

GENERAL CONDITIONS OF CONTRACT

FOR

SITE ENGINEERING WORKS

FOR

CONNECTED OFFTAKE SYSTEMS

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INDEX

PAGE NUMBER

1. Definitions
2. The Quotation and Acceptance
3. The Customer's Obligations
4. Transco's Obligations
5. The Works
6. Completion
7. Extensions of Time
8. Payment
9. Liability and Indemnity
10. Force Majeure
11. Termination
12. Changes to the Works
13. Notices
14. Confidentiality
15. Intellectual Property
16. Entirety of Agreements and Amendments
17. Procurement
18. Transco's Warranties
19. Ownership
20. Waiver and Modification
21. Customer's Warranty
22. Publicity
23. Assignment
24. Survival
25. Governing Law
26. Network Code

Annex 1 - Acceptance Form

Annex 2 - Site Works Request Form

Annex 3 Form of Easement

1. DEFINITIONS

For the purposes of this Contract except as is otherwise expressly provided herein or unless the context otherwise requires, the terms defined in this Condition shall have the following meanings and derivative expressions shall be construed accordingly:-

- 1.1 **Acceptance** shall have the meaning ascribed to it in Condition 2.4.
- 1.2 **Acceptance Form** shall mean a copy of the proforma provided by Transco to the Customer from time to time which proforma shall be substantially in the form of the document contained in Annex 1.
- 1.3 **Affiliate** shall mean any holding customer or subsidiary customer of a Party or any customer which is a subsidiary of such a holding customer and the expressions "holding customer" and "subsidiary" shall have the meanings specified in Section 736 of the Companies Act 1985 as amended from time to time.
- 1.4 **Commissioning** shall mean the purging with natural gas of that element of the Offtake Facilities that is designed to convey or contain natural gas and its pressurisation to the furthest downstream isolation valve before the Pipework to Working Pressure in accordance with the Institution of Gas Engineers Recommendations IGE/TD/3 and IGE/TD/10 as appropriate and in the presence of the Customer's engineer.
- 1.5 **Completion** shall mean the completion of all Works and the clearance of all surplus Transco material from the Site.
- 1.6 **Connected Offtake System** shall mean the pipe-line system (comprising the Pipework) to be connected to the System at the ISEP and to be operated by the Connected System Operator.
- 1.7 **Connected System Operator** shall mean the operator of the Connected Offtake System.
- 1.7A **Connection** shall mean (unless varied by the Quotation) the connection as a single operation of the Connected Offtake System to Transco's System, and **Connect** and **Connected** shall be construed accordingly
- 1.8 **Consequential Loss** shall mean all losses, damages and expenses (including legal expenses) incurred in respect of failure to take, receive or deliver gas, and indirect or special loss (including loss of use, revenue, profit, contract and production) increased cost of working and business interruption howsoever caused arising out of or in connection with the Contract and whether or not foreseeable at the date of this Contract, irrespective of whether caused by the negligence of Transco and/or the Customer or by any other tortious act or omission or breach of the Contract by Transco and/or the Customer.

- 1.9 **Consumer** shall mean the person(s) who consume(s) or it is intended shall consume natural gas offtaken from the ISEP.
- 1.10 **Contract** shall mean these General Conditions of Contract and, subject to the provisions of Condition 2, the Acceptance and the Quotation to which the Acceptance relates, together with such drawings as are annexed to the Quotation.
- 1.11 **Contract Sum** shall mean the sum specified as such in the Quotation and comprising such Initial Payment, Stage Payments, Completion Payment and Retention as may be specified in the Quotation.
- 1.12 **Customer** shall mean the person or entity to whom or to which the Quotation is addressed.
- 1.13 **Daily Liquidated Damages** shall mean the sum specified as such in the Quotation. In the event that the Quotation specifies that the Works are to be conducted in Stages **Daily Liquidated Damages** shall mean the sum specified as such in respect of the relevant Stage. Where no such sum is specified in the Quotation, the **Daily Liquidated Damages** shall mean the sum published as such by Transco from time to time.
- 1.14 **Date for Completion** shall mean the Customer in the notice pursuant to Condition 2.6 or calculated in accordance therewith as may be adjusted by agreed variations or as may be extended in accordance with Condition 7.
- 1.15 **Date for Substantial Completion** shall mean the date or dates advised by Transco to the Customer in the notice pursuant to Condition 2.6 or calculated in accordance therewith as may be adjusted by agreed variations or as may be extended in accordance with Condition 7. In the event that the Quotation specifies Works that are to be conducted in Stages **Date for Substantial Completion** shall mean in respect of any Stage, the date on which the Works comprised in the relevant Stage are Commissioned.
- 1.16 **Date for Physical Commencement** shall mean the date advised by Transco to the Customer in the notice pursuant to Condition 2.6 or calculated in accordance therewith.
- 1.17 **Day** in relation to any period of time in these General Conditions of Contract shall mean a day during which the clearing banks in the City of London are open and **day** shall mean a calendar day.
- 1.18 **Equipment** shall mean the ISEP Measurement Equipment (if any), regulators, pipework and associated equipment to be installed upstream of and including the ISEP for which a price is specified in the Quotation .
- 1.19 **Force Majeure** shall have the meaning ascribed to it in Condition 10.

- 1.20 **Gas Act** shall mean the Gas Act 1986 and any Regulations issued thereunder as such Act and Regulations are amended from time to time.
- 1.21 **Highway** shall mean in respect of Works being conducted in Scotland "road" and in respect of Works being conducted in England and Wales "street" as such terms are defined in the glossary in the Code of Practice for the New Roads and Street Works Act 1991.
- 1.22 **Individual System Exit Point** or **ISEP** shall mean the flange or weld or agreed mark connecting the Offtake Facilities to the Pipework and at which the Connected Offtake System offtakes gas from the System.
- 1.23 **Individual System Exit Point Meter Installation** or **ISEP Meter Installation** shall mean the meter and other devices to record the volume of natural gas passing or intended to pass through the ISEP.
- 1.24 **Initial Payment** shall mean the initial payment (if any) detailed in the Quotation.
- 1.25 **Latest Date for Certification** shall mean a date one hundred and eighty (180) days after the date of issue of the Quotation or such other date as may be agreed by the Parties.
- 1.26 **Liquidated Damages Cap** shall mean the maximum sum payable in respect of liquidated damages as ascertained from the Quotation. In the event that the Quotation specifies that the Works are to be conducted in Stages **Liquidated Damages Cap** shall mean the maximum sum in relation to the relevant Stage as ascertained from the Quotation. Where no such maximum sum is specified in the Quotation, the **Liquidated Damages Cap** shall mean the sum published as such by Transco from time to time.
- 1.27 **Meter Housing** shall mean such protective housing (if any) for the ISEP Meter Installation as may be specified in the Quotation.
- 1.28 **Local Distribution Zone** or **LDZ** shall mean a part of the System designated as such by Transco.
- 1.29 **Main** shall mean any pipe specified as such in the Quotation which constitutes or will constitute part of the System.
- 1.30 **Network Code** shall mean the Network Code prepared by Transco pursuant to the public gas transporter's licence deemed to have been granted to it pursuant to the Gas Act as such network code may be modified from time to time.
- 1.31 **Normal Working Hours** shall mean the hours of 08.00 to 17.00 on any Day.
- 1.32 **Offtake Facilities** shall mean the facilities (to be owned by Transco) to be installed from time to time by Transco under the Contract to permit the offtake of natural gas from the System by the Connected Offtake System.

