent to which such Exit Point shall be affected. Scheduled Maintenance shall only be carried out between April and September, unless there is a Legal Requirement or a requirement of any Competent Authority that such Maintenance be carried out at any alternative time.

10.2.3 The Transporter shall plan any Scheduled Maintenance to:

- (a) minimise disruption to the Transportation System in as cost-effective, efficient and commercially prudent manner as is practicable; and
- (b) co-ordinate it, where practicable, with the maintenance of the Upstream Transportation Systems, any relevant Connected System and the relevant Exit Point and/or Virtual Exit Point; and/or
- (c) to accord, where practicable with the NINOA and/or any applicable Connected System Agreement or other inter operator agreement.

10.3 **Timetable**

10.3.1 Any Shipper with an Exit Point Registration in respect of an Exit Point at which Scheduled Maintenance is proposed shall meet with the Transporter at a mutually convenient time to discuss the Maintenance Programme for the following Gas Year with a view to concluding such consultations before 30 September. A Shipper may, in the course of such discussions, notify the Transporter of the maintenance programmes in relation to any facilities downstream of an Exit Point.

10.3.2 The Transporter shall issue the Maintenance Programme to any Shipper with an Exit Point Registration in respect of an Exit Point at which Scheduled Maintenance is to be carried out in the following year by 30 December.

10.4 **Maintenance Limits**

10.4.1 The Transporter shall be limited to a maximum of five (5) Maintenance Days in aggregate in any Gas Year for the carrying out of Scheduled Maintenance on the Transportation System and, in addition to such Maintenance Days, the Transporter shall be permitted to take additional Maintenance Days in respect of the Entry and Exit Points as specified in an Ancillary Agreement to carry out Scheduled Maintenance at:

- (a) the Carrickfergus Entry Point (and Carrickfergus Virtual Exit Point), in respect of which the Transporter shall be permitted to take such additional Maintenance Days; and
- (b) the South-North Entry Point (and South-North Virtual Exit Point), in respect of which the Transporter shall be permitted to take such additional Maintenance Days (if any) as may be referenced in the South-North CSA or other applicable inter operator agreement;
- (c) Exit Points, in respect of which the Transporter shall be permitted to take such additional Maintenance Days as shall be provided in the relevant Shipper's Network Exit Parameter Schedule.

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

10.4.2 The Transporter may, without prejudice to a Shipper's rights under Section 14.1 and 14.2, revise the nature, timing and duration of any Scheduled Maintenance by providing for additional Maintenance Days and/or by varying the date, period or extent of any Scheduled Maintenance by giving any affected Shipper not less than thirty (30) Business Days notice unless a shorter period of notice is agreed by the affected Shipper.

10.5 The Transporter's obligation to transport

10.5.1 If the Transporter cannot accept into the Transportation System Natural Gas tendered for delivery at an Entry Point or make Natural Gas available for offtake at an Exit Point or Virtual Exit Point as a result of Scheduled Maintenance, the Transporter shall, subject to Section 10.4.2, be relieved of its obligations to transport Natural Gas under this Code for the duration of such Scheduled Maintenance.

11. NETWORK FORECAST STATEMENT, SYSTEM PLANNING AND NI PRESSURE CAPACITY REPORT

11.1 Network Forecast Statement

11.1.1 For the purposes of this Code, a "**Network Forecast Statement**" means a document containing:

- (a) the statement required to be prepared by the Transporter pursuant to Condition 2.10 of its Licence and any direction of the Authority pursuant thereto; and
- (b) such further information which the Transporter may decide is appropriate

or any revision to the most recently published Network Forecast Statement.

11.1.2 The Transporter shall publish a Network Forecast Statement in the Gas Year that this Code is introduced and in each subsequent Gas Year containing any revisions to the Network Forecast Statement published in the previous Gas Year.

11.1.3 A Shipper shall provide such information as is reasonably requested by the Transporter for the purposes of enabling the Transporter to prepare a Network Forecast Statement and to draw up plans for the operation, development and maintenance of the Transportation System. Such information shall include the Shipper, no later than the tenth (10th) Business Day in June in each Gas Year, notifying the Transporter of its *bona fide* estimate of the Firm Capacity, aggregate energy and Flow Rate requirements at each Exit Point for the next five (5) Gas Years.

11.1.4 The information to be provided by a Shipper pursuant to this Section 11 shall be treated as having been requested by the Transporter for the purposes of the Standard Condition of the Shipper's Gas Supply Licence which obliges it to provide information to a licence holder to enable such licence holder to draw up plans for, *inter alia*, the safe operation of its Transportation System.

11.1.5 If a Shipper intends, pursuant to the conditions in the Shipper's Gas Supply Licence which is equivalent to Standard Condition 2.16.2 of the Standard Conditions of Gas Supply Licences approved in 12 May 1997 (as may be amended from time to time), to refuse to provide any item of information requested by the Transporter, the Shipper shall undertake promptly:

- (a) to inform the Transporter of such intention;
- (b) if requested by the Transporter, to discuss with the Transporter whether there is a form in which the information can be provided or alternative information which can be provided; and

- (c) if requested by the Transporter, to refer or co-operate with the Transporter in referring its refusal to the Authority for determination under that licence condition.
 - 11.1.6 The Transporter shall not be liable pursuant to this Code or otherwise to any Shipper in relation to any estimate, forecast or other information contained in or omitted from a Network Forecast Statement, and nothing contained in it shall oblige the Transporter to undertake any reinforcement of the Transportation System.
 - 11.1.7 Except as provided for or referred to in this Code, the Transporter is not party to any agreement for the sale of Natural Gas offtaken from the Transportation System, or the purchase of Natural Gas delivered to the Transportation System; and accordingly the Transporter shall rely on the information provided by persons who are party to such agreements, and on other sources of information, in estimating, under this Section 11, the demand and availability of Natural Gas for supply.
 - 11.1.8 A Shipper shall, in so far as it is practicable, co-operate with and provide reasonable assistance to the Transporter in obtaining information requested from persons not bound by this Code, including but not limited to persons from whom the Shipper has contracted to purchase Natural Gas, End Users, Upstream Transporters and Upstream Shippers.
- 11.2 Shipper's estimate of requirements for System Planning**
- 11.2.1 Not later than 30 September, in respect of each Gas Year, a Shipper shall give the Transporter its *bona fide* best estimate of the quantity of Natural Gas and the Flow Rate requirement to be delivered at each Entry Point and to be transported for offtake at each Exit Point by the Shipper for each month (expressed as a maximum quantity per Day) during the next Gas Year.
 - 11.2.2 On the first Day of each Quarter, a Shipper shall notify the Transporter of its *bona fide* best estimate of the quantity of Natural Gas to be delivered to the Carrickfergus Entry Point and the South-North Entry Point and to be transported for offtake at each Exit Point by the Shipper for each month (expressed as a maximum quantity per Day) during the following four Quarters.
 - 11.2.3 Not later than thirty (30) Days before the first day of each Quarter, a Shipper shall notify the Transporter of its *bona fide* best estimate of the quantity of Natural Gas and the Flow Rate requirement to be supplied at each Entry Point and to be transported for offtake at each Exit Point for each Day during such Quarter.
 - 11.2.4 The Shipper shall provide such other information reasonably requested by the Transporter which would aid the Transporter in planning the future deliveries of Natural Gas from the commingled stream in the Transportation System. Without prejudice to the obligations of a Shipper under its Gas Supply

Licence to provide accurate information, the information provided by a Shipper in accordance with this Section 11.2 shall not be binding upon it and a Shipper shall not warrant the accuracy of the information and shall have no liability should the information be defective to the extent that the information is provided in good faith.

11.3 Operational information

11.3.1 The Transporter shall endeavour to issue to Shippers at least quarterly a report detailing such operational information as the Transporter determines appropriate, having regard to the confidential and commercially sensitive nature of any such information.

11.4 NI Pressure/Capacity Report

11.4.1 The Transporter shall publish a report each Gas Year which it shall, in accordance with the Northern Ireland Network Operators Agreement prepare jointly with PTL and Phoenix based upon network analysis and associated assumptions (a “**NI Pressure/Capacity Report**”). Information relevant to the production of the NI Pressure/Capacity Report provided by SONI shall be taken into consideration in its production.

11.4.2 The NI Pressure/Capacity Report shall set out:

- (a) the pressure which the Transporter and PTL anticipate will be available on the NI Network during a five (5) year period commencing on the next Gas Year;
- (b) the relationship between delivery pressure and flows at each NI Network Exit Point; and
- (c) the demand assumptions used in the modelling undertaken to prepare the NI Pressure/Capacity Report.

11.4.3 The Transporter shall consult with Shippers and the Authority from time to time as to the form of the NI Pressure/Capacity Report.

11.4.4 The Transporter shall not be liable pursuant to this Code or otherwise to any Shipper in relation to any estimate, forecast or other information contained in or omitted from a NI Pressure/Capacity Report, and nothing contained in it shall oblige the Transporter to undertake any reinforcement of the Transportation System.

12. CHARGES, PAYMENT AND TAX

12.1 Introduction

- 12.1.1 The Transporter shall, in accordance with the Licence, invoice monthly each Gas Supplier in respect of the PS Transmission Amounts that that Gas Supplier owes it and/or the PS Transmission Amounts that it owes that Gas Supplier in accordance with this Section 12.
- 12.1.2 Subject to Section 12.14, the Transporter shall invoice each Shipper monthly in respect of PS Code Charges, [STC/VRF/BB](#) Charges and any other relevant charge's which the Shipper owes to it and/or it owes to the Shipper in accordance with this Section 12.
- 12.1.3 All monies due under the Licence and this Code shall be invoiced and payable in accordance with this Section 12.
- 12.1.4 A Shipper shall, notwithstanding any failure by the Transporter to deliver gas for offtake from the Transportation System in accordance with this Code or the Licence for whatsoever reason, be obliged to pay charges and amounts which it has agreed to pay in accordance with Section 12.2 of this Code, subject only to Section 6.13.2.

12.2 Shipper payment obligations

- 12.2.1 Subject to Section 12.2.2, a Shipper which is a Gas Supplier:
- (a) subject to Section 12.9.1, undertakes to pay to the Transporter those elements of the PS Transmission Amounts which the Transporter is entitled to recover from that Gas Supplier in accordance with the Licence;
 - (b) undertakes to pay to the Transporter the PS Code Charges which the Transporter is entitled to recover from that Gas Supplier in accordance with this Code; and
 - (c) undertakes to pay to the Transporter the [STC/VRF/BB](#) Charges which Premier Transmission is entitled to recover from that Gas Supplier in accordance with this Code.
- 12.2.2 A Transit Shipper:
- (a) shall not, subject to (b) below, be liable to pay the Transporter PS Transmission Amounts;
 - (b) subject to Section 12.9.1, undertakes to pay to the Transporter Monthly Postalised Capacity Payments in respect of Firm Capacity (excluding Daily Capacity) held by that Transit Shipper to the extent that that Transit Shipper reserves Firm Capacity on the Transportation System, for Natural Gas in respect of which it does not reserve Firm Capacity on the Network of any Downstream System Operator; and

- (c) undertakes to pay to the Transporter the PS Code Charges which the Transporter is entitled to recover from that Transit Shipper in accordance with this Code;
- (d) undertakes to pay to the Transporter the STC/VRF/BB Charges which the Transporter is entitled to recover from that Transit Shipper in accordance with the Code.

12.2.3 A Shipper which is not a Gas Supplier undertakes to pay to the Transporter:

- (a) those charges which the Transporter is entitled to recover from that Shipper in accordance with the Licence;
- (b) the PS Code Charges which the Transporter is entitled to recover from that Shipper in accordance with this Code;
- (c) the STC/VRF/BB Charges which the Transporter is entitled to recover from that Shipper in accordance with this Code.

12.3 **The Transporter payment obligations**

12.3.1 The Transporter undertakes to:

- (a) pay to a Gas Supplier the amount of any Reconciliation Payment and account for Debt Repayment due to the Gas Supplier in accordance with the Licence; and
- (b) pay to a Gas Supplier the PS Code Charges which the Gas Supplier is entitled to receive from the Transporter in accordance with this Code.
- (c) pay to a Shipper any payments which the Shipper is entitled to receive from the Transporter in accordance with this Code.

12.4 **Contents of STC/VRF/BB Invoice**

12.4.1 Each invoice which the Transporter issues to a Shipper in accordance with this Section 12 in respect of STC/VRF/BB Charges, together with any attachments thereto (a “STC/VRF/BB Invoice”) shall set out the following:

- (a) the identity of the Shipper;
- (b) the period to which the STC/VRF/BB Invoice relates;
- (c) the information required to be stated in sections 12.4.2 and 12.4.3 and
- (d) a unique number by which the STC/VRF/BB Invoice may be identified

12.4.2 Each STC/VRF/BB Invoice shall itemise the amounts due in respect of STC/VRF/BB Charges payable by that Shipper to the Transporter in accordance with this section 12.4 by detailing, on a separate line, any sums due for each of the following:

- (a) (i) Daily Capacity Charges as defined in 12.17.1(a);
- (ii) Interruptible VRF Charges as defined in 12.17.1 (b);
- (iii) Buyback Payments payable to the Shipper by the Transporter as defined in 12.17.1(c); and
- (iv) Incentive Scheme payments payable to the Shipper by the Transporter as defined in 12.17.1(d)

known collectively as “**STC/VRF/BB Charge Amounts**”); and

- (b) the amount payable in accordance with section 12.4.3; and
- (c) for the avoidance of doubt, the amounts identified on a **STC/VRF/BB Invoice** which are payable by the Shipper to the Transporter are to be credited by the Shipper to the Transporter and no amounts payable on a **STC/VRF/BB Invoice** are to be paid or credited to the PoT Account or the BGE (NI) Postalised Network Incentive Scheme Bank Account.

12.4.3 The total amount payable by the Shipper in respect of **STC/VRF/BB Charge Amounts**, shall be stated in the **STC/VRF/BB Invoice** and shall be calculated as follows:

- (a) the sum of the amounts detailed in section 12.4.2(a) (i) and (ii) which are due to the Transporter less the sum of amounts detailed in Section 12.2.4(a) (iii) and (iv) which are due to the Shipper; plus
- (b) the applicable VAT;
- (c) any tax payable on the sum in (a) apart from that payable under (b) in accordance with section 12.12

provided that if any payment of **STC/VRF/BB Charge Amounts** due to the Transporter under this Code remains unpaid after the Due Date a **STC/VRF Invoice** shall be accompanied by (i) a statement setting out the amount so overdue and (ii) an invoice of the amount of interest due on such overdue amount calculated to the date of the Invoice.

12.4.3A Where the sum of 12.4.2 (a) (iii) and (iv) exceeds the sum of 12.4.2(a) (i) and (ii), this Section 12.4.3A shall, subject to Section 12.11.1, apply instead of Section 12.4.3 so that the total amount payable by the Transporter to the Shipper in respect of **STC/VRF/BB Charges** shall be stated in the **STC/VRF/BB Invoice** and shall be calculated as follows:

- (a) the sum of the amounts detailed in Section 12.4.2(a) (iii) and (iv) which are payable to the Shipper; less
- (b) the sum of the amounts detailed in Section 12.4.2(a) (i) and (ii) which are payable to the Transporter; plus

(c) the applicable VAT.

12.4.4 The provisions of this Section 12.4 shall be applied mutatis mutandis to any Shipper which is not a Gas Supplier and adjusted to reflect those Charges which such Shipper has agreed to pay in accordance with Section 12.2.3(a).

12.5 **Content of PS Invoice**

12.5.1 Each invoice which the Transporter issues to a Gas Supplier in accordance with this Section 12 in respect of PS Transmission Amounts, together with any attachments thereto (a "**PS Invoice**"), shall set out the following:

- (a) the identity of the Gas Supplier;
- (b) the period to which the PS Invoice relates;
- (c) the information required to be stated in Sections 12.5.2, 12.5.3 and 12.5.4; and
- (d) an unique number by which the PS Invoice may be identified

12.5.2 Each PS Invoice shall itemise the amounts due in respect of PS Transmission Amounts payable by that Gas Supplier to the Transporter, or by the Transporter to that Gas Supplier, and in either case, in accordance with the Licence, by detailing, on a separate line, any sums due for each of the following:

- (a) Monthly Postalised Capacity Payment;
 - (b) Monthly Postalised Commodity Payment;
 - (c) Supplemental Payment;
 - (d) Auxiliary Payment;
 - (e) Debt Payment;
 - (f) Reconciliation Payment payable by the Gas Supplier to the Transporter;
 - (g) Reconciliation Payment payable by the Transporter to the Gas Supplier; and
 - (h) Debt Repayment;
- (known collectively as "**PS Transmission Amounts**");
- (i) the amount payable in accordance with Section 12.5.3(c) and 12.5.4(c); and
 - (j) the amount of tax payable in accordance with Sections 12.5.3, 12.5.4 and 12.12

provided that if any payment of PS Transmission Amounts due to the Transporter under this Code remains unpaid after the Due Date a PS Invoice shall be accompanied by (i) a statement setting out the amount so overdue and (ii) an invoice of the amount of interest due on such overdue amount calculated to the date of the invoice.

12.5.3 Notwithstanding Section 12.2 but subject to Section 12.5.4, the total amount payable by the Gas Supplier in respect of PS Transmission Amounts shall be stated in the PS Invoice and shall be calculated in accordance with this Section 12.5.3 as:

- (a) the sum of the amounts detailed in Sections 12.5.2(a), (b), (c), (d), (e) and (f); less
- (b) the sum of the amounts detailed in Sections 12.5.2(g) and (h); plus
- (c) the applicable VAT; plus
- (d) any tax payable on the sum of (a) less (b) in accordance with Section 12.12 (apart from that payable under (c)).

12.5.4 Notwithstanding Section 12.2 but subject to Section 12.11.1, where the sum of the figures referred to in Section 12.5.3(a) less those figures referred to in Section 12.5.3(b) is a negative value, this Section 12.5.4 shall apply instead of Section 12.5.3 so that the total amount payable by the Transporter in respect of PS Transmission Amounts shall be stated in the PS Invoice and shall be calculated in accordance with this Section 12.5.4 as:

- (a) the sum of the amounts detailed in Sections 12.5.2(g) and (h); less
- (b) the sum of the amounts detailed in Sections 12.5.2(a), (b), (c), (d), (e) and (f); plus
- (c) the applicable VAT; plus
- (d) any tax payable on the sum of (a) less (b) in accordance with Section 12.12 (apart from that payable under (c)).

12.5.5 The provisions of this Section 12.5 shall be applied, *mutatis mutandis*, to any Shipper which is not a Gas Supplier and adjusted to reflect those charges which such Shipper has agreed to pay in accordance with Section 12.2.3 (a).

12.6 **Content of CC Invoice**

12.6.1 Each invoice which the Transporter issues to a Shipper in accordance with this Section 12 in respect of PS Code Charges, together with any attachments thereto (a "**CC Invoice**"), shall set out the following:

- (a) the identity of the Shipper;
- (b) the period to which the CC Invoice relates;

- (c) the information required to be stated in Sections 12.6.2, 12.6.3 and 12.6.4, and
- (d) an unique number by which the CC Invoice may be identified.

12.6.2 Each CC Invoice shall itemise the amounts due in respect of PS Code Charges payable by that Shipper to the Transporter, or by the Transporter to that Shipper, by detailing, on separate lines, any sums due from or to the Shipper for each of the following:

- (a) amounts which the Transporter shall credit to or debit from the BGE (NI) Postalised Disbursement Bank Account as set out in Section 5.3;
- (b) outstanding PS Code Charges;
- (c) Enhanced Pressure charges;
- (d) any other sums payable under the Code by or to the Shipper including any other sum payable under this Code (save PS Transmission Amounts STC/VRFB Charges) and which amounts are not pursuant to this Code to be credited to or debited from the BGE (NI) Postalised Network Disbursement Bank Account;
- (e) the amount payable in accordance with Section 12.6.3(c); and
- (f) for the avoidance of doubt, the CC invoice shall identify separately those amounts which are to be credited by the Shipper to the BGE(NI) Postalised Network Disbursement Bank Account and those amounts which are to be credited by the Shipper to the Transporter.

12.6.3 Subject to Section 12.6.4, the total amount payable by the Shipper in respect of PS Code Charges shall be stated in the CC Invoice and shall be calculated as follows;

- (a) the sum of the amounts detailed in Section 12.6.2 (a) which are due to the Transporter; less
- (b) the sum of the amounts detailed in Section 12.6.2 (a) which are due to the Shipper; plus
- (c) the applicable VAT.

12.6.4 Where the sum of 12.6.3(a) less 12.6.3(b) is a negative value, this Section 12.6.4 shall, subject to Section 12.11.1, apply instead of Section 12.6.3 so that the total amount payable by the Transporter to the Shipper in respect of PS Code Charges shall be stated in the CC Invoice and shall be calculated as follows:

- (a) the sum of the amounts detailed in Section 12.6.2 (a) which are payable to the Shipper; less

- (b) the sum of the amounts detailed in Section 12.6.2 (a) which are payable to the Transporter; plus
- (c) the applicable VAT.

12.7 Outstanding PS Code Charges

12.7.1 The Transporter shall be entitled to recover monies in respect of all PS Code Charges due and owing from a Shipper in accordance with Section 12.7.2 from all other Shippers in accordance with this Section 12.7.

12.7.2 If any payment of PS Code Charges due to the Transporter under this Code, remains unpaid in whole or in part, after:

- (a) the Due Date; and
- (b) the Transporter has taken any steps available to it under this Code and all other reasonable steps to secure its recovery having taken into account any Directions of the Credit Committee in respect of the debt

the Transporter shall, subject to Section 12.7.6, be entitled to recover the outstanding payment (an “**Outstanding PS Code Charges**” which expression shall include any sum which the Transporter is entitled to recover in accordance with this Section 12.7) in accordance with Section 12.7.3, 12.7.4 and 12.7.5.

12.7.3 The Transporter shall

- (a) be entitled to recover from a Shipper a proportion of the aggregate of all Outstanding PS Code Charges, together with interest on such amount from any Due Date until the date of payment at LIBOR plus 0.75% compounded Monthly, in the next Gas Year in 12 equal instalments not later than ten (10) Business Days after the end of each Month; and
- (b) deposit any such Outstanding PS Code Charges recovered from a Shipper in a separate interest bearing account and apply all sums, including interest, in such account in accordance with Section 12.7.7.

12.7.4 The proportion of such amount that the Transporter shall recover from each Shipper shall be the proportion that the aggregate of the relevant Shipper’s Firm Allocated Quantities and Interruptible Allocated Quantities in respect of the Month in respect of which the relevant payment was not made bears to the aggregate of all Shipper’s Firm Allocated Quantities and Interruptible Allocated Quantities in respect of such Month provided that in any Month in which such quantities shall all be zero each Shipper shall be deemed to have a Firm Allocated Quantity of 1kWh in relation to each Exit Point in respect of which it has an Exit Point Registration.

