

Schedule 3. General Terms and Conditions of Supply

1. Definitions

1.1 In this Agreement (save where otherwise expressly provided) the following words and expressions shall have the following meanings:

“Act”: means the Gas Act 1986.

“Affiliate(s)”: means a company which directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with a Party. For this purpose control means the direct or indirect ownership of in aggregate fifty per cent or more of voting capital.

“Aggregated Actual Consumption”: in respect of a Contract Year, the actual total quantity of gas supplied hereunder to Supply Points having an Estimated Buyer's Consumption equal to or greater than 732,000 kWh.

“Aggregated Estimated Consumption”: in respect of a Contract Year, the total Estimated Buyer's Consumption of all Supply Points other than those having an Estimated Buyer's Consumption less than 732,000 kWh.

“Agreement”: means the Natural Gas Supply Agreement between Shell Gas Direct and the Buyer consisting of the Form of Agreement and attached Schedules as listed.

“Average Daily Quantity”: means the aggregate quantity of gas nominated by the Buyer for a month of supply divided by the total number of calendar days within such month.

“bar”: means a measurement of pressure as defined in ISO 1000-1981(E).

“Business Day”: means a Day other than a Saturday or a Sunday or a Day that is a public holiday in the country where the Premises to which gas is supplied is situated.

“Buyer”: means the person or company identified as such in the Form of Agreement or who is otherwise legally responsible for paying for the gas offtaken at the Supply Point.

“Buyer Control Valve”: means a valve for shutting off the gas supply in an emergency, intended for use by a gas consumer and which is located upstream of the Meter.

“Buyer's Facility”: in respect of any Supply Meter Point the facility, plant and/or equipment in which gas offtaken by the Buyer at that point is to be used (including any plant or equipment in which gas is compressed or otherwise treated before being consumed).

“calorific value”: means that number of Joules (as defined in ISO 1000-1981(E)) produced by the complete combustion at a constant absolute pressure of 1.01325 bar of 1 Cubic Metre of gas at a temperature of 15°C with excess air at the same temperature and pressure as the gas when the products of combustion are cooled to 15°C and when the water formed by combustion is condensed to the liquid state and the products of combustion contain the same total mass of water vapour as the gas and air before combustion, and for the avoidance of doubt calorific value shall be REAL as defined in ISO 6976-1 : 1983 (E).

“CV”: shall have the meaning specified in Clause 5.3.

“Climate Change Levy”: means a charge levied at the rate from time to time imposed pursuant to the Finance Act 2000 and any regulations made thereunder or in connection with such charge.

“Competent Authority”: means the Gas and Electricity Markets Authority, any local national or supra-national agency, authority, department, inspectorate, minister, official court, tribunal or public or statutory person (whether autonomous or not) of the United Kingdom or the government thereof or the European Communities which has jurisdiction over and/or in respect of the Buyer, Shell Gas Direct, other suppliers and shippers of natural gas, shippers, Gas Transporters and/or the subject matter of this Agreement and/or any other agreement relating to the supply of quantities to each and any of the Supply Points and/or the Network Code.

“Contract Year”: means a period of twelve (12) months commencing on the Start Date or any anniversary thereof, provided that the final Contract Year shall terminate on the date of termination of this Agreement.

“Cubic Metre”: means that amount of gas which at a temperature of 15°C and an absolute pressure of 1.01325 bar and being free of water vapour occupies one (1) cubic metre.

“Datalogger”: means a device approved by Shell Gas Direct for capturing data from a Meter, and/or where installed a converter and a telephone line or radio transmitter and/or such other equipment as shall be required for transmitting such data to the Meter Reading Agency.

“Datalogger Reading”: means a reading constituted by or derived from data captured from the Meter by a Datalogger.

“Day”: means the period from 06:00 hours on one day until 06:00 hours on the following day and “Daily” shall be construed accordingly.

“Delivery Point”: in respect of a Supply Meter Point, means the outlet of the Buyer Control Valve.

“DM Component” means all the DM Supply Meter Points comprised in a Supply Point;

“DM Supply Meter Point” means each of the Supply Meter Points specified as daily metered (DM) in Schedule 1;

“Emergency”: means the existence of circumstances which leads the Network Emergency Co-ordinator or the Gas Transporter to form the opinion that:

- (a) the safety of the Pipeline System is significantly at risk;
- (b) the safe conveyance of gas by the Pipeline System is significantly at risk; or
- (c) gas conveyed by the Pipeline System is at such a pressure, or of such a quality, as to constitute, when supplied to Premises, a danger to life or property,
- (d) a supply emergency exists, or is likely to occur, such that the Network Emergency Co-ordinator considers there is, or may be, insufficient supplies to meet demand;

as the same are notified by Shell Gas Direct, the Network Emergency Co-ordinator or the Gas Transporter to the Buyer.

“Estimated Buyer’s Consumption”: in respect of a Supply Point means the quantity of gas which is expected to be required at that Supply Point during the Contract Year as set out in respect of that Supply Point in Schedule 1.

“Firm”: in the context of a Supply Point, means a Supply Point in respect of which Shell Gas Direct or the Gas Transporter is not entitled (but without prejudice to anything to the contrary in this Agreement or to any statutory rights of disconnection either may have) to require the Buyer to reduce or discontinue its offtake of gas.

“Form of Agreement”: means the agreement signed on behalf of the Buyer and Shell Gas Direct;

“gas”: means any hydrocarbons or mixture of hydrocarbons and other gases consisting primarily of methane which at a temperature of 15°C and an absolute pressure of 1.01325 bar are or is predominantly in the gaseous state (commonly known as natural gas).

“Gas Code”: means the Gas Code in Schedule 2B to the Act.

“Gas Transporter”: means any person or company appointed by Shell Gas Direct to deliver gas to the Supply Meter Point, and “Gas Transporters” means all such persons.

“IGEM Meter Recommendations”: means any recommendation or standard from time to time issued or updated by the Institution of Gas Engineers and Managers in respect of the nature, type, design, specification or manufacture of any Meter Installation or part thereof.

“kWh”: 3,600,000 Joules (and Joules shall have the meaning in ISO 1000-1981 (E)).

“Large Supply Point”: means a Supply Point with a consumption of more than 732,000 kWh per annum.

“Legal Requirement”: means any Act of Parliament, statutory instrument, regulation, licence or act or decision of any Competent Authority.

