

SGN  
Axis House  
5 Lonehead Drive  
Newbridge  
Edinburgh  
EH28 8TG

[XXXXXXXX]

[XXXXXXXX]

[XXXXXXXX]

[XXXXXXXX]

[XXXXXXXX]

[XXXXXXXX]

Dear Sirs,

**Offer Letter (SGN/00[XXX]) for Network Minimum Connection at [XXXXXXXX] (“Offer Letter”)**

We are pleased to provide you with this Offer Letter for the Network Minimum Connection in accordance with Scotland Gas Networks plc (“**Network Operator**”) Minimum Connection Agreement Conditions for the Design and Construction of a Network Entry Facility (the “**Minimum Connection Conditions**” or “**MCCs**”). The Minimum Connection Conditions are deemed to be incorporated into and form part of this Offer Letter.

Words and phrases used in this Offer Letter shall have the meaning given to them in the Minimum Connection Conditions, unless expressly provided otherwise.

The Annexes attached hereto form part of and are incorporated into this Offer Letter and shall be deemed to form part of our Agreement with you for the Minimum Network Connection should you accept this Offer Letter.

This Offer Letter is valid for 90 calendar days from the date of this Offer Letter. Any acceptance of this Offer Letter must be received by the Network Operator within such period; otherwise the Offer Letter shall become null and void. The Network Operator reserves the right to withdraw this Offer Letter by notice in writing at any time prior to Acceptance.

If you wish to proceed with the Minimum Network Connection and accept this Offer Letter, please sign and return the enclosed duplicate Offer Letter to the address shown in Annex 6 along with receipt of full payment of the Budget Estimate.

Yours faithfully,

Paul Denniff for and on behalf of  
**Scotland Gas Networks plc**

**Offer Letter Acceptance**

**[NAME OF CUSTOMER]** Limited, hereby accepts in full, and agrees to be bound by the terms of, this Offer Letter (SGN/00[XXX]) , which for the avoidance of doubt, we accept are subject to and incorporate the Minimum Connection Conditions (as appended in Annex 8) of which we acknowledge receipt.

Signed: ..... (Director/Authorised Signatory)

Name: .....

Position: .....

Date: .....

## Annex 1 – MINIMUM NETWORK CONNECTION

### 1. Minimum Network Connection

- 1.1 Both parties shall undertake the Minimum Network Connection in accordance with the Agreement.
- 1.2 The Company hereby acknowledges and agrees that the Minimum Network Connection pursuant to this Agreement is based upon the capacity study undertaken in respect of the Site dated [XXXXXX] (as appended at Annex 9) (the “**Capacity Study**”).
- 1.3 The Date for Completion of the Minimum Network Connection shall be no later than 12 months from Acceptance unless mutually agreed by both parties after receipt of Acceptance.

### 2. The Network Entry Facility

- 2.1 The Network Entry Facility (being located at grid reference E: [X], N: [X] (the “**Site**”) shall comply with the requirements set out in the Specification.
- 2.2 The proposed Network Entry Facility shall under no circumstances be capable of accommodating a peak gas flow rate of biomethane greater than [XXX]scm/h.
- 2.3 The layout of the Network Entry Facility and Kiosk (including ownership boundaries of the Delivery Facility (demarcation line A-A) and the Network Operator Facility (demarcation line B-B)) is shown schematically in the drawing attached at Annex 7.

### 3. The Delivery Facility

- 3.1 The Delivery Facility shall be owned, operated and maintained by the Company and shall comprise of:
- (a) propane enrichment equipment;
  - (b) pressure reduction installation and a slam shut device;
  - (c) odourisation plant;
  - (d) three way diverter valve;
  - (e) gas quality equipment (calorimeter/danalyser), for the purposes of monitoring gas provided for entry into the Network Operator System and ensure it complies with the Gas Safety (Management) Regulations 1996 (GSMR) and The Gas (Calculation of Thermal Energy) Regulations 1997;
  - (f) metering equipment;
  - (g) A communication system to enable the Company to:
    - (i) operate the emergency gas quality three way diverter valve;
    - (ii) monitor flow and gas quality conditions;
    - (i) receive and transmit signals (as specified in the Network Operator document SGN/PM/INE3 (Management Procedure for Selection of Telemetry Points to Operate the SGN Gas Supply System.)) (the “**Signals**”) to Network Operator;
    - (ii) a direct exchange Integrated Services Digital Network (ISDN) telecommunications

line to terminate in the telecoms and data interface housing;

- (h) dedicated flow computer;
- (i) electrical distribution cabling within the Delivery Facility from the electricity supply interface housing;
- (j) cabling from the telecoms and data interface housing to the supporting facilities;
- (k) a physical connection to the Network Operator Facility; and
- (l) associated pipework.