- 12.7.5 In the case of a liquidator, receiver or an administrator or an examiner being appointed over any part of the assets of a Shipper or any event similar, equivalent or analogous to any of such events occurring in relation to the Shipper in Great Britain or any other jurisdiction any payment due to the Transporter under this Code in respect of PS Code Charges remaining unpaid after the Due Date shall, upon such event occurring, be an Outstanding PS Code Charge recoverable in accordance with this Section 12.7.
- 12.7.6 The Transporter shall, to the extent that it recovers any Outstanding PS Code Charges from a Shipper in respect of which it subsequently receives a payment under a liquidation or administration, pay an amount equal to such payment received to the Shippers from which the Outstanding PS Code Charges was recovered pro rata to the proportions in which the Outstanding PS Code Charges was recovered provided that no Shipper shall be entitled to receive any sum greater than the amount it actually paid to the Transporter in respect of such Outstanding PS Code Charges.
- 12.7.7 A Shipper acknowledges that the Transporter shall, and the Transporter agrees to, apply all sums deposited in and interest earned on the account referred to in Section 12.7.3 (b) in making an immediate payment of the Outstanding PS Code Charges due to the Transporter; or shall credit the relevant amounts to the BGE (NI) Postalised Network Disbursement Bank Account.
- 12.8 Periods of Invoicing**
- 12.8.1 Each Month the Transporter shall, as soon as reasonably practicable and in any event not later than the tenth (10th) Business Day after the end of each Month (the “**Invoice Day**”), submit a PS Invoice, a CC Invoice and a STC/VRF/[BB](#) Invoice to each Shipper.
- 12.8.2 The provisions of Section 12.8.1 shall be applied, *mutatis mutandis*, to the 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).
- 12.9 Payment**
- 12.9.1 A Shipper shall:
- (a) pay to the PoT Account any balance specified in a PS Invoice in accordance with Section 12.5.3 by the Due Date provided that this obligation shall not be satisfied by any payment by a Shipper to the Transporter of any such balance specified in a PS Invoice;
 - (b) pay to the Transporter any balance specified in a CC Invoice in accordance with Section 12.6.3 by the Due Date; and
 - (c) pay to the Transporter any balance specified in a STC/VRF/[BB](#) Invoice in accordance with Section 12.4.3 by the Due Date.

12.9.2 The Transporter shall:

- (a) pay to a Gas Supplier any balance specified in a PS Invoice in accordance with Section 12.5.4 by the eighth (8th) Business Day following the Due Date; and
- (b) pay to the Shipper any balance specified in a CC Invoice in accordance with Section 12.6.4 by the Due Date.
- (c) pay to the Shipper any balance specified in a STC/VRF/BB Invoice in accordance with section 12.4.3(a) [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 BGE (NI) Postalised Network Disbursement Bank Account shall be made in Pounds Sterling by direct bank transfer or equivalent instantaneous transfer of funds to the following or such other account of which the Transporter may from time to time give a Shipper written notice:

Account Name: BGE (NI) Postalised Network Disbursement Account;

and

- (c) the Transporter 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.

12.11 Set off and disputed invoices

12.11.1 The Transporter shall be entitled to set off against any repayment due to a Gas Supplier any amounts outstanding for payment by that Gas Supplier to the Transporter in respect of PS Transmission Amounts.

12.11.2 Where any sum invoiced in a PS Invoice and/or a STC/VRF/BB Invoice is the subject of a dispute (whether bona fide or not) the Shipper or the Transporter shall pay the full amount of the PS Invoice and/or the STC/VRF/BB Invoice without set off or withholding. ~~£~~The Transporter and/or, where applicable, the Shipper shall after settlement of the dispute, pay any amount agreed or determined to be payable within seven (7) days of such agreement or determination and interest on such amount shall accrue and be payable from the Due Date to the date of payment (both before and after any judgement) at LIBOR plus 3% compounded monthly from such Due Date until the date payment is made.

12.11.3 Where any sum invoiced in a CC Invoice is the subject of a bona fide dispute and the Shipper provides the Transporter with full details of the reasons as to why the disputed portion is disputed within fourteen (14) Business Days of receipt by the Shipper of the CC Invoice to which the dispute relates, the Shipper or the Transporter, whichever is applicable, shall:

- (a) pay the undisputed portion of the CC Invoice by the Due Date; and
- (b) after settlement of the dispute, pay any amount agreed or determined to be payable within seven (7) days of such agreement or determination and interest on such amount shall accrue and be payable from the Due Date to the date of payment (both before and after any judgement) at LIBOR plus 3% compounded monthly from such Due Date until the date payment is made.

12.12 Taxes and withholdings

12.12.1 If, in respect of any payment to be made to the PoT Account or the Transporter by a Shipper, any deduction or withholding is required to be made by the law of any country other than a country of the United Kingdom, the Shipper shall:

- (a) ensure that the amount of such withholding or deduction does not exceed the minimum so required; and
- (b) forthwith pay into the PoT Account or to the Transporter, as appropriate, such additional amounts as will ensure that the net aggregate amount received into the PoT Account or by the Transporter will be equal to that which would have been received had no deduction or withholding been made.

12.12.2 All amounts expressed as payable by a Shipper under this Code are exclusive of Value Added Tax and accordingly the Shipper shall pay Value Added Tax where payable in respect of and in addition to any such amount.

12.12.3 A Shipper shall be responsible for the payment of any taxes, duties or other levies imposed on the Transporter, whether or not at the time of entering into this Code, in relation to the delivery, transportation, offtake, supply, or other disposition of its gas in connection with this Code other than the Transporter's corporation tax.

12.12.4 A Shipper shall indemnify, keep indemnified and hold harmless the Transporter from and against any charges, costs, claims or demands whatsoever arising in connection with the taxes, duties or other levies for which the Shipper is responsible in accordance with Section 12.12.3 and any fines, penalties, or interest which may be charged to or claimed or demanded from the Transporter in connection with the non-payment or delayed payment of such taxes by the Shipper.

12.12.5 A PS Invoice, a CC Invoice and a [STC/VRF/BB Invoice](#) shall include the amount of any fiscal imposts, taxes, VAT (or similar imposts), duties or levies imposed, whether or not in effect at the time of the parties entering into this Code, upon delivery, transportation, offtake, supply, appropriation or other disposition of a Shipper's gas.

12.12.6 If the Transporter is required to pay any sum to a Shipper in accordance with this Code it shall be entitled to deduct from such sum any amount that it is legally required to deduct and shall provide reasonable details of any amount so deducted.

12.13 Audit

12.13.1 A Shipper or PS Gas Supplier may, upon reasonable notice and during reasonable hours, subject to Section 18 (Confidentiality) and any obligations of confidentiality to which the Transporter is subject, have an independent

auditor of international repute, examine the books and records of the Transporter to the extent necessary to verify the accuracy of any accounting statement, charge or computation made in accordance with this Code provided that:

- (a) the Shipper or PS Gas Supplier has exercised its right under this Section 12.13 by giving written notice to the Transporter whilst it is, or within 24 months of it ceasing to be, a Shipper;
- (b) such books and records need not be preserved longer than a period of 6 years after the end of the Gas Year to which such books or records refer unless they relate to an existing dispute, in which case they will be retained until the end of such dispute; and
- (c) if such verification reveals any such inaccuracy the Transporter shall within forty (40) Business Days after such inaccuracy is established submit to the Shipper or PS Gas Supplier a statement showing all necessary adjustments to the accounting statement, charge or computation and the Transporter or the Shipper or PS Gas Supplier (as appropriate) shall, within fourteen(14) Business Days after the date of such statement make payment to the other party of the sum (if any) so due to that party.

12.13.2 The cost of any such audit shall be borne by the Shipper or PS Gas Supplier which requested it unless any such audit shall show an adjustment is necessary giving rise to a lesser charge to the Shipper or PS Gas Supplier than had been charged (an “**Adjustment Amount**”) in which case the reasonable cost of such an audit shall be treated as an Operating Cost in accordance with the Licence provided that:

- (a) such audit costs do not exceed the Adjustment Amount; and
- (b) the Adjustment Amount in aggregate exceeds £25,000 (adjusted at the start of each Gas Year in line with the arithmetic annual average value for the previous twelve (12) months of the CPI published by the Office of National Statistics each month in respect of all items).

12.14 Invoicing PS Code Charges to Shippers exiting the NI Network at the Lisburn Exit Point

12.14.1 Subject to Sections 3.9 and 12.14.2, and notwithstanding Clause 12.1.2 the Transporter shall not invoice PS Code Charges to Shippers exiting the NI Network at the Lisburn Exit Point.

12.14.2 If the Upstream Operator does not invoice PS Code charges, the Transporter may invoice Phoenix Distribution in respect of these charges in accordance with this Section 12.

12.15 Invoicing PS Transmission Amounts at the Lisburn Exit Point

12.15.1 Notwithstanding 12.1.1, the Transporter shall not invoice Monthly Postalised Commodity Payments in respect of Natural Gas offtaken at the Lisburn Exit Point.

12.15.2 If the Upstream Operator does not invoice Monthly Postalised Commodity Payments in accordance with this Section 12, the Transporter may invoice these charges to Phoenix Distribution.

12.15.3 Subject to 12.15.2, the Transporter may invoice Phoenix Distribution for all other PS Transmission amounts at the Lisburn Exit Point.

12.16 Charges, payment and Tax at Carrickfergus Virtual Exit Point

12.16.1 The Transporter shall not invoice monthly Shippers at the Carrickfergus Virtual Exit Point in accordance with this Section 12 in respect of:

- (a) Balancing Charges;
- (b) Scheduling Charges;
- (c) Monies to be charged or credited to such Shippers in respect of the purchase or sale of Balancing Gas;
- (d) Disbursements Amounts;
- (e) STC/VRF/[BB](#) Charges;

12.16.2 Premier Transmission shall invoice such charges monthly to Shippers exiting the NI Network at Exit Points connected to the PTL System or virtually exiting the NI Network at the Moffat Virtual Exit Point under the PTL Code in respect of applicable charges [and in agreement with the NINOA]

12.16.3 In the event that PTL does not invoice monthly Shippers exiting the Transportation System at the Carrickfergus Virtual Exit Point in respect of charges under section 12.16.1. The Transporter shall apply section 12 to such Shippers in respect of the BGE (UK) System.

12.16.4 For the avoidance of doubt the Transporter shall be entitled to assume that Premier Transmission has not invoiced charges under Section 12.16.1 if the Transporter does not receive written confirmation from Premier Transmission that Premier Transmission has so invoiced such charges by the twelfth (12th) day after the month end, (“M+12”).

12.17 STC/VRF Charges

12.17.1 In this Code, STC/VRF/[BB](#) Charges comprise:

- (a) “**Daily Capacity Charges**” which shall be payable in respect of capacity which is applied for and allocated in accordance with sections 1.4 and 1.5 respectively, and for the avoidance of doubt, is not otherwise charged for as a PS Transmission Amount.

- (b) “Interruptible VRF Charges” which shall be payable in respect of a Shipper’s Registration to make Interruptible VRF Nominations.
- (c) “Buyback Payments” which shall be payable by the Transporter to a Shipper in respect of Firm Capacity which is purchased in accordance with section 1.● and for the avoidance of doubt is not otherwise a PS Transmission Amount; and
- (d) “Incentive Scheme Payments” which shall be payable by the Transporter to a Shipper in accordance with the OS Scheme.

12.17.2 STC/VRF/BB Charges shall be calculated in accordance with the Charging Methodology and OS Scheme as applicable.

12.18 For the avoidance of doubt the Transporter shall be entitled to assume that the Upstream Operator has not invoiced PS Code Charges and/or PS Transmission Amounts as the case may be if the Transporter does not receive written confirmation from the Upstream Operator that the Upstream Operator has so invoiced such charges by M+12.

12.19 BGE (NI) Postalised Network Incentive Scheme Bank Account

12.19.1 The Transporter shall procure the setup and operation of a separate bank account (the “(BGE (NI)) Postalised Network Incentive Scheme Bank Account”) and shall procure the administration of the BGE (NI) Postalised Network Incentive Scheme Bank Account in conjunction with the administration of the PTL Postalised Network Incentive Scheme Bank Account and the Belfast Gas Postalised Network Incentive Scheme Bank Account in accordance with a procedure (the “Postalised Network Incentive Payments Procedure”) established pursuant to the NINOA. The Transporter shall in respect of each month:

- (a) pay into the BGE (NI) Postalised Network Incentive Scheme Bank Account:
 - (i) all monies received by the Transporter in respect of Oversubscription Capacity pursuant to this Code;
 - (ii) all monies received from PTL and/or Belfast Gas in accordance with the Postalised Network Incentive Payments Procedure for the purpose of reconciling the BGE (NI) Postalised Network Incentive Scheme Bank Account, the Belfast Gas Postalised Network Incentive Scheme Bank Account and the PTL Postalised Network Incentive Scheme Bank Account;
 - (iii) any interest received in respect of payments required to be paid into the BGE (NI) Postalised Network Incentive Scheme Bank Account; and

13. **CREDIT PROCEDURES**

13.1 **Application to determine Required Level of Credit Support**

13.1.1 (a) A Prospective Shipper shall, in accordance with Section 17.3, request the Transporter to determine the Required Level of Credit Support that the Prospective Shipper is required to establish in order for it to reserve and utilise Firm Capacity and/or utilise Interruptible Capacity and/or utilise Interruptible VRF Capacity.

(b) A Shipper shall provide a Credit Application from time to time, on the occurrence of any of the events specified in Sections 13.7.1(a) to (g).

13.1.2 Where a Prospective Shipper requests a determination by the Transporter in accordance with Section 17.3, where a re-assessment is required pursuant to one or more of Sections 13.7.1(a) to (g) or where a Shipper requests a re-assessment pursuant to Section 13.7.1(f) within a Gas Year to which the re-assessment relates, such Prospective Shipper or Shipper (as appropriate) shall provide the Transporter with the following:

(a) its Forecast Supplier Quantity for the next twelve (12) Months; and

(b) a forecast of the Firm Capacity (excluding Daily Capacity) it will hold for the next twelve (12) Months; and

(c) if applicable, the information required by Section 13.4.6; and

(d) a forecast of Daily Capacity, that the Shipper will hold for the next twelve (12) months shown individually for each Month; and

(e) its Forecast VRF Quantity for the next twelve (12) Months shown individually for each Month.

in the Prescribed Form (a “**Credit Application**”), indicating, in the case of both (a) and (b) above, what proportion of each figure is attributable to the first Gas Year to which such application relates.

13.1.3 Such a Prospective Shipper or Shipper shall provide, together with its Credit Application, a copy of its most recent audited accounts and such further information as the Transporter may reasonably require for the purposes of determining a Shipper’s Required Level of Credit Support.

13.1.4 A person which is a Shipper before the date on which this Section is first implemented shall submit a Credit Application within a Month of such implementation and its application shall, for the avoidance of doubt, be dealt with in accordance with the provisions of this Code in effect at the time of such application.

13.2 Calculation of Required Level of Credit Support

13.2.1 Subject to Section 13.2.5 the Required Level of Credit Support that a Shipper or Prospective Shipper shall be required to establish shall be of a value equal to 80 per cent of the sum of:

- (a) a forecast of the Forecast Postalised Charges that the Shipper or Prospective Shipper will incur in the next twelve (12) Months on the Transportation System calculated in accordance with Section 13.2.2; plus
- (b) a forecast of the PS Code Charges that the Prospective Shipper or Shipper will incur during the next twelve (12) Months on the NI Network calculated in accordance with Section 13.2.3 plus
- (c) a forecast of the STC/VRF/BB Charges that the Prospective Shipper or Shipper will incur during the next twelve (12) Months calculated in accordance with section 13.2.5.

13.2.2 The Transporter shall forecast the Forecast Postalised Charges that a Shipper or Prospective Shipper is likely to incur in the next twelve (12) Months (the “**Credit Period**”) based only upon the following:

- (a) the sum of:
 - (i) the higher of:
 - (aa) the Shipper’s or Prospective Shipper’s estimate forecast in accordance with Section 13.1.2 (a); and
 - (bb) the Forecast Supplier Quantity which the Transporter reasonably estimates that the Shipper or Prospective Shipper will Exit from the Transportation System during the Credit Period; and
 - (ii) the higher of:
 - (aa) the Shipper’s or Prospective Shipper’s forecast in accordance with Section 13.1.2 (b); and
 - (bb) the Firm Capacity(excluding Daily Capacity) which the Transporter reasonably estimates that the Shipper or Prospective Shipper will hold during the Credit Period;
- (b) the Transporter’s calculation of the Forecast Postalised Charges applicable to (a) above which shall be calculated as the sum of that element of the Forecast Postalised Charges that will be payable in respect of:

- (i) the Firm Capacity (excluding Daily Capacity) estimated to be held by the Shipper or Prospective Shipper in the Credit Period as determined in accordance with (a)(ii) above; and
- (ii) the volume of gas estimated to be exited by the Shipper or Prospective Shipper in the Credit Period as determined in accordance with (a)(i) above;

which shall in each case be calculated in accordance with the Licence.

13.2.3 The Transporter shall calculate forecast PS Code Charges as an amount equal to 80% of the Forecast Supplier Quantity calculated in accordance with Section 13.2.2(a)(i) and section 7 of the NINOA, plus the sum of the Shipper's VRF Quantity as provided by the Shipper in accordance with Section 13.1.2(e), multiplied by the Average PS Code Charge.

13.2.4 The Transporter shall calculate forecast STC/VRF/BB Charges as an amount equal to the Daily Capacity Charges which will be incurred in accordance with section 12.16.1 by the Shipper or Prospective Shipper in the Credit Period based upon the higher of:

- (a) the Shipper's or Prospective Shipper's estimate forecast in accordance with section 13.1.2(d); and
- (b) the Daily Capacity which the Transporter reasonably estimates that the Shipper or Prospective Shipper will hold in the Credit Period.

13.2.5 For the avoidance of doubt, a Transit Shipper's Required Level of Credit Support shall be calculated solely in accordance with Section 13.2.3.

13.3 **Duration of Required Credit Support**

13.3.1 A Shipper shall be required to maintain a Provided Level of Credit Support in accordance with the following::

- (a) the Required Level of Credit Support shall apply in respect of Charges relating to a given Gas Year ("Y") from the date on which the Transporter issues its determination of the Required Level of Credit Support in accordance with Section 13.4 and for the avoidance of doubt may be reduced within the Gas Year if (following a reassessment in accordance with Section 13.7) a determination is made by the Transporter that there has been a reduction in the Required Level of Credit Support for Gas Year Y;
- (b) if a Shipper has a Required Level of Credit Support for the subsequent Gas Year ("Y+1") which is lower than the Required Level of Credit Support for Gas Year Y, the Shipper shall maintain its Provided Level of Credit Support at the Required Level of Credit Support for Gas Year Y until such time as the Shipper has paid all amounts which fall to be paid by it in respect of Gas Year Y, including amounts which

become payable following the calculation of the Year-End Postalised Charges (as defined in the Licence) for Gas Year Y and to the invoicing [and payment] of Reconciliation Payments for Gas Year Y.

13.4 Establishing a Provided Level of Credit Support

Acceptable forms of credit support

13.4.1 The Transporter shall determine the Provided Level of Credit Support for a Shipper or a Prospective Shipper by reference to security which that Shipper or Prospective Shipper elects to provide in any one or combination of the following ways:

- (a) subject to Section 13.4.2, provision of security by way of "long term" Baa or higher investment grade rating as defined by Moody's, an Equivalent Rating from an Equivalent Agency, or, if the Securer does not hold a credit rating by way of an Equivalent Rating based on the Accounting Ratios specified in Section 13.4.4;
- (b) subject to Section 13.4.2, provision of security given by way of guarantee from a Government or other entity (which entity is empowered to give such guarantee) in each case holding at least a "long term" Baa investment grade as defined by Moody's, an Equivalent Rating from an Equivalent Agency, or, if the Securer does not hold a credit rating, by way of an Equivalent Rating based on the Accounting Ratios specified in Section 13.4.4, which guarantee must, in any event, be given substantially in the form of the guarantee set out in Appendix 3, or by way of the relevant Government or other entity, being a party to the relevant Accession Agreement with payment obligations in respect of the entire consideration and other liabilities thereunder and under the Code;
- (c) establishment of an escrow or other appropriate deposit which shall be with a UK branch of a financial institution with a "long term" A3 investment grade as defined by Moody's or an Equivalent Rating from an Equivalent Agency and which shall:
 - (i) be held in the name of the Transporter and the Shipper;
 - (ii) require the signatures of a duly authorised representative of the Transporter in order to authorise any withdrawals;
 - (iii) revert in title to the Transporter in the event of Shipper default to the extent of amounts accrued and due to the Transporter from the Shipper whether or not invoiced; and
 - (iv) include a penalty free notice period for payments out of the account of not more than thirty (30) days;

- (d) guarantee or irrevocable standby letter of credit issued by a UK branch of a financial institution with a long term credit rating of not less than A3 as defined by Moody’s or an Equivalent Rating from an Equivalent Agency, issued in favour of the Transporter in the form set out in Appendix 3 parts I and II respectively or such other form as the Transporter may agree; and
- (e) depositing with the Transporter bonds with a maximum remaining term of 12 Months issued by a UK financial institution with a long term rating of A or above, or depositing with the Transporter treasury bills with a maximum remaining term of no more than twelve (12) Months,

where “**Equivalent Agency**” means Fitch, IBCA, or Standard and Poors and “Equivalent Rating” shall be construed accordingly. Security given by way of any of the methods described in (a) or (b) is “Unsecured Credit Support”, and security given by way of any of the methods described in (c), (d) or (e) is “Secured Credit Support”.

Maximum Allowed Unsecured Credit

13.4.2 The maximum amount of credit which the Transporter may grant to a Shipper or Prospective Shipper based on Unsecured Credit Support (“Maximum Allowed Unsecured Credit”) shall be limited to a value equal to the lower of:

- (a) 10% of the Securer’s Net Assets; and
- (b) either:
 - (i) the amount listed in the table set out in Section 13.3.3 under the column heading “**Maximum Allowed Unsecured Credit**” on the row corresponding to that Securer’s credit rating; or
 - (ii) the amount listed in the table set out in Section 13.3.3 under the column heading “Maximum Allowed Unsecured Credit” on the row corresponding to that Securer’s Notional S&P Credit Rating as determined by the Transporter in accordance with Section 13.3.5,

where the “Securer” is the Shipper or Prospective Shipper (whichever is applicable) if the Unsecured Credit Support is provided under Section 13.4.1(a), or the guarantor if the Unsecured Credit Support is provided under Section 13.4.1(b).

13.4.3 Maximum Allowed Unsecured Credit shall be determined in accordance with the following table:

Moody’s Credit Rating	Standard & Poor Credit Rating	Maximum Allowed Unsecured Credit (£)
Aaa	AAA	30,000,000

Aa	AA	22,000,000
A	A	16,000,000
Baa	BBB	10,000,000

13.4.4 Unsecured Credit Support provided by a Securer under Sections 13.4.1(a) and/or (b) by way of Accounting Ratio shall be assigned a Notional S&P Credit Rating in accordance with the following tables and Section 13.4.5:

(a) Ratio ranges for Transmission Utilities

Ratio ranges for Transmission Utilities			
Accounting Ratio	Notional S&P Credit Rating		
	AA	A	BBB
FFO Interest Coverage	above 3.3	above 2.0 to 3.3	1.5 to 2.0
FFO to Total Debt (%)	above 15	above 10 to 15	5 to 10

(b) Ratio ranges for Distribution Utilities

Ratio ranges for Distribution Utilities			
Accounting Ratio	Notional S&P Credit Rating		
	AA	A	BBB
FFO Interest Coverage	above 5.0	above 3.0 to 5.0	2.0 to 3.0
FFO to Total Debt (%)	above 28	above 15 to 28	8 to 15

(c) Ratio ranges for Integrated Utilities

Ratio ranges for Integrated Utilities			
Accounting Ratio	Notional S&P Credit Rating		
	AA	A	BBB
FFO Interest Coverage	above 3.8	above 2.7 to 3.8	1.7 to 2.7
FFO to Total Debt (%)	above 20	above 15 to 20	7 to 15

(d) Ratio ranges for Generation Utilities

Ratio ranges for Generation Utilities

Accounting Ratio	Notional S&P Credit Rating		
	AA	A	BBB
FFO Interest Coverage	above 5.5	above 3.9 to 5.5	2.5 to 3.9
FFO to Total Debt (%)	above 35	above 20 to 35	10 to 20

13.4.5 The Transporter, acting reasonably, and taking into account a Securer's submissions under Section 13.4.6(c), shall decide which Utility Categorisation applies to the Securer, shall reference the applicable table in 13.4.4(a), (b), (c) or (d) accordingly and:

- (a) in the event that both the FFO Interest Coverage ratio and the FFO to Total Debt ratio for that Securer yield values that fall within the ranges listed under the same Notional S&P Credit Rating column value, shall ascribe to the Securer that Notional S&P Credit Rating; or
- (b) in the event that the FFO Interest Coverage ratio and the FFO to Total Debt ratio for that Securer yield values that do not fall within the ranges listed under the same Notional S&P Credit Rating, shall ascribe to the Securer that Notional S&P Credit Rating that will yield the lower Maximum Allowed Unsecured Credit value.

