

# West Transmission Limited Consultation on West Transmission Code

23<sup>rd</sup> December 2015

Please find attached the proposed text of the new West Transmission Code, which is published by West Transmission Limited for consultation until 26<sup>th</sup> January 2016.

## **A Description of the nature and purpose of this consultation**

West Transmission Limited (WTL) is the operator of the new gas transmission pipeline in Northern Ireland, with first gas due to be available at Maydown from October 2016. This consultation has been published in order to provide interested parties the opportunity to submit views on the proposed text of the West Transmission Code, before it is submitted to the Authority for approval.

## **B Licence Requirements**

Licence Condition 2.4.2 of the WTL Licence requires the licensee to prepare and provide to the Authority for its approval a Network Code, no later than 6 months before the First Operational Commencement Date. The Network Code must meet the requirements of Condition 2.4.1 (the relevant objective), which covers (in outline):

- i) the secure, safe, reliable, efficient and economic development and operation and maintenance of the Network with due regard for the environment,
- ii) the requirement to balance the NI Network pursuant to rules which are objective, transparent and non-discriminatory, and
- iii) the promotion of effective competition.

## **C Details of the Consultation**

Please see below for full details of the background to this consultation and an explanation of how the proposed text of the Network Code has been developed, based on the existing PTL and GNI (UK) Codes.

## **D Impact on other Designated Pipeline Operator's Network Codes**

West Transmission is working with the other NI Network Operators (Premier Transmission, Belfast Gas and GNI (UK)) to align the texts of the network codes. Some minor changes will be required in the other codes to reflect the introduction of West Transmission into the NI Network, and the other NI Network Operators will bring forward modifications in due course to make the corresponding changes.

## **E The date proposed for implementation**

WTL proposes that this Code should take effect from 1<sup>st</sup> April 2016

**F      How to Respond**

Please send responses no later than 26<sup>th</sup> January 2016 to:

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## **G Introduction to the Text**

### **Background**

- The West Transmission System will form part of the NI Network of pipelines and WTL is a Designated Pipeline Operator under its Licence.
- WTL will be party to the Northern Ireland Network Operators Agreement (NINOA) which captures the agreement between the NI Network Operators (currently PTL, BGTL and GNI(UK)) and which enables the co-ordinated and streamlined operation of the NI gas transmission pipelines as a single entry-exit regime, with a single balancing zone and single, postalised, transmission charging regime.
- WTL will contract with PTL for the operation and administration of its code, and the provision of the Aligned systems which Shippers use to place nominations, receive allocations and invoices etc.
- As a consequence, WTL's operational processes and procedures are to be essentially identical to those of PTL and GNI (UK)<sup>1</sup>.
- WTL has therefore based its' Network Code on the relevant sections of the PTL and the GNI (UK) network code, and in places (notably in relation to invoicing and credit) it is also aligned with the BGTL Code.

### **Key Features of the WTL Arrangements**

1. The design and consenting process for the West Transmission System has commenced ahead of construction. The first part of the system to become operational will connect to the GNI (UK) network at Maydown (Maydown Entry Point) and carry gas to the SGN distribution network (West Exit Point 1). Phase 2 of the construction will see further sections of transmission pipeline and new downstream connection points being added to the West Transmission System, and is due for completion in 2017.
2. A WTL Shipper will have to accede to all the NI codes, and apply for registrations in respect of all the network points it wishes to use under each code. This is necessary to maintain the streamlined NI arrangements and for the purposes of the single balancing zone.<sup>2</sup>
3. Gas will enter the WTL system from the GNI (UK) system, so whilst the Maydown Entry Point is the physical entry point for the first phase of the WTL system, it is not an entry point in terms of the NI Network entry-exit regime. Therefore, there is no requirement for entry capacity under the WTL Code.
4. Under the NI gas transmission and distribution licence arrangements, the distribution network operator is required to book and hold the transmission exit capacity at a distribution network exit point. This applies for West Exit Point 1.

Consequently, SGN will be required to be a Shipper under the WTL Code and will book and hold the capacity on behalf of all the (other) Shippers using the point. An exit overrun charge would only be incurred if the total nominated gas flow exceeds the total capacity booked by SGN.

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<sup>1</sup> The BGTL Code 'defers' to the PTL Code, in that BGTL Shipper's capacity bookings, nominations and allocations are deemed to be those made under the PTL Code. BGTL is contractually responsible for its own accession, invoicing and credit arrangements, but in practice these are administered on its behalf by PTL.

<sup>2</sup> If a Shipper is not intending to use any entry or exit points on a TSO's network, it must still accede to that TSO's code, but will not be required to hold any credit or obtain any registrations with that TSO.

5. Shippers will not be required to make any entry nominations under the WTL Code. Only exit nominations will be required. To the extent that it would ever be necessary to determine them, entry quantities and title at entry would be deemed, based on exit allocations from the WTL system.
6. WTL Shippers will nominate, receive allocations and invoices etc. on Aligne. All communications (operational and administrative) with Shippers will be handled by PTL on behalf of WTL.
7. WTL Shippers will be required to place credit (in respect of exit capacity and commodity charges) with WTL though this process will be administered by PTL on its behalf.
8. WTL will invoice Shippers for transmission charges (capacity and commodity) though this will also be administered by PTL (using Aligne).
9. In line with the existing NI arrangements, PTL will calculate and invoice Shippers for energy balancing charges across the whole of the NI Network. The NI Network Operators will co-ordinate and share information to ensure this is carried out.
10. Exceptional Events and Emergencies are set out to be specific for WTL, but also to provide for co-ordination by WTL with the other NI Network Operators in an emergency or upstream exceptional event.
11. Shippers will be able accede to the Code from April 2016 but since gas will not flow until later in the year, there is no immediate requirement for credit to be placed, provided any prospective shipper can otherwise demonstrate its credit worthiness. Provisions are included to ensure this is possible.
12. The WTL Code is intended to be implemented by April 2016, to enable accession, registration, initial capacity bookings, Shipper Forecast Information forms and preparations for credit arrangements to be made ahead of the First Gas Flow Day (planned for October 2016). The transition section brings the Code into force essentially in two phases, with nominations, allocations, energy balancing and invoicing provisions only becoming effective for the First Gas Flow Day.

## Code Sections Summary

The following table sets out how the existing NI codes were used as the basis for each section of this proposed WTL Code, and gives a brief commentary on the purpose of that section, highlighting any necessary differences compared with the PTL and GNI (UK) Codes. Since the Transition Section is solely for the purpose of the introduction of this Code, it is also further explained below.

Section	Based on	Commentary
1A: Introduction – the West Transmission System	PTL and GNI (UK) Code structure	<ul style="list-style-type: none"> <li>Abbreviated section to introduce the West Transmission System and highlight that no IP Capacity or entry capacity is to be offered by WTL</li> </ul>
1B: Exit Capacity	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>Definitions and rules for obtaining Exit Capacity.</li> <li>Additional paragraph (1B.1.1A) to clarify that the DNO holds capacity at West Exit Point 1.</li> <li>1B.12.4 in the PTL Code is specific to Phoenix/Belfast so is omitted</li> </ul>
2: Nominations	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>Introduction describes the specific arrangements with respect to WTL.</li> <li>Since there are no IPs on the WTL Network, no IP Nominations are required so section 2.3 refers to the PTL and GNI (UK) Code and sections 2.4 – 2.7 are shown as ‘not used’ to maintain numbering alignment.</li> <li>Section 2.10.2 concerning power station exit points is not applicable for WTL so is omitted</li> </ul>
3: Allocations	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>Introduction has been developed for WTL based on PTL Code, and some changes will be proposed to GNI (UK) Code and PTL Code to reflect WTL’s inclusion in the NI balancing arrangements, to add further clarity about responsibilities under this section and for consistency.</li> <li>The WTL Code points to the PTL and GNI (UK) Codes in respect of IP Allocations, but retains the formulae for the aggregate imbalance since Shippers are required to balance their inputs and outputs across the whole of the NI Network.</li> <li>Some definition changes/new terms are proposed (in particular NI Network Exit Points) for better alignment, and it is intended to include these in the other Codes as well</li> </ul>
4: Balancing and Scheduling Charges	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>Order of paragraphs rearranged in the Introduction to emphasise joint operation of these rules and the role of PTL in invoicing for all Code Charges (i.e. energy balancing charges). Corresponding changes will be proposed for PTL and GNI (UK) Codes</li> <li>The WTL Code contains the formulae for the Code Charges, like the GNI (UK) Code, and makes it clear that it is PTLs responsibility to perform the calculations and invoice Shippers</li> </ul>

5: Balancing and Shrinkage Gas	PTL and GNI (UK) Code	<ul style="list-style-type: none"> <li>References to the TSOs amended to reflect WTL's inclusion in the Joint Balancing Procedures for NI.</li> <li>Minor amendments proposed to further clarify PTL's role in invoicing/managing the NI Postalised Network Disbursement Bank Account</li> </ul>
6: Exceptional Events and Emergencies	PTL Code, but without 'flip flop' rules	<ul style="list-style-type: none"> <li>WTL capacity shortfall is defined in terms of its own network, and exceptional events on the wider network are also included, in case WTL needs to give a flow order to a West Shipper as a result of an event upstream.</li> <li>Not Used is shown to maintain alignment with numbering with PTL Code sections</li> <li>Entry Control (section 6.9) in an emergency is to be accomplished by inter-operator arrangements, rather than via any directions to Shippers, reflecting the inter-operator nature of Maydown Entry Point</li> </ul>
7: Entry Requirements	PTL and GNI (UK) Codes, adapted to refer to WTL specifics where appropriate	<ul style="list-style-type: none"> <li>Sets out generic definition of Entry Point and the specific Maydown Entry Point</li> <li>Describes how title is to be deemed at entry, based on exit allocations</li> <li>Gas Specification rules are the same as the other Codes</li> </ul>
8: Exit Requirements	PTL and GNI (UK) Codes, adapted to refer to WTL specifics where appropriate	<ul style="list-style-type: none"> <li>Sets out generic definition of Ext Point and the specific West Exit Point 1</li> <li>Rules for off-specification gas are the same as the other Codes</li> <li>Rules for gas offtaken for compressors included for consistency and in case of future requirements, though none are anticipated at present</li> </ul>
9: Measurement	PTL and GNI (UK) Codes, adapted to refer to WTL specifics where appropriate	<ul style="list-style-type: none"> <li>Sets out the rules and procedures for measurement equipment, access, and adjustments (same as for PTL and GNI (UK))</li> <li>Some minor cross references to be tidied up in GNI(UK) and PTL Codes</li> <li>Not Used is shown to maintain numbering alignment with PTL Code</li> </ul>
10: Maintenance	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>Same provisions apply for WTL as for PTL and GNI (UK)</li> </ul>
11: Shipper Information Forecasts and the Ten Year Statement	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>Same terms apply as for all the other NI Codes. Shippers are required to submit information to the TSO for the purposes of forecasting charges and for the Ten Year Statement</li> <li>Not used is shown in relation to the Shipper information forecast, for items which are not applicable for West Shippers (i.e. IP and VRF-related) to maintain numbering alignment with the PTL and GNI (UK) Codes</li> </ul>

12: Charges, Payment and Tax	Closer to GNI (UK) Code, since like GNI(UK), WTL will not be invoicing for Code Charges	<ul style="list-style-type: none"> <li>• Sets out the invoicing provisions which are the same as for GNI (UK) (i.e. excluding Code Charges which will be levied by PTL under the PTL Code).</li> <li>• Not Used was shown in the GNI (UK) Code to maintain numbering alignment with the PTL Code, and is similarly used in the WTL Code to maintain alignment with both the others</li> </ul>
13: Credit Procedures	As above, and also similar to BGTL Code	<ul style="list-style-type: none"> <li>• Sets out the credit provisions which are essentially the same as for PTL and GNI (UK), except....</li> <li>• New section 13.1A has been added to clarify that it is possible to accede to the code without initially placing credit</li> <li>• New section 13.2.11A clarifies the procedures should an established shipper have further gas years where it does not expect to use any capacity for a year</li> <li>• References to credit for short term products are excluded (in the same way as they are excluded in the BGTL Code) since WTL will not offer any short term products</li> <li>• Numbering is aligned with GNI (UK) Code (which was aligned with the PTL Code), and Not Used is shown to maintain numbering alignment.</li> </ul>
14: Liabilities and Indemnities	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>• Sets out the provisions for liabilities and indemnities which are the same as for the other TSOs, except....</li> <li>• New provision (14.2.2) clarifying liabilities as between WTL and the other TSOs (also intended to be added to GNI(UK)'s Code)</li> </ul>
15: Force Majeure	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>• Identical provisions to the other Codes</li> </ul>
16: Termination	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>• Sets out the provisions for termination, which are the same as for GNI (UK) reflecting that PTL does the invoicing for Code Charges, and so references to ensuring those invoices are paid are not applicable for GNI(UK) and WTL</li> <li>• Sections 16.6. and 16.7 refer only to Exit Capacity</li> <li>• 16.8 is not used, as there are no IPs on the WTL system, hence it is not appropriate for WTL to refer to an Adjacent Transporter</li> </ul>
17: Accession to the Code, Registrations, Downstream Load Statements and Retirement from the Code	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>• Additional paragraphs in the introduction (also to be added to the other Codes) stating the requirement to accede to all the codes</li> <li>• Adapted to point to PTL and GNI (UK) Codes for IP Registrations and to PTL for Trade Registrations</li> <li>• Terms for retirement and Downstream Load Statements are the same as the other Codes</li> </ul>
18: Confidentiality	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>• Identical provisions to the other Codes</li> </ul>

19: General	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>• Sets out that WTL will use the Align system provided by PTL</li> <li>• Clarifies that WTL may appoint PTL to administer/operate provisions of the WTL Code</li> <li>• Otherwise the same provisions apply as the other Codes</li> </ul>
20: Governing Law and Dispute Resolution	PTL and GNI (UK) Codes	<ul style="list-style-type: none"> <li>• Identical provisions to the other Codes</li> </ul>
Transition Section	New drafting	<ul style="list-style-type: none"> <li>• Provides for the implementation of the Code</li> <li>• Identifies which sections come into force from the Implementation Date and which only become effective for the First Gas Flow Day</li> <li>• Nominations are generally to be allowed 30 days in advance, so there are provisions to clarify how this operates for the First Gas Flow Day</li> </ul>

Please find below the full text of the proposed WTL Network Code.



# **WEST TRANSMISSION LIMITED**

## **TRANSPORTATION CODE**

Version: Draft for Initial Consultation

December 2015

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## 1A. INTRODUCTION

### 1A.1 Introduction – The West Transmission System

- 1A.1.1 In this Code, the “**West Transmission System**” means the gas transmission pipeline system and associated facilities owned and operated by West Transmission between Maydown Entry Point and West Exit Point 1.
- 1A.1.2 The “**NI Network**” means the PTL Transportation System, the Belfast Gas System, the GNI (UK) System and the West Transmission System.
- 1A.1.3 The West Transmission System does not include any NI Interconnection Points at which gas may be delivered to the NI Network. Gas is delivered to the West Transmission System via the other transmission systems forming part of the NI Network and in accordance with the NINOA. Accordingly, Shippers:
- (a) are not required to apply for or be treated as holding IP Capacity under this Code; and
  - (b) are not required to apply for or be treated as holding entry capacity at Maydown Entry Point.
- 1A.1.4 A Shipper who accedes to this Code (except a DNO Shipper) must also accede to all of the other NI Network Operators’ Transportation Codes.



## 1B. EXIT CAPACITY

### 1B.1 Introduction and Definitions

1B.1.1 A Shipper shall be entitled to apply for, be allocated and registered as holding Exit Capacity in the West Transmission System subject to and in accordance with this section 1B.

1B.1.1A In accordance with the terms of its licence for the conveyance of gas in Northern Ireland, the DNO at an Exit Point on the West Transmission System may apply for and be registered as holding Exit Capacity in accordance with this section 1B on behalf of shippers supplying gas to its gas distribution network. For the avoidance of doubt the DNO is a Shipper under this Code.

1B.1.2 In this Code:

- (a) “**Exit Capacity**” means Firm capacity at an Exit Point which a Shipper may apply for, be allocated and registered as holding;
- (b) “**Technical Exit Capacity**” is the maximum Exit Capacity at an Exit Point that the Transporter can offer to Shippers taking account of the integrity and operational requirements of the West Transmission System and the NI Network.

1B.1.3 In this section 1B, “**Firm**” refers to Exit Capacity which may not be subject to curtailment.

1B.1.4 A Shipper’s “**Registered Exit Capacity**” at an Exit Point is the Exit Capacity that a Shipper is registered as holding at that Exit Point in respect of a Gas Flow Day.

1B.1.5 A Shipper’s “**Available Exit Capacity**” at an Exit Point is the Exit Capacity that a Shipper holds at that Exit Point in respect of a Gas Flow Day after taking into account:

- (a) any reduction of Exit Capacity in accordance with section 1B.7;
- (b) any surrender of Exit Capacity in accordance with section 1B.8;
- (c) any Exit Capacity Transfers in accordance with section 1B.9, and/or
- (d) any Exit Capacity Assignments in accordance with section 1B.10.

1B.1.6 The Transporter:

- (a) shall endeavour to maximise the level of Technical Exit Capacity at each Exit Point by acting in accordance with the provisions of this Code as a Reasonable and Prudent Operator; and
- (b) shall act as a Reasonable and Prudent Operator in the manner in which it calculates and determines the level of Technical Exit Capacity at each Exit Point from time to time in accordance with this Code.

1B.1.7 If any Dispute arises as to the Transporter’s determination of the level of Technical Exit Capacity at an Exit Point, which is not first resolved by mediation in accordance with section 20, the Transporter or a Shipper may refer the matter to an Expert for an Expert Determination.

1B.1.8 The Transporter shall notify Shippers not later than one month before the Mid Year Date and in each Ten Year Statement of its reasonable estimate of the level of the Technical Exit Capacity at each Exit Point in respect of future Gas Years.

## **1B.2 Indicative Application for Exit Capacity**

1B.2.1 A Shipper may, from time to time, and a Prospective Shipper may provide the Transporter with details of:

- (a) the amount of Exit Capacity that it anticipates it will wish to apply for; and
- (b) the period and Exit Point in respect of which the Shipper or the Prospective Shipper anticipates it will wish to apply for Exit Capacity;

in the Prescribed Form (an “**Indicative Application for Exit Capacity**”).

1B.2.2 Within 5 Business Days of receipt of an Indicative Application for Exit 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 Exit Capacity which the Shipper or Prospective Shipper has indicated it wishes to apply for.

1B.2.3 The Transporter offers no guarantee that the Exit Capacity which it stated it anticipated would be available will be so available or available at all after an application for Exit Capacity is made and shall have no liability to the Shipper or Prospective Shipper to the extent that it is not so available. A Shipper or Prospective Shipper shall receive no priority in respect of an application for Exit Capacity under this section 1B as a result of the Transporter stating that it anticipates Exit Capacity will be available to that Shipper or Prospective Shipper.

## **1B.3 Exit Capacity Application requirements**

1B.3.1 A Shipper may apply to the Transporter for Exit Capacity at an Exit Point in accordance with this section 1B.3 in respect of which it has an Exit Point Registration. An application for Exit Capacity shall be in accordance with this section 1B.3 and section 1B.4 or 1B.6.

1B.3.2 An application for Exit Capacity shall be made in the Prescribed Form (an “**Exit Capacity Application**”) and shall specify:

- (a) the amount of Exit Capacity applied for;
- (b) the period (“**Exit Capacity Period**”) over which the Shipper wishes to be allocated and registered as holding Exit Capacity;
- (c) whether or not the Shipper will accept an allocation of Exit Capacity of less than it has applied for;
- (d) the Exit Point in respect of which the Exit Capacity is applied for;
- (e) whether or not the Exit Capacity will be used for the purposes of supplying gas to a power station and if so to which power station; and

- (f) 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.

1B.3.3 A Shipper may apply for Exit Capacity:

- (a) no earlier than 2 Gas Years before the first Gas Year in which it requires Exit Capacity;
- (b) no later than 10 Business Days (or any such shorter period as the Transporter may agree in relation to that application) before the first Day in the Month in which it requires Exit Capacity;
- (c) for any duration up to Y + 15; and
- (d) in multiples of one Gas Year, except in the Gas Year in which the Exit Capacity Application is made, in which case the Exit Capacity Application may be for each complete Month in the remainder of the Gas Year.

1B.3.4 If, by virtue of the level of Exit Capacity for which a Shipper has applied in respect of any Gas Year, the Transporter believes that a Shipper has applied for Exit Capacity in respect of that Gas Year, with a view to gaining priority in respect of the allocation of Exit Capacity in accordance with section 1B.5.3 the Transporter shall request the Shipper to provide the information referred to in section 1B.3.5.

1B.3.5 The Transporter shall, in accordance with section 1B.3.4, request the Shipper to provide any of the information referred to in section 17.9.5 in respect of the utilisation, supply or shipment of gas in each of such Gas Years. The Shipper shall provide such information promptly after being requested to do so.

1B.3.6 An Exit Capacity Application shall be rejected if:

- (a) any requirement of section 1B.3 is not complied with;
- (b) subject to section 13.1A, a Shipper does not have sufficient Provided Level of Credit Support;
- (c) the Shipper fails to provide any of the information requested in section 1B.3.5 within 20 Business Days of being requested to do so; or
- (d) the Transporter receives a Direction from the Credit Committee, in accordance with paragraph 6.1 (K) of the Terms of Reference, that it should be.

#### **1B.4 Application for Exit Capacity in future Gas Years**

1B.4.1 Not later than the Mid Year Date (or any such later date as the Transporter and the Authority may agree in relation to the relevant application) in each Gas Year a Shipper which has no Exit Capacity in a future Gas Year shall submit to the Transporter:

- (a) an Exit Capacity Application in respect of any future Gas Years; or

- (b) confirmation that it does not wish to reserve Exit Capacity in any future Gas Year.
- 1B.4.2 If the Transporter does not receive any submission in accordance with section 1B.4.1 a Shipper shall be deemed to have confirmed that it does not wish to reserve Exit Capacity in any future Gas Year.
- 1B.4.3 Not later than the Mid Year Date (or any such later date as the Transporter and the Authority may agree in relation to the relevant application) in each Gas Year a Shipper which has Exit Capacity in a future Gas Year shall submit to the Transporter:
- (a) confirmation that it does not wish to vary its Exit Capacity in any future Gas Year;
  - (b) an application for additional Exit Capacity in any future Gas Year; or
  - (c) an application to surrender its Exit Capacity in any future Gas Year.
- 1B.4.4 If the Transporter does not receive any submission in accordance with section 1B.4.3 a Shipper shall be deemed to have confirmed that it does not wish to vary its Exit Capacity in any future Gas Year.

## **1B.5 Allocation of Exit Capacity in future Gas Years**

- 1B.5.1 If a Shipper applies to be allocated and registered as holding Exit Capacity:
- (a) in any future Gas Year before the Mid Year Date in the Gas Year in which it applies, its Exit Capacity Application shall be treated in accordance with section 1B.5.2 in the Gas Year in which it applies;
  - (b) in any future Gas Year after the Mid Year Date in the Gas Year in which it applies, its Exit Capacity Application shall be treated in accordance with section 1B.5.2 in the next 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 1B.5.1(a);
  - (c) one or two Gas Years before the Gas Year in respect of which it is seeking Exit Capacity, its Exit Capacity Application shall be treated in accordance with section 1B.5.2 in the Gas Year preceding the Gas Year in respect of which it is seeking Exit Capacity.
- 1B.5.2 If the Shippers applying for Exit Capacity at an Exit Point in any future Gas Year apply, in aggregate, for an amount of Exit Capacity exceeding the Technical Exit Capacity available in that Gas Year then those Shippers which so applied and specified, in accordance with section 1B.3.2(c):
- (a) that they would not accept an allocation of Exit Capacity of less than they had applied for shall have no Exit Capacity allocated to them;
  - (b) that they would accept an allocation of Exit Capacity of less than they had applied for shall have Exit Capacity allocated to them in accordance with section 1B.5.3 or 1B.5.4.
- 1B.5.3 The Transporter shall, subject to section 1B.5.4, allocate Exit Capacity at an Exit Point to the Shippers referred to in section 1B.5.2(b) according to the number of future Gas Years in

respect of which the Shippers have applied for Exit Capacity at that Exit Point so that the Shipper applying for Exit Capacity:

- (a) in the most number of Gas Years shall have its Exit Capacity Application met first to the extent that there is Technical Exit Capacity available at the relevant Exit Point;
- (b) in the next most number of Gas Years shall have its Exit Capacity Application met second to the extent that there is Technical Exit Capacity available at the relevant Exit Point;

and so on.

1B.5.4 If the Shippers referred to in section 1B.5.2(b) apply for Exit Capacity at an Exit Point in an equal number of Gas Years such Shippers shall have their Exit Capacity Applications met by the Transporter pro rata to the amounts of Exit Capacity for which they have applied to the extent that there is Technical Exit Capacity available at the relevant Exit Point.

1B.5.5 Where a Shipper is allocated Exit Capacity at an Exit Point in accordance with section 1B.5.3 or 1B.5.4 its Registered Exit Capacity and Available Exit Capacity at that Exit Point shall be amended accordingly not later than 40 Business Days after the Mid Year Date, or such other date the Transporter may agree with the Authority, in the Gas Year in which the applications are made. The Exit Capacity so allocated shall be capable of being utilised (and the Shipper shall be liable for PS Transmission Amounts) with effect from the first Day of the Exit Capacity Period specified in section 1B.3.2

## **1B.6 Application for an allocation of Exit Capacity in the same Gas Year**

1B.6.1 If a Shipper applies for Exit Capacity at an Exit Point in the Gas Year in which its Exit Capacity Application is made Exit Capacity shall, subject to section 1B.6.2 be allocated by the Transporter (on a first come first served basis) and the Shipper's Registered Exit Capacity and Available Exit Capacity shall be amended accordingly within 5 Business Days of receipt of an Exit Capacity Application. The Exit Capacity so allocated shall be capable of being utilised (and the Shipper shall be liable for PS Transmission Amounts) with effect from the first Day of the next calendar month following amendment of the Shipper's Registered Exit Capacity.

1B.6.2 If, in any Gas Year, there is less Exit Capacity at the relevant Exit Point available than the amount of Exit Capacity for which a Shipper has applied in that Gas Year and the Shipper specified, in accordance with section 1B.3.2(c) that:

- (a) it will accept an allocation of Exit Capacity of less than it has applied for the Transporter shall allocate such Exit Capacity to such Shipper; or
- (b) it will not accept an allocation of Exit Capacity of less than it has applied for no Exit Capacity shall be so allocated to such Shipper.