- 1.33 **Party** shall mean Transco of the one part and the Customer of the other part.
- 1.34 **Pipework** shall mean such suitable connecting pipework and apparatus as may be provided by the Customer between the meter(s) of the Consumer(s) and the ISEP.
- 1.35 **Quotation** shall mean the form referring to these terms and conditions produced by National Grid and addressed to the Customer containing inter alia details of the Works, the cost for the Works, together with any other documents expressly incorporated therein.
- 1.36 **Reasonable and Prudent Operator** and **RPO** shall mean a person seeking in good faith to perform its contractual obligations, and in so doing and in the general conduct of its undertaking exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator complying with applicable law engaged in the same type of undertaking in the same or similar circumstances and conditions, and any reference to the standard of a **Reasonable and Prudent Operator** or **RPO** shall be construed accordingly.
- 1.37 **Retention** shall mean the sum (if any) specified as such in the Quotation.
- 1.38 **Quotation Works** shall mean Works that are the subject of a Quotation.
- 1.39 **Self-Quotation Request Form** shall mean the offer submitted by the Customer for the conduct of the Works being in a form as published by National Grid from time to time (or such other form as may from time to time agreed by National Grid and the Customer) and containing, as a minimum, the information specified in [National Grid document T/SP/NP14E], and **SQRF** shall be construed accordingly, and references in these terms and conditions to “Quotation” shall (except for Clause 2) be deemed to be a reference to the SQRF where the context so requires.
- 1.40 **Self-Quotation Works** shall mean Works that are the subject of a Self-Quotation;
- 1.41 **Site** shall mean any premises or land owned or occupied by the Customer or the Consumer(s) or any other premises or land upstream of the ISEP owned by third parties to which Transco reasonably requires access in connection with the Works.
- 1.42 **Site Works Request Form** shall mean the request submitted by the Customer for the conduct of the Works being in a form substantially the same as the specimen contained in Annex 2 and to which request the Quotation constitutes a response.

- 1.43 **Stage Payments** shall mean the payments (if any) specified as such in the Stage Payment Chart.
- 1.44 **Stage Payment Chart** shall mean the chart, table or graph (if any) included with the Quotation which specifies the amount and due dates of the Stage Payments.
- 1.45 **Substantial Completion** shall mean that the Works have been Commissioned save that where the Quotation specifies that the Works shall be conducted in Stages Substantial Completion shall mean in respect of any Stage that the Works comprised in that Stage have been Commissioned.
- 1.46 **System** shall mean the pipeline system operated by Transco the conveyance of gas through which is authorised by the Transco public gas transporter's licence.
- 1.47 **Transco** shall mean Transco plc, acting in its capacity as owner and operator of its gas transportation network, its successors and assigns.
- 1.48 **Unused Materials** shall mean all plant, equipment and materials supplied by Transco which have not been incorporated into the Works on termination of the Contract pursuant to Condition 11.
- 1.49 **Working Pressure** shall mean a pressure of natural gas of twenty one (21) millibars above atmospheric pressure or such greater pressure as may be specified as such in the Quotation.
- 1.50 **Works** shall mean those activities described in Conditions 5.1 and 5.2.

Reference to contractors shall be interpreted as referring to the contractors and sub-contractors of any tier.

The headings to these General Conditions of Contract ("the Conditions") are for convenience only and shall not affect their interpretation.

2. THE QUOTATION AND ACCEPTANCE

- 2.1 The Quotation is issued subject to the provisions of this Condition 2.
- 2.2 The Quotation is personal to the Customer and may not be assigned by either Party other than in accordance with Condition 23.
- 2.3 The Quotation may be withdrawn by notice in writing by Transco at any time prior to Acceptance.
- 2.4 Formation of the Contract ("**Acceptance**") will take effect as follows:
- (a) for Self-Quotation Works, formation of the Contract ("**Acceptance**") will take effect on the issue by National Grid of an acceptance of an SQRF submitted by the Customer.

- (b) for Quotation Works, formation of the Contract (“**Acceptance**”) will take effect:
 - (i) on receipt by National Grid within Normal Working Hours of the Acceptance Form duly completed by the Customer including a certification by the Customer that no further terms or conditions are required other than those set out in these terms and conditions and those additional conditions incorporated in the Quotation (if any): provided that:
 - (A) such receipt occurs within ninety (90) calendar days of the date of issue of the Quotation, or prior to the expiry of such other period as may be agreed in writing between the Parties;
 - (B) no SQRF or acceptance of an offer made by National Grid in respect of the conduct of works of substantially the same nature has been received from a third party prior to the receipt by National Grid of such completed Acceptance Form; or
 - (ii) in the event that the Customer specifies in the Acceptance Form that it requires terms and conditions in addition to those set out in these terms and conditions and the Quotation, Acceptance shall take effect upon written acceptance (if any) of such additional terms and conditions by National Grid.
- 2.5 Transco warrants that it has acted as an RPO in determining whether or not to conduct a visit to any land or premises to which the Quotation relates, in connection with the preparation of the Quotation.
- 2.6 Within five (5) Days of Acceptance (unless otherwise notified in writing), Transco will notify the Customer of the date of Acceptance and, either the Latest Date for Certification (if the Customer has not provided certification pursuant to Condition 3.2 at the time of Acceptance) or, the Date for Physical Commencement, the Date for Substantial Completion and the Date for Completion (if the Customer has provided certification pursuant to Condition 3.2 at the time of Acceptance). Such further dates shall be the dates specified as such in the Quotation, save as may be otherwise agreed with the Customer or in the event that Transco agrees to permit acceptance of the Quotation more than ninety (90) days after its date of issue, such dates shall be the dates specified as such in the Quotation extended by the number of days in excess of ninety (90) that have elapsed since the date of issue of the Quotation, save as may otherwise be agreed with the Customer.
- 2.7 In the event that the Customer does not provide certification pursuant to Condition 3.2 at the time of Acceptance, then as soon as reasonably practicable after such certification is received by Transco it shall notify the Customer of the date on which such certification was received and provide confirmation of the

Date for Physical Commencement, the Date for Substantial Completion and the Date for Completion.

3. THE CUSTOMER'S OBLIGATIONS

- 3.1 The Customer shall, in accordance with the terms and conditions of the Contract make all payments due from it under the Contract.
- 3.2 The Customer shall as soon as reasonably practicable and in any event prior to the Latest Date for Certification (where relevant) certify to Transco that it has complied with its obligations in respect of Conditions 3.3(ii) and (iv). The Customer acknowledges and agrees that Transco and its contractors may rely on the accuracy of such certification in the performance of the Works.
- 3.3 Without cost to Transco the Customer shall, to the standard of a Reasonable and Prudent Operator:-
- (i) without undue delay, provide such information, drawings and specifications (including plans of services on or adjacent to the Site that may affect or be affected by the Works) within the possession or reasonable control of the Customer as Transco may reasonably request;
 - (ii) without undue delay and in any event by the Latest Date for Certification (where relevant), obtain all necessary planning permissions, consents and licences for the siting, construction, operation and maintenance of any element of the Offtake Facilities and ISEP Meter Installation (if any) which is to be constructed or installed on the Site as part of the Works or in connection therewith;
 - (iii) subject to any reasonable site rules and regulations, provide free and unrestricted access for Transco and its contractors to the Site during Normal Working Hours or at such other times as may be agreed between the Parties to the extent reasonably necessary to enable them to carry out the Works;
 - (iv) procure by the Latest Date for Certification (where relevant) the grant of an easement or easements in respect of any Main to be installed on the Site (other than on such part of the Site as is part of or comprised in a Highway or in a road that is at the time of Acceptance is due to become a Highway), or on any other land in the course of the Works. Provided that any easement or wayleave for a Main shall be in the form at Annex 3 or a form reasonably comparable thereto or such other form as Transco may reasonably require;
 - (v) not interfere with or permit interference with the Offtake Facilities or the ISEP Meter Installation (if any) other than as provided in 3.3 (xi) and (xii) or with the materials of Transco or its contractors without obtaining Transco's consent in writing;