13.4.6 A Securer providing, or intending to provide Unsecured Credit Support by way of an Accounting Ratio, shall provide the Transporter with the following information at the same time as, and each time that, it provides the Transporter with a Credit Application:

- (a) its most recently published set of annual audited accounts;
- (b) calculations of the Accounting Ratios specified in 13.4.4 cross referenced to such accounts;
- (c) a submission requesting one of the Utility Categorisations in 13.4.4 to be applied to it, based on the information set out in its annual audited accounts; and
- (d) any other information that the Transporter might reasonably request.

13.4.7 The Transporter shall provide to each Shipper and PS Gas Supplier and to the Authority annually on the first Business Day of October and on the demand of any Shipper or PS Gas Supplier within ten (10) Business Days, a list of all Shippers that meet some or all of their Required Level of Credit Support through the provision of Unsecured Credit Support detailing the form of that Unsecured Credit Support, the extent to which it is provided and any information provided along with the Credit Application by each such Shipper.

- 13.4.8 The Transporter, a Designated Pipe-line Operator or a Shipper may, at any time, call a Credit Committee meeting in accordance with 13.6.2, to request that a Shipper or Prospective Shipper be disallowed from satisfying all or any part of its Required Level of Credit Support through the provision of all or any form of Unsecured Credit Support.
- 13.4.9 The Maximum Allowed Unsecured Credit values in this Section 13.4 will be adjusted on 1 October in each Gas Year by calculating the percentage difference between:
- (a) the CPI for the latest month for which the CPI is then available; and
 - (b) the CPI for same month in the preceding Gas Year;
- and increasing the Maximum Allowed Unsecured Credit figures listed in Section 13.4.3, as amended for any previous Gas Years in accordance with this Section 13.4.9, by that percentage difference.
- 13.4.10 Where a Shipper provides any form of Unsecured Credit Support as security it shall notify the Transporter immediately of any downgrading of the Securer's credit rating or material adverse change in the Securer's Accounting Ratios or any event of which it becomes aware which is likely to result in such downgrading or change from time to time.
- 13.4.11 If the Maximum Allowed Unsecured Credit permitted under Section 13.4.2 (as adjusted from time to time under Section 13.4.9) is less than the Required Level of Credit Support notified to the Shipper in accordance with Section 13.5, the Shipper shall provide an amount of Secured Credit Support equal to at least the difference between those two figures.

Maximum allowed secured credit

- 13.4.12 The maximum amount of credit which the Transporter may grant to a Shipper or Prospective Shipper based on Secured Credit Support shall be limited to the value of the Secured Credit Support.

Drawing on credit support

- 13.4.13 If there is a downgrading in credit rating as described in Section 13.7.2, the relevant Shipper shall (if the Transporter determines that the Shipper's Provided Level of Credit Support is less than the Required Level of Credit Support) comply with its obligations under Section 13.5.2.
- 13.4.14 The Transporter shall be entitled to make a demand up to the full amount under a letter of credit referred to in Section 13.3.1(d) or a guarantee referred to in Section 13.4.1(b) or 13.4.1(d) in any of the following circumstances:
- (a) a non-payment of any amount due by the relevant Shipper under the Code or its Accession Agreement in respect of PS Transmission Amounts; or

- (b) a non-payment of any amount (for the avoidance of doubt including STC/VRF Charge Amounts but not including PS Transmission Amounts) due by the relevant Shipper under the Code or its Accession Agreement; or
- (c) the issuer of the guarantee or letter of credit ceases to hold the minimum credit rating specified in Section 13.4.1(b) or 13.4.1 (d) respectively and the Shipper does not comply with its obligations under Section 13.4.2; or
- (d) if:
 - (i) a guarantee referred to in Section 13.4.1(b) or 13.4.1(d) or a letter of credit has been delivered for a Shipper pursuant to the Code; and
 - (ii) such guarantee or letter of credit (or replacement or extension thereof) has a scheduled expiry date earlier than the date which falls fifty (50) days after the end of the period for which Firm Capacity has been booked by the Shipper; and
 - (iii) the Shipper fails to procure that, not later than one (1) Month prior to the scheduled date of expiry of such guarantee or letter of credit (or of any replacement or extension), the Transporter is the beneficiary of such level of Secured Credit Support as is (when aggregated with the part of the relevant Shipper's Required Level of Credit Support which at that time is met through the provision of Unsecured Credit Support) equal to the Shipper's Required Level of Credit Support,

always provided that if a demand is made under (a) or (b) above, such demand may not exceed the amount of the relevant non-payment.

13.4.15 The Transporter shall procure that the amount paid under a guarantee or letter of credit following any demand thereunder shall be paid into the PoT Account, unless such amount exceeds (the amount of any such excess, being the "**Excess Amount**") the PS Transmission Amounts overdue for payment by the Shipper at the time of such payment, in which case an amount equal to the overdue PS Transmission Amounts shall be paid into the PoT Account.

13.4.16 Such part of the Excess Amount as is equal to the overdue amounts referred to in Section 13.4.14(b) shall be paid into such bank account of the Transporter as is determined by the Transporter.

13.4.17

- (a) The Transporter shall procure that any balance of an Excess Amount (following payment of the sums specified in Section 13.4.16, above) which remains after the making of the payment described in Section

13.4.16 shall be credited to an interest bearing account of the Transporter in the United Kingdom with a clearing bank and shall at all times be segregated from all other monies of the Transporter and shall be free from any encumbrance arising or subsisting in favour of any person other than the Transporter. Such amounts (and all interest thereon) shall be held on trust by the Transporter for the benefit of the Shipper and the Transporter in accordance with the provisions of this Section and the bank with which such monies are held shall be notified of such trust and of the beneficial interest of the Shipper in such monies.

- (b) The Transporter shall be entitled to withdraw amounts from such account and apply the same in each of the circumstances where the Transporter would otherwise have been entitled to make a demand under a letter of credit or guarantee pursuant to Section 13.4.14 (a) or (b) had such an instrument been issued in its favour at such time but in no other circumstances. If notwithstanding this Section (b) the Transporter withdraws any amount from the escrow account other than in such circumstances, the Transporter shall reimburse the same to the Shipper on demand, with interest at LIBOR plus 1% from the date of withdrawal to the date of such reimbursement.
- (c) If at any time at which monies are so held by the Transporter on trust for the Shipper the Shipper provides to the Transporter a letter of credit or a guarantee for the amount then held on such trust which conforms with the provisions of Section 13.4.1(b) or 13.4.1(d), then the Transporter shall return to the Shipper all monies then so held by the Transporter on such trust. If at any time following the termination of the Shipper's accession to the Code there are no amounts due and payable by the Shipper which are unpaid and no party to the Code remains under any obligation actual or contingent the observance or performance of which would give rise to an obligation on the Shipper to make a payment under the Code the trust created pursuant to this Section shall be wound up and any monies then held by the Transporter on such trust shall be returned to the Shipper.
- (d) The perpetuity period under the rule against perpetuities, if applicable to any trust arising pursuant to this Section, shall be the period of eighty (80) years from the date of such trust arising.

13.5 Determination of whether Required Level of Credit Support has been established

13.5.1 Within ten (10) Business Days of receipt of a Credit Application (or from time to time pursuant to Section 13.7) the Transporter shall determine and inform the Shipper or Prospective Shipper of that determination by issuing to it a notice in accordance with Section 19.5 specifying:

- (a) the Required Level of Credit Support that that Shipper or Prospective Shipper shall be required to establish; and
- (b) to what extent the Required Level of Credit Support has been met through the provision of Unsecured Credit Support and the amount, if any, of Secured Credit Support required to make up any deficiency.

13.5.2 A Shipper or Prospective Shipper whose Provided Level of Credit Support is less than its Required Level of Credit Support (including where the Transporter makes a determination to that effect following a re-assessment under Section 13.7.2(a), (b), (c), (d) and (f)) shall, within ten (10) Business Days from the issue of such notice by the Transporter, provide such additional security as is required to meet the Required Level of Credit Support, failing which (an “**LPC Default**”) the Transporter may exercise any rights which are or become available to it under Section 13.4.14 and, in the case of:

- (a) a Prospective Shipper, its Credit Application shall be rejected; and
- (b) a Shipper, the Transporter shall convene a meeting of the Credit Committee in accordance with Section 13.6.1(b).

13.5.3 A Shipper or Prospective Shipper whose Provided Level of Credit Support is less than its Required Level of Credit Support from time to time (where the Transporter makes a determination to that effect following a re-assessment under section 13.7.2) shall have its application for Daily Capacity rejected to the extent that its prevailing Provided Level of Credit Support is less than its Required Level of Credit Support following the making of such determination. For the avoidance of doubt a Shipper may make a Credit Application in advance of the Daily Capacity Application Window in order to ensure that it will meet the Required Level of Credit Support at the time of the Transporter’s reassessment in accordance with section 13.7.2.

13.6 Credit Committee

13.6.1 Without limitation to any party’s rights and obligations to call meetings of the Credit Committee under other Sections of this Code, the Transporter shall convene a Credit Committee meeting if any Shipper defaults in any of the following ways (each a “**Default**”):

- (a) the non-payment by the Due Date of any PS Transmission Amount or PS Code Charge or STC/VRF Charge Amount by any Shipper (an “**NPTP Default**”, an “**NPCC Default**” and an “**NPSTCVRF Default**” respectively); and/or
- (b) if the Provided Level of Credit Support fails to meet the Required Level of Credit Support from time to time (an “**LPC Default**”).

13.6.2 If any of the Transporter, any other Designated Pipe-line Operator or a PS Gas Supplier reasonably believes that a Shipper or Prospective Shipper

should be disallowed from providing or continuing to provide any or all of its Provided Level of Credit Support by way of Unsecured Credit Support on the basis that allowing such support by such means would result in an unacceptable material increase in risk to the economic security of the Postalised System, it may, at any time, call a Credit Committee meeting to propose that the Credit Committee give a Direction disallowing that Shipper or Prospective Shipper from being able to provide all or any of its Provided Level of Credit Support by way of Unsecured Credit Support (an “**US Default**”).

- 13.6.3 If any of the Transporter or a PS Gas Supplier reasonably believes that failure by the Transporter or another Designated Pipe-line Operator to re-assess a PS Gas Supplier’s Required Level of Credit Support and/or PS Gas Supplier’s Provided Level of Credit Support would result in an unacceptable material increase in risk to the security of the Postalised System, it may, at any time, call a Credit Committee meeting to propose that the Credit Committee give a Direction requiring such re-assessment.
- 13.6.4 A Shipper shall use reasonable endeavours to ensure that the Credit Committee shall operate and shall conduct itself in accordance with the Terms of Reference.
- 13.6.5 The Transporter and each Shipper shall promptly and fully comply with all Directions of the Credit Committee (including but not limited to the execution of any documents and performance of any actions required for the enforcement of any security provided by the Shipper, if instructed in the relevant Direction) provided that, where such Directions require the approval of the Authority, such approval has been given expressly in writing.
- 13.7 Reassessment of Required Level of Credit Support and Provided Level of Credit Support**
- 13.7.1 The Transporter will re-assess a Shipper’s Required Level of Credit Support in any of the following circumstances:
- (a) twelve (12) Months after the Shipper’s Required Level of Credit Support was last determined, assessed or reassessed;
 - (b) a Shipper gaining an additional Exit Point Registration[or an extension to an Exit Point Registration];
 - (c) a Shipper seeking to acquire additional Firm Capacity(other than Daily Capacity);
 - (d) a Shipper’s Forecast Supplier Quantity exceeding the level it estimated in accordance with Section 13.1.2 (a);
 - (e) the Credit Committee directing the Transporter to make a re-assessment;

- (f) on request from that Shipper at any time;
- (g) a Shipper making an application for Daily Capacity in accordance with Section 1.4;

13.7.2 The Transporter will re-assess a Shipper's Provided Level of Credit Support in any of the following circumstances:

- (a) twelve (12) Months after the Shipper Provided Level of Credit Support was last determined, assessed or re-assessed;
- (b) in the event of any form of Unsecured Credit Support being disallowed by the Credit Committee;
- (c) a period of one (1) Month before the expiry of a guarantee or any form of Secured Credit Support provided by or for such Shipper unless, before the start of such period, that guarantee or Secured Credit Support is renewed to the satisfaction of the Transporter on substantially the same terms for an extended term;
- (d) a downgrading in the Shipper's, its guarantor's or any issuer of a letter of credit's credit rating or there being a material adverse change in the Shipper's its guarantor's or any issuer of a letter of credit's Accounting Ratios from time to time;
- (e) the Credit Committee directs the Transporter to make a re-assessment;
or
- (f) on request from that Shipper at any time.

13.7.3 Such re-assessments of a Shipper's Required Level of Credit Support and Provided Level of Credit Support shall be conducted in accordance with the preceding provisions of this Section 13 as if a new Credit Application were submitted on the date of occurrence of any of the events specified in this Section 13.7.

13.8 Duty to provide forecasts and information relating to the calculation of the Postalised Charges

13.8.1 Forecasts and information relating to following Gas Years

- (a) A Shipper shall, each Gas Year, provide the following forecasts and information to the Transporter, in each case no later than the tenth (10th) Business Day in June in respect of the next Gas Year (GY) and each of the following four (4) Gas Years (GY+1 to GY+4):
 - (i) its Forecast Supplier Quantity (including for the purposes of this section 13.8.1 a Forecast VRF Quantity together with:
 - (aa) an explanation of the reasons why any Forecast Supplier Quantity in respect of any of the Gas Years

GY+1 to GY+4 are expected to be greater or less than its Forecast Supplier Quantity in respect of GY;

- (bb) a breakdown showing the proportions of its Forecast Supplier Quantity in respect of each Exit Point attributable to each Quarter of GY; and
- (ii) the assumptions on which the figures provided pursuant to Section 13.8.1(a) are based. In respect of power stations this shall include but not be limited to load factors, generation output and efficiency. In respect of a Shipper supplying gas to distribution networks this shall include but not be limited to numbers of consumers and average forecast volumes per consumer.
- (b) A Shipper shall use its reasonable endeavours to ensure that all forecasts and information supplied in accordance with Section 13.8.1(a) are as accurate as possible having regard to the information and forecasts available to that Shipper and shall provide with such forecasts a full breakdown and reasoning as to how it has calculated those forecasts.
- (c) A Shipper shall promptly submit to the Transporter any further information, explanation and access to relevant documents and records, in each case as the Transporter reasonably requires in respect of the Forecast Supplier Quantity in order to satisfy its obligation to present similar information under its Licence.

13.8.2 Provision of Quarterly Information

- (a) In respect of each Gas Year commencing on or after the Designation Date, the Transporter shall provide each Shipper and PS Gas Supplier with a breakdown of the Quarterly Exit Quantities by Exit Point for the relevant Quarter and any other information required to be provided by the Transporter on a Quarterly basis under its Licence, no later than ten (10) Business Days after the end of each Quarter in a Gas Year.
- (b) At the same time as the Transporter provides the figures required under Section 13.8.2(a), the Transporter shall confirm to each Shipper and PS Gas Supplier, whether it is aware of or has reason to believe that the forecast figures provided in accordance with its Licence for the remainder of the current or any future Gas Years will or may be materially inaccurate. If the Transporter suspects such material inaccuracy, it shall provide details of the extent of such inaccuracy, and its reasons for such belief.

- (c) The Transporter may fulfil its obligations under this Section 13.8.2, by submitting, together with one or more other Designated Pipe-line Operators, a joint report which shall comply with this Section 13.8.2.

13.9 Shippers which are not Gas Suppliers

The provisions of this Section 13 shall be applied, *mutatis mutandis*, to any Shipper which is not a Gas Supplier and adjusted to reflect those charges which such Shipper has agreed to pay in accordance with Section 12.2.3 (a).

14. LIABILITIES AND INDEMNITIES

14.1 Failure to deliver Firm Nominated Quantity

14.1.1 If a Shipper's Firm Allocated Quantity at an Exit Point is greater or less than its Firm Nominated Quantity in respect of that Exit Point each calculated by reference to the same Nomination on any Day (a "**Mismatched Firm Delivery**") the Shipper may, subject to this Section 14.1, if the Mismatched Firm Delivery occurs solely as a result of:

- (a) the negligence of the Transporter in connection with the provision of, or failure to provide the service to which this Code relates, claim from the Transporter an amount calculated as follows:

$$R = (U - 2\%) \times \frac{(Ax0.8)}{365} \times \frac{B}{C}$$

- (b) the Wilful Misconduct of the Transporter in connection with the provision of, or failure to provide the service to which this Code relates, claim from the Transporter an amount calculated as follows:

$$R = (U - 2\%) \times \frac{(Ax0.8)}{365} \times \frac{B}{C} \times 1.5$$

where in (a) and (b):

R = the amount due to the Shipper in pounds;

U the percentage by which the Shipper's Firm Allocated Quantity on any Day is more or less than its Firm Nominated Quantity in respect of such Day;

the Total Allowed Conveyance Revenue at the time of the act of the Mismatched Firm Delivery;

the aggregate MDQ of the Shipper (reserved prior to the date of the Mismatched Firm Delivery, and in respect of the period on which and after the Mismatched Firm Delivery occurred, reserved at the time it occurred) in the Gas Year in which the Mismatched Firm Delivery occurred divided by 365;

the aggregate of the MDQs of all Shippers holding Firm Capacity (reserved prior to the date of the Mismatched Firm Delivery, and in respect of the period on which and after the Mismatched Firm Delivery occurred, reserved at the time it occurred) in the Gas Year in which the Mismatched Firm Delivery occurred divided by 365

provided that in no event shall a Shipper be entitled to claim an amount under both (a) and (b) above and provided further that such claim shall be subject always to Section 14.7 and provided always that where there are no Shippers holding Firm Capacity (C is zero), then this section 14.1 shall not apply.

14.1.2 A Shipper's Firm Nominated Quantity in respect of an Exit Point pursuant to a capacity bookingshall, for the purposes of this Section 14.1, be the Firm Nominated Quantity prevailing:

- (a) before any reduction to the Firm Nominated Quantity prescribed by a Flow Order where the reduction was necessary as a result of the negligence or Wilful Misconduct of the Transporter; and
- (b) after any reduction to the Firm Nominated Quantity prescribed by a Flow Order where the reduction was not necessary as a result of the negligence or Wilful Misconduct of the Transporter.

14.1.3 A Shipper's Firm Allocated Quantity in respect of an Exit Point shall, for the purposes of this Section 14.1, be the Firm Allocated Quantity derived from a Final Allocation (applied separately to each Firm Nomination submitted).

14.1.4 A Shipper agrees and acknowledges, for the avoidance of doubt, that a Mismatched Firm Delivery shall not have occurred, for the purposes of Section 14.1.1 in the following, amongst other, circumstances:

- (a) if such a Mismatched Firm Delivery: (i) shall have occurred in any circumstance where the Transporter is relieved (in accordance with Section 8.3.3) of its obligation to provide pressure, (ii) during Scheduled Maintenance, or (iii) where the Transporter is relieved (in accordance with Section 15) of its obligations under this Code; or
- (b) on a Reduced Profile Day or a Reduced Reserved Capacity Day if the Transporter declared such a Reduced Profile Day or Reduced Reserved Capacity Day for any reason other than as a result of its negligence or Wilful Misconduct.

14.2 **Failure to deliver Interruptible Nominated Quantities**

14.2.1 If a Shipper's Interruptible Allocated Quantity at an Exit Point is greater or less than its Interruptible Nominated Quantity in respect of that Exit Point each calculated by reference to the same Nomination on any Day on which the Transporter shall have failed to declare a Reduced Interruptible Capacity Day (a "**Mismatched Interruptible Delivery**") the Shipper may, subject to this Section 14.2, if the Mismatched Interruptible Delivery occurs solely as a result of:

- (a) the negligence of the Transporter in connection with the provision of, or failure to provide, the service to which this Code relates claim from the Transporter an amount calculated as follows:

$$R = \frac{(U - 2\%) \times (Ax0.8) \times B}{365 \times C}$$

- (b) the Wilful Misconduct of the Transporter in connection with the provision of, or failure to provide, the service to which this Code relates claim from the Transporter an amount calculated as follows:

$$R = \frac{(U - 2\%) \times (Ax0.8) \times B}{365 \times C} \times 1.5$$

Where in (a) and (b):

R = the amount due to the Shipper in pounds;

U = the percentage by which the Shipper's Interruptible Allocated Quantity on any Day is more or less than its Interruptible Nominated Quantity in respect of such Day;

A = the Total Allowed Conveyance Revenue at the time of the act of the Mismatched Interruptible Delivery;

B = the aggregate of the Shipper's Interruptible Allocated Quantities in the Gas Year in which the Mismatched Interruptible Delivery occurred up to the date of the shortfall divided by the number of Days in respect of which the Shipper received Interruptible Allocated Quantities; and

C = the aggregate of all the Shipper's Interruptible Allocated Quantities in the Gas Year in which the Mismatched Interruptible Delivery occurred up to the date of the shortfall divided by the number of Days in respect of which all the Shippers received Interruptible Allocated Quantities.

provided that in no event shall a Shipper be entitled to claim an amount under (a) and (b) above.

14.2.2 A Shipper's Interruptible Nominated Quantity in respect of an Exit Point shall, for the purpose of Section 14.2 be the Interruptible Nominated Quantity prevailing:

- (a) before any reduction to the Interruptible Nominated Quantity prescribed by a Flow Order where the reduction was necessary as a result of the negligence or Wilful Misconduct of the Transporter;
- (b) after any reduction to the Interruptible Nominated Quantity prescribed by a Flow Order where the reduction was not necessary as a result of the negligence or Wilful Misconduct of the Transporter;
- (c) before any adjustment to an Interruptible Nominated Quantity made in accordance with Section 2.13.4.

14.2.3 A Shipper's Interruptible Allocated Quantity in respect of an Exit Point shall for the purpose of Section 14.2 be the Interruptible Allocated Quantity

derived from a Final Allocation (and applied separately with respect to each Interruptible Nomination).

14.2.4 A Shipper agrees and acknowledges, for the avoidance of doubt that a Mismatched Interruptible Delivery shall not have occurred for the purpose of Section 14.2.1 in the following, amongst other, circumstances:

- (a) if such Mismatched Interruptible Delivery shall have arisen in any circumstances where the Transporter is relieved (in accordance with Section 8.3.3) of its obligation to provide pressure, during Scheduled Maintenance, or where the Transporter is relieved (in accordance with Section 15 (Force Majeure)) of its obligations under this Code; and
- (b) where the Transporter has declared a Reduced Profile Day, a Reduced Firm Capacity Day or a Reduced Interruptible Capacity Day if the Transporter declared such Day for any reason other than as a result of its negligence or Wilful Misconduct.

14.3 Shrinkage Gas

14.3.1 If there is Shrinkage Gas which results solely from the negligence or Wilful Misconduct of the Transporter, the Shipper's sole remedy against the Transporter at common law, in equity or otherwise shall be to claim the lesser of:

- (a) the proportion of a Shipper's Balancing Charges and Balancing Gas costs that are attributable to Shrinkage Gas; or
- (b)
$$£20,000 \quad \times \quad \frac{RPI_n}{RPI_o}$$

14.4 Other breach by Transporter

14.4.1 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:

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

14.5 Sole liability and remedy

14.5.1 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, 14.3 and 14.4.

14.5.2 For the avoidance of doubt the Transporter shall have no liability with respect to Interruptible VRF Nominated Quantities.

14.6 Aggregate liability to all Shippers

14.6.1 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 14.9) 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.

14.6.2 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 14.6.1 in a Gas Year, the Transporter and each Shipper agrees that such liability shall be treated in accordance with Section 14.6.3.

14.6.3 The Transporter shall pay any such sums properly due to Shippers in respect of any liability referred to in Section 14.6.2 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.