## **1B.7 Annual Review of Exit Capacity**

1B.7.1 Not later than 30<sup>th</sup> April, the Transporter shall prepare an **"Exit Capacity Utilisation Report"** and submit it to the Authority in respect of the period from the commencement of the Gas Year to one Month before the Mid Year Date. The Exit Capacity Utilisation Report shall identify:

- (a) any Shipper (a “**Relevant Shipper**”) which has a Final Exit Allocation at an Exit Point (a “**Relevant Exit Point**”) of less than 80% its Available Exit Capacity on each and every Day during the period of the report;
  - (b) for any Relevant Shipper, the Day during such period when the Shipper’s Final Exit Allocation was the greatest (the “**Day of Greatest Allocated Quantity**”);
  - (c) whether a Relevant Shipper’s Final Exit Allocation on the Day of Greatest Allocated Quantity would be less than 80% of its Available Exit Capacity on any Day (“**Relevant Day**”) in the next Gas Year (or any subsequent Gas Year).
- 1B.7.2 Where a Relevant Shipper has been identified, the Transporter shall calculate whether, if, in respect of each Relevant Day at any Relevant Exit Point:
- (a) the Available Exit Capacity of any Relevant Shipper was reduced by 20%;
  - (b) all applications for Exit Capacity in respect of the Relevant Exit Point, in accordance with section 1B.3, were met; and
  - (c) all applications to surrender Exit Capacity, in accordance with section 1B.8 , were met
- the aggregate level of Exit Capacity held by all Shippers at the Relevant Exit Point would increase, reduce or remain the same.
- 1B.7.3 If such aggregate level of Exit Capacity would increase or remain the same, any Relevant Shipper’s Registered Exit Capacity shall, subject to sections 1B.7.5 to 1B.7.10, 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**”).
- 1B.7.4 If such aggregate level of Exit Capacity held by all Shippers would reduce, any Relevant Shipper’s Registered Exit Capacity shall, subject to sections 1B.7.5 to 1B.7.9, be reduced pro-rata to the aggregate of the Relevant Shipper’s Available Exit Capacity 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.
- 1B.7.5 The Transporter shall, in accordance with condition 2.4.3 of the Licence, refer to the Authority for its determination the question of whether a reduction in any Relevant Shipper’s Registered Exit Capacity would achieve the Relevant Objective.
- 1B.7.6 If the Authority determines, taking into account any representations which the Authority receives from any Relevant Shipper, that the proposed reduction would achieve the Relevant Objective, the Transporter shall reduce any Relevant Shipper’s Registered Exit Capacity by the amount proposed.
- 1B.7.7 If the Authority determines that any such reduction would not so achieve the Relevant Objective, or makes no determination within 30 Business Days after the Mid Year Date, the Transporter shall not so reduce any Relevant Shipper’s Registered Exit Capacity.
- 1B.7.8 Any reduction shall only be proposed to the extent that it would not reduce a Relevant Shipper’s Registered Exit Capacity on any Day in any Gas Year below a quantity of Exit

Capacity equal to the Relevant Shipper's Final Exit Allocations on the Day of Greatest Allocated Quantity.

1B.7.9 The Transporter shall not reduce any Relevant Shipper's Registered Exit Capacity, in accordance with this section 1B.7, if all applications for Exit Capacity at the Relevant Exit Point, in accordance with section 1B.4, can be met.

1B.7.10 Where a reduction is required as a result of the application of this section 1B.7, the Relevant Shipper's Registered Exit Capacity for the relevant Gas Year(s) shall be amended accordingly no later than 40 Business Days after the Mid Year Date.

## **1B.8 Exit Capacity Surrender**

1B.8.1 A Shipper may apply to the Transporter to surrender its Exit Capacity in accordance with this section 1B.8.

1B.8.2 A Shipper may apply to surrender its Exit Capacity 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 surrender its Exit Capacity in respect of a whole Gas Year (or whole Gas Years). Any such application (an "**Exit Capacity Surrender Application**") shall specify:

- (a) the amount of Exit Capacity which the Shipper applies to surrender;
- (b) the Gas Year (or Gas Years) in respect of which the application is made;
- (c) the Exit Point in respect of which the application is made;
- (d) whether or not the Shipper will accept a surrender of Exit Capacity of less than it has applied for.

1B.8.3 Not Used.

1B.8.4 If in respect of any Gas Year, there are no Exit Capacity Applications or acceptance of any Exit Capacity Surrender Applications is not required or will not enable the Transporter to meet Shippers' Exit Capacity Applications, all Exit Capacity Surrender Applications shall be rejected.

1B.8.5 If the Transporter has received Exit Capacity Applications in respect of any Gas Year, the Transporter may accept Exit Capacity Surrender Applications in accordance with section 1B.8.6 in order to allocate Exit Capacity to Shippers who have submitted Exit Capacity Applications.

1B.8.6 For each Exit Point the Transporter shall consider and accept or reject Exit Capacity Surrender Applications (if any) in respect of a Gas Year as follows:

- (a) where the total amount of Exit Capacity applied for in Exit Capacity Applications exceeds the total quantity of Exit Capacity offered for surrender in Exit Capacity Surrender Applications, all surrenders of Exit Capacity shall be accepted;

(b) where the total amount of Exit Capacity applied for in Exit Capacity Applications is less than the total quantity of Exit Capacity offered for surrender in Exit Capacity Surrender Applications for that Gas Year:

- (i) where a Shipper has indicated that it is not willing to accept surrender of part of the amount of its' Exit Capacity Surrender Application, that Exit Capacity Surrender Application shall be rejected; and
- (ii) any Exit Capacity Surrender Applications which are not rejected under section 1B.8.6(b)(i) shall be accepted pro-rata to the amount of Exit Capacity applied for in Exit Capacity Applications.

1B.8.7 Not Used.

1B.8.8 All Exit Capacity Surrender Applications not accepted in accordance with section 1B.8.6 shall be rejected.

1B.8.9 Where a Shippers' Exit Capacity Surrender Application is accepted (in whole or in part) in accordance with this section 1B.8, its' Registered Exit Capacity in respect of the relevant Gas Year(s) shall be amended not later than 40 Business Days after the Mid Year Date in the Gas Year in which its Exit Capacity Surrender Application is made.

## **1B.9 Secondary Transfer of Exit Capacity**

1B.9.1 A Transferor Shipper may arrange to transfer all or part of its' Available Exit Capacity at an Exit Point to a Transferee Shipper, subject to and in accordance with this section 1B.9.

1B.9.2 For the purposes of this Code, an "**Exit Capacity Transfer**" is a transfer of Exit Capacity in accordance with section 1B.9.1.

1B.9.3 An Exit Capacity Transfer may only be made:

- (a) in respect of a complete Month (or complete Months) with effect from the first day of such Month ("**Exit Capacity Transfer Period**"); and
- (b) to a Transferee Shipper which has an Exit Point Registration in respect of the relevant Exit Point.

1B.9.4 In respect of an Exit Capacity Transfer or proposed Exit Capacity Transfer:

- (a) the "**Transferred Exit Capacity**" is the Exit Capacity which is (or is to be) transferred; and
- (b) the "**Transfer Exit Point**" is the Exit Point at which the Exit Capacity is to be transferred.

1B.9.5 The Transporter shall reject an Exit Capacity Transfer where the Transferred Exit Capacity exceeds the Shipper's Available Exit Capacity on any Gas Flow Day in the Exit Capacity Transfer Period.

1B.9.6 Exit Capacity may not be transferred from one Exit Point to another.



1B.9.7 Where a Transferor Shipper proposes to make an Exit Capacity Transfer, each of the Transferor Shipper and the Transferee Shipper must notify the proposed Exit Capacity Transfer to the Transporter in writing specifying:

- (a) the identity of the Transferor Shipper and the Transferee Shipper;
- (b) that the notification is for the Transporter;
- (c) the Transfer Exit Point;
- (d) the amount of the Transferred Exit Capacity;
- (e) the Exit Capacity Transfer Period;
- (f) any other information required by the Transporter.

1B.9.8 The Transporter shall accept a proposal for Exit Capacity Transfer if:

- (a) the Transferor Shipper has sufficient Available Exit Capacity;
- (b) the Transferee Shipper is different to the Transferor Shipper;
- (c) notification of the proposed Exit Capacity Transfer is received by the Transporter from both the Transferor Shipper and the Transferee Shipper 10 Business Days prior to the start of the Exit Capacity Transfer Period.

1B.9.9 A proposed Exit Capacity Transfer may be rejected by the Transporter if any requirement of this section 1B.9 is not satisfied in relation to the Exit Capacity Transfer.

1B.9.10 Where a proposal for Exit Capacity Transfer is accepted by the Transporter:

- (a) it shall notify the Transferor Shipper and the Transferee Shipper no later than 5 Business Days prior to the start of the Exit Capacity Transfer Period;
- (b) the Transferor Shipper's Available Exit Capacity shall be reduced by the amount of the Transferred Exit Capacity for the Exit Capacity Transfer Period;
- (c) the Transferee Shipper's Available Exit Capacity shall be increased by the amount of the Transferred Exit Capacity for the Exit Capacity Transfer Period; and
- (d) the Transferor Shipper shall remain liable to pay the Transporter PS Transmission Amounts associated with its Registered Exit Capacity.

## **1B.10 Exit Capacity Assignment**

1B.10.1 An Assignor Shipper may arrange an assignment of Exit Capacity to an Assignee Shipper at an Exit Point subject to and in accordance with this section 1B.10 ("**Exit Capacity Assignment**").

1B.10.2 An Exit Capacity Assignment may only be made:

- (a) in respect of a complete Gas Year (or complete Gas Years);
- (b) in respect of a complete Quarter (or complete Quarters);

- (c) to an Assignee Shipper with an Exit Point Registration in respect of the relevant Exit Point.
- 1B.10.3 Exit Capacity may not be assigned from one Exit Point to another Exit Point.
- 1B.10.4 Where a Shipper wishes to request an assignment of Exit Capacity, both the Assignor Shipper and the Assignee Shipper should jointly submit to the Transporter an Exit Capacity assignment application in the Prescribed Form (“**Exit Capacity Assignment Application**”), specifying:
- (a) the amount of Exit Capacity which the Assignor Shipper wishes to assign (“**Assigned Exit Capacity**”);
  - (b) the period in respect of which the Assignor Shipper wishes to assign Exit Capacity (the “**Exit Capacity Assignment Period**”); and
  - (c) confirmation of the identity of the Assignor Shipper and the Assignee Shipper.
- 1B.10.5 The Assignor Shipper may only assign Exit Capacity if it holds sufficient Available Exit Capacity and sufficient Registered Exit Capacity.
- 1B.10.6 An Exit Capacity Assignment Application may not be submitted later than 10 Business Days (or any such shorter period as the Transporter may, in relation to the relevant application, consent to) before the commencement of the Exit Capacity Assignment Period.
- 1B.10.7 The Transporter shall accept or reject an Exit Capacity Assignment Application no later than 1 Business Day before the first day of the Exit Capacity Assignment Period.
- 1B.10.8 The Transporter may reject an Exit Capacity Assignment Application if:
- (a) the requirements of this section 1B.10 are not complied with;
  - (b) the Assignee Shipper does not have a sufficient Provided Level of Credit Support.
- 1B.10.9 Where an Exit Capacity Assignment Application is accepted:
- (a) the Assignor Shipper’s Available Exit Capacity and Registered Exit Capacity at the Exit Point set out in the Exit Capacity Assignment Application shall be decreased by the amount of the Assigned Exit Capacity for the Exit Capacity Assignment Period;
  - (b) the Assignee Shipper’s Available Exit Capacity and Registered Exit Capacity at the Exit Point set out in the Exit Capacity Assignment Application shall be increased by the amount of the Assigned Exit Capacity for the Exit Capacity Assignment Period; and
  - (c) the Assignee Shipper shall be liable to pay the Transporter PS Transmission Amounts associated with its Registered Exit Capacity.

## **1B.11 Order of Allocation of Exit Capacity**

The Transporter shall allocate Exit Capacity to Shippers submitting Exit Capacity Applications, utilising Exit Capacity available pursuant to this Code as follows:

- (a) firstly, Exit Capacity which becomes available pursuant to section 1B.8 (Exit Capacity Surrender);
- (b) secondly, Exit Capacity which becomes available pursuant to the operation of procedures in section 1B.7 (Annual Review of Exit Capacity); and
- (c) thirdly, unsold Technical Exit Capacity.

## 1B.12 Exit Capacity Ratchet

1B.12.1 If in respect of a Gas Flow Day in any Month M, subject to section 1B.12.2, a Shipper is allocated a quantity of gas in excess of its' Exit Capacity at an Exit Point (a "**Ratchet Month**"), it shall be liable to pay a **Ratchet Charge** as calculated in accordance with section 1B.12.1(c) and it shall be allocated and registered as holding an additional amount of Exit Capacity in accordance with the following:

- (a) the amount by which the Shippers' Final Exit Allocation at the Exit Point exceeds the Shippers' Exit Capacity on any Gas Flow Day shall be a "**Ratchet Amount**";
- (b) from M+1 the Shipper shall be allocated an additional amount of Exit Capacity at the Exit Point, equal to the highest Ratchet Amount in the Ratchet Month, such additional Exit Capacity to be allocated to and registered as held by the Shipper until the end of the Gas Year;
- (c) a Ratchet Charge (or "**RC**") will be payable calculated as follows:

$$RC = RA_{\max} \times P \times t$$

where:

$RA_{\max}$  is the highest Ratchet Amount in the Ratchet Month;

P is the Forecast Postalised Annual Capacity Charge/12; and

t is the number of months (including M) since the start of the Gas Year.

1B.12.2 At an Exit Point where the Exit Capacity is held by a DNO:

- (a) the Ratchet Amount for the DNO will be determined in aggregate as follows:

$$RA_{DN} = \sum \text{Final Exit Allocations}_{\text{shippers}} - \text{ExCap}_{DN}$$

where:

$\sum \text{Final Exit Allocations}_{\text{shippers}}$  is the sum of all Shipper's Final Exit Allocations at the Exit Point; and

$\text{ExCap}_{DN}$  is the Exit Capacity of the DNO;

(b) from M+1 the DNO shall be allocated an additional amount of Exit Capacity at the Exit Point, equal to the highest Ratchet Amount in the Ratchet Month, such additional Exit Capacity to be allocated and registered as held by the DNO until the end of the Gas Year;

(c) the Ratchet Charge (for the DNO) shall be calculated as follows:

$$RC_{DN} = RA_{DNmax} \times P \times t$$

where:

$RA_{DNmax}$  is the highest Ratchet Amount (for the DNO) in the Ratchet Month;

P is the Forecast Postalised Annual Capacity Charge/12; and

t is the no of months (including M) since the start of the Gas Year;

(d) individual Shippers shall not be liable to pay the Transporter Ratchet Charges (and shall not be allocated Exit Capacity) but nothing in this Code shall prevent the DNO applying charges under its own distribution network code.

1B.12.3 Where a Shipper or DNO is allocated additional Exit Capacity as a result of the application of this section 1B.12 it's Registered Exit Capacity shall be amended such that the increase takes effect from M+1.

## 2. NOMINATIONS

### 2.1 Introduction

- 2.1.1 In order to deliver gas to or offtake gas at an NI Interconnection Point, a Shipper is required to submit an IP Nomination in respect of that NI Interconnection Point pursuant to the Codes of the Upstream Transporters.
- 2.1.2 A Shipper is not required to submit entry nominations to the Transporter in respect of the West Transmission System.
- 2.1.3 In order to offtake gas at an NI Network Exit Point (other than an Exit Point under this Code) a Shipper is required to submit an exit nomination in respect of the relevant NI Network Exit Point pursuant to the relevant NI Network Operator's Transportation Code.
- 2.1.4 In order to offtake gas at an Exit Point under this Code, a Shipper shall nominate to the Transporter in accordance with this section 2 the quantities of gas which it wishes to offtake from an Exit Point on a Day.
- 2.1.5 A Shipper is permitted to renominate quantities of gas to the Transporter for offtake at an Exit Point under this Code in accordance with this section 2 as the Shipper's requirements change.
- 2.1.6 In order to transfer gas to another Shipper at the Trading Point, a Shipper is required to submit a Trade Nomination in respect of the Trading Point pursuant to the PTL Transportation Code.

### 2.2 Nominations - General

- 2.2.1 In this Code:
- (a) a "**Nomination**" is a nomination by a Shipper to the Transporter in respect of a quantity of gas to be offtaken from the West Transmission System;
  - (b) a "**Renomination**" is a Nomination which revises an earlier Nomination (including a Renomination) in accordance with sections 2.9.8 to 2.9.15;
  - (c) a "**Nomination Quantity**" is the quantity nominated for offtake from the West Transmission System in a particular Nomination or Renomination;
  - (d) the "**Nominated Quantity**" is the Nomination Quantity in each of a Shipper's Nominations or Renominations prevailing at the end of the Gas Flow Day, and "**Nominated Quantities**" shall be construed accordingly.
- 2.2.2 For the avoidance of doubt, in this Code, as the context requires, references to Nominations include Exit Nominations and Exit Renominations, but do not include Trade Nominations or IP Nominations.
- 2.2.3 For the purposes of this Code, a Nomination is made by a Shipper where the Shipper has submitted a Nomination which has been confirmed or is deemed to be confirmed by the Transporter in accordance with this section 2.

- 2.2.4 References in this Code to a Nomination “**prevailing**” at any time before or during the Gas Flow Day are to a Nomination as revised (in accordance with this section 2) up to that time.
- 2.2.5 For the purposes of this Code it shall be assumed that any change in the rate of delivery of gas to or offtake from the West Transmission System by a Shipper shall occur on the hour (the “**Hour Bar**”).
- 2.2.6 A Shipper shall always use its reasonable endeavours to submit accurate Nominations for the quantities in which and rates and times at which it intends or expects to offtake gas from the West Transmission System each Day.
- 2.2.7 Any Nomination, communication or notification required to be made, submitted or given by a Party under this section 2 shall be made, submitted or given using the Aligne System and shall be an Aligne Communication for the purposes of this Code.

### **2.3 IP Nominations**

- 2.3.1 A Shipper may submit IP Nominations pursuant to the Codes of the Upstream Transporters as applicable.

**2.4 Not Used**

**2.5 Not Used**

**2.6 Not Used**

**2.7 Not Used**

### **2.8 Exit Nominations - General**

- 2.8.1 A Shipper may submit Nominations in respect of an Exit Point on the West Transmission System provided that it has an Exit Point Registration in respect of that Exit Point.

2.8.2 In this Code:

- (a) an “**Exit Nomination**” is a Nomination in respect of an Exit Point;
- (b) an “**Exit Renomination**” means an Exit Nomination that revises an earlier Exit Nomination (including an Exit Renomination).

- 2.8.3 Under this Code, an Exit Nomination may be submitted in respect of West Exit Point 1.

### **2.9 Content, Timing and Submission of Exit Nominations and Exit Renominations**

#### **Content and Timing of Exit Nominations**

- 2.9.1 An Exit Nomination must specify:
- (a) the Gas Flow Day;
  - (b) the EIC of the Shipper;
  - (c) the Exit Point;

- (d) the Exit Nomination Quantity (in kWh/d).
- 2.9.2 Exit Nominations may be submitted no earlier than 30 Days before the Gas Flow Day and no later than 13:00 on D-1.
- 2.9.3 Exit Nominations will not be processed by the Transporter before 13:00 on D-1; and a Shipper may amend or replace an Exit Nomination already submitted before 13:00 on D-1 in accordance with section 2.9.2.
- 2.9.4 If a Shipper submits no Exit Nominations by 13:00 on D-1 it shall be deemed to have made an Exit Nomination with an Exit Nomination Quantity of zero.
- 2.9.5 An Exit Nomination submitted after 13:00 D-1 shall be treated as an Exit Renomination.
- 2.9.6 After 13:00 on D-1 a Shipper may not withdraw, revise or replace an Exit Nomination except by submitting an Exit Renomination in accordance with sections 2.9.8 to 2.9.15.
- 2.9.7 An Exit Nomination shall be confirmed no later than 15:00 on D-1 and shall be effective from 05:00 on the Gas Flow Day to which it refers.

#### **Content and Timing of Exit Renominations**

- 2.9.8 An Exit Nomination may be revised by an Exit Renomination and an Exit Renomination may be revised by a subsequent Exit Renomination in accordance with sections 2.9.9 to 2.9.15.
- 2.9.9 A Shipper may submit an Exit Renomination in order to nominate an Exit Nomination Quantity which is either an increase or a decrease relative to the Shipper's prevailing Exit Nomination or Exit Renomination. All other details in the Exit Renomination must remain as specified pursuant to section 2.9.1.
- 2.9.10 An Exit Renomination may not be submitted before 15:00 on D-1.
- 2.9.11 The latest time for submission of an Exit Renomination is 02:00 on the Gas Flow Day.
- 2.9.12 An Exit Renomination shall specify the information required by section 2.9.1 (with only the Exit Nomination Quantity changing) and in addition shall specify:
  - (a) the previous Exit Nomination or Exit Renomination that it revises;
  - (b) the effective time of the Exit Renomination ("**Exit Renomination Effective Time**").
- 2.9.13 The Exit Renomination Effective Time shall not:
  - (a) be earlier than 2 hours after the Hour Bar by which the Exit Renomination was submitted;or
  - (b) be later than 04:00 on the Gas Flow Day to which it relates.
- 2.9.14 An Exit Renomination may not be submitted with a Negative Implied Exit Nomination Flow Rate.
- 2.9.15 A "**Negative Implied Exit Nomination Flow Rate**" means that in respect of an Exit Renomination the Flow Rate, calculated according to the following calculation, is negative:

$$\text{Flow Rate} = Q - \left( \frac{\text{PCQ}}{24} \right) \times H$$

where;

Q = the Exit Nomination Quantity stated in the Exit Renomination;

H = hours elapsed in the Gas Flow Day at the Exit Renomination Effective Time;

PCQ = the prevailing Confirmed Exit Nomination Quantity.

## **2.10 Exit Nomination Quantities and Exit Nominated Quantities**

2.10.1 In this Code:

- (a) the **"Exit Nomination Quantity"** is the quantity nominated by a Shipper for offtake at an Exit Point in a particular Exit Nomination or Exit Renomination;
- (b) the **Exit Nominated Quantity**" is the Confirmed Exit Nomination Quantity (determined in accordance with section 2.11.4) in each of a Shipper's Exit Nominations or Exit Renominations prevailing at the end of the Gas Flow Day.
- (c) the **"Aggregate Exit Nominated Quantity"** is the sum of the Exit Nominated Quantities at a Shared Exit Point.

2.10.2 Not Used.

## **2.11 Rejection, Confirmation and Revision of Exit Nominations and Exit Renominations**

### **Rejection of Exit Nominations and Exit Renominations**

2.11.1 The Transporter may reject:

- (a) an Exit Nomination if it does not comply with sections 2.9.1 to 2.9.7;
- (b) an Exit Renomination if it does not comply with sections 2.9.8 to 2.9.15;
- (c) either an Exit Nomination or an Exit Renomination if the Shipper does not have sufficient Provided Level of Credit Support.

2.11.2 Where the Transporter rejects a Shipper's Exit Nomination it will notify the Shipper by 15:00 on D-1 and the Shipper shall be deemed to have submitted an Exit Nomination of zero.

2.11.3 Where the Transporter rejects a Shipper's Exit Renomination:

- (a) it will notify the Shipper within 2 hours of the Hour Bar by which the Exit Renomination was submitted; and
- (b) the prevailing Confirmed Exit Nomination Quantity in the previously accepted Exit Nomination or Exit Renomination shall apply.

### **Confirmation of Exit Nominations and Exit Renominations**

2.11.4 Where:



- (a) an Exit Nomination is not rejected in accordance with section 2.11.1(a) or revised in accordance with sections 2.11.5 to 2.11.7, the Transporter shall notify the Shipper that it's Exit Nomination is confirmed by 15:00 on D-1;
- (b) an Exit Renomination is not rejected in accordance with section 2.11.1(b) or revised in accordance with sections 2.11.5 to 2.11.7 the Transporter shall notify the Shipper that it's Exit Renomination is confirmed within 2 hours of the Hour Bar by which the Exit Renomination was submitted;

and the quantity in the Exit Nomination or Exit Renomination shall be the “**Confirmed Exit Nomination Quantity**”.

#### **Revision of Exit Nominations in Exceptional Events or Emergencies**

- 2.11.5 The provisions in section 2.11.6 to 2.11.7 also apply to Exit Renominations and references in those sections to Exit Nominations include Exit Renominations.
- 2.11.6 The Transporter may revise Exit Nominations, including Exit Nominations containing Confirmed Exit Nomination Quantities, in certain circumstances provided for in section 6 of this Code.
- 2.11.7 Where the Transporter revises Exit Nominations in accordance with section 2.11.6 then:
  - (a) the Transporter will inform a Shipper that its Exit Nominations are to be revised;
  - (b) the Transporter will notify the Shipper of its' revised Exit Nomination Quantities as soon as reasonably practicable and within 2 hours of the Hour Bar after which it has revised such Exit Nominations;
  - (c) the revised Exit Nomination Quantity shall not imply a Negative Implied Exit Nomination Flow Rate as determined in accordance with section 2.9.15;
  - (d) the quantity in such revised Exit Nominations shall be the Confirmed Exit Nomination Quantity; and
  - (e) such revised Exit Nomination shall constitute a Flow Order under section 6.

#### **2.12 Offtake Profile**

- 2.12.1 Where necessary, the Transporter may request a Shipper to provide a Profile Nomination in respect of an Exit Point. Such Profile Nomination shall be in the form prescribed by the Transporter and shall specify the nominated hourly rate of offtake of the Shipper at that Exit Point, for a given Gas Flow Day or Gas Flow Days.
- 2.12.2 Whilst it is the intention that the Transporter shall accommodate a profiled rate of offtake where circumstances permit (whether nominated in accordance with section 2.12.1 or otherwise), the Transporter shall have no obligation to deliver a quantity of gas other than at a Uniform Offtake Rate.

**2.13 Trade Nominations**

2.13.1 A Shipper may make Trade Nominations in respect of the Trading Point pursuant to the PTL Transportation Code.

### **3. ALLOCATIONS**

#### **3.1 Introduction**

3.1.1 In respect of an NI Interconnection Point:

(a) the IP Entry Quantity is determined as a result of the operation of an OBA at an NI Interconnection Point and allocated to Shippers pursuant to the Codes of the Upstream Transporters; and

(b) VRF IP Exit Allocations are determined pursuant to the Codes of the Upstream Transporters.

3.1.2 The exit quantity at an NI Network Exit Point (other than an Exit Point under this Code), shall be determined and allocated in accordance with the relevant NI Network Operator's Transportation Code.

3.1.3 This section 3 provides for:

(a) the determination of the quantities of gas treated as offtaken from the West Transmission System by each Shipper on each Day; and

(b) the method for determination of aggregate allocations across the NI Network for each Shipper on each Day.

3.1.4 The Exit Quantity at an Exit Point under this Code shall:

(a) be determined by the Transporter with reference to Measurement Equipment in accordance with section 9; and

(b) be allocated to Shippers by the Transporter after the Gas Day in accordance with this section 3.

3.1.5 The Aggregate NI Entry Allocation and the Aggregate NI Exit Allocation in relation to the NI Network shall be calculated and provided to Shippers by Premier Transmission in accordance with this section 3 and the PTL Transportation Code.