“Maximum Daily Quantity” means the maximum daily offtake rate of gas at a DM Component, as set out in Schedule 1;

“Maximum Hourly Quantity” means the maximum rate measured over a six minute period (but expressed in an equivalent hourly rate) for offtake of gas at a DM Component, as set out in Schedule 1;

“Meter”: means the meter comprised in the Meter Installation at a Supply Meter Point.

“Meter Asset Manager”: means the person or company appointed by Shell Gas Direct to install and maintain the Meter at a Supply Meter Point.

“Meter Bypass”: means an installation by means of which the flow of gas at a Supply Meter Point may be delivered so as not to pass through the Meter.

“Meter Installation”: shall have the meaning as described in Clause 5.2.

“Meter Point Reference Number” or “IMPR”: means a unique number allocated to each Supply Meter Point as specified in Schedule 1.

“Meter Reading Agency”: means the person or company appointed during the term of this Agreement to undertake Meter Readings in respect of a Meter at a Supply Meter Point.

“Meter Reading”: means either of:

(a) the reading of the index of a Meter together with (where a converter is installed pursuant to the Gas (Calculation of Thermal Energy) Regulations 1996), the converted and unconverted readings of the converter; or

(b) a Datalogger Reading.

“Meter Read Period”: means the period between one Meter Reading and the next immediately succeeding Meter Reading.

“Metered Volume”: means the volume (corrected for temperature and pressure in accordance with the Gas (Calculation of Thermal Energy) Regulations 1996) of gas determined as having been offtaken at a Supply Meter Point during the Meter Read Period.

“NDM”: means non-daily metered.

“NDM Component”: means all of the NDM Supply Meter Points comprised in a Supply Point.

“NDM Supply Meter Point”: means each of the Supply Meter Points specified as such in Schedule 1.

“Network Code”: means the operating code(s) prepared by the Gas Transporter(s) pursuant to their licence conditions.

“Network Emergency Co-ordinator”: means the person or company responsible for co-ordinating and controlling the safe conveyance of gas through the Pipeline System(s) to a Supply Meter Point.

“Network Exit Agreement”: means an agreement between a Gas Transporter and the Buyer or a Gas Transporter and Shell Gas Direct that contain provisions relating to the specific operating conditions for the offtake of gas at a Supply Point.

“Party”: means the Buyer or Shell Gas Direct as the case may be.

“Parties”: means both the Buyer and Shell Gas Direct.

“Pipeline System”: means the natural gas pipeline system operated by a Gas Transporter.

“Premises”: means the premises at which gas is offtaken at a Supply Point and consumed by the Buyer.

“Priority Consumer”: means a gas consumer whose name appears on the list established (and from time to time amended) by the Gas Transporter which indicates the priority with which a Large Supply Point may have their gas supply curtailed or restricted during an Emergency.

“Priority Criteria”: means the criteria designated by the Secretary of State pursuant to Standard Condition 18 of the Gas Transporters Licence, and/or any other criteria which the Gas Transporter may from time to time notify to Shell Gas Direct for the purposes of assessing which consumers should be given priority status as described in that Standard Condition.

“Priority Supply Point”: means a Supply Point in respect of which the consumer is a Priority Consumer.

“quantity”: in respect of gas is a quantity in kWh.

“Shell Gas Direct”: means Shell Gas Direct Limited.

“Specification”: means the gas composition and pressure set out from time to time in the relevant regulations pursuant to Section 16(1) of the Act as they may apply in respect of gas supplied by Shell Gas Direct at a Supply Meter Point.

“Start Date” means for the first Contract Year, the date specified for the Form of Agreement as the date on which Shell

Gas Direct first supplies gas to the Buyer, and, in respect of each subsequent Contract Year, the anniversary of such date. "Supply Meter Point": means an individual point on the Pipeline System at which gas may be offtaken through a single pipe.

"Supply Point": means the aggregation of Supply Meter Points at a particular location which together form a supply point as the same are specified in Schedule 1.

"Termination Notice": shall have the meaning in Clause 12.3.

"Third Party": means any person other than the Parties, the Parties' Affiliates and their respective directors, employees and agents.

"Trading Day": means a Day when the International Petroleum Exchange based in London is open for the business of trading natural gas.

1.2 In the Agreement, except to the extent that the context requires otherwise:

- (a) words imparting the singular shall include the plural and vice versa;
- (b) any reference to the words 'include' and 'including' shall be construed without limitation;
- (c) any reference to an agreement, document or instrument (for example a licence) is a reference to it as further amended, supplemented or novated from time to time and includes a reference to any agreement, document or instrument which amends, is supplemental to, novates, or is entered into, made or given pursuant to or in accordance with any terms of it;
- (d) any reference to a Party includes their successors and permitted assigns; and
- (e) where any information is given in or under this Agreement "for information purposes only", such information is provided in good faith at the date below, and should not be relied upon as advice or have any legal force or effect. The Buyer agrees that Shell Gas Direct is not responsible for the accuracy of this information, nor for failing to inform the Buyer of any information that has superseded the information supplied under this Agreement.
- (f) a reference to a statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted and shall include any subordinate legislation made from time to time under that provision.

2. Requirements in respect of Supply Points

2.1 Shell Gas Direct shall supply gas to the Supply Points under this Agreement on the basis that where a Supply Point comprises more than one Supply Meter Point, gas offtaken at each such Supply Meter Point is supplied to Premises that:

- (a) are owned or occupied by the Buyer;
- (b) are in close geographical proximity to each other;
- (c) are located within a common curtilage; and
- (d) serve each other in some necessary or reasonably useful way.

2.2 The Buyer shall ensure that all gas offtaken at a Supply Meter Point passes through the Meter at that Supply Meter Point. The Buyer accepts for the purposes of this Agreement full responsibility for the gas taken at each Supply Point by itself or any other person whether or not authorised by the Buyer.

2.3 Gas shall be delivered to the Buyer at the Delivery Point and the risk and title in the gas so delivered shall pass at the Delivery Point.

2.4 If, in relation to any Supply Point, the requirements in Clause 2.1 cease, or may reasonably be anticipated to cease to be satisfied, the Buyer shall promptly notify Shell Gas Direct.

2.5 The Buyer shall promptly notify Shell Gas Direct on it becoming aware of any changes to the address or postcode details of any Supply Point.