14.6.4 The Transporter shall, to the extent that any sums due to Shippers in accordance with Section 14.6.3 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.

14.7 Exclusive remedies

14.7.1 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.

14.8 Consequential loss

14.8.1 Subject to Section 14.10, 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.

14.9 Liability for death/injury

14.9.1 Without prejudice to Sections 14.15 and 14.16, 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.

14.10 Pre-estimate of loss

14.10.1 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.

14.11 Mitigation of loss

14.11.1 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 whether arising from its negligence or tortuous act(s) or omission(s) or otherwise howsoever arising as a result of the said breach; and
- (b) in the case of loss and/or damage suffered by a Shipper as a result of a breach by the Transporter or another Shipper of their respective obligations under this Code whether arising from their respective negligence or tortuous acts(s) or omission(s) or otherwise howsoever arising as a result of the said breach.

14.12 No liability

14.12.1 The Transporter, for the avoidance of doubt, shall not be liable for the consequences of any decision taken by the Transporter acting as an RPO in accordance with this Code including, without limitation, any decision to withhold, reduce or limit any quantity of Natural Gas made available for offtake by or to a Shipper at respectively an Entry Point or from an Exit Point

as a consequence of the Transporter performing its duties and obligations pursuant to this Code (including as a result of a Shipper's acts or omissions, or being misinformed by Shipper).

14.13 Severability

14.13.1 Each sub-section in this Section 14 shall:

- (a) be construed as a separate and severable contract term, and if one or more of such sub-sections is held to be invalid, unlawful or otherwise unenforceable the other or others of such sub-sections shall remain in full force and effect shall continue to bind the Transporter and the Shippers: and
- (b) survive termination of this Code.

14.14 Transporter to indemnify Shippers

14.14.1 Save as expressly provided elsewhere in the Code, the Transporter shall be liable to each Shipper for and indemnify, defend and hold harmless each Shipper from and against any and all Indemnified Liabilities, in respect of:

- (a) injury to or sickness, disease or death of any of the Transporter's own officers, directors, employees and agents and/or those of its Affiliates, contractors, sub-contractors; and
- (b) damage to or loss of property of the Transporter or the property of its Affiliates, contractors, sub-contractors and its and their respective officers, directors, employees and agents howsoever arising in respect of this Code including out of the Shippers breach of this Code, or the Shipper's breach of statutory duty in respect of this Code or from the negligence of the Shipper save to the extent that any Indemnified Liabilities arise from the Wilful Misconduct of the Shipper.

14.15 Shippers to indemnify Transporter

14.15.1 Save as expressly provided elsewhere in the Code, each Shipper shall be liable to the Transporter for and indemnify, defend and hold harmless the Transporter from and against any and all Indemnified Liabilities, in respect of:

- (a) injury to or sickness, disease or death of any of the Shipper's own officers, directors, employees and agents and/or those of its Affiliates, contractors, sub-contractors; and
- (b) damage to or loss of property of each Shipper or the property of its Affiliates, contractors, sub-contractors and its and their respective officers, directors, employees and agents howsoever arising in respect of this Code including out of the Transporter's breach of this Code or the Transporter's breach of statutory duty in respect of this Code or from the negligence of the Transporter save to the extent that any

Indemnified Liabilities arise from the Wilful Misconduct of the Transporter.

14.16 Insurance

14.16.1 The Transporter shall effect and maintain throughout the life of this Code and each Shipper shall effect and maintain for so long as it is a Shipper insurance policies which shall include:

- (a) general third party insurance with a limit per occurrence or series of occurrences arising from one event of not less £10,000,000 (ten million pounds sterling); and
- (b) insurance of not less than the greater of that required by applicable workmen's compensation or employer's liability legislation from time to time and £5,000,000 (five million pounds sterling) per occurrence or series of occurrences arising from any one event.

14.16.2 The Transporter and each Shipper shall each ensure that its insurers include in their insurance policies to be obtained under Section 14.16.1(a) a waiver of the subrogation rights of its insurer in respect of the matters indemnified in Sections 14.14 and 14.15 respectively for the benefit of the other party except in the case of the Wilful Misconduct of the Transporter or each Shipper (as appropriate) and provide evidence of this to the other party on request.

15. **FORCE MAJEURE**

15.1 **Definition**

For the purposes of this Code:

"**Force Majeure**" means any event or circumstance or any combination of events and/or circumstances, the occurrence of which is beyond the reasonable control of, and could not have been avoided by steps which might reasonably be expected to have been taken by a party acting as an RPO (the "**Affected Party**") and which causes or results in the failure of the Affected Party to perform or its delay in performing any of its obligations owed to any other party or parties (each an "**Other Party**") under this Code and all Ancillary Agreements to this Code, including any:

- (a) war declared or undeclared, threat of war, act of public enemy, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage, act of vandalism, criminal damage;
- (b) act of God;
- (c) strike, lockout or other industrial disturbance;
- (d) explosion, fire, fault or failure of plant, equipment or other installation which the Affected Party could not prevent or overcome by the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same kind of undertaking under the same or similar circumstances;
- (e) governmental restraint on the coming into force of any regulation, license or Legal Requirement of any Competent Authority;
- (f) suspension, withdrawal or change in the terms of any licence, permit or consent; and
- (g) structural shift or subsidence affecting generally a part or parts of the Transportation System or any area or areas of the route of the North-West Pipeline or South-North Pipeline and
- (h) any event or circumstance analogous to (a), (b), (c) or (g) affecting the Upstream System or any Connected System.

15.2 **Relief from obligations**

15.2.1 Subject to Section 15.3 and without prejudice to any other provisions of this Code limiting or restricting the liability of the Affected Party, if by reason of an event of Force Majeure the Affected Party is rendered unable wholly or in part to carry out its obligations under this Code then its obligations shall be suspended to the extent the Affected Party's ability to perform is hindered by the Force Majeure event.

15.3 No relief

15.3.1 A Force Majeure event shall not relieve a party from any liability or obligation to:

- (a) make payments due under this Code save to the extent that the failure to pay money is caused by a Force Majeure event affecting all reasonable means of payment, in which case, upon the cessation of the Force Majeure event, the Affected Party shall pay these unpaid monies together with interest on them at the rate of LIBOR calculated from the due date for payment to the actual date of payment; or
- (b) give any notice due under this Code.

15.4 Report of Force Majeure event

15.4.1 Following any occurrence of a Force Majeure event, the Affected Party shall as soon as reasonably practicable, but in any event within twenty one (21) days of the occurrence of the Force Majeure event, notify the Other Party in writing of the occurrence and nature of the Force Majeure event, the expected duration thereof, (insofar as the same can reasonably be assessed), and the obligations of the Affected Party's performance of which is affected by such Force Majeure event, and from time to time thereafter provide to the Other Party reasonable details of:

- (a) developments in the matters so notified;
- (b) the steps being taken by the Affected Party (using reasonable efforts in accordance with the standards of an RPO) to overcome the Force Majeure event or its effects and to resume performance of its relevant obligations; and
- (c) any other information as the Other Party may reasonably request

provided always that any relevant information which cannot be made available within the said twenty one (21) day period shall be supplied as soon as it is available and that the Affected Party shall not be prevented from using such information in support of its Force Majeure claim.

15.5 Resumption of obligations

15.5.1 Any party whose failure to perform obligations has been relieved under the provisions of this Section 15 shall resume the performance of such obligations as soon as reasonably practicable after the removal of the cause(s) of such failure and shall notify the Other Party prior to its resumption.

16. **TERMINATION**

16.1 **Introduction**

A Shipper agrees that its Accession Agreement may be terminated in accordance with this Section 16. Upon the termination of a Shipper's Accession Agreement it shall no longer be a Shipper and the 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 16.5.

16.2 **Termination by the Transporter**

16.2.1 The Transporter shall declare a "**Termination Default**", if the Shipper:

- (a) fails to pay any sum due to the Transporter under a CC Invoice which is not the subject of a bona fide dispute in accordance with Section 12.11:
 - (i) within fifteen (15) Business Days of the Due Date (the "**Second Due Date**") provided that the Transporter shall have given the Shipper not less than five (5) Business Days' written notice that such payment is overdue; or
 - (ii) by the Due Date on three (3) or more occasions in respect of three (3) or more separate CC Invoices;
- (b) fails to pay any sum due to the Transporter under a PS Invoice:
 - (i) within fifteen (15) Business Days of the Due Date provided that the Transporter shall have given the Shipper not less than five (5) Business Days' written notice that such payment is overdue; or
 - (ii) by the Due Date on three (3) or more occasions in respect of three (3) or more separate PS Invoices;
- (bb) fails to pay any sum due to the Transporter under an STC/VRF Invoice:
 - (1) within fifteen (15) Business Days of the Due Date (the "**Second Due Date**") provided that the Transporter shall have given the Shipper not less than five (5) Business Days written notice that such payment is overdue; or
 - (2) by the Due Date on three (3) or more occasions in respect of three (3) or more separate STC/VRF Invoices.
- (c) having failed to submit a Nomination to the Transporter for a period exceeding twelve (12) months, does not hold at the relevant time any Firm Capacity, provided that the Transporter shall have first consulted with the Shipper and obtained its agreement or the agreement of the Authority to such termination;

(d) having an Exit Point Registration in respect of an Exit Point in Northern Ireland, ceases to hold a valid Gas Supply Licence unless that Shipper has prior written consent from the Authority to either:

(i) hold Firm Capacity or Interruptible Capacity; or

(ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence;

provided that the Shipper submits to the Transporter a copy of such consent from the Authority;

(e) having an Exit Point Registration in respect of an Exit Point in Northern Ireland, without a valid gas Supply Licence and on the basis that the Shipper has prior written consent from the Authority to either:

(i) hold Firm Capacity or Interruptible Capacity; or

(ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence;

ceases to hold the relevant consent from the Authority; or

(f) is in LPC Default.

16.2.2 Within two (2) Business Days of a Termination Default occurring, the Transporter shall send a Meeting Notice in accordance with paragraph 3 of the Terms of Reference convening a meeting of the Credit Committee and asking for Directions regarding the Termination Default.

16.2.3 Notwithstanding the foregoing, where, within fifteen (15) Business Days of the date on which the Meeting Notice was sent by the Transporter under Section 16.2.2, the Credit Committee has failed to decide Directions in respect of that Termination Default, the Transporter shall be entitled, with the Authority's consent, to terminate the relevant Accession Agreement by written notice.

16.2.4 Without limiting any other rights to terminate an Accession Agreement which the Transporter has under this Code, the Transporter shall be entitled to terminate any Accession Agreement with effect from:

(a) the date specified in a relevant Direction of the Credit Committee;

(b) where a relevant Direction has been given but no date for termination is specified, forthwith;

(c) where the Termination Default occurs under Section 16.2.1(c) with the relevant Shipper's consent, forthwith; and

(d) if the Transporter's Licence is terminated, forthwith.

16.3 Termination by either party for breach

- 16.3.1 If the Transporter or a Shipper is in breach of Section 16.3.2 (the “**Defaulting Party**”) the party which is not in breach (the “**Non-Defaulting Party**”) may request, by sending a Meeting Notice in accordance with paragraph 3 of the Terms of Reference, the Credit Committee to agree to allow termination of the relevant Accession Agreement, provided that such referral to the Credit Committee may only be made where the relevant breach itself (and not any resulting termination) gives rise to a material increase in credit risk for PS Gas Suppliers. Where the relevant breach is not to be referred to the Credit Committee as provided in this Section, either party may terminate the relevant Accession Agreement in accordance with this Section 16.3.
- 16.3.2 The Transporter or a Shipper is in breach of this Section 16.3.2 if it is in breach of any of its obligations under this Code and that breach has a material adverse effect on the Non-Defaulting Party.
- 16.3.3 Subject to Sections 16.3.1 and 16.3.4, at a meeting convened pursuant to Section 16.3.1 the Credit Committee may direct the Non-Defaulting Party to send the Defaulting Party a notice (a “**Termination Notice**”) specifying the date on which the Accession Agreement is to be terminated.
- 16.3.4 If the breach, the subject of the Meeting Notice sent in accordance with Section 16.3.1, is in the opinion of the Credit Committee capable of being remedied as determined in a Direction, the Termination Notice shall set out in reasonable detail:
- (a) the alleged breach;
 - (b) the remedy required to be taken and the period within which the breach is required to be remedied, which period shall be of such length as a Reasonable and Prudent Operator would require in order to remedy the breach taking into account (where appropriate) the availability of Maintenance Days and shall not, in any event, be less than thirty (30) Business Days; and
 - (c) the date on which the Accession Agreement shall terminate if the relevant breach has not been remedied within the period specified in such Direction or in the Termination Notice in accordance with (b), above.
- 16.3.5 If the breach, the subject of the Meeting Notice sent in accordance with Section 16.3.1, is not, in the opinion of the Credit Committee, capable of being remedied as determined in a Direction, the Termination Notice may, with the Authority’s consent, specify that the relevant Accession Agreement shall terminate forthwith or on any date thereafter.
- 16.3.6 Notwithstanding the foregoing, where, within fifteen (15) Business Days of the date on which the Meeting Notice was sent by the Transporter under

Section 16.3.1, the Credit Committee has failed to decide Directions in respect of that Termination Default, the Transporter shall be entitled, with the Authority's consent, to terminate the relevant Accession Agreement by written notice.

16.4 Termination by either party on liquidation

16.4.1 Either party shall be entitled by written notice to the other to terminate the Accession Agreement forthwith in the event that:

- (a) an encumbrancer takes possession of, or a liquidator, receiver or an administrator or examiner is appointed over any part of the assets of the other party or any security granted by the other party becomes enforceable;
- (b) the other party is unable to pay its debts as they fall due or suspends making payments (including without limitation payments of principal or interest with respect to all or any class of its debts);
- (c) the other party suffering a distress, execution, sequestration or other process being levied or enforced upon or sued or against all or any substantial part of its assets, rights or revenues which is not discharged, stayed, or dismissed within thirty (30) Business Days;
- (d) the other party ceasing to carry on its business or a substantial part of its business (unless, such cessation is intended to be, and is, temporary and occasioned as a consequence of a Force Majeure event); or
- (e) any event similar, equivalent or analogous to any of the events specified in this Section 16.4 occurs in relation to the other party in any jurisdiction

provided that in the event that an administrator has been appointed over any part of the assets of the other party a Direction of the Credit Committee shall have first been sought and fully complied with.

16.5 Consequences of termination

16.5.1 Termination of an Accession Agreement shall not extinguish or relieve either party to that agreement from the performance of any obligation accrued under this Code as at the time of termination.

16.5.2 Upon termination by the Transporter under Sections 16.2, 16.3 or 16.4 the following payments shall immediately fall due and payable by the Shipper (and the "**Due Date**" in relation to such payments shall for the purposes of this Code be the date of termination):

- (a) all of the following which are due, accrued or outstanding to the Transporter under this Code in respect of the period up to and including the date of termination:

- (i) all PS Transmission Amounts; and
 - (ii) all PS Code Charges; and
 - (iii) all STC/VRF Charges.
- (b) the following:
- (i) the Forecast Postalised Capacity Charge payable in respect of all Firm Capacity held by the Shipper in the remainder of the Gas Year after the date of termination; and
 - (ii) the Forecast Postalised Commodity Charge that would be payable in respect of the Shipper's Firm Allocated Quantities and Interruptible Allocated Quantities if such quantities were taken to equal 80% of all Firm Capacity held by the Shipper in the remainder of the Gas Year after the date of termination; and
 - (iii) the Transporter's estimate of the PS Transmission Amounts that would be payable in respect of all Firm Capacity held by the Shipper in all future Gas Years (had no such termination occurred) provided that such sums shall be adjusted to take account of:
 - (aa) the Transporter's estimate of the amount (if any) by which it shall be able to mitigate the loss referred to in (iii) above;
 - (bb) inflation (which shall be assumed to continue at the rate of RPI at the date of termination);
 - (cc) any change in the PS Transmission Amounts to reflect any change in the capacity/commodity split of the tariff; and the net present value of the amount payable at LIBOR,
 - (iv) the Transporter's estimate of the STC/VRF/BB Charges that would be payable in respect of all Daily Capacity held by the Shipper in the remainder of the Month in which the date of termination falls and the immediately succeeding Month.

provided that, for the avoidance of doubt, in relation to a Transit Shipper, only amounts referred to in Section 16.5.2(a)(ii), 16.5.2.(a)(iii) and 16.5.2(b)(iv) shall fall due and payable by that Transit Shipper.

16.5.3 Upon termination under Sections 16.2, 16.3 or 16.4, the Transporter shall, as soon as reasonably practicable, and in any event not later than the fifth (5th) Business Day following termination, issue the Shipper with an invoice (a "**Termination Invoice**") which shall set out the following:

- (a) the identity of the Shipper;

- (b) the period to which the Termination Invoice relates; and
- (c) a detailed breakdown of each of the sums payable under Section 16.5.2.

16.5.4 The Shipper shall, no later than thirty (30) Business Days following receipt of the Termination Invoice pay to the PoT Account all sums payable under Section 16.5.2, with the exception of payments due under Section 16.5.2(a)(ii), which shall be payable to the Transporter in accordance with the provisions of this Code.

16.5.5 If the Shipper fails to pay any sum due as detailed in the Termination Invoice by the date specified in Section 16.5.4, interest on such overdue amount shall accrue at LIBOR plus 3% compounded monthly from the date specified in Section 16.5.4 until the date payment is made.

17. ACCESSION TO THE CODE, EXIT POINT REGISTRATION, DOWNSTREAM LOAD STATEMENTS AND RETIREMENTS 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 Firm 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; and

17.2.7 the Network Forecast Statement;

17.2.8 the Prescribed Form of Nomination, Renomination, Firm Capacity Notice, Firm Capacity Application, Indicative Application for Firm 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 Application 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 17.8.2;

17.3.3 may provide to the Transporter an Indicative Application for Firm Capacity;

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

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

17.4 Accession to the Code

17.4.1 After a Prospective Shipper has executed an Accession Agreement and the Effective Date has occurred (as defined in the Accession Agreement) the Prospective Shipper shall become a Shipper and may subject to 17.4.2 book and utilise Firm Capacity and/or utilise Interruptible Capacity in respect of an Exit Point in relation to which it has an Exit Point Registration.

17.5 Application for Exit Point Registration and registration at a Virtual Exit Point

17.5.1 A Shipper shall be required to be registered in respect of an Exit Point (including for avoidance of doubt the Lisburn Exit Point) and/or Virtual Exit Point (an "Exit Point Registration") before it may apply for Firm Capacity or utilise Interruptible Capacity in respect of that Exit Point or before it may submit Interruptible VRF Nominations in respect of that Virtual Exit Point.

17.5.2 A Shipper may, from time to time, apply to be registered in respect of an Exit Point and or in respect of a Virtual Exit Point and a Prospective Shipper shall apply to be registered in respect of an Exit Point.

17.5.3 A Shipper or Prospective Shipper wishing to obtain an Exit Point Registration in respect of an Exit Point (and/or extend or existing Exit Point Registration to include an additional Entry Point) and/or a Virtual Exit Point (as the case may be) shall provide the Transporter with the following information in relation to the relevant Exit Point [or Virtual Exit Point (as the case may be)]:

- (a) the location of the Exit Point in respect of which it requires an Exit Point Registration (where applicable);
- (b) the location of the Virtual Exit Point (where applicable);
- (c) the Entry Point or Entry Points at which a Shipper wishes to deliver Natural Gas for offtake at the specified Exit Point;
- (d) the date from which it wishes to offtake (physically or virtually as the case may be) Natural Gas taking into account the period of time referred to in Section 17.6;
- (e) the information set out in Section 6.9 relating to emergency contacts;
- (f) any of the following:
 - (i) evidence satisfactory to the Transporter that the Shipper or Prospective Shipper will itself utilise the Natural Gas to be offtaken from the Exit Point;
 - (ii) written confirmation from a gas consumer that the Shipper or Prospective Shipper has entered into an agreement with that gas consumer to supply it with the Natural Gas that the Shipper or Prospective Shipper will offtake from the Exit Point which may be conditional upon the Shipper or Prospective Shipper

obtaining an Exit Point Registration in relation to the relevant Exit Point and/or the Shipper or Prospective Shipper acquiring Firm Capacity in relation to the relevant Exit Point; or

- (iii) written confirmation from a Transporter of Natural Gas on a Connected System immediately downstream of the System that the Shipper or Prospective Shipper has entered into an agreement with it to ship Natural Gas on the Connected System offtaken from the Exit Point; and
- (iv) where the Exit Point Registration Application in respect of the Carrickfergus Virtual Exit Point written confirmation from the transporter of Natural Gas on the Upstream Transportation System that the Shipper or Prospective Shipper has entered into an agreement with it to ship on the Upstream Transportation System Natural Gas virtually offtaken at the Virtual Exit Point
- (v) where the Exit Point Registration Application is in respect of the South-North Virtual Exit Point written confirmation from the Shipper that it has entered into an agreement with a Third Party Shipper (where applicable) to accept quantities of Natural Gas offtaken at the Virtual Exit Point and ship same on the Connected System.

(g) any such other information as the Transporter may reasonably require

(in the Prescribed Form (an "**Exit Point Registration Application**").

17.5.4 A Shipper or Prospective Shipper wishing to obtain an Exit Point Registration in respect of an Exit Point shall or may provide the Transporter with, in addition to an Exit Point Registration, a Downstream Load Statement in relation to the Exit Point.

- (a) A Shipper or Prospective Shipper wishing to obtain an Exit Point Registration in respect of an Exit Point in Northern Ireland shall, as a condition to becoming registered, be required to provide to the Transporter a copy of its Gas Supply Licence.

17.5.5 Section 17.5.4(a) shall not apply in respect of any Shipper, or Prospective Shipper, that does not have a Gas Supply Licence, but does have the Authority's prior written consent to either:

- (a) hold Firm or Interruptible Capacity; or
- (b) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence.

provided that the Shipper submits to the Transporter a copy of such consent from the Authority.

- 17.5.6 A Shipper with an Exit Point Registration at an Exit Point shall be entitled to submit Nominations with respect to a Firm Nominated Quantity and/or with respect to an Interruptible Nominated Quantity at that Exit Point subject to and in accordance with the Code.
- 17.5.7 A Shipper with an Exit Point Registration at a Virtual Exit Point shall be entitled to submit Interruptible VRF Nominations with respect to Interruptible VRF Nominated Quantities at that Virtual Exit Point subject to and in accordance with the Code;
- 17.5.8 A Shipper may from time to time apply to the Transporter to extend an existing Exit Point Registration to include or refer to a further Entry Point (an “**Exit Point Registration Extension Application**”) in accordance with Section 17.5.10 below;
- 17.5.9 An Exit Point Registration Extension Application shall contain the information referred to in Section 17.5.3 and shall:
- (a) include the details of the Shipper’s existing Exit Point Registration;
 - (b) specify the new Entry Points in respect of which the Exit Point Registration is to be extended.
- 17.6 **Exit Point Registration and extension of Exit Point Registration**
- 17.6.1 The Transporter shall, within twenty (20) Business Days of receiving from a Shipper an Exit Point Registration Application and/or an Exit Point Registration Extension Application in accordance with Section 17.5 and any Downstream Load Statement in relation to the Exit Point in accordance with Section 17.8, issue to the Shipper an Exit Point Registration, a Network Exit Parameter Schedule and notify the Shipper of the Exit Point Tolerance in respect of the Exit Point.
- 17.6.2 The Transporter shall reject an Exit Point Registration Application and/or an Exit Point Registration Extension Application if it receives a Direction from the Credit Committee in accordance with paragraph 6.1(K) of the Terms of Reference, that it should do so.
- 17.7 **Exit Point De-registration**
- 17.7.1 Subject to Section 17.7.2, a Shipper may terminate its Exit Point Registration in respect of the Exit Point by giving the Transporter ten (10) Business Days written notice.
- 17.7.2 No Exit Point Registration may be terminated before the end of the last Day on which the Shipper holds Firm Capacity at the Exit Point.
- 17.7.3 In the event that a Shipper who terminates its Exit Point Registration in accordance with Section 17.7.1 would result in no Shipper holding an Exit Point Registration in respect of an Exit Point, the Transporter shall be entitled to require the Shipper to maintain its Exit Point Registration until such time

that the Transporter has isolated the Exit Point. The Transporter shall so isolate the Exit Point as soon as reasonably practicable after the date on which the Shipper wishes the termination of its Exit Point Registration to take effect.