3.1.6 Shippers shall be provided with Trade Allocations by Premier Transmission pursuant to the PTL Transportation Code.

#### **3.2 IP Allocations - General**

3.2.1 The IP Entry Quantity shall be allocated to Shippers pursuant to the Codes of the Upstream Transporters.

#### **3.3. Initial IP Entry Allocations, Final IP Entry Allocations, Initial VRF IP Exit Allocations and Final VRF IP Exit Allocations**

3.3.1 A Shippers' Initial IP Entry Allocations and Final IP Entry Allocations shall be determined pursuant to the Codes of the Upstream Transporters.

3.3.2 A Shippers' Initial VRF IP Exit Allocations and Final VRF IP Exit Allocations shall be determined pursuant to the Codes of the Upstream Transporters

### 3.4 Aggregate NI Entry Allocations

3.4.1 In respect of a Gas Flow Day, Premier Transmission shall determine a Shipper's Aggregate NI Entry Allocation in accordance with this section 3.4 and the PTL Transportation Code.

3.4.2 A Shippers' "**Aggregate NI Entry Allocation**" in respect of a Gas Flow Day shall be determined as:

$$\text{Aggregate NI Entry Allocation}_D = \sum \text{Final IP Entry Allocations}_D + \sum \text{Trade Buy Allocations}_D$$

where:

$\sum$  Final IP Entry Allocations<sub>D</sub> means the sum of a Shipper's Final IP Entry Allocations in respect of each NI Interconnection Point in respect of the Gas Flow Day; and

$\sum$  Trade Buy Allocations<sub>D</sub> means the sum of a Shipper's Trade Buy Allocations in respect of the Gas Flow Day determined in accordance with the PTL Transportation Code.

3.4.3 For the avoidance of doubt, a Shipper's VRF IP Exit Allocations are included in the determination of a Shipper's Aggregate NI Exit Allocation in accordance with section 3.10.2 and are not included in the determination of a Shipper's Aggregate NI Entry Allocation.

3.4.4 The NI Network Operators may exchange nominations information for the purposes of determining a Shipper's Aggregate NI Entry Allocation.

3.4.5 Premier Transmission will provide a Shipper with its Aggregate NI Entry Allocation by the end of D+5 pursuant to the PTL Transportation Code.

### 3.5 Exit Allocations

3.5.1 In this Code an "**Exit Allocation**" is the quantity of gas allocated to a Shipper by the Transporter in respect of a Gas Flow Day and an Exit Point, in accordance with this section 3, pursuant to a Shipper's Exit Nomination.

3.5.2 In respect of each Exit Point, the Transporter shall allocate the Exit Quantity among the Shippers who have submitted Exit Nominations in respect of that Exit Point for a Gas Flow Day and provide an initial Exit Allocation by the end of D+1 ("**Initial Exit Allocation**").

3.5.3 Each Initial Exit Allocation shall become a final Exit Allocation, a ("**Final Exit Allocation**") at an Exit Point, subject to sections 3.5.5, 3.7 and 9.5 at 16:00 on M+5.

3.5.4 Final Exit Allocations shall, subject to section 9 (*Measurement and Testing*), be binding upon a Shipper.

3.5.5 An Initial Exit 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 3.6 of this Code.

### 3.6 Pro-rata Exit Allocations

3.6.1 Where two or more Shippers offtake gas at an Exit Point (a "**Shared Exit Point**") a Shipper's Exit Allocation shall, subject to sections 3.7 and 3.8, be made in accordance with the formula set out below:

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

where:-

$SQ_e$  = a Shipper's Exit Allocation on the Gas Flow Day at the Shared Exit Point;

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

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

$ANQ_e$  = Aggregate Exit Nominated Quantities on the Gas Flow Day at the Shared Exit Point;

provided that, for the purposes of both  $SNQ_e$  and  $ANQ_e$ , on any Day on which no Shipper has an Exit Nominated Quantity or the Aggregate Exit Nominated Quantities are zero (0), each Shipper which has an Exit Point Registration in respect of the relevant Shared Exit Point shall be deemed to have an Exit Nominated Quantity of one (1) kWh.

3.6.2 Where there is only one Shipper which has submitted an Exit Nomination in respect of an Exit Point on that Gas Flow Day, the whole of the Exit Quantity at such Exit Point shall be allocated to that Shipper in its Initial Exit Allocation.

### 3.7 Exit Reallocations

3.7.1 A change to Initial Exit Allocations at a Shared Exit Point in respect of a Day (a "**Reallocation**") may be requested in accordance with this section 3.7.

3.7.2 A Reallocation may only be requested:

(a) Not Used;

(b) at an Exit Point;

(i) by a DNO on behalf of all Shippers at that Exit Point; and

(ii) during the period between the commencement of D+1 and 16:00 hours on M+5; and

(c) once in respect of each Gas Flow Day unless the Exit Quantity is adjusted in accordance with section 9 (Measurement and Testing) in which case a further Reallocation may be requested.

3.7.3 A Reallocation shall be accepted by the Transporter only if the Transporter is satisfied that the aggregate quantity of gas which would be allocated to such affected Shippers in respect of D, if section 3.6.1 were applied, is equal to the total quantity of gas which the affected Shippers have requested be reallocated.

3.7.4 A Reallocation accepted in accordance with section 3.7.3 shall, subject to section 9 (*Measurement and Testing*), become a Final Exit Allocation.

3.7.5 Shippers holding an Exit Point Registration in respect of an Exit Point authorise the Transporter to accept Reallocation requests at that Exit Point from the DNO in accordance with section 3.7.2(b)(i).

### **3.8 Shippers' Allocation Arrangements at Shared Exit Points**

3.8.1 Any Shippers may enter into an agreement providing for the basis upon which the Exit Quantity at a Shared Exit Point shall be allocated among them after any Gas Flow Day and provide a summary of such agreement (a "**Shippers' Allocation Arrangement**") to the Transporter in the Prescribed Form containing the information set out in section 3.8.3.

3.8.2 The Transporter shall, subject to section 3.8.3, allocate the Exit Quantity in respect of a Shared Exit Point in accordance with the Shippers' Allocation Arrangement.

3.8.3 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 a Shippers' Allocation Arrangement;
- (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 3 times in any Gas Year other than to the extent necessary to comply with (a) above; and
- (d) provide for the allocation of a quantity of 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% of the Exit Quantity 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 Exit 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 Exit 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.

3.8.4 Not Used.

### 3.9 Not Used

### 3.10 Aggregate NI Exit Allocations

3.10.1 In respect of a Gas Flow Day, Premier Transmission shall determine a Shipper's Aggregate NI Exit Allocation in accordance with this section 3.10 and the PTL Transportation Code.

3.10.2 A Shipper's "**Aggregate NI Exit Allocation**" in respect of a Gas Flow Day shall be determined as:

$$\text{Aggregate NI Exit Allocation}_D = \sum \text{Final Exit Allocations}_D + \sum \text{Final VRF IP Exit Allocations}_D + \sum \text{Trade Sell Allocations}_D$$

where:

$\sum \text{Final Exit Allocations}_D$  means the sum of a Shipper's NI Network Final Exit Allocations at all NI Network Exit Points in respect of the Gas Flow Day;

$\sum \text{Final VRF IP Exit Allocations}_D$  means the sum of a Shipper's Final VRF IP Exit Allocations at all NI Interconnection Points in respect of the Gas Flow Day; and

$\sum \text{Trade Sell Allocations}_D$  means the sum of a Shipper's Trade Sell Allocations in respect of the Gas Flow Day determined in accordance with the PTL Transportation Code.

3.10.3 The NI Network Operators may exchange nominations information for the purposes of determining a Shipper's Aggregate NI Exit Allocation.

3.10.4 Premier Transmission will provide a Shipper with its' Aggregate NI Exit Allocation by the end of M+5 pursuant to the PTL Transportation Code.

### 3.11 Trade Allocation Rules

3.11.1 A "**Trade Allocation**" is the quantity of gas allocated to a Shipper pursuant to a Trade Nomination, and may be either a Trade Buy Allocation or a Trade Sell Allocation.

3.11.2 Premier Transmission shall provide Trade Allocations pursuant to the PTL Code

## 4. BALANCING AND SCHEDULING CHARGES

### 4.1 Introduction and Definitions

4.1.1 The NI Network Operators shall cooperate and coordinate with each other to ensure that the NI Network is physically balanced in accordance with the NINOA. Accordingly, Premier Transmission shall perform all calculations in relation to imbalance, scheduling and unauthorised flow charges in accordance with this section 4 and the PTL Transportation Code and shall invoice for the associated charges under the PTL Transportation Code. The Transporter shall, in accordance with the NINOA, provide Premier Transmission with Shippers' Downstream Load Statements (submitted to the Transporter under section 17 of this Code) and any other information reasonably required by Premier Transmission to enable it to perform such calculations and issue such invoices.

4.1.2 In this Code:

- (a) **"Daily Gas Price"** shall:
  - (i) firstly, be equal to the System Average Price (as defined in the GB Uniform Network Code) on the relevant Day;
  - (ii) 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 7 preceding Days; and
  - (iii) lastly, where for any Day for any reason the System Average Price is not available under section 4.1.2(a)(i) or calculated under section 4.1.2(a)(ii), or if it is disputed, be such alternative price as Premier Transmission may reasonably determine.
- (b) **"Imbalance Charge"** means the charge payable to a Shipper in respect of a Positive Imbalance or the charge payable by a Shipper in respect of a Negative Imbalance;
- (c) **"Aggregate NI Imbalance"** or **"ANII"** means, for each Shipper in respect of a Gas Flow Day D, the difference between its Aggregate NI Entry Allocation and its Aggregate NI Exit Allocation;
- (d) a **"Negative Imbalance"** is where a Shipper's Aggregate NI Entry Allocation is less than its' Aggregate NI Exit Allocation on a Gas Flow Day D;
- (e) a **"Positive Imbalance"** is where a Shipper's Aggregate NI Entry Allocation is greater than its' Aggregate NI Exit Allocation on a Gas Flow Day D; and
- (f) an **"Imbalance"** is the position (either negative as defined in section 4.1.2(d) or positive as defined in section 4.1.2(e)) of the Shipper.

4.1.3 A Shipper shall use its reasonable endeavours to ensure that its' Imbalance position shall be zero on any Gas Flow Day D.



## 4.2 Imbalance Tolerance

### Imbalance Tolerance Percentage

4.2.1 Within 10 Business Days of providing a Downstream Load Statement in respect of an Exit Point in accordance with section 17.9, a Shipper shall be informed by Premier Transmission of its weighted average tolerance, expressed as a percentage, using the information contained in the Downstream Load Statement, as set out below (a Shipper's "**Imbalance Tolerance Percentage**" or "**ITP**"):

$$\text{ITP (as \%)} = \frac{100}{\text{TCvm}} \times (a + b + c + d)$$

where:

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

b =  $\sum \text{Cvm} \times \text{Cf}$  for Un2;

c =  $\sum \text{Cvm} \times \text{Cf}$  for Un3;

d =  $\sum \text{Cvm} \times \text{Cf}$  for Un4;

$\sum \text{Cvm}$  = the maximum quantity in kWh/d which may reasonably be required to supply all of the Shippers' demand in the relevant downstream load category listed in column (2) in the table below (a "**Downstream Load Category**") at all NI Network Exit Points on a Gas Flow Day D as set out in the relevant Downstream Load Statement;

TCvm = aggregate of each  $\sum \text{Cvm}$  of each Downstream Load Category;

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

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

Exit Point Tolerance Table

(1)	(2)	(3)
Number identifying Downstream Load Category (Un)	Downstream Load Category	Downstream Load Category weighting (Cf)
1	Power generation consumers	3%

2	Downstream consumers whose loads are greater than or equal to 1,465,16,000 kWh/annum and are not power generation consumers	3%
3	Downstream consumers whose loads are greater than or equal to 733,000 kWh/annum but less than 1,465,416,000 kWh/annum	10%
4	Downstream consumers whose loads are less than 733,000 kWh/annum	20%

4.2.2 Within 10 Business Days of providing a revised Downstream Load Statement in accordance with section 17.9, Premier Transmission shall provide a Shipper with a recalculated Imbalance Tolerance Percentage in accordance with section 4.2.1.

### **Imbalance Tolerance Quantity**

4.2.3 In respect of a Gas Flow Day D, a Shipper's "**Imbalance Tolerance Quantity**" or "**ITQ**" shall be determined by Premier Transmission by applying the ITP to the sum of a Shipper's NI Network Final Exit Allocations (excluding Trade Sell Allocations) calculated as:

$$ITQ = ITP \times (\sum \text{Final Exit Allocations}_{SD} + \sum \text{Final VRF IP Exit Allocations}_{SD}).$$

4.2.4 Where a Shipper's Aggregate NI Imbalance exceeds its ITQ in respect of a Gas Flow Day D, the Shipper's "**Marginal Imbalance Quantity**" or "**MIQ**" shall be determined as:

$$MIQ = \text{Aggregate NI Imbalance} - ITQ.$$

### **4.3 Imbalance Charges**

4.3.1 Imbalance Charges shall be calculated and invoiced by Premier Transmission in accordance with this section 4.3 and the PTL Transportation Code.

4.3.2 On any Gas Flow Day D on which a Shipper has a Positive Imbalance, an Imbalance Charge shall be payable to it equal to the sum of:

- (a) ITQ x Daily Gas Price; plus
- (b) MIQ x  $P_{\text{smps}}$ .

where  $P_{\text{smps}}$  is the lower of:

- (i) the Daily Gas Price multiplied by 0.7; or
- (ii) the System Marginal Sell Price on the relevant Gas Flow Day D (as defined in the GB Uniform Network Code).

4.3.3 On any Gas Flow Day D on which a Shipper has a Negative Imbalance, it shall pay an Imbalance Charge equal to the sum of:

(a) ITQ x Daily Gas Price; plus

(b) MIQ x  $P_{\text{smpb}}$

where  $P_{\text{smpb}}$  is the higher of:

(i) the Daily Gas Price multiplied by 1.5; or

(ii) the System Marginal Buy Price on the relevant Gas Flow Day D (as defined in the GB Uniform Network Code).

4.3.4 If a Shipper has a Negative Imbalance and/or Positive Imbalance which exceeds its ITQ either, on 4 or more consecutive Days, or on any 6 Days in any Month, its ITP shall be reduced by one half, until such time as the Shipper has avoided a Negative Imbalance and/or Positive Imbalance for 5 consecutive Days when its ITP shall be reinstated at the original level.

4.3.5 Not Used.

#### 4.4 Scheduling Charges

4.4.1 Scheduling charges shall be calculated and invoiced by Premier Transmission in accordance with this section 4.4 and the PTL Transportation Code.

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

4.4.3 For each Gas Flow Day D, in respect of an Exit Point, a Shipper's "**Scheduling Difference**" or "**SD**" shall be determined as:

$$\text{Scheduling Difference} = | \text{Final Exit Allocation} | - | \text{Exit Nominated Quantity} |$$

4.4.4 For each Gas Flow Day D, in respect of each NI Network Exit Point for each Shipper a "**Scheduling Tolerance Percentage**" or "**STP**" shall be determined, expressed as a percentage, as:

$$\text{STP (as a \%)} = \frac{100}{\text{TC}_{\text{vm}}} \times (a+b+c+d)$$

where:

a =  $C_{\text{vm}} \times C_{\text{f}}$  for Un1;

b =  $C_{\text{vm}} \times C_{\text{f}}$  for Un2;

c =  $C_{\text{vm}} \times C_{\text{f}}$  for Un3;

d =  $C_{\text{vm}} \times C_{\text{f}}$  for Un4;

$C_{\text{vm}}$  = the maximum quantity in kWh/d which may reasonably be required to supply all of the Shippers demand in the relevant Downstream Load Category at the NI

Network Exit Point on a Gas Flow Day D as set out in the relevant Downstream Load Statement;

TC<sub>vm</sub> = aggregate of each C<sub>vm</sub> of each Downstream Load Category;

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

C<sub>f</sub> = Downstream Load Category weighting factor listed in column (3) of the table below.

Exit Point Tolerance Table

(1)	(2)	(3)
Number identifying Downstream Load Category (Un)	Downstream load category	Downstream Load Category weighting (C <sub>f</sub> )
1	Power generation consumers	3%
2	Downstream consumers whose loads are greater than or equal to 1,465,416,000 kWh/annum and are not power generation consumers	3%
3	Downstream consumers whose loads are greater than or equal to 733,000 kWh/annum but less than 1,465,416,000 kWh/annum	10%
4	Downstream consumers whose loads are less than 733,000 kWh/annum	20%

4.4.5 For any Gas Flow Day D in respect of a given NI Network Exit Point, a Shipper's "**Scheduling Tolerance Quantity**" or "**STQ**" shall be determined as:

$$STQ = STP \times \text{Final Exit Allocation.}$$

4.4.6 For any Gas Flow Day D, a Shipper's Scheduling Charge in respect of a given NI Network Exit Point shall be determined as:

$$\text{Scheduling Charge} = (SD - STQ \times (5\% \times \text{Daily Gas Price})).$$

4.4.7 The "**Total Scheduling Charge**" payable by a Shipper in respect of a Gas Flow Day shall be the sum of its' Scheduling Charges at all NI Network Exit Points.

4.4.8 For the avoidance of doubt, Scheduling Charges shall not be payable by a Shipper in respect of its STQ.

## 4.5 Unauthorised Flow Charges

- 4.5.1 Unauthorised Flow Charges shall be calculated and invoiced by Premier Transmission in accordance with this section 4.5 and the PTL Transportation Code.
- 4.5.2 If a Flow Order is issued in relation to an Exceptional Event or an Emergency and a Shipper's Final Exit Allocation in respect of an NI Network Exit Point exceeds its Exit Nominated Quantity at that NI Network Exit Point (as it may be reduced by a Flow Order from time to time) by 3% or more, subject to section 4.5.3, an unauthorised flow charge (an "**Unauthorised Flow Charge**") shall be imposed which shall be calculated in accordance with the following:

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

$$\frac{(FPCapCt)}{365} \times 10 \times UF$$

"UF" = the amount, if any, by which the Final Exit Allocation in respect of an NI Network Exit Point for Shippers, in respect of any Exceptional Event and in respect of which the Transporter has issued a Flow Order, exceeds its Exit Nominated Quantity in respect of that NI Network Exit Point (as it may be reduced by a Flow Order from time to time) by 3% or more of such Exit Nominated Quantity.

FPCapCt (as defined in condition 2A.2.5.3 of the Transporter's Licence)

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

## 5. BALANCING AND SHRINKAGE GAS

### 5.1 Definitions

In this Code "**Shrinkage Gas**" is gas, of any amount, which is lost or otherwise unaccounted for, from the West Transmission System or any part of the West Transmission System.

### 5.2 Balancing Gas

5.2.1 The NI Network Operators, in accordance with the NINOA, shall procure the purchase of or procure the disposal of gas reasonably required to achieve the physical balance of the West Transmission 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 West Transmission System.

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

### 5.3 NI Postalised Network Disbursement Bank Account

5.3.1 Premier Transmission shall procure the set up and operation of the NI Postalised Network Disbursement Bank Account and shall procure the administration of the NI Postalised Network Disbursement Bank Account in accordance with the Postalised Network Disbursement Procedure established pursuant to the NINOA. Premier Transmission shall in respect of each Month:

- (a) pay into the NI Postalised Network Disbursement Bank Account:
  - (i) all Imbalance Charges, Scheduling Charges and Unauthorised Flow Charges paid by each Shipper;
  - (ii) all monies received 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;
  - (iv) Disbursement Amounts received from Shippers;
  - (v) any interest received in respect of payments required to be paid into the NI Postalised Network Disbursement Bank Account; and
  - (vi) any other monies which Premier Transmission reasonably determines should be credited thereto.
- (b) pay from the NI Postalised Network Disbursement Bank Account:
  - (i) all Imbalance Charges payable to each Shipper;

- (ii) all monies paid for the purchase of Balancing Gas;
- (iii) all monies to be paid as a result of the determination of a Verifying Accountant under section 6;
- (iv) the costs and expenses of the Verifying Accountant in accordance with section 6;
- (v) all costs of administration of the NI Postalised Network Disbursement Bank Account and/or administration of the Postalised Network Disbursement Procedure;
- (vi) any interest payable in respect of the NI Postalised Network Disbursement Bank Account or in respect of amounts to be discharged therefrom;
- (vii) Disbursement Amounts payable to Shippers; and
- (viii) any other monies which Premier Transmission reasonably determines should be so debited.

5.3.2 The Disbursement Amount payable to or by each Shipper shall be calculated in accordance with section 5.6 and the Postalised Network Disbursement Procedure.

#### **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 Ten Year Statement of:

- (a) the quantity and cost of the Balancing Gas purchased or sold in that Gas Year;
- (b) its estimate, acting as a Reasonable and Prudent Operator, of what proportion of such Balancing Gas was Shrinkage Gas; and
- (c) its estimate, acting as a Reasonable and Prudent Operator, 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**

Notwithstanding any other provision of this Code the Transporter may, in respect of any Balancing Gas which the Transporter shall ship on the West Transmission System:

- (a) enter a Nomination and/or Renomination;
- (b) be deemed to receive an Initial Exit Allocation and Final Exit Allocation; and
- (c) be deemed to 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 were a Shipper, but solely for such purposes provided that the Transporter will not be liable for PS Transmission Amounts under this Code or PS Code Charges payable to Premier Transmission pursuant to the PTL Transportation Code for gas nominated pursuant to this section 5.5.

## 5.6 Calculation of Disbursement Amounts

5.6.1 Disbursement Amounts shall be calculated and invoiced by Premier Transmission in accordance with this section 5.6 and the PTL Transportation Code. For the purposes of this Code, in respect of each Month:

- (a) a Shipper's "**Aggregate Throughput**" shall be determined as the sum of a Shipper's Aggregate NI Entry Allocations and the Shipper's Aggregate NI Exit Allocations for that Month;
- (b) the "**Total System Aggregate Throughput**" shall be determined as the sum of all Shippers' Aggregate NI Entry Allocations and all Shippers' Aggregate NI Exit Allocations for that Month; and
- (c) for each Shipper, a "**Disbursement Ratio**" shall be determined as:

$$\text{Disbursement Ratio}_{\text{Shipper}} = \frac{\text{Aggregate Throughput}_{\text{Shipper}}}{\text{Total System Aggregate Throughput}}$$

- (d) "**Balancing Gas Costs**" means the costs (or as the case may be, revenues) associated with the purchase or disposal of Balancing Gas in accordance with section 5.2;

5.6.2 For each Shipper, in respect of each Month, a "**Disbursement Amount**" (payable from or payable to a Shipper) shall be determined as the sum of:

- (a) net  $\Sigma$  Imbalance Charges x Disbursement Ratio<sub>Shipper</sub>
- (b)  $\Sigma$  Scheduling Charges x Disbursement Ratio<sub>Shipper</sub>
- (c)  $\Sigma$  Unauthorised Flow Charges x Disbursement Ratio<sub>Shipper</sub>
- (d) net  $\Sigma$  Balancing Gas Costs x Disbursement Ratio<sub>Shipper</sub>

where, in each case, the totals are for all shippers on the NI Network for the preceding Month and charge amounts shall be calculated including VAT on the sum of the Disbursement Amount.



## 6. EXCEPTIONAL EVENTS AND EMERGENCIES

### 6.1 Introduction and Definitions

6.1.1 This section 6 relates to the declaration of Exceptional Events in respect of the NI Network and to Emergencies on the West Transmission System.

6.1.2 In this Code:

- (a) **“Flow Order”** means an order issued by the Transporter to Shippers in relation to an Exceptional Event instructing those Shippers in accordance with this section 6, or an order modifying such an earlier order;
- (b) **“Exceptional Event”** means any unplanned event that may cause, for a limited period, capacity reductions affecting the quantity or quality of gas at an NI Interconnection Point, and/or a D-1 Predicted Capacity Shortfall or a Day D Capacity Shortfall; and
- (c) **“System Capability”** means the capability of the West Transmission System to receive and/or deliver gas as determined by the Transporter in respect of any given Gas Flow Day or Days.

6.1.3 Any instruction made under this section 6 by the Transporter in terms of Exceptional Events and Emergencies shall be copied to the Upstream Transporters. Upon receipt of any note from the Upstream Transporters in relation to an exceptional event or emergency affecting the PTL Transportation System or the GNI (UK) System, the Transporter may at its own discretion issue an Exceptional Event or Emergency instruction under section 6 of this Code.

### **Declaration of a D-1 Predicted Capacity Shortfall or Day D Capacity Shortfall**

6.1.4 Where the Transporter determines that there is a D-1 Predicted Capacity Shortfall in accordance with section 6.2.1 or a Day D Capacity Shortfall in accordance with section 6.3.1, the Transporter shall declare a D-1 Predicted Capacity Shortfall or a Day D Capacity Shortfall (a **“Shortfall Declaration”**) to:

- (a) each Shipper;
- (b) each DNO;
- (c) Not Used.

6.1.5 A Shortfall Declaration shall specify:

- (a) whether it refers to a Day D Capacity Shortfall or a D-1 Predicted Capacity Shortfall and the Gas Flow Day to which it refers;
- (b) confirmation of the date and time of issuing;
- (c) the Exit Point affected or likely to be affected;
- (d) where it is known, the expected time of the end of the Day D Capacity Shortfall or D-1 Predicted Capacity Shortfall; and

- (e) such information concerning the reason for the Shortfall Declaration as the Transporter considers appropriate.

6.1.6 A Shortfall Declaration issued in accordance with section 6.1.4 is for information purposes only and does not constitute a Flow Order.

## **6.2 D-1 Predicted Capacity Shortfall**

6.2.1 If at any time on D-1 the Transporter predicts, as a Reasonable and Prudent Operator, that in respect of any point on the West Transmission System or on the West Transmission System as a whole:

- (a) the Total Shipper Exit Nominated Quantity (whether or not confirmed by the Transporter) will exceed the System Capability for Day D; and/or
- (b) the aggregate of all Profile Nominations submitted on D-1 in respect of any hour on Day D will exceed the System Capability available in respect of that hour,

(a “**D-1 Predicted Capacity Shortfall**”) the Transporter shall issue a Shortfall Declaration in accordance with section 6.1.

6.2.2 Not Used.

6.2.3 Not Used.

6.2.4 Not Used.

6.2.5 Not Used.

## **6.3 Day D Capacity Shortfall**

6.3.1 If at any time on Day D:

- (a) the:
  - (i) Total Shipper Exit Nominated Quantity (whether or not confirmed by the Transporter) exceeds the System Capability for Day D; and/or
  - (ii) aggregate of all Profile Nominations submitted on Day D in respect of any hour on Day D exceed that part of the System Capability available in respect of that hour; or
- (b) the Transporter predicts, as a Reasonable and Prudent Operator, that this will occur,

(a “**Day D Capacity Shortfall**”) the Transporter shall issue a Shortfall Declaration in accordance with section 6.1.

6.3.2 Not Used.

6.3.3 Not Used.

6.3.4 Not Used.

6.3.5 Not Used.

#### **6.4 Flow Orders – General**

6.4.1 Following a Shortfall Declaration, it may be necessary for the Transporter to enforce reductions in Nominations by issuing a Flow Order to all affected Shippers.