- (vi) so as not to delay the Works, where it is intended by the Customer, or any third party to alter the ground level of the areas of the Site in which the Offtake Facilities or the ISEP Meter Installation (if any) are to be installed subsequently to Acceptance, provide details of the proposed finished ground level;
- (vii) so as not to delay the Works, provide the finished level of the areas of the Site in which the Offtake Facilities or the ISEP Meter Installation (if any) are to be installed, completed in accordance with the details provided pursuant to Condition 3.3(vi);
- (viii) when available at the Site, provide Transco and its contractors with electrical power for the operation of power driven tools and the testing of the ISEP Meter Installation in connection with the Works.
- (ix) so as not to delay the Works, and in any event so that any ISEP Meter Installation may be left secure prior to Commissioning and unless Transco is required to provide and construct such Meter Housing pursuant to Condition 5.1(x), provide and construct suitable Meter Housing at the Site in accordance with the specifications for Meter Housing contained in the Quotation;
- (x) so as not to delay the Works undertake and perform those works specified in the Quotation as being the responsibility of the Customer in accordance with the reasonable requirements of Transco and provide all equipment that the Customer is required by the Quotation to provide in connection with the Works.
- (xi) Provide, with the Acceptance, the Customer's required purge rate for purging and commissioning the Connected Offtake System so as to ensure that such purging and commissioning shall not prejudice the safe and efficient operation of the System.
- (xii) Prior to Commissioning purge and commission the Pipework in accordance with the procedure agreed pursuant to Condition 3.3 (xi) having first given Transco not less than five Days notice (or such shorter notice as may be agreed between the Parties) of the time and date on which the Customer will so conduct such works.
- (xiii) Provide Transco at all times with free and unrestricted access to the Offtake Facilities.
- (xiv) Warrant and certify to Transco that the Pipework is safe and suitable to receive natural gas in accordance with the parameters set out in the Contract.
- (xv) provide a satisfactory test certificate to Transco in respect of the Connected Offtake System on Site on the day of Connection prior to the Connection occurring;

- (xvi) ensure that positive air pressure is maintained in the Connected Offtake System until the Connection takes place;
- (xvii) ensure that there are no blockages or obstacles in the Connected Offtake System that would prevent the purging of the Connection taking place;
- (xx) ensure that the Customer has sufficient personnel on Site to carry out the purging of the Connected Offtake System in accordance with the procedure agreed with Transco pursuant to paragraph (xi);
- (xix) perform the excavation (in accordance with the principles set out in Transco's "Guidance note for GT connection excavations"), backfill (including the placing of appropriate marker tape over the Offtake Facilities and the placing of appropriate fine fill material around the Offtake Facilities) and permanent reinstatement of any trench or excavation required for the performance of the Works on a Highway, on the Site or at any other location;
- (xx) procure by the Latest Date for Certification (where relevant) the grant of any permissions, licences or consents necessary for the performing of the obligations set out in paragraph (xix), and pay any costs, charges, fees, penalties fines or liabilities associated therewith; and
- (xxi) comply with the provisions and requirements of the Transco document, "The capture of pipe asset records by UIP/GT organisations vesting plant in Transco.

Provided that the Customer acting as an RPO shall not be in breach of any provision of this Condition 3.3 in circumstances where such breach would not have occurred but for a failure by Transco to comply with any provision of Condition 4.

- 3.4 The customer is responsible for purging of the downstream Connected Offtake System and shall ensure that sufficient competent personnel are made available to carry out the purging operation in accordance with the procedure agreed with Transco pursuant to paragraph 3.3 (xi).

4. **Transco's OBLIGATIONS**

Transco shall, in accordance with the terms and conditions of the Contract:-

- 4.1 undertake and perform the Works by the Date for Completion in accordance with Condition 5 exercising skill and care in the manner provided for in the Contract to the standard of a Reasonable and Prudent Operator subject always to its obligations as a public gas transporter;
- 4.2 make all payments due from it under the Contract;

- 4.3 in the course of the Works comply with site rules and regulations reasonably imposed in the course of the Works or agreed by the Parties prior to Acceptance;
- 4.4 without additional cost to the Customer provide such natural gas as is required for the Commissioning of the Works.
- 4.5 in the course of the Works, and subject to the provisions of the Contract, perform changes to the Works agreed with the Customer pursuant to Condition 12;
- 4.6 in its conduct of the Works, not cause a breach of any permission, licence or consent obtained by the Customer pursuant to Conditions 3.3(ii), 3.3(iv) and 3.3(xx), provided that Transco has been provided with a copy of such permission, licence or consent; and
- 4.7 provide such information, drawings and specifications (including a plan of that point on the System at which the Connection is to be made) within the possession or reasonable control of Transco as the Customer may reasonably request in order to fulfil its obligations under the Contract. Any information, data, drawings, plans or maps produced or provided by Transco to the Customer to facilitate the Works and/or the Customer Works in relation to existing parts of the Transco System and/or parts of the Transco System under construction are Transco's best estimate only and the Customer relies on such information, data, drawings, plans or maps entirely at its own risk. Transco shall, subject to it having acted as a Reasonable Prudent Operator in producing or providing any such information, data, drawings, plans or maps, have no liability to the Customer in the event that such information, data, drawings, plans or maps prove to be incorrect or inaccurate: provided that, should it be shown that Transco has failed to act as a Reasonable and Prudent Operator in producing or providing any information, data, drawings, plans or maps to the Customer to facilitate the Works and/or the Customer Works, then Transco shall:
- (a) where the error is such that the System is not in the place indicated by the information, data, drawings, plans or maps provided by Transco, either (in its sole discretion):-
 - (i) perform (at its own cost) the additional works required to extend the System to the proposed point of Connection as shown on the plan; or
 - (ii) pay to the Customer an amount equal to the lesser of:-
 - (A) the reasonable costs directly incurred by the Customer in performing the additional works required to extend the System to the proposed point of Connection as shown on the plan; and

- (B) Transco's best estimate (acting as a Reasonable and Prudent Operator) of the costs that Transco would have incurred in performing the additional works required to extend the System to the proposed point of Connection as shown on the plan;
- (b) where the error is such that the System is of a different diameter or material to that indicated by the information, data, drawings, plans or maps provided by Transco, pay to the Customer an amount equal to the lesser of:-
 - (i) the reasonable costs directly incurred by the Customer in performing the additional works required to carry out the Works as a result of the System being of a different diameter or material to that indicated by the information, data, drawings, plans or maps provided by Transco; and
 - (ii) Transco's best estimate (acting as a Reasonable and Prudent Operator) of the costs that Transco would have incurred in performing the additional works required to carry out the Works as a result of the System being of a different diameter or material to that indicated by the information, data, drawings, plans or maps provided by Transco;

Provided in each case that

- (a) where the Customer performs such additional works, Transco shall only be obliged to make a payment in accordance with paragraph (a) or (b) above where such additional works are carried out by the Customer in accordance with these Conditions, and that the pipe(s) comprised in such additional works is adopted by Transco after such additional works have been completed; and
- (b) the provisions of this Clause 4.7 shall be Transco's sole liability to the Customer in the event of an inaccuracy of the information, data, drawings, plans or maps provided by Transco to the Customer, and the Customer waives any other rights it may have against Transco in respect thereof.

5. THE WORKS

- 5.1 Unless specifically stated to the contrary in the Quotation or by agreed variation, and without prejudice to Condition 4.1, the Works shall comprise the following:-
 - (i) the design of the Offtake Facilities and the ISEP Meter Installation (if any) so as to be capable of providing the capacity specified in the Quotation at a pressure equal to or greater than Working Pressure at the ISEP at the time of Commissioning in accordance with the Quotation.