- 17.7.4 In the event that a Shipper fails to provide the Transporter with any of the information listed in Section 17.5.3(d) within twenty (20) Business Days of being requested to do so, the Transporter shall, subject to Section 17.7.3, terminate the Shipper's Exit Point Registration in respect of that Exit Point.

17.8 **Downstream Load Statements**

- 17.8.1 A Shipper shall be required to provide the Transporter with a statement in the Prescribed Form (a "**Downstream Load Statement**") in respect of an Exit Point before it may obtain an Exit Point Registration in respect of that Exit Point if no other Shipper has an Exit Point Registration in respect of the Exit Point.
- 17.8.2 The Transporter may request a Shipper to provide more than one downstream load statement in any Gas Year if the Exit Point is not 100% power generation fifteen (15) Business Days before the mid year date and fifteen (15) Business Days before the end of the Gas Year.
- 17.8.3 The Transporter shall make the Downstream Load Statement available to all Shippers with an Exit Point Registration in respect of the Exit Point to which it relates.
- 17.8.4 A Shipper, or a Prospective Shipper wishing to become a Shipper, shall, if it becomes aware that any material change in information in a Downstream Load Statement is incorrect, provide the Transporter on ten (10) Business Days written notice with a revised and fully accurate Downstream Load Statement. References in this Code to a Downstream Load Statement are to the latest revised Downstream Load Statement from time to time.
- 17.8.5 A Downstream Load Statement shall contain the End User's statement of the maximum quantity in kWh/day which may reasonably be required to supply the relevant Downstream Load Category.
- 17.8.6 For the purposes of Sections 6.2 and 6.5 only, if on a Day the sum of all Shippers MDQs at an Exit Point ("**Sum MDQ**") exceeds the sum of the quantities stated by the relevant End User in the relevant Downstream Load Statement ("**Sum DLS**") then a quantity equal to Sum MDQ less Sum DLS shall be deemed for the purposes of Sections 6.2 and 6.5 only to be added to the Downstream Load Category in the lowest Priority Order for which the End User has stated a maximum quantity in kWh/day.

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 Exit Point Registration; and/or
 - (c) has made a full payment for all amounts invoiced in respect of:
 - (i) PS Transmission Amounts;
 - (ii) PS Code Charges;
 - (iii) STC/VRF.BB Charges;
 - (iv) Supplemental Payments;
 - (v) Auxiliary Payments; and
 - (vi) 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 Section 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 Section 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.

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) PS Code Charges;
- (c) STC/VRF/BB Charges;
- (d) Supplemental Payments;
- (e) Auxiliary Payments; and/or
- (f) Any other payments due pursuant to the Code.

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) 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.

18. **CONFIDENTIALITY**

18.1 **Definitions**

18.1.1 For the purposes of this Code:

- (a) "**Confidential Information**" means:
 - (i) in relation to the Transporter:

- (1) any information relating to the affairs of a Shipper obtained in the course of the implementation of the Code; or
 - (2) the terms of each Ancillary Agreement (other than the Code) in relation to each Shipper; and
- (ii) in relation to the Shipper:
- (1) any information relating to the Transporter or another Shipper which is obtained in the course of the implementation of the Code; or
 - (2) the terms of its Ancillary Agreements (other than the Code);
- (b) **"Disclosing Party"** means the party disclosing Confidential Information to a Receiving Party;
- (c) **"Permitted Purpose"** means any purpose related to a party's participation in this Code including in relation to the preparation of the NI Pressure/Capacity Report; and
- (d) **"Receiving Party"** means the party to which Confidential Information is disclosed by a Disclosing Party.

18.2 Confidentiality

A Receiving Party shall not, except as provided in Sections 18.3 and 18.4, disclose any Confidential Information to any other person or use any Confidential Information other than for the Permitted Purpose without the prior written consent of the Disclosing Party.

18.3 Exceptions

Section 18.2 shall not apply to any Confidential Information which:

- 18.3.1 at, or after, the time of disclosure becomes part of the public domain (other than by reason of a breach of this Code by the Receiving Party);
- 18.3.2 is known by the Receiving Party at the time it obtains the Confidential Information (save where the information is known by the Receiving Party as a result of it having previously been disclosed by the Disclosing Party to it);
- 18.3.3 is lawfully acquired by the Receiving Party from a third party otherwise than in breach of an obligation of confidentiality; or
- 18.3.4 any information which is required to be discharged to holders of conveyance licences for the purpose of the operation or management of the Postalised Network Disbursement Procedure or the BGE (NI) Postalised Network Disbursement Bank Account.
- 18.3.5 any information which is required to be disclosed to the Connected System Operator at the South-North Entry Point.

18.4 Rights of disclosure

18.4.1 A Receiving Party may disclose Confidential Information without the written consent of the Disclosing Party:

- (a) to any employees, officers, directors, professional advisors and consultants of the Receiving Party to the extent that the disclosure is necessary in connection with the Permitted Purpose;
- (b) to any of its Affiliates, or any person holding more than 25% of the issued share capital of the Receiving Party or any of that persons Affiliates, to the extent that the disclosure is necessary in connection with the Permitted Purpose;
- (c) to any bona fide prospective transferee of more than 25% of the issued share capital of the Receiving Party or any of its Affiliates;
- (d) to any bank or financial institution from which the Receiving Party is seeking or obtaining finance to the extent that the disclosure is necessary in connection with such finance;
- (e) to any person appointed as Expert pursuant to this Code to the extent reasonably necessary for the performance of his duties to the extent required by law or by the order of any court having competent jurisdiction over the Receiving Party or the regulations of a recognised stock exchange or requested by any Competent Authority;
- (f) to the extent required by law or by the order of any court having competent jurisdiction over the Receiving Party or the regulations of a recognised stock exchange or requested by any Competent Authority; and
- (g) to a Connected System Operator.

18.4.2 A Receiving Party shall:

- (a) ensure that any person to whom the Receiving Party discloses information under Sections 18.4.1(a) to (f) complies with the obligations of Sections 18.1 to 18.5 as if that person were a party to the fullest extent practicable; and
- (b) obtain from any person to whom the Receiving Party discloses information under Sections 18.4.1(c), (d) or (e) an undertaking in favour of the Disclosing Party to do so.

18.5 Survival

18.5.1 Whether a party ceases or continues to be bound by this Code, its obligations of confidentiality under this Code shall remain in force in relation to any Confidential Information until such information is in the public domain or

acquired, known or developed by the relevant Receiving Party in accordance with Section 18.3.

18.6 Data ownership

- 18.6.1 Any data which is processed, recorded or maintained in respect of the Transportation System shall belong to the Transporter, and subject to the provisions of this Code, the Transporter may use such data in such manner as the Transporter sees fit.
- 18.6.2 If a Shipper provides the Transporter with data the Shipper hereby grants to the Transporter a perpetual non-exclusive, royalty free licence in respect of such data and all intellectual rights in it to use, copy and adopt and deal with such data for purposes of the performance and implementation of this Code and other purposes contemplated by this Code but not otherwise. Section 18.6.1 applies to any data derived from such data and all compilations created by or on behalf of the Transporter of such data.
- 18.6.3 If the Transporter provides or makes available data to a Shipper, the Shipper shall be entitled to use such data without charge for the purposes of the performance and the implementation of this Code and for other purposes contemplated by this Code, but not otherwise.

19. **GENERAL**

19.1 **Gas Transportation Management System (GTMS)**

- 19.1.1 The Transporter proposes to establish an information exchange system for the purposes of supporting the implementation of this Code or any operational procedures established in respect of this Code or the operation of the Transportation System ("GTMS").
- 19.1.2 The Transporter may, from time to time, prescribe which communications shall be made by the parties in respect of this Code or the operation of the Transportation System using the GTMS ("**GTMS Communication**") and the form of any GTMS Communication.
- 19.1.3 Subject to Section 19.2, if the Transporter does so prescribe that a communication shall be a GTMS Communication and does so prescribe the form of the GTMS Communication, the communication may only be given by a Shipper by that means and in that form and any communication given by a Shipper by any other means or in any other form shall be deemed to have not been given for the purposes of this Code the operation of the Transportation System.
- 19.1.4 The Transporter and each Shipper agrees that any GTMS Communication shall have legal effect for the purposes of this Code.
- 19.1.5 The GTMS may, upon giving a Shipper reasonable notice, be reasonably modified from time to time by the Transporter.
- 19.1.6 Where the Shipper uses an agent or other parties for the provision or submission of data, the Shipper shall ensure that such parties adhere to the provisions of Sections 19.1, 19.2, 19.3 and 19.4.

19.2 **Failure of GTMS**

- 19.2.1 The Transporter may, acting as an RPO, by firstly consulting with and then notifying any Shipper that would be affected, suspend the giving of any communication by the GTMS for so long as the Transporter shall prescribe. In this event any communication in relation to the Code shall be given by fax in accordance with Section 19.5.
- 19.2.2 A Shipper may request the Transporter to suspend the giving of any communication by the GTMS where it considers access to it is prevented or restricted. The Transporter shall suspend the giving of any communication by the GTMS if, acting as an RPO, it believes the request of the Shipper to be reasonable.
- 19.2.3 The Shipper shall at the request of the Transporter provide any information reasonably requested by the Transporter in order to investigate, diagnose, test the GTMS or repair any faults.

- 19.2.4 The Transporter may plan outages for maintenance of the GTMS at any time, but will endeavour to minimise the business impact of such outages to all parties. The Transporter will endeavour to give Shippers at least ten (10) Business Days prior notice of any such planned outage together with, where possible, an estimate of the expected duration of such outage.

19.3 Licence to use GTMS

- 19.3.1 Subject to Section 19.1 the Transporter licences a Shipper, for the purposes contemplated by this Code, but not otherwise:

- (a) to have access to and use the GTMS;
- (b) to use the software installed in respect of the GTMS if any; and
- (c) make use of any manual or other materials provided by the Transporter in respect of the GTMS

(collectively the "**Licensed Software and Materials**") provided that a Shipper shall only use the Licensed Software and Materials for its own internal purposes and for its business operations.

- 19.3.2 The licence granted in this Section 19.3 to a Shipper is royalty free, non-exclusive and non-transferable and shall terminate automatically upon that Shipper ceasing to be a Shipper for any reason.

- 19.3.3 The Licensed Software and Materials and all copyright and other intellectual property rights of whatever nature in the Licensed Software and Materials are and shall at all times remain, as between the Transporter and a Shipper, the property of the Transporter or the software licensor.

- 19.3.4 A Shipper shall not:

- (a) use the Licensed Software and Materials other than as permitted in accordance with Section 19.3.1;
- (b) copy the Licensed Software and Materials;
- (c) sub-license the use of the Licensed Software and Materials;
- (d) except as may be permitted by law, de-compile, disassemble or modify the whole or any part of the software comprised in the Licensed Software and Materials; or
- (e) without the prior written consent of the Transporter permit any unauthorised party to use the Licensed Software and Materials .

- 19.3.5 If through the GTMS a Shipper obtains or receives unauthorised access to information concerning another Shipper, or receives a communication sent to another Shipper, the receiving Shipper will promptly so inform the Transporter and will close the screen on which such information or

communication appears or delete the same from its equipment without making any copy of it (and destroying any copy accidentally made) and make no further use of it.

19.4 Provision and return of Licensed Software and Materials

- 19.4.1 The Transporter shall provide one copy of the Licensed Software and Materials to a Shipper promptly after it becoming a Shipper, as applicable.
- 19.4.2 The Transporter may make a reasonable charge for any additional copies of the Licensed Software and Materials or training requested by a Shipper.
- 19.4.3 The Transporter shall have no obligation to provide a Shipper with computer hardware, telephone lines or equipment to secure access to the GTMS.
- 19.4.4 If a Shipper ceases to be entitled to use the GTMS for any reason it shall return any Licensed Software and Materials with which it has been provided and ensure that its employees and other representatives discontinue access to and use of GTMS. If a Shipper has damaged or lost any Licensed Software and Materials it shall reimburse the Transporter any reasonable costs and expenses incurred by the Transporter in respect of such loss.
- 19.4.5 A Shipper shall on the written request of the Transporter return or destroy any version of the Licensed Software and Materials for which a revised version has been issued.

19.5 Notices

- 19.5.1 Any notice or other communication (other than a communication given in accordance with any procedure established under Section 19.1.2) given or made by a party under this Code shall be:
 - (a) in writing and may be delivered by hand to the addressee, or sent by first class prepaid letter, to the address of the addressee or sent by fax to the addressee's fax transmission number specified in writing by the addressee or such other address or number as may be notified by a party to the other from time to time in writing for this purpose;
 - (b) deemed to have been given or made and delivered, if by hand, when left at the relevant address, if by letter, on the second day after posting, and if by fax transmission between the hours of 09:00 and 17:00 on Monday to Thursday and between the hours of 09:00 and 16:00 on Friday, at the time of receipt by the sender of confirmation of transmission and otherwise at 09:00 on the next business day after transmission; and
 - (c) marked clearly and conspicuously for the attention of the Transporter or the Shipper (as appropriate).
- 19.5.2 If a communication by fax is received in an incomplete or illegible form:

- (a) if the addressee so requests (by telephone or otherwise), the sender shall promptly retransmit the communication to the addressee; and
- (b) provided that the request for re-transmission was made within twenty four (24) hours after time of receipt (in accordance with Section 19.5.1) of the first fax, the communication shall not be deemed to have been received until the time (whether or not between 09:00 and 17:00 hours) of receipt by the sender of confirmation of such retransmission.

19.5.3 The parties shall agree procedures for giving operational communications.

19.6 Waiver

19.6.1 No delay by or omission of any party in exercising any right, power, privilege or remedy under this Code shall operate to impair such right, power, privilege or remedy or be construed as a waiver of it.

19.6.2 Any single or partial exercise of any such right, privilege or remedy shall not preclude any other or future exercise thereof or the exercise of any other right, power, privilege or remedy.

19.7 Severance

19.7.1 If any provision of this Code is or becomes invalid, unenforceable or illegal, or is declared to be invalid, unenforceable or illegal by any court of competent jurisdiction or by order of any other Competent Authority, such invalidity, unenforceable or illegality shall not prejudice or affect the remaining provisions of this Code, which shall continue in full force and effect notwithstanding the same.

19.8 Entire Agreement

19.8.1 Subject to Section 19.8.3, this Code and the relevant Accession Agreement contain or expressly refer to the entire agreement between the parties with respect to their subject matter, and supersede all previous agreements or understandings between the parties with respect thereto, and any warranty, condition or other term implied at law or by custom is (to the fullest extent permitted by law) expressly excluded from them.

19.8.2 The Transporter and a Shipper acknowledge that in entering into any Accession Agreement it does not rely on any representation, warranty or other understanding not expressly contained in this Code or such Accession Agreement.

19.8.3 Nothing contained in a document (other than an Accession Agreement) referred to in this Code, beyond what is expressly contemplated by this Code as being contained in such document or is necessary for the purposes of giving effect to a provision of this Code, shall modify or have any effect for the purposes of this Code or be construed as relevant to the interpretation of this Code unless the Authority approved such document in writing.

19.9 Gas users or shippers

19.9.1 Nothing in this Code or the Accession Agreement shall be construed as imposing upon the Transporter any obligation or duty to or enforceable by a user or a shipper of Natural Gas upstream or downstream of the Transportation System, except if such user or shipper is a party to this Code and no Shipper shall make any commitment to any such user or shipper binding on or purporting to bind the Transporter.

19.10 Third party rights

19.10.1 A person who is not a party to this Code shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Code or any Accession Agreement or ancillary agreement expressed to be supplemental hereto notwithstanding that any such term may purport to confer or may be construed as conferring a benefit on such third party. The provisions of this Section 19.10 shall not affect any right or remedy of such third party that exists or is available apart from the Act.

19.11 Assignment

19.11.1 Subject to Sections 19.11.4 and 19.11.5 a party may assign its rights under this Code and the Accession Agreement:

- (a) to an Affiliate (the definition of Affiliate shall be amended for these purposes so that a shareholding of 33¹/₃% shall be considered to be control) of such party, provided that the assigning party shall continue to be bound by and liable under this Code and the Accession Agreement; and
- (b) subject to Section 19.11.5, with the prior agreement in writing of each relevant other party or parties, which shall not unreasonably be withheld, to any person.

19.11.2 For the purposes of this Section 19.11 a relevant other party is:

- (a) where the assigning party is Shipper, the Transporter; and
- (b) where the assigning party is the Transporter, each Shipper.

19.11.3 Except as provided in Section 19.11.1 or otherwise expressly provided in this Code, a party shall not assign or transfer and shall not purport to assign or transfer any of its rights or obligations under this Code, and the Accession Agreement.

19.11.4 No assignment shall be made to a person unless:

- (a) where the assigning party is a Shipper, that person holds a Gas Supply Licence if the assigning party has an Exit Point Registration in respect of an Exit Point in Northern Ireland;

- (b) where the assigning party is the Transporter, that person holds a licence to convey Natural Gas in Northern Ireland.

19.11.5 Where a Shipper assigns its rights under this Code and the Accession Agreement to a person (including a 33¹/₃% Affiliate) pursuant to Section 19.11.1 it shall be a condition precedent to such assignment that such person shall:

- (a) enter into an agreement with the Transporter covenanting to be bound by this Code and the Accession Agreement; and
- (b) satisfy the conditions precedent in the Accession Agreement.

19.11.6 Where any party assigns its rights under this Code and the Accession Agreement to a person pursuant to Section 19.11.1 the assigning party shall be released from its obligations under this Code and the Accession Agreement arising after the time at which the assignment is effective, but shall remain liable for any obligations accruing up to such time.

19.11.7 A reference in this Code and the Accession Agreement to any party shall include a reference to that party's assigns.

19.12 Agents

19.12.1 A Shipper shall be entitled, by notice in writing to the Transporter, to require that the Transporter receives all notices from and gives all notices to and otherwise communicates with the nominated agent of such Shipper (and not such Shipper) for all purposes under Sections 2, 3 and 6 of this Code provided that such Shipper shall remain liable to the Transporter in respect of the performance of all its obligations under this Code.

19.13 Code Review

19.13.1 It is acknowledged that the pipeline ("**South-North Pipeline**") may give rise to a requirement for certain amendments to be made to this Code.

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 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;

- (d) upon the Expert being agreed upon or appointed in accordance with this Section 20.4, the parties shall immediately notify the Expert of his appointment and shall request him to confirm within five (5) Business Days whether or not he is willing and able to accept the appointment and, if he accepts the appointment, to confirm his independence.

20.4.2 If no Expert can be appointed pursuant to this Section 20.4, the Dispute shall be finally settled by the courts of Northern Ireland in accordance with Section 20.5.

20.4.3 The Expert shall be a person suitably qualified by education, experience and/or training to determine the Dispute.

20.4.4 The Expert shall be entitled to:

- (a) seek such independent professional (including legal) and/or technical advice; and
- (b) obtain secretarial assistance, as he may reasonably consider necessary.

20.4.5 The Expert and his assistants (if any) shall, as a prerequisite to the Expert's appointment, enter into a confidentiality undertaking with the parties in the same terms, applied *mutatis mutandis*, as required by Section 18 and pursuant to which the Expert and his assistants (if any) shall keep the fact that the Expert Determination is taking place and its outcome confidential.

20.4.6 The Expert shall confirm to the parties before his appointment that he does not hold any interest or duty which would or potentially would conflict with the performance of his duties as an Expert.

20.4.7 If, after his appointment, the Expert becomes aware of any interest or duty which does so conflict or potentially conflicts, he shall inform the parties forthwith of such conflict giving full details of it.

20.4.8 Any party may within five (5) Business Days of the disclosure of any such conflict object to the appointment or continued appointment of the relevant Expert, in which case the Expert shall not be or shall cease to be appointed and a new Expert shall be selected and appointed in accordance with this Section 20.4 (and the rejected Expert shall not be nominated for such selection).

20.4.9 The parties shall keep the fact that the Expert Determination is taking place and its outcome confidential provided that the relevant Shipper may disclose the outcome to any of its customers to the extent that it demonstrates to the Transporter that it reasonably requires to do so, provided further that any such Shipper shall ensure that any such customer complies with the obligations of

Sections 18.1 to 18.4 as if that customer were a party to this Code and following any request by the Transporter, obtains from that customer an undertaking in favour of the Transporter to do so.

20.4.10 Any and all communications between the parties and the Expert shall be made or confirmed in writing and a copy of such communications shall be provided simultaneously to the other party or parties. No meeting between the Expert and any of the parties shall take place unless all the parties have been given a reasonable opportunity to attend.

20.4.11 The terms of reference of the Expert shall include the following:

- (a) that the Expert shall, as soon as reasonably practicable after the confirmation of his appointment, call the parties to a meeting (which shall, together with all other meetings, be held in Northern Ireland) at which he shall clarify, and, if necessary, define the Dispute and give directions as to the future conduct of the Dispute;
- (b) that the Expert may, from time to time, give such directions as he sees fit;
- (c) that the parties shall be entitled to supply data and information and make submissions to the Expert and that the Expert shall make his determination as soon as reasonably practicable and in any event within thirty (30) Business Days of his appointment or such other time as agreed in writing by the parties;
- (d) that the Expert shall give full written reasons for his determination and shall furnish the parties with a draft of his proposed determination; and
- (e) that the parties shall be entitled to make representations to the Expert within seven (7) Business Days after the receipt of the draft of the Expert's proposed determination.

20.4.12 If an Expert becomes unwilling or unable to act, or does not act, in the matter in respect of which he is appointed, then another Expert shall be appointed in accordance with the procedure set out in Section 20.4.1.

20.4.13 If, within a reasonable period, but in any event not later than ninety (90) Business Days after the acceptance of his appointment, the Expert has not made his determination, then, at the request of any of the parties, another Expert shall be appointed in accordance with Section 20.4.1 and, on acceptance of such appointment, the appointment of the previous Expert shall cease unless (prior to the date when the new Expert accepts his appointment) the Expert has made his determination, in which case such determination shall be binding and the instructions of the new Expert shall be withdrawn.

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 IGEM 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 an Unforeseen Operating Expenditure unless an Expert or court directs that the Transporter has failed to act as an RPO.

APPENDIX 1
DEFINITIONS AND INTERPRETATIONS

Definitions

In this Code:

"**Accession Agreement**" means an agreement between the Transporter and a Shipper pursuant to which the Shipper agrees to be bound by this Code;

"**Accounting Ratios**" means FFO Interest Coverage and FFO to Total Debt;

"**Adjusted Final Allocation at Entry**" has the meaning given to it in Section 9.1.5(a);

"**Adjusted Final Allocation at Exit**" has the meaning given to it in Section 9.1.5(b);

"**Adjustment Amount**" has the meaning given to it in Section 12.13.2;

["Advance Buyback Agreement" has the meaning given to it in Section 1.15.2;](#)

"**Affected Party**" has the meaning set out in Section 15.1;

"**Affiliate**" in relation to either the Transporter or a Shipper means:

- (a) a company or corporation that is either a Holding Company or a Subsidiary of such party; or
- (b) a company or corporation that is a Subsidiary of a Holding Company of which such party is also a Subsidiary;

and the words "**Holding Company**" and "**Subsidiary**" shall have the same meaning assigned to them, regardless of the place of incorporation of the Party, as in Article 4 of the Companies (NI) Order 1986 (as amended);

"**Aggregate Nominated Quantity**" has the meaning given to it in Section 2.1.3(c);

"**Allocated Quantity**" means that quantity of gas allocated to a Shipper in respect of a Gas Flow Day, after any adjustment to the allocation, in accordance with Section 3 and "Allocation" shall be construed accordingly;

"**Ancillary Agreement**" means an agreement between the Transporter and one or more Shippers setting out any terms of a transportation arrangement in relation to the transportation system entered into pursuant to any provisions to this Code which contemplates that such an Agreement may be entered into;

"**Applicable Conditions**" has the meaning in Section 8.3.3(b).