6.4.1A Where a Flow Order is issued it shall have the effect that the Exit Nominated Quantity (and, where applicable, Profile Nomination) shall for all purposes under this Code become the amount set out in the Flow Order with effect from the issue of the Flow Order.

6.4.2 A Flow Order in respect of an Exit Point may be issued as a result of the System Capability 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.

6.4.3 A Shipper shall, notwithstanding any other provision of this Code:

(a) if a Flow Order is issued on D-1 comply, by amending its' Nominations, within 5 hours; and

(b) if a Flow Order is issued on Day D comply by amending its' Nominations and adjusting its rate of offtake within 2 hours.

6.4.4 Where the Transporter reasonably believes:

(a) that gas is being offtaken from the West Transmission System by a Shipper in such a manner as does not or will not comply with a Flow Order; and

(b) that the West Transmission 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, the offtake of gas from the West Transmission System at the Exit Point by the Shipper. The Transporter, however, acknowledges that, where a Downstream Load Statement confirms that 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 6.4.4.

6.4.5 The steps referred to in section 6.4.4 include the isolation of the relevant Exit Point but, without prejudice to any other provision of this Code, the Transporter shall endeavour not to take this step 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.

6.4.6 The Transporter shall, where the necessity for a Flow Order at an Exit Point has ceased:

(a) notify 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 an Exit Renomination; and

- (b) provide to 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.

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

6.4.8 Not Used.

6.4A Not Used.

## **6.5 Emergencies**

6.5.1 The existence of an Emergency under this Code shall be determined by the Transporter, acting as a Reasonable and Prudent Operator, irrespective of the cause of the Emergency, or whether the Transporter or any other person may have caused, or contributed to the Emergency.

6.5.1A Where the Transporter determines that an Emergency exists, it shall declare an Emergency in co-operation with the Northern Ireland Network Emergency Co-ordinator.

6.5.2 An emergency (an “**Emergency**”):

- (a) may exist by reason of an escape, or suspected escape, of gas; or
- (b) may exist in circumstances in which, in the opinion of the Transporter:
  - (i) the safety of the West Transmission System is significantly at risk;
  - (ii) the safe conveyance of gas by the West Transmission System is significantly at risk;
  - (iii) gas conveyed by the West Transmission System 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 West Transmission System is affected or threatened by an interruption or disruption to the West Transmission System, an insufficiency of deliveries of gas to the West Transmission System, or by any actual or potential failure of or damage to any part of the West Transmission 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 an Entry Point); and
- (c) shall exist:
  - (i) where the Transporter declares an Emergency in co-operation with the Northern Ireland Network Emergency Coordinator;
  - (ii) where a reduction in the quantity of gas available for offtake in respect of downstream consumers whose loads are less than 733,000 kWh/annum is applied.

6.5.3 An Emergency shall continue until such time as the Transporter determines that the circumstances referred to in this section 6.5 no longer apply, that no further Emergency Steps are required, and that normal operation of the West Transmission System and implementation of this Code may be resumed.

## 6.6 Emergency Steps

6.6.1 The Transporter may take or require that a Shipper takes such steps ("**Emergency Steps**") as the Transporter deems, as a Reasonable and Prudent Operator, 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 gas supply and normal operation of the West Transmission System; and/or
- (d) taking into account any steps that the Northern Ireland Network Emergency Coordinator may request the Transporter to take.

6.6.1A Where an Emergency has been declared, any requests which the Transporter makes of Shippers as regards Emergency Steps shall be treated as being made on behalf of the Northern Ireland Network Emergency Co-ordinator.

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

6.6.3 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.

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

6.6.5 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 gas tendered for delivery to the West Transmission System at an Entry Point or to make gas available for offtake at an Exit Point to the extent that it is as a result of any such Emergency Step so taken.

6.6.6 The Transporter may on notice to Shippers amend or cancel any Emergency Step.

## **6.7 Emergency Contacts**

6.7.1 Each Shipper shall provide to the Transporter:

(a) a single telephone and facsimile number at which the Transporter may contact, 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.

6.7.2 The details required under section 6.7.1 shall be provided by a Prospective 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.

6.7.3 Each representative referred to in section 6.7.1(a)(i) and (ii) 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.

6.7.4 If a Shipper does not provide such details, or cannot be contacted when required at the contact point referred to in section 6.7.1, the Transporter may, having taken any steps to contact the relevant Shipper or End User as would a Reasonable and Prudent Operator and without prejudice to the generality of this section 6, discontinue the offtake by such Shipper of 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 gas.

## **6.8 Transporter to inform Shippers of Emergency**

Where an Emergency arises, the Transporter shall, as quickly as is reasonably practical, inform the Shippers which have an Exit Point Registration in respect of an 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.

## **6.9 Entry Control in an Emergency**

6.9.1 In an Emergency the Transporter may take steps to increase or decrease the delivery and/or rate of flow of gas to the Maydown Entry Point by co-ordinating with the Upstream Transporters in accordance with the NINOA.

## **6.10 Exit Control in an Emergency**

6.10.1 Where Emergency Steps include the reduction or discontinuance of the offtake of 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 West Transmission System, in so far as is practicable, in the following order (the “**Priority Order**”), to the extent that the relevant Downstream Load Statement confirms that gas made available for offtake at the Exit Point is supplied to:

- (a) power generation consumers;
- (b) consumers whose loads are greater than or equal to 1,465,416,000 kWh/annum other than power generation consumers;
- (c) consumers whose loads are greater than or equal to 733,000 kWh/annum but less than 1,465,416,000 kWh/annum;
- (d) consumers whose loads are less than 733,000 kWh/annum.

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

6.10.3 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).

6.10.4 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.

6.10.5 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.

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

## **6.11 Consequences of Emergency**

6.11.1 The Transporter shall take steps to restore gas transportation and normal operation of the West Transmission System as soon as reasonably practicable after an Emergency.

6.11.2 Notwithstanding sections 4.4 and 4.5 respectively, Premier Transmission shall not impose any Scheduling 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 6.6.6) with which it is required to comply in respect of the duration of the Emergency.

6.11.3 If a Shipper’s compliance with any Emergency Step shall give rise to:

- (a) a Positive Imbalance Premier Transmission shall, notwithstanding section 4.3.2, pay to the Shipper; or
- (b) a Negative Imbalance Premier Transmission shall, notwithstanding section 4.3.3, charge the Shipper,

the value of the amount of the Shipper's Imbalance at the Daily Gas Price, whether or not the Imbalance Tolerance Quantity has been exceeded, pursuant to the PTL Transportation Code.

6.11.4 If:

- (a) a Shipper's compliance with any Emergency Step shall give rise to a Positive Imbalance; and
- (b) the Shipper claims that the amount payable to it in accordance with section 6.11.3(a) in respect of Balancing Gas is less than the price which it has paid in respect of the relevant gas (a "**Shortfall in Price**") and requests that such Shortfall in Price be verified,

Premier Transmission shall pursuant to the PTL Transportation Code 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 Premier Transmission of its findings (a "**Verifying Accountant**").

6.11.5 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.

6.11.6 The costs and expenses of the Verifying Accountant shall be paid by Premier Transmission from the NI Postalised Network Disbursement Bank Account.

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

- (a) more than £2,000, Premier Transmission shall, pursuant to the PTL Transportation Code, pay to the relevant Shipper the Shortfall in Price from the NI Postalised Network Disbursement Bank Account (as though it were monies paid by Premier Transmission to purchase Balancing Gas in accordance with section 5.3.1(b)(ii)); or
- (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 NI Postalised Network Disbursement Bank Account an amount equal to the costs and expenses of the Verifying Accountant.

6.11.8 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 (*Force Majeure*).



6.11.9 A Shipper agrees and acknowledges that all gas used or lost in connection with an Emergency, (including any emergency on the NI Network), shall be treated as Shrinkage Gas.

**6.12 Audit following an Emergency**

6.12.1 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.

6.12.2 A copy of such expert's report shall be provided to the Authority and 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.

6.12.3 The cost of such audit and effecting such remedial measures shall be treated as an Eligible Pass-Through Cost in accordance with the Licence.

**6.13 Emergency procedures**

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.

## 7. ENTRY REQUIREMENTS

### 7.1 Introduction

7.1.1 This section 7 sets out the terms upon which gas shall be delivered to the West Transmission System at an Entry Point.

7.1.2 Nothing in this Code confers on any person any entitlement to have any premises, pipeline, plant or other installation connected to the West Transmission System for the purposes of delivering gas.

7.1.3 In this Code:

(a) **"Entry Point"** is a point at which gas may be transferred into the West Transmission System; and

(b) **"Maydown Entry Point"** is the Entry Point, located at Maydown, at which gas flows from the GNI (UK) System into the West Transmission System.

7.1.4 For the avoidance of doubt, a Shipper shall not be required to make nominations, and shall not receive allocations, in respect of Maydown Entry Point. Delivery of gas to the West Transmission System at Maydown Entry Point shall be treated in accordance with the remainder of this section 7.

### 7.2 Delivery at Maydown Entry Point

7.2.1 All gas delivered or tendered for delivery to the West Transmission System at Maydown Entry Point on a Day shall be deemed to be delivered, or tendered for delivery, by those Shippers nominating gas for offtake on that Day from the West Transmission System at West Exit Point 1 irrespective of any act or omission of the Transporter or any other person.

7.2.2 If on a Day more than one Shipper delivers gas or tenders gas for delivery to the West Transmission System at Maydown Entry Point:

(a) each Shipper delivering gas or tendering gas for delivery to the West Transmission System on that Day shall be treated as so delivering or tendering for delivery gas with the same Delivery Characteristics as the single homogenous gas stream delivered, or tendered for delivery on that Day; and

(b) to the extent that it is necessary to determine the same, the quantities in which Shippers shall be treated as delivering gas to the West Transmission System shall be equal to the quantities in their Final Exit Allocations in respect of West Exit Point 1 for that Day.

### 7.3 Gas Specification on entry

7.3.1 A Shipper shall deliver or tender for delivery gas at an Entry Point which shall comply with the gas specification set out in appendix 2 (the **"Gas Specification"**).

7.3.2 If 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 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 Coordinator, 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 gas which it is aware is Non-Compliant Gas.

7.3.4 Where, on any Day, Non-Compliant Gas is delivered to the West Transmission System each Shipper to which gas is allocated at an Exit Point shall pay to the Transporter the proportion that the quantity of gas allocated to it at an Exit Point on the Day bears to the aggregate quantity of gas allocated to all Shippers at that Exit Point on the Day of the amount set out in section 7.3.5. If gas is only allocated to one Shipper at an Exit 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 its West Transmission 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 West Transmission 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 an Exit 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 Eligible Pass-Through Cost in accordance with the Licence.

7.3.7 When the Transporter first becomes aware that Non-Compliant Gas is being, or has been, delivered to the West Transmission System at an Entry 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 West Transmission System;
- (b) reasonable details of the respect in which the 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 gas delivered to the West Transmission System at Maydown Entry Point by or on behalf of a Shipper shall transfer to the Transporter at Maydown Entry Point. To the extent that it is necessary to determine the same, the quantity of gas delivered to the West Transmission System at Maydown Entry Point in which a Shipper has title shall be the quantity treated as being delivered in accordance with section 7.2.2(b).

7.4.2 A Shipper warrants to the Transporter:

(a) that it shall have title to all gas which is delivered or tendered for delivery to the West Transmission System at Maydown Entry Point by or on behalf of the Shipper; and

(b) that all such gas at Maydown 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 gas arising on or before its delivery to the West Transmission System.

7.4.3 A Shipper shall indemnify the Transporter and hold it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense 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 Not Used.

## 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 gas from the West Transmission System at an 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 West Transmission System for the purposes of offtaking gas.

8.1.3 In this Code:

- (a) an "**Exit Point**" is a Connected System exit point or a point at which gas is offtaken by Shippers from the West Transmission System for the purpose of supplying gas to premises and shall be as described in part II of appendix 3; and
- (b) "**West Exit Point 1**" is the Exit Point at which gas flows out of the West Transmission System and into the SGN Distribution Network.

### 8.2 Ramp rates and Off-take Rates

8.2.1 A Shipper shall not:

- (a) vary the rate of offtake gas from any Exit Point by more than the ramp rate in respect of that Exit Point set out in part I of appendix 3; or
- (b) exceed the Maximum Offtake Rate in respect of any Exit Point as set out in part 1 of appendix 3.

8.2.2. If a Shipper does so:

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

the Transporter may take any steps available to it to secure a reduction in the rate of the offtake of gas from the West Transmission System at the Exit Point by the Shipper or discontinue it.

8.2.3 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 section 8.2.2.

### 8.3 Offtake pressure

8.3.1 The Transporter shall, subject to sections 8.3.10 and 8.3.12, make gas available for offtake from the West Transmission System at an Exit Point to a Shipper at a pressure of no less than that set out in part 1 of appendix 3 (the "**Minimum Pressure**").

8.3.2 A Shipper may request that the Transporter makes all gas available for offtake from the West Transmission System at an Exit Point, provided it has an Exit Point Registration in respect of that Exit Point, at a pressure exceeding the Minimum Pressure (“**Enhanced Pressure**”) not later than 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 a Reasonable and Prudent Operator, that it should not do so taking into account the following:
  - (i) the pressure which GNI (UK) will agree to provide to The Transporter;
  - (ii) the Transporter’s reasonable forecast of allocations at the Exit Point over the next 36 months;
  - (iii) the Transporter’s reasonable forecast of Profile Nominations at the Exit Point over the next 36 months; and
  - (iii) the physical capability of the West Transmission System to accommodate pressure; and
- (b) notify the Shipper of the availability of the Enhanced Pressure within 25 Business Days of receiving the Shipper’s request.

8.3.4 If the Transporter:

- (a) notifies the Shipper 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;
- (b) offers to provide the Enhanced Pressure:
  - (i) at a date later than the date requested; and/or
  - (ii) subject to any conditions,

the Shipper shall, within 5 Business Days of receiving the Transporter’s offer, confirm to the Transporter whether or not it requires the Enhanced Pressure on such date and/or subject to such conditions and, if it notifies the Transporter that it does, the Shipper shall be entitled to the Enhanced Pressure with effect from such date and/or subject to such conditions.

8.3.5 The Shipper shall, with effect from the date on which the Enhanced Pressure is made available, pay a charge in respect of the provision of the Enhanced Pressure at an Exit Point. 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 in accordance with the following formula:

$$\text{Enhanced Pressure charge} = (\text{SAQ} \times \text{EP}) \times (\text{FGC}/\text{AAQ})$$

where:

- FGC = the aggregate of any additional fuel gas costs, payable by the Transporter as a result of the Transporter obtaining from such Upstream Transporter the pressure which the Transporter determines is sufficient to enable it to provide any Shippers with Enhanced Pressure at any Exit Points;
- AAQ = the aggregate of (SAQ x EP) in respect of each Shipper which has requested Enhanced Pressure at an Exit Point;
- EP = the Enhanced Pressure less the Minimum Pressure at the Exit Point;
- SAQ = the Final Exit Allocation of a Shipper requesting the Enhanced Pressure 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 2 years notice, withdraw or reduce the availability of its Enhanced Pressure if:

- (a) there is insufficient pressure available on the West Transmission 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 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 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(b) 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, subject to section 8.3.11, be relieved of its obligation to make 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) any failure of the Upstream Transporters to provide sufficient pressure at an Entry Point to enable the Transporter to provide the Minimum Pressure;

- (ii) any failure of the West Transmission System other than as a result of the Wilful Misconduct of the Transporter; or
    - (iii) the pressure of the 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 Profile Nominations in respect of the relevant hour by more than the Imbalance Tolerance Percentage at the Exit Point; or
    - (ii) the aggregate of all Shippers' Final Exit Allocations at an Exit Point on a Day varying from the aggregate of such Shipper's Nominations at the Exit Point by more than the Imbalance Tolerance Percentage at the Exit Point.
- 8.3.11 The Transporter shall take such steps, as would a Reasonable and Prudent Operator, to require Upstream Transporters to make available to the Transporter the maximum pressure to which the Transporter is entitled under any relevant agreement.
- 8.3.12 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 West Transmission 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 8.3.12:
- (a) the Transporter shall, subject to section 8.3.13, as soon as reasonably practicable after becoming aware that, by reason of such circumstances, such pressure cannot be maintained, so inform the Shipper specifying 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).
- 8.3.13 The Transporter shall, if requested, meet any Shipper which would be affected by a reduction in pressure in accordance with section 8.3.12 and discuss whether reinforcing the pipeline would avoid the need to so reduce pressure and how the cost of any reinforcement may be recovered.
- 8.3.14 Subject to section 10 (*Maintenance*), the Transporter shall act as a Reasonable and Prudent Operator in endeavouring not to schedule operations which would result in the West Transmission System pressures falling to operationally unacceptable levels or which would otherwise jeopardise the integrity of the West Transmission System and the ability of the Transporter to provide transportation services.
- 8.3.15 The Minimum Pressure in respect of an Exit Point shall be measured at the Exit Point.



## **8.4 Gas Specification on exit**

8.4.1 Gas offtaken from the West Transmission System shall comply with the Gas Specification.

8.4.2 If gas enters the West Transmission System in accordance with the Gas Specification, but does not conform to the Gas Specification when made available for offtake by a Shipper from the West Transmission System at an Exit Point ("**Off-Spec Gas**"), the Shipper may, from time to time, until such time as the 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 West Transmission 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 shall be treated as an Eligible Pass-Through Cost in accordance with the Licence and be 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 West Transmission 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 West Transmission System;
- (b) reasonable details of the respect in which the 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 Gas offtaken for compressors**

8.5.1 Where a Shipper uses, or procures that an End User uses, gas offtaken from the West Transmission 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 West

Transmission System and any other inconvenience or danger being caused to the Transporter, the West Transmission 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 gas by a Shipper at the relevant Exit Point and shall not be required to resume the supply of such gas until the default has been remedied to the reasonable satisfaction of the Transporter.

## **8.6 Discontinuance of supply at Exit Point**

If any Shipper:

8.6.1 uses, or an End User, for whom the Shipper has procured gas, uses, gas offtaken from the West Transmission System at an Exit Point other than as a Reasonable and Prudent Operator 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

8.6.2 inputs Non-Compliant Gas into the West Transmission System;

the Transporter may discontinue the supply of 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 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 Not Used.

8.7.3 A Shipper shall, subject to section 8.4.4 (a) and section 8.7.4, indemnify the Transporter and hold it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense 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 gas, directly or indirectly, from the West Transmission 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 gas as result of the Transporters 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 West Transmission 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 gas from the Connected Facilities such Shippers shall reimburse the Transporter such expenditure in 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 Final Exit Allocation 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 a Licensee Unpredictable Operating Cost in accordance with the Licence.

8.8.5 The Transporter and each relevant Shipper shall be entitled, upon reasonable notice to inspect the other'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'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 gas made available for offtake from the West Transmission System at an Exit Point by the Transporter shall transfer to the Shipper at the relevant Exit Point.

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 West Transmission System at an Exit Point; and
- (b) all such 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 gas arising on or before it is made available for offtake from the West Transmission System.

8.9.3 The Transporter shall, subject to section 8.9.4, indemnify a Shipper and hold it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense 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 For the purposes of this Code:

- (a) the Measurement Equipment at West Exit Point 1 is owned, read and validated by the Transporter; and
- (b) there is no measurement equipment at Maydown Entry Point.

9.1.2 In this Code:

- (a) **“Adjusted Final Allocation at Exit”** is any adjustment in accordance with section 9.5;
- (b) **“Measurement Equipment”** is the measurement, metering, sampling, analysis and other equipment installed from time to time at West Exit Point 1;
- (c) **“Permitted Range”** means any inaccuracy in the Measurement Equipment 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 calculated using the method specified in ISO 5167/5168/9951/17089 or the relevant applicable standard, as updated from time to time, for the determination of uncertainties of the measurement of those volume flow rates which are used to compute Flow Rates;
- (d) **“validate”** means to determine by checking tolerances the validity of the reading of a meter.

### Maydown Entry Point

#### 9.2 Entry Quantity at the Maydown Entry Point

9.2.1 The quantity of gas determined to have been delivered to the West Transmission System at Maydown Entry Point (the **“Entry Quantity”**) shall be deemed to be the Exit Quantity at West Exit Point 1.

9.2.2 The Entry Quantity is not to be allocated to individual Shippers pursuant to this Code.

#### 9.3 Not Used

### West Exit Point 1

#### 9.4 Exit Quantity at West Exit Point 1

9.4.1 The quantity of gas delivered at West Exit Point 1 (the **“Exit Quantity”**) shall, subject to sections 9.5 and 9.8, be determined by the Transporter using readings taken from the Measurement Equipment.

9.4.2 The Exit Quantity is to be allocated to Shippers in accordance with section 3.

#### 9.5 Adjustment to the Exit Quantity

9.5.1 If it is determined by the Transporter that the Measurement Equipment at West Exit Point 1 has registered beyond the Permitted Range (whether under or over recording the quantity of gas offtaken), the Measurement Equipment at that point shall be assumed 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 this date shall be taken.

9.5.2 A Final Exit 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 West Exit Point 1 has registered beyond the Permitted Range in accordance with section 9.5.1 (such amount beyond the Permitted Range being known as an “**Exit Point Adjustment Quantity**”); or

(b) the Transporter reasonably determines that there has been an error in the allocation of the Exit Quantity determined to have been delivered at West Exit Point 1 as a result of the incorrect application of sections 3.6 or 3.8; or

(c) the Transporter shall, before 16:00 hours on D+5, deem a quantity to have flowed in accordance with section 9.8.

9.5.3 In the case of an Exit Point Adjustment Quantity arising in accordance with section 9.5.2(a) where any Final Exit Allocation had been carried out in accordance with sections 3.6 or 3.8 the Final Exit Allocation shall be adjusted by applying to the aggregate of the Exit Quantity and the Exit Point Adjustment Quantity, whichever of section 3.6 or 3.8 was previously applied.

9.5.4 In the case of an Exit Point Adjustment Quantity arising in accordance with section 9.5.2(a) where any Final Exit Allocation had been carried out in accordance with sections 3.6 or 3.8 the Final Exit 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 gas on any Exit Point Adjustment Day, by allocating the Exit Point Adjustment Quantity to those Shippers pro rata to the proportion in which gas was allocated to those Shippers by the Final Exit Allocation before the adjustment is made;

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

9.5.5 In the case of it being determined that there has been an error in the allocation of the Exit Quantity in accordance with section 9.5.2(b) or the Transporter shall deem a quantity to have flowed as referred to in section 9.5.2(c) the Exit Quantity shall be correctly allocated in accordance with whichever of sections 3.6. or 3.8 was previously applied.

## **9.6 Adjustment of charges**

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

- (a) recalculate any PS Transmission Amounts which it has made in respect of the Exit Point Adjustment Day on the basis that gas is deemed to have been allocated in accordance with the Adjusted Final Allocation at Exit in respect of the Exit Point Adjustment Day;
- (b) recover any under payment from and repay any overpayment to the Shippers accordingly in the next invoice issued to the Shipper following such recalculation; and
- (c) co-ordinate with Premier Transmission in respect of the adjustment of Imbalance Charges and Scheduling Charges.

## **9.7 Validation of Measurement Equipment**

- 9.7.1 The Transporter shall validate the Measurement Equipment at West Exit Point 1 at least once each Gas Year.
- 9.7.2 A Shipper may at any time request a validation of the Measurement Equipment at West Exit Point 1, provided 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.
- 9.7.3 Each Shipper agrees and acknowledges that all costs and expenses incurred in connection with any validation in accordance with section 9.7.2 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.
- 9.7.4 If a validation, in accordance with this section 9, 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.
- 9.7.5 Any validation of the Measurement Equipment at West Exit Point 1 shall be conducted by or on behalf of the Transporter. The Transporter shall give reasonable advance notice of such validation to any Shipper which requested it and shall use its reasonable endeavours to ensure that such Shipper shall be entitled to be present.
- 9.7.6 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 after such validation. 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.

## **9.8 Absence of reliable readings**

- 9.8.1 In the absence of reliable readings from the Measurement Equipment or if any of such Measurement Equipment fails to function, the Transporter shall deem that the quantity of gas flowing through such Measurement Equipment was equal to the aggregate of the Exit Nominated Quantities in respect of such Exit Point unless, in the Transporter's reasonable

opinion, a more accurate determination of the quantity of 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.

## **9.9 Access to Exit Point Measurement Equipment**

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

## **9.10 Additional Exit Point information**

9.10.1 If requested by a Shipper, the Transporter shall, to the extent that it is available, provide the Shipper with the following data from West Exit Point 1, provided it has an Exit Point Registration, in respect of such offtaken 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.

9.10.2 The Transporter shall provide such information without cost to the Shipper to the extent that the Transporter is able to provide such information without incurring a material cost.

## **9.11 Measurement of offtake pressure**

9.11.1 The pressure of gas at West Exit Point 1 shall be [deemed to be the pressure which the Measurement Equipment measures at West Exit Point 1].

## **9.12 Not Used**



## 10. MAINTENANCE

### 10.1 Introduction and Definitions

10.1.1 The Transporter shall maintain the West Transmission System in accordance with:

- (a) the provisions of this Code;
- (b) to the standard of a Reasonable and Prudent Operator; and
- (c) in accordance with all Legal Requirements.

10.1.2 In this Code:

- (a) **"Maintenance"** includes any inspection, repair, replacement, reinstatement, reinforcement, re-commissioning, upgrade or extension of any part of the West Transmission System and includes any works preparatory to such maintenance or required for the return to service of a part of the West Transmission 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 acceptance of gas for delivery to or making gas available for offtake from that part of the West Transmission System as may be subject to maintenance, may be reduced (if necessary down to zero) due to Maintenance on the West Transmission System.
- (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 the information the Transporter may reasonably require to:

- (a) plan the Maintenance of the West Transmission System;
- (b) comply with its obligations set out in section 10.1.1; and
- (b) prepare Maintenance Programmes.

10.2.2 The Transporter shall establish a maintenance programme each 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 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 West Transmission System in as cost-effective, efficient and commercially prudent manner as is practicable; and
- (c) co-ordinate it, where practicable, with the maintenance of the NTS, the GNI (UK) Upstream System, any relevant Connected System and the relevant Exit Point;
- (d) accord, where practicable, with the NINOA.

### **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 year with a view to concluding such consultations before 30 September. A Shipper may, in the 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 entitled to carry out Scheduled Maintenance on the number of Maintenance Days in respect of each Exit Point as set out in appendix 3.
- 10.4.2 The Transporter may, without prejudice to a Shipper's rights under section 14.1, 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 30 Business Days' notice unless a shorter period of notice is agreed by the affected Shipper.

### **10.5 The Transporter's obligation to transport**

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

## 11. SHIPPER INFORMATION FORECASTS AND THE TEN YEAR STATEMENT

### 11.1 Ten Year Statement

11.1.1 In this Code a "**Ten Year Statement**" is a statement, required to be prepared by the Transporter pursuant to condition 2.11 of its Licence and any direction of the Authority pursuant thereto, containing:

(a) the likely developments to the NI Network which the Transporter reasonably anticipates will be taken into account in determining the calculation of Charges on the NI Network; and

(b) any other further information which the Transporter may decide is appropriate,

or any revision to the most recently published Ten Year Statement.