2.6 In respect of each Large Supply Point, the Buyer shall provide to Shell Gas Direct, as set out in Schedule 4, the details of:

- (a) sufficient telephone numbers and facsimile numbers to enable Shell Gas Direct, the Network Emergency Co-ordinator or the Gas Transporter to contact twenty four (24) hours a day, 365 days a year, a representative of the Buyer in an Emergency for the purposes described in Clause 7; and
- (b) the names or titles of the Buyer's representatives who may be contacted at such numbers.

2.7 The details required under Clause 2.6 shall at all times be maintained up-to-date, and the Buyer shall notify to Shell Gas Direct any change in such details as soon as reasonably practicable and in any event before such change takes effect.

2.8 The Buyer warrants that gas supplied to each Supply Point under this Agreement is to be used wholly or mainly for non-domestic purposes. The Buyer shall promptly notify Shell Gas Direct of any Supply Point at which it intends to use, or uses, gas supplied under this Agreement for any purposes which are wholly or mainly domestic.

2.9 The Buyer warrants that it is not, in respect of any Supply Point, party to (and so far as it is aware there is not in place) a Network Exit Agreement with the Gas Transporter. For information purposes only, at the date below, a Network Exit Agreement is normally only required at Supply Points with an Annual Quantity of more than 1,500 million kWh per annum.

2.10 The Buyer warrants that there is not installed at any Supply Point a gas boosting, compression or mixing equipment or facility and that it will not install any such equipment or

facility without first giving Shell Gas Direct at least thirty (30) days' prior written notice.

2.11 If requested by Shell Gas Direct the Buyer shall, within a reasonable period as specified by Shell Gas Direct, answer any questions concerning a Supply Point and provide reasonable evidence as to whether the requirements of paragraph 17 of the Gas Code are applicable, and where applicable, are being complied with. For information purposes only, at the date of printing of this Agreement, paragraph 17 requires that Buyers using appliances that may affect the pressure of gas provided to their neighbours (for example an engine, compressor or equipment using compressed air/gas), may be required to install and use such equipment as is necessary to avoid their use causing inconvenience to other local Supply Points or the Pipeline System.

3. Supply Quantities

3.1 The Buyer shall notify Shell Gas Direct if it has made, or is planning to make, any change to the size, nature, or the use of the gas consuming equipment, or any change in the nature of activities or processes being carried out, at the Premises, which has resulted or might result in any changed requirement for gas at the Supply Point.

3.2 If at any time the Buyer anticipates that the consumption of gas at any Supply Point may exceed 125% of the Estimated Buyer's Consumption for that Supply Point as set out in Schedule 1, it shall notify Shell Gas Direct to that effect as soon as reasonably practicable.

3.3 Without prejudice to Shell Gas Direct's rights in respect of offtake of gas from DM Components, and regardless of whether the Buyer notifies Shell Gas Direct under Clause 3.2, Shell Gas Direct may, at its discretion, require the Buyer to reduce its offtake at the relevant Supply Point to 125% of the Estimated Buyer's Consumption for that Supply Point as set out in Schedule 1.

3.4 If Shell Gas Direct requires the Buyer to reduce its offtake in accordance with the provisions of Clause 3.3 and the Buyer fails to comply with such requirement then, without prejudice to any other remedy available to Shell Gas Direct, Shell Gas Direct may at its discretion and at any time stop, suspend, reduce or limit the supply of gas to the Buyer by any quantity and for any period deemed appropriate by Shell Gas Direct. Shell Gas Direct shall have no liability whether in contract, tort (including negligence), breach of statutory duty or otherwise to the Buyer as a result of such cessation or reduction of gas supply.

3.5 The Buyer shall not offtake gas at any Supply Meter Point within a DM Component at a rate in excess of the applicable Maximum Daily Quantity or the applicable Maximum Hourly Quantity, and shall inform Shell Gas

Direct as soon as it is aware that the rate of offtake has exceeded or is likely to exceed either or both of the applicable Maximum Daily Quantity and the applicable Maximum Hourly Quantity.

3.6 If:

- (a) The buyer informs Shell Gas Direct in accordance with Clause 3.5; or
- (b) Shell Gas Direct otherwise becomes aware that such rate of offtake exceeds the applicable Maximum Daily Quantity and the applicable Maximum Hourly Quantity, Shell Gas Direct may require the Buyer to cease offtaking gas, or to reduce the rate at which gas is offtaken at any Supply Meter Point within a DM Component for such period as Shell Gas Direct considers necessary to ensure the Buyer's compliance with Clause 3.5.

3.7 The Buyer acknowledges and agrees that Shell Gas Direct shall have no liability to the Buyer if a Gas Transporter exercises any right it has to cease or reduce the supply of gas to a Supply Meter Point on the grounds that the security of the Pipeline System may be prejudiced as a result of the offtake of gas at such Supply Meter Point at a rate in excess of the Maximum Hourly Quantity.

4. Volume Forecasts

4.1 The Buyer shall provide the following information to Shell Gas Direct in respect of each DM Supply Point:

- (a) as soon as possible, and before the Start Date, a good faith estimate of the annual offtake pattern (including typical daily and weekly patterns), and the planned maintenance and shutdown periods during that Contract Year;
- (b) by the first Business Day of each month, in respect of the next following month, the planned maintenance and shutdown periods, and any anticipated change in the offtake pattern of 10% or more of the typical daily offtake pattern provided pursuant to (a) for that Contract Year;
- (c) by 17.00 hours on Thursday of each week, in respect of the next following week (starting at 0.600 hours on the next Monday) a good faith estimate of offtake. If the Buyer fails to provide such estimate, it shall be deemed to be the same as the last estimate which the Buyer provided;
- (d) by 10.00 hours on each Day (other than Saturday and Sunday), in respect of the next Day, any anticipated change in the offtake pattern of 10% or more of the weekly estimate provided pursuant to paragraph (c). If the Buyer fails to provide such information, there shall be deemed to be no such change to the weekly estimate.
- (e) as soon as possible after the Buyer becomes aware of the same on a Day, details of any change to the estimated offtake for such Day.