"**Authority**" means the Northern Ireland Authority for Energy Regulation;

"**Auxiliary Payment**" shall have the meaning given to it in the Licence;

"**Available Firm Capacity**" has the meaning given to it in Section 1.1.2(a);

"**Available Interruptible Capacity**" has the meaning given to it in Section 2.1.3(a);

"**Available Interruptible VRF Capacity**" has the meaning given to it in Section 2.1.3(b);

"**Average PS Code Charges**" means the mean average Code Charge cost per unit of gas exited from the NI Network, calculated in accordance with the procedure developed pursuant to the Northern Ireland Network Operators Agreement;

"**Balancing Charges**" has the meaning given to it in Section 4.1.5;

"**Balancing Gas**" has the meaning given to it in Section 5.2.1;

"**Balancing Gas Agreement**" has the meaning given to it in Section 7.2.3(c)

"**Balancing Zone**" means a defined area of the gas network over which the commercial regime of the respective Network Code shall operate;

"BGE (NI) Postalised Network Incentive Scheme Bank Account" has the meaning given to it in Section 12.19.1;

"Buyback Invitation" has the meaning given to it in Section 1.15.3;

"Buyback Offer" has the meaning given to it in Section 1.15.4;

"Buyback Payments" has the meaning given to it in Section 12.17.1(c);

"**BGE (NI) Postalised Network Disbursement Bank Account**" has the meaning given to it in Section 5.3.1.

"**Capacity Booking Optimisation Methodology**" is the document published by the Transporter and approved by the Authority which sets out the principles for the allocation of certain Daily Capacity;

"**Capacity Booking Reference**" has the meaning given to it in Section 1.1.2(d);

"**Capacity Reduced Exit Points**" have the meaning given to them in Section 6.5.1;

"**Carrickfergus Entry Point**" means the Entry Point at Carrickfergus;

"**Carrickfergus (Ballylumford) Interruptible VRF Nomination**" has the meaning given to it in Section 2.1.3(i);

"**Carrickfergus (BGEP1) Interruptible VRF Nomination**" shall have the meaning given to it in 2.1.3(j);

"**Carrickfergus (Moffat) Interruptible VRF Nomination**" shall have the meaning given to it in Section 2.1.3(k);

"**Carrickfergus Interruptible VRF Nomination**" shall have the meaning given to it in Section 2.1.3(g);

"**Carrickfergus (Stranraer) Interruptible VRF Nomination**" has the meaning given to it in Section 2.1.3(h);

"**Carrickfergus Virtual Exit Point**" means Virtual Exit Point located at the Carrickfergus Entry Point being the point at which Natural Gas may be virtually offtaken from the Transportation System;

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

"**CC Invoice**" has the meaning given to it in Section 12.6.1;

"**Charges**" means any charge payable to or from the Transporter either under its Licence or this Code and/or in accordance with the Charging Methodology Statement;

"**Charging Methodology Statement**" is the document provided by the Transporter on its website and approved by the Authority which sets out the basis for calculation of STC/VRF Charges;

"**CESB**" means Coolkeeragh ESB Limited;

"**Code**" means the code of practice for the operation of the Transportation System (as amended, modified or revised) that governs certain aspects of the relationship between the Transporter and the Shippers on the Transportation System;

"**Competent Authority**" means the Authority, the Office of Gas and Electricity Markets in Great Britain, or any local, national or supra-national agency, authority, department, inspectorate, official, court, tribunal or public or statutory person (whether autonomous or not) of the European Union (including any Member State thereof) which has jurisdiction where relevant over the Transporter or the Transportation System in relation to any provision contained in this Code;

"**Confidential Information**" has the meaning given to it in Section 18.1.1(a);

"**Connected Facilities**" means the facilities immediately downstream of an Exit Point whether or not owned by a Shipper;

"**Connected System**" means a system of gas transmission or transportation operated by one person (or jointly operated by several persons) and connected to the Transportation System but excluding the Upstream Transportation Systems;

"**Connected System Operator**" means the party responsible for operating any transportation system connected to the Transportation System (but excluding for avoidance of doubt the Upstream Operator);

"**Consequential Loss**" means losses, damages and expenses (including legal expenses) whether or not foreseeable in respect of loss of use of property, loss of contract, profit, production (other than unavoidable loss of production directly caused by a party) or revenue, or business interruption, or other economic or consequential losses, or increased costs of working of either party (and/or Third Party's) howsoever caused under or in connection with the Code;"**Conveyance Charges**" has the meaning set out in Clause 1.1.6 of the Licence

"**Coolkeeragh Exit Point**" means the Exit Point at Coolkeeragh;

"**CPI**" means the General Index of Consumer Prices – All Items (1996 = 100) as published in the Office of National Statistics "Monthly Digest of Statistics" (Series Identifier CHVJ) or, if such index is no longer published, such comparable alternative as the Authority deems appropriate;

"**Credit Application**" has the meaning given to it in Section 13.1.2;

- "**Credit Committee**" has the meaning given in the Terms of Reference;
- "**Credit Period**" has the meaning given it in Section 13.2.2;
- "**D-1**" has the meaning given to it in Section 2.4.4;
- "**D+1**" has the meaning given to it in Section 3.2.1;
- "**D+5**" has the meaning given to it in Section 3.2.2;
- "**Daily Capacity**" has the meaning given to it in Section 1.1.2(b);
- "**Daily Capacity Application Window**" has the meaning given to it in Section 1.4.1(a);
- "**Daily Capacity Charges**" has the meaning given to it in Section 12.17.1;
- "**Daily Gas Price**" means the price calculated in accordance with Section 4.1.3;
- "**Daily Gas Quantity**" means the quantity of gas determined by the Transporter as entering the Transportation System on any day;
- "**Daily Profile**" has the meaning given to it in Section 2.3.1(e);
- "**Day**" or its abbreviation "**D**" means a period beginning at 06.00 hours on any day and ending at 06.00 hours on the following day;
- "**Day of Greatest Allocated Quantity**" has the meaning given to it in Section 1.10.2(b);
- "**Debt Notice**" has the meaning given to it in the Licence;
- "**Debt Payment**" has the meaning given to it in the Licence;
- "**Debt Repayment**" has the meaning given to it in the Licence;
- "**Default**" has the meaning given to it in Section 13.6.1;
- "**Defaulting Party**" has the meaning given to it in Section 16.3.1;
- "**Defaulting Shipper**" has the meaning set out in [Appendix 4] Clause 1.3.
- "**Designated Pipe-line Operator**" means a person licensed to convey gas under Article 8(1)(a) of the Order through the Postalised System;
- "**Designation Date**" has the meaning given to it in the Licence;
- "**Directions**" means any direction made by the Credit Committee in accordance with the Terms of Reference;
- "**Director**" means the Director General of Gas for Northern Ireland;
- "**Disbursement Account**" has the meaning given to it in Section 5.3;
- "**Disbursement Amount**" shall mean a Shippers share of the excess or deficit in the BGE (NI) Postalised Network Disbursement Bank Account and the PTL Postalised Network Disbursement Bank Account calculated in accordance with the NINOA and the Postalised Network Disbursement Procedure;

"**Disclosing Party**" means the party disclosing Confidential Information to a Receiving Party;

"**Dispute**" has the meaning given to it in Section 20.2.1;

"**Dispute Notice**" has the meaning given to it in Section 20.2.2;

"**Distribution Utility**" means a utility that operates in a smaller service area than a transmission utility with increased exposure to the local market conditions and that delivers gas to customers at a level that can be used in homes and businesses;

"**Downstream Load Category**" has the meaning set out in Section 4.2.1;

"**Downstream Load Statement**" has the meaning given to it in Section 17.8.1;

"**Downstream System Operator**" means the operator of a Connected System which is downstream of the Transportation System;

"**Due Date**" means the date on which payment of an invoice in respect of any PS Transmission Payment, Code Charges and/or STC/VRF Charges falls due, being the tenth Business Day in the month next after the month in which the relevant invoice was issued and for the purpose of Section 16 has the meaning therein;

"**Effective Date**" shall have the meaning given to it in the Accession Agreement;

"**Emergency**" has the meaning given to it in Section 6.7.2;

"**Emergency Steps**" has the meaning given to it in Section 6.8.1;

"**End Users**" means third parties who have entered into an agreement with a Shipper to purchase and/or utilise Natural Gas to be offtaken from the Transportation System by that Shipper at an Exit Point;

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

"**Enhanced Pressure**" has the meaning given to it in Section 8.3.2;

"**Entry Point**" means a point at which Natural Gas is (or may, in the future be) transferred from the Upstream Transportation Systems or a Connected System (including, for the avoidance of doubt, any systems or facilities which may be constructed after the coming into force of this Code) to the Transportation System;

"**Entry Point Adjustment Day**" has the meaning given to it in Section 9.1.4(c);

"**Entry Point Agreement**" shall mean any agreement (other than the Code and its Ancillary Agreements) between the Transporter, relevant Shippers and (where applicable) third parties (including Third Party Shippers and Upstream Operators) in respect of the input of Natural Gas to the Transportation System at an Entry Point but, for the avoidance of doubt, shall not include Connected Systems Agreements;

"**Entry Quantity**" has the meaning in Section 9.1.5(d);

"**Equivalent Agency**" has the meaning given to it in Section 13.4.1;

"**Equivalent Rating**" has the meaning given to it in Section 13.4.1;

"**ESB**" means Electricity Supply Board;

"**ESBII**" means ESB International Investments Limited;

"**Excess Amount**" has the meaning given to it in Section 13.4.15;

"**Exit Point**" has the meaning given to it in Section 8.1.3;

"**Exit Point Adjustment Day**" has the meaning given to it in Section 9.6.2;

"**Exit Point Adjustment Quantity**" has the meaning given to it in Section 9.6.2;

"**Exit Point Agreement**" shall mean an agreement ancillary to the Code between the Transporter, relevant Shippers and (where applicable) third parties in respect of the Exit provisions for the offtake of Natural Gas from the Transportation System at an Exit Point;

"**Exit Point Capacity Shortfall**" has the meaning given to it in Section 6.5.1(a);

"**Exit Point Profile Shortfall**" has the meaning given to it in Section 6.2.1(a);

"**Exit Point Registration**" has the meaning given to it in Section 17.5.1;

"**Exit Point Registration Application**" has the meaning given to it in Section 17.5.3;

"**Exit Point Registration Extension Application**" has the meaning given to it in Section 17.5.9;

"**Exit Point Tolerance**" has the meaning set out in Section 4.2.1;

"**Exit Quantity**" has the meaning given to it in Section 9.5.1;

"**Expert**" means any expert appointed in accordance with Section 20.4.1;

"**Expert Determination**" has the meaning given to it in Section 20.2.4;

"**FDA UIOLI**" means the firm day-ahead use-it-or-lose-it mechanism set out in point 2.2.3 of Annex 1 to Regulation (EC) No. 715 / 2009, as amended by a Commission Decision of 24 August 2012;

"**FDA UIOLI Implementation Date**" means the date on which Premier Transmission brings FDA UIOLI into effect in respect of its network (which cannot be later than 1 July 2016);

"**FDA UIOLI Rules**" means the rules which are (or, as the context requires, are to be) embodied in this Code with respect to FDA UIOLI with effect from the FDA UIOLI Implementation Date;

"**Final Allocation**" shall mean a Final Entry Allocation and/or an Final Exit Allocation and/or a Final VRF Allocation as the case may be;

"**Final Entry Allocation**" has the meaning given to it in Section 3.2.2;

"**Final Exit Allocation**" has the meaning given to it in Section 3.2.2;

"**Final VRF Allocation**" shall mean a Final VRF Entry Allocation or a Final VRF Exit Allocation as the case may be;

"**Final VRF Exit Allocation**" has the meaning in Section 3.2.2;

"**Final VRF Entry Allocation**" has the meaning in Section 3.2.2;

"**Firm Allocated Quantity**" has the meaning given to it in Section 3.3.1(a);

"**Firm Capacity**" has the meaning given to it in Section 1.1.2(c);

"**Firm Capacity Application**" has the meaning given to it in Section 1.3.3;

"**Firm Capacity Notice**" has the meaning given to it in Section 1.1.2(d);

"**Firm Nominated Quantity**" has the meaning given to it in Section 2.2.1;

"**FFO Interest Coverage**" means the ratio of net income from continuing operations plus depreciation, amortisation, deferred income taxes, other non cash items and gross interest, to gross interest;

"**FFO to Total Debt**" means the net income from continuing operations plus depreciation, amortisation, deferred income taxes and other non cash items divided by total debt, expressed as a percentage;

"**Flow Order**" has the meaning set out in Section 6.1.2.(a);

"**Flow Rate**" shall be the instantaneous rate of flow of Natural Gas expressed in kW;

"**Forecast Postalised Charges**" means, with respect to a Shipper, that Shipper's Forecast Postalised Capacity Charge and Forecast Postalised Commodity Charge as defined in the Licence;

"**Forecast Supplier Quantity**" shall have the meaning given to it in the Licence;

"**Forecast VRF Quantity**" means the quantity of Natural Gas which a Gas Supplier or Shipper forecasts it will exit from the NI Network at a Virtual Exit Point as a result of VRF Nominations.

"**Force Majeure**" has the meaning given to it in Section 15.1;

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

"**Gas Specification**" has the meaning set out in Section 7.3.1, while there is only one Entry Point to the Transportation System. When a new Entry Point is introduced to the Transportation System the Specification for Entry and Gas Specification for Exit will be reviewed by the Transporter;

"**Gas Supplier**" shall have the meaning given to it in the Licence;

"**Gas Supply Licence**" means a licence to supply gas granted under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996, as amended from time to time;

"**Gas Transportation Management System**" and its abbreviation "GTMS" means the electronic information communication technology system (as modified from time to time) implemented by the Transporter from time to time for the purpose of gas transactions contemplated by this Code;

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

"**GB Uniform Network Code**" means the network code prepared by BG Transmission plc pursuant to the public gas transporters licence granted or treated as granted to it pursuant to Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995) as from time to time modified.

"**Generation Utility**" means a utility involved in the production of electricity;

"**Greater Belfast Exit Point**" has the meaning given to it in the NINOA;

"**GTMS Communication**" has the meaning given to it in Section 19.1.2;

"**Hour Bar**" means the commencement of any hour during a Gas Flow Day;

"**Implied Nomination Flow Rate**" has the meaning given to it in Section 2.5.5(a);

["**Incentive Scheme Payments**" has the meaning in Section 12.17.1\(d\);](#)

"**Indemnified Liabilities**" means liabilities, actions, proceedings, suits, claims, losses, costs, demands, damages, expenses and fines of every kind and nature, including legal expenses;

"**Indicative Application For Firm Capacity**" has the meaning given to it in Section 1.2.1;

["**Indicative Capacity Reduction Notice**" has the meaning given to it in Section 1.10.7\(a\);](#)

"**Initial Allocation**" shall mean an Initial Entry Allocation and/or an Initial Exit Allocation and/or an Initial VRF Entry Allocation and/or an Initial VRF Exit Allocation as the case may be;

"**Initial Entry Allocation**" has the meaning given to it in Section 3.2.1;

"**Initial Exit Allocation**" has the meaning given to it in Section 3.2.1;

"**Initial VRF Allocation**" means an Initial VRF Exit Allocation or an Initial VRF Entry Allocation;

"**Initial VRF Entry Allocation**" has the meaning in Section 3.2.1;

"**Initial VRF Exit Allocation**" has the meaning in Section 3.2.1;

"**Integrated Utility**" means a utility which operates both as a Distribution Utility and Transmission Utility;

"**Interruptible Allocated Quantity**" has the meaning given to it in Section 3.3.1;

"**Interruptible Nominated Quantity**" has the meaning given to it in Section 2.2.2;

"**Interruptible VRF Charges**" has the meaning in Section 12.7.1(b);

"**Interruptible VRF Entry Nomination**" has the meaning in Section 2.1.3(f);

"**Interruptible VRF Renomination**" has the meaning in Section 2.1.3(m);

"**Interruptible VRF Nominated Quantity**" shall have the meaning given to it in Section 2.2.3;

"**Interruptible VRF Nomination**" has the meaning given to it in Section 2.1.3(n);

"**Invoice Day**" has the meaning given to it in Section 12.8.1;

"**kW**" means one (1) kilojoule per second;

"**kWh**" means three thousand six hundred (3600) kilojoules;

"**Legal Requirement**" means any law, statute or Directive that is in force in the jurisdiction where the Transportation System is situated from time to time;

"**LIBOR**" means the rate which is the average of the figure or figures published by the Financial Times representing the mid-point of the rates (bid and ask) applicable to one Month Interbank Sterling Interest Rates in the London Interbank Market on each fifteenth day of each Month occurring between the date on which the unpaid amount(s) should have been paid to the Transporter and the date on which it is settled. If the LIBOR rate is available on any fifteenth day but is not published in the Financial Times in respect of such day for any reason, the LIBOR rate chosen shall be that offered by Barclays Bank plc to other leading banks in the London Interbank Market for one Month Sterling deposits. If such fifteenth day is not a day on which LIBOR rates are quoted in the London Interbank Market, the LIBOR rate to be used shall be that quoted on the next following day on which such rates are quoted;

"**Licence**" means the Licence to Convey Gas under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 granted to the Transporter;

"**Licence Charges**" means those charges that the Transporter is permitted to recover from any Shipper with a Gas Supply Licence by virtue of its Licence;

"**Licensed Software and Materials**" has the meaning set out in Section 19.3.1;

"**Lisburn Exit Point**" means the point of connection of the Transportation System and the distribution system of Phoenix Natural Gas Ltd;

["**Long Term Firm Capacity**" means Firm Capacity with an effective contract duration of more than one year](#)

["**Long Term Firm Capacity Reduction**" \(or "**LTFC Reduction**"\) means the amount as specified in the Indicative Capacity Reduction Notice by which the Long Term Fixed Capacity of a given Shipper is liable to be reduced pursuant to this section 1.10;](#)

"**LPC Default**" has the meaning given to it in Section 13.6.1 and 13.5.2;

"**Maintenance**" has the meaning given to it in Section 10.1.2(a);

"**Maintenance Days**" has the meaning given to it in Section 10.1.2.(b);

"**Maintenance Programme**" has the meaning given to it in Section 10.2.2;

"Matching Nomination" means a nomination by an Upstream Shipper or a Third Party Shipper (as the case may be) which matches in time, form, offtake rate and energy a Nomination made by a Shipper;

"Matching Renomination" means a Renomination by an Upstream Shipper or a Third Party Shipper (as the case may be) which matches in time, form, offtake rate and energy a Renomination made by a Shipper;

"Maximum Allowed Unsecured Credit" has the meaning given to it in Section 13.4.2.;

"Maximum Available Interruptible VRF Capacity (Carrickfergus)" means the maximum amount of Available Interruptible VRF Capacity at the Carrickfergus Virtual Exit Point which shall in respect of any Gas Flow Day be zero or such greater amount as may be published by the Transporter by 12:00 on D-1;

"Maximum Available Interruptible VRF Capacity (South-North)" means the maximum amount of Available Interruptible VRF Capacity at the South-North Virtual Exit Point which shall in respect of any Gas Flow Day be zero or such greater amount as may be published by the Transporter by 12:00 on D-1;

"Maximum Daily Quantity" or **"MDQ"** has the meaning given to it in Section 1.1.2.(e);

"Maximum Hourly Quantity" or **"MHQ"** has the meaning given to it in Section 1.1.2.(f);

"Maximum Offtake Rate" means the maximum rate at which Natural Gas may be offtaken at an Exit Point as set out in Network Exit Parameter Schedule;

"Measurement Equipment" has the meaning given to it in Section 9.1.5(e);

"Meeting Notice" shall have the meaning given to it in paragraph 3 of the Terms of Reference;

"Mid Year Date" means 30 April;

"Minimum Pressure" has the meaning given to it in Section 8.3.1;

"Mismatched Firm Delivery" has the meaning given to it in Section 14.1.1;

"Mismatched Interruptible Delivery" has the meaning given to it in Section 14.2.1;

"Modification Rules" means the rules prepared by Bord Gais, pursuant to its Licence, to facilitate modification of the Code as required from time to time in accordance with its Licence;

"Moffat Virtual Exit Point" means the Virtual Exit Point located at Moffat Entry Point being the point at which Natural Gas may be virtually (but not physically) offtaken from the NI Network;

"Month" means a period beginning at 0600 hours on the first day of any calendar month and ending at 0600 hours on the first day of the next succeeding calendar month and the term "Monthly" shall be construed accordingly;

"Monthly Postalised Capacity Payment" shall have the meaning given to it in the Licence;

"Monthly Postalised Commodity Payment" shall have the meaning given to it in the Licence;

"**Natural Gas**" means any hydrocarbons or mixture of hydrocarbons and all associated gases consisting primarily of methane that at 15°C and at atmospheric pressure is (or are) predominantly in a gaseous state;

"**Negative Balance**" has the meaning given to it in Section 4.1.5(a);

"**Net Assets**" means, on any particular date, Total Assets minus Total Liabilities, as of such date;

"**Network Exit Parameter Schedule**" means a document setting out data which applies to the offtake of Natural Gas from the Transportation System at a specific Exit Point as provided by the Transporter to the Shipper;

"**Network Forecast Statement**" has the meaning given to it in Section 11.1.1;

"**Nomination**" has the meaning given to it in Section 2.1.3(d);

"**Nomination Mismatch**" means when a nomination by a Third Party Shipper is different in time, form, offtake rate and/or energy to a Nomination made by a Shipper with respect to the Transportation System;

"**Nominated Quantity**" means a Firm Nominated Quantity or an Interruptible Quantity as the context so requires;

"**Non-Compliant Gas**" has the meaning given to it in Section 7.3.2;

["**Non-Defaulting Shipper**" has the meaning set out in Section 12.4.1.]