11.1.2 The Transporter shall furnish the Authority with a Ten Year Statement in each Gas Year no later than the 10<sup>th</sup> June containing any revisions to the previous years' Ten Year Statement.

11.1.3 The Transporter shall consult with Shippers and the Authority from time to time as to the form of the Ten Year Statement and shall not include details of an individual Shipper's forecast of throughput or actual throughput or holding of capacity on any part of the NI Network without that Shipper's consent (which shall not be unreasonably withheld or delayed).

11.1.4 Each Gas Year, for the purposes of enabling the Transporter to prepare the Ten Year Statement, the Transporter shall send a questionnaire to Shippers, in such form as may be determined by the Transporter, requesting information on the Shipper's forecasts for supply and demand (and the assumptions on which these forecasts are based).

11.1.5 A Shipper shall complete the questionnaire provided under section 11.1.4 and submit it to the Transporter by the date specified in the questionnaire.

11.1.6 The information to be provided by a Shipper pursuant to section 11.1.5 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 the Shipper to provide information to a Licence holder to enable such Licence holder to draw up plans for, inter alia, the safe operation of its system.

11.1.7 If a Shipper intends, pursuant to the conditions in the Shipper's Gas Supply Licence which are equivalent to standard condition 2.16.2 of Gas Supply Licences approved 12 May 1997, to refuse to provide any item of information requested by the Transporter, the Shipper undertakes 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;

(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 Gas Supply Licence condition.

- 11.1.8 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 Ten Year Statement, and nothing contained in it shall oblige the Transporter to undertake any reinforcement of the West Transmission System.
- 11.1.9 Except as provided for or referred to in this Code, the Transporter is not party to any agreement for the sale of gas offtaken from the West Transmission System, or the purchase of gas delivered to the West Transmission System; and accordingly the Transporter depends on the information provided by persons who are party to such agreements, and on other sources of information, in estimating under this section 11 demand and availability of gas for supply.
- 11.1.10 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 the Upstream Transporters, National Grid, persons from whom the Shipper has contracted to purchase gas and End Users.
- 11.1.11 Nothing in this section 11 shall exempt a Shipper from the requirement to provide and update Downstream Load Statements where it is required to do so in accordance with section 17.9.

## **11.2 Shipper Forecast Information for Charging Calculations**

- 11.2.1 The Transporter is required pursuant to condition 2A.2.3 of its Licence to provide certain forecast information to the Authority by no later than the last Business Day in June in each Gas Year, such information to be utilised in relation to the calculation of Charges on the NI Network.
- 11.2.2 For the purposes of preparing the forecast information referred to in section 11.2.1, by 1<sup>st</sup> May in each Gas Year the Transporter shall provide an information request to Shippers (the **“Shipper Forecast Information Request”**).
- 11.2.3 The Transporter shall specify on the Shipper Forecast Information Request the units and any other details or items for which it may reasonably require Shippers to provide a forecast and/or further information.
- 11.2.4 A Shipper shall complete the Shipper Forecast Information Request in respect of a five-year period commencing on the 1<sup>st</sup> October in each Gas Year. Subject to section 11.2.3, the Shipper Forecast Information Request shall require completion of at least the following details:
- (a) Not Used;
  - (b) the amount of Exit Capacity at each Exit Point which the Shipper forecasts it will hold;  
and
  - (c) Not Used;
  - (d) the quantity of gas which the Shipper forecasts it will flow at each Exit Point.
- 11.2.5 A Shipper shall submit its' completed Shipper Forecast Information Request to the Transporter by no later than the 10<sup>th</sup> Business Day in June.

- 11.2.6 Where there is a material change to the information provided on the completed Shipper Forecast Information Request during the Gas Year, the Shipper shall provide a revised Shipper Forecast Information Request form to the Transporter as soon as possible.
- 11.2.7 Shippers agree to respond within a reasonable timeframe to any additional requests for forecast (or other) information made by the Transporter at any time where necessary for the purposes of compliance with information requests from ENTSOG, ACER, the Authority and/or any other reasonable purpose.

### **11.3 Provision of Quarterly Information to the Authority and to Shippers**

- 11.3.1 The Transporter is required pursuant to condition 2A.2.3.3 of its' Licence to provide quarterly information to the Authority and to advise the Authority on any suspected material inaccuracy in the information provided under section 11.2. Such information shall be provided by the Transporter to the Authority no later than the 10<sup>th</sup> Business Day after the end of each Quarter in a Gas Year.
- 11.3.2 The Transporter is required pursuant to condition 2A.2.3.3 of its' Licence to publish quarterly information to Shippers. Such information shall be provided to Shippers in accordance with the requirements in that Licence condition.

## **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 In accordance with the NINOA and the PTL Transportation Code, Premier Transmission shall invoice each Shipper monthly in respect of PS Code Charges and any other relevant charges which the Shipper owes to it and/or it owes to the Shipper in accordance with the PTL Transportation Code.
- 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 West Transmission 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 6.11.
- 12.1.5 For the avoidance of doubt the Transporter shall not invoice any amounts in respect of Interconnected System Capacity.

### **12.2 Shipper payment obligations**

- 12.2.1 A Shipper which is a Gas Supplier, 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.
- 12.2.2 Not Used.
- 12.2.3 A Shipper which is not a Gas Supplier undertakes to pay to the Transporter those charges which the Transporter is entitled to recover from that Shipper in accordance with the Licence.

### **12.3 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;
  - (b) pay to a Shipper any payments which the Shipper is entitled to receive from the Transporter in accordance with this Code.

### **12.4 Exit Capacity Pricing and Payments**

- 12.4.1 Not Used.
- 12.4.2 Not Used.

- 12.4.3 For Exit Capacity, the **“Payable Exit Capacity Price”** in respect of Gas Year Y is the Forecast Postalised Annual Capacity Charge for Gas Year Y as determined in accordance with the Licence.
- 12.4.4 Not Used.
- 12.4.5 The amounts payable for Exit Capacity which are to be invoiced monthly for Month M under section 12.5.2(a)(i) (**“Monthly Postalised Exit Capacity Payment”**) will be determined by multiplying the relevant Payable Exit Capacity Price by the quantity of Exit Capacity allocated to the Shipper in respect of all Gas Flow Days in Month M, in accordance with the Charging Methodology Statement.
- 12.4.6 Reconciliation Payments payable or to be paid under sections 12.5.2(a)(vii) and 12.5.2(a)(viii) shall be determined using Year-End Postalised Charges in accordance with the Licence and as described in the Charging Methodology Statement.

## **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) a 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) (i) Monthly Postalised Exit Capacity Payment;
  - (ii) Exit Ratchet Payment;
  - (iii) Monthly Postalised Commodity Payment;
  - (iv) Supplemental Payment;
  - (v) Auxiliary Payment;
  - (vi) Debt Payment;
  - (vii) Reconciliation Payment payable by the Gas Supplier to the Transporter;
  - (viii) Reconciliation Payment payable by the Transporter to the Gas Supplier;
  - (ix) Debt Repayment payable by the Transporter to the Gas Supplier;
- (known collectively as **“PS Transmission Amounts”**)

- (b) the amount of VAT payable in accordance with sections 12.5.3(c) and 12.5.4(c); and
- (c) the amount of tax payable in accordance with sections 12.5.3(d), 12.5.4(d) 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)(i), (ii), (iii), (iv), (v), (vi), (vii); less
- (b) the sum of the amounts detailed in sections 12.5.2(a) (viii), (ix); 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(a) (viii), (ix); less
- (b) the sum of the amounts detailed in sections 12.5.2(a)(i), (ii), (iii), (iv), (v), (vi), (vii); 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.

## 12.6 PS Code Charges

12.6.1 Premier Transmission shall invoice each Shipper monthly in respect of PS Code Charges in accordance with the PTL Transportation Code.

## 12.7 Outstanding PS Code Charges

12.7.1 Outstanding PS Code Charges shall be recovered in accordance with the PTL Transportation Code.



## 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 10<sup>th</sup> Business Day after the end of each Month (the “**Invoice Day**”), issue a PS Invoice to each Shipper.
- 12.8.2 The provisions of section 12.8.1 shall be applied, *mutatis mutandis*, to the invoice to be issued 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.

## 12.9 Payment

- 12.9.1 A Shipper shall 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.
- 12.9.2 The Transporter shall pay to a Gas Supplier any balance specified in a PS Invoice in accordance with section 12.5.4 by the 8<sup>th</sup> Business Day following 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 the following, or such other account of which the Transporter may, from time to time, give a Shipper written notice:

Account name: Postalisation Trustee Account

Bank: [to be notified in writing]

Sort Code: [to be notified in writing]

Account number: [to be notified in writing]

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

Account Name: [to be notified in writing].

- 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 in the United Kingdom 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 issued 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, 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, 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 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 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 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.

12.11.13 Not Used.

## **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 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 40 Business Days after such inaccuracy is established, issue 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 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 costs of such an audit shall be treated as Licensee Unpredictable Operating Costs 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 12 months of the CPI published by the Office of National Statistics each month in respect of all items).

**12.14 Not Used**

**12.15 Not Used**

**12.16 Not Used**

**12.17 Not Used**

## 13. CREDIT PROCEDURES

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

13.1.1 A Prospective Shipper shall 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 Exit Capacity.

13.1.2 Where:

(a) a Prospective Shipper requests a determination by the Transporter in accordance with section 13.1.1; or

(b) a re-assessment is required pursuant to one or more of sections 13.6.1(a) to (e) or where a Shipper requests a re-assessment pursuant to section 13.6.1(f) within a Gas Year to which the re-assessment relates,

such Prospective Shipper or Shipper (as appropriate) shall provide the Transporter with a credit application or a revised credit application by way of a Shipper Forecast Information Request in such form as the Transporter shall reasonably require from time to time ("**Credit Application**").

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 Prospective Shipper's or Shipper's Required Level of Credit Support.

### 13.1A Application for a Required Level of Credit Support of zero on accession to this Code

13.1A.1 Where a Prospective Shipper applies for accession to this Code prior to 30<sup>th</sup> September in Y-1 but only anticipates reserving Exit Capacity for Gas Year Y, the Prospective Shipper may submit a Credit Application requesting a Required Level of Credit Support of zero in respect of Y-1.

13.1A.2 If a Prospective Shipper requests a Required Level of Credit Support of zero in accordance with section 13.1A.1 the Prospective Shipper shall:

(a) use reasonable endeavours to provide accurate information on its Credit Application in respect of all future Gas Years specified by the Transporter on the Credit Application; and

(b) provide any such alternative evidence of credit worthiness as the Transporter may deem appropriate for the purposes of accession to this Code ("**Alternative Evidence of Credit Worthiness**").

13.1A.3 The Transporter shall inform the Prospective Shipper if its request for a Required Level of Credit Support of zero for Y-1 has been accepted.

13.1A.4 For the avoidance of doubt, if the Prospective Shipper's request for a Required Level of Credit Support of zero for Y-1 is accepted by the Transporter:

- (a) the Prospective Shipper shall not be required to place any Provided Level of Credit Support for Y-1;
- (b) when the Prospective Shipper becomes a Shipper it is required to submit Shipper Forecast Information Requests in respect of Y and Gas Years thereafter in accordance with section 11 and the provisions of this Code shall have full force and effect from the effective date of the Shipper's executed Accession Agreement in accordance with section 17.3; and
- (c) such Shipper shall not be entitled to submit Nominations in respect of Y-1.

13.1A.5 Where a Shipper subsequently wishes to reserve and utilise Exit Capacity in Y-1 for which it has a Required Level of Credit Support of zero, it shall promptly submit a revised Credit Application and a PLCS Form to the Transporter.

## 13.2 Calculation of Required Level of Credit Support

13.2.1 In this Code:

- (a) Not Used;
- (b) **"Forecast Supplier Quantity"** has the meaning given to it in the Licence and, for the avoidance of doubt, such forecast does not include quantities of gas nominated to be offtaken at a VRF IP Exit Point;
- (c) **"Forecast VRF IP Exit Quantity"** means the quantity of gas that a Shipper estimates it will nominate to be offtaken at a VRF IP Exit Point in respect of Gas Year Y;
- (d) **"Total Forecast Commodity Quantity"** means the sum of Forecast Supplier Quantity and Forecast VRF IP Exit Quantity; and
- (e) **"Credit Period"** means Gas Year Y or where a Credit Application is received within a Gas Year, the remainder of that Gas Year.

13.2.2 In respect of a Credit Period, the Required Level of Credit Support that a Shipper or Prospective Shipper shall be required to establish, subject to sections 13.1A and 13.2.11A, shall be of a value equal to 80 per cent of a forecast of the Forecast Postalised Charges that the Shipper or Prospective Shipper will incur during Gas Year Y on the West Transmission System calculated in accordance with section 13.2.5.

13.2.3 Not Used.

13.2.4 Not Used.

13.2.5 Each year, before the 10<sup>th</sup> Business Day in August, the Transporter shall forecast the Forecast Postalised Charges that a Shipper or Prospective Shipper is likely to incur in the Credit Period based only upon the following:

- (a) the sum of:
  - (i) the higher of:

- (aa) the Shipper's or Prospective Shipper's estimated Total Forecast Commodity Quantity as set out in its Credit Application; and
  - (bb) the Total Forecast Commodity Quantity which the Transporter reasonably estimates that the Shipper or Prospective Shipper will nominate to be offtaken from the West Transmission System during the Credit Period; plus
- (ii) the higher of:
  - (aa) the Shipper's or Prospective Shipper's forecast of Exit Capacity it will hold during the Credit Period as set out in its Credit Application; and
  - (bb) the Exit 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 Exit 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 nominated to be offtaken 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.

13.2.6 Not Used.

13.2.7 Not Used.

13.2.8 Not Used.

13.2.9 Not Used.

### **Duration of Required Credit Support**

- 13.2.10 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 Gas Year Y from the date on which the Transporter issues its determination of the Required Level of Credit Support in accordance with section 13.2.11 and for the avoidance of doubt may be reduced within the Gas Year Y if (following a reassessment in accordance with section 13.6) 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 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 for Gas Year Y and the invoicing of Reconciliation Payments for Gas Year Y.

### **Notification of the Required Level of Credit Support**

13.2.11 By no later than the 10<sup>th</sup> Business Day in August each year, and within 10 Business Days of any receipt of any submission of a revised Credit Application, the Transporter shall determine and inform a Shipper (including a Trader) of its' Required Level of Credit Support by providing a form setting out:

- (a) the total Required Level of Credit Support;
- (b) Not Used; and
- (c) to what extent the Required Level of Credit Support may be met through the provision of Unsecured Credit Support and the amount, if any, of Secured Credit Support required to make up any deficiency,

in the Prescribed Form (a “**RLCS Form**”).

13.2.11A If for any given Gas Year Y, the Transporter forecasts, pursuant to section 13.2.5, that a Shipper's Forecast Postalised Charges will be zero, the Transporter may determine that the Shipper's Required Level of Credit Support shall be zero and such Shipper shall not be required to place any Provided Level of Credit Support for that Gas Year Y, provided always that:

- (a) if a Shipper subsequently wishes to reserve and utilise Exit Capacity in that Gas Year Y the Shipper shall promptly submit a revised Credit Application and PLCS Form to the Transporter; and
- (b) in any event, where a Shipper does not have an established Required Level of Credit Support in accordance with section 13.4.1 (which for the avoidance of doubt includes placing a Provided Level of Credit Support) the Transporter may reject any Nominations by such Shipper.

### **Credit Support for Exit Capacity Transfers**

13.2.12 For the avoidance of doubt, the Transporter shall have no obligations or liability in relation to credit support for Exit Capacity Transfers and such matters shall be addressed directly between Shippers.

## **13.3 Establishing a Provided Level of Credit Support**

13.3.1 Not Used.

13.3.2 Not Used.

13.3.3 Not Used.



### Acceptable forms of credit support

- 13.3.4 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 13.3.5, 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 13.3.7;
  - (b) subject to section 13.3.5, 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 13.3.7, which guarantee must, in any event, be given substantially in the form of the guarantee set out in Appendix 4, 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 there under 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 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 4 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 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**

13.3.5 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 13.3.6 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 13.3.6 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 13.3.8,

where the “**Securer**” is the Shipper or Prospective Shipper (whichever is applicable) if the Unsecured Credit Support is provided under section 13.3.4(a), or the guarantor if the Unsecured Credit Support is provided under section 13.3.4(b).

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

<b>Moody’s Credit Rating</b>	<b>Standard &amp; Poor Credit Rating</b>	<b>Maximum Allowed Unsecured Credit (£)</b>
Aaa	AAA	30,000,000
Aa	AA	22,000,000
A	A	16,000,000
Baa	BBB	10,000,000

and numerical or other modifiers to Moody’s Credit Rating or Standard & Poor’s Credit Rating shall be disregarded

13.3.7 Unsecured Credit Support provided by a Securer under sections 13.3.4(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 13.3.8:

- (a) Ratio ranges for Transmission Utilities

<b>Ratio ranges for Transmission Utilities</b>			
Accounting Ratio	Notional S&P Credit Rating		
	<u>AA</u>	<u>A</u>	<u>BBB</u>
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 and Supplier Utilities

Ratio ranges for Distribution Utilities and Supplier Utilities			
Accounting Ratio	Notional S&P Credit Rating		
	<u>AA</u>	<u>A</u>	<u>BBB</u>
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		
	<u>AA</u>	<u>A</u>	<u>BBB</u>
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		
	<u>AA</u>	<u>A</u>	<u>BBB</u>
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

(e) In this Code:

- (i) **“FFO Interest Coverage”** means the ratio of profit after tax from continuing operations plus depreciation, amortisation, deferred income taxes and other non-cash items and gross interest, to gross interest (including inter-company interest whether or not paid); and
- (ii) **“FFO to Total Debt”** means the profit after tax from continuing operations plus depreciation, amortisation, deferred income taxes and other non-cash items divided by total debt (including all inter-company debt), expressed as a percentage.

13.3.8 The Transporter, acting reasonably, and taking into account a Securer’s submissions under section 13.3.9(c), shall decide which Utility Categorisation applies to the Securer, shall reference the applicable table in section 13.3.7(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.

- 13.3.9 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 section 13.3.7 cross referenced to such accounts;
  - (c) a submission requesting one of the Utility Categorisations in section 13.3.7 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.
- 13.3.10 The Transporter shall provide to each Shipper and PS Gas Supplier and to the Authority on the request of the Credit Committee and on the demand of any Shipper or PS Gas Supplier within 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.
- 13.3.11 The Transporter, a Designated Pipe-line Operator or a Shipper may, at any time, call a Credit Committee meeting in accordance with section 13.5.2, 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.
- 13.3.12 The Maximum Allowed Unsecured Credit values in this section 13.3 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 13.3.6, as amended for any previous Gas Years in accordance with this section 13.3.12, by that percentage difference.
- 13.3.13 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.
- 13.3.14 If the Maximum Allowed Unsecured Credit permitted under section 13.3.5 (as adjusted from time to time under section 13.3.12) is less than the Required Level of Credit Support notified to the Shipper in accordance with section 13.4, the Shipper shall provide an amount of Secured Credit Support equal to at least the difference between those two figures.

**Maximum allowed secured credit**

- 13.3.15 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.

### **Placing or updating a Provided Level of Credit Support**

- 13.3.16 Subject to section 13.2.10, a Shipper shall place or update its Provided Level of Credit Support for Gas Year Y with the Transporter by no later than the 3<sup>rd</sup> Business Day in September in Y-1.
- 13.3.17 A Shipper or Prospective Shipper placing or updating a Provided Level of Credit Support with the Transporter shall submit a form specifying:
- (a) the total value of the Provided Level of Credit Support which is being provided (which may be greater than the Required Level of Credit Support);
  - (b) the means by which the Provided Level of Credit Support is being provided, including the value of any Unsecured Credit Support and the duration of any time-limited component of the Provided Level of Credit Support; and
  - (c) Not Used;
- in the Prescribed Form (a “**PLCS Form**”).
- 13.3.18 When a Shipper becomes aware that the information provided in its Credit Application needs to be updated within Gas Year Y, or if a Shipper wishes to increase its Provided Level of Credit Support in order to establish a higher level of Provided Level of Credit Support than its Required Level of Credit Support, then it shall submit a revised Credit Application to the Transporter and a PLCS Adjustment Form in accordance with section 13.3.19.
- 13.3.19 At any time within Gas Year Y a Shipper may adjust its Provided Level of Credit Support by submitting a form to the Transporter specifying:
- (a) the additional value of Provided Level of Credit Support and the resulting total Provided Level of Credit Support;
  - (b) the means by which the Provided Level of Credit Support is being provided, including the value of any Unsecured Credit Support and the duration of any time-limited component of the Provided Level of Credit Support; and
  - (c) Not Used;
- in the Prescribed Form (a “**PLCS Adjustment Form**”).
- 13.3.20 Not Used.
- 13.3.21 Not Used.

### **Drawing on credit support**

- 13.3.22 If there is a downgrading in credit rating as described in section 13.6.2, 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 13.4.2.
- 13.3.23 The Transporter shall be entitled to make a demand up to the full amount under a letter of credit referred to in section 13.3.4(d) or a guarantee referred to in section 13.3.4(b) or 13.3.4(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) Not Used;
- (c) the issuer of the guarantee or letter of credit ceases to hold the minimum credit rating specified in section 13.3.4(b) or 13.3.4(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 13.3.4(b) or 13.3.4(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 50 days after the end of the period for which Exit Capacity has been booked by the Shipper; and
  - (iii) the Shipper fails to procure that, not later than 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.

13.3.24 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.

13.3.25 Not Used.

13.3.26

- (a) The Transporter shall procure that any Excess Amount 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 13.3.23(a) 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 13.3.4(b) or section 13.3.4(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 80 years from the date of such trust arising.

#### **13.4 Determination of whether Required Level of Credit Support has been established**

13.4.1 The Required Level of Credit Support shall be established when the Transporter verifies the information provided in the PLCS Form and is satisfied that the Provided Level of Credit Support has been placed. Such verification may take up to 10 Business Days.

13.4.2 A Shipper or Prospective Shipper whose Provided Level of Credit Support is less than its Required Level of Credit Support from time to time (including where the Transporter makes a determination to that effect following a re-assessment under section 13.6.2(a), (b), (c), (d), (e) and/or (f)) shall, within 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 13.3.23 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 13.5.1(b).

13.4.3 Not Used.

13.4.4 Not Used.

13.4.5 Not Used.

13.4.6 Not Used.

13.4.7 Not Used.

13.4.8 Not Used.

13.4.9 Not Used.

## **13.5 Credit Committee**

- 13.5.1 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 by any Shipper (an "**NPTP Default**"); and/or (b) if an LPC Default occurs in relation to that Shipper.
- 13.5.2 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 not be allowed to provide or to continue 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**").
- 13.5.3 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.
- 13.5.4 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.
- 13.5.5 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.

## **13.6 Reassessment of Required Level of Credit Support and Provided Level of Credit Support**

- 13.6.1 The Transporter will re-assess a Shipper's Required Level of Credit Support in any of the following circumstances:
- (a) annually by no later than the 10<sup>th</sup> Business Day in August;
  - (b) a Shipper gaining an additional Exit Point Registration;
  - (c) a Shipper seeking to acquire additional Exit Capacity from the Transporter;
  - (d) a Shipper's Total Actual Commodity Quantity exceeding the level it estimated in its Credit Application;
  - (e) the Credit Committee directing the Transporter to make a re-assessment; or



(f) on request (by way of a revised Credit Application from that Shipper) at any time.

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

- (a) annually by no later than the 5<sup>th</sup> Business Day in September;
- (b) in the event of any form of Unsecured Credit Support being disallowed by the Credit Committee;
- (c) a period of 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) where a Shipper submits a PLCS Form or a PLCS Adjustment Form at any time within the Gas Year.

13.6.3 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 section 13.6.

## **13.7 Duty to provide forecasts and information relating to the calculation of the Postalised Charges**

### **Forecasts and information relating to following Gas Years**

13.7.1 A Shipper shall, each Gas Year, provide the forecasts and information detailed in section 11 of this Code to the Transporter and such forecasts and information shall be utilised in relation to the calculation of Charges on the NI Network in accordance with section 11.2.1.

13.7.2 A Shipper shall use its reasonable endeavours to ensure that all forecasts and information supplied in accordance with section 13.7.1 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.

13.7.3 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 Condition 2A.2.3.1 of its Licence.

### **13.8 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.

## 14. LIABILITIES AND INDEMNITIES

### 14.1 Failure to deliver Exit Nominated Quantity

14.1.1 If a Shipper's Exit Allocation at an Exit Point is greater or less than its Exit Nominated Quantity in respect of that Exit Point on any Day (a "**Mismatched Delivery**") the Shipper may, subject to this section 14.1, if the Mismatched 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:

$$R = (U - 2\%) \times \frac{(A \times 0.8)}{365} \times \frac{B}{C}$$

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

$$R = (U - 2\%) \times \frac{(A \times 0.8)}{365} \times \frac{B}{C} \times 1.5$$

where in (a) and (b):

R = the amount due to the Shipper in pounds;

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

A = is the total revenue of the Transporter as stated in its most recent annual report and audited accounts published at the time of the act of the Mismatched Delivery;

B = the aggregate Exit Capacity of the Shipper (reserved prior to the date on which the Mismatched Delivery occurred) in respect of the Gas Flow Day on which the Mismatched Delivery occurred;

C = the aggregate of the Exit Capacity of all Shippers holding Exit Capacity (reserved prior to the date on which the Mismatched Delivery occurred) in respect of the Gas Flow Day on which the Mismatched Delivery occurred;

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

14.1.2 A Shipper's Exit Nominated Quantity in respect of an Exit Point shall, for the purposes of section 14.1, be the Exit Nominated Quantity prevailing:

- (a) before any reduction to the Exit 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 Exit 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 Exit Allocation in respect of an Exit Point shall, for the purposes of section 14.1, be the quantity in its Final Exit Allocation.

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

- (a) if such a Mismatched Delivery shall have occurred in any circumstance where the Transporter is relieved (in accordance with section 8.3.10) 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; or
- (b) where an Exceptional Event has been declared, if the Transporter declared such Exceptional Event for any reason other than as a result of its negligence or Wilful Misconduct.

**14.2 Not Used**

**14.3 Shrinkage Gas**

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 Imbalance Charges and Balancing Gas costs that are attributable to Shrinkage Gas; or

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

**14.4 Other breach by the Transporter**

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, shall not exceed in any Gas Year the following:

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

## **14.5 Sole liability and remedy**

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 a Reasonable and Prudent Operator, 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, 14.3 and 14.4.

## **14.6 Aggregate liability to all Shippers**

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

- (a) any failure by the Transporter to act as a Reasonable and Prudent Operator 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 2% of the total Licence revenue of the Transporter, as stated in its last annual audited accounts.

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, subject to section 14.6.4, pay any such sums 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 1%.