- (ii) the procurement of all items and materials that are to be incorporated into the Offtake Facilities and the ISEP Meter Installation (if such is to be provided by Transco);
- (iii) the provision, installation and Commissioning of the Offtake Facilities and the ISEP Meter Installation (if such is to be provided by Transco) such that it meets the criteria set out in 5(1)(i);
- (iv) any variation to the Works agreed in writing by the Parties;
- (v) performing the Connection;
- (vi) not used;
- (vii) not used;
- (viii) Commissioning;
- (ix) the procurement of all necessary permissions, rights and interests in land required for the construction of structures to be constructed or installed other than on the Site in the course of the Works and such Mains as are to be constructed in the course of the Works (other than Mains to be constructed on the Site). Provided that:
 - a) Transco shall be under no obligation to (and in any event shall not without the Customer's consent) procure such permissions, rights or interests at a cost in excess of the cost which an RPO would expect to incur in respect of such permissions rights or interests.
 - b) Transco shall be under no obligation to exercise any rights in respect of the compulsory acquisition of land;
 - c) Transco shall notify the Customer if in its reasonable opinion the estimate of the costs in respect of such permission rights or interests specified in the Quotation is likely to be exceeded; and
 - d) Transco shall not procure such permissions, rights, and interests at a cost greater than the said estimate without the prior written permission of the Customer; and
- (x) any additional activities for which a price is specified in the Quotation.

5.2 For the avoidance of doubt, unless a price for such Works is incorporated in the Quotation or by agreed variation pursuant to Condition 12 the Works on the Site shall not include:-

- (i) the inspection, installation or alteration of Pipework;

- (ii) making good soft and/or hard landscape and/or decorative finishes unless part of a Highway;
 - (iii) any works which are related to the Pipework;
 - (iv) the excavation, backfill, temporary or permanent reinstatement of any trench required on the Site in connection with the Works other than trenches required in any Highway;
 - (v) the conduct of Works outside of Normal Working Hours;
 - (vi) the design of the Offtake Facilities or the ISEP Meter Installation (if any) so as to avoid interruption to the conveyance of natural gas to the ISEP in the course of future maintenance of the Offtake Facilities or the ISEP Meter Installation (if any);
 - (vii) the commissioning of Pipework and any ISEP Meter Installation not installed by Transco;
 - (viii) the purging with natural gas of the Connected Offtake System.
- 5.3 In the event that the Quotation or change to the Works agreed pursuant to Condition 12 specifies that the Works shall comprise the backfill or reinstatement of any trench excavated in connection with the Works;
- a) reinstatement of unmetalled surfaces shall be limited to backfilling and, when necessary, compaction;
 - b) reinstatement of metalled surfaces shall be temporary reinstatement;
 - c) excavation, backfill and temporary reinstatement of trenches shall be required to be performed substantially by mechanical means.
- 5.4 Transco shall commence the conduct of that element of the Works specified in Conditions 5.1 (i), (ii) and (ix) as soon as reasonably practicable after Acceptance.
- 5.5 Subject to Condition 5.6 Transco shall commence the conduct of the Works specified in Conditions 5.1(iii) to (vi) on or before the Date for Physical Commencement unless, acting as an RPO, Transco has been unable to secure or has not been granted any permissions required for the conduct of the Works, in which case Transco shall commence the Works as soon as reasonably practicable after the grant of such permissions.
- 5.6 In the event that the Quotation specifies that the Works shall be conducted in Stages, the Customer shall give Transco as much written notice as is reasonably practicable (and in any event at least fifteen (15) days notice and not more than ninety (90) days or such other period of notice as may be specified in the Quotation) of the Day on which the Customer requires Transco to

commence that element of the Works comprised in a particular Stage then (provided the Customer has complied with Condition 3.2) Transco shall commence that element of the Works specified in respect of such Stages in the Quotation on the Day so notified and as soon as reasonably practicable notify the Customer of the Date for Substantial Completion of such Stage.

6. **COMPLETION**

- 6.1 Substantial Completion shall be achieved by the Date for Substantial Completion.
- 6.2 Completion shall be achieved by the Date for Completion.
- 6.3 Within 5 (five) Days of Substantial Completion, Transco shall issue to the Customer a notification stating the date on which Substantial Completion of the Works was achieved and that the Offtake Facilities were on that date adopted as an integral part of the System.
- 6.4 Within 10 (ten) Days of Completion, Transco shall issue to the site contact as specified in the Acceptance a certificate of Completion and notify the Customer of the date of Completion.

7. **EXTENSIONS OF TIME**

- 7.1 The Date for Completion and the Date for Substantial Completion shall be extended in the event of any delay to the Works (whether or not the cause of such delay occurs before or after the Date for Completion or Date for Substantial Completion to the extent that such delay is caused by:
 - (i) the Customer's failure or delay in performing its obligations as set out in Conditions 3.2 and 3.3, or any other delay, impediment or prevention of whatever nature caused by the Customer, or for which it is responsible;
 - (ii) delays of which Transco would not have reasonably been aware at the date of issue of the Quotation imposed under the terms of any licences issued under the New Roads and Streets Work Act 1991 or reasonably requested or required by any highway authority acting in accordance with its statutory powers;
 - (iii) the discovery of items of historical, archaeological or special scientific interest;
 - (iv) exceptional adverse weather conditions;
 - (v) any event or circumstance of Force Majeure;
 - (vi) any labour dispute or work stoppage or slow-down involving the Customer, the Customer's contractors (other than Transco), or any other person which affects the Works;

- (vii) the imposition of unreasonable site rules and regulations other than site rules that have been agreed by the Parties prior to Acceptance or the interference of the owners or occupiers of the land to which Transco reasonably requires access for the purpose of the Works;
- (viii) delays incurred in the delivery of equipment or materials necessary to complete the Works provided that such delays were not reasonably foreseeable by Transco at the time of issue of the Quotation;
- (ix) any delay in the grant of permissions or delays in the acquisition of any land or interest in or rights over land, including delays in the compulsory acquisition of land, save where such delays are directly attributable to Transco's failure to act as an RPO;
- (x) additional Works not included in the Quotation and that would not have been reasonably foreseeable by an RPO;
- (xi) ground conditions which would not have been reasonably foreseeable by an RPO or;
- (xii) a suspension of the Works by Transco pursuant to Condition 11.2.

Provided that Transco shall only be entitled to an extension under this Condition 7.1, if it has used and continues to use all reasonable endeavours to avoid and minimise delay and has within seven (7) days after the cause of the delay has arisen or as soon thereafter as is reasonable in the circumstances, given to the Customer written notice of its claim for an extension of time including a narrative of the cause or causes of such delay. The extension under this Condition 7.1 shall be for a fair and reasonable period commensurate with the cause of delay.

- 7.2 In all cases where Transco has given notice under Condition 7.1, it shall thereafter comply with all reasonable instructions which the Customer shall give in writing in order to overcome or minimise any actual or anticipated delay. If compliance with any such instruction shall cause Transco to incur extra costs the amount thereof shall be reimbursed to it provided that Transco shall provide to the Customer an estimate as to the likely cost of complying with such instructions. In the event that Transco notifies the Customer in writing that such estimate is likely to be exceeded, Transco shall be under no obligation to continue any such acceleration of the Works without the Customer's further written instruction to that effect.
- 7.3 Without prejudice to Condition 7.1 (i), in the event that the Customer delays the payment (if any) due under Condition 8.1(i) the Date for Substantial Completion and the Date for Completion shall be extended by the number of days of such delay.

7.4 Without prejudice to Condition 7.1, in the event that a change to the Works is agreed pursuant to Condition 12, the Date for Completion and Date for Substantial Completion shall be adjusted by the extension of time agreed in relation thereto.

