

UNIFORM NETWORK CODE – TRANSPORTATION PRINCIPAL DOCUMENT

SECTION V - GENERAL

1 INTRODUCTION

1.1 Not Used

1.2 Not Used

1.3 Network Code Ancillary Agreement

1.3.1 A "**Network Code Ancillary Agreement**" or "**Ancillary Agreement**" is an agreement between the Transporter and one or more Users setting out any terms of a transportation arrangement (as defined in Standard Special Condition [A3] of the Transporter's Licence) in relation to the relevant System(s):

- (a) entered into pursuant to any provision of the Code which contemplates that such an Agreement may be entered into; or
- (b) which expressly provides that it is to be a "**Network Code Ancillary Agreement**" for the purposes of this Section V.

1.3.2 Subject as provided in this Section V an Ancillary Agreement shall be treated as forming, as between the Transporter and the User or Users party thereto, and as to its subject matter, a part of the contractual relationship between the Transporter and such User(s) existing pursuant to the Code and the Framework Agreement.

1.3.3 In any Ancillary Agreement (unless it otherwise provides) terms defined in or for the purposes of the Code and not otherwise defined in such Ancillary Agreement shall have the meanings ascribed thereto in or for the purposes of the Code.

1.3.4 An Ancillary Agreement may be amended by agreement of the Transporter and the User(s) party to that Agreement and not otherwise; and accordingly an Ancillary Agreement shall not be subject to modification pursuant to the Modification Rules (but without prejudice to any modification of any provisions of the Code which apply to or are incorporated into such Agreement).

1.3.5 A breach by a User of a term of an Ancillary Agreement will not (unless the Ancillary Agreement so provides) be a breach of the Code.

1.3.6 Any Ancillary Agreement applying in respect of a System Entry Point or Connected System Exit Point shall provide (in such manner as the Transporter shall reasonably determine) for any User who may (or intends to) deliver gas to or (as the case may be) offtake gas from the Total System at that point to accede to such agreement; and the Transporter may refuse to allow a User who has not acceded or agreed to accede to such an Agreement to deliver or offtake gas or to hold System Capacity or to make a Nomination at or in respect of the relevant System Point.

1.3.7 In this paragraph 1.3 references to Users exclude DNO Users.

1.4 Not Used

1.5 Not Used

1.6 Non-Code Transportation Arrangements

1.6.1 For the purposes of the Code:

- (a) "**Non-Code Transportation Arrangement**" means a transportation arrangement, which is for the time being in force, made between a Transporter and a gas shipper on terms other than those of the Code, or in the context of a particular System Point, such a transportation arrangement relating to the delivery or offtake of gas to or from the Total System at such point;
- (b) "**Non-Code Shipper**" means a gas shipper who is party to a Non-Code Transportation Arrangement.

1.6.2 Where a Transporter makes or has made a Non-Code Transportation Arrangement, subject to paragraphs 1.6.3 and 1.6.4(a):

- (a) for the purposes of giving effect to such arrangement and to the provisions of Sections C, D, E, F, H, I and K of the Code which apply by reference to the quantities of gas delivered to and offtaken from the Total System by Users, and of calculating such quantities, Transco NTS will be treated as a User of the Total System as respects the quantities of gas delivered to and offtaken from the Total System by the Non-Code Shipper;
- (b) for the purposes of giving effect to such arrangement and to the provisions of Sections G2 and G3, the Transporter will be treated as a User of the relevant System as respects the Supply Meter Points which are or are to become subject to such arrangement.

1.6.3 Nothing in paragraph 1.6.2 shall have the effect of conferring on the Non-Code Shipper any right or imposing on it any obligation under the Code, nor as implying any terms into the Non-Code Transportation Arrangement.

1.6.4 Where a Non-Code Transportation Arrangement is one to which Condition 6(3) of the Shipper's Licence applies:

- (a) the Transporter may elect for some or all of the purposes of paragraph 1.6.2 that the Non-Code Shipper shall be treated as a User in place of the Transporter;
- (b) the Code shall apply so as to give effect to the arrangement or undertaking referred to in the said Condition 5(3);
- (c) paragraphs 1.6.5 and 1.6.6 shall not apply in respect of the Non-Code Transportation Arrangement.

1.6.5 Where a Shipper User is also a Non-Code Shipper, its Non-Code Transportation Arrangements (including without limitation holdings of System Capacity or Storage Capacity for LNG facilities) as Non-Code Shipper shall be separate from, and shall be given effect and accounted for separately from, those under the Code.

1.6.6 In accordance with and without prejudice to the generality of paragraph 1.6.4, the calculation of a User's Daily Imbalance, and any Daily Imbalance Charges, Scheduling Charges, Overrun Charges or Storage Overrun Charges at LNG Facilities, shall be made

disregarding quantities of gas delivered to or offtaken from the Total System or System Capacity held by the User as Non-Code Shipper.

2 USER ADMISSION

2.1 Admission requirements

2.1.1 In order to become a User a person (the "**Applicant User**") must:

- (a) satisfy or secure satisfaction of the requirements in paragraph 2.1.2; and
- (b) accede to the relevant Framework Agreement and thereby agree to be bound by the Code.

2.1.2 The requirements referred to in paragraph 2.1.1(a) are as follows:

- (a) the Applicant User shall have applied to the Transporter, in such form as the Transporter may from time to time prescribe, giving the following details:
 - (i) the name of the Applicant User;
 - (ii) the legal nature of the Applicant User, and where the Applicant User is not a company incorporated under the Companies Act 1985 (as amended), such further information concerning the constitution of the Applicant User as the Transporter may reasonably require;
 - (iii) the address and telephone and facsimile numbers of the Applicant User, and the individual for whose attention notice is to be marked, for the purposes of notice under GT Section B11.2.3 and B11.3.1;
 - (iv) where the Applicant User is not a company incorporated under the Companies Act 1985 (as amended), an address for service in accordance with paragraph GT Section B14.9.3;
 - (v) whether the Applicant User is applying to become a Shipper User or a DNO User;
- (b) where the Applicant User is applying to become a Shipper User:
 - (i) either:
 - (1) a Shipper's Licence shall have been granted to the Applicant User which is in force and in respect of which no notice of revocation has been given, and the Applicant User shall have provided a copy of such licence to the Transporter; or
 - (2) a Shipper's Licence shall be treated as having been granted to the Applicant User pursuant to a scheme made under paragraph 15 or 16 of Schedule 5 to the Gas Act 1995; and
 - (ii) in relation to an application to accede to the Framework Agreement in relation to a DN Operator's Code, the Applicant User is, or will be, a Shipper User under Transco NTS's Code at the User Accession Date;

- (c) where the applicant User is applying to become a DNO User, the Applicant User has acceded to the Offtake Arrangements Document at the User Accession Date;
 - (d) the Applicant User shall have secured compliance with those requirements of Section U which are required to be complied with before a User is able to send and receive UK Link Communications, including without limitation:
 - (i) the installation and connection of the UK Link User Equipment and the UK Link User Software at the Applicant User's premises;
 - (ii) the appointment of one or more Authorised Representatives;
 - (e) the Applicant User shall have provided the emergency contact details required under Section Q2.2;
 - (f) the Applicant User shall have obtained from the Transporter one or more copies of the Code and such other documents referred to in the Code or the Framework Agreement as the Transporter shall from time to time prescribe for the purposes of this paragraph (e);
 - (g) the Applicant User shall have been assigned an initial Code Credit Limit in accordance with paragraph 3;
 - (h) where the Applicant User is applying to become a Shipper User under Transco NTS's Code the Applicant User shall have been assigned an initial Secured Credit Limit in accordance with Section X.
- 2.1.3 An Applicant User may accede to a Framework Agreement before the requirements of paragraphs 2.1.2(d), (g) and (h) are satisfied.
- 2.1.4 Where in accordance with paragraph 2.1.3 an Applicant User has executed a Framework Agreement, the Applicant User and the Transporter shall be bound by this Section V and (but only for the purposes of enabling an Applicant User to satisfy the requirements in paragraph 2.1.2 (d)) Section U; and the Applicant User shall for such purposes only be treated as a User.
- 2.1.5 The requirements of paragraph 2.1.2(d), (e), (g) and (h) shall not apply in respect of an Applicant User applying to become a DNO User.

2.2 Admission of User

- 2.2.1 The Applicant User will become a User with effect from the Day ("**User Accession Date**") which is 3 Business Days after satisfaction of the last of the requirements under paragraphs 2.1.1 and 2.1.2 to be satisfied.
- 2.2.2 Upon the Applicant User's becoming a User pursuant to paragraph 2.2.1 the Transporter will so notify:
- (a) the Applicant User, specifying:
 - (i) the Transporter's notice details for the purposes of paragraph GT Section B11.2.3; and
 - (ii) the names of all other Users and their prevailing notice details in accordance with GT Section B11.2.3;

- (b) all other Users, specifying the name of the Applicant User, its notice details provided under paragraph 2.1.2(a)(iii) and the User Accession Date.

2.3 Restricted authorization of User

Where the Shipper's Licence held by a Shipper User limits or restricts the premises to which the User may arrange for the conveyance of gas by a or any System or in any other way limits or restricts the activities which the User is authorised to carry on:

- (a) the User shall be solely responsible for compliance with such limit or restriction and (subject to paragraph (b)) the Transporter shall not in the implementation of the Code as respects such User be concerned with such limit or restriction; but
- (b) the Transporter shall be at liberty in its discretion to (but shall not be required to) withhold from the User any right or entitlement pursuant to the Code so as to give effect to such limit or restriction.

2.4 Single User admission

Unless expressly otherwise provided in the Code or agreed by the Transporter, a person may only be one User for the purposes of the Code, and accordingly a person who is for the time being a User may not make a further application to be admitted as a User.

2.5 Restricted User

2.5.1 A person which is for the time being either:

- (a) designated by the Authority for the purposes of Special Condition [C6] of Transco NTS's Transporter's Licence; or
- (b) a body which is declared by an Order of the Secretary of State to be a Recognised Clearing House for the purposes of the Financial Services Act 1986 (as amended); or
- (c) a body which is declared by an Order of the Secretary of State to be a Recognised Investment Exchange for the purposes of the Financial Services Act 2000 (as amended) and which makes its own arrangements for clearing transactions effected on its exchange

may be admitted as a User under Transco NTS's Code for the purposes only of making Trade Nominations pursuant to Section C5.

2.5.2 Where a User is admitted pursuant to paragraph 2.5.1:

- (a) the User hereby undertakes to Transco NTS that it will not and will not purport to deliver gas to nor offtake gas from the Total System, make any Nomination, will not or purport to act as if it were a Trading Participant, become a CSEP User or the Registered User of any Supply Point, or hold System Capacity or Storage Capacity at LNG Facilities, or make a System Capacity Transfer or Storage Gas Transfer in relation to an LNG Facility, or otherwise exercise any right or entitlement of a User other than the right to make Trade Nominations pursuant to Section C5 and any rights (consequent thereon) arising under Sections F, S, T, this Section V, U and X;
- (b) the User shall not make a Trade Nomination more than 5 Days before the Gas Flow Day;
- (c) the User shall not be bound to comply with any obligation under Section L, O or

(except pursuant to paragraph 4 thereof) Q.

- 2.5.3 Where an Applicant User informs Transco NTS that it wishes to be admitted as a User pursuant to paragraph 2.5.1:
- (a) the requirements in paragraph 2.1.2(b) and (e) shall not apply in respect of the Applicant User;
 - (b) it shall be an additional requirement for the purposes of paragraph 2.1.1 that, at the same time as the User accedes to the Framework Agreement, Transco NTS and the User enter into a memorandum to record that the User is or is to be admitted pursuant to paragraph 2.5.1;
 - (c) Transco NTS's notification to Users under paragraph 2.2.2(b) will specify that the Applicant User has been so admitted.