14.6.4 The Transporter shall, to the extent that any sums due to Shippers in accordance with section 14.6.3 exceed two percent of the total revenue of the Transporter as stated in its last published annual report and accounts, reduce any payments to Shippers pro rata to the sums due to the Shippers.

## **14.7 Exclusive remedies**

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. 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**

The Transporter and a Shipper agree that the other shall not in any circumstances be liable to it in respect of any breach of, or otherwise in relation to, this Code in respect of:

14.8.1 any loss of profit, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working;

14.8.2 any indirect or consequential loss; or

14.8.3 loss resulting from the liability of the other Party to any other person howsoever and whenever arising.

#### **14.9 Liability for death/injury**

Nothing in this Code shall exclude or limit the liability of a Party for death or personal injury resulting from the negligence of a Party or any of its officers, employees or agents.

#### **14.10 Pre-estimate of loss**

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**

Each Party shall use reasonable endeavours to mitigate the loss and damage (if any) incurred by it as a result of breach by a Party of its obligations under this Code as a result of negligence or tortious act or omission by the other Party.

#### **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 a Reasonable and Prudent Operator in accordance with this Code to withhold, reduce or limit any quantity of gas made available for off-take by a Shipper as a consequence of the Transporter performing its duties and obligations pursuant to this Code, or as a result of a Shipper's acts or omissions, or being misinformed by a Shipper.

14.12.2 The Transporter shall not be liable in respect of any acts or obligations carried out or to be carried out by another NI Network Operator pursuant to the applicable NI Network Operator's Transportation Code. For the avoidance of doubt, this includes but is not limited to any acts or obligations carried out or to be carried out by Premier Transmission pursuant to the PTL Transportation Code which are specifically referred to in this Code. Any claim which a Shipper may make in respect of any breach of or failure to carry out any such acts or obligations are to be made against that other NI Network Operator pursuant to the applicable NI Network Operator's Transportation Code. If there is any conflict between the provisions of this Code and the applicable NI Network Operator's Transportation Code in relation to such acts or obligations, the applicable NI Network Operator's Transportation Code shall prevail.

14.12.3 For the avoidance of doubt, section 14.12.2 does not apply to any circumstances where the Transporter has appointed a third party to carry out any operational and/or administrative function of the Transporter under this Code in accordance with the provisions of section 19.6A and the Transporter shall remain liable to the Shipper in such circumstances as stated in section 19.6A.

#### **14.13 Severability**

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 Parties; and
- (b) survive termination of this Code.

#### **14.14 The Transporter to indemnify Shippers**

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:

- 14.14.1 injury to or sickness, disease or death of any person employed by or engaged on behalf of the Transporter; or
- 14.14.2 damage to or loss of property of the Transporter, 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 the Transporter**

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:

- 14.15.1 injury to or sickness, disease or death of any person employed by or engaged on behalf of the Shipper; or

14.15.2 damage to or loss of property of each Shipper 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);
- (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.

#### **14.17 Not Used**



## 15. FORCE MAJEURE

### 15.1 Definition

In 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 a Reasonable and Prudent Operator (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, including any:

- 15.1.1 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;
- 15.1.2 act of God;
- 15.1.3 strike, lockout or other industrial disturbance;
- 15.1.4 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;
- 15.1.5 governmental restraint or the coming into force of any regulation, licence or Directive of any Competent Authority;
- 15.1.6 suspension, withdrawal or change in the terms of any licence, permit or consent;
- 15.1.7 structural shift or subsidence affecting generally a part or parts of the West Transmission System or any area or areas of the route of the pipeline.

### 15.2 Relief from obligations

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

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

- 15.3.1 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

15.3.2 give any notice due under this Code.

#### **15.4 Report of Force Majeure event**

Following any occurrence of a Force Majeure event the Affected Party shall as soon as reasonably practicable notify the Other Party 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 performance of which is affected by it and from time to time thereafter provide to the Other Party reasonable details of:

15.4.1 developments in the matters so notified, and

15.4.2 the steps being taken by the Affected Party to overcome the Force Majeure event or its effects and to resume performance of its relevant obligations.

#### **15.5 Resumption of obligations**

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 of the 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 or section 17.10. 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 sections 16.5, 17.10.5 and 17.10.6.

### 16.2 Termination by the Transporter

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

- (a) Not Used;
- (b) fails to pay any sum due to the Transporter under a PS Invoice:
  - (i) by the Second Due Date provided that the Transporter shall have given the Shipper not less than 5 Business Days' written notice that such payment is overdue; or
  - (ii) by the Due Date on 3 or more occasions in respect of 3 or more separate PS Invoices;
- (c) having failed to submit a Nomination to the Transporter for a period exceeding 12 months, does not hold at the relevant time any Exit 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, ceases to hold a valid Gas Supply Licence unless that Shipper has prior written consent from the Authority to either:
  - (i) hold Exit Capacity; or
  - (ii) have entitlement to utilise 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 a Registration without a valid Gas Supply Licence and on the basis that the Shipper has prior written consent from the Authority to either:
  - (i) hold Exit Capacity; or
  - (ii) have entitlement to utilise the NI Network as if it had a Gas Supply Licence, ceases to hold the relevant consent from the Authority.
- (f) is in LPC Default.

- 16.2.2 Within 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 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**

- 16.3.1A In this section 16.3:
- (a) **"Defaulting Party"** means either the Transporter or a Shipper who is in breach of any of its obligations under this Code; and
  - (b) **"Non-Defaulting Party"** means whichever of the Transporter or a Shipper is not the Defaulting Party.

#### **Breach to be referred to the Credit Committee**

- 16.3.1 Save for where section 16.2.1 or section 16.3.7 applies, if the Defaulting Party is in breach of any of its obligations under this Code and that breach gives rise to a material increase in credit risk for PS Gas Suppliers, 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.
- 16.3.2 Not Used.
- 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 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 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 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 the alleged breach, The Transporter shall be entitled, with the Authority's consent, to terminate the relevant Accession Agreement by written notice.

### **Other Breaches**

- 16.3.7 Save for where section 16.2.1 or section 16.3.1 apply, if the Defaulting Party is in breach of any of its obligations under this Code, and that breach has a material adverse effect on:
- (a) the Non-Defaulting Party; or
  - (b) where the Non-Defaulting Party is the Transporter, the Transporter determines that the breach by the Shipper has a material adverse effect on any other Shipper which has acceded to this Code;
- the Non-Defaulting Party may issue a Termination Notice to the Defaulting Party, subject to section 16.3.8, specifying the date on which the Accession Agreement is to be terminated. For the avoidance of doubt, this section 16.3.7 may not be invoked if the breach gives rise to a material increase in credit risk for PS Gas Suppliers in which case section 16.3.1 should be invoked.
- 16.3.8 If the breach, the subject of the Termination Notice sent in accordance with section 16.3.7, is in the opinion of the Non-Defaulting Party capable of being remedied, 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 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 the Termination Notice in accordance with (b), above.

16.3.9 If the breach the subject of the Termination Notice sent in accordance with section 16.3.7 is not, in the opinion of the Non-Defaulting Party, capable of being remedied the Non-Defaulting Party shall be entitled, with the Authority's consent, to terminate the Accession Agreement by written notice.

16.3.10 For the avoidance of doubt, a breach referred to in section 16.3.7 above shall include, but not be limited to, termination of a Shipper's accession agreement under the PTL Transportation Code for any reason whatsoever.

#### **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 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 in accordance with this section 16, 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 PS Transmission Amounts 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;

(b) the following:

(i) the Payable Exit Capacity Price in respect of all Exit 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 aggregate Exit Allocations if such quantities together were taken to equal 80% of all Exit 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 Exit 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); and

(cc) the net present value of the amount payable at LIBOR.

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 5<sup>th</sup> 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;

(c) a detailed breakdown of each of the sums payable under section 16.5.2.

16.5.4 The Shipper shall, no later than 30 Business Days following receipt of the Termination Invoice pay to the PoT Account all sums payable under section 16.5.2.

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.

## **16.6 Consequences of termination in respect of capacity**

16.6.1 In this Code:

- (a) a “**Terminating Shipper**” means a Shipper whose Accession Agreement is terminating pursuant to sections 16.2, 16.3 or 16.4 of this Code;
- (b) an “**Election Notice**” is a notice provided to a Transferee Shipper in accordance with section 16.6.2(a) whereby the Transferee Shipper may elect to become registered as holding Exit Capacity which was the subject of an Exit Capacity Transfer;

16.6.2 Where a Terminating Shipper is a Transferor Shipper:

- (a) The Transporter shall notify the Transferee Shipper as soon as reasonably practical and no later than 5 Business Days after issuing a Termination Notice and provide the Transferee Shipper with an Election Notice and details of the PS Transmission Amounts payable in respect of the Exit Capacity that was subject to the Exit Capacity Transfer;
- (b) the Transferee Shipper may elect to become registered as holding all or part of Exit Capacity that was subject to the Exit Capacity Transfer, by returning the Election Notice to the Transporter within 2 Business Days of receipt specifying the relevant amount of Exit Capacity and the Exit Capacity Period which the Transferee Shipper elects to become registered as holding;
- (c) where the Transferee Shipper elects to become registered as holding the Exit Capacity referred to in the Election Notice, its Registered Exit Capacity, as applicable, shall be increased by the amount and for the period specified in the Election Notice, and it shall be liable for all charges payable in respect of from the date of termination of the Terminating Shipper’s Accession Agreement;
- (d) where the Transferee Shipper does not elect to become registered as holding the Exit Capacity referred to in the Election Notice, the Exit Capacity Transfer, as applicable, shall lapse and the Terminating Shipper shall remain liable for all PS Transmission Amounts payable as determined in accordance with section 16.5.2;
- (e) PS Transmission Amounts payable shall be determined by reference to the applicable Payable Exit Capacity Price for the Exit Capacity Period, as applicable.

16.6.3 Where a Terminating Shipper is a Transferee Shipper:

- (a) The Transporter shall notify the Transferor Shipper as soon as reasonably practical and within 5 Business Days after giving a Termination Notice to the Transferee Shipper; and
- (b) with effect from the date of termination of the Terminating Shipper’s Accession Agreement, the applicable Exit Capacity Transfer shall lapse and the Available Exit Capacity of the Transferor Shipper will be increased by the amount and for the Exit Capacity Period of Exit Capacity Transfer.



**16.7 Return of Exit Capacity to the market**

16.7.1 Pursuant to section 16.5.2(b)(iii)(aa), to the extent that the Transporter determines that it may be able to mitigate loss by making Exit Capacity available to other Shippers, it shall:

- (a) offer such Exit Capacity to other Shippers in accordance with this section 16.7; and
- (b) reduce its estimate of PS Transmission Amounts payable by the Terminating Shipper accordingly.

16.7.2 Not Used.

16.7.3 Where section 16.7.1 applies the Transporter shall:

- (a) add the amount of such Exit Capacity to the unsold Technical Exit Capacity for the relevant Ext Capacity Period; and
- (b) for the avoidance of doubt, such Exit Capacity will be allocated in accordance with section 1B.11 as unsold Technical Exit Capacity.

**16.8 Not Used**

**17. ACCESSION TO THE CODE, REGISTRATIONS,  
DOWNSTREAM LOAD STATEMENTS AND  
RETIREMENT FROM THE CODE**

**Accession to the Code**

**17.1 Application to accede to the Code**

17.1.1 Any person wishing to become a Shipper (a “**Prospective Shipper**”) shall give the Transporter a minimum of 20 Business Days’ notice in writing of its intention specifying:

- (a) the IP Entry Points, VRF IP Exit Points and/or Exit Points it wishes to utilise;
- (b) whether it wishes to trade at the Trading Point; and
- (c) the date from which it wishes to become a Shipper.

17.1.2 Any Prospective Shipper wishing to utilise an NI Interconnection Point and/or NI Network Exit Points (other than an Exit Point under this Code) shall apply for a registration to the relevant NI Network Operator on whose system such points are located pursuant to the relevant NI Network Operator’s Transportation Code.

17.1.3 Any Prospective Shipper, other than a DNO Shipper, wishing to utilise an Exit Point under this Code shall also apply to all other NI Network Operators for accession to all other NI Network Operators’ Transportation Codes.

**17.2 Provision of information**

17.2.1 Within 5 Business Days of receipt of such an application the Transporter will provide any Prospective Shipper with:

- (a) an Accession Agreement (for signature by the Prospective Shipper);
- (b) a company information form to complete;
- (c) a Shipper Forecast Information Request form;
- (d) a Credit Application form;
- (e) application forms for an Exit Point Registration;
- (f) a copy of the Code, Modification Rules, the most recent Ten Year Statement and other such information as the Transporter believes is appropriate;
- (g) a 24 hour emergency contacts form;
- (h) introductory information concerning access to the IT systems of the Transporter;

17.2.2 A Prospective Shipper shall provide to the Transporter:

- (a) the Accession Agreement, signed by the Prospective Shipper for execution by the Transporter;
- (b) a completed Shipper Forecast Information Request form;
- (c) confirmation of its Provided Level of Credit Support or, where section 13.1A applies, the Alternative Evidence of Credit Support requested by the Transporter;
- (d) completed 24 hour emergency contact information form; and
- (e) a copy of its Gas Supply Licence (or where appropriate, a copy of consent from the Authority to utilise the NI Network as if the party had a Gas Supply Licence);
- (f) evidence that the Prospective Shipper has acceded to, or has applied for accession to, the PTL Transportation Code.

### **17.3 Accession to the Code**

- 17.3.1 After the Transporter is satisfied that the Prospective Shipper has satisfied the requirements of section 17.2.2 it shall within 5 Business Days execute the Accession Agreement and provide a copy to the Prospective Shipper.
- 17.3.2 A Prospective Shipper shall become a Shipper on the effective date of the executed Accession Agreement.

## **Registrations**

### **17.4 General Registration Requirements**

- 17.4.1 A Shipper or Prospective Shipper wishing to utilise any IP Entry Point, VRF IP Exit Point, Exit Point or the Trading Point must apply to the relevant NI Transporter for a separate Registration in respect of each point in accordance with sections 17.5, 17.6 and 17.7 as applicable and the following rules in this section 17.4. References in this Code to a “**Registration**” means an IP Registration or an Exit Point Registration or a Trading Point Registration as appropriate and reference to “**Registrations**” means more than one of them.
- 17.4.2 A Prospective Shipper may submit an application for a Registration before accession to the Code is completed but a Prospective Shipper must have acceded to the Code and become a Shipper in order for the Registration process to be completed in accordance with sections 17.5, 17.6 and 17.7.
- 17.4.3 A Shipper or Prospective Shipper wishing to utilise either an Exit Point or an IP Entry Point or VRF IP Exit Point must apply for at least a pair of Registrations on the NI Network, which may be either:
  - (a) an Exit Point Registration and an IP Registration;
  - (b) an Exit Point Registration and a Trading Point Registration; or
  - (c) an IP Registration and a Trading Point Registration.

17.4.4 A Shipper or Prospective Shipper that wishes to utilise the Trading Point must apply for a Trading Point Registration. It is not necessary for a Shipper or Prospective Shipper who does not hold any IP Entry Capacity or Exit Capacity (or who does not otherwise wish to hold IP Entry Capacity or Exit Capacity) (a “**Trader**”) to obtain a pair of Registrations in accordance with section 17.4.3.

17.4.5 Where an existing Shipper applies for new Registrations (at points it has not utilised previously) it shall also be required to provide:

- (a) a revised Shipper Forecast Information Request form; and
- (b) if necessary, a (further) Credit Application.

17.4.6 A Shipper or Prospective Shipper wishing to apply for a Registration should request an application form from the Transporter by giving notice in writing if notice has not already been given under section 17.1.

## **17.5 IP Registration Requirements**

17.5.1 A Shipper may make an application for an IP Registration pursuant to the relevant NI Network Operator’s Transportation Code on whose system the NI Interconnection Point is located.

## **17.6 Exit Point Registration Requirements**

17.6.1 An application for an Exit Point Registration (“**Exit Point Registration Application**”) shall specify the following:

- (a) the EIC of the Shipper/Prospective Shipper;
- (b) the Exit Point for which an Exit Point Registration is requested;
- (c) the date from which the Shipper or Prospective Shipper wishes to start utilising the Exit Point which shall be at least 10 Business Days from receipt of the Exit Point Registration Application by the Transporter;
- (d) a Downstream Load Statement (which sets out the End Users statement of the maximum quantity in kwh/d which may reasonably be required to supply the relevant Downstream Load Category);
- (e) whether or not the Shipper will be required to increase its’ Provided Level of Credit Support; and
- (f) 24 hour emergency contact information.

17.6.2 In order to validate an Exit Point Registration Application, the Transporter will:

- (a) verify that the applicant is a Shipper;
- (b) verify the information provided in section 17.6.1;
- (c) verify that the Shipper has applied for a pair of Registrations in accordance with section 17.4.3; and

(d) verify that the Shipper's Provided Level of Credit Support is equal to or greater than its' Required Level of Credit Support.

17.6.3 Where the Transporter is satisfied that the Shipper has met the requirements for an Exit Point Registration in this section 17.6, it shall provide the Exit Point Registration to the Shipper within 5 Business Days.

17.6.4 Downstream Load Statements provided to the Transporter in accordance with section 17.6.1 above must be updated to maintain their accuracy in accordance with section 17.9.3.

## **17.7 Trading Point Registration Requirements**

17.7.1 A Shipper may make an application for a Trading Point Registration pursuant to the PTL Transportation Code:

## **17.8 De-Registration**

17.8.1 A Shipper may only terminate a Registration if it will, after terminating such Registration, still hold at least a pair of Registrations in accordance with section 17.4.3.

17.8.2 A Shipper may terminate an Exit Point Registration in respect of an Exit Point by giving the Transporter 10 Business Days' written notice that it wishes to so terminate its registration, such registration not to be terminated before the last day on which the Shipper holds Exit Capacity at the Exit Point.

17.8.3 If a Shipper terminating its Exit Point Registration would result in no Shipper holding an Exit Point Registration in respect of that Exit Point, the Transporter will 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 the Exit Point Registration to take effect.

17.8.4 A Shipper may terminate an IP Registration pursuant to the relevant NI Network Operator's Transportation Code.

17.8.5 A Shipper may terminate a Trading Point Registration pursuant to the PTL Transportation Code.

17.8.6 Termination of a Registration does not relieve a Shipper of its obligations in relation to maintain its Provided Level of Credit Support in accordance with section 13.2.10.

## **Downstream Load Statements**

### **17.9 Downstream Load Statement**

17.9.1 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.

- 17.9.2 A Shipper at an Exit Point which is not 100% power generation shall provide the Transporter with a revised Downstream Load Statement fifteen (15) Business Days before each Mid Year Date and fifteen (15) Business Days before the end of the Gas Year. The Transporter shall inform any new Shipper whether or not they are required to submit a revised Downstream Load Statement in accordance with this section 17.9.2 immediately preceding the date of their initial Downstream Load Statement submission.
- 17.9.3 A Shipper or a Prospective Shipper shall, if it becomes aware that any information in a Downstream Load Statement is incorrect, provide the Transporter on 10 Business Days' notice with a revised Downstream Load Statement which is accurate. References in this Code to a Downstream Load Statement are to the latest revised Downstream Load Statement from time to time.
- 17.9.4 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.
- 17.9.5 A Shipper shall, if requested by the Transporter, provide to the Transporter any information relating to their actual Downstream Load, over a given period of time.
- 17.9.6 At the discretion of the Transporter, this section 17.9 shall not apply in respect of any Shipper, or Prospective Shipper, that does not have a Gas Supply Licence, but does with the Authority's prior written consent either:
- (a) hold Exit Capacity; or
  - (b) have entitlement to utilise 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.

## **Retirement**

### **17.10 Retirement from the Code**

- 17.10.1 A Shipper (a "**Retiring Shipper**") may, make an application to terminate its Accession Agreement by giving the Transporter not less than 35 Business Days written notice at any time.
- 17.10.2 The Transporter shall respond to the Retiring Shipper, within 25 Business Days of receiving the application referred to in section 17.10.1, 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 Registration at an IP Entry Point, VRF IP Exit Point, Exit Point and/or Trading Point; and/or
  - (c) has made full payment for all amounts invoiced in respect of:

- (i) PS Transmission Amounts;
- (ii) PS Code Charges;
- (iii) Supplemental Payments;
- (iv) Auxiliary Payments; and
- (v) other amounts due pursuant to the Code.

17.10.3 Within 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 17.10.2, 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 17.10.2, 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 17.10.2 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 17.10.

17.10.4 Upon the termination of the Retiring Shipper's Accession Agreement in accordance with this section 17.10, 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 17.10.5 and 17.10.6.

17.10.5 Termination of an Accession Agreement in accordance with this section 17.10 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) Supplemental Payments;
- (d) Auxiliary Payments; and/or
- (e) any other payments due pursuant to the Code.

17.10.6 The Retiring Shipper shall pay any sums due in accordance with section 17.10.5 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 a

Shipper shall continue to be liable for all accrued payments or other amounts due to the Transporter notwithstanding that the Retiring Shipper ceases to be a Shipper and any payments due and owing shall become immediately due and payable. For the avoidance of doubt:

- (a) 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
- (b) 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.

17.10.7 For the avoidance of doubt, a Shipper may not reduce or cancel its Exit Capacity if it wishes to retire from this Code other than by way of an accepted Exit Capacity Surrender Application or an accepted Exit Capacity Assignment Application.

17.10.8 Not Used.



## 18. CONFIDENTIALITY

### 18.1 Definitions

In this Code:

18.1.1 **"Confidential Information"** means:

(a) in relation to the Transporter, any information relating to the affairs of a Shipper;

(b) in relation to a Shipper, any information relating to the Transporter or another Shipper,

obtained in connection with this Code, other than its terms.

18.1.2 **"Disclosing Party"** means the Party disclosing Confidential Information to a Receiving Party;

18.1.3 **"Permitted Purpose"** means any purpose related to a Party's participation in this Code including in relation to the preparation of the Ten Year Statement; and

18.1.4 **"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 section 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 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 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 NI Postalised Network Disbursement Bank Account.

## **18.4 Rights of disclosure**

18.4.1 A Receiving Party may disclose Confidential Information without the 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; and
- (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.

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 (e) 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.

18.4.3 The Transporter may disclose Confidential Information without the consent of the Disclosing Party to Premier Transmission to the extent the Transporter reasonably considers is necessary in order for it to comply with any inter-operator agreement entered into by the Transporter and Premier Transmission.

18.4.4 The Transporter shall require that Premier Transmission complies with its obligations in respect of confidentiality set out in such inter-operator agreement in relation to the information which the Transporter discloses to Premier Transmission in accordance with section 18.4.3.

18.4.5 The Transporter may disclose Confidential Information without the consent of the Disclosing Party to any other Designated Pipeline Operator holding a valid licence to convey gas to the extent the Transporter reasonably considers such disclosure is necessary for the co-ordination of the NI Network.

## **18.5 Survival**

Whether a Party ceases or continues to be bound by this Code its obligations of confidentiality 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 West Transmission 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 property 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

### Communications

#### **19.1 Gas Transportation Management and Billing System: Aligne**

- 19.1.1 The Transporter will provide 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 West Transmission System. Pursuant to section 19.6A this information exchange system shall be the system provided and operated by Premier Transmission (the "**Aligne System**").
- 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 West Transmission System using the Aligne System (an "**Aligne Communication**") and the form of any Aligne Communication.
- 19.1.3 Subject to section 19.2, if the Transporter does so prescribe that a communication shall be an Aligne Communication and the form of the Aligne 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 or the operation of the West Transmission System.
- 19.1.4 The Transporter and each Shipper agrees that any Aligne Communication shall have legal effect for the purposes of this Code.
- 19.1.5 The Aligne System may, upon giving a Shipper reasonable notice, be reasonably modified from time to time by the Transporter.

#### **19.2 Failure of Aligne System**

- 19.2.1 The Transporter may, acting as a Reasonable and Prudent Operator, by firstly consulting with and then notifying any Shipper which would be affected, suspend the giving of any communication by the Aligne System 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 Aligne System where it considers access to it is prevented or restricted. The Transporter shall suspend the giving of any communication by the Aligne System if, acting as a Reasonable and Prudent Operator, 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 Aligne System or repair any faults.
- 19.2.4 The Transporter may plan outages for maintenance of the Aligne System at any time, but will endeavour to minimise the business impact of such outages to Shippers. The Transporter will endeavour to give Shippers at least 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 Aligne System**

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 Aligne System;
- (b) to use the software installed in respect of the Aligne System; and
- (c) to make use of any manual or other materials provided by the Transporter in respect of the Aligne System;

(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 section 19.3.1 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.

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, decompile, disassemble or modify the whole or any part of the software comprised in the Licensed Software and Materials;
- (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 Aligne System 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.

- 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 Align System.
- 19.4.4 If a Shipper ceases to be entitled to use the Align System 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 the Align System. 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 19.1.3) 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; and
  - (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;
  - (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.

## **Other general sections**

### **19.6A Appointment by the Transporter**

The Transporter shall have the right to appoint a third party to carry out any operational and/or administrative function of the Transporter under this Code. In such circumstances, the Transporter shall remain liable to the Shipper in relation to such operational and administrative functions as if those functions had been carried out by the Transporter itself, subject always to section 14 of this Code.

### **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**

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 an Accession Agreement (as respects the Parties to it) 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 approves such document in writing.

## **19.9 Gas users or shippers**

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 gas downstream of the West Transmission 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 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 which 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 33 $\frac{1}{3}$ % 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;
- (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 a 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 who has an Exit Point Registration in respect of an Exit Point on the West Transmission System, that person holds a Gas Supply Licence;
- (b) where the assigning Party is the Transporter, that person holds a licence to convey 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 33<sup>1</sup>/<sub>3</sub>% 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 in the Prescribed Form with the Transporter covenanting to be bound by this Code and the Accession Agreement;
  - (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 Accession Agreement to any Party shall include a reference to that Party's assigns.

## **19.12 Definitions and interpretations**

Unless the context otherwise requires, the definitions and rules of interpretation in appendix 1 shall apply to this Code.

## **19.13 Agents**

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 of its obligations under this Code.

## 20. GOVERNING LAW AND DISPUTE RESOLUTION

### 20.1 Governing Law

This Code will be governed by and construed in accordance with the laws of England and Wales.

### 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) days of the date of the Dispute Notice shall, subject to sections 20.2.4 and 20.4, be settled by the courts of England 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) days of the date of the Dispute Notice, it shall be settled by an Expert (an "**Expert**") in accordance with section 20.4 ("**Expert Determination**").