8. PAYMENT

8.1 In consideration of the performance by Transco of its obligations under the Contract, the Customer agrees to pay Transco as follows:

- (i) The Initial Payment (if any) within twenty five (25) days of Acceptance;
- (ii) All other payments set out in the Stage Payment Chart (if any) (being the Contract Sum or the balance thereof as the case may be) within thirty (30) days of receipt of invoice;
- (iii) Any amounts to be paid by the Customer to Transco pursuant to Conditions 3.1, 7.2, 8.3, 8.10 and 11 within thirty (30) days of receipt of invoice; and
- (iv) All VAT charges properly payable in connection with the amounts specified in this Condition 8.1 within thirty (30) days of receipt of a VAT invoice.

8.2 Transco shall provide the Customer with VAT invoices in respect of each payment due under the Contract provided that any invoice in respect of any payment set out in the Stage Payment Chart shall not require such payment prior to the date specified in respect of such payment in the Stage Payment Chart.

8.3 The Customer shall in accordance with Condition 8.1 (iii) reimburse Transco in respect of any amount not included in the Quotation necessarily incurred or expended by Transco acting as an RPO in carrying out the Works as a result of the following matters:

- (i) failure or delay of the Customer in carrying out any of its obligations under the provisions of the Contract;
- (ii) the conduct of the Works at the Customer's request outside of Normal Working Hours;
- (iii) errors in information or design specifications provided by the Customer under any provision of the Contract;
- (iv) any increase to the cost to Transco of performing the Works due to any new imposition tax or duty in respect of labour or materials occurring subsequent to the time of the Quotation provided that such increase was not reasonably ascertainable at the date of the Quotation;

- (v) ground conditions which would not have been reasonably foreseen by an RPO;
- (vi) additional Works that would not have been reasonably foreseen at the time of the Quotation by an RPO;
- (vii) Not Used.
- (viii) all costs and expenses reasonably incurred by Transco in the course of the procurement and attempted procurement of permissions, rights and interests in land in accordance with Condition 5.1 (ix); and
- (ix) any impediment or prevention in the exercise by Transco of any rights obtained pursuant to Condition 5.1 (vi) in the course of conducting the Works.

Provided that the Customer shall not be obliged to reimburse Transco for such amounts as Transco acting as an RPO could have minimised or avoided.

- 8.4 In respect of any amounts to be paid to Transco pursuant to Conditions 3.1, 7.2, 8.3 and 11, Transco shall submit an invoice to the Customer which shall be accompanied by a narrative giving details of how the amount of the invoice is calculated, together with reasonable supporting documentation to substantiate such amount.
- 8.5 In the event that Transco incurs additional costs as a result of the matters specified in Conditions 8.3 (i), (ii), (iii), (iv), (v), (vi) and (ix), it shall within thirty (30) days, or, such other longer period of time as may be reasonable in the circumstances, notify the Customer of the event or circumstance giving rise to such additional costs and where practicable provide an estimate of the likely additional costs.
- 8.6 The address for invoices under the Contract shall be the Customer's address as specified in Condition 13.
- 8.7 All payments shall be made in Pounds Sterling.
- 8.8 In the event of a bona fide dispute, the Customer shall provide full details of the amount disputed and the grounds of the dispute within thirty (30) days of receipt of invoice. Provided that the Customer pays the undisputed amount, the Customer shall be entitled to withhold payment of the amount notified in accordance with this Condition 8.8 as being in dispute (together with the reasons therefor). At the determination or agreed resolution of such dispute the Customer shall pay Transco the amount determined or agreed to be due together with interest payable thereon pursuant to Condition 8.9.
- 8.9 Any amounts becoming due under the Contract shall bear interest (payable by the Customer) from the date on which payment of such amount becomes due at an annual rate of three (3) percent per annum above the Barclays Bank base

rate in force from time to time, compounded annually, until the date of payment. Provided that in the case of a bona fide dispute, the disputed amount eventually agreed or determined to be due, shall bear interest from the date on which such amount was originally payable at an annual rate of one (1) percent per annum above the Barclays Bank base rate in force from time to time, compounded annually, until the date of payment.

8.10 Without prejudice to Condition 8.3, the Customer shall in accordance with Condition 8.1 (iii) pay any additional sums in respect of any change to the Works agreed pursuant to Condition 12.

9. LIABILITY AND INDEMNITY

9.1 If Transco shall fail to achieve Substantial Completion of the Works by the Date for Substantial Completion, as the same may be extended pursuant to Condition 7, Transco shall:-

- (a) provide to the Customer within thirty (30) days of the Date of Substantial Completion a credit note in respect of payments due from it under the Contract of an amount equal to the Daily Liquidated Damages per day or part thereof of actual delay, provided that Transco's liability under this paragraph (a) shall not under any circumstances exceed the Liquidated Damages Cap; and
- (b) pay to the Customer (within thirty (30) days of receiving an invoice therefor, together with such supporting documentation as Transco may reasonably require) any charges incurred by the Customer pursuant to section 74A of the New Roads and Street Works Act 1991, provided that the Customer can establish to Transco's reasonable satisfaction that such charges are directly and solely attributable to Transco's failure to achieve Substantial Completion of the Works by the Date for Substantial Completion, as the same may be extended pursuant to Condition 7, and the Customer shall use reasonable endeavours minimize or avoid any such charges;

provided that (in each case) in respect of any such day, Transco and its contractors are permitted access to the Site at all reasonable times to perform the Works. A day for the purposes of this Condition 9.1 shall mean a period of twenty four hours commencing at midnight.

9.2 The Customer shall indemnify and hold Transco harmless from and against all claims and causes of action for loss of or damage to the real and personal property of the Customer or the Consumer and injury to or death of the Customer or Consumer or their employees and directors, arising out of or in connection with the Agreement or a Contract made thereunder save to the extent that such loss, damage, injury or death is caused or contributed to by the negligent act or omission of Transco, its servants, agents or contractors.

- 9.3 Transco shall indemnify and hold the Customer harmless from and against all claims and causes of action for loss of or damage to the real and personal property of Transco and injury to or death of employees, and directors of Transco, arising out of or in connection with the Agreement or a Contract made thereunder save to the extent that such loss, damage, injury or death is caused or contributed to by the negligent act or omission of the Customer or the Consumer, their servants, agents or contractors.
- 9.4 Save for Transco's liability under Condition 9.1 above, Transco shall not be liable for, and the Customer shall indemnify and hold Transco harmless from and against, any and all Consequential Loss of the Customer; its Affiliates; co-venturers; successors; assignees; or its or their contractors, or its or their agents, servants, officers or directors; or of the Consumer; or of the Consumer's Affiliates; co-venturers; successors; assignees; or its or their contractors, or its or their agents, servants, officers or directors.

Provided that (for the avoidance of doubt) this provision shall not affect and the indemnity herein shall not extend to any rights of the Customer or of any of the aforesaid other entities or any liabilities of Transco arising out of any other agreement between the Customer or any of the aforesaid other entities and Transco.

- 9.5 Save for the Customer's liability to make payment in accordance with Condition 8 or under any gas transportation or other agreement with Transco, the Customer shall not be liable for and Transco shall indemnify and hold the Customer harmless from and against all Consequential Loss of Transco; its Affiliates; co-venturers; successors, assignees or its or their other contractors; or its or their agents, servants, officers or directors.

Provided that (for the avoidance of doubt) this provision shall not affect and the indemnity herein shall not extend to any rights of Transco or of any of the aforesaid other entities or any liabilities of the Customer arising out of any other agreement between the Customer or any of the aforesaid other entities and Transco.