3 CODE CREDIT LIMITS

3.1 General

- 3.1.1 The Transporter will, in accordance with the Code Credit Rules, determine and assign to each User a Code Credit Limit, and will keep each User informed of its Code Credit Limit (as revised in accordance with paragraph 3.2.2) for the time being.
- 3.1.2 The "**Code Credit Rules**" are the rules from time to time established and revised by the Transporter and issued to Users setting out (inter alia):
- (a) the principles on which the Transporter will assess and from time to time revise (in accordance with paragraph 3.2.2) its assessment of the credit-worthiness of Users (and persons providing surety for Users) and establish Code Credit Limits;
 - (b) the basis on which a User may (with a view to increasing its Code Credit Limit) provide surety or security for Relevant Code Indebtedness, or (with a view to reducing its Relevant Code Indebtedness) make prepayments to the Transporter;
 - (c) procedures by which a User may discuss its Code Credit Limit with the Transporter.
- 3.1.3 The Code Credit Rules do not form a part of the Code and (but without prejudice to the further provisions of this paragraph or to anything done pursuant to the Code Credit Rules) nothing in the Code shall make compliance with such rules an obligation of the Transporter or Users.
- 3.1.4 Nothing in the Code or the Code Credit Rules shall constitute any duty of care or other obligation on the part of the Transporter (whether to or for the benefit of the User in question or Users in general) in relation to the implementation of the Code Credit Rules or the provisions of this paragraph 3.
- 3.1.5 In this paragraph 3 references to Users exclude DNO Users.

3.2 Code Credit Limit and Relevant Code Indebtedness

- 3.2.1 For the purposes of the Code:
- (a) a "**Code Credit Limit**" is an amount representing a User's maximum permitted Relevant Code Indebtedness;

- (b) "Relevant Code Indebtedness" is:
 - (i) the aggregate amount, other than in respect of Energy Balancing Charges, for which a User is at any time liable to the Transporter pursuant to the Code or any Ancillary Agreement, determined on the basis of amounts accrued (and in accordance with paragraph (c) where applicable) and irrespective of whether such amounts have been invoiced under Section S or (where invoiced) have become due for payment; less
 - (ii) any amount which has been paid to the Transporter by the User by way of prepayment, on the basis that the Transporter may apply such amount without the User's consent in or towards payment of amounts referred to in paragraph (i), and which has not yet been so applied;
 - (c) for the purposes of paragraph (b)(i) a User's liability for Capacity Charges in respect of a Day shall be treated as accruing on the following Day.
- 3.2.2 For the avoidance of doubt, the amount of a User's Relevant Code Indebtedness shall be determined by reference to the relevant provisions of the Code, and nothing in the Code shall be construed as withdrawing from a User any right to dispute whether the Transporter has correctly calculated such amount in any case, or from the Transporter any right to dispute the validity of any Invoice Query submitted by any User.
- 3.2.3 Without prejudice to paragraph 3.2.2, where a User has submitted an Invoice Query in accordance with Section S4.2.1 in respect of any Invoice Document the Transporter will review and give due consideration to such Invoice Query before taking any steps pursuant to paragraph 3.3.
- 3.2.4 A User's Code Credit Limit may from time to time be reviewed and revised, in accordance with the Code Credit Rules, save where either paragraph 3.2.5 or 3.2.6 applies, on notice of not less than 30 Days (or any lesser period agreed by the User) to the User:
- (a) at intervals of approximately 12 months;
 - (b) at the User's request (but subject to paragraph 3.2.);
 - (c) where any published credit rating of the User or any person providing surety for the User is revised downwards;
 - (d) where (but without prejudice to any requirement of the Code Credit Rules) any instrument of surety or security expires or is determined;
 - (e) at the Transporter's request where the Transporter has reasonable grounds to believe that the effect of the review will be to reduce the User's Code Credit Limit.
- 3.2.5 Where any published credit rating of the User or any person providing surety for the User is revised downwards to the extent that the said credit rating following such revision is less than the minimum prescribed credit rating as set out in the Code Credit Rules, a User's Code Credit Limit may be immediately reviewed and revised by the Transporter in accordance with the Code Credit Rules, on notice to the User.
- 3.2.6 Where a Supplier of Last Resort (as defined in paragraph G2.1.7(b)) has been appointed and paragraph G2.1.8 applies, a Last Resort User's Code Credit Limit may be reviewed

and revised by the Transporter in accordance with paragraph G2.1.10.

3.2.7 Subject to paragraph 3.2.8, the Transporter will bear the costs and fees that it incurs (but not any costs incurred by the User) in connection with any review of a User's Code Credit Limit in accordance with paragraph 3.2.4.

3.2.8 The Transporter will not be obliged to agree to any request of the User under paragraph 3.2.5 unless the User agrees to reimburse to the Transporter the reasonable costs and fees payable by the Transporter to any third party in accordance with the Code Credit Rules in connection with such request.

3.3 Requirements as to Relevant Code Indebtedness

3.3.1 Where:

- (a) a User's Relevant Code Indebtedness exceeds 70% of its Code Credit Limit and the Transporter has given notice to the User to that effect; and
- (b) at any time following such notice the User's Relevant Code Indebtedness exceeds 85% of its Code Credit Limit and the Transporter has given notice to the User to that effect (which notice may in appropriate circumstances be given at the same time as that under paragraph (a)),

paragraphs 3.3.2 and 3.3.3 shall apply.

3.3.2 Subject to paragraph 3.3.1, where and for so long as the Relevant Code Indebtedness of a Shipper User for the time being exceeds 85% of the User's Code Credit Limit, the Transporter shall be entitled to reject or refuse to accept all or any of the following by the relevant User:

- (a) an application for System Capacity or increased System Capacity at any System Point under Section B or G5;
- (b) under Transco NTS's Code, a System Capacity Trade under Section B5 in respect of which the User is Transferee User;
- (c) a Supply Point Nomination or Supply Point Confirmation under Section G, other than a Supply Point Renomination or Supply Point Reconfirmation (unless made in the context of an application under paragraph (a))

until such time as the User's Relevant Code Indebtedness is reduced to less than 85% of its Code Credit Limit.

3.3.3 Subject to paragraph 3.3.1, where and for so long as the Relevant Code Indebtedness of a User for the time being exceeds 100% of the User's Code Credit Limit, the Transporter may give Termination Notice (in accordance with paragraph 4.3) to the User.

3.4 Security under Code Credit Rules

3.4.1 Any instrument of surety or security provided by a User pursuant to the Code Credit Rules (and whether or not entered into by the User) shall not be a part of the Code nor an Ancillary Agreement; and no provision of or modification of the Code, nor any inconsistency between the Code and any such instrument, and nothing done by the

Transporter pursuant to the Code, shall prejudice or invalidate any such instrument.

- 3.4.2 Where a User has provided surety or security pursuant to the Code Credit Rules the User (or the person giving the surety) may request the Transporter to release all or any of such security or agree to a reduction in any maximum amount of such surety.
- 3.4.3 Following a request by a User under paragraph 3.4.2, the Transporter will as soon as reasonably practicable and, except where the User also requests a review (by an agency appointed by the Transporter for such purposes) and revision of its Code Credit Limit, in any event not more than 10 Business Days after such request, release security, or agree to a reduction in surety, to such extent or by such amount as will permit the condition in paragraph 3.4.4 to be satisfied.
- 3.4.4 The condition referred to in paragraph 3.4.3 is that the amount of the User's Relevant Code Indebtedness at the date of such release or reduction is not more than 85% of the amount of the User's Code Credit Limit, determined in accordance with the Code Credit Rules on the basis of the release of security or reduction in surety (and taking account of any alternative surety or security provided by the User).
- 3.4.5 A User may (inter alia) provide security for the purposes of the Code Credit Rules in the form of a deposit in a bank account where:
- (a) the account is in the joint names of the User and the Transporter;
 - (b) interest on the amount deposited in the account will accrue for the benefit of the User;
 - (c) the User and the Transporter have irrevocably instructed the bank, in terms reasonably satisfactory to the Transporter and the User, to make payment to the Transporter of amounts (up to the amount deposited in the account) which have become due for payment to the Transporter (but having regard to the time at which pursuant to Section S4.2 payment is due where an Invoice Query has been raised) against reasonable evidence provided by the Transporter that payment of such amount has become due (but such instruction shall be without prejudice to any provision of Section S as to the payment of interest);
 - (d) the bank shall have agreed that the amounts deposited in the account may not be set-off or otherwise applied by the bank in respect of any indebtedness of the User or other person; and
 - (e) amounts (other than in respect of interest earned) standing to the credit of the account will not be paid to the User except with the Transporter's written agreement (but subject to paragraph 3.4.3).

4 DISCONTINUING USERS AND TERMINATION

4.1 General

4.1.1 A User may cease to be a User pursuant to paragraph 4.2 or 4.3; and for the purposes of the Code a "**Discontinuing User**" is a User who so ceases to be a User and the "**User Discontinuance Date**" is the date with effect from which (in accordance with paragraph 4.2 or 4.3) a Discontinuing User ceases to be a User.

4.1.2 Upon a User's ceasing to be a User:

- (a) subject to paragraphs 5.6 and 4.3.7, the Shipper Framework Agreement shall cease to

bind the Discontinuing User and (as respects the Discontinuing User) the Transporter;

- (b) each Ancillary Agreement to which a Discontinuing User is party shall, unless otherwise provided in such Ancillary Agreement, terminate as respects that User (but without prejudice to the continuance of that Agreement as respects any other User(s) party thereto) with effect from the User Discontinuance Date.
- 4.1.3 The Transporter will as soon as reasonably practicable after the User Discontinuance Date notify all other Users of a User's ceasing to be a User.
- 4.1.4 An Ancillary Agreement may be subject to termination as respects any User(s), in accordance with its terms, but (except as may be provided in such Ancillary Agreement) such termination shall not result in any such User ceasing to be a User.
- 4.1.5 A Shipper Framework Agreement shall have no fixed duration, but without prejudice to the provisions of this paragraph 4 as respects Discontinuing Users.
- 4.1.6 In this paragraph 4 references to Users exclude DNO Users.

4.2 Voluntary discontinuance

- 4.2.1 A User may at any time by giving notice ("**Discontinuance Notice**") to the Transporter apply to cease to be a User.
- 4.2.2 A User may not cease to be a User under this paragraph 4.2 until such time as:
- (a) all amounts payable or (other than in respect of any recurrent charge becoming payable by reason only of the lapse of time after the date on which the last of the other requirements of this paragraph 4.2.2 is satisfied) which may become payable by the User to the Transporter pursuant to any provision of the Code, the Shipper Framework Agreement or any Ancillary Agreement have been paid in full;
 - (b) the User is not the Registered User in respect of any Supply Point and is not party to any Shared Supply Meter Notification;
 - (c) the User has complied with the requirements of Section U2.8;
 - (d) under Transco NTS's Code, there is no outstanding Daily Imbalance or NDM Reconciliation Quantity or DM Reconciliation Quantity in respect of the User;
 - (e) any requirements under any Ancillary Agreement in respect of termination under this paragraph 4.2 have been complied with;
 - (f) any outstanding breach, being a breach capable of remedy and of which the Transporter has given notice to the User, by the User of any provision of the Code or the Shipper Framework Agreement or any Ancillary Agreement shall have been remedied; and
 - (g) under Transco NTS's Code, the User has ceased to be bound each other Transporter's Code.
- 4.2.3 Where a User has given notice under paragraph 4.2.1:
- (a) the User and the Transporter shall remain bound by the Code and the Shipper Framework Agreement and any Ancillary Agreement to which the User is party until the requirements of paragraph 4.2.2 are satisfied;

- (b) the System Capacity which the User is registered as holding shall not be reduced or cancelled other than in accordance with the relevant provisions of the Code (and the User will remain liable for payment of Transportation Charges in respect thereof but may elect to make prepayment thereof).
- 4.2.4 Where a User has given notice under paragraph 4.2.1, after the satisfaction of last of the requirements of paragraph 4.2.2 to be satisfied:
- (a) with effect from the 5th Business Day following such satisfaction, the User will cease to be a User;
 - (b) without prejudice to paragraph 4.2.5, the Transporter will as soon as reasonably practicable (and where possible before such date) inform the User of the date on which it ceases to be a User under paragraph (a).
- 4.2.5 Notwithstanding paragraph 4.2.4, without prejudice to paragraph 4.1.2(a), the Transporter or (as the case may be) the Discontinuing User shall remain liable, subject to and in accordance with the Code, to the other and (in the case of the Discontinuing User, subject to paragraph GT Section B2.4.2) to each other User, after the User Discontinuance Date:
- (a) for any amount which was or becomes payable under the Code or any Ancillary Agreement in respect of any period before the User Discontinuance Date; and
 - (b) in respect of any outstanding breach of any provision of the Code, the Shipper Framework Agreement or any Ancillary Agreement where such breach was not (for the purposes of paragraph 4.2.2(vii)) capable of remedy or (notwithstanding that paragraph) was capable of remedy but was not remedied.