5. Metering, Meter Accuracy and Quantities Supplied

5.1 The quantity of gas supplied by Shell Gas Direct and offtaken by the Buyer at each Supply Point shall be

- determined in accordance with the provisions of this Clause 5.
- 5.2 The quantity supplied to a Supply Point during a Meter Read Period (or estimated period pursuant to Clause 5.5(c)) shall be calculated by multiplying the deemed Daily supplied volumes derived from the Metered Volume at each Supply Meter Point within that Supply Point (corrected for temperature and pressure in accordance with the Gas (Calculation of Thermal Energy) Regulations 1996) by the CV and converting the result into a quantity.
- 5.3 The CV in respect of a quantity of gas consumed on a Day at a Supply Meter Point shall mean:
- (a) the relevant calorific value for that Day declared by the Gas Transporter for the area in which the Supply Meter Point is located; or
 - (b) such other value as Shell Gas Direct may, subject to the Gas (Calculation of Thermal Energy) Regulations 1996, determine.
- 5.4 Shell Gas Direct shall have the right, by giving at least thirty (30) days' prior written notice to the Buyer, to vary the units of measurement under this Agreement as Shell Gas Direct may from time to time reasonably determine.
- 5.5 In determining the Price (as defined in Schedule 2) the quantity of gas offtaken during a month by the Buyer at a Supply Meter Point shall be determined as follows:
- (a) Meter Readings in respect of that Supply Meter Point which are received by Shell Gas Direct from the Meter Reading Agency by a date five (5) Business Days after the end of such month and which have not been included in any previous invoice; or
 - (b) where (a) is unavailable, or if the Meter is owned or leased by the Buyer or provided by a Third Party, Meter Readings in respect of that Supply Meter Point which are notified by the Buyer to Shell Gas Direct no later than five (5) Business Days after the end of such month and which have not been included in any previous invoice; or
 - (c) where (a) and (b) are unavailable, estimated quantities reasonably determined by Shell Gas Direct.
- 5.6 If Meter Readings are not made available to Shell Gas Direct for a Supply Meter Point, or do not appear to Shell Gas Direct to be consistent with other data, the Buyer will at the request of Shell Gas Direct take a Meter Reading including any converter reading, the details of which shall be notified to Shell Gas Direct within three (3) Business Days after Shell Gas Direct has requested the same.
- 5.7 If the quantity offtaken by the Buyer at any Supply Meter Point in respect of any period has been estimated as provided in Clause 5.5(c), the quantities estimated to have been offtaken at the relevant Supply Meter Points during that period shall, when the next actual Meter Reading has been provided to Shell Gas Direct, be reconciled against the actual quantity offtaken at those Supply Meter Points (as confirmed by the Meter Reading applying the applicable CV (as determined in accordance with the Network Code) to such actual quantity. Such reconciled quantity shall be added to or deducted from (as the case may be) the quantity of gas supplied by Shell Gas Direct in the next month following such reconciliation and shall be deemed to have been supplied in that month.
- 5.8 If a Meter Reading has been included in an invoice pursuant to Clause 5.5 and Shell Gas Direct subsequently receives a revised Meter Reading from the Meter Reading Agencies appropriate, Shell Gas Direct will include such revision in the next invoice to be issued to the Buyer as an additional invoice amount or as a credit as appropriate.
- 5.9 The Buyer may at any time, by giving reasonable written notice to Shell Gas Direct, request that a Meter, Datalogger or converter is removed, examined and verified for accuracy subject to the agreement of the Meter Asset Manager. If such equipment is found to register to a degree of accuracy permitted by the Gas (Meters) Regulations 1983, the cost of such removal, examination and verification shall be borne by the Buyer, otherwise it shall be borne by Shell Gas Direct.
- 5.10 If a Meter, Datalogger or converter is found to register readings to a degree of accuracy outside that permitted by the Gas (Meters) Regulations 1983, the quantity of gas deemed to have been supplied shall be calculated as follows for the same period as that during which an adjustment due to meter error is to be made for the purposes of the Network Code:
- (a) if the Meter is part of a Supply Point with an Estimated Buyer's Consumption below 2.196 million kWh it is covered by paragraph 4 of the Gas Code. For information purposes only and at 18th February 2005, paragraph 4 states that the Meter will be deemed to have been registering incorrectly to the same extent since the Meter Reading immediately prior to the occasion on which the Meter was found to register readings outside the limits; or
 - (b) if sub-clause (a) above does not apply, as reasonably determined by a Gas Transporter or an expert appointed under the Network Code
- 5.11 Meter Readings, and converter readings taken for the purposes of this Agreement shall become the property of Shell Gas Direct.
- 5.12 If the Buyer's offtake of gas at any Supply Meter Point is below ten (10) percent of the typical daily offtake pattern provided by the Buyer pursuant to Clause 4.1(a) for a total of forty (40) days out of any sixty (60) day period, Shell Gas Direct may charge any of the following to the Buyer (in addition to other amounts due under this Agreement):

- (a) the costs that Shell Gas Direct incurs in maintaining pipeline capacity under the Network Code in respect of the affected Supply Meter Point(s);
- (b) the costs of taking Meter Readings in respect of the affected Supply Meter Point(s);
- (c) the costs of the rental and maintenance of Meter Installations in respect of the affected Supply Meter Points; and
- (d) a monthly administration charge of fifty Pounds Sterling (£50) per Supply Point containing an affected Supply Meter Point; until such time as the Meter at the affected Supply Meter Point has been disconnected. This Clause shall survive the termination of the Agreement for any reason.

6. Meter Installation and Maintenance

6.1 Subject to Clause 6.13, the Meter Installation at each Supply Meter Point shall be owned and maintained by the Meter Asset Manager, or by such other persons as Shell Gas Direct or the Meter Asset Manager may approve, and shall be specified, installed, operated, maintained and renewed in such manner as Shell Gas Direct or the Meter Asset Manager may determine, having due regard to good industry practice.

6.2 Subject to Clause 6.14, Shell Gas Direct, the Meter Asset Manager, or such other person as approved by Shell Gas Direct or the Meter Asset Manager, may on reasonable notice to the Buyer install, operate, remove or renew any Meter, Datalogger, converter and associated equipment and installations installed or to be installed at the Buyer's Premise in respect of the Supply Meter Point including without limitations associated pipework, regulators, filters, valves, seals, housings and mountings. All such equipment and installations shall be referred to as the "Meter Installation" and will, unless transferred to the Buyer or a Third Party contracted to the Buyer, remain the property of Shell Gas Direct or the Meter Asset Manager.