#### **4. The Network Operator Facility**

- 4.1 The Network Operator Facility shall be kept in secure area within the Kiosk which only Network Operator shall have access to.
- 4.2 The Network Operator Facility shall be owned, operated and maintained by Network Operator and shall comprise:
  - (a) the Remotely Operated Valve (ROV);
  - (b) the Remote Telemetry Unit (RTU);
  - (c) the Remote Shutdown/Trip PLC;
  - (d) pressure transmitter; and
  - (e) the Satellite Dish, Router and Switch.

#### **5. The Kiosk**

- 5.1 The Company shall at all times own and maintain and undertake any necessary repair to the Kiosk.

## **Annex 2 - THE COMPANY'S SPECIFIC OBLIGATIONS**

### **1. Specification of the Network Entry Facility & Kiosk**

1.1 The Company shall at all times Design and undertake the Connection and Commissioning of the Network Entry Facility and the Kiosk to comply with the Functional Design Specification document Network Operator/SP/BIO/2 (the "**Specification**").

### **2. Information & Information Cut-off Date**

2.1 The Company shall, within 6 months of Acceptance, provide:

- (a) the Company's proposed basis for Design of the Network Entry Facility, such Design to be based upon the requirements of the Specification;
- (b) a preliminary Design diagram of the Network Entry Facility;
- (c) procedures for the testing of the Signals provided by the Company (pursuant to the Company's Specific Obligations) to ensure that they meet Network Operator's reasonable requirements; and
- (d) proposals for a procedure for Commissioning the Network Entry Facility so as to ensure that such purging and commissioning shall not prejudice the safe and efficient operation of the Network Operator System, for verification by Network Operator, which shall not be unreasonably withheld or delayed.

### **3. Permanent Facilities to be provided by the Company**

3.1 Within 6 months of Acceptance (unless otherwise agreed) the Company shall grant (without charge to Network Operator) the following Permanent Facilities:

- (a) a suitable area(s) within the Kiosk for the location of the Network Operator Facility to be agreed by both parties;
- (b) unrestricted and secure access to the Network Operator Facility;
- (c) a lease (or procure the grant of a lease to the Network Operator) over such land as the Network Operator require for use for the Network Operator Facility in a form and of a term required by Network Operator;
- (d) a servitude or servitudes (or procure such a grant to Network Operator of) in perpetuity (and in a form required by Network Operator) over such route as Network Operator requires to lay, construct, use, inspect, maintain, protect, repair, relay, replace, renew, supplement, connect into, operate, remove or render unusable pipelines and other apparatus ancillary thereto for the transmission storage and distribution of gas (or other materials and apparatus ancillary thereto);
- (e) suitable security for the Kiosk to be agreed by both parties;
- (f) a suitable access road, entrance (minimum four (4) metres wide) and hard standing capable of carrying normal maintenance vehicles which it shall maintain in a fit state to ensure 365 day, 24/7 access for Network Operator to the Network Operator Facility; and
- (g) a continuous supply of electricity.

### **4. Feeder Gas Main**

4.1 The Company shall be responsible for laying the gas main for the purposes of connecting the

Network Entry Facility to the Network Operator System (which shall be no less than [XXXXXXXX]) and acknowledges and agrees that the works associated with this shall be subject to a separate agreement.