4.3 Termination

- 4.3.1 For the purposes of this paragraph there shall have occurred a "**User Default**" in relation to a User (the "**Defaulting User**") in any of the following events or circumstances:
- (a) where in relation to any amount (or amounts in aggregate) of not less than £10,000 which has become due for payment by the Defaulting User under the Code (excluding for the avoidance of doubt amounts the subject of an Invoice Query which by virtue of Section S4.2.2 have not become due for payment):
 - (i) the Defaulting User has not paid the amount in full by the 5th Business Day after the due date for payment;
 - (ii) on or after the 5th Business Day after the due date for payment the Transporter has given notice to the Defaulting User requiring payment of such amount; and
 - (iii) the Defaulting User has not paid such amount in full by the 5th Business Day after the date of the Transporter's notice under paragraph (ii); or
 - (b) in accordance with paragraph 3.3.3; or
 - (c) where:

- (i) the Defaulting User is in material breach, other than such a breach as is referred to in paragraph 4.3.9, of any material provision (other than a payment obligation) of the Code; and
 - (ii) the breach is capable of remedy by the Defaulting User; and
 - (iii) the Transporter has given notice (making reference to this paragraph 4.3) of such breach to the Defaulting User; and
 - (iv) within 14 Days after the Transporter's notice under paragraph (iii), the Defaulting User does not either:
 - (1) remedy the breach in all material respects, where the breach is capable of remedy within such period of 14 Days; or
 - (2) where the breach is not so capable of remedy, provide to the Transporter a programme (setting out the steps to be taken by the User and the timetable for taking such steps) for the remedy of the breach as soon as is reasonably practicable; and
 - (v) in the case in paragraph (iv)(2), the Defaulting User does not:
 - (1) remedy the breach in all material respects with all reasonable diligence and so far as reasonably practicable in accordance with the programme provided under that paragraph or a revised programme pursuant to paragraph (2), and
 - (2) where notwithstanding the reasonable diligence of the User it is not reasonably practicable for the User to remedy the breach in accordance with that programme, provide to the Transporter a revised such programme; and
 - (vi) the breach remains unremedied in any material respect after the expiry of 7 Days after a further notice by the Transporter to the Defaulting User to the effect that the Defaulting User has not complied with paragraph (iv) or (v); or
- (d) where:
- (i) the Defaulting User is in material breach, other than such a breach as is referred to in paragraph 4.3.9, of any relevant provision (other than a payment obligation) of the Code; and
 - (ii) the breach is not capable of remedy; and
 - (iii) the Transporter has given notice (making reference to this paragraph 4.3) of the breach to the Defaulting User; and
 - (iv) at any time within the period of 12 months following the Transporter's notice under paragraph (iii), there occurs a further material breach by the Defaulting User of the same provision of the Code; and
 - (v) the Transporter has given a notice of such further breach to the Defaulting User and a period of 7 Days has expired following such notice; or

- (e) where:
 - (i) the Defaulting User is unable to pay its debts (within the meaning of Section 123(1) or (2) of the Insolvency Act 1986, but subject to paragraph 4.3.2), or any voluntary arrangement is proposed in relation to it under Section 1 of that Act or it enters into any composition or scheme of arrangement (other than for the purpose of a bona fide solvent reconstruction or amalgamation); or
 - (ii) the Defaulting User has a receiver (which expression shall include an administrative receiver within the meaning of Section 29 of the Insolvency Act 1986) of the whole or any material part of its assets or undertaking appointed; or
 - (iii) the Defaulting User has an administration order under Section 8 of the Insolvency Act 1986 made in relation to it; or
 - (iv) the Defaulting User passes any resolution for winding-up (other than for the purpose of a bona fide solvent reconstruction or amalgamation); or
 - (v) the Defaulting User becomes subject to an order by the High Court for winding-up; or
 - (vi) the Defaulting User becomes subject to a bankruptcy order; or
 - (vii) the Defaulting User becomes subject to an event made in a jurisdiction outside England and Wales, equivalent or analogous to any one or more of those events listed in paragraphs 4.3.1(e)(i) to (vi) above; or
 - (f) where the Shipper's Licence granted to the Defaulting User is determined or revoked or otherwise ceases to be in force for any reason whatsoever, or such licence is assigned unless such assignment is contemporaneous with an assignment by the User of all of its rights and obligations under the Code and the Framework Agreement in accordance with paragraph 14.2.
- 4.3.2 For the purposes of paragraph 4.3.1(e) (i), Section 123(1)(a) of the Insolvency Act 1986 shall have effect as if for '£750' there was substituted '£10,000'; and the Defaulting User shall not be deemed to be unable to pay its debts for the purposes of that paragraph if any such demand as is mentioned in the said Section is being contested in good faith by the Defaulting User with recourse to all appropriate measures and procedures.
- 4.3.3 Upon the occurrence of a User Default, and at any time after such occurrence at which the User Default is continuing the Transporter may give notice ("**Termination Notice**") to the Defaulting User to the effect that the User shall cease to be a User with effect from the date (which may be any date on or after the date on which the notice is given) specified in the notice.
- 4.3.4 Without prejudice to the Transporter's right to give a Termination Notice, as set out in paragraph V4.3.3, where the condition in paragraph 4.3.5 is satisfied, Section X4 shall apply.
- 4.3.5 The condition referred to in paragraph V4.3.4 is that:

- (a) a User Default occurs by reason of the circumstances set out in any one or more of paragraphs 4.3.1(e)(ii), (iii), (vi) or (vii) to the extent that a person, analogous or equivalent to those persons appointed pursuant to paragraphs V4.3.1(e)(ii), (iii) or (vi) is appointed in a jurisdiction outside England and Wales ("**foreign insolvency practitioner**") in respect of the User; and
 - (b) the receiver, administrator, trustee-in-bankruptcy or foreign insolvency practitioner (as appropriate) fails to provide adequate assurances to Transco NTS in compliance with the principles established in Section X and the Energy Balancing Credit Rules (such assurances not to exceed a legal and binding commitment by the receiver, administrator, trustee-in-bankruptcy or foreign insolvency practitioner (as appropriate), to pay to Transco NTS all Energy Balancing Debt accruing from (and including) the date of appointment of the receiver, administrator, trustee-in-bankruptcy or foreign insolvency practitioner (as appropriate)), as soon as reasonably practicable after being appointed (but for the avoidance of doubt not within two Business Days of its appointment).
- 4.3.6 Where the Transporter gives Termination Notice to a Defaulting User, with effect from the date specified in the notice, the User will cease to be a User and paragraph 4.1.2 shall apply.
- 4.3.7 The giving of a Termination Notice and the application of paragraph 4.3.6 shall not affect the rights and obligations of the Transporter and the Defaulting User under the Code, the Framework Agreement and any Ancillary Agreement (including rights and obligations in respect of the User Default, and in respect of amounts including interest payable by either Party, and rights and obligations arising pursuant to any provision of the Code in respect of the User's ceasing to be a User) accrued up to the date referred to in paragraph 4.3.6, which shall continue to be enforceable notwithstanding that paragraph.
- 4.3.8 Where the Transporter has given a Termination Notice it shall be entitled to inform such persons as it thinks fit (including another Transporter) that it has done so, including the supplier and consumer in relation to any Supply Point of which the Defaulting User was Registered User, the Connected System Operator or Delivery Facility Operator in relation to any Connected System Exit Point or System Entry Point comprised in an Aggregate System Entry Point at which the Defaulting User held System Capacity, and any person from whom the Transporter believes the Defaulting User to have purchased gas for delivery to the Total System.
- 4.3.9 For the purposes of paragraph 4.3.1(c)(i) and (d)(i) the following breaches are excluded:
 - (a) a breach which results from a breach by the Transporter of the Code or an Ancillary Agreement;
 - (b) a failure to Interrupt (as described in Section G6.9);
 - (c) the delivery or tendered delivery by the User of non-compliant gas (as described in Section I3.5);
 - (d) a breach other than a wilful breach of a provision of the Code where the Code specifically provides some other remedy for such breach and such other remedy may reasonably be considered to be adequate in the circumstances.
- 4.3.10 For the purposes of paragraph 4.3.1(d)(i) a breach is a material breach of a relevant provision where and only where:
 - (a) in the case of a material provision, the breach is wilful or reckless; or

- (b) in the case of any provision, as a result of the breach the Transporter or any other User is in material breach of any material provision of the Code or any Legal Requirement or incurs any material liability or expense.

4.3.11 Where under Transco NTS's Code Transco NTS gives a User a Termination Notice pursuant to this paragraph 4 or Section X:

- (a) each Transporter shall be deemed to have given a Termination Notice to the Defaulting User to the effect that the User shall cease to be a User for the purposes of the Transporter's Code with effect from the same date specified in the notice given by Transco NTS (or if given pursuant to Section X, on the Day following the date of the Transco NTS's Termination Notice);
- (b) the User shall cease to be a User with effect from the date specified in the notice given to the User by Transco NTS (or if given pursuant to Section X, on the Day following the date of the Transco NTS's Termination Notice); and
- (c) paragraphs 4.3.7 and 4.3.8 shall apply.

5 INFORMATION AND CONFIDENTIALITY

5.1 Transporter obligations

5.1.1 The Transporter shall secure that Protected Information is not:

- (a) disclosed to any person other than:
 - (i) an officer or employee of the Transporter whose province it is to know the same; or
 - (ii) a professional adviser of or consultant to the Transporter; or
 - (iii) without prejudice to any requirement under the Transporter's Licence, any 10% Affiliate (other than an Affiliate which is the holder of a Shipper's Licence or a gas supplier's licence) of the Transporter;

in any such case in accordance with the requirements of paragraph 5.4; or

- (b) used by the Transporter for any purpose other than carrying on the Transporter Activities.

5.1.2 "**Transporter Activities**" means the carrying on of transportation business (as defined in the Transporter's Licence), the operation, administration, maintenance and development of a relevant System and, the Transco LNG Storage Facilities (in the case only of Transco NTS), facilitation of connections to a relevant System, and the implementation and performances of the Code, the Framework Agreement, any Ancillary Agreement and any Siteworks Contract.

5.1.3 In this paragraph 5 references to Users include DNO Users.

5.2 User obligations

5.2.1 Each User shall secure that Protected Information is not:

- (a) disclosed to any person other than:
 - (i) an officer or employee of the User whose province it is to know the same; or
 - (ii) a professional adviser of or consultant to that User or a User Agent appointed by that User; or
 - (iii) a 10% Affiliate (other than an Affiliate which is the holder of a Gas Transporter's Licence) of that User; or
 - (iv) subject to paragraph 5.2.3, a consumer or a supplier

in any such case in accordance with the requirements of paragraph 5.4; or

- (b) used by such User for any purpose other than one expressly contemplated by the Code or any Ancillary Agreement or Siteworks Contract to which such User is party.

5.2.2 Paragraph GT Section B2.4.1 shall not apply in respect of this paragraph 5.

5.2.3 For the purposes of paragraph 5.2.1(a)(iv) Protected Information relating to a Supply Point may be disclosed to the supplier or consumer to the extent reasonably necessary to enable the conclusion and implementation of a contract of sale to the supplier (where relevant) and a contract of supply to the consumer.