6.3 Where work undertaken under Clause 6.2 results in costs being levied on Shell Gas Direct then the Buyer shall indemnify Shell Gas Direct for all such costs. Where such work results in Shell Gas Direct incurring an increase in the cost of delivering gas to a Supply Point, Shell Gas Direct shall be entitled to pass on the cost increase to the Buyer through an amendment to the Price.

6.4 The Buyer shall allow safe and unobstructed access to each Meter Installation at all reasonable times, and in any event always between 08.00 and 17.00 hours on any Business Day, for the purposes of allowing Shell Gas Direct, a Gas Transporter, Meter Asset Manager, Meter Reading Agency or their respective contractors to:

- (a) install, maintain, inspect, repair, replace, upgrade, disconnect or disable any part of the Meter Installations including in particular any Meter;
- (b) take any Meter Readings; or

(c) disconnect any Supply Meter Point; in any circumstances where Shell Gas Direct or a Gas Transporter has the right to so disconnect pursuant to the Act.

6.5 Where the Buyer fails to provide safe and unobstructed access to a Meter Installation as required under Clause 6.4, whether such requirement for access was pre-planned or not, the Buyer shall indemnify and keep indemnified Shell Gas Direct from and against any costs which Shell Gas Direct may incur from any Third Party as a result of such access being denied to the Meter Installation.

6.6 If the Buyer is forced to reduce or discontinue its offtake of gas at a Supply Meter Point as a result of actions taken by Shell Gas Direct, a Gas Transporter, Meter Asset Manager, Meter Reading Agency or their respective contractors pursuant to Clause 6.4, then Shell Gas Direct shall not be in breach of its obligation to supply gas to such Supply Meter Point.

6.7 If, as a result of a defect or failure in any component within the Meter Installation, gas cannot be offtaken by the Buyer at a relevant Supply Meter Point, Shell Gas Direct will not be in breach (by reason thereof) of its obligation to supply gas at such Supply Meter Point.

6.8 The Buyer shall, without charge to Shell Gas Direct or the Meter Asset Manager, ensure that at each Premise there is a suitable site for each Meter Installation which provides:

- (a) supplies of power, water and drainage as appropriate to the type of equipment installed;
- (b) protection from the weather and all other natural hazards; and
- (c) security as necessary to prevent un-authorised access to the equipment.

6.9 The Buyer shall ensure that the Meter Installation is not damaged, mistreated or interfered with, and shall check the Meter Installation on a regular basis to ensure that no such damage, mistreatment or interference has occurred. If, without prejudice to the foregoing, any such damage or mistreatment does occur the Buyer shall;

- (a) notify Shell Gas Direct thereof as soon as possible; and
- (b) secure a police crime number if such damage, mistreatment or interference has been undertaken by any person, or persons, other than the Buyer or their authorised contractor.

6.10 In the event that damage, mistreatment or interference does occur to the Meter Installation the Buyer shall indemnify and keep indemnified Shell Gas Direct from and against any costs that may incur as a result, except to the extent that such damage, mistreatment or interference was caused by the negligence of Shell Gas Direct.

- 6.11 The Buyer will provide to Shell Gas Direct and at all times keep up to date, in respect of each Supply Meter Point, details of the location of the Meter and the requirements for gaining access in order that Meter Readings can be taken.
- 6.12 If the Buyer requests any change to an existing Meter Installation, or wishes a new Meter Installation to be installed at a Supply Point, Shell Gas Direct shall be entitled to recover from the Buyer all costs and expenses incurred by Shell Gas Direct in undertaking such works. Where such works result in Shell Gas Direct incurring an increase in the cost of delivering gas to a Supply Point, Shell Gas Direct shall be entitled to pass on the cost increase to Buyer through an amendment to the Price.
- 6.13 If at any time during the term of this Agreement, the Meter or any part of the Meter Installation at any Supply Meter Point is owned by someone other than Shell Gas Direct, or Shell Gas Direct's appointed Meter Asset Manager, then the Buyer shall notify Shell Gas Direct to that effect. It shall be the responsibility of the Buyer to keep such Meters in good working order and repair and to arrange for their maintenance. The Buyer shall ensure that such Meters comply at all times with all relevant IGM Meter Recommendations and any other relevant statutory and regulatory requirements. The Buyer shall also ensure that the Meter has been approved and stamped in accordance with Section 17 of the Act.
- 6.14 As soon as possible after a request from Shell Gas Direct, the Buyer will arrange for Shell Gas Direct, together with such other persons as Shell Gas Direct may determine, to be given access to inspect any Meter referred to in Clause 6.13 to ensure that the Buyer is complying with its obligations in respect of that Meter Installation. Shell Gas Direct shall have the right to request the Buyer to arrange that any such Meter is removed, examined, verified and corrected for accuracy and the provisions of Clause 6.9 and 6.10 shall apply mutatis mutandis (i.e. with all necessary changes having been made) in respect of such request by Shell Gas Direct.

7. Supply Planning and Emergencies

- 7.1 If Shell Gas Direct or the Buyer has received or receives notice from a Gas Transporter that maintenance is being, or will be, carried out on any part of the Pipeline System which may, or will, restrict the offtake of gas at any Supply Meter Point it will as soon as possible thereafter notify the other of the same.
- 7.2 If Shell Gas Direct is unable to supply gas to any Supply Meter Point due to any Pipeline System maintenance, Shell Gas Direct will be relieved of its obligation to supply to the extent of that inability.

- 7.3 In an Emergency the Buyer shall comply with any instructions given by Shell Gas Direct, the Network Emergency Co-ordinator or the Gas Transporter to reduce or discontinue the offtake of gas at any Supply Point. During an Emergency Shell Gas Direct and/or the Gas Transporter shall, notwithstanding any other provision herein, be entitled to take any action they deem necessary to discontinue or restrict the supply of gas to the Buyer at any Supply Meter Point.
- 7.4 Shell Gas Direct, the Gas Transporter and/or the Network Emergency Co-ordinator shall notify the Buyer of the commencement and ending of an Emergency as soon as possible after the same occurs.
- 7.5 Where, during an Emergency, a Buyer reduces or discontinues its offtake of gas at a Supply Meter Point pursuant to any request or instruction issued by Shell Gas Direct, the Network Emergency Co-ordinator or the Gas Transporter, Shell Gas Direct shall not be in breach of its obligation to supply gas to the Supply Point.
- 7.6 If Shell Gas Direct receives a direction under Section 2(1)(b) of the Energy Act 1976 prohibiting or restricting the supply of gas to specified persons then for so long as the direction is in force and so far as is necessary or expedient for the purposes of, or in connection with, that direction:
- Shell Gas Direct shall, notwithstanding any other provision herein, be entitled to discontinue or restrict the supply of gas to the Buyer at any Supply Meter Point; and
 - the Buyer shall discontinue or restrict its consumption of gas in accordance with and forthwith upon being instructed so to do by Shell Gas Direct.
- 7.7 Without prejudice to any other requirement that the Buyer performs its obligations under this Agreement within a specified time, time shall be of the essence for the Buyer's obligations under Clauses 7.5 and 7.6.