- 9.6 Transco shall not be liable to the Customer for any defect, imperfection or fault in the Works which the Customer has not given Transco the opportunity to rectify in accordance with Condition 9.7.
- 9.7 Transco's liability for imperfection, defects and faults in the Works due to use of materials or workmanship not in accordance with the Contract or due to the neglect or failure of Transco for any reason to comply with any obligations expressed or implied under a Contract, shall be limited to carrying out at no cost to the Customer the repair and replacement of all such imperfections, defects and faults notified to it. Provided that (for the avoidance of doubt) Transco shall not be liable for any defect, imperfection or fault arising as a result of; incorrect or misleading information supplied by or on behalf of the Customer, the Pipework being unsuitable or inadequate, or any unreasonable interference with the Works by the Customer, its servants or agents.

9.8 Transco's liability for imperfection, defects and faults in the Works due to use of materials or workmanship not in accordance with the Contract or due to the neglect or failure of Transco for any reason to comply with any obligations expressed or implied under a Contract, shall be limited to carrying out at no cost to the Customer the repair and replacement of all such imperfections, defects and faults notified to it. Provided that (for the avoidance of doubt) Transco shall not be liable for any defect, imperfection or fault arising as a result of; incorrect or misleading information supplied by or on behalf of the Customer, the Pipework being unsuitable or inadequate, or any unreasonable interference with the Works by the Customer, its servants or agents.

10. **FORCE MAJEURE**

- 10.1 (a) Subject to Condition 10.1(b), "Force Majeure" means any event or circumstance or combination of events or circumstances which is beyond the control of a Party acting and having acted as a Reasonable and Prudent Operator, and which prevents that Party from or causes hindrance, delay or impediment to that Party in fulfilling all or any of its obligations under the Contract other than the obligation to indemnify or pay money. For these purposes an event or circumstance shall not be treated as being beyond the control of a Party if it is within the control of any contractor of that Party acting as an RPO.
- (b) Without prejudice to the generality of Condition 10.1 (a) either Party shall be entitled to claim relief through Force Majeure in the event of any failure to perform its obligations hereunder to the extent that such failure was caused by any change in the law or cancellation of any consent, approval or licence rendering it unlawful for a Party to comply with its obligations hereunder unless such change or cancellation would not have occurred except for any act or omission of the Party concerned in relation to such law, consent, approval or licence unless itself caused by Force Majeure.
- 10.2 If either Party is rendered unable wholly or in part by Force Majeure to carry out its obligations (other than payment of money) under the Contract it shall as soon as reasonably practicable after becoming aware of the occurrence of the event or circumstances of Force Majeure give written notice to the other Party giving full particulars of the event or circumstances constituting Force Majeure and of the obligations which cannot as a result be performed. The Party giving notice shall thereafter be excused from liability for non-performance of such obligations, subject to the provisions of Condition 10.3 below, to the extent and for so long as the inability to perform the obligations as a result of the event or circumstances of Force Majeure may continue. For the avoidance of doubt, the relief from liability for non-performance of any obligation under this Condition 10 shall not affect the existence of that obligation for the purposes of any other provision of the Contract.

- 10.3 A Party relieved from liability for the non-performance of any obligations under the Contract as a result of Force Majeure shall use all reasonable endeavours to overcome or circumvent such Force Majeure and shall on request in writing from the other Party give full details of the measures it is taking in that regard.

11. TERMINATION

- 11.1 Without prejudice to any of its antecedent rights or remedies, Transco may terminate the Contract:
- (i) forthwith on written notice if the Customer goes into liquidation (either voluntary or compulsory) other than for the purposes of a solvent amalgamation or re-organisation or if any administrator or administrative receiver shall be appointed in respect of the whole or any material part of its assets, or if it shall make or offer to make any arrangement or composition for the benefit of creditors generally; or
 - (ii) by giving five (5) Days prior notice in writing if either Party is prevented by reason of Force Majeure from performing any of its obligations under the Contract (including without limitation, its obligations pursuant to Conditions 3.3(iv)) for a period exceeding sixty (60) days; or
 - (iii) by giving twenty (20) Days notice in writing of a material breach of the Contract, other than a breach by the Customer of Condition 3.3(iv) as a direct result of Force Majeure, provided that the Customer fails to take substantial steps to remedy the breach within that twenty (20) Day period of notice; or
 - (iv) by giving forty (40) days notice in writing in the event that Transco, acting as an RPO, is unable to secure any permission, rights or interest in land or in the Highway necessary for the conduct of the Works provided that such permission, right or interest is not obtained by Transco within such period of notice provided that termination shall not be so effected prior to the date of Physical Commencement; or
 - (v) by giving twenty (20) Days notice in writing in the event that Transco is prevented from exercising any permission or right or enjoying any interest in land required for the conduct of the Works for a continuous period of sixty (60) days or for ninety (90) days in any period of a year.
 - (vi) In the event that the Quotation specifies that the Works shall be conducted in Stages and the Customer has failed to notify Transco pursuant to Condition 5.6 of the Day on which it requires Transco to commence the first such Stage within one hundred and eighty (180) days of the Date of Acceptance or (in respect of any other Stage) within one hundred and eighty (180) days of the Day on which Transco was required to commence that element of the Works comprised in the Stage last commenced;

- (vii) in the event that the Customer has required a delay in the Date for Physical Commencement and the Parties have not agreed a Date for Physical Commencement within one hundred and eighty (180) days of the Date for Certification.
- 11.2 In the event that the Customer is in breach of any of the payment provisions of the Contract, Transco shall be entitled to suspend all or any part of the Works until the Customer has rectified such breach. In the event of such suspension the Customer shall in addition to all other amounts due reimburse Transco on invoice for all reasonable sums paid by Transco as a direct result of such suspension.
- 11.3 The Customer may terminate the Contract:
- (i) forthwith on written notice if Transco goes into liquidation (either voluntary or compulsory) other than for the purposes of a solvent amalgamation or re-organisation or if any administrator or administrative receiver shall be appointed in respect of the whole or any material part of its assets, or if it shall make or offer to make any arrangement or composition for the benefit of creditors generally; or
 - (ii) by giving five (5) Days prior notice in writing if either Party is prevented by reason of Force Majeure from performing any of its obligations under the Contract for a period exceeding sixty (60) days; or
 - (iii) by giving twenty (20) Days notice in writing of a material breach of the Contract, provided that Transco fails to take substantial steps to remedy the breach within the twenty (20) Day notice period; or
 - (iv) by giving Transco five (5) Days notice in writing.
- 11.4 Where the Contract is terminated under any provision of this Condition 11 other than Conditions 11.3 (i) or (iii), Transco shall be entitled to receive:
- (i) payment of all instalments under Condition 8.1 (ii) already due on the effective date of termination;
 - (ii) reimbursement for all costs and expenses reasonably incurred by Transco in respect of all work performed under the Contract and not forming part of a completed Stage Payment period at the effective date of termination;
 - (iii) any additional sum for which the Customer is liable under Conditions 8.1 (iii) and (iv);
 - (iv) subject to Condition 11.8, any cost or expense incurred, or for which Transco is liable and is unable lawfully or contractually to avoid or

recover from third parties in connection with any contracts placed in connection with the Contract (insofar as these have not already been paid by the Customer) including without limitation, forfeited deposits and cancellation fees; and