5.3 Protected Information

5.3.1 In this Section "**Protected Information**" means:

- (a) for the purposes of the Transporter's obligations under paragraph 5.1:
 - (i) any information relating to the affairs of a User which is obtained by the Transporter pursuant to or in the course of the negotiation, implementation or performance of the Code, the Framework Agreement or any Ancillary Agreement to which that User is party;
 - (ii) the terms of any Ancillary Agreement;
- (b) for the purposes of a User's obligations under paragraph 5.2:
 - (i) any information relating to the affairs of the Transporter or of another User which is obtained by the User pursuant to or in the course of the negotiation, implementation or performance of the Code, the Framework Agreement or any Ancillary Agreement to which the User and (in relation to another User) that other User are party,;
 - (ii) the terms of any Ancillary Agreement to which that User is party.

5.3.2 For the purposes of paragraph 5.3.1:

- (a) information obtained by a Party in the course of the negotiation of the Code or a Framework Agreement shall be Protected Information only insofar as such information

was obtained in writing;

- (b) the following information shall (without prejudice to the generality of paragraph 5.3.1(a)(i)) be treated as information relating to the affairs of a User:
 - (i) the identity, address and any other details of a supplier or consumer, or any representative thereof, insofar as disclosed by the User to the Transporter pursuant to or for the purposes of the Code;
 - (ii) (without prejudice to paragraph 5.5.2(d)) information provided by the User to the Transporter pursuant to Sections L and O and details of the User's Code Credit Limit and record of payment of charges under the Code;
- (c) the following information shall (without prejudice to the generality of paragraph 5.3.1(b)(i)) be treated as relating to the affairs of the Transporter: details of Demand Models, End User Categories and other information provided by that Transporter to Users pursuant to Section H; the UK Link Manual; information (other than information referred to in paragraph (b)) which is maintained or recorded in the UK Link System.

5.3.3 The terms of the Code and a Framework Agreement are not Protected Information.

5.3.4 For the avoidance of doubt, the provisions of the Code are without prejudice to the requirements of the Data Protection Act 1998.

5.4 Terms of permitted disclosure

Where Protected Information is disclosed by the Transporter as permitted under paragraph 5.1.1(a) or by a User as permitted under paragraph 5.2.1(a), the Disclosing Party shall (without prejudice to its obligations under paragraph 5.1.1 or 5.2.1) take all reasonable steps to secure that the person to whom the information is disclosed:

- (a) is aware of the Disclosing Party's obligations under paragraph 5.1.1 or 5.2.1 in relation thereto, and
- (b) does not use or disclose the information other than as is permitted of such Party in accordance with paragraph 5.1.1 or 5.2.1.

5.5 Exceptions

5.5.1 For the purposes of this paragraph 5.5, "**Disclosing Party**" and "**Protected Party**" shall be construed as follows:

- (a) for the purposes of the Transporter's obligations under paragraph 5.1, the Disclosing Party is the Transporter and the Protected Party is the User to whose affairs any Protected Information relates;
- (b) for the purposes of a User's obligations under paragraph 5.2, the Disclosing Party is such User and the Protected Party is the Party (either the Transporter or another User) to whose affairs any Protected Information relates.

5.5.2 Nothing in paragraph 5.1 or 5.2 shall apply:

- (a) to the disclosure or use by the Disclosing Party of Protected Information to which the Protected Party has consented in writing;

- (b) to any Protected Information which:
 - (i) before it is obtained by the Disclosing Party is in the public domain; or
 - (ii) after it is obtained by the Disclosing Party enters the public domain
 - (iii) in either case otherwise than as a result of a breach by the Disclosing Party of its obligations under paragraph 5.1 or 5.2;
- (c) to the disclosure of any Protected Information to any person if and to the extent that the Disclosing Party is required to make such disclosure to such person:
 - (i) in compliance with the duties of the Disclosing Party under the Act or any other requirement of a Competent Authority; or
 - (ii) in compliance with the conditions of the Transporter's Licence or (as the case may be) Shippers Licence held by the Disclosing Party or any document referred to in such licence with which the Disclosing Party is required by virtue of the Act or such licence to comply; or
 - (iii) in compliance with any other Legal Requirement; or
 - (iv) in response to a requirement of any stock exchange or regulatory authority or the Panel on Take-overs and Mergers; or
 - (v) pursuant to any provision of Section T or pursuant to any judicial or other arbitral process or tribunal having jurisdiction in relation to the Disclosing Party;
- (d) to any Protected Information to the extent that the Disclosing Party is expressly permitted or required to disclose that information under the terms of any agreement or arrangement made with the Protected Party or to which it is party (including the Code, the relevant Framework Agreement, any Ancillary Agreement and the Offtake Arrangements Document to which the Protected Party is party or bound);
- (e) to the disclosure of Protected Information to any lending or other financial institution proposing to provide or arrange the provision of finance to the Disclosing Party, where and to the extent that the disclosure of such information is reasonably required for the purposes of the provision or arrangement of such finance, and provided that the person to whom the information is disclosed undertakes in writing to and in terms reasonably satisfactory to the Protected Party to maintain the confidentiality of such information;
- (f) to the disclosure of any Protected Information to the Authority, where the Disclosing Party considers in good faith that the Protected Party may be in breach of a condition of the Transporter's Licence or (as the case may be) the Shipper's Licence, to the extent reasonably necessary to draw such possible breach to the attention of the Authority;
- (g) to the disclosure of any Protected Information to any person proposing to make a connection directly or indirectly to a System, where and to the extent that the disclosure of such information is reasonably required for the purposes of supporting the Transporter's charges or requirement to allow such proposed connection to a System to be made and provided that the person to whom the information is to be disclosed is informed in writing of the confidentiality of such information and that prior to disclosure, such person has entered into a confidentiality agreement with the Transporter which prohibits use or disclosure of such Protected Information in terms no less onerous than those contained in this Section V paragraph 5;

- (h) to the disclosure of Protected Information to the extent that the Disclosing Party is expressly permitted or required to disclose that information to the Transporter Agency to the extent required for the purposes of the undertaking by the Transporter Agency of the Transporter Agency Activities.

5.5.3 Nothing in paragraph 5.1 shall apply to the disclosure by the Transporter of Protected Information:

- (a) to any person to the extent such disclosure is required pursuant to the Modification Rules;
- (b) to any UK Link User where such information is contained in a User Trade Communication transmitted to such UK Link User in accordance with the requirements of Section U5 or is accessible by such UK Link User by or from UK Link in accordance with any function or facility of UK Link described in the UK Link Manual;
- (c) to any User Agent where the disclosure by the Transporter of such Protected Information to the appointing User would not have infringed paragraph 5.1;
- (d) referred to in paragraph 5.3.2(b)(i) where the supplier or consumer concerned has consented to such disclosure pursuant to a Siteworks Contract, Network Exit Agreement or other document contemplated by the Act, the Transporter's Transporter's Licence or the Code as being entered into by the Transporter and the consumer;
- (e) to the Authority where such information is accessible by the Authority by or from the UK Link System to the extent of the access and in accordance with any function or facility thereof described in the UK Link Manual;
- (f) to the Trading System Operator to the extent required pursuant to the provisions of Section D or to any person to the extent required pursuant to the Trading System Arrangements;
- (g) [to a consumer or other relevant party to the extent designated by the Authority within Special Condition [17A] of the Transporter's Licence;]¹
- (h) to another Transporter to the extent such disclosure is required for the purposes of the Code or the Transporter's Licence; or
- (i) [to a contractor of the Transporter where the contractor has entered into a confidentiality agreement no less onerous than the terms of this paragraph 5.]

5.5.4 Where:

- (a) the Disclosing Party has complied with the requirements of Section U1.8, and
- (b) notwithstanding such compliance a person obtains any Protected Information by unauthorised access to any element of UK Link for the security of which the Disclosing Party is (in accordance with Section U) responsible

the Disclosing Party shall not be in breach of paragraph 5.1 or 5.2 by virtue of such person having so obtained such Protected Information.

5.6 Survival

The provisions of paragraphs 5.1 to 5.5 shall continue, for a period of 3 years after the

¹ Note Special Condition 17A subject of proposed deletion from Transporter's Licence.

User Discontinuance Date, to bind a Discontinuing User and (as respects the Discontinuing User) the Transporter and each other User, notwithstanding that the Discontinuing User has ceased to be a User and irrespective of the reason for such cessation.

5.7 Transporter's Licence

Nothing in the Code, a Framework Agreement or any Ancillary Agreement shall be construed as requiring the Transporter to disclose or use any information in breach of any requirement of Transporter's Licence.

5.8 Data ownership

5.8.1 Subject to paragraph 5.8.2(a), the data, including metering data, which is processed by or recorded or maintained on the UK Link System (including all intellectual property rights in such data) shall belong for the purposes of the Code to the Transporter which owns or operates the System to which such data relates; and subject to paragraph 5.8.2(b) the Transporter may, but without prejudice to paragraph 5.1 or any other requirement of the Code, use and deal with such data as it thinks fit.

5.8.2 Where pursuant to the Code a User provides or arranges for the provision of data to the Transporter:

- (a) such data (as provided to the Transporter by the User) shall belong to the User;
- (b) the User hereby grants to the Transporter (its successors, assigns, agents and contractors) a perpetual, non-exclusive, royalty-free licence (which shall survive the User Discontinuance Date) in respect of such data and all intellectual rights therein to use, copy, adapt and deal with such data for the purposes of performance and implementation of the Code and for other purposes contemplated by the Code, but not otherwise;
- (c) paragraph 5.8.1 shall apply in respect of data derived (pursuant to any process) by the Transporter from such data and in all compilations created by or on behalf of the Transporter of such data.

5.8.3 Where pursuant to the Code the Transporter provides data to a User or data which is recorded or maintained on the UK Link System is available to a User, the User shall (but without prejudice to paragraph 5.2) be entitled without charge to use such data for the purposes of performance and implementation of the Code, and for other purposes contemplated by the Code, but not otherwise.

5.9 Operational and Market Data

5.9.1 Subject to the provisions of the Code Transco NTS shall arrange for the data referred to in Annex V-1, 'operational and market data' to be published or made available in the manner specified in Annex V-1.

5.9.2 Where market data is sent to Transco NTS on a day that is not a Business Day Transco NTS shall publish such data on the next following Business Day.

5.10 System Operator Commodity Charge Information

5.10.1 Transco NTS shall arrange for the information referred to in Annex V-2 ('SO

Commodity Charge Information") to be published in the manner and frequency specified in Annex V-2.

- 5.10.2 Where Transco NTS is not reasonably able to publish SO Commodity Charge Information in the manner and frequency set out in Annex V-2, the requirements of paragraph V5.10.1 shall not apply, and Transco NTS shall publish the SO Commodity Charge Information as soon as is reasonably practicable.

5.11 Disclosure of Supplier Identity

- 5.11.1 Where in respect of any Supply Point the Transporter is requested by a Registered Metering Applicant to disclose to such Registered Metering Applicant the identity of a supplier then the Registered User of such Supply Point agrees that any such request will be regarded as made on behalf of such Registered User and accordingly the Transporter is authorised by such Registered User to disclose such supplier identity to the Registered Metering Applicant in accordance with such request.

- 5.11.2 For the purposes of paragraph 5.11.1, "**Registered Metering Applicant**" is any person who has been registered to request and receive supplier identity from the Transporter pursuant to an appropriate registration scheme administered by the Transporter.

5.12 Transportation Revenue Information

In each calendar month Transco NTS shall (subject to any confidentiality obligations to which it may from time to time be subject) arrange for the relevant information referred to in Annex V-3 (for the purposes of this paragraph 5.12 and Annex V-3, "**transportation revenue information**") to be published on such website as may be notified by Transco NTS to Users from time to time, within 15 Business Days following the end of the immediately preceding calendar month (for the purposes of this paragraph 5.12 and Annex V-3, the "**immediately preceding month**").