8. Priority Consumer

- 8.1 If Shell Gas Direct is issued with notice that a Supply Point has Priority Criteria then Shell Gas Direct shall notify the Buyer of the same.
- 8.2 The Buyer shall promptly notify Shell Gas Direct in writing if it believes that it is a Priority Consumer and which of its Supply Points it believes is a Priority Supply Point. The Buyer shall, on request from Shell Gas Direct, answer any reasonable questions Shell Gas Direct may ask to ascertain whether the Buyer has satisfied the Priority Criteria as issued by the Gas Transporter. Shell Gas Direct undertakes to notify the Buyer of the current Priority status of any Supply Points on request.

9. Liability, Responsibility and Indemnities

- 9.1 Subject to Clause 9.3 and the Buyer's obligations to make payments of the Price and other amounts to Shell Gas Direct pursuant to Schedule 2, a Party's liability to the other Party for any loss, costs, expenses or damage under or in connection with this Agreement, whether arising in contract, tort (including negligence), breach of duty (statutory or otherwise) shall, without prejudice to any limits otherwise specifically provided for in this Agreement, not exceed £1 million in respect of any one event or series of connected events giving rise to such liability.
- 9.2 Clause 9.1 is without prejudice to any provision of this Agreement which provides for an indemnity or which provides for a specific limit of liability.
- 9.3 Nothing in this Agreement shall exclude or limit the liability of any Party for death or personal injury resulting from the negligence of such Party.
- 9.4 Without prejudice to any other provision of this Agreement which provides for an indemnity or which provides for a Party to make payment to the other, neither Shell Gas Direct nor the Buyer shall have any liability whatsoever to the other (whether arising in contract, tort (including negligence), breach of duty (statutory or otherwise) for loss of profit, loss of revenue, loss of use, loss of contract, loss of goodwill, loss of or damage to reputation, loss of or damage to any software, data, computer equipment or other equipment or plant or increased cost of working, or for consequential or indirect losses or consequential or indirect damages of whatsoever nature and howsoever caused arising out of or in connection with this Agreement, whether or not such losses or damages are foreseeable at the date hereof.
- 9.5 Any relief from liability, hold harmless or indemnity or benefits in favour of a Party under this Agreement shall extend to a Party's directors, employees and agents and to their respective Affiliates and their Affiliates' directors, employees and agents.
- 9.6 The Contracts (Rights of Third Parties) Act 1999 shall apply in respect of any relief from liability, hold harmless, indemnity or benefit created in favour of the persons named in Clause 9.5 of this Agreement.
- 9.7 The Buyer acknowledges that nothing in this Agreement prevents the Gas Transporter from exercising any entitlement or discharging any duty under the Gas Code or otherwise under the Act or pursuant to their operating licence which may involve the disconnection of, or refusal to convey gas to, or to allow gas to be conveyed to, any Premises, and in such circumstances Shell Gas Direct will not be in breach of its obligation to supply gas to any relevant Supply Meter Point.

9.8 Where, during an Emergency, a Buyer fails to reduce or discontinue their offtake of gas at a Supply Meter Point as instructed by Shell Gas Direct, the Network Emergency Co-ordinator or the Gas Transporter, then the Buyer will indemnify and keep indemnified Shell Gas Direct from and against all costs, expenses and penalties incurred by Shell Gas Direct as a result of the Buyer's failure to reduce or discontinue their offtake of gas.

9.9 Gas supplied by Shell Gas Direct under this Agreement shall comply with the Specification. Shell Gas Direct's liability for breach of its obligation under this Clause 9.9 shall not on any occasion be greater than the Gas Transporter's liability to Shell Gas Direct on that occasion. If the Buyer becomes aware that gas being supplied to a Supply Meter Point does not comply with the Specification, it will promptly notify Shell Gas Direct to that effect.

9.10 Shell Gas Direct shall not be in breach of its obligation to supply gas at any Supply Meter Point if for any reason the pressure of the gas immediately downstream of the Delivery Point exceeds that required by the Specification.

9.11 Shell Gas Direct shall not be liable for the failure to supply gas to the Buyer if and for as long as no Gas Transporter transports gas to any Supply Point.

9.12 The provisions of this Clause 9 apply to the exclusion of all other remedies for damages.

10. Force Majeure

10.1 Neither Shell Gas Direct nor the Buyer shall be liable for any failure to fulfil any term or condition of this Agreement (other than failure to make any payment) if, and to the extent that, such fulfilment is delayed, hindered or prevented in whole or in part by any event or circumstances whatsoever which are beyond the reasonable control of the Party concerned and which notwithstanding the exercise by it of reasonable diligence and foresight it was unable to prevent or overcome. Without limitation to the generality of the foregoing, it is agreed that any event or circumstance that qualifies as force majeure under the Network Code shall be deemed to be beyond the reasonable control of Shell Gas Direct.

10.2 A Party intending to seek relief under this Clause 10 shall not be entitled to such relief unless such Party shall as soon as practicable (and in any event within thirty (30) days of the first day of the event in respect of which it seeks relief) give notice in writing to the other Party of the event or circumstances which have caused the failure to fulfil any terms or conditions of this Agreement, giving such details as may be reasonable in all the circumstances.

10.3 Relief under this Clause 10 shall cease to be available to a Party if such Party fails to take, as soon as reasonably

practicable, all such steps to rectify the cause of the failure as may be necessary, reasonably practicable and which may be taken at reasonable cost.