- (v) any and all costs reasonably incurred or expended in the restoration and/or reinstatement of land or buildings and removal of plant, apparatus and equipment which in the reasonable opinion of Transco is necessary as a result of the termination of the Contract taking into account inter alia environmental and safety considerations and contractual commitments.
 - (vi) in the event that the Quotation specifies that the Contract Sum includes a reduction in respect of a Transco transportation allowance and the Quotation does not specify the Stage payments to which such transportation allowance has been allocated, a sum equal to the sum of:
 - a) the transportation allowance specified in the Quotation; less
 - b) a transportation allowance on that element of the Works Commissioned at the time of termination calculated on the basis of the methodology for the calculation of transportation allowances published by Transco and applicable at the date of Acceptance 11.5 Subject to Condition 11.7, all ownership in and rights over all partly installed Equipment, and all Unused Materials will continue to vest solely in Transco after termination of the Contract under this Condition.
- 11.6 Transco shall reimburse the Customer with the value of Unused Materials (to the extent that it has received payment from the Customer in respect of such Unused Materials) in the event that such Unused Materials are utilised by Transco within one (1) year of the date of termination. The value of Unused Materials shall be determined by the cost at which the Unused Materials were purchased pursuant to the Contract less the cost of handling, storage, transportation and administration thereof. Transco shall provide the Customer with details of the calculation of the value of Unused Materials at the time of such reimbursement.
- 11.7 In the event that Transco has received payment from the Customer in respect of Unused Materials and its reasonable costs in respect of the handling, transportation, storage and administration thereof and has been unable to use the Unused Materials within one year, the Customer may, on giving reasonable notice to Transco, at its own cost, collect the Unused Materials, in which event title thereto shall transfer to the Customer.
- 11.8 Condition 11.4 (iv) shall be ignored for the purpose of calculating Transco's entitlement to payment pursuant to Condition 11.4 in the event that the Contract is terminated pursuant to Condition 11.1 (ii) or Condition 11.3 (ii) as a result of an event of or circumstance of Force Majeure suffered by Transco

other than an event of Force Majeure directly affecting the Site or the acquisition or exercise of any permissions, rights or interests in land specified in Condition 5.1 (vi).

12. CHANGES TO THE WORKS

- 12.1 In the course of the Works Transco shall make such changes to the Works whether by additions, modifications or omissions thereto as are from time to time agreed with the Customer, subject to the agreement of any additional payments, including any changes to Stage Payments, required from the Customer and any extensions of time required by Transco or reduction in the Contract Sum specified by Transco in respect of such changes, in accordance with the provisions set out below.
- 12.2 In the event that the Customer wishes to request changes to the Works, it shall notify Transco in writing of the requested change, specifying the reasons therefore.
- 12.3 As soon as reasonably practicable and in any event within seven (7) days of receipt of a request from the Customer under Condition 12.2, Transco shall notify the Customer as to whether or not, acting reasonably, it is prepared to accede to the request and if so, it shall provide details of the additional payment (if any) and the extension of time (if any) that Transco will require to perform the proposed change or alternatively any reduction in the Contract Sum that it is prepared to agree in respect of such change. In the event that Transco is not prepared to accede to the request, Transco may, at its sole discretion, notify the Customer of such changes to the Works as it is prepared to make in accordance with Condition 12.4. Such notification shall specify the Customer's request to which it constitutes a response.
- 12.4 If Transco wishes to propose a change to the Works or proposes a change to the Works pursuant to Condition 12.3, Transco shall notify the Customer of the proposed change, the reason for the change, and provide the Customer with details of the additional payment (if any) and extension of time (if any) that it will require in connection with such proposed change and of any reduction in the Contract Sum that it is prepared to agree in respect of such charge.
- 12.5 The Customer shall, acting reasonably, notify Transco as soon as reasonably practicable and in any event within seven (7) days as to whether or not the Customer agrees to any change to the Works together with any additional payment and any extension of time proposed by Transco in accordance with Condition 12.4 and whether in respect of a change proposed by the Customer pursuant to Condition 12.2 it agrees to the proposed change with the additional payments (if any) and extension of time (if any) required by Transco in respect of such change.
- 12.6 In the event that the Customer does not notify its agreement to such proposed change and any additional payment and any extension of time required by

Transco in respect thereof, neither Party shall be under further obligation in respect of such proposed change to the Works.

13. **NOTICES**

- 13.1 Any notice to be given by one Party to the other under the Contract shall be delivered by first class mail facsimile transmission addressed to the other Party at such address or (as the case may be) such facsimile transmission number as the Party in question shall from time to time designate by written notice and until such notice shall be given the addresses and electronic mail and facsimile numbers of the Parties shall be as set out in the Quotation. Notices may be sent in such other manner and may be confirmed in such manner as from time to time may be agreed by the Parties for the service of notices pursuant to the Conditions.
- 13.2 All notices delivered or sent in accordance with Condition 13.1 shall be effective when received at the recipient's address as aforesaid or on the following Day if received after the expiry of Normal Working Hours.

14. **CONFIDENTIALITY**

- 14.1 The Customer shall keep confidential and shall not disclose to any third party any information provided by Transco in connection with the negotiation or performance of a Contract, provided that this restriction shall not apply to any information which at the time of disclosure is in the public domain or thereafter becomes part of the public domain otherwise than as a consequence of a breach by the Customer of its obligations under this Condition 14.1. Provided further that nothing in the Contract shall prevent the disclosure of information to any government department or any governmental or regulatory agency having jurisdiction over the Customer, or as required by law or any lawful subpoena or recognised stock exchange or other process in connection with any judicial arbitration or administration proceeding, or where reasonably necessary to effect the purpose of a Contract. Provided further that in the event disclosure to any third party is necessary and permissible under this Condition, the Customer shall use all reasonable endeavours to ensure that such third party shall respect the confidentiality of such information and be bound by the terms of this Condition 14.1 as if a party thereto.
- 14.2 Transco shall keep confidential and shall not disclose to any third party any information provided by the Customer in connection with the negotiation or performance of a Contract, provided that this restriction shall not apply to any information which at the time of the disclosure is in the public domain or thereafter becomes part of the public domain otherwise than as a consequence of a breach by Transco of its obligations under this Condition 14.2. Provided further that nothing in a Contract shall prevent the disclosure of information to any government department or any governmental or regulatory agency having jurisdiction over Transco, or as required by law or any lawful subpoena or recognised stock exchange or other process in connection with any judicial arbitration or administration proceeding, or where reasonably necessary to

effect the purpose of a Contract. Provided further that in the event disclosure to any third party is necessary and permissible under this Condition, Transco shall use all reasonable endeavours to ensure that such third party shall respect the confidentiality of such information and be bound by the terms of this Condition 14.2 as if a party thereto.

15. INTELLECTUAL PROPERTY

- 15.1 All patents, copyright and other intellectual property rights (including but not limited to trademarks, registered designs, designs, know-how, inventions and valuable concepts) and, to the extent that intellectual property is embodied therein, documents (including but not limited to drawings, transparencies, prints, photographs, negatives, tapes, discs, working notes and reports), software or other items created or supplied by Transco in connection with the Works shall be owned by Transco, and save for one copy of such documents necessary for the purpose of constructing and ensuring the safe operation of the Pipework to be used solely for that purpose, the originals and all copies of them (if any) supplied to the Customer shall be delivered to Transco on Completion of the Works and the Customer shall be required to certify that none other than that one copy is retained in its possession or control.
- 15.2 All patents, copyright and other intellectual property rights (including but not limited to trademarks, registered designs, designs, know-how, inventions and valuable concepts) and, to the extent that intellectual property is embodied therein, documents (including but not limited to drawings, transparencies, prints, photographs, negatives, tapes, discs, working notes and reports), software or other items supplied by the Customer in connection with the Works shall be owned by the Customer and save for one copy of all such documents required by Transco for the purposes of operating and maintaining the Offtake Facilities all originals and all copies of them (if any) supplied to the Transco shall be delivered to the Customer on Completion of the Works and Transco shall be required to certify that apart from the one set of documents referred to above none are retained in its possession or control.
- 15.3 The Customer by virtue of the Contract grants Transco a royalty-free, non-exclusive licence (with power to sub-licence) for the purposes only of designing, constructing, commissioning, testing, operating and maintaining pipelines, metering, and pressure reduction equipment and the Offtake Facilities in conjunction with any part of the System from time to time, in respect of any such intellectual property of the Customer which intellectual property forms part of any invention or development made by Transco under or in connection with the Contract, and the Customer warrants that it is entitled to grant such a licence in respect of any such intellectual property.