**5. Conditions to be met before Commissioning can take place**

5.1 The Company shall not be permitted to undertake Commissioning of the Network Entry Facility unless and until the Company has (without limitation):

- (a) has carried out Validation;
- (b) carried out gas sampling at test points to confirm that Odorant Level is within limits following lab test;
- (c) reviewed commissioning NRO
- (d) provided all of the Permanent Facilities;
- (e) entered into a Network Entry Agreement with the Network Operator;
- (f) warranted to Network Operator in writing that the Network Entry Facility and Kiosk has been Designed and Connected in accordance with the Specification;
- (g) warranted to Network Operator in writing that the Network Entry Facility is safe and suitable to deliver Gas in accordance with:
  - (i) the parameters set out in the Agreement and the Network Entry Agreement;
  - (ii) the Gas Safety (Management) Regulations 1996, or any re-enactment thereof;
  - (iii) the Gas (Calculation of Thermal Energy) Regulations 1996 (as amended) or any re-enactment thereof;
  - (iv) the Pipeline Safety Regulations 1996;
  - (v) the Pressure Systems Safety Regulations 2000;
  - (vi) the Construction (Design and Management) Regulations 2015;
  - (vii) the Health and Safety at Work etc Act 1974;
  - (viii) the Electricity at Work Regulations 1989; and
  - (ix) all other relevant statutes and statutory instruments which were known to, or could have reasonably been anticipated by, the Company to apply to the Network Entry Facility at Commissioning;
- (h) warranted and provided copies of all necessary certification to confirm the viability of the Network Entry Facility to include:
  - (i) the name of the 'User' and 'Competent Person' for the purposes of the Pressure System Safety Regulations 2000;
  - (ii) the Safe Operating Limit (as defined in the Pressure System Safety Regulations 2000) of the Network Entry Facility, otherwise specified as the Maximum Incidental Pressure (MIP) as defined in IGE/TD/13 Edition 2;
  - (iii) the Maximum Operating Pressure (MOP) of the Network Entry Facility;
  - (iv) certification that the Network Entry Facility and all upstream equipment are



designed to cater for a safe operating limit pressure of [XXX] barg;

- (v) a timetable for the Commissioning of the Network Entry Facility, defining the Commissioning profile, maximum and minimum instantaneous flows and hourly and daily consumption; and
- (vi) an as built diagram of the Network Entry Facility as it exists immediately prior to the Connection taking place;
- (vii) submitted the relevant commissioning certificate documentation outlined in Annex 10 in compliance with the network operators work instruction WI/Plant/1;

## **6. Completion File**

6.1 Following Commissioning the Company shall provide to Network Operator the Completion File which shall comprise of:

- (a) All information previously submitted as part of the Design pack for the Network Entry Facility, including authorised Design appraisal documentation;
- (b) Line drawings of the Network Entry Facility;
- (c) Manufacturers test certificates and certificates of conformity;
- (d) Records of pressure test, including the signature of the competent person responsible for carrying out the test;
- (e) Records of the satisfactory commissioning and validation of the Network Entry Facility;
- (f) Materials traceability, including delivery and /or consignment notes and guarantees;
- (g) Site visit and inspection records, including physical evidence of quality control;
- (h) Variations from the validated design submission, including classification of the variation;
- (i) Hazard area drawings and compliance details;
- (j) Maintenance manuals; and
- (k) Any other requirement to meet Legislation or the Network Operator's reasonable requirements

### **Annex 3 - NETWORK ENTRY FACILITY**

#### **1. General**

1.1 The Company shall install an isolation valve as part of the Network Entry Facility at the Point of Connection.

#### **2. Prevention of Over Pressurisation of the Network Entry Facility and Network Operator System**

2.1 The Company shall install protective equipment to prevent the over pressurisation of the Network Entry Facility and Network Operator System and shall install a single lockable cut off valve which the Company can operate to protect the Network Entry Facility and Network Operator System.

#### **3. Prevention of Flow of Non-Compliant Gas into the Network Entry Facility**

3.1 The Company shall design the Network Entry Facility so that failures of equipment or gas quality excursions do not result in non-compliant Gas flowing into the Network Entry Facility and Network Operator System. As a minimum the Company shall ensure non-compliant Gas is either re-circulated within the Company System, or flared or vented.

#### **4. Prevention of Calorific Value (CV) Capping**

4.1 The Company recognises that inputting gas of such CV that it triggers the cap on Flow Weighted Average CV (as defined under the Gas (Calculation of Thermal Energy) Regulations 1996) is undesirable and therefore shall add propane (as necessary to meet the requirements) to the gas entering the Network Operator System to meet the target CV.