10.4 No period of relief pursuant to this Clause shall extend the term of this Agreement.

11. Assignment of Obligations

11.1 The Buyer shall not assign their rights or transfer or otherwise subcontract their obligations under this Agreement without the prior written consent of Shell Gas Direct, such consent not to be unreasonably withheld.

11.2 The Buyer shall give to Shell Gas Direct not less than thirty (30) days' prior written notice of any proposed assignment of this Agreement, or of any decision to sell, lease, license or otherwise dispose of any interest in, or cease occupation of, any Premise supplied under this Agreement.

11.3 Where consent has been granted by Shell Gas Direct pursuant to Clause 11.1 then unless and until:

(a) any subsequent owner, lessee, licensee or occupier of a Premise containing a Supply Point enters into an Agreement with Shell Gas Direct or another licensed gas supplier for the supply of gas to such Supply Point; or

(b) such Supply Point is physically disconnected from the Pipeline System;

the Buyer acknowledges that it shall remain bound as the Buyer under this Agreement (even after any notice given under Clause 11.2 has expired) and in particular acknowledges it shall be liable for and shall pay:

(i) for all quantities of gas supplied to the Supply Point; and/or

(ii) a monthly charge equivalent to the total of all costs that Shell Gas Direct incurs:

(aa) from the Gas Transporter to maintain the pipeline capacity to the Supply Point;

(bb) from the Meter Reading Agency to take Meter Readings on a daily or non-daily basis;

(cc) from the Meter Asset Manager to rent and maintain the relevant Meter Installation; and

(dd) an administration charge of fifty Pounds Sterling (£50).

11.4 The Buyer acknowledges and accepts the right of Shell Gas Direct to object, as permitted by Shell Gas Direct's supplier's licence as at the date of this Agreement and using the procedures provided in the Network Code, to any purported transfer of any Supply Meter Point to another gas supplier where either:

(a) such transfer would become effective prior to the expiry of this Agreement; or

(b) notwithstanding the expiry of termination of this Agreement, the Buyer has failed to pay any charges for the supply of gas to Supply Points which are due to Shell Gas Direct, have been demanded in writing, and have

remained unpaid for twenty eight (28) days after the making of such demand. The Buyer undertakes not to take any action preventing or interfering with Shell Gas Direct's proper exercise of these rights.

11.5 Shell Gas Direct may assign or novate its right and obligations under this Agreement provided it gives the Buyer not less than one month's prior written notice of the date of such assignment or novation.

12. Notices

12.1 Any notice, except for those given in relation to Clause 2 and 4 of Schedule 2, given under this Agreement shall be in writing and may be served by hand, first class mail, registered post or prepaid recorded delivery to the addressee at its address hereinbefore stated or such other address as may be notified in writing to the Party concerned and shall be deemed to have been received:

(a) in the case of delivery by hand at the time of delivery; or

(b) in the case of first class post, registered post or prepaid recorded delivery the second Business Day following the day of posting

12.2 The address for notices served on Shell Gas Direct by hand or sent by first class post, registered post or pre-paid recorded delivery shall be:

Shell Gas Direct Limited
PO Box 219,
11 Adam Street
London, WC2N 6QA

12.3 The address for notices served on the Buyer by hand or sent by first class post, registered post or pre-paid recorded delivery shall be their office as detailed in the Form of Agreement.

12.4 The Buyer shall ensure that in all written correspondence with Shell Gas Direct in relation to this Agreement it will quote the Meter Point Reference Number of at least one Supply Meter Point comprised in at least one Supply Point as given in Schedule 1.

13. Termination

13.1 Either Party may terminate this Agreement with immediate effect by written notice to the other at any time if the other Party:

(a) is unable to pay its debts (within the meaning of Section 123(1) of the Insolvency Act 1986) or has any voluntary arrangement proposed in relation to it under Section 1 of that Act or enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation);

(b) has a receiver (which expression shall include an administrative receiver within the meaning of Section 251 of the Insolvency Act 1986) appointed to the whole or any material part of its assets or undertaking;

(c) has an administration order under Section 8 of the Insolvency Act 1986 made in relation to it;

- (d) passes any resolution for winding-up (other than for the purpose of reconstruction or amalgamation); or
- (e) becomes subject to an order for winding-up by a court of competent jurisdiction.
- 13.2 Without prejudice to any other right or remedy Shell Gas Direct may have (whether of termination or otherwise) under this Agreement, at law or otherwise, Shell Gas Direct at its sole discretion may terminate this Agreement by notice to the Buyer if:
- the Buyer fails to make any payment to Shell Gas Direct in accordance with this Agreement;
 - the Premises at which these Supply Points are located cease to be in the occupation or ownership of the Buyer; or
 - Shell Gas Direct is no longer able to supply gas to the Buyer in accordance with the terms of its Supplier's licence.
- 13.3 Either Party may terminate this Agreement with respect to one or more Supply Points or as a whole with immediate effect, or with effect at the expiry of a specified period, by serving a notice ("a Termination Notice") on the other Party at any time if the other Party commits any material breach of its obligations under this Agreement or of any applicable Legal Requirement. Where termination is stated to take effect on the expiry of a period specified in the Termination Notice, that Termination Notice may be withdrawn (without such withdrawal constituting a waiver of any rights or remedies or prejudicing a Party's right to give a further Termination Notice) if the breach in respect of which the Termination Notice was given has been rectified to the satisfaction of the Party giving the Termination Notice and before the expiry of that period.
- 13.4 This Agreement shall terminate with immediate effect in relation to any Supply Point upon a last resort supply direction given to a gas supplier other than Shell Gas Direct in pursuance of Standard Condition 29 (Supplier of Last Resort) of that supplier's gas suppliers licence coming into effect in relation to that Supply Point.
- 13.5 If Shell Gas Direct has the right to disconnect the supply of gas to a Supply Point, Shell Gas Direct may disconnect all or any of the Supply Meter Points within such Supply Point.
- 13.6 The Buyer shall be liable for and shall pay to Shell Gas Direct any and all costs and expenses incurred by Shell Gas Direct (before or after termination of this Agreement) in respect of the disconnection of any supply Meter Point for any reason (including in exercise of Shell Gas Direct's statutory power, at the request of the Buyer following termination of this Agreement, or for safety reasons where one or more Supply Meter Points are no longer in use). The terms of this Agreement shall continue to apply in

respect of payments due under this Clause 13 after the termination of this Agreement.