"**Northern Ireland Network Operators Agreement**" or "**NINOA**" has the meaning given to it in Section 7.2.3(a);

"**NI Network**" means the Transportation System and the Upstream Transportation Systems in Northern Ireland;

"**NI Network Exit Point**" means any Exit Point from a transportation system which forms part of the Northern Ireland Network;

"**NI Pressure/Capacity Report**" has the meaning given to it in Section 11.4.1;

"**Northern Ireland Network Emergency Co-ordinator**" has the meaning set out in the Gas Safety (Management) Regulations (NI) 1997;

"**North-West Pipeline**" means the gas transmission pipeline from the Carrickfergus Entry Point to the Coolkeeragh Exit Point;

"**NPCC Default**" has the meaning given to it in Section 13.6.1(a);

"**NPSTCVRFDefault**" has the meaning given to it in Section 13.6.1(a);

"**NPTP Default**" has the meaning given to it in Section 13.5.1(a);

"**Off-Spec Gas**" has the meaning given to it in Section 8.4.2;

"**Offtake Profile Notices**" has the meaning given to it in Section 7.4.5;

"**Offtake Rate**" means the Flow Rate of Natural Gas expressed in kW for offtake of Natural Gas at an Exit Point;

"**Other Party**" has the meaning given to it in Section 15.1;

"**Outstanding PS Code Charges**" has the meaning given to it in Section 12.7.2;

["Oversubscription Capacity" has the meaning given to it in Section 1.1.2\(h\);](#)

"**Permitted Purpose**" has the meaning set out in Section 18.1.1(c);

"**Permitted Range**" has the meaning given to it in Section 9.1.5 (f);

"**Phoenix**" means Phoenix Natural Gas Limited;

"**Phoenix Distribution**" means the holder for the time being of capacity at the Lisburn Exit Point;

"**Pipeline Agreement**" means the pipeline agreement between the Transporter, ESBII and ESB signed on 18 October 2002;

"**Positive Balance**" has the meaning given to it in Section 4.1.5(b);

"**Postalisation**" shall have the meaning given to it in the Licence;

"**Postalised Network Disbursement Procedure**" has the meaning given to it in Section 5.3;

["Postalised Network Incentive Payments Procedure" has the meaning given to it in Section 12.19.1;](#)

"**Postalised System**" shall have the meaning given to it in the Licence;

"**PoT Account**" means the bank account into which all monies paid by Gas Suppliers in respect of PS Transmission Payments should be paid in accordance with Section 12.9.1(a);

"**Premier Transmission Limited**" or "**PTL**" is the Upstream Operator of the transmission systems upstream of the Carrickfergus Entry Point;

"**Prescribed Form**" means, in relation to any notice or other document referred to in this Code, the form reasonably prescribed by the Transporter from time to time;

"**President of the IGEM**" has the meaning given to it in Section 20.4.1(b);

"**Priority Order**" has the meaning set out in Section 6.2.4;

"**Profile Reduced Exit Points**" have the meaning given to them in Section 6.2.1;

"**Prospective Shipper**" has the meaning given to it in Section 17.1;

"**Provided Level of Credit Support**" means in respect of a Shipper or Prospective Shipper the sum of the Secured Credit Support and Unsecured Credit Support which it has provided to the Transporter in accordance with Section 13;

"**PS Code Charges**" means Balancing Charges, Scheduling Charges, Unauthorised Flow Charges, Enhanced Pressure Charges or any other charge the basis of which is set out in this Code (and not the Licence) from time to time but not including STC/VRF Charges;

"**PS Gas Supplier**" means any person who is entitled to exit gas from the Postalised System;

"**PS Invoice**" has the meaning given to it in Section 12.5.1.;

"**PS Transmission Amounts**" has the meaning given to it in Section 12.5.2;

"**PTL Postalised Network Disbursement Bank Account**" has the meaning given to it in the Upstream Operator's applicable Code;

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

"**Quarterly Exit Quantities**" shall have the meaning given to it in the Licence;

"**Reallocation**" has the meaning given to it in Section 3.6.1;

"**Reasonable and Prudent Operator**" and its abbreviation "**RPO**" means a person seeking in good faith to perform its contractual obligations and, in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected of a skilled and experienced operator complying with applicable law and engaged in the same type of undertaking and under the same or similar circumstances and conditions;

"**Receiving Party**" means the party to whom Confidential Information is disclosed by a Disclosing Party;

"**Recognised Standard**" means any technical, engineering or other standard, issued or published by any governmental body of professional or other institution, and generally recognised as applying to the gas industry in the United Kingdom or the European Union, as from time to time applicable;

"**Reconciliation Payment**" shall have the meaning given to it in the Licence;

"**Reduced Firm Capacity Day**" has the meaning set out in Section 6.1.2(b);

"**Reduced Interruptible Capacity Day**" has the meaning set out in Section 6.1.2(c);"

"**Reduced Profile Day**" has the meaning set out in Section 6.1.2(d);

"**Relevant Day**" has the meaning given to it in Section 1.10.2(b);

"**Relevant Exit Point**" has the meaning given to it in Section 1.10.2(a);

"**Relevant Objective**" has the meaning given to it in Section 1.10.4;

"**Relevant Shipper**" has the meaning given to it in Section 1.10.2(a);

"**Renominated Quantity**" means a Firm Nominated Quantity or an Interruptible Nominated Quantity as revised by a Renomination as the context requires;

"**Renomination**" has the meaning given to it in Section 2.1.3(e);

"**Renomination Mismatch**" means when a Renomination by a Third Party Shipper is different in time, form, offtake rate and/or energy to a Renomination made by a Shipper with respect to the Transportation System;

"Required Level of Credit Support" means in respect of a Shipper or Prospective Shipper the minimum level of credit which the Transporter shall require such Shipper or Prospective Shipper to establish and maintain in accordance with Section 13;

"Retail Price Index" and its abbreviation **"RPI"** means the is the standard classification index numbers of retail prices as published by the Office of National Statistics in the Monthly Digest of Statistics or any successor to such Index published by such Office or any Department of HM Government;

"RPI_n" shall mean and be calculated annually to be the arithmetic average of the monthly values of RPI for the 12 months up to and including June of each year;

"RPI₀" shall mean the arithmetic average of the monthly values of RPI for the 12 months for the preceding end of June covering the period July 1993 to June 1994 (inclusive) and which is agreed to be 142.4;

"Retiring Shipper" shall have the meaning given to it in Section 17.9.1;

"Scheduled Maintenance" has the meaning given to it in Section 10.1.2(c);

"Scheduling Charge" has the meaning given to it in Section 4.4.1;

"Second Due Date" has the meaning given to it in Section 16.2.1;

"Secured Credit Support" has the meaning given to it in Section 13.4.1;

"Securer" has the meaning given to it in Section 13.4.2;

"Semi-Annual Period" has the meaning given to it in Section 1.10.2;

"Shared Exit Point" shall mean an Exit Point where more than one Shipper offtakes Natural Gas;

"Shipper" means a person other than the Transporter who, for the time being, has acceded to and is bound by the Code through the Accession Agreement and has an entitlement to transport Natural Gas through the Transportation System or any part thereof for offtake at an Exit Point, whether for its own use or for use by a third party as an End User (the term "Shipper" shall include a Shipper's permitted successors and/or assigns);

"Shipper's Allocation Arrangement" means an agreement which provides the basis upon which the measured quantity of gas in respect of a Shared Exit Point shall be allocated among Shippers after any Gas Flow Day;

"Shipper's Natural Gas" means Natural Gas nominated (but not necessarily owned) by a Shipper(s) in accordance with the provisions of this Code for delivery at an Entry Point for transportation to, and for offtake from, an Exit Point using that Shipper's Firm Capacity;

"Shortfall in Price" has the meaning given to it in Section 6.13.4(b);

"Shrinkage Gas" has the meaning given to it in Section 5.1;

"South-North Connected System Agreement" or **"South-North CSA"** has the meaning given to it in Section 7.2.3(b); **"South-North Entry Point"** shall mean the Entry Point at Gormanston, Co. Meath located at the point of interconnection between the Transportation System and the transportation system in Ireland (owned by BGE and operated by Gaslink);

- "**South-North Interruptible VRF Nomination**" has the meaning in Section 2.1.3(l);
- "**South-North Virtual Exit Point**" shall mean the Virtual Exit Point located at the South-North Entry Point;
- "**South-North Pipeline**" has the meaning given to it in Section 19.13;
- "**Standard Condition**" has the meaning given to it in Section 11.1.4;
- "**STC/VRF/BB Invoice**" has the meaning given to it in Section 12.4.1;
- "**STC/VRF/BB Charge Amounts**" has the meaning given to it in Section 12.4.2;
- "**STC/VRF/BB Charge**" has the meaning given to it in Section 12.4.2(b);
- "**Sum DLS**" has the meaning set out in Section 17.8.6;
- "**Sum MDQ**" has the meaning set out in Section 17.8.6;
- "**Supplemental Payment**" shall have the meaning given to it in the Licence;
- ["**Surrender Application**" has the meaning given to it in Section 1.11.2;](#)
- "**System Capacity Shortfall**" has the meaning set out in Section 6.5.1(b);
- "**System Profile Shortfall**" has the meaning given to it in Section 6.2.1(b);
- "**Termination Default**" has the meaning given to it in Section 16.2.1;
- "**Termination Invoice**" has the meaning given to it in Section 16.5.3;
- "**Termination Notice**" has the meaning given to it in Section 16.3.3;
- "**Terms of Reference**" means the Terms of Reference appended to this Code in Appendix 4;
- "**Third Party Shipper**" means any third party from whom a Shipper receives or is entitled to receive Natural Gas at an Entry Point for transportation through the Transportation System;
- "**Total Allowed Conveyance Revenue**" has the meaning set out in Condition 2.2.14 of the Licence;
- "**Total Assets**" means, on any particular date, all assets of the Securer which, in accordance with generally accepted accounting principles in the country in which that Securer is organised and on a basis consistent with prior periods, would be classified as assets upon the balance sheet of that Securer as of such date;
- "**Total Liabilities**" means, on any particular date, all liabilities of the Securer which, in accordance with generally accepted accounting principles in the country in which that Securer is organised and on a basis consistent with prior periods, would be classified as liabilities upon the balance sheet of that Securer as of such date;
- "**Transit Shipper**" means a Shipper which only ships gas through the Transportation System for exit into another part of the Postalised System (and which does not exit gas from the Transportation System into a pipeline outside of the Postalised System);

"Transmission Utility" means a utility that operates in large, long life network assets that transport the utility in bulk form, usually at high voltages/pressures /volumes from a source of supply to a distribution system;

"Transportation Agreement" means the transportation agreement between the Transporter, CESB and ESB;

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

"Transporter" means BGE (UK) Limited, conducting its business in Northern Ireland under the name BGE (Northern Ireland) or BGE (NI), and its permitted successors and/or assigns acting in its capacity as an owner/operator of the Transportation System and providing transportation services to Shippers;

"Unauthorised Flow Charge" has the meaning given to it in Section 4.5.2;

"Unforeseen Operating Expenditure" has the meaning given to it in the Licence;

"Uniform Offtake Rate" means in respect of a Day the Nominated Quantity divided by 24 and in respect of part of a Day the Nominated Quantity less the quantity of gas which has been offtaken, if any, divided by the number of hours in the Day remaining;

"Unused Long Term Firm Capacity" means, in respect of any given Day, any Long Term Firm Capacity held by a Shipper which is not used by the Shipper;

"Unsecured Credit Support" has the meaning given to it in Section 13.4.1;

"Upstream Indicative Capacity Reduction Notification" has the meaning given to it in [Section 1.10.7\(a\)](#);

"Upstream Nomination" has the meaning given to it in Section 2.1.4;

"Upstream Operator" means the party responsible for operating the Upstream Transportation System, which may be the Upstream Transporter or other such party contracted by the Upstream Transporter;

"Upstream Renomination" has the meaning given to it in Section 2.1.4;

"Upstream Shipper" means any Shipper who offtakes Natural Gas on a transportation system upstream of the Transportation System;

"Upstream Surrender Application" has the meaning given to it in [Section 1.11.2\(e\)](#);

"Upstream Transporter" means Phoenix except when PTL acts on its behalf as the Upstream Operator;

"Upstream Transportation Systems" means the transportation system which the Transportation System is connected to at the Carrickfergus Entry Point and any other transportation systems which form part of the NI Network;

"US Default" has the meaning given to it in Section 13.6.2;

"Utility Categorisation" means the categorisation of a utility as one of the following: a Transmission Utility, a Distribution Utility, an Integrated Utility or a Generation Utility;

"**validate**" has the meaning given to it in Section 9.1.5(g);

"Valid Buyback Offer" has the meaning given to it in Section 1.15.5;

"**Value Added Tax**" or its abbreviation "VAT" means the tax applied pursuant to the Value Added Tax Act 1994;

"**Verifying Accountant**" has the meaning given to it in Section 6.13.4(b);

"**Virtual Exit Quantity**" shall mean the Virtual Exit Quantity (Carrickfergus) or the Virtual Exit Quantity (South-North) as the case may be;

"**Virtual Exit Quantity (Carrickfergus)**" shall have the meaning in Section 9.13.2;

"**Virtual Exit Quantity (South-North)**" shall have the meaning in Section 9.13.3;

"**Virtual Exit Point**" has the meaning in Section 8.1.3(b)

"**Wilful Misconduct**" means, in relation to the Transporter or a Shipper, a wilful or deliberate disregard for its obligations under this Code and all Ancillary Agreements to this Code with the intent to create or confer a material commercial advantage on the said Transporter or Shipper or to deprive the other party of commercial advantage.

"Written Submissions" has the meaning given to it in Section 1.10.7(b);

"**Y**" has the meaning given to it in Section 13.3(a);

"**Y+1**" has the meaning given to it in Section 13.(b).

Interpretation

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

- (a) any gender includes the other;
- (b) a statute, by-law, regulation, delegated legislation or order is to the same as amended, modified or replaced from time to time and to any by-law, regulation, delegated legislation or order made thereunder;
- (c) any agreement or instrument is to the same as amended, novated, modified, supplemented, revised or replaced from time to time;
- (d) a Section or Annex is to a Section or annex of this Code;
- (e) "**including**" means comprising, but not by way of limitation, any class, list or category;
- (f) a "**Business Day**" shall be construed as a reference to a day (other than a Saturday, Sunday or Bank Holiday) on which banks are generally open for business in Belfast;
- (g) a person shall be construed as a reference to any person, firm, company, corporation, government or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing;

- (h) a person includes that person's legal personal representative, permitted assigns and successors
- (i) time shall be construed by reference to whatever time may from time to time be in effect in Northern Ireland; and
- (j) the singular shall include the plural and vice versa.

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

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

References to "the Code" shall mean the Sections and Appendices of this Code and shall be read as one document.

In the event of any conflict between the provisions of the Code and any Ancillary Agreement to the Code, the relevant provisions of the Code shall prevail.

APPENDIX 2
GAS SPECIFICATION

Part I

Gas combustion characteristics

Wobbe Index	47.2 to 54.7 MJ/m ³
Gross Calorific Value	36.9 to 42.3 MJ/m ³
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	50 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

APPENDIX 3

PROFORMA DOCUMENTS

Part I - Form of Guarantee

THIS GUARANTEE is made the [] day of [] 200[.] by [.] a company [registered in England and having its registered office] [whose principal place of business is] at [.] (the "**Guarantor**") in favour of BGE (UK) Limited a company registered in England (Number 2827969) having its registered office at [35 St.Thomas Street, London SE1 9RP]¹¹ [having a place of business at Brighthouse Bay, Kirkcudbright, DG6 4TR, Scotland ("**BGE (UK)**")]

WHEREAS

- (A) [] a company [registered in England and having its registered office] [whose principal place of business is] at [.] (the "**Shipper**") is a party to an Accession Agreement dated [] (the "**Accession Agreement**") by which it has agreed to be bound by the terms of the Transportation Code.
- (B) This Guarantee is made pursuant to the Transportation Code for the purposes of providing security for indebtedness of the Shipper in respect of its payment obligations under the Transportation Code.
- (C) The Guarantor has capacity to enter into this Guarantee and has taken all steps necessary to ensure that this Guarantee is valid and binding upon it in accordance with the terms hereof.

[**NOW THIS DEED WITNESSETH** and the Guarantor hereby agrees] [**IT IS AGREED**] as follows:

1 In this Guarantee:

"**Transportation Code**" has the meaning set out in the Accession Agreement and the terms "**PS Transmission Amounts**" and "**Due Date**" have the respective meanings given to them under the Transportation Code;

"**Payment Default**" means any failure by the Shipper to pay an amount properly due under an invoice issued in accordance with the Transportation Code by the Due Date;

"**Demanded Sum**" means a Demanded Overdue Sum or a Demanded Security Default Sum;

"**Demanded Overdue Sum**" means the sum specified in a written demand from BGE (UK) pursuant to clause 2 of this Guarantee representing the amount unpaid by the Shipper under an invoice issued in accordance with the Transportation Code by the Due Date;

"**Demanded Security Default Sum**" means the full amount of this Guarantee where the Shipper has failed to procure the provision of security replacing this Guarantee to BGE (UK) by the time and in the manner contemplated in Sections

¹ Note BGE (UK) Limited registered office is due to change shortly.

13.3.13 and/or 13.3.14 and/or 13.4.2 of the Transportation Code (and so that the expression "the full amount of this Guarantee" shall mean the amount stated in Clause 5, less the amounts previously paid by the Guarantor to BGE (UK) pursuant to this Guarantee); and

"**Security Default**" means a failure such as is referred to in the definition of Demanded Security Default Sum in this Clause 1.

2 Subject to clause 3, below, *[In consideration of the payment of £1 payable on demand by BGE (UK) to the Guarantor]* if and whenever there is a Payment Default the Guarantor shall, as primary obligor and not merely as surety, within [14] days of receipt of a written demand from BGE (UK) pay *[the Demanded Overdue Sum] [.% of the Demanded Overdue Sum]* into the following bank account:- **[Note: This will be the PoT Account.]** .

3 Notwithstanding the provisions of clause 2, if the written demand referred to in that clause is accompanied by a certificate signed by or on behalf of BGE (UK) stating that the Demanded Overdue Sum exceeds any PS Transmission Amounts (as defined in the Transportation Code) which are overdue for payment by the Shipper at the time of such written demand, the Guarantor will make payment of the excess to such other account(s) as may be specified by BGE (UK) in such written demand.

4 *[In consideration of the payment of £1 payable on demand by BGE (UK) to the Guarantor, if]* If there is a Security Default, the Guarantor shall within [14] days of receipt of a written demand from BGE (UK) pay the Demanded Security Default Sum to such bank account of BGE (UK) as is specified in such written demand.

5 The Guarantor's aggregate liability to BGE (UK) hereunder in respect of Demanded Overdue Sums and Demanded Security Default Sums shall not be greater than *[£.]*

6 Amounts payable by the Guarantor under this Guarantee shall be paid free of any restriction, reservation or condition and, except to the extent required by law, without deduction or withholding in respect of tax or on account of any amount due or becoming due to the Guarantor whether by way of set-off, counterclaim or otherwise provided that if any such payment is subject to any such deduction or withholding, the Guarantor shall forthwith pay to BGE (UK) such further amounts as may be necessary to ensure that BGE (UK) receives an amount equal to that which would have been received had no deduction or withholding been made.

7 This Guarantee is a continuing guarantee and shall remain in effect until *[Date.]* or until terminated by or with the consent of BGE (UK) *[or until the Shipper has arranged the release of the Guarantor in accordance with the provisions of the Transportation Code (which shall apply to this Guarantee as though incorporated herein)]* whichever occurs first but without prejudice to any rights then accrued under this Guarantee.

8 The obligations of the Guarantor under this Guarantee are in addition to and not in substitution for any other security which BGE (UK) may now or in the future hold in relation to the payment obligations of the Shipper under the Transportation Code ("**Liabilities**") or any of them and may be enforced without BGE (UK) first having recourse to any such security and without BGE (UK) first taking steps or proceedings against the Shipper.

9 Neither the obligations of the Guarantor under this Guarantee nor the rights, powers and remedies conferred upon BGE (UK) by this Guarantee or by law shall be discharged, impaired or otherwise affected, in whole or in part, by:-

- (a) the winding-up, dissolution, administration or reorganisation of the Shipper or any change in its status, functions, control or ownership;

- (b) any of the Liabilities or any of the obligations of the Shipper under the Accession Agreement or the Transportation Code or any security in respect of the Liabilities being or becoming illegal, invalid or unenforceable in any respect;
 - (c) time or other indulgence being granted or agreed to be granted by BGE (UK) or any other person to, or any composition or other arrangement made with or accepted from (i) the Shipper in respect of the Liabilities or any of them or (ii) any person in respect of any such security;
 - (d) any amendment to, or any variation, waiver or release of any of the Accession Agreement, the Transportation Code, the Liabilities or any such security;
 - (e) any failure to enforce, realise or fully to realise the value of, or any release, discharge, exchange of substitution or any such security;
 - (f) any failure (whether intentional or not) to take, or fully to take, or perfect any security now or hereafter agreed to be taken in relation to the Liabilities or any of them;
 - (g) the release of any other person under the terms of any composition or arrangement with any creditor thereof; or
 - (h) any other act, event or omission (whether or not known to the Guarantor or BGE (UK)) which, but for this Clause 9, would or might operate to discharge, impair or otherwise affect any of the obligations of the Guarantor under this Guarantee or any of the rights, powers or remedies conferred upon BGE (UK) by law to the intent that the Guarantor's obligations under this Guarantee shall remain in full force and this Guarantee shall be construed accordingly as if there were no such act, event or omission.
- 10 Where any settlement or discharge (whether in respect of the obligations of the Shipper or otherwise) is made in whole or in part, or any arrangement is made on the faith of any payment, security or other disposition which is avoided or has to be repaid on bankruptcy, liquidation or otherwise without limitation, the liability of the Guarantor under this Guarantee shall continue and BGE (UK) shall be entitled to recover the value or amount of such obligations subsequently as if such settlement or discharge or arrangement had not occurred. BGE (UK) shall be entitled to concede or compromise any claim that any payment, security or other disposition is liable to avoidance or repayment.
- 11 Until all amounts which may be or become payable under the Transportation Code or this Guarantee have been irrevocably paid in full:-
- (a) the Guarantor shall not as a result of this Guarantee or any payment or performance under this Guarantee be subrogated to any right or security of BGE (UK) or, in competition with BGE (UK), claim or prove against the Shipper or any other person or demand or accept repayment of any monies or claim any right of contribution, set-off or indemnity and any sums received by the Guarantor or the amount of any set-off exercised by the Guarantor in breach of this provision shall be held by the Guarantor in trust for and shall be promptly paid to BGE (UK); and
 - (b) the Guarantor shall not hold any security from the Shipper in respect of this Guarantee and any such security which is held in breach of this provision shall be held by the Guarantor in trust for and shall promptly be transferred to BGE (UK).

- 12 The Guarantor represents and warrants to BGE (UK) as follows:-
- (a) it has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of, this Guarantee and the transactions contemplated hereby;
 - (b) this Guarantee constitutes its legal, valid and binding obligation enforceable against it;
 - (c) the entry into and performance by it of, and the transactions contemplated by, this Guarantee do not and will not:-
 - (i) conflict with any existing law or regulation or judicial or official order; or
 - (ii) conflict with its constitutional documents; or
 - (iii) conflict with any document which is binding upon it or any of its assets;
 - (d) all authorisations required to be obtained by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Guarantee have been obtained or effected (as appropriate) and are in full force and effect;
 - (e) it has not entered into this Guarantee in reliance upon, nor has it been induced to enter into this Guarantee by any representation, warranty or undertaking made by or on behalf of BGE (UK) (whether express or implied) which is not set out in this Guarantee.
- 13 Any notice to or demand on the Guarantor under this Guarantee may be delivered or sent by first class recorded delivery post or facsimile transmission to the Guarantor at its address appearing in this Guarantee or at such other address as it may have notified to BGE (UK) at the address for BGE (UK) stated in this Guarantee (or such other address as is notified by it to the Guarantor from time to time).
- 14 BGE (UK) shall be entitled by notice in writing to the Guarantor to assign the benefit of this Guarantee at any time to any person to whom it assigns or transfers its rights under the Accession Agreement without the consent of the Guarantor being required and any such assignment shall not release the Guarantor from liability under this Guarantee.
- 15 The invalidity, illegality or unenforceability in whole or in part of any of the provisions of this Guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this Guarantee.
- 16 This Guarantee shall be governed by and construed in accordance with the laws of *[England][northern Ireland]* and the Guarantor hereby submits to the exclusive jurisdiction of the Courts of *[England][Northern Ireland][and appoints/insert name and address of person/company registered/resident in UK as its agent for service of notices and other communications under or relating to this Guarantee]*.
- 17 [The Guarantor shall be *[jointly and severally liable]* together with *[insert name of other guarantor(s) of the Shipper]* to pay *[each and every Demanded Sum]* *[severally liable to pay to BGE (UK) such percentage as is specified in clause 2 or 3 of this Guarantee of each and every Demanded Sum].*]

[IN WITNESS whereof the Guarantor has caused this Guarantee to be executed as its deed the day and year first before written.]

The Common Seal of [.] was hereunto affixed in the presence of:

[.] Director

[.] Director/Company Secretary

[Alternative if consideration included in clause 2:]

IN WITNESS whereof, this Guarantee has been executed for and on behalf of [*Guarantor*]
the day and year first before written

Signature.....

Name

Position

In the presence of

Signature

Name

Position

Part II - Form of Letter of Credit

(Section 13.3.1 (d))

To: BGE (UK) Limited (as Transporter)
Brighthouse Bay
Kirkcudbright
DG6 4TR
Scotland

Date: . 200[.]