6 USER AGENTS AND TRANSPORTER AGENCY

6.1 User Agents general

- 6.1.1 A User may, subject to and in accordance with this paragraph 6, appoint another person to be the agent of the User for the purposes of making and receiving Code Communications or particular Code Communications on behalf of the User.
- 6.1.2 For the purposes of the Code, a "**User Agent**" is a person who has been appointed as agent of a User in accordance with paragraph 6.1.1.
- 6.1.3 Subject to paragraph 6.4.3, a User may appoint more than one person as User Agent.
- 6.1.4 A person may be appointed as User Agent by more than one User.
- 6.1.5 In paragraph 6 references to Users, except in paragraph 6.4, include DNO Users.

6.2 User Agent for UK Link Communications

- 6.2.1 A person who is a User or another UK Link User (in accordance with Section U) may be appointed as User Agent (a "**UK Link User Agent**") for the purposes of making and receiving Code Communications as UK Link Communications.

- 6.2.2 A UK Link User Agent may be appointed for the purposes of making and receiving on behalf of the appointing User Code Communications within all or any of the categories specified (for the purposes of this paragraph 6.2) in the UK Link Manual.
- 6.2.3 The scope of a UK Link User Agent's authority may not be limited other than by reference to the categories referred to in paragraph 6.2.2; and a UK Link User Agent will at all times be authorised to make and receive any Code Communication on behalf of the appointing User within the category(ies) for which he is appointed.
- 6.2.4 The appointing User may change the categories of Code Communication for which a UK Link User Agent is appointed by giving notice to the Transporters to that effect specifying the changed categories in accordance with paragraph 6.2.2 and the date in accordance with paragraph 6.3.4 with effect from which such change is to take effect.
- 6.2.5 A User shall terminate (in accordance with paragraph 6.3.3) the appointment of a UK Link User Agent if the agent ceases to be a UK Link User.

6.3 User Agent appointment

- 6.3.1 A User wishing to appoint a User Agent shall give notice to the Transporters:
- (a) specifying the identity of the appointing User and the proposed User Agent;
 - (b) specifying the categories of Code Communication (in the case of UK Link Communications, in accordance with paragraph 6.2.2) for which the User Agent is to be appointed, or specifying that the User Agent is appointed for all such categories; and
 - (c) specifying the Day in accordance with paragraph 6.3.4 with effect from which the appointment is to take effect.
- 6.3.2 The appointment of the User Agent shall be effective from the Day specified in accordance with paragraph 6.3.1(c), and shall continue, subject to any change under paragraph 6.2.4, until terminated in accordance with paragraph 6.3.3.
- 6.3.3 The appointing User may terminate the appointment of a User Agent by giving notice to the Transporters to that effect specifying the date in accordance with paragraph 6.3.4 with effect from which such termination is to take effect.
- 6.3.4 The date with effect from which a User Agent is appointed, or the categories of Code Communication for which a UK Link User Agent is appointed may be changed, or the appointment of a User Agent may be terminated, shall be not less than 5 Business Days after the User's notice to the Transporters thereof; provided that upon the User's request in exceptional circumstances the Transporters will endeavour to accommodate notice (of any such matter) of a lesser period.

6.4 User Agent effect of appointment

- 6.4.1 A Code Communication given by a User Agent shall identify the appointing User on whose behalf the Code Communication is given, and (subject to paragraph 6.4.2) shall not be effective unless it does so.
- 6.4.2 Where a User Agent who is itself a User gives any Code Communication which does not state that it is given on behalf of an appointing User and identify that User, such Code Communication shall be treated as given by the User Agent on its own account in

its capacity as User.

6.4.3 Any Code Communication given by a User Agent within the categories for which such agent is appointed shall be deemed to have been given by and shall be binding on the appointing User, and the Transporters shall be entitled without enquiry as to the agent's authority to rely on such Code Communication for all purposes of the Code.

6.4.4 A User who has appointed a User Agent may continue itself to give Code Communications.

6.4.5 Where a User has appointed one or more User Agents:

- (a) the User shall be responsible for ensuring that the actions of the User and each such agent are not in conflict;
- (b) where any Code Communication is given by the User or any such agent:
 - (i) to the extent any further Code Communication is subsequently given by any of them which (in accordance with the Code) is effective to modify or revoke the earlier Code Communication, the earlier Code Communication shall be so modified or revoked;
 - (ii) except as provided in paragraph (i), any Code Communication subsequently given by any of them which conflicts with the earlier Code Communication will be disregarded.

6.4.6 No Transporter shall be responsible for any unauthorised use or disclosure by a User Agent of information relating to the appointing User (whether or not obtained, in the case of a UK Link User Agent, in its capacity as UK Link User).

6.5 Transporter Agency

6.5.1 The Transporters have engaged a person ("**Transporter Agency**") to undertake the Transporter Agency Activities.

6.5.2 The "**Transporter Agency Activities**" are:

- (a) those activities necessary for:
 - (i) the determination for each Gas Year of the Annual Quantity in respect of Supply Meter Points in accordance with Section G;
 - (ii) the maintenance of the Supply Point Register and the performance of the Transporter's obligations in relation thereto in accordance with Section G;
 - (iii) the performance of the Transporter's obligations in relation to demand estimation in accordance with Section H, including in respect of a Gas Year the derivation of the Composite Weather Variable, the development of Demand Models and End User Categories, the determination of NDM Supply Meter Point Demand and NDM Annual Quantities;
 - (iv) the validation of Meter Readings;

- (v) the calculation of Invoice Amounts, the submission of Invoice Documents and the resolution of Invoice Queries in accordance with Section S;
- (vi) the implementation of Section U;
- (vii) the implementation of Section X;
- (viii) the performance of the Transporter's obligations in Code in relation to:
 - (b) (1) the admission and the termination of a User in accordance with Sections V2 and V4;
 - (c) (2) the notification of a failure to obtain a Valid Meter Reading in accordance with Section M3;
 - (d) (3) the measurement of the gas flows at NExA Supply Meter Points and Connected System Exit Points;
 - (e) (4) the generation of Supply Meter Point Reference Numbers;
 - (f) (5) the illegal taking of gas;
 - (g) the transmission and receipt of Code Communications for the purposes referred to in paragraph (a);
 - (h) the provision, operation, maintenance and development of computer systems;
 - (i) to support the implementation of Sections B, C, D, E, F, G, H, M, S, U and X;
 - (ii) to the extent not covered in paragraph (i), for the purposes of supporting the implementation of the other matters referred to in paragraph (a).

6.5.2 Where the agreement between the Transporters for the purposes of this paragraph 6.5 so provides, the Transporter Agency will act on behalf of the Transporters in respect of the exercise of any discretion conferred on the Transporters on behalf of the Transporters, the performance of the Transporters obligations and the giving and receiving of Code Communications in each case for the purposes of and in connection with the Transporter Agency Activities.

6.5.3 Any Code Communication given by the Transporter Agency in relation to the Transporter Agency Activities shall be deemed to have been given by and be binding on the Transporter and Users shall be entitled without enquiry as to the authority of the Transporter Agency to rely on such Code Communication.

6.5.4 Where there is a requirement in the Code that a User give for the purposes of the Transporter Agency Activities a Code Communication to the Transporters collectively, the User shall be treated as having complied with any such requirement where the User gives the Code Communication to the Transporter Agency.

6.5.5 Where for the purposes of Section U:

- (a) there is a requirement that the Transporters provide or make available to a User

computer hardware, other equipment or computer software the Transporters shall be treated as having complied with the requirement where the computer hardware, other equipment or computer software is provided or made available by the Transporter Agency;

- (b) there is a requirement that a User returns computer hardware, other equipment or computer software to the Transporters the User shall be treated as having complied with the requirement where the computer hardware, other equipment or computer software is returned to the Transporter Agency.

7 TRANSPORTER AS USER

7.1 User Capacities

7.1.1 This paragraph 7 applies where:

- (a) under any provision of the Code the Transporter is referred to as a User;
- (b) the person who owns or operates the System(s) in respect of which such Transporter is such User, is the same person as that Transporter.

7.1.2 The provisions referred to in paragraph 7.1.1, and the capacities ("**Transporter User Capacities**") in which the Transporter is referred to as User thereunder, are:

- (a) in the case of Transco NTS's Code, as follows:
 - (i) the provisions of Section B and J under which the Transporter is the holder of NTS Offtake Capacity and in connection with the offtake of gas at NTS/LDZ Offtakes;
 - (ii) the provisions of Section K under which the Transporter for Operating Margins Purposes is a User in respect of relevant System and Storage Facilities;
 - (iii) the provisions of Section N under which the Transporter as NTS Shrinkage Provider and as LDZ Shrinkage Provider is a User of the NTS;
 - (iv) the provisions of Section R under which Transco LNG Storage may be a User in respect of the NTS;
 - (v) the provisions of Section R under which the Transporter is a User (for the purposes of Section Z) in respect of Transco LNG Storage Facilities for the purposes of provisioning the Scottish Independent Networks with LNG;
- (b) in the case of a DN Operator's Code, under the provisions of Section J under which the DNO User is a User of the relevant System in connection with the offtake of gas at LDZ/LDZ Offtakes;
- (c) in the case of each Transporter's Code, the provisions of paragraph 1.6.2.

7.1.3 Where a User becomes a Discontinuing User following a Termination Notice under paragraph 4.3, the Transporter shall not be taken to be acting as User by reason of the fact that it may, for administrative or other purposes (including any purposes in

connection with such an undertaking as is referred to in Section F4.5.6) establish particular arrangements (including any arrangements within UK Link) to account for gas offtaken at Supply Meter Points of which the User was Registered User.

7.2 Effect of relevant provisions

7.2.1 For the purposes of giving effect to the provisions referred to in paragraph 7.1, the Transporter will:

- (a) account for payments to be made to and by it pursuant to the Code in each Transporter User Capacity;
- (b) account (in particular in applying the provisions of Section E as to the determination of quantities delivered to and offtaken from the Total System) for the quantities of gas delivered and offtaken from the Total System by it in each the Transporter User Capacity;
- (c) in particular, in determining the amounts of Market Balancing Action Charges, other amounts payable in respect of Eligible Balancing Actions taken pursuant to Contingency Balancing Arrangements, Balancing Charges payable and quantities of gas delivered to the Total System by Transco NTS in each Transporter User Capacity;
- (d) secure that accounting records are maintained sufficient to allow separate identification of the payments referred to in paragraph (a) and the calculation of the amounts of such payments;
- (e) nominate personnel in respect of each relevant Transporter User Capacity, each of which shall be treated as the Authorised Representative(s) of a separate Link User for the purposes of Section U, and conduct operations under the Code in accordance with that Section separately in respect of each such capacity.

7.2.2 Nothing in the Code shall require the Transporter to establish separate subsidiaries, or (other than as provided in paragraph 7.2.1) to prepare separate accounts, or to maintain separate bank accounts, in respect of the Transporter User Capacities; nor to give any Code Communication (other than under Contingency Procedures) which is not to be given as a UK Link Communication.

7.2.3 The Code shall, to the extent of any reference to the Transporter (including Transco LNG Storage) as User, be construed in accordance with this paragraph 7.