## Annex 4 – VALIDATION

### 1. Validation

1.1 The Parties will undertake operational tests in accordance with the Specification to demonstrate the following to achieve Validation;

- (a) the Company bringing up the Network Entry Facility to the relevant Network Operator System working pressure prevailing on that day for the purposes of conveying Gas into the Network Operator System all in accordance with the relevant Institution of Gas Engineers Recommendations IGE/TD/1, IGE/TD/3 and IGE/TD/13;
- (b) that Gas from the Network Entry Facility meets the requirements of the Gas Safety (Management) Regulations 1996 or any re-enactment thereof;
- (c) that Gas from the Network Entry Facility meets the Gas (Calculation of Thermal Energy) Regulations 1996 or any re-enactment thereof;
- (d) that the turn up and turn down range of gas flows are between min and max design limits;
- (e) that the remotely operated valve (ROV) operates so as to prevent the flow of gas from the Network Entry Facility to the Network Operator System, with appropriate signals to the Network Operator Gas Control Centre;
- (f) that the emergency shutdown capability (ESD) of Network Entry Facility operates so as to direct Gas to the flare as appropriate;
- (g) that all automatic controls including valve sequencing and logic controls to divert gas to achieve the required Gas quality and/or rejects gas that cannot achieve the minimum quality requirements;
- (h) that the full range of routine operating conditions are demonstrated including but not limited to:
  - (i) low and high flow at or near minimum and maximum volume;
  - (ii) start up and shut down procedures;
  - (iii) confirmed operation of reject gas valves, pressure controllers; and
  - (iv) confirmed operation of all control actions and data interfaces with external process plant; namely the Network Entry Facility;
- (i) that the following credible upset conditions are simulated and recovery plans demonstrated, including but not limited to running trips caused by:
  - (i) gas quality excursion;
  - (ii) odorant injection i.e. pump failure, under or over odorisation;
  - (iii) power failure; and
  - (iv) all Emergency Shut Off Device (ESD) closures in the Customer System following a trip;
- (j) flow rate variations caused by Network Entry Facility operation;
- (k) optimised controlled start up procedure;
- (l) e-stop activation at Network Entry Facility (namely the emergency stop that ceases the

clean up process);

- (m) loss / abnormal operation of instrumentation equipment & systems;
- (n) loss / abnormal operation of communication equipment & systems;
- (o) loss/abnormal operation of power distribution equipment & systems;
- (p) loss / abnormal operation of Signals;
  - (i) that the response to fault conditions is as identified by the HAZOP study;
  - (ii) that the instrument calibration and accuracy test has been completed;
  - (iii) that the software and Programmable Logic Controller (PLC) functions have been tested and the logic and coding verified; and
  - (iv) that the software alarm response and signal exchanges have been tested and verified as working.

1.2 The checklist in Annex 11 of this Agreement provides a list of actions required to be undertaken before Validation of the Network Entry Facility.

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**Annex 5 – BUDGET ESTIMATE**

**1. Budget Estimate**

The Network Operator warrants that the following Budget Estimate represents its best estimate of the costs it will incur pursuant to the Agreement having regard to the nature and size and scale of the Network Entry Facility. The Budget Estimate includes the Overhead Charge which is 50%.

Date	Invoice Amount	Description
On Acceptance of Budget Estimate	£[XX],000	Design Verification, Commissioning and Validation of the Network Entry Facility and Adoption of the Network Operator Facility

**2. Payment and Invoicing**

- 2.1 The payment which shall be paid on Acceptance via bank transfer to Network Operator’s Bank account nominated in Annex 6.
- 2.2 The Network Operator shall invoice the Company in respect of the Additional Charges as and when they fall due.
- 2.3 Such invoices shall be paid by the Company in accordance with the Minimum Connection Conditions.
- 2.4 Invoices shall be sent to the Company at the following address:

[X]

Marked for the attention of [XXXXXXXXXX]

## Annex 6 - NOTICES

### 1. Company Details

1.1 The Company means [X] Limited, a company registered in [INSERT COUNTRY] (registered number [X]) and having its registered office at: [X]

1.2 The Company Manager shall be: [X]

1.3 The Company's address for service shall be:

[XXXXXXXXXXXXXXXXXX]

Marked for the attention of [X]

Email: [XXXXXXXXXXXXXXXXXX]

### 2. Network Operator Details

2.1 Network Operator means Scotland Gas Networks plc a company registered under the Companies Acts (registered number SC264065) and having its registered office at Scotland Gas Networks plc, Axis House, 5 Lonehead Drive, Newbridge, Edinburgh, EH28 8TG.