14. Information and Confidentiality

- 14.1 Each Party undertakes to keep the terms of this Agreement and any information relating thereto confidential and not to disclose the same to any Third Party while this Agreement is in force or for a period of one (1) year thereafter. The obligation of confidentiality under this Clause shall not apply to any information that the recipient Party can prove;
- was disclosed in compliance with and to the extent of any Legal Requirement or any other agreement, regulation, licence, authorisation or code necessary to permit or required in connection with the supply of gas or to enable either Party to comply with its obligations under the Network Code; or
 - was made to any director, employee, officer, agent, consultant or professional adviser of a Party or their Affiliates and their Affiliates' directors, officers and employees, all such persons having first been made fully aware of the obligations of confidence in relation to such information and that they have agreed to be bound by an obligation of confidence not to release that information to any other Third Parties; or
 - was in the public domain at the time of receipt by the recipient Party or has subsequently entered the public domain other than by a breach of this Clause 14.1 or any of the obligations of confidence owed to the disclosing Party by the recipient Party or by any of the persons listed in 14.1(b) above.
- 14.2 The Buyer shall provide Shell Gas Direct with all assistance, data and other information reasonably required by Shell Gas Direct or its agents to comply with any Legal Requirement, its or their obligations under the Network Code or any other agreement, law, regulation, licence, authorisation or code necessary to permit or required in connection with the supply of gas under this Agreement.
- 14.3 The Buyer shall indemnify Shell Gas Direct against all costs, losses or liabilities that Shell Gas Direct may incur if any information provided by the Buyer is incorrect, incomplete, insufficient or not supplied in a timely fashion.
- 14.4 In addition and without limitation to the exclusions from the obligation of confidentiality under Clause 14.1, Shell Gas Direct may disclose data and information relating to the Buyer to:
- a credit reference agency, where it may be accessed by other financial institutions to assist assessment of any application for credit made to Shell Gas Direct and for occasional debt tracing and fraud prevention;
 - any agent or sub-contractor of Shell Gas Direct;
 - any person to whom Shell Gas Direct proposes to transfer any of its rights, duties or obligations under this Agreement,

- (d) any Gas Transporter, Meter Asset Manager or Meter Reading Agency for purposes related solely to the sale of any part of the gas pipeline system or Meter Installation connected to it; and
- (e) as otherwise required or permitted by law or any regulatory authority.

In each case such persons may be located in countries outside the United Kingdom that do not have laws to protect the Buyer's information.

14.5 Shell Gas Direct may use information about the Buyer to send the Buyer information about other goods or services offered by Shell Gas Direct (or by Shell Gas Direct's Affiliates) that Shell Gas Direct believes may be of interest to the Buyer. Shell Gas Direct may also provide details of a Buyer's name, address and other information as part of a mailing list to Shell Gas Direct's Affiliates to enable them to market goods and/or services which Shell Gas Direct believes may be of interest to the Buyer. The Buyer may be contacted about other goods and services by any means, including by telephone and e-mail. If the Buyer does not wish to receive information about other goods and services it must notify Shell Gas Direct, in which case Shell Gas Direct shall comply with the Buyer's wishes.

14.6 Shell Gas Direct may make use of credit reference agencies to supply information relating to the Buyer for the purposes of assessment of the Buyer's creditworthiness and ability to perform its obligations under this Agreement.

15. General Conditions of Agreement

15.1 This Agreement is the entire Agreement between the Parties with respect to the subject matter of this Agreement and supersedes and extinguishes any oral or written contract, representation, negotiations and understanding previously made or given relating to that subject matter. In addition, save in respect of any warranties expressly set out herein, all conditions, warranties and other statements of whatsoever nature, whether express or implied by statute, at common law or otherwise, are hereby excluded except insofar as such exclusion is prevented by law. The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement, except in the case of fraud.

15.2 This Agreement shall be construed and governed in all respects in accordance with English Law and any disputes and differences shall be subject to the exclusive jurisdiction of the English Courts, except where this Agreement covers Supply Points in Scotland and the Parties agree to substitute "Scots Law" for "English Law" and the "Scottish Courts" for "English Courts" in the foregoing. For such sites, the Parties hereby consent to the registration of this Agreement for preservation and execution.

15.3 If any provision or part of a provision of this Agreement is or becomes invalid, unenforceable or illegal, such invalidity, unenforceability or illegality shall not prejudice the remainder of the affected provision or remaining provisions, which shall continue in full force and effect.

15.4 Except as permitted under Clause 16, this Agreement may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the Parties hereto.

15.5 No waiver by either Shell Gas Direct or the Buyer of any provision of this Agreement shall be binding unless made by an instrument in writing signed by a duly authorised officer or representative of the Party making the waiver hereto. Furthermore, any such waiver shall relate only to the matter, non-compliance or breach to which it expressly relates and to the extent expressly stated and shall not apply to any subsequent or other matter, non-compliance or breach.

15.6 Unless specifically provided for under this Agreement, no provision of this Agreement shall be construed as creating any right(s) or benefit(s) enforceable by a Third Party and all Third Party rights implied by law, including those under the Contracts (Rights of Third Parties) Act 1999, are, to the extent permissible by law, excluded from this Agreement. This clause shall not apply if this Agreement is governed by Scottish law

15.7 The consent of a Third Party shall not be required for any variation or the termination of this Agreement even if that variation or termination affects the benefit conferred on that Third Party.

16. Amendments

16.1 Shell Gas Direct may amend the terms of this Schedule 3 by not less than sixty (60) days' prior written notice to the Buyer, which notice shall detail the amendments made and the date of their effect.

16.2 The Buyer may terminate this Agreement by giving not less than thirty (30) days' prior written notice to Shell Gas Direct following service of any such notice of an amendment by Shell Gas Direct.

17. Deterioration of the Buyer's circumstances

17.1 If Shell Gas Direct has reasonable grounds for believing that:

- (a) the Buyer may be unable to meet its obligations under the Agreement; and/or
- (b) the financial circumstances of the Buyer and/or the ultimate parent company of the Buyer have deteriorated to a level unacceptable to Shell Gas Direct;

Shell Gas Direct may (but shall not be obliged to) give notice to the Buyer requesting adequate financial security for due performance of its obligations under this Agreement on such terms as Shell Gas Direct may require and such terms shall be incorporated into this Agreement and shall have effect from the date of such notice.