8 LIABILITY AND RELATED ISSUES

8.1 Limitation of liability

8.1.1 Subject to the further provisions of this paragraph 8, each Party agrees and acknowledges that:

- (a) no Party shall be liable to any other Party for loss arising from any breach of the Code, a Framework Agreement or an Ancillary Agreement, other than (but without prejudice to any other provision of the Code or an Ancillary Agreement which excludes or limits liability in respect of any breach) for loss directly resulting from such breach and which at the relevant date was reasonably foreseeable as not unlikely to occur in the ordinary course of events from such breach in respect of:
 - (i) physical damage to the property of any other Party; and/or

- (ii) the liability (in law) of any other such Party to any other person for loss in respect of physical damage to the property of such person;
 - (b) no Party shall in any circumstances be liable in respect of any breach of the Code, a Framework Agreement or any Ancillary Agreement to any other Party for:
 - (i) any loss of profit, loss of revenue, loss of use, loss of contract, loss of goodwill, or increased cost of working; or
 - (ii) any indirect or consequential loss; or
 - (iii) except as provided in paragraphs 8.1.1(a)(ii) and 8.1.5, loss resulting from the liability of any other Party to any other person howsoever and whensoever arising.
- 8.1.2 For the purposes of paragraph 8.1.1(a) the "**relevant date**" is the date of the relevant Framework Agreement or as the case may be of an Ancillary Agreement, except that where the breach in question would not have been a breach of the Code but for a modification (pursuant to the Modification Rules or the Transporter's Licence) of the Code, the relevant date shall be the date of such modification.
- 8.1.3 The amount or amounts for which a Party may be liable to any other Party or Parties pursuant to paragraph 8.1.1(a) in respect of any one event or circumstance constituting or resulting in the first Party's breach of a provision of the Code, a Framework Agreement and/or any Ancillary Agreement shall not exceed:
- (a) as respects the liability of the Transporter to any one User or of any one User to the Transporter, £1,000,000;
 - (b) as respects the liability in aggregate of the Transporter to Users collectively or of Users collectively to the Transporter, £10,000,000.
- 8.1.4 Paragraph 8.1.1 is without prejudice to any provision of the Code or any Ancillary Agreement which provides for an indemnity, or which provides for any Party to make a payment to another.
- 8.1.5 Nothing in the Code or any Ancillary Agreement shall exclude or limit the liability of any Party for death or personal injury resulting from the negligence of such Party.
- 8.1.6 In this paragraph 8 references to Users include DNO Users.

8.2 Exclusion of certain rights and remedies

- 8.2.1 The rights and remedies of the Parties pursuant to the Code, a Framework Agreement and any Ancillary Agreement exclude and are in place of any rights or remedies of any Party in tort (including negligence and nuisance) or misrepresentation in respect of the subject matter of the Code, a Framework Agreement or such Ancillary Agreement; and accordingly, but without prejudice to paragraphs 8.1.5 and 8.2.4, each Party (to the fullest extent permitted by law):
- (a) waives any rights or remedies, and
 - (b) releases each other Party from any duties or liabilities

arising in tort or misrepresentation in respect of the subject matter of the Code, a Framework Agreement or such Ancillary Agreement.

8.2.2 Without prejudice to paragraph 8.2.1, where any provision of the Code or any Ancillary Agreement provides for any amount to be payable by a Party upon or in respect of that Party's breach of any provision of the Code, a Framework Agreement or any Ancillary Agreement, 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 circumstance giving rise thereto.

8.2.3 For the avoidance of doubt, nothing in this paragraph 8 shall prevent any Party from or restrict it in enforcing any obligation (including suing for a debt) owed to it under or pursuant to the Code, a Framework Agreement or any Ancillary Agreement.

8.2.4 Nothing in this paragraph 8 shall constitute a waiver by any Party of any right or remedy it may have (other than pursuant to the Code) in respect of a breach by any other Party of any Legal Requirement.

8.2.5 Subject to any provision of the Code pursuant to which the Transporters jointly assume any obligation or liability:

(a) only the relevant Transporter owes any obligation pursuant to the Code to any Shipper User; and

(b) each Shipper User:

(i) waives any rights or remedies against any Transporter other than the relevant Transporter, and

(ii) releases each other Transporter from any duties or liabilities

arising in tort (including negligence and nuisance) or misrepresentation in respect of the subject matter of the Code, a Framework Agreement or any Ancillary Agreement

in relation to a System Exit Point on a particular System.

8.2.6 For the purpose of paragraph 8.2.5(b) the provisions of GT Section B14.7 shall not apply.

8.3 Effect of this paragraph

8.3.1 Each provision of this paragraph 8 shall be construed as a separate and severable contract term, and shall as respects any Discontinuing User survive that User's ceasing to be a User.

8.3.2 Each Party acknowledges and agrees that the provisions of this paragraph 8 have been the subject of discussion and negotiation and are fair and reasonable having regard to the circumstances as at the date of the Framework Agreement.

8.4 Liquidated damages

Where any provision of the Code provides for any amount to be payable by a Party upon or in respect of that Party's breach of any provision of the Code, each Party agrees and acknowledges that such provision has been the subject of discussion and negotiation, and that the amount provided to be payable represents no more than a genuine pre-estimate of the loss of the Party to which such amount is payable.

8.5 Indemnities

The amount or amounts for which a Party may be liable to any other Party or Parties pursuant to any indemnity provided for in the Code in respect of any one event or circumstance giving rise to liability under such indemnity shall not exceed:

- (a) as respects the liability of the Transporter to any one User or of any one User to the Transporter, £1,000,000;
- (b) as respects the liability in aggregate of the Transporter to Users collectively or of Users collectively to the Transporter, £20,000,000.

9 Not Used

10 Not Used

11 Not Used

12 NEUTRALITY AND AGGREGATE NDM RECONCILIATION AUDITOR; OPERATIONS REPORTING

12.1 Neutrality Auditor

12.1.1 Transco NTS will, subject to paragraphs 12.1.3 and 12.1.4, appoint in accordance with paragraph 12.2.1 a person eligible for appointment as a company auditor (within the meaning of Part II of the Companies Act 1989) to conduct a review (after the relevant period) of whether, in the opinion of such person, in each relevant period, in calculating Neutrality Charges and Relevant Incentive Charges, Transco NTS has complied in material respects with applicable provisions of the Code.

12.1.2 For the purposes of this paragraph 12:

- (a) "**Neutrality Charges**" means Balancing Neutrality Charges and Reconciliation Neutrality Charges;
- (b) "**Relevant Incentive Charges**" are Capacity Neutrality Charges (under Section B2.11.9(a)) and User Daily Incentive Amounts (under Section D3.4.2(b)).
- (c) "**relevant period**" means each Gas Year or any other period (whether shorter or longer than a Gas Year) proposed by Transco NTS after consultation with the Uniform Network Code Committee or any relevant Sub-committee where the Authority (upon Transco NTS's application) gives Condition [A11(18)] Approval to Transco NTS's implementing this paragraph 12.1 on the basis of such other period;
- (d) the person appointed under paragraph 12.1.1 in respect of a relevant period is the "**Neutrality Auditor**".

12.1.3 A Neutrality Auditor may not be appointed for a relevant period:

- (a) where Transco NTS proposes after consultation with the Uniform Network Code Committee or any relevant Sub-committee and where the Authority (upon Transco NTS's application) gives Condition [A11(18)] Approval that such Neutrality Auditor not be appointed; or
- (b) where:
 - (i) pursuant to this paragraph 12.1.3 a Neutrality Auditor was not appointed for the immediately prior relevant period; and
 - (ii) Transco NTS reasonably determines that such Neutrality Auditor should not be appointed after consultation with the Uniform Network Code Committee or any relevant Sub-committee, unless (upon the application of Transco NTS or any User made within 10 Business Days after Transco NTS notified to Users the decision of the Committee or Sub-committee) the Authority in any case shall give Condition [A11(18)] Disapproval.

12.1.4 In the event that a Neutrality Auditor is appointed for a relevant period following relevant period(s) where (pursuant to paragraph 12.1.3) the Neutrality Auditor was not appointed, he may not review any prior relevant period unless expressly instructed by the Uniform Network Code Committee in accordance with paragraph 12.2.1.

12.1.5 In this paragraph 12 references to Users exclude DNO Users.

12.2 Basis and terms of appointment

12.2.1 The person appointed as Neutrality Auditor for each relevant period, and the period and (subject to the further provisions of this paragraph 12.2) the terms of his appointment, including the scope and objectives of the review under paragraph 12.1.1, shall be the person, period and terms from time to time agreed by the Uniform Network Code Committee or any relevant Sub-committee, unless (upon the application of Transco NTS or any User made within 10 Business Days after Transco NTS notified to Users the decision of the Committee or Sub-committee) the Authority in any case shall give Condition [A11(18)] Disapproval to Transco NTS's making an appointment of the Neutrality Auditor on such basis (in which case Transco NTS will arrange for an alternative proposal to be considered by the Network Code Committee or any relevant Sub-committee).

12.2.2 The terms of appointment will require that:

- (a) the Neutrality Auditor shall present to and discuss with Transco NTS its draft findings before reporting under paragraph (ii);
- (b) the Neutrality Auditor shall report his findings to Transco NTS and the Uniform Network Code Committee or any relevant Sub-committee;
- (c) without prejudice to paragraph (b), the Neutrality Auditor shall agree to permit a representative of each User to attend a meeting of the Uniform Network Code Committee or any relevant Sub-committee at which the Neutrality Auditor's report is presented;
- (d) the Neutrality Auditor shall undertake, in reasonable terms, to keep confidential the information disclosed to the Neutrality Auditor in the course of its review.

- 12.2.3 A copy of the Neutrality Auditor's full report will be provided by Transco NTS to each User and to the Authority.
- 12.2.4 The fees and costs of the Neutrality Auditor will be paid by Transco NTS and recovered from Users as follows:
- (a) before each relevant period the fees and costs of the Neutrality Auditor will be estimated by Transco NTS and the amount of such estimate, divided by the number of months in the relevant period will be an additional Monthly Adjustment Neutrality Cost under Section F4.5.3(a)(v) for each month in the relevant period;
 - (b) when the Neutrality Auditor's final account for the relevant period is rendered, the amount of the difference between the amount thereof and the estimate under paragraph (a) will be an additional Monthly Adjustment Neutrality Cost under Section F4.5.3(a)(v) or (as the case may be) an additional Monthly Adjustment Neutrality Revenue under Section F4.5.3(b)(iv) for the month following that in which it is rendered.

12.3 Effect of Neutrality Auditor's report

- 12.3.1 Where the report of the Neutrality Auditor contains a recommendation to the effect that the provisions of the Code as to the calculation of Neutrality Charges and Relevant Incentive Charges would be materially better implemented by a change in the procedures and controls adopted by Transco NTS for such calculation, Transco NTS will take all reasonable steps to comply with such recommendations, unless the Authority shall upon the application of Transco NTS give Condition 9(3) Approval to its not doing so.
- 12.3.2 Nothing in the report of the Neutrality Auditor shall entitle any User or Transco NTS to require any recalculation of, or to any adjustment in respect of, or to withhold payment or require repayment of, any Neutrality Charges and Relevant Incentive Charges, nor give rise to any liability of Transco NTS to any User in respect thereof.

12.4 Operations reporting

- 12.4.1 Transco NTS will, in accordance with the Network Code Operations Reporting Manual, and subject to paragraph 12.4.3, publish each month and at such other intervals as may be specified in such manual, information relating to:
- (a) the implementation by Transco NTS of certain provisions of the Code, including the Operational Balancing Steps taken by Transco NTS;
 - (b) the operations of Users pursuant to certain provisions of the Code.
- 12.4.2 For the purposes of the Code the "**Network Code Operations Reporting Manual**" is the document so entitled prepared and (subject to paragraph 12.4.5) from time to time revised by Transco NTS in consultation with the Uniform Network Code Committee or any relevant Sub-committee.
- 12.4.3 In accordance with the Network Code Operations Reporting Manual, the form in which information under paragraph 12.4.1(b) is provided:
- (a) to a User, will identify that User in the context of the information which relates to that User, but will not identify any other User in the context of the information which relates to such other User;

- (b) to the Authority, will identify each User in the context of the information which relates to such User;
- (c) to any other person, will not identify any User in the context of the information which relates to such User.

12.4.4 Each User hereby authorises Transco NTS to publish in accordance with paragraph 12.4.1 such information relating to such User, in such form, as is provided for in the Network Code Operations Reporting Manual.

12.4.5 If Transco NTS proposes to revise the Network Code Operations Reporting Manual in such a way as materially to increase the extent of the information relating to Users to be published pursuant thereto:

- (a) Transco NTS will notify Users of its proposal not less than one month before implementing such proposal;
- (b) any User may, within 14 Days after Transco NTS's notification under paragraph (a), notify Transco NTS that the User objects to such revision, providing reasonable details of the grounds for the User's objection;
- (c) if a User so notifies an objection to Transco NTS, Transco NTS will not implement the revision unless the Authority shall (upon Transco NTS's application) give Condition [A11(18)] Approval to its doing so.
- (d)

12.5 Aggregate NDM Reconciliation Auditor

12.5.1 The Transporters will appoint in accordance with paragraph 12.6 a person eligible for appointment as a company auditor (within the meaning of Part II of the Companies Act 1989) to conduct a review (after the relevant period) of whether, in the opinion of such person, in each relevant period, the Transporter has complied in all material respects with applicable provisions of the Code.