2.2 The Network Operator Manager shall be notified to the Company prior to Commissioning.

2.3 Network Operator address for service shall be:

FAO Colin Thomson

Distributed Gas Entry Connections

Scotland Gas Networks plc

Axis House

5 Lonehead Drive

Newbridge

Edinburgh

EH28 8TG

Email: SGNGasEntryPoints@sgn.co.uk



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2.4 Network Operator's Bank Details are as follows:

Bank Name: Barclays Bank plc  
Branch Address: One Churchill Place  
London  
E14 5HP  
Sort Code: 20-00-00  
Account Number: 80493279  
Account Name: Scotland Gas Networks plc  
IBAN Number: GB87 BARC 2000 0080 4932 79  
SWIFTBIC: BARCGB22  
VAT Number: GB 864 4162 18  
Unique Tax Ref. (UTR): 81919 07326  
Company Reg. Number: SC264065

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## Annex 7 –DRAWINGS

### 1. Schematic Diagram of the Network Entry Facility

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## Annex 8 - MINIMUM NETWORK CONNECTION CONDITIONS

### 1. DEFINITIONS

- 1.1. For the purposes of the Agreement, except as are otherwise expressly provided herein or unless the context otherwise requires, the terms defined in this Clause shall have the following meanings:

**“Acceptance”** shall mean the signing and returning of a copy of the Offer Letter to the Network Operator along with receipt of full payment in cleared funds of the Budget Estimate by the Network Operator;

**“Actual Costs”** shall mean the actual costs reasonably and properly incurred by Network Operator pursuant to this Agreement which shall be paid for by the Company in accordance with Clause 13.2;

**“Additional Charges”** shall have the meaning given in Clause 13.2;

**“Adoption”** shall mean the transfer of ownership of the Network Operator Facility (or any part thereof) from the Company to Network Operator in accordance with the terms of this Agreement, and Adopt shall be construed accordingly;

**“Affiliate”** shall mean any holding company or subsidiary of a Party or any company which is a subsidiary of any holding company of a Party and the expression “holding company” and “subsidiary” shall have the meanings respectively ascribed thereto by Sections 1159 of the Companies Act 2006 (as amended);

**“Agreement”** shall mean the documents referred to in Clause 2.1 of this Annex 8;

**“Associated Person”** shall have the meaning ascribed to it in section 8 of the Bribery Act;

**“Bribery Act”** shall mean means the Bribery Act 2010 (including any amendment thereto or re-enactment thereof);

**“Budget Estimate”** shall mean the estimate of the charges to the Company for the anticipated costs which Network Operator reasonably considers it will incur pursuant to this Agreement as set out in Annex 5 of the Offer Letter as may be amended from time to time;

**“Capacity Study”** shall mean the study enclosing the network analysis undertaken by Network Operator at the Site as further defined at Annex 1 of the Offer Letter;

**“Commissioning”** means the undertaking of the requisite processes, procedures, works and/or tests set out in paragraph 5 of Annex 2;

**“Company”** shall have the meaning given to it in paragraph 1.1. of Annex 6 of the Offer Letter;

**“Company Manager”** shall mean the person nominated in paragraph 1 of Annex 6 of the Offer Letter as such person may be replaced from time to time by notice in writing to Network Operator;

**“Company’s Specific Obligations”** shall mean the obligations set out in Annex 2 of the Offer Letter;

**“Competent Authority”** shall mean the Gas and Electricity Markets Authority (as such body is amended or replaced from time to time) or 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 Union which has jurisdiction over Network Operator or the Company or the Agreement;

**“Completion”** shall mean that the Works have been completed, Validation and Commissioning have been achieved and Network Operator has Adopted the Network Operator Facility forming part of on the Network Entry Facility completing the Minimum Network Connection;