### 20.3 Mediation

20.3.1 If a Dispute arises 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 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 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 30 Business Days of the Dispute Notice, any of the Parties may then apply to the President of the Law Society of England and Wales who shall appoint an Expert within 15 Business Days of being requested to do so;

- (c) 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 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. If no Expert can be appointed pursuant to section 20.4, the Dispute shall be finally settled by the courts of England in accordance with section 20.5.
- 20.4.2 The Expert shall be a person suitably qualified by education, experience and/or training to determine the Dispute.
- 20.4.3 The Expert shall be entitled to: (a) seek such independent professional and/or technical advice; and (b) obtain secretarial assistance, as he may reasonably consider necessary.
- 20.4.4 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, *mutatis mutandis*, as required by section 18 (*Confidentiality*) 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.
- 20.4.5 (a) 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.
- (b) If after his appointment the expert becomes aware of any interest or duty which does so conflict or potentially conflicts, the expert shall inform the Parties forthwith of such conflict giving full details of it.
- (c) Any Party may within five (5) Business Days of the disclosure of any such conflict object to the appointment or continued appointment of an 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).
- 20.4.6 The Parties shall keep the fact that the Expert Determination is taking place and its outcome confidential provided that a 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 18.5 as if that customer were a Party and following any request by the Transporter, obtains from that customer an undertaking in favour of the Transporter to do so.
- 20.4.7 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.
- 20.4.8 The terms of reference of the Expert shall include the following:
- 20.4.8.1 that the Expert shall, as soon as practicable after the confirmation of his appointment, call the Parties to a meeting (which shall, together with all other meetings, be held in England) at which he shall clarify, and, if necessary, define the Dispute and give directions as to the future conduct of the Dispute;

- 20.4.8.2 that the Expert may, from time to time give such directions as he sees fit;
  - 20.4.8.3 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 30 Business Days of his appointment or such other time as agreed in writing by the Parties;
  - 20.4.8.4 that the Expert shall give full written reasons for his determination and shall furnish the Parties with a draft of his proposed determination;
  - 20.4.8.5 the Parties shall be entitled to make representations to the Expert within 7 Business Days after the receipt of the draft of the Expert's proposed determination.
- 20.4.9 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.
- 20.4.10 If, within a reasonable period, but in any event not later than 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.
- 20.4.11 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 England and Wales) shall be borne equally by the Parties, but each Party shall bear its own costs.
- 20.4.12 An Expert appointed under this section 20 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.
- 20.4.13 The Expert's final determination shall be final and binding on the Parties except in the event of fraud or where it 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 English Courts**

- 20.5.1 Subject to the provisions of this section 20, the Transporter and a Shipper irrevocably agree that the courts of England 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 England 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 English courts shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction.

## **20.6 Costs of Dispute**

The Transporter's costs arising out of a Dispute shall be treated as an Eligible Pass-Through Cost in accordance with the Licence unless an Expert or court directs that the Transporter has failed to act as a Reasonable and Prudent Operator.

## **T1. TRANSITIONAL ARRANGEMENTS FOR THE INTRODUCTION OF THE WEST TRANSMISSION CODE**

### **T1.1 Introduction**

- T1.1.1 The provisions of this Code shall come into effect in accordance with this section T1.
- T1.1.2 From the Implementation Date Shippers may apply for and be registered as holding Exit Capacity which has an Exit Capacity Period commencing no earlier than First Gas Flow Day.
- T1.1.3 Gas flows will commence on First Gas Flow Day.

### **T1.2 Definitions**

- T1.2.1 In this section T1:
  - (a) **“Implementation Date”** means 1<sup>st</sup> April 2016;
  - (b) **“First Gas Flow Day”** means a date, determined and published by the Transporter, [not earlier than the Implementation Date, in respect of which gas shall first flow on the West Transmission System];
  - (c) **“Nominations Operational Date”** means a date, determined and published by the Transporter, not earlier than the Implementation Date and not later than the First Gas Flow Day in respect of which Nominations can first be made under section 2.

### **T1.3 Exit Capacity**

- T1.3.1 From the Implementation Date, section 1B shall apply, subject to section T1.3.2 and section T1.3.3;
- T1.3.2 Prior to the First Gas Flow Day, all references to Exit Capacity in this Code shall be to Exit Capacity with an Exit Capacity Period commencing no earlier than First Gas Flow Day;
- T1.3.3 The following sections shall apply from First Gas Flow Day:
  - (a) section 1B.6 (Application for an allocation of Exit Capacity in the same Gas Year);
  - (b) section 1B.7 (Annual Review of Exit Capacity);
  - (c) section 1B.11 (Order of Allocation of Exit Capacity);
  - (d) section 1B.12 (Exit Capacity Ratchet).

### **T1.4 Sections coming into force from the Implementation Date**

- T1.4.1 From the Implementation Date, the following sections of this Code shall apply:
  - (a) section 1A: *(Introduction – The West Transmission System)*;
  - (b) section 11: *(Shipper Information Forecasts and the Ten Year Statement)*;
  - (c) section 13: *(Credit Procedures)*;
  - (d) section 14: *(Liabilities and Indemnities)*;

- (e) section 15: *(Force Majeure)*;
- (f) section 16: *(Termination)*;
- (g) section 17: *(Accession to the Code, Registrations, Downstream Load Statements and Retirement from the Code)*;
- (h) section 18: *(Confidentiality)*;
- (i) section 19: *(General)*;
- (j) section 20: *(Governing Law and Dispute Resolution)*.

## **T1.5 Sections coming into force from First Gas Flow Day**

T1.5.1 From 05:00 on First Gas Flow Day, the following sections of this Code shall apply:

- (a) section 3: *(Allocations)*;
- (b) section 4: *(Balancing and Scheduling Charges)*;
- (c) section 5: *(Balancing and Shrinkage Gas)*;
- (d) section 6: *(Exceptional Events and Emergencies)*;
- (e) section 7: *(Entry Requirements)*;
- (f) section 8: *(Exit Requirements)*;
- (g) section 9: *(Measurement and Testing)*;
- (h) section 10: *(Maintenance)*;
- (i) section 12: *(Charges, Payment and Tax)*;

## **T1.6 Nominations**

T1.6.1 The provisions of section 2 shall apply, with respect to First Gas Flow Day, and each subsequent Gas Flow Day, from the Nominations Operational Date, subject to T1.6.2.

T1.6.2 Where, in respect of section 2.9.2, there are fewer than 30 days between the Nominations Operational Date and First Gas Flow Day the earliest Day on which Shippers may submit Nominations in respect of First Gas Flow Day (and where applicable subsequent Gas Flow Days which are within 30 Days of the Nominations Operational Date) shall be the Nominations Operational Date.

## APPENDIX 1

### DEFINITIONS AND INTERPRETATION

#### Part I - Definitions

In this Code:

<b>"Accession Agreement"</b>	means an agreement between the Transporter and a Shipper pursuant to which the Shipper agrees to be bound by this Code;
<b>"ACER"</b>	means the Agency for Co-operation of Energy Regulators;
<b>"Accounting Ratios"</b>	means FFO Interest Coverage and FFO to Total Debt;
<b>"Adjusted Final Allocation at Exit"</b>	has the meaning given to it in section 9.1.3(a);
<b>"Adjustment Amount"</b>	has the meaning given to it in section 12.13.2;
<b>"Affected Party"</b>	has the meaning given to it in section 15.1;
<b>"Affiliate"</b>	in relation to any Party means a company which is either a holding company or a subsidiary of such Party or a company or corporation which 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 given to them, regardless of the place of incorporation of the Party, in section 1159 of the Companies Act 2006 as amended from time to time save that the expression in the section "a majority" shall be deemed to be "one half" and "Affiliates" shall be construed accordingly;
<b>"Aggregate Exit Nominated Quantity"</b>	has the meaning given to it in section 2.10.1(c) and <b>"Aggregate Exit Nominated Quantities"</b> shall be construed accordingly;
<b>"Aggregate NI Entry Allocation"</b>	has the meaning given to it in section 3.4.2 and <b>"Aggregate NI Entry Allocations"</b> shall be construed accordingly;
<b>"Aggregate NI Exit Allocation"</b>	has the meaning given to it in section 3.10.2 and <b>"Aggregate NI Exit Allocations"</b> shall be construed accordingly;
<b>"Aggregate NI Imbalance" or "ANII"</b>	has the meaning given to it in section 4.1.2(c);
<b>"Aggregate Throughput"</b>	has the meaning given to it in section 5.6.1(a);
<b>"Align Communication"</b>	has the meaning given to it in section 19.1.2;
<b>"Align System"</b>	has the meaning given to it in section 19.1.1;
<b>"Alternative Evidence of Credit Worthiness"</b>	has the meaning given to it in section 13.1A.2(b);
<b>"Assignee Shipper"</b>	means a Shipper to whom Exit Capacity is assigned or proposed to be assigned to in accordance with section 1B.10, as appropriate;



<b>“Assigned Exit Capacity”</b>	has the meaning given to it in section 1B.10.4(a);
<b>“Assignor Shipper”</b>	means a Shipper which assigns or wishes to assign its Exit Capacity in accordance with section 1B.10, as appropriate;
<b>“Authority”</b>	means the Northern Ireland Authority for Utility Regulation;
<b>"Auxiliary Payment"</b>	shall have the meaning given to it in the Licence;
<b>“Available Exit Capacity”</b>	has the meaning given to it in section 1B.1.5;
<b>“Balancing Gas”</b>	has the meaning given to it in section 5.2.1;
<b>“Balancing Gas Costs”</b>	has the meaning given to it in section 5.6.1(d);
<b>"bar"</b>	has the meaning given to it in ISO 1000: 1981 (E);
<b>“Belfast Gas”</b>	means Belfast Gas Transmission Limited, a company incorporated in Northern Ireland with company number NI026420;
<b>“Belfast Gas Code”</b>	means the network code prepared by Belfast Gas pursuant to its’ licence for the conveyance of gas in Northern Ireland
<b>“Belfast Gas System”</b>	means the gas pipeline owned by Belfast Gas which connects the PTL Transmission System at Ballylumford in Northern Ireland to the GNI (UK) System at the Carrickfergus Connected Systems Point and Phoenix’s distribution network in the Greater Belfast area;
<b>"Business Day"</b>	means a day (other than a Saturday or Sunday) on which banks are generally open for business in Belfast;
<b>“Calorific Value”</b>	means that number of Megajoules produced by the complete combustion at a constant absolute pressure of 1.01325 bar of 1 Cubic Meter of gas at a temperature of 15° C with excess air at the same temperature and pressure as the gas when the products of combustion are cooled at 15° C and when the water formed by combustion is condensed to the liquid state and the products of combustion contain the same total mass of water vapour as the gas and air before combustion; and for the avoidance of doubt calorific value shall be REAL as defined in ISO 6976-1:1983(E);
<b>“Carrickfergus Connected Systems Point”</b>	means the point at Carrickfergus at which the Belfast Gas System connects with the GNI (UK) System;
<b>“Charges”</b>	means any charge payable to/from the Transporter either under its Licence or this Code;
<b>“Charging Methodology Statement”</b>	is the document of that name in a form from time to time approved by the Authority and published by the Designated Pipeline Operators in a manner so approved which sets out the basis for the calculation of Charges;
<b>"CC Invoice"</b>	has the meaning given to it in the PTL Transportation Code;
<b>"Code" or “Transportation Code”</b>	means this code governing the relationship between the Transporter and a Shipper in relation to the transportation of gas on the West Transmission System;

<b>“Codes of the Upstream Transporters”</b>	means the PTL Transportation Code and the GNI (UK) Code;
<b>"Competent Authority"</b>	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 over the Transporter or a Shipper regarding the subject matter of this Code;
<b>"Confidential Information"</b>	has the meaning given to it in section 18.1.1;
<b>“Confirmed Exit Nomination Quantity”</b>	has the meaning given to it in section 2.11.4 and <b>“Confirmed Exit Nomination Quantities”</b> shall be construed accordingly;
<b>"Connected Facilities"</b>	means the facilities immediately downstream of an Exit Point whether or not owned by a Shipper;
<b>"Connected System"</b>	means any gas transmission or distribution system connected to the West Transmission System;
<b>“Connected System Operator”</b>	means the operator of a Connected System;
<b>"CPI"</b>	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;
<b>“Credit Application”</b>	has the meaning given to it in section 13.1.2;
<b>"Credit Committee"</b>	shall have the meaning given in the Terms of Reference;
<b>"Credit Period"</b>	shall have the meaning given it in Section 13.2.1(e);
<b>"D"</b>	means a given Gas Flow Day;
<b>"D-1"</b>	means the Day before D;
<b>“D-1 Predicted Capacity Shortfall”</b>	has the meaning given to it in section 6.2.1;
<b>"D+1"</b>	means the Day after D;
<b>"D+5"</b>	means the fifth Day after D;
<b>"Daily Gas Price"</b>	has the meaning given to it in section 4.1.2(a);
<b>"Day"</b>	means a period beginning at 05:00 hours on any day and ending at 05:00 hours on the following day and Daily shall be construed accordingly;
<b>“Day D Capacity Shortfall”</b>	has the meaning given to it in section 6.3.1;
<b>"Day of Greatest</b>	

<b>Allocated Quantity"</b>	has the meaning given to it in section 1B.7.1(b);
<b>"Debt Payment"</b>	shall have the meaning given to it in the Licence;
<b>"Debt Repayment"</b>	shall have the meaning given to it in the Licence;
<b>"Default"</b>	has the meaning given to it in section 13.5.1;
<b>"Defaulting Party"</b>	has the meaning given to it in section 16.3.1A(a);
<b>"Delivery Characteristics"</b>	means the characteristics of gas delivered or tendered for delivery to the West Transmission System in respect of which Gas Specification apply;
<b>"Designated Pipe-line Operator"</b>	means a person licensed to convey gas under Article 8(1)(a) of the Order through the Postalised System;
<b>"Directions"</b>	means any direction made by the Credit Committee in accordance with the Terms of Reference and <b>"Direction"</b> shall be construed accordingly;
<b>"Directive"</b>	means any present or future directive, regulation, request, requirement, instruction, code of practice, direction or rule of any Competent Authority (but only, if not having the force of law, if it is reasonable in all the circumstances for it to be treated as though it had legal force), and any modification, extension or replacement thereof;
<b>"Disbursement Amount"</b>	has the meaning given to it in section 5.6.2 and <b>"Disbursement Amounts"</b> shall be construed accordingly;
<b>"Disbursement Ratio"</b>	has the meaning given to it in section 5.6.1(c);
<b>"Disclosing Party"</b>	has the meaning given to it in section 18.1.2;
<b>"Dispute"</b>	has the meaning given to it in section 20.2.1;
<b>"Dispute Notice"</b>	has the meaning given to it in section 20.2.2;
<b>"DNO"</b>	means the distribution network operator of a gas distribution network which is connected to the NI Network;
<b>"DNO Shipper"</b>	means a DNO who holds Exit Capacity, in accordance with section 1B, at an Exit Point on the West Transmission System on behalf of all shippers supplying gas to its gas distribution network;
<b>"Distribution Utility"</b>	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 and <b>"Distribution Utilities"</b> shall be construed accordingly;
<b>"Downstream Load Category"</b>	has the meaning given to it in section 4.2.1 and <b>"Downstream Load Category No 1"</b> and so on shall be construed accordingly;
<b>"Downstream Load Statement"</b>	has the meaning given to it in section 17.9.1;

"Due Date"	means the date on which payment of an invoice in respect of any PS Transmission Amounts and PS Code Charges falls due, being the 10 <sup>th</sup> 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;
"EIC"	means a European identity code which Shippers shall be required to use to identify their organisation on the Aligne System;
"Election Notice"	has the meaning given to it in section 16.6.1(b);
"Eligible Pass-Through Cost"	has the meaning given to it in the Licence;
"Emergency"	has the meaning given to it in section 6.5.2;
"Emergency Steps"	has the meaning given to it in section 6.6.1;
"End User"	means any person listed in part I of appendix 3 and "End Users" shall be construed accordingly;
"Enhanced Pressure"	has the meaning given to it in section 8.3.2;
"Entry Point"	has the meaning given to it in section 7.1.3(a);
"Entry Quantity"	has the meaning given to it in section 9.2.1;
"ENTSOG"	means the European Network of Transmission System Operators for Gas, an 'Association Internationale Sans But Lucratif' established under Belgian law;
"Equivalent Agency"	has the meaning given to it in section 13.3.4;
"Equivalent Rating"	shall have the meaning given to it in section 13.3.4;
"Exceptional Event"	has the meaning given to it in section 6.1.2(b);
"Excess Amount"	has the meaning given to it in section 13.3.24;
"Exit Allocation"	has the meaning given to it in section 3.5.1 and "Exit Allocations" shall be construed accordingly;
"Exit Capacity"	has the meaning given to it in section 1B.1.2(a);
"Exit Capacity Application"	has the meaning given to it in section 1B.3.2 and "Exit Capacity Applications" shall be construed accordingly;
"Exit Capacity Assignment"	has the meaning given to it in section 1B.10.1 and "Exit Capacity Assignments" shall be construed accordingly;
"Exit Capacity Assignment Application"	has the meaning given to it in section 1B.10.4;
"Exit Capacity Assignment Period"	has the meaning given to it in section 1B.10.4(b);

<b>“Exit Capacity Period”</b>	has the meaning given to it in section 1B.3.2(b);
<b>“Exit Capacity Surrender Application”</b>	has the meaning given to it in section 1B.8.2 and <b>“Exit Capacity Surrender Applications”</b> shall be construed accordingly;
<b>“Exit Capacity Transfer”</b>	has the meaning given to it in section 1B.9.2 and <b>“Exit Capacity Transfers”</b> shall be construed accordingly;
<b>“Exit Capacity Transfer Period”</b>	has the meaning given to it in section 1B.9.3;
<b>“Exit Capacity Utilisation Report”</b>	has the meaning given to it in section 1B.7.1;
<b>“Exit Nomination”</b>	has the meaning given to it in section 2.8.2(a) and <b>“Exit Nominations”</b> shall be construed accordingly;
<b>“Exit Nominated Quantity”</b>	has the meaning given to it in section 2.10.1(b) and <b>“Exit Nominated Quantities”</b> shall be construed accordingly;
<b>“Exit Nomination Quantity”</b>	has the meaning given to it in section 2.10.1(a) and <b>“Exit Nomination Quantities”</b> shall be construed accordingly;
<b>"Exit Point"</b>	has the meaning given to it in section 8.1.3(a) and <b>“Exit Points”</b> shall be construed accordingly;
<b>“Exit Point Adjustment Day”</b>	has the meaning given to it in section 9.5.2;
<b>“Exit Point Adjustment Quantity”</b>	has the meaning given to it in section 9.5.2(a);
<b>"Exit Point Registration"</b>	means a registration issued by West Transmission evidencing that the Shipper is registered at the Exit Point;
<b>"Exit Point Registration Application"</b>	has the meaning given to it in section 17.6.1;
<b>“Exit Quantity”</b>	has the meaning given to it in section 9.4.1;
<b>“Exit Ratchet Payment”</b>	means any Ratchet Charges determined under section 1B.12 and as described in the Charging Methodology Statement;
<b>“Exit Renomination”</b>	has the meaning given to it in section 2.8.2(b) and <b>“Exit Renominations”</b> shall be construed accordingly;
<b>“Exit Renomination Effective Time”</b>	has the meaning given to it in section 2.9.12(b);
<b>"Expert"</b>	means an expert appointed in accordance with section 20.2.4;
<b>“Expert Determination”</b>	has the meaning given to it in section 20.2.4;
<b>"FFO Interest Coverage"</b>	has the meaning given to it in section 13.3.7(e)(i);

"FFO to Total Debt"	has the meaning given to it in section 13.3.7(e)(ii);
"FPCapCt"	has the meaning given to it in section 4.5.2;
"Final Exit Allocation"	has the meaning given to it in section 3.5.3 and " <b>Final Exit Allocations</b> " shall be construed accordingly;
"Final IP Entry Allocation"	has the meaning given to it in the Codes of the Upstream Transporters as applicable and " <b>Final IP Entry Allocations</b> " shall be construed accordingly;
"Final VRF IP Exit Allocation"	has the meaning given to it in the Codes of the Upstream Transporters as applicable and " <b>Final VRF IP Exit Allocations</b> " shall be construed accordingly;
"Firm"	has the meaning given to it in section 1B.1.3;
"Flow Order"	has the meaning given to it in section 6.1.2(a);
"Flow Rate"	means the instantaneous rate of flow of gas expressed in kW;
"Force Majeure"	has the meaning given to it in section 15.1;
"Forecast Postalised Annual Capacity Charge"	means the charge for annual capacity determined in accordance with the Licence and the Charging Methodology Statement;
"Forecast Postalised Charges"	has the meaning given to it in the Licence;
"Forecast Postalised Commodity Charge"	has the meaning given to it in the Licence and " <b>Forecast Postalised Commodity Charges</b> " shall be construed accordingly;
"Forecast Supplier Quantity"	has the meaning given to it in section 13.2.1(b);
"Forecast VRF IP Exit Quantity"	has the meaning given to it in section 13.2.1(c);
"GB Uniform Network Code"	means the network code as in force from time to time, which governs the operation of the national gas transmission system in Great Britain, such network code having been prepared pursuant to the public gas transporters licence granted or treated as granted pursuant to section 7 of the Gas Act 1986, as amended from time to time (and which licence is held by National Grid Gas plc as at May 2012).
"gas"	means any hydrocarbons or mixture of hydrocarbons and all associated gases consisting primarily of methane which at 15°C and at atmospheric pressure is (or are) predominantly in a gaseous state;
"Gas Flow Day"	means, in relation to the application of any provision of this Code, the Day in relation to deliveries, offtakes or flow of gas or other operations on which such provision is to apply and Gas Flow Days shall be construed accordingly;
"Gas Specification"	has the meaning given to it in section 7.3.1;

<b>"Gas Supplier"</b>	shall have the meaning given to it in the Licence, section 2A.1.1 Definitions;
<b>"Gas Supply Licence"</b>	means a licence to supply gas granted under Article 8(1)(b) of the Gas (Northern Ireland) Order 1996;
<b>"Gas Year"</b>	shall mean the period of time beginning at 05:00 hours from 1 October in any calendar year to 05:00 hours on 1 October in the next succeeding calendar year and <b>"Yearly"</b> shall be construed accordingly;
<b>"Generation Utility"</b>	means a utility involved in the production of electricity and <b>"Generation Utilities"</b> shall be construed accordingly;
<b>"GNI (UK)"</b>	means GNI (UK) Limited, a company incorporated in England and Wales with company registration number 02827969;
<b>"GNI (UK) Code"</b>	means the network code governing the relationship between GNI (UK) Limited and its Shippers in respect of the GNI (UK) System;
<b>"GNI (UK) System"</b>	means the pipeline owned and operated by GNI (UK) which connects the Belfast Gas System at the Carrickfergus Connected Systems Point in the north west of Northern Ireland and to the South-North Interconnection Point and to the West Transmission System;
<b>"GNI (UK) Transportation Agreement"</b>	means the agreement dated 21 August 1996 made between GNI (UK) and Premier Transmission pursuant to which GNI (UK) transports gas for Premier Transmission through the GNI (UK) Upstream System as amended and restated from time to time;
<b>"GNI (UK) Upstream System"</b>	means the pipeline and associated facilities operated by GNI (UK) connecting the national gas transmission system at Moffat to, inter alia, Twynholm in Scotland through which GNI (UK) transports gas for Premier Transmission pursuant to the GNI (UK) Transportation Agreement;
<b>"Hour Bar"</b>	has the meaning given to it in section 2.2.5;
<b>"Imbalance"</b>	has the meaning given to it in section 4.1.2(f);
<b>"Imbalance Charge"</b>	has the meaning given to it in section 4.1.2(b) and <b>"Imbalance Charges"</b> shall be construed accordingly;
<b>"Imbalance Tolerance Percentage" or "ITP"</b>	has the meaning given to it in section 4.2.1;
<b>"Imbalance Tolerance Quantity" or "ITQ"</b>	has the meaning given to it in section 4.2.3;
<b>"Indemnified Liabilities"</b>	means liabilities, actions, proceedings, claims, losses, costs, demands, damages, expenses and fines of every kind and nature, including legal expenses;

"Indicative Application for Exit Capacity"	has the meaning given to it in section 1B.2.1;
"Initial Exit Allocation"	has the meaning given to it in section 3.5.2 and " <b>Initial Exit Allocations</b> " shall be construed accordingly;
"Initial IP Entry Allocation"	has the meaning given to it in the Codes of the Upstream Transporters as applicable and " <b>Initial IP Entry Allocations</b> " shall be construed accordingly;
"Initial VRF IP Exit Allocation"	has the meaning given to it in the Codes of the Upstream Transporters as applicable and " <b>Initial VRF IP Exit Allocations</b> " shall be construed accordingly;
"Integrated Utility"	means a utility which operates both as a Distribution Utility and Transmission Utility and " <b>Integrated Utilities</b> " shall be construed accordingly;
"Interconnected System Capacity"	has the meaning given to it in the Codes of the Upstream Transporters.
"Invoice Day"	has the meaning given to it in Section 12.8.1;
"IP Allocation"	has the meaning given to it in the Codes of the Upstream Transporters and " <b>IP Allocations</b> " shall be construed accordingly;
"IP Capacity"	has the meaning given to it in the Codes of the Upstream Transporters;
"IP Entry Capacity"	has the meaning given to it in the Codes of the Upstream Transporters;
"IP Entry Point"	means an entry point which is located at an NI Interconnection Point and " <b>IP Entry Points</b> " shall be construed accordingly;
"IP Entry Quantity"	means the quantity of gas determined to have been delivered to the NI Network at an IP Entry Point in accordance with the Codes of the Upstream Transporters;
"IP Measured Quantity"	has the meaning given to it in the Codes of the Upstream Transporters;
"IP Nomination"	has the meaning given to it in the Codes of the Upstream Transporters;
"IP Registration"	means an entry point registration issued by the appropriate NI Network Operator evidencing that the Shipper is registered at either an IP Entry Point and/or a VRF IP Exit Point at a Northern Ireland Interconnection Point;
"Joules"	means the joule as defined in ISO 80000-1:2009 and " <b>Joules</b> " shall be construed accordingly;
"Kilojoule"	means one thousand (1000) Joules;
"Kilowatt" and "KW"	mean one (1) Kilojoule per second;



<b>“Kilowatt Hour” and “kWh”</b>	mean three thousand six hundred (3600) Kilojoules;
<b>"Legal Requirement"</b>	means any law, statute or Directive that is in force in the jurisdiction where the West Transmission System is situated from time to time;
<b>“LIBOR”</b>	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 West Transmission 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;
<b>“Licence”</b>	means, at any time, the licence (as amended from time to time) to convey gas or participate in the conveyance of gas granted under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 (as amended) which is held by West Transmission at that time.
<b>“Licensed Software and Materials”</b>	has the meaning given to it in section 19.3.1;
<b>“Licensee Unpredictable Operating Cost”</b>	has the meaning given to it in the Licence;
<b>“LPC Default”</b>	has the meaning given to it in section 13.4.2;
<b>“M”</b>	means a given Month;
<b>“M+1”</b>	means the first Gas Flow Day of the Month following M;
<b>“M+5”</b>	means the fifth Business Day of the Month following M;
<b>"Maintenance"</b>	has the meaning given to it in section 10.1.2(a);
<b>"Maintenance Days"</b>	has the meaning given to it in section 10.1.2(b) and <b>“Maintenance Day”</b> shall be construed accordingly;
<b>"Maintenance Programme"</b>	as the meaning given to it in section 10.2.2;
<b>“Marginal Imbalance Quantity” or “MIQ”</b>	has the meaning given to it in section 4.2.4;
<b>"Maximum Allowed Unsecured Credit"</b>	has the meaning given to it in section 13.3.5;
<b>“Maximum Offtake Rate”</b>	means the maximum rate at which gas may be offtaken at an Exit Point as set out in part I of appendix 3;
<b>“Maydown Entry Point”</b>	has the meaning given to it in section 7.1.3(b);
<b>"Measurement"</b>	