12.5.2 For the purposes of these paragraphs 12.5 to 12.7:

- (a) "**Aggregate NDM Reconciliation Charges**" means User Aggregate Reconciliation Clearing Values and User Aggregate Transportation Charge Adjustments; and
- (b) the person appointed under paragraph 12.5.1 in respect of the relevant period shall be the "**RbD Auditor**".

12.6 Basis and terms of appointment

12.6.1 The person appointed as RbD Auditor for each relevant period, and the period and (subject to the further provisions of this paragraph 12.6) the terms of his appointment, including the scope and objectives of the review under paragraph 12.5.1, shall be the person, period and terms from time to time agreed by the Uniform Network Code Committee or any relevant Sub-committee, unless (upon the application of the Transporters) or any User made within 10 Business Days after the Transporters notify to Users the decision of the Uniform Network Code Committee or relevant Sub-committee) the Authority in any case shall give Condition [A11(18)] Disapproval to the Transporters making an appointment of the RbD Auditor on such basis (in which case the Transporters will arrange for an alternative proposal to be considered by the

Uniform Network Code Committee or any relevant Sub-committee).

12.6.2 The terms of the appointment will require that:

- (a) the RbD Auditor shall present to and discuss with the Transporters its draft findings before reporting under paragraph (b);
- (b) the RbD Auditor shall report his findings to the Transporters and the Uniform Network Code Committee or any relevant Sub-committee;
- (c) without prejudice to paragraph (b), the RbD Auditor shall agree to permit a representative of each User to attend a meeting of the Uniform Network Code Committee or any relevant Sub-committee at which the RbD Auditor's report is presented;
- (d) the RbD Auditor shall undertake, in reasonable terms, to keep confidential the information disclosed to the RbD auditor in the course of its review.

12.6.3 A copy of the RbD auditor's report shall be provided by the Transporters to each "**relevant User**", (which for the purpose of this paragraph 12.6.3 and 12.7.2 shall mean a User who during the relevant period was the Registered User of a Smaller Supply Point on a relevant System) and the Authority.

12.6.4 The fees and costs of the RbD Auditor shall be paid by the Transporters.

12.7 Effect of the RbD Auditor's Report

12.7.1 Where the report of the RbD Auditor contains a recommendation to the effect that the provisions of the Code as to the calculation of Aggregate NDM Reconciliation Charges would be materially better implemented by a change in the procedures and controls adopted by the Transporters for such calculation, the Transporters will take all reasonable steps to comply with such recommendations, unless the Authority shall upon application of the Transporters give Condition [A11(18)] Approval to its not doing so.

12.7.2 Nothing in the report of the RbD Auditor shall entitle any User or the Transporters to require any recalculation of, or to any adjustment in respect of, or to withhold payment or require repayment of, any Aggregate NDM Reconciliation Charge, nor give rise to any liability of the Transporters to any relevant User in respect thereof except where such entitlement is provided for in the terms of the Code.

13 COMPENSATION

13.1 Introduction

13.1.1 For the purposes of this paragraph 13:

- (a) "**Compensation Rule**" means a rule pursuant to the Code, identified as such and providing for the Transporter or Transporters to pay an amount by way of compensation to Users;
- (b) "**Compensation Year**" means a period of 12 months expiring 31st March in any year;
- (c) "**Compensation Provisions**" means the provisions of the Code which establish a Compensation Rule;
- (d) "**Compensation Group**" means a group of Compensation Rules, such groups being

designated as Groups A to L inclusive, and the Compensation Group to which each Compensation Rule belongs being specified in the relevant Compensation Provisions;

- (e) the "**Group Limit**" in respect of each Compensation Group is as follows:
 - (i) for each of Groups A, B, C, D, F and K: £5,000,000;
 - (ii) for Group E: £2,500,000 in respect of Larger Supply Points and £2,500,000 in respect of Smaller Supply Points;
 - (iii) for Group G: £4,000,000 in respect of Larger Supply Points and £1,000,000 in respect of Smaller Supply Points;
 - (iii) for Group H: £1,000,000 in respect of Larger Supply Points and £1,000,000 in respect of Smaller Supply Points;
 - (iv) for Group I: £3,000,000;
 - (v) for Group J: £2,500,000 in respect of Larger Supply Points and £2,500,000 in respect of Smaller Supply Points; and
 - (vi) for Group L: £5,000,000 in respect of Larger Supply Points and £5,000,000 in respect of Smaller Supply Points;
- (f) an amount is "**adjusted**" where it has been adjusted pursuant to paragraph 13.2.2 and/or 13.2.3, and otherwise is "**unadjusted**".
- (g) 13.1.2 In this paragraph 13 references to Users exclude DNO Users.

13.2 Aggregate payment caps

13.2.1 The aggregate amount payable pursuant to all of the Compensation Rules in any Compensation Group (excluding amounts in respect of interest) by [the Transporters] to all Users in respect of any month (month 'n', where n is 1 for the first month in the Compensation Year, 2 for the second such month, and so on) in any Compensation Year shall not exceed an amount (the "**Monthly Available Compensation Amount**") determined as the lesser of :

$$(CML - PP) * SF$$

or

$$GLI * SF$$

where:

CML is the cumulative monthly limit for that Group calculated as:

$$GL * n / 12$$

where GL is the amount of the Group Limit;

PP is zero (0) in relation to month 1, and otherwise is the aggregate amount (adjusted pursuant to paragraphs 13.2.2 and 13.2.3) payable pursuant to all of the Compensation Rules in the relevant Compensation Group in respect of

months 1 to n-1 inclusive;

GLI the aggregate unadjusted amount payable pursuant to all of the Compensating Rules in the Compensation Group in respect of month n;

SF is a scaling factor which shall be the lesser of one (1) and a factor determined as:

$$\frac{(50,000,000 * n) / 12 - APP}{AMC}$$

where:

APP is the sum, for all Compensation Groups, of the amounts PP in relation to months 1 to n-1;

AMC is the sum, for all Compensation Groups, of the lesser of:

- (1) GLI;
- or
- (2) the cumulative monthly limit CML for the Compensation Group in relation to month n less PP.

13.2.2 Where in respect of any month the aggregate unadjusted amount payable by the Transporters pursuant to all of the Compensation Rules in any Compensation Group would exceed the applicable Monthly Available Compensation Amount, determined in accordance with paragraph 13.2.1 but on the basis of a scaling factor SF equal to one, the amounts payable by the [the Transporters] to Users pursuant to each Compensation Rule in respect of that month shall be reduced pro rata so that the aggregate of such reduced amounts is equal to the Monthly Available Compensation Amount.

13.2.3 The amounts, adjusted in accordance with paragraph 13.2.2, payable by the Transporters to Users pursuant to each Compensation Rule in respect of that month shall be further adjusted by the scaling factor SF.

13.3 Invoicing and payment

13.3.1 Subject to paragraphs 13.3.2 and 13.3.3, amounts payable by the Transporters pursuant to each Compensation Rule will be invoiced and payable in accordance with Section S.

13.3.2 Any amount payable by the Transporters pursuant to a Compensation Rule will be payable not later than the 15th Day of the payment month (which date will be the Invoice issue date in respect of an Invoice Document in respect of any such amounts).

13.3.3 Where (whether or not by reason of the Invoice Document being submitted after such date) the Transporters make payment after the date referred to in paragraph 13.3.2, the Transporters will pay interest on the amount payable with effect from such date, provided that until the last Day of the payment month the Applicable Interest Rate shall be the rate under Section S3.6.4(b).

13.3.4 The Transporters will provide by way of supporting data with each relevant Invoice Document reasonable details of the basis on which the Invoice Amounts (pursuant to a

Compensation Rule) are calculated (not for the avoidance of doubt including details of the calculations of any Compensation Relevant Value).

- 13.3.5 For the purposes of this paragraph 13.3 (as it applies for the purposes of any Compensation Rule), the "**payment month**" is the month specified in the relevant Compensation Provisions.

13.4 Force Majeure

Where by reason of Force Majeure a Transporter is unable to comply in any case with any requirement by reference to which a Compensation Rule applies, the Transporter(s) shall not be treated as having failed to comply with such requirement in such case for the purposes of the Compensation Provision (and for the purposes of any relevant aggregate requirement) including whether the Transporter(s) have complied with the requirement in a given percentage of cases.

13.5 Audit

For the purposes of paragraphs 13.7 to 13.9 (providing for the review by the Compensation Value Auditor of the determination of Compensation Relevant Values):

- (a) in relation to each Compensation Group, the maximum aggregate amount payable in a month pursuant to paragraph 13.2 is a Compensation Relevant Value;
- (b) in relation to each Compensation Rule referred to in paragraph 13.1, the relevant percentage is a Compensation Relevant Value.

13.6 Disapplication

- 13.6.1 If at any time the Transporters shall have delivered a dis-application request pursuant to paragraph [5] of Special Condition [C8B] or paragraph [11] of Special Condition [E2B] of the Transporter's Licence, or the equivalent provision in any condition of that licence which may apply following any modification of that licence, then if the Transporters shall give notice to the Authority not less (except with the consent of the Authority) than 9 months before the dis-application date (as defined in that condition), all Compensation Rules and the related Compensation Provisions shall cease to have effect with effect from the dis-application date.

- 13.6.2 If the Transporters give notice under paragraph 13.6.1 they will so inform Users as soon as reasonably practicable after doing so.

13.7 Compensation Value Auditor

- 13.7.1 The Transporters will, subject to paragraphs 13.7.3 and 13.7.4, appoint a person eligible for appointment as a company auditor (within the meaning of Part II of the Companies Act 1989) to conduct a review (after the relevant period) of whether, in the opinion of such person, in each relevant period, in determining the values of Compensation Relevant Values, each Transporter has complied in material respects with applicable provisions of the Code.

- 13.7.2 For the purposes of this paragraph 13:

- (a) a "**Compensation Relevant Value**" is the value of any amount or percentage, by

reference to which (pursuant to particular provisions of the Code) the amount or maximum amount payable by the Transporters by way of compensation to Users is determined, specified as being such in any provision of the Code;

- (b) "relevant period" means:
 - (i) the period from the date of the Code until 30th September [2005], and
 - (ii) thereafter, each Gas Year or any other period (whether shorter or longer than a Gas Year, but not shorter than 3 months) proposed by the Transporters after consultation with the Uniform Network Code Committee or any relevant Sub-committee where the Authority (upon the Transporters application) gives Condition [A11(18)] Approval to the Transporters implementing this paragraph 13 on the basis of such other period;
- (c) the person appointed under paragraph 13.7.1 in respect of a relevant period is the "**Compensation Value Auditor**".

13.7.3 A Compensation Value Auditor may not be appointed for a relevant period:

- (a) where the Transporters propose after consultation with the Uniform Network Code Committee or any relevant Sub-committee and where the Authority (upon the Transporters application) gives Condition [A11(18)] Approval that such Compensation Value Auditor not be appointed; or
- (b) where:
 - (i) pursuant to this paragraph 13.7.3 a Compensation Value Auditor was not appointed for the immediately prior relevant period; and
 - (ii) the Transporters reasonably determine that such Compensation Value Auditor should not be appointed after consultation with the Uniform Network Code Committee or any relevant Sub-committee, unless (upon the application of the Transporters or any User made within 10 Business Days after the Transporters notified to Users the decision of the Committee or Sub-committee) the Authority in any case shall give Condition [A11(18)] Disapproval.

13.7.4 In the event that a Compensation Value Auditor is appointed for a relevant period following relevant period(s) where (pursuant to paragraph 12.1.3) the Compensation Value Auditor was not appointed, he may not review any prior relevant period unless expressly instructed by the Uniform Network Code Committee in accordance with paragraph 13.8.1.