1 We, by this letter, establish in your favour our irrevocable standby letter of credit No [.] ("**this letter of credit**") for the account of [.] (the "**Shipper**") available for drawing in one or more amounts. This letter of credit is issued in connection with the Shipper's payment obligations under the Transportation Code (the "**Code**") and Accession Agreement to which BGE (UK) Limited and the Shipper are [*about to become*] parties (together the "**Documents**" which term shall include any document, as from time to time modified, which is by virtue of such Code or Accession Agreement made binding on the Shipper).

2 We understand that amendments or other variations or extensions may from time to time be made to the terms of the Documents and our obligations under this letter of credit, as set out below, will apply notwithstanding any such amendments or other variations or extensions provided that our maximum aggregate liability to you under this letter of credit shall not exceed [£.] and that we shall not be required to pay claims made by you under this letter of credit which are received by us after the expiry date of this letter of credit.

3 Subject to paragraph 4 below, we shall make all payments under this letter of credit into the following bank account:- [**Note: This will be the PoT Account**] on your first written demand for payment when such demand is presented to us at [.] accompanied by your certificate that the Shipper:

- (a) has failed to meet its payment obligations under the Documents; or
- (b) has failed to procure the provision of replacement security to you by the time and in the manner contemplated in Sections 13.3.13 and/or 13.3.14 and/or 13.4.2 of the Code.

The amount of your demand under this letter of credit shall not, where your demand is accompanied by a certificate in the form described in (a) above, be greater than the total amount of sums then due and payable by the Shipper pursuant to the Documents.

4 Notwithstanding the provisions of paragraph 3, if the written demand referred to in that paragraph is accompanied by a certificate signed by or on your behalf stating that the amount demanded exceeds the PS Transmission Amounts (as defined in the Code) which are overdue for payment by the Shipper at the time of such written demand, we will make payment of the excess under this letter of credit to such other account(s) as may be specified by you in such written demand.

5 This letter of credit will expire on [.] and the demand(s) and certificates(s) referred to in paragraph 3 and 4 of this letter of credit must be presented by you to us on or before that date. We undertake that all demands made in accordance with this letter of credit will be met with due honour.

- 6 This letter of credit is a transaction separate and independent from any other on which it may be based.
- 7 This letter of credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 revision) International Chamber of Commerce Publication No.500 insofar as the same are applicable (but so that Article 41 thereof shall be deemed excluded and the second sentence of Article 17 thereof shall be deemed excluded for this purpose with effect that, if this letter of credit expires during any interruption of business referred to in the first sentence of such Article, we shall remain liable to make payment under this letter of credit in respect of any demand no later than 15 Business Days after we have notified you that our business has ceased to be so interrupted), and, to the extent not inconsistent therewith, shall be governed by and construed in accordance with [English]Law and in the event of any dispute relating thereto we hereby agree to submit to the exclusive jurisdiction of the Courts of [England]
- 8 Amounts payable by us under this letter of credit shall be paid free of any restriction, reservation or condition and, except to the extent required by law, without deduction or withholding in respect of tax or on account of any amount due or becoming due to us, whether by way of set-off, counterclaim or otherwise, provided that if any such payment is subject to any such deduction or withholding, we shall forthwith pay to you such further amounts as may be necessary to ensure that you receive an amount equal to that which would have been received had no deduction or withholding been made.

Signed [./] as a duly authorised signatory for and on behalf of [./]

APPENDIX 4

CREDIT COMMITTEE

Terms of Reference

1. Purpose of the Committee

1.1 The Credit Committee is appointed, on behalf of Designated Pipe-line Operators, PS Gas Suppliers and Shippers to manage the credit risk associated with the following defaults by a PS Gas Supplier or Shipper:

(A) the non-payment by a PS Gas Supplier of any PS Transmission Payment (an "**NPTP Default**") or PS Code Charge (an "**NPCC Default**") and/or STC/VRF Charge Amount (an "**NPSTCVRF Default**");

(B) a "**Termination Default**" which shall occur in any of the following circumstances, in accordance with Section 16 of the Network Code:

(1) if the Provided Level of Credit Support fails to meet the Required Level of Credit Support from time to time (an "**LPC Default**");

(2) the non-payment of all or part of a PS Invoice by a PS Gas Supplier by the Second Due Date;

(3) the non-payment of all or part of any three or more PS Invoices by a PS Gas Supplier by their respective Due Dates; (4) the non-payment of all or part of a CC Invoice by a PS Gas Supplier by the Second Due Date;

(5) the non-payment of all or part of any three or more CC Invoices by a PS Gas Supplier by their respective Due Dates;

(6) if a PS Gas Supplier shall have failed to submit a Nomination to the relevant Designated Pipe-line Operator for a period exceeding 12 months and having ceased to hold any Firm Capacity provided that that Designated Pipe-line Operator shall have first consulted with the PS Gas Supplier and obtained its agreement or the agreement of the Authority to such termination;

(7) if a PS Gas Supplier, if it has an Exit Point Registration in respect of an Exit Point in Northern Ireland, has ceased to hold a valid Gas Supply Licence;

(8) if a Shipper, if it has an Exit Point Registration in respect of an Exit Point in Northern Ireland, has ceased to hold a valid Gas Supply Licence unless that Shipper has the Authority's prior written consent to either:

(i) hold Reserved Capacity; or

(ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence

provided that the Shipper submits to the Transporter a copy of such consent from the Authority;

(9) if a Shipper has an Exit Point Registration in respect of an Exit Point in Northern Ireland, without a valid Gas Supply Licence and on the basis that the Shipper has the prior written consent from the Authority to either:

(i) hold Reserved Capacity ; or

(ii) have entitlement to Exit gas from the NI Network as if it had a Gas Supply Licence,

and such Shipper ceases to hold the relevant consent from the Authority; or

(10) if there is a breach of Section 16.3.2 of the Network Code and such breach is referred to the Credit Committee in accordance with the provisions of Section 16.3.1 of the relevant Network Code,

(11) the non-payment of all or part of a STC/VRF Invoice by a Shipper by the Second Due Date;

(12) the non-payment of all or part of any three (3) or more STC/VRF Invoices by a Shipper by their respective Due Dates

provided that, in respect of (4) or (5), none of the CC Invoices to which they relate, is subject to a bona fide dispute in accordance with Section 12.11.3 of the Network Code; or

(C) if an administrator is appointed over any part of the assets of a Designated Pipe-line Operator or PS Gas Supplier (an "**Administration Default**")

1.2 The Credit Committee shall also be empowered to direct, subject to the Authority's consent, and pursuant to a request made by a Designated Pipe-line Operator or PS Gas Supplier in accordance with Section 13.5.2 of the Network Code, whether a PS Gas Supplier should be barred from meeting all or any part of its Provided Level of Credit Support through the provision of any or all forms of Unsecured Credit Support. Any such request shall be deemed a "**US Default**" on the part of the PS Gas Supplier in respect of which the request is made.

1.3 Each of the defaults referred to in paragraphs 1.1 and 1.2 shall be a "**Default**" for the purposes of these Terms of Reference ("**Terms**") and the relevant PS Gas Supplier or Shipper shall be the "**Defaulting Shipper**".

1.4 The Credit Committee shall from time to time, when called upon in accordance with these Terms, instruct a Designated Pipe-line Operator from whose Designated Network a Defaulting Shipper exits gas (a "**Primary DPO**") and the Defaulting Shipper as to the steps to be taken as a consequence of or in relation to the Default in accordance with the Terms.

- 1.5 These Terms shall come into effect on 01 October 2004.
2. Interpretation
- 2.1 Except as expressly provided in these Terms or where the context otherwise requires, all terms that are defined in the Network Code to which these Terms are attached, where used in these Terms, shall have the same meaning as is ascribed to them in the Network Code. A reference to a Section of a Network Code in these Terms shall, if appropriate, be treated as a reference to the equivalent Section in another Network Code.
- 2.2 The following terms, when used in these Terms, except where expressly stated to the contrary or unless the context otherwise requires, shall have the corresponding meaning set out below:
- "Business Hours"** means any time between the hours of 09:00 and 17:00 Greenwich Mean Time on a Business Day;
- "Code Charges"** means any amounts payable by a PS Gas Supplier under a CC Invoice in accordance with a Designated Pipe-line Operator's Network Code;
- "Defaulting Shipper"** has the meaning given to it in paragraph 1.3;
- "Direction"** means a direction of the Credit Committee, in respect of a Default, that is issued to the relevant Primary DPO, any other Designated Pipe-line Operators and/or to a PS Gas Supplier in relation to the relevant Default and which direction is given in accordance with paragraph 6 of these Terms;
- "Licence"** means the licence to convey gas held by the relevant Designated Pipe-line Operator;
- "Meeting Notice"** means a notice of a Credit Committee meeting containing all information listed in paragraph 3.3 of these Terms (if available);
- "Members"** means all members of the Credit Committee, being: (a) all Designated Pipe-line Operators; (b) all PS Gas Suppliers from time to time; and (c) the Authority;
- "Network"** means, in relation to gas pipe-lines owned by the relevant Designated Pipe-line Operator, the gas pipe-lines designated by an order made pursuant to Article 59 of the Energy (Northern Ireland) Order 2003;
- "Network Code"** means a particular Designated Pipe-line Operator's code governing the terms on which PS Gas Suppliers which are party to or bound by that code may convey gas through the Designated Pipe-line Operator's pipe-line network;

"STC/VRF Charges" means any amounts payable by a Shipper under a STC/VRF Invoice in accordance with the Designated Pipeline Operator's Network Code;

"Postalised System" means the system comprising all gas pipe-lines designated as being subject to a common tariff pursuant to all orders made pursuant to Article 59 of the Energy (Northern Ireland) Order 2003 in force at such time;

"Primary DPO" has the meaning given to it in paragraph 1.4;

"PSA" has the meaning given to that term in each Designated Pipe-line Operator's Licence;

"PS Gas Supplier" means any person who is entitled to exit gas from the Postalised System; and

"PS Transmission Payments" means any payment which a Designated Pipe-line Operator is entitled or obliged to charge a PS Gas Supplier in accordance with Condition 2A of such Designated Pipe-line Operator's Licence.

"Shipper" has the meaning given to it in Appendix 1 Definitions and Interpretations.

3. **Convening the Committee**

3.1 Meetings of the Credit Committee:

- (A) shall be convened by a Primary DPO on the occurrence of any Default; or
- (B) may be requisitioned by any PS Gas Supplier or Designated Pipe-line Operator if it is permitted to do so in accordance with the provisions of a Network Code,

on the giving of no less than 3 Business Days' written notice (a "**Meeting Notice**") to all of the Members in accordance with the provisions of this paragraph ~~33~~.

3.2 A meeting of the Credit Committee may be called on shorter notice than required under paragraph 3.1 of these Terms if all Members entitled to vote on the particular matter or matters to be considered unanimously agree.

3.3 A Meeting Notice shall include:

- (A) details of the time and place of the meeting;
- (B) any information required to be submitted under 4.4 (A)
- (C) the name(s) of the Member(s) calling or requisitioning the meeting;
- (D) if issued in respect of a Default, the Defaulting Shipper's identity and full details of the Default;

- (E) if requisitioned under paragraph 3.1(B) the reason(s) for such a requisition, including full details of the matters to be discussed at the meeting, and the Directions sought by the requisitioners; and
 - (F) the name of the proposed chairman.
- 3.4 Each Meeting Notice shall be served by the Member calling the meeting on each other Member by post to their respective addresses as specified in Schedule 1 to these Terms, or by fax and post to a Member who supplies a fax number in Schedule 1 or to such other address and/or fax number as may be, from time to time, notified by a Member to each other Member as its address and/or fax number for the receipt of notices.
- 3.5 The Credit Committee shall convene at the time and date appointed in the Meeting Notice, such time to be within normal Business Hours and, subject to paragraph 3.2, no less than 3 Business Days and no more than 10 Business Days after the issue of such Meeting Notice. Meetings shall take place at the offices of the Authority unless another venue is unanimously agreed by all the Members entitled to attend such meeting.
4. Chairman, Quorum and Adjournment
- 4.1 The chairman of a meeting of the Credit Committee (the "**Chairman**") shall be the relevant Primary DPO, provided that if the Primary DPO which is appointed Chairman is not present at the meeting then, before any business is conducted at such a meeting, the Member(s) present shall appoint a Chairman by agreement and provided further that the Chairman shall be any one of the Designated Pipe-line Operators or the Authority present at the meeting, and if no agreement is reached, shall be the Authority. If there is more than one Primary DPO in relation to the relevant PS Gas Supplier, or if there is no relevant Primary DPO then the Authority shall decide (having regard to the matters to be discussed at the meeting and any relevant financial consequences such matters may have in respect of each Primary DPO or other Designated Pipe-line Operator) which of the Primary DPOs or (where there is no Primary DPO) the Designated Pipe-line Operators shall be the Chairman.
- 4.2 The quorum for a meeting of the Credit Committee shall be at least two PS Gas Suppliers entitled to vote in accordance with paragraph 5.3 (as subject to paragraph 5.2) on the matters in respect of which the meeting is called unless either:
- (i) only one PS Gas Supplier is eligible to vote on such matters, in which case the quorum shall be that PS Gas Supplier; or
 - (ii) no PS Gas Supplier is eligible to vote on such matters, in which case the Chairman shall constitute a quorum.
- 4.3 If, within 30 minutes of the time appointed for the convening of a Credit Committee meeting, a quorum is not present, the Chairman may adjourn the meeting to any time in Business Hours not less than two Business Days, and not more than ten Business Days, after the day on which the meeting was convened. Notice of an adjourned meeting (an "**Adjourned Meeting Notice**") shall be sent to all Members by the Chairman on the day of such adjournment. Such Adjourned Meeting Notice shall contain the same details as required to be included in a Meeting Notice in accordance with paragraph 3 of these Terms. If at such adjourned meeting there is no quorum as provided for under paragraph 4.2, one PS Gas Supplier entitled to vote at that

adjourned meeting shall comprise a quorum or, if no PS Gas Supplier is entitled to vote at that adjourned meeting, the Chairman shall constitute a quorum.

4.4 Subject to paragraph 4.7, before the meeting, the Chairman shall be responsible for:

(A) procuring in a timely manner any information required for the proper discussion of issues to be considered at the meeting, including the submission of requests for information from the Primary DPO and Defaulting Shipper prior to the meeting; and

(B) requesting from the PSA the PS Invoices required to calculate the voting rights of each member in accordance with paragraph 8.1.

4.5 At the meeting, the Chairman shall be responsible for:

(A) chairing that meeting of the Credit Committee;

(B) directing a discussion of:

(1) the nature of the Default or Defaults, if any, under consideration, with, where appropriate, the aid of any information (including any draft Directions) provided by the Primary DPO prior to the meeting;

(2) appropriate steps to be taken by the Primary DPO to remedy the Default, with reference to the Licence and the relevant Network Code; and

(3) appropriate sanctions, if any, to be applied by the Primary DPO to the Defaulting Shipper.

4.6 After the meeting, the Chairman shall be responsible for:

(A) producing minutes of the meeting; and

(B) distributing written copies of those minutes and any Directions to all Members in accordance with paragraphs 7.9 and 8.4.

5. **Composition and Entitlement to Vote**

5.1 On each matter considered by a Credit Committee meeting, Members of the Credit Committee shall be divided into Members entitled to vote ("**Voting Members**") and Members not entitled to vote ("**Non-Voting Members**"). For the avoidance of doubt, if a Member is not entitled to vote on a particular matter due to paragraph 5.2 they may, subject always to paragraph 5.2, vote on other matters under consideration at the same meeting.

5.2 The following Members shall be Non-Voting Members in respect of a particular matter under consideration at a Meeting:

(A) the Authority;

(B) each Designated Pipe-line Operator;

(C) the PS Gas Supplier in respect of which the Default under consideration arose; and

- (D) in relation to any Directions which are put to the vote of the Credit Committee that pertain to an NPCCDefault, PS Gas Suppliers not party to the relevant Network Code.
 - (E) in relation to any Directions which are put to the vote of the Credit Committee that pertain to an NPSTCVRF Default, PS Gas Suppliers not party to the relevant Network Code.
- 5.3 Subject to paragraphs 5.2(D) and (E)(~~D~~), each PS Gas Supplier shall be a Voting Member in respect of a matter under consideration at a Meeting.
- 5.4 If no Member at the relevant quorate meeting is entitled to vote the Chairman shall have a vote. In no other circumstances shall the Chairman, in that capacity, be entitled to vote at meetings.

6. **Credit Committee Powers**

- 6.1 Subject to paragraphs 6.2 and 6.3, the Credit Committee shall have the power to make any of the following directions (each a "**Direction**") in accordance with these Terms and the terms of the Network Code:
- (A) where a Termination Default or an Administration Default has occurred, require a Primary DPO to terminate its Defaulting Shipper's Accession Agreement;
 - (B) where a Termination Default or an Administration Default has occurred, require a Primary DPO not to terminate its Defaulting Shipper's Accession Agreement;
 - (C) where a breach of Section 16.3.2 of the Network Code has occurred, to determine whether that breach of the Network Code is capable of remedy;
 - (D) where any Default has occurred, require a Primary DPO to enforce a specified sum of the security it holds in relation to its Defaulting Shipper in favour of the PoT Account in the case of an NPTP Default, or the Primary DPO's Account in respect of an NPCC Default;
 - (E) where any Default has occurred, require a Primary DPO to settle a claim for non-payment against its Defaulting Shipper on such terms as the Credit Committee determines;
 - (F) where an LPC Default has occurred, require the Primary DPO to waive the requirement for a Defaulting Shipper to provide the Provided Level of Credit Support which would otherwise be required of that Defaulting Shipper, for a specified period;
 - (G) in the event of an NPTP Default or an NPCC Default, require the Primary DPO to agree a payment plan on such terms as the Credit Committee directs with a Defaulting Shipper which specifies dates on which future payments will be made;
 - (H) where any Default has occurred, require a Primary DPO to engage the services of recognised legal and/or financial professionals in relation to that resolution of the circumstances giving rise to a Default;

- (I) where the Voting Members of the Credit Committee reasonably believe further pursuit of a non-payment is likely to be economically detrimental to the PS Gas Suppliers, they may vote to direct a Primary DPO that no further action need be taken in respect of that non-payment;
- (J) in the event of a US Default, a Direction in accordance with paragraph 1.2;
- (K) where any Default has occurred, require a Primary DPO to disallow the Defaulting Shipper from:
 - (a) reserving additional Firm Capacity including through the Daily Capacity Application Window; or
 - (b) applying for any Exit Point Registration; and
- (L) where a request for a Direction from the Credit Committee has been made under Section 13.5.3 of the Network Code, require a Primary DPO to re-assess a PS Gas Supplier's Required Level of Credit Support and/or a PS Gas Supplier's Provided Level of Credit Support,

provided that, the Credit Committee shall not be permitted to make any Direction which may delay or frustrate the application of the procedures for the recovery of Debt Payments from PS Gas Suppliers in accordance with any relevant Licence.

- 6.2 Any Direction given under the powers conferred at paragraph 6.1(B), paragraph 6.1(F), paragraph 6.1 (J) or paragraph 6.1(A) (but in relation to 6.1(A), only where in relation to a Termination Default, such Termination Default relates to a breach of Section 16.3.2 of the Network Code) shall not be capable of exercise unless and until the Authority has given its consent.
- 6.3 Where the Credit Committee makes a Direction under paragraph 6.1(D) in respect of:
 - (A) an NPTP Default, it may only direct the Primary DPO to enforce security up to the value calculated in accordance with Section 13.2.2 of the Network Code or, where appropriate, the equivalent Sections in another Network Code; and
 - (B) an NPCC Default, it may only direct the Primary DPO to enforce security up to the value calculated in accordance with Section 13.2.3 of the Network Code or, where appropriate, the equivalent Sections in another Network Code.

7. **Attendance and Proceedings at Meetings**

- 7.1 Each Member may be represented by up to three persons at a Credit Committee meeting.
- 7.2 On receipt of a Meeting Notice and until the issue of a Direction, all Members shall meet as frequently as is reasonably necessary to carry out their duties.
- 7.3 A person shall be treated as present in person at a meeting notwithstanding that he is not physically present at the place where the meeting is held if he is in continuous communication with the meeting by conference telephone or other communication equipment permitting each person physically present at

or so in communication with the meeting to hear and be heard by each other person.

- 7.4 If any Member fails or is unable to attend a meeting (an "**Absent Member**") it may in writing appoint a nominee (a "**Nominee**") to speak and/or vote for it. A Nominee may be any other Member of the Credit Committee who consents to act as a Nominee on the Absent Member's behalf. Any Member, present at a meeting of the Credit Committee, and acting as Nominee only counts once toward the quorum (on its own behalf) and may not vote on behalf of the Absent Member on any matter in respect of which the Nominee or the Absent Member is a Non-Voting Member.
- 7.5 Members shall keep confidential all information which comes into their possession in carrying out their duties under these Terms and shall not communicate any Credit Committee or personal view regarding any matter discussed at a Credit Committee meeting to any person who is not a Member except with the consent of the Credit Committee, where its respective licence or Network Code requires, where the Authority requires, or as required by law.
- 7.6 Any Voting Member may require that a Defaulting Shipper be excluded from any part of the relevant meeting of the Credit Committee.
- 7.7 Members shall use all reasonable endeavours to make Directions promptly and to the best of their ability, and shall conduct themselves honestly and diligently whilst carrying out their duties under these Terms and shall act without undue discrimination against any PS Gas Supplier.
- 7.8 The proceedings of the Credit Committee shall be conducted in private.
- 7.9 The Chairman shall keep a minute of the meeting of the Credit Committee and shall circulate such minute to all Members present within 3 Business Days of the relevant Meeting except such minute shall not be circulated to, or otherwise provided to the Defaulting Shipper. The Chairman shall send a copy of such minute to the Authority, and any Member who disputes the accuracy of such minute shall make such amendments or additions it sees fit and send those amendments or additions to the Authority within 3 Business Days of receipt of the minute from the Chairman.
- 7.10 A person shall not represent a Member if:
- (A) the Authority has given notice to the person that circumstances exist which in the opinion of the Authority would make it difficult for such person to act in the best interests of the Credit Committee or render such representation detrimental to the fair operation of the Credit Committee;
 - (B) he becomes bankrupt or compounds with his creditors;
 - (C) he, or any body of which he is, or has been, a director, partner or controller be the subject of any complaint or investigation of misconduct or of malpractice in connection with his or its business affairs and the Authority decides that it is undesirable that he represent a Member; or

- (D) he is dismissed or requested to resign from any office of employment or from any fiduciary office or position of trust, whether or not remunerated, and the Authority resolves that it is undesirable that he represent a Member.

8. **Directions and Voting**

- 8.1 At a meeting a Voting Member shall hold one vote per £1 worth of PS Transmission Payments invoiced to it during the six Months immediately prior to the Month in which the meeting is convened.
- 8.2 Directions may be passed by the written consent of all Members who would, if present at a meeting of the Credit Committee called to decide such a matter, be Voting Members and shall be in the form submitted to all Members by the convening Member prior to a meeting, and, if passed, will obviate the need for such meeting.
- 8.3 Directions shall be passed by the Credit Committee:
- (A) at a quorate meeting by a simple majority of the votes cast by Members present and entitled to vote (abstentions not forming part of the count for these purposes); or
- (B) by the Chairman on receipt of the written consent of all Members entitled to vote to any draft Directions submitted to all Members in writing prior to the meeting.
- 8.4 Written copies of all Directions passed at a meeting shall be sent to all Members no later than three Business Days after the meeting is concluded by the Chairman.

9. **Fees and Expenses**

- 9.1 Members of the Credit Committee shall be responsible for their own costs and expenses incurred in fulfilling their duties.

10. **Modification**

- 10.1 For the avoidance of doubt, these Terms of Reference may be modified in accordance with the Modification Rules.

Addresses

It is anticipated that the Transporter will liaise with the Upstream Transporters to assist in the compilation of a list of names, addresses and contact details for Designated Pipeline Operators and their respective Shippers.