16. ENTIRETY OF AGREEMENT AND AMENDMENTS

The documents forming the Contract shall be read as one and shall save in respect of fraud constitute the entire express agreement between the Parties with respect to the Works and shall prevail and supersede all prior agreements, understandings,

statements, representations, commitments, warranties and communications between the Parties hereto with respect to the Works and neither Party shall rely on or be bound by any of the foregoing not appearing in or incorporated by specific reference into the Contract and save as aforesaid any liability in respect thereof is excluded.

17. PROCUREMENT

17.1 Transco shall be entitled to sub-contract the whole or any part of the Works. Any such sub-contracting by Transco shall not relieve Transco from any liability or obligation under the Contract.

17.2 The Customer shall be entitled to sub-contract the whole or any part of its obligations under Condition 3. Any such sub-contracting by the Customer shall not relieve the Customer from any liability or obligation under the Contract.

18. TRANSCO'S WARRANTIES

18.1 Transco warrants that on Completion the Offtake Facilities shall have been designed and constructed in accordance with the specification set out in the Contract.

18.2 Transco warrants that on Completion, any permanent reinstatement conducted in any Highway or pursuant to Condition 5.1(ix) on the Site by Transco shall be free from defects for a period of two (2) years. Provided that this warranty shall not extend to, and provided further that Transco shall not be liable to the Customer for any defects arising as a result of incorrect or misleading information supplied by or on behalf of the Customer or Consumer or any other incorrect or misleading information in relation to the Site or in relation to any equipment provided by the Customer reasonably relied upon by Transco in performing the Works, or as a result of any unreasonable interference with such permanent reinstatement by the Customer, or any third party.

18.3 Transco warrants that on Completion, any items installed or constructed pursuant to Condition 5.1(x) other than such items that constitute part of the Equipment shall be free from defects for a period of six (6) months. Provided that this warranty shall not extend to, and provided further that Transco shall not be liable to the Customer for any defects arising as a result of incorrect or misleading information supplied by or on behalf of the Customer or Consumer or any other incorrect or misleading information in relation to the Site or in relation to any equipment provided by the Customer reasonably relied upon by Transco in performing the Works, or as a result of any interference with such items by the Customer, or any third party.

18.4 Transco warrants that on Completion, the Works, other than those specified in Conditions 18.1, 18.2 and 18.3, shall for a period of six (6) months be free from defects arising as a result of Transco's failure to act as an RPO in conducting such Works.

18.5 In the event that Transco is in breach of any warranty under this Condition 18, within a reasonable period of time of written notification (such notification to be given by the Customer no later than fourteen (14) days after the expiry of the relevant warranty period) of any defect causing Transco to be so in breach, Transco shall at its own cost rectify any such defect in the Works. The Customer shall procure such access to the Site as Transco reasonably requires in order to conduct such rectification.

18.6 For the avoidance of doubt Transco's warranties shall not extend to any items supplied by the Customer except in so far as the defects in such items arise as a result of a failure by Transco to act as an RPO in conducting the Works.

19. OWNERSHIP

Without prejudice to Condition 11.7, Transco shall at all times own outright the Offtake Facilities up to and including the point of Connection.

20. WAIVER AND MODIFICATION

20.1 None of the provisions of the Contract shall be considered waived by a Party unless such waiver is given in writing and signed by a duly authorised representative of the Party making the waiver. No such waiver shall be a waiver of any past or future default or breach or modification of any other term, provision, condition or covenant of the Contract unless expressly set forth in such waiver.

20.2 No amendments to the Contract shall be valid unless made in writing and agreed and signed by the duly authorised representatives of the Parties hereto.

21. CUSTOMER'S WARRANTIES

21.1 The Customer warrants that it has entered into this Contract on its own behalf or as agent for the Connected System Operator named in the Site Works Request Form.

21.2 The Customer warrants that, immediately prior to the Connection taking place and on each day thereafter, the Connected Offtake System is in all respects safe and suitable to receive and convey natural gas, provided that the Customer shall not be in breach of the foregoing warranty where such breach results directly from interference with, or damage to, the Connected Offtake System by a third party which is beyond the reasonable control of the Customer.

22. PUBLICITY

Either Party shall obtain written approval from the other Party, which will not be unreasonably withheld, prior to taking publicity photographs or issuing publicity releases or announcements regarding either the Contract or the activities of either Party related to its participation in the Contract.

23. **ASSIGNMENT**

Neither Party shall assign the Contract or any part thereof or any benefit or interest thereunder without the prior written consent of the other Party, which shall not be unreasonably withheld. Provided that Transco shall be under no obligation to consent to any such assignment by the Customer other than an assignment to the Connected System Operator who has been issued an licence under Section 7 of the Gas Act in respect of the Connected System.

24. **SURVIVAL**

The provisions of the Contract which by their nature or from their context are intended to, or would naturally, continue to have effect after termination of the Contract shall survive after termination.

25. **GOVERNING LAW**

The Contract shall be governed by and construed in accordance with English law and the Parties hereby submit to the exclusive jurisdiction of the English Courts in respect thereof.

26. **NETWORK CODE**

26.1 Nothing in the Contract shall confer on the Customer (or the Connected System Operator if different from the Customer) or the Consumer any right or entitlement in respect of the transportation of gas to the ISEP.

26.2 In the event of any conflict between the terms of the Contract and terms of the Network Code, the terms of the Network Code shall prevail.

ANNEX 1
ACCEPTANCE FORM

ANNEX 2
SITE WORKS REQUEST FORM

ANNEX 3
FORM OF EASEMENT

DATED 1996

(THE GRANTOR)

to

TRANSCO plc

GRANT OF EASEMENT

over land at

(c) Make good to the reasonable satisfaction of the Grantor(s) any damage to the said land all buildings erections and all other property of the Grantor(s) thereon caused by the exercise of the rights and liberties hereby granted Transco may at its option in lieu of making good any such damage compensate the Grantor(s) therefor

(d) Keep the Grantor(s) indemnified against all actions claims expenses and demands arising by reason of the act or default of Transco or its servant or agent in connection with the exercise of the rights and liberties hereby granted

3. THE GRANTOR(S) HEREBY COVENANT(S) with Transco as follows:

(a) That an adequate working strip along the route of the gas main(s) will be afforded to Transco during the laying of the gas main(s)

(b) That no material alteration shall at any time be made to any part of the said land being a part nearer than metres measured in any direction from the line drawn between the points ... and ... on the plan annexed hereto (which said part of the said land is hereinafter called "the service area of the gas main(s)") and that no building wall or other structure erection or work of any kind whether permanent or temporary shall be constructed erected placed or permitted upon or over the service area of the gas main(s) or any part or parts thereof without the consent in writing of Transco.

(c) That no tree or large shrub will be planted within the service area of the gas main(s)

[4. THE GRANTOR(S) HEREBY ACKNOWLEDGE(S) the right of Transco to the production and delive

5. IT IS HEREBY CERTIFIED that the transaction hereby effected does not form part of a larger transacti

IN WITNESS whereof the Grantor(s) have/has hereunto signed this instrument as his/her/their deed in the presence of the person(s) mentioned below the Grantor and the Company and transco have/has caused their/its (respective) Common Seal(s) to be hereunto affixed the day and year first hereinbefore written

THE FIRST SCHEDULE

POSITION AND DESCRIPTION OF THE GAS MAIN

Amm/inch diameter gas main approximatelymetres in length along the route shown approximately by a line between the points marked ... and ... on the said plan.

THE SECOND SCHEDULE

DATE

DOCUMENTPARTIES

SIGNED as his/her deed by the)
said

)

)

in the presence of:-

)

THE COMMON SEAL of

)

)

was hereunto affixed in the
presence of:-

)

)

THE COMMON SEAL of Transco plc was hereunto affixed)
in the presence of:-

)