13.8 Basis and terms of appointment

13.8.1 The person appointed as Compensation Value Auditor for each relevant period, and the period and (subject to the further provisions of this paragraph 13.8) the terms of his appointment, including the scope and objectives of the review under paragraph 13.7.1, shall be the person, period and terms agreed by the Uniform Network Code Committee or any relevant Sub-committee, unless (upon the application of the Transporters or any User made within 10 Business Days after the Transporters notify to Users the decision of the Committee or Sub-committee) the Authority in any case shall give Condition

[A11(18)] Disapproval to the Transporters making an appointment on such basis (in which case the Transporters will arrange for an alternative proposal to be considered by the Network Code Committee of any relevant sub-committee).

13.8.2 The terms of appointment will require that:

- (a) the Compensation Value Auditor shall present to and discuss with the Transporters its draft findings before reporting under paragraph (b);
- (b) the Compensation Value Auditor shall report his findings to the Transporters and the Uniform Network Code Committee or any relevant Sub-committee;
- (c) without prejudice to paragraph (b), the Compensation Value Auditor shall agree to permit a representative of each User to attend a meeting of the Uniform Network Code Committee or any relevant Sub-committee at which the Compensation Value Auditor's report is presented;
- (d) the Compensation Value Auditor shall undertake, in reasonable terms, to keep confidential the information disclosed to the Compensation Value Auditor in the course of its review.

13.8.3 A copy of the Compensation Value Auditor's full report will be provided by the Transporters to each User and to the Authority.

13.8.4 The fees and costs of the Compensation Value Auditor will be paid by the Transporters and (subject to paragraph 13.8.5) recovered from Users as follows:

- (a) before each relevant period the fees and costs of the Compensation Value Auditor will be estimated by the Transporters and the amount of such estimate, divided by the number of months in the relevant period will be an additional Monthly Adjustment Neutrality Cost under Section F4.5.3(a)(v) for each month in the relevant period;
- (b) when the Compensation Value Auditor's final account for the relevant period is rendered, the amount of the difference between the amount thereof and the estimate under paragraph (a) will be an additional Monthly Adjustment Neutrality Cost under Section F4.5.3(a)(v) or (as the case may be) an additional Monthly Adjustment Neutrality Revenue under Section F4.5.3(b)(iv) for the month following that in which it is rendered.

13.8.5 Where a report of the Compensation Value Auditor contains a finding that [the Transporter (or the Transporters)] failed in a material respect to determine a Compensation Relevant Value in accordance with the applicable provisions of the Code, that part of the fees and costs of the Compensation Value Auditor certified by the auditor as relating to the review (under paragraph 13.7.1) in respect of that Compensation Relevant Value shall be borne by the Transporters and not recovered from Users pursuant to paragraph 13.8.4.

13.9 Effect of Compensation Value Auditor's report

Where the report of the Compensation Value Auditor contains a recommendation to the effect that the provisions of the Code as to the determination of Compensation Relevant Values would be materially better implemented by a change in the procedures adopted by the Transporters for such determination, the Transporters will take all reasonable steps to comply with such recommendation, unless the Authority shall upon the application of the Transporters give Condition [9(3)] Approval to its not doing so.]

14 GENERAL

14.1 Suppliers and Consumers

14.1.1 Where:

- (a) the Code provides for the Transporter to do anything at or affecting any Supply Point Premises or the offtake of gas from the Total System at any Supply Point;
- (b) in doing that thing the Transporter complies with the requirements of the Code and any other agreement with the User, supplier or consumer in relation thereto, does not act unlawfully, and is not negligent; and
- (c) by reason of the Transporter doing that thing the consumer or supplier suffers loss or damage or claims to have done so or otherwise makes any claim or complaint or brings any action or proceeding against the Transporter (other than pursuant to a contract between the Transporter and such consumer or supplier)

the User or each User which is (at the time at which the Transporter does such thing) the Registered User in respect of the relevant Supply Point shall indemnify the Transporter and hold it harmless against any liability to such consumer or supplier in respect of any such loss damage, claim, complaint, action or proceeding, and all costs and expenses incurred in connection therewith.

14.1.2 Nothing in the Code or a Framework Agreement or (except as may be expressly provided therein) an Ancillary Agreement shall be construed as imposing upon the Transporter any obligation or duty to or enforceable by a consumer or a supplier; and no User shall make any commitment to any supplier or consumer binding on or purporting to bind the Transporter.

14.1.3 Nothing in the Code, a Framework Agreement or any Ancillary Agreement shall prevent the Transporter from exercising any right or remedy which it may have against a consumer or supplier at law or pursuant to the Act or otherwise.

14.2 Assignment ²

14.2.1 Subject to paragraph 14.2.4, a Party may assign its rights under the Code, a Framework Agreement and any Ancillary Agreement:

- (a) to a 33 1/3% Affiliate of such Party, provided that the assigning Party shall continue to be bound by and liable under the Code, the Framework Agreement and any such Ancillary Agreement;
- (b) subject to paragraph 14.2.5, with the prior agreement in writing of each relevant other Party, which shall not unreasonably be withheld, to any person.

14.2.2 For the purposes of this paragraph 14.2, a relevant other Party is:

- (a) where the assigning Party is the Transporter, each other User;
- (b) where the assigning Party is a User, the Transporter.

14.2.3 Except as provided in paragraph 14.2.1, a Party shall not assign or transfer and shall not

² Consider adding equivalent provision to OAD Section N9.2.

purport to assign or transfer any of its rights or obligations under the Code, a Framework Agreement or (except as may be expressly permitted thereby) any Ancillary Agreement.

14.2.4 No assignment shall be made to a person unless:

- (a) where the assigning Party is the Transporter, that person holds the Transporter's Licence;
- (b) where the assigning Party is a Shipper User, that person holds a Shipper's Licence and has complied with the other requirements which (if the person were an Applicant User) it would be required under paragraph 2 to comply with;
- (c) where the assigning Party is a DNO User, that person has complied with the other requirements which (if the person were an Applicant User) it would be required under paragraph 2 to comply with.

14.2.5 Where a Party assigns its rights under the Code and a Framework Agreement and any Ancillary Agreement to a person (including a 33 1/3% Affiliate) pursuant to paragraph 14.2.1(b):

- (a) it shall be a condition precedent to such assignment that such person shall enter into an Agreement with each relevant other Party covenanting to be bound by the Framework Agreement, Code and any such Ancillary Agreement;
- (b) the assigning Party shall be released from obligations under the Code, the Framework Agreement and any such Ancillary Agreement arising after the time at which the assignment is effective, but shall remain liable for any obligations accruing up to such time.

14.2.6 Any credit limit required under the Code shall be determined separately for a person to whom a User assigns its rights under paragraph 14.2.1(b); and the assigning Party may not assign its own credit limit.

14.2.7 A reference in the Code, a Framework Agreement or any Ancillary Agreement to any Party shall include a reference to that Party's successors and assigns.

14.3 Transporter performance

14.3.1 In relation to exercising its discretions and performing obligations under the Code the Transporter shall at all times:

- (a) act in a reasonable and prudent manner in relation to the management and operation of each of its Systems and, in the case of Transco NTS, the Transco LNG Storage Facilities; and
- (b) act reasonably and in good faith in its dealings with Users;

save that the foregoing shall not apply to the extent that:

- (i) there is any standard of performance already provided for by any statute, regulation or licence condition to which the Transporter is subject; or
- (ii) the Transporter would thereby be required to act in a manner which

would conflict with any Legal Requirement.

14.3.2 For the avoidance of doubt the operation of this paragraph 14.3 shall not prevent the Transporter from performing any obligation under the Code.

14.4 Not Used

14.5 Not Used

14.6 Not Used

14.7 Not Used

14.8 Not Used

14.9 Not Used

14.10 Not Used

Annex V-1

Operational and Market Data

Column	Name	Description			
1	Data	data definition and indication of the time period to which the data corresponds			
2	Timing	initial publication timing and where appropriate, timing of updates if the data is subject to any change			
3	Format	tabular, graphical, other			
4	Presentation	downloadable, viewable or both			
5	Disclosure	public or restricted (and if restricted, list of entities to whom the data can be released)			
	Data	Timing	Format	Presentation	Disclosure
	None specified				

Annex V-2

SO Commodity Charge Information

Annex V-2	SO Commodity Charge Information			
SO Commodity Charge Information description	Licence definition	period	reporting deadline	location
forecast of annual System throughput for Formula Year t	N/A	Formula Year	On 1 April or as soon as reasonably practicable thereafter in Formula Year t-1	http://info.transco.uk.com
forecast of monthly System throughput for Formula Year t	N/A	Formula Year	On 1 April or as soon as reasonably practicable thereafter in Formula Year t-1	http://info.transco.uk.com
actual weekly System throughput	N/A	Formula Year to date	9 Days after week end	http://info.transco.uk.com
annual target cost for each of the Relevant SO Incentive Schemes for Formula Year t	NTS SO exit capacity incentive targets (ExCITt) & (ExITt), system reserve incentive target (SRITt), gas cost incentive target (GCITt), internal incentive target (ICITt).	Formula Year	On 1 April or as soon as reasonably practicable thereafter in Formula Year t-1	http://info.transco.uk.com
forecast monthly target cost for each of the Relevant SO Incentive Schemes for Formula Year t	N/A	Formula Year	On 1 April or as soon as reasonably practicable thereafter in Formula Year t-1	http://info.transco.uk.com
sum of weekly outturn costs	The exit performance measure (ExCPt), The NTS SO system balancing costs (SBICt), The	Formula Year to date	62 Days after week end	http://info.transco.uk.com

Annex V-2	SO Commodity Charge Information			
for the Relevant SO Incentive Schemes	internal cost performance measure (ICCPt)			
quarterly outturn costs for each of the Relevant SO Incentive Schemes	The exit performance measure (ExCPt), The NTS SO system balancing costs (SBICt), The internal cost performance measure (ICCPt)	Formula Year to date	62 Days after quarter end	http://info.transco.uk.com

Where:

t	means the relevant Formula Year;
t-1	means the Formula Year prior to the relevant Formula Year;
week	means the seven day period from 06:00 hours on a Monday until 06:00 hours on the following Monday;
throughput	means $(\text{actual inputs to the System} + \text{sum of UDQOs}) / 2$
Relevant SO Incentive Schemes	means exit capacity investment incentive, system balancing incentive and internal cost incentive schemes as defined by the Licence;
Licence	means the Transporter's Licence;
Formula Year	means a period of twelve months commencing on 1 April at 06:00 hours.

Annex V-3

SO Commodity Charge Information

1. For the purposes of paragraph 5.12 the transportation revenue information is forecast revenue and actual revenue, for the immediately preceding month and each calendar month prior thereto in the relevant Formula Year, in each case in respect of each of the categories of charges referred to in Table 1 below.
2. For the purposes of this Annex V-3:
 - (a) save as provided below, each of the categories of charges referred to in Table 1 below shall be consistent with those set out in Transco NTS's Transportation Statement and shall include any charges subsequently introduced in substitution for any of the same;
 - (b) "**forecast revenue**" shall mean Transco NTS' estimate of the revenue to be recovered in respect of each relevant calendar month, using such criteria as Transco NTS shall reasonably consider appropriate and having regard to the provisions of Transco NTS's Transportation Statement and any revenue or price control restrictions to which it may be subject from time to time (it being acknowledged that such estimate may be subject to revision from time to time);
 - (c) "**actual revenue**" shall mean such amount reasonably determined by Transco NTS on an accruals basis (based on such information as is reasonably available to it at the relevant time) of revenue recovered or to be recovered in respect of each relevant calendar month (it being acknowledged that such amount may be subject to re-determination from time to time); and
 - (d) "**relevant Formula Year**" shall mean the Formula Year in which the immediately preceding month falls.

Table 1 – Categories of Charges

- NTS Entry Capacity charges
- NTS (TO) exit capacity charges
- NTS (TO) commodity charges
- NTS (SO) commodity charges
- Transportation activity charges in respect of each distribution network (being all LDZ related charges referred to in the Transportation Statement in so far as such charges are relevant to that distribution network).