<b>Equipment"</b>	has the meaning given to it in section 9.1.3(b);
<b>"Meeting Notice"</b>	shall have the meaning given to it in paragraph 3 of the Terms of Reference;
<b>"Mid Year Date"</b>	means 30 April;
<b>"Minimum Pressure"</b>	has the meaning given to it in section 8.3.1;
<b>"Mismatched Delivery"</b>	has the meaning given to it in section 14.1.1;
<b>"Modification Rules"</b>	means the rules prepared by the Transporter, pursuant to its Licence, to facilitate modification of the Code as required from time to time in accordance with its Licence;
<b>"Month"</b>	means a period beginning at 05: 00 hours on the first day of any calendar month and ending at 05: 00 hours on the first day of the next succeeding calendar month and the word <b>"Monthly"</b> shall be construed accordingly;
<b>"Monthly Postalised Commodity Payment"</b>	means a monthly payment for gas quantities allocated to a Shipper determined in accordance with the Licence and set out in the Charging Methodology Statement;
<b>"Monthly Postalised Exit Capacity Payment"</b>	has the meaning given to it in section 12.4.5;
<b>"National Grid"</b>	means National Grid plc which is responsible for the transportation of gas in the NTS;
<b>"Negative Imbalance"</b>	has the meaning given to it in section 4.1.2(d);
<b>"Negative Implied Exit Nomination Flow Rate"</b>	has the meaning given to it in section 2.9.15;
<b>"Net Assets"</b>	means, on any particular date, Total Assets minus Total Liabilities, as of such date;
<b>"Network"</b>	has the meaning given to it in the Terms of Reference;
<b>"NI Network"</b>	has the meaning given to it in section 1A.1.2;
<b>"NI Network Exit Point"</b>	means an exit point at which gas exits a part of the NI Network and <b>"NI Network Exit Points"</b> shall be construed accordingly;
<b>"NI Network Final Exit Allocations"</b>	means the sum of the final exit allocations (as defined in each of the NI Network Operator's Transportation Codes) at all NI Network Exit Points in respect of a Gas Flow Day;
<b>"NI Interconnection Point"</b>	means the South North Interconnection Point as defined in the GNI (UK) Code and the Moffat Interconnection Point as defined in the PTL Transportation Code, or either one of them and <b>"NI Interconnection Points"</b> shall be construed accordingly;

<b>“NI Network Operating Agreement” or “NINOA”</b>	means the agreement, as amended from time to time, made between Premier Transmission, GNI (UK), Belfast Gas and West Transmission relating to certain issues connected with the NI Network;
<b>“NI Network Operator”</b>	means any of Premier Transmission, GNI (UK), Belfast Gas and West Transmission and <b>“NI Network Operators”</b> means all of them together;
<b>“NI Network Operator’s Transportation Code”</b>	means the PTL Transportation Code, the GNI Code, the Belfast Gas Code or this Code, as applicable, and references to <b>“NI Network Operators’ Transportation Codes”</b> shall mean all of them unless expressly stated otherwise;
<b>“NI Postalised Network Disbursement Bank Account”</b>	means a separate bank account set up by Premier Transmission pursuant to the NINOA, into which and from which Premier Transmission shall pay the amounts detailed in Section 5.3 of this Code in accordance with the Postalised Network Disbursement Procedure;
<b>“Nominated Quantity”</b>	has the meaning given to it in section 2.2.1(d) and <b>“Nominated Quantities”</b> shall be construed accordingly;
<b>“Nomination”</b>	has the meaning given to it in section 2.2.1(a) and <b>“Nominations”</b> shall be construed accordingly;
<b>“Nomination Quantity”</b>	has the meaning given to it in section 2.2.1(c) and <b>“Nomination Quantities”</b> shall be construed accordingly;
<b>"Non-Compliant Gas"</b>	has the meaning given to it in section 7.3.2;
<b>“Non-Defaulting Party”</b>	has the meaning given to it in section 16.3.1A(b);
<b>"Northern Ireland Network Emergency Co-ordinator”</b>	has the meaning given to it in the Gas Safety (Management) Regulations (NI) 1997;
<b>“Notional S&amp;P Credit Rating”</b>	means a credit rating assigned to a Shipper in accordance with section 13.3.7;
<b>“NPCC Default”</b>	has the meaning given to it in the PTL Transportation Code;
<b>“NPTP Default”</b>	has the meaning given to it in section 13.5.1(a);
<b>"NTS"</b>	means the national transmission system and has the meaning given to it in the GB Uniform Network Code
<b>“OBA”</b>	has the meaning given to it in the Codes of the Upstream Transporters;
<b>“Off-Spec Gas”</b>	has the meaning given to it in section 8.4.2;
<b>“Other Party”</b>	has the meaning given to it in section 15.1;
<b>"Outstanding PS Code</b>	

<b>Charges"</b>	has the meaning given to it in the PTL Transportation Code;
<b>"Party"</b>	means either the Transporter or a Shipper and <b>"Parties"</b> means the Transporter and a Shipper or Shippers;
<b>"Payable Exit Capacity Price"</b>	has the meaning given to it in section 12.4.3;
<b>"Permitted Purpose"</b>	has the meaning given to it in section 18.1.3;
<b>"Permitted Range"</b>	has the meaning given to it in section 9.1.3(c);
<b>"Phoenix"</b>	means Phoenix Natural Gas Limited, a company incorporated in Northern Ireland with company number NI032809
<b>"PLCS Adjustment Form"</b>	has the meaning given to it in section 13.3.19;
<b>"PLCS Form"</b>	has the meaning given to it in section 13.3.17;
<b>"Positive Imbalance"</b>	has the meaning given to it in section 4.1.2(e);
<b>"Postalised Network Disbursement Procedure"</b>	means the procedure established pursuant to the NINOA for the purpose of the administration of the NI Postalised Network Disbursement Bank Account;
<b>"Postalised System"</b>	has the meaning given to it in the Terms of Reference;
<b>"PoT Account"</b>	means the bank account into which all monies paid by Gas Suppliers in respect of PS Transmission Amounts should be paid in accordance with section 12.9.1);
<b>"Premier Transmission"</b>	means Premier Transmission Limited, a company incorporated in Northern Ireland with company number NI026421;
<b>"Prescribed Form"</b>	means, in relation to any notice or other document referred to in this Code, the form reasonably prescribed by West Transmission from time to time;
<b>"President of the IGEM"</b>	has the meaning given to it in section 20.4.1(b);
<b>"Priority Order"</b>	has the meaning given to it in section 6.10.1;
<b>"Profile Nomination"</b>	means a nomination or renomination to the Transporter of an aggregate quantity of gas to be offtaken in each hour over the relevant Day at an Exit Point and <b>"Profile Nominations"</b> shall be construed accordingly;
<b>"Prospective Shipper"</b>	has the meaning given to it in section 17.1.1;
<b>"Provided Level of Credit Support"</b>	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;
<b>"PS Code Charges"</b>	means Imbalance Charges, Scheduling Charges, any Enhanced Pressure charge or any other charge the basis of which is set out in this Code (and not the Licence) from time to time;

"PS Gas Supplier"	means any person who is entitled to exit gas from the Postalised System and " <b>PS Gas Suppliers</b> " shall be construed accordingly;
"PS Invoice"	shall have the meaning given to it in section 12.5.1;
"PS Transmission Amounts"	shall have the meaning given to it in section 12.5.2(a);
"PTL Transportation Code"	means the network code prepared by Premier Transmission which governs the relationship between Premier Transmission and its shippers;
"PTL Transportation System"	means the Transportation System as that term is defined in the PTL Transportation Code;
"quantity"	means a quantity of gas expressed in kWh calculated by multiplying the volume by the applicable calorific value and " <b>quantities</b> " shall be construed accordingly;
"Quarter"	shall mean a period of 3 calendar months, with each successive Quarter commencing at 05:00 hrs on 1 October, 1 January, 1 April and 1 July respectively and " <b>Quarterly</b> " shall be construed accordingly;
"Ratchet Amount"	has the meaning given to it in section 1B.12.1(a);
"Ratchet Charge"/"RC"	has the meaning given to it in section 1B.12.1;
"Ratchet Month"	has the meaning given to it in section 1B.12.1;
"Reallocation"	has the meaning given to it in section 3.7.1;
"Reasonable and Prudent Operator"	means a person acting in good faith with the intention of performing its contractual obligations under this Code and who in so doing and in the general conduct of its undertaking, exercises that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be exercised by 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"	has the meaning given to it in section 18.1.4;
"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 and " <b>Reconciliation Payments</b> " shall be construed accordingly;
"Registered Exit Capacity"	has the meaning given to it in section 1B.1.4;
"Registration"/ "Registrations"	has the meaning given to it in section 17.4.1;
"Relevant Day"	has the meaning given to it in section 1B.7.1(c);
"Relevant Exit Point"	has the meaning given to it in section 1B.7.1(a);

<b>"Relevant Objective"</b>	has the meaning given to it in section 1B.7.3;
<b>"Relevant Shipper"</b>	has the meaning given to it in section 1B.7.1(a);
<b>"Renomination"</b>	has the meaning given to it in section 2.2.1(b) and <b>"Renominations"</b> shall be construed accordingly;
<b>"Required Level of Credit Support"</b>	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;
<b>"Retiring Shipper"</b>	shall have the meaning given to it in section 17.10.1;
<b>"RLCS Form"</b>	has the meaning given to it in section 13.2.11;
<b>"RPI"</b>	means the Retail Price Index and is the standard classification index numbers of retail prices as published by the Office of National Statistics in the <b>"Monthly Digest of Statistics"</b> or any successor to such Index published by such Office or any Department of HM Government;
<b>"RPI<sub>n</sub>"</b>	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;
<b>"RPI<sub>0</sub>"</b>	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;
<b>"Scheduled Maintenance"</b>	has the meaning given to it in section 10.1.2(c);
<b>"Scheduling Charge"</b>	has the meaning given to it in section 4.4.2 and <b>"Scheduling Charges"</b> shall be construed accordingly;
<b>"Scheduling Difference" or "SD"</b>	has the meaning given to it in section 4.4.3;
<b>"Scheduling Tolerance Percentage" or "STP"</b>	has the meaning given to it in section 4.4.4;
<b>"Scheduling Tolerance Quantity" or STQ"</b>	has the meaning given to it in section 4.4.5;
<b>"Second Due Date"</b>	means 15 Business Days after the Due Date;
<b>"Secured Credit Support"</b>	has the meaning given to it in section 13.3.4;
<b>"Securer"</b>	has the meaning given to it in section 13.3.5;
<b>"SGN"</b>	means SGN Natural Gas Limited, a company incorporated in England and Wales with company number 08822715;
<b>"SGN Distribution Network"</b>	means the gas distribution network owned and operated by SGN;
<b>"Shared Exit Point"</b>	has the meaning given to it in section 3.6.1;

<b>"Shipper"</b>	means a person other than the Transporter who, for the time being, has acceded to and is bound by this Code by an Accession Agreement and <b>"Shippers"</b> shall be construed accordingly;
<b>"Shippers' Allocation Arrangement"</b>	has the meaning given to it in section 3.8.1;
<b>"Shipper Forecast Information Request"</b>	has the meaning given to it in section 11.2.2;
<b>"Shortfall Declaration"</b>	has the meaning given to it in section 6.1.4;
<b>"Shortfall in Price"</b>	has the meaning given to it in section 6.11.4(b);
<b>"Shrinkage Gas"</b>	has the meaning given to it in section 5.1;
<b>"Supplemental Payment"</b>	shall have the meaning given to it in the Licence;
<b>"Supplier Utility"</b>	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 and <b>"Supplier Utilities"</b> shall be construed accordingly;
<b>"System Average Price"</b>	has the meaning given to it in the GB Uniform Network Code;
<b>"System Capability"</b>	has the meaning given to it in section 6.1.2(c);
<b>"System Marginal Buy Price"</b>	has the meaning given to it in the GB Uniform Network Code;
<b>"System Marginal Sell Price"</b>	has the meaning given to it in the GB Uniform Network Code;
<b>"Technical Exit Capacity"</b>	has the meaning given to it in section 1B.1.2(b);
<b>"Ten Year Statement"</b>	has the meaning given to it in section 11.1.1;
<b>"Total Actual Commodity Quantity"</b>	means the sum of a Shipper's Final Exit Allocations exceeding the level it estimated in its Credit Application;
<b>"Total Forecast Commodity Quantity"</b>	has the meaning given to it in section 13.2.1(d);
<b>"Total Scheduling Charge"</b>	has the meaning given to it in section 4.4.7;
<b>"Total Shipper Exit Nominated Quantity"</b>	means the sum of all Shipper's Exit Nominated Quantities for Gas Flow Day D in respect of the West Transmission System;
<b>"Total System Aggregate Throughput"</b>	has the meaning given to it in section 5.6.1(b);
<b>"Termination Default"</b>	has the meaning given to it in Section 16.2.1;
<b>"Termination Invoice"</b>	has the meaning given to it in Section 16.5.3;
<b>"Termination Notice"</b>	means a notice to terminate an Accession Agreement served by a Party pursuant to section 16.3.3 and 16.3.4 or section 16.3.7 and 16.3.8, as applicable;

<b>"Terminating Shipper"</b>	has the meaning given to it in section 16.6.1(a);
<b>"Terms of Reference"</b>	means the Terms of Reference appended to this Code in Appendix 5;
<b>"Total Assets"</b>	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;
<b>"Total Liabilities"</b>	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;
<b>"Trade Allocation"</b>	has the meaning given to it in section 3.11.1 and <b>"Trade Allocations"</b> shall be construed accordingly;
<b>"Trade Buy Allocation"</b>	has the meaning given to it in the PTL Transportation Code and <b>"Trade Buy Allocations"</b> shall be construed accordingly;
<b>"Trade Nomination"</b>	has the meaning given to it in the PTL Transportation Code and <b>"Trade Nominations"</b> shall be construed accordingly;
<b>"Trader"</b>	has the meaning given to it in section 17.4.4 and <b>"Traders"</b> shall be construed accordingly;
<b>"Trade Sell Allocation"</b>	has the meaning given to it in the PTL Transportation Code and <b>"Trade Sell Allocations"</b> shall be construed accordingly;
<b>"Trading Point"</b>	means a notional point within the NI Network at which gas may be traded between Shippers;
<b>"Trading Point Registration"</b>	has the meaning given to it in the Codes of the Upstream Transporters;
<b>"Transfer Exit Point"</b>	has the meaning given to it in section 1B.9.4(b);
<b>"Transferee Shipper"</b>	means a Shipper to whom Available Exit Capacity at an Exit Point is transferred to or proposed to be transferred to in accordance with section 1B.9 as appropriate;
<b>"Transferred Exit Capacity"</b>	has the meaning given to it in section 1B.9.4(a);
<b>"Transferor Shipper"</b>	means a Shipper which transfers or wishes to transfer its Available Exit Capacity at an Exit Point in accordance with section 1B.9, as appropriate;
<b>"Transmission Utility"</b>	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 and <b>"Transmission Utilities"</b> shall be construed accordingly;
<b>"Transporter"</b>	means West Transmission Limited, a company incorporated in Northern Ireland with company number NI073229;
<b>"UF"</b>	has the meaning given to it in section 4.5.2;



"UFC"	has the meaning given to it in section 4.5.2;
"Unauthorised Flow Charge"	has the meaning given to it in section 4.5.2 and " <b>Unauthorised Flow Charges</b> " shall be construed accordingly;
"Uniform Offtake Rate"	means in respect of a Day the Aggregate Exit Nominated Quantity divided by twenty-four (24) and in respect of part of a Day the Aggregate Exit Nominated Quantity less the quantity of gas which has been offtaken, if any, divided by the number of hours in the Day remaining;
"Unsecured Credit Support"	has the meaning given to it in section 13.3.4;
"Upstream Transporters"	means Premier Transmission and GNI (UK);
"Upstream Transporter's Systems"	means the PTL Transmission System and the GNI (UK) System;
"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;
"US Default"	has the meaning given to it in section 13.5.2;
"UTC"	means coordinated universal time;
"validate"	has the meaning given to it in section 9.1.3(d) and " <b>validation</b> " and " <b>validated</b> " and " <b>validated</b> " shall be construed accordingly;
"VRF IP Exit Allocation"	has the meaning given to it in the Codes of the Upstream Transporters and " <b>VRF IP Exit Allocations</b> " shall be construed accordingly;
"VRF IP Exit Point"	has the meaning given to it in the Codes of the Upstream Transporters;
"Value Added Tax" or "VAT"	means the tax applied pursuant to the Value Added Tax Act 1994;
"Verifying Accountant"	has the meaning given to it in section 6.11.4;
"West Exit Point 1"	has the meaning given to it in section 8.1.3(b);
"West Transmission"	means West Transmission Limited, a company incorporated and registered in Northern Ireland with company number NI073229;
"West Transmission System"	has the meaning given to it in section 1A.1.1;
"Wilful Misconduct"	means in relation to either party an intentional and conscious disregard of any obligation owed by a party under this Code or any act or failure to act by a party which is in reckless disregard of the consequences such party knew such act or failure to act would have but shall not in either case include an error of judgement or mistake made in good faith.
"Y"	means a given Gas Year;
"Y-1"	means the Gas Year immediately preceding Y;

**“Y+1”**

means the Gas Year following Y and **“Y+5”**, **“Y+6”** and **“Y+15”** shall be construed accordingly; and

**“Year-End Postaligned Charges”**

has the meaning given to it in the Licence/

## Part II - Interpretation

- 2.1 Unless the context otherwise requires, any reference in this Code to:
- 2.1.1 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;
  - 2.1.2 any agreement or instrument is to the same as amended, novated, modified, supplemented or replaced from time to time;
  - 2.1.3 "**including**" shall mean including but not limited to;
  - 2.1.4 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;
  - 2.1.5 time shall be construed by reference to whatever time may from time to time be in effect in England; and
  - 2.1.6 the singular shall include the plural and vice versa.
- 2.2 Where a word or expression is defined in this Code, cognate words and expressions shall be construed accordingly.
- 2.3 Headings in this Code are for ease of reference only and shall not affect its construction.
- 2.4 References to "**this Code**" shall mean the sections and appendices of this Code and shall be read as one document.
- 2.5 References in this Code to sections and appendices are to sections and appendices of this Code.
- 2.6 References to a rate of flow of gas shall be deemed to refer to a rate expressed in Kilowatts.
- 2.7 References to a quantity of gas shall be to its energy expressed in Kilowatt Hours.
- 2.8 References to time are to UTC.

**APPENDIX 2**  
**GAS SPECIFICATION**

**Part I**

**Gas combustion characteristics**

WOBBE - Index	47.2 – 54.7 MJ/m <sup>3</sup>
Gross Calorific Value	36.9 to 42.3 MJ/m <sup>3</sup>
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 <sup>3</sup>
Mercaptan Sulphur	8 mg/m <sup>3</sup>
Hydrogen Sulphide	5 mg/m <sup>3</sup>

The above list of impurities does not include gases which normally are not present in gases e.g. hydrogen, carbon monoxide, and olefins.

### APPENDIX 3

#### EXIT POINT INFORMATION

##### Part I

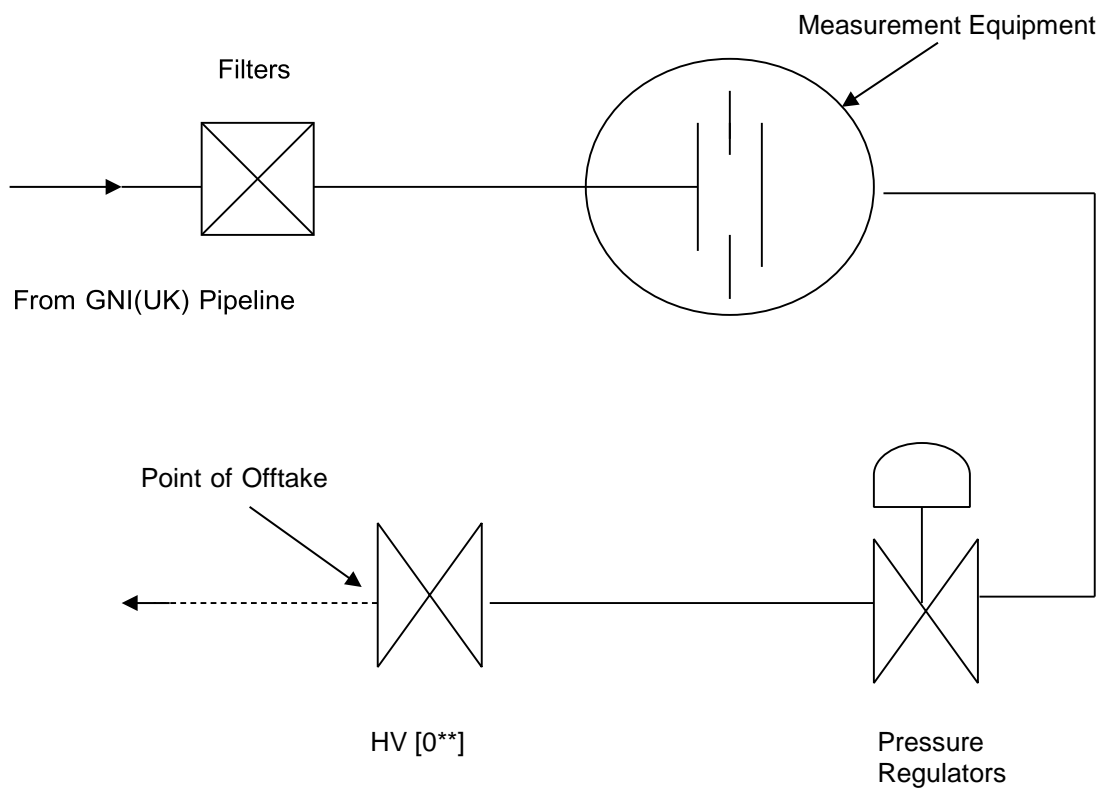
	<b>Minimum Pressure (section 8.3)</b>	<b>Maximum Offtake Rate (section 8.2)</b>	<b>Ramp Rate (section 8.2)</b>	<b>Maximum Maintenance Days (section 10)</b>	<b>Connected System Operator</b>
West Exit Point 1	[12 bar]	[3,580,000 kWh]	[0*]	[15]	SGN

*\*Ramp rates are provided for power station connections. There are no power station connections at West Exit Point 1.*

Part II

West Exit Point 1

[DIAGRAM TO BE FINALISED]



## APPENDIX 4

### PROFORMA DOCUMENTS

#### Part I - Form of Guarantee (section 13.3.4(b))

**THIS GUARANTEE** is made the [ ] day of [ ] 20[ ] by [ ] a company [registered in England and having its registered office] [whose principal place of business is] at [ ] (the "**Guarantor**") in favour of West Transmission Limited a company registered in Northern Ireland (Number NI073229) having its registered office at The Arena Building, 85 Ormeau Road, Belfast, BT7 1SH ("**West Transmission**").

#### 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 given to it 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 West Transmission 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 West Transmission by the time and in the manner contemplated in sections 13.3.22 and/or 13.3.23 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 West Transmission 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 West Transmission 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 West Transmission 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 West Transmission 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 West Transmission in such written demand.
- 4 [In consideration of the payment of £1 payable on demand by West Transmission to the Guarantor, if] If there is a Security Default, the Guarantor shall within [14] days of receipt of a written demand from West Transmission pay the Demanded Security Default Sum to such bank account of West Transmission as is specified in such written demand.
- 5 The Guarantor's aggregate liability to West Transmission 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 West Transmission such further amounts as may be necessary to ensure that West Transmission 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 West Transmission [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 West Transmission 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 West Transmission first having recourse to any such security and without West Transmission 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 West Transmission 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 West Transmission 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 West Transmission) 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 West Transmission 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 West Transmission shall be entitled to recover the value or amount of such obligations subsequently as if such settlement or discharge or arrangement had not occurred. West Transmission 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 West Transmission or, in competition with West Transmission, 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 West Transmission; 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 West Transmission.
- 12 The Guarantor represents and warrants to West Transmission 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 West Transmission (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 West

Transmission at the address for West Transmission stated in this Guarantee (or such other address as is notified by it to the Guarantor from time to time).

- 14 West Transmission 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 and the Guarantor hereby submits to the exclusive jurisdiction of the Courts of England *[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 West Transmission 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 13.3.4(d))

To: West Transmission Limited

The Arena Building  
85 Ormeau Road  
Belfast  
BT7 1SH

Date: . 20[. ]

- 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 West Transmission Limited Transportation Code (the "**Code**") and Accession Agreement to which West Transmission 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 13.3.22 and/or 13.3.23 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 5

### 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) an NPTP Default, and/or an NPCC 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 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 or an IP Registration, 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 or an IP Registration, has ceased to hold a valid Gas Supply Licence unless that Shipper has prior written consent from the Authority to either:
    - (i) hold IP Capacity or Exit Capacity; or
    - (ii) have entitlement to utilise the NI Network as if it had a Gas Supply Licence,provided that the Shipper submits to the relevant Designated Pipe-line Operator 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 or an IP Registration, without a valid Gas Supply Licence and on the basis that the Shipper has prior written consent from the Authority to either:

- (i) hold IP Capacity or Exit Capacity; or
- (ii) have entitlement to utilise 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 16.3.1 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,

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 PTL Transportation 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;

**"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;

<b>“Licence”</b>	means the licence to convey gas held by the relevant Designated Pipe-line Operator;
<b>“Meeting Notice”</b>	means a notice of a Credit Committee meeting containing all information listed in paragraph 3.3 of these Terms (if available);
<b>“Members”</b>	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;
<b>“Network”</b>	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;
<b>“Network Code”</b>	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;
<b>"Postalised System"</b>	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;
<b>“Primary DPO”</b>	has the meaning given to it in paragraph 1.4;
<b>"PSA"</b>	has the meaning given to that term in each Designated Pipe-line Operator’s Licence;
<b>“PS Gas Supplier”</b>	means any person who is entitled to exit gas from the Postalised System; and
<b>“PS Transmission Payments”</b>	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.
<b>"Shipper"</b>	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.

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 NPCC Default, PS Gas Suppliers not party to the relevant Network Code.

5.3 Subject to paragraphs 5.2(C) and (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 16.3.1 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:
  - (1) acquiring IP Capacity and/or Exit Capacity by a transfer;
  - (2) reserving additional IP Capacity and/or Exit Capacity;
  - (3) submitting an IP Nomination and/or Exit Nomination;
  - (4) applying for any Exit Point Registration, IP Registration and/or Trading Point Registration;
- (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 16.3.1 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 13.2.5 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 13.2.6 of PTL Transportation 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.

**END OF DOCUMENT**