**“Completion File”** shall mean the file of documents to be provided by the Company to Network Operator in accordance with this Agreement the details of which are set out in Annex 2 of the Offer Letter;

**“Commencement Date”** shall mean the date on which Acceptance is received by Network Operator;

**“Connection”** shall mean the physical connection between the Production Facility, Delivery Facility and the Network Operator Facility at the Site which shall be undertaken by the Company in accordance with the Specification;

**“Consequential Loss”** shall mean any:

- (a) loss of profit,
- (b) loss of revenue,
- (c) loss of use,
- (d) loss of production,
- (e) business interruption; or
- (f) or any similar damage or for consequential or indirect losses of any kind,

arising out of or in connection of this Agreement and whether or not foreseeable at the date of Acceptance howsoever caused and irrespective of whether caused by the negligence or breach of duty (whether statutory or otherwise) of Network Operator or the Company or by any other tortious act or omission or breach of the Agreement by Network Operator or the Company;

**“Correction Notice”** shall mean a notice served by Network Operator which requires the Company to amend and re-submit the Completion File (or any part thereof) to Network Operator for approval of the same;

**“Date for Completion”** shall mean the intended date for Completion, as set out in paragraph 1.3 of Annex 1 of the Offer Letter or such later date as may be agreed;

**“Delivery Facility”** shall mean the Company’s equipment as further described in Annex 1 of the Offer Letter forming part of the Network Entry Facility;

**“Design”** shall mean the design of the Network Entry Facility undertaken by the Company in accordance with the Specification;

**“Dispute”** shall mean any significant difference of view which has not been resolved by discussion between the Parties as to the interpretation or performance of the Agreement or

any of its terms and conditions;

**“Force Majeure Event”** means:

- (a) any cause beyond the reasonable control of a Party which alone prevents or delays a Party from complying with its obligations under this Agreement;
- (b) war, hostilities (whether war be declared or not), invasion, act of foreign enemies;
- (c) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosion, or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- (d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speed;
- (e) rebellion, revolution, insurrection, military or usurped power or civil war;
- (f) riot, civil commotion or disorder;
- (g) tempest, earthquake or any other natural disaster;
- (h) strike or lock out (other than one solely amongst a Party’s representatives, workmen or agents); or
- (i) abnormal prevailing weather conditions having regard to the location and typical weather conditions at the site;

**“Gas”** shall mean any hydrocarbons or mixture of hydrocarbons and other gases consisting primarily of methane which at Standard Temperature and Standard Pressure are or is predominantly in the gaseous state;

**“Gas Act”** shall mean the Gas Act 1986 as amended and any regulations made there under as amended or re-enacted from time to time;

**“Good Industry Practice”** shall mean using standards, practices, methods and procedures conforming to law and exercising that degree of skill, care, diligence, prudence and foresight that would reasonably be expected from a RPO;

**“Information”** shall mean the information set out in Annex 2 of the Offer Letter;

**“Information Cut-off Date”** shall mean the date, set out in paragraph 2 of Annex 2 of the Offer Letter, by which the Company shall provide the Information to Network Operator;

**“Initial Enquiry”** shall mean the initial enquiry which the Company has submitted to Network Operator requesting a capacity study for network entry;

**“Intellectual Property”** means any patent, registered design, copyright, design right, database right, topography right, trade mark, service mark, application to register any of the aforementioned rights, trade secret, right in unpatented know-how, right of confidence and any other intellectual or industrial property right of any nature whatsoever in any part of the world;

**“Kiosk”** shall mean the protective housing kiosk for the Network Entry Facility as further described in the Specification;

**“Minimum Network Connection”** shall mean the connection of the Network Entry Facility to

the Network Operator System in accordance with the Agreement;

**“Network Code”** shall mean the network code prepared by Network Operator, as modified from time to time, pursuant to Network Operator Licence;

**“Network Entry Agreement”** shall mean a Network Entry Agreement as such term is defined in the Network Code;

**“Network Entry Facility”** shall mean both the Delivery Facility and Network Operator Facility which together contain the equipment necessary to enable Gas to be injected into the Network Operator System, further to a Network Entry Agreement, as further defined in Annex 1 of the Offer Letter;

**“Network Operator”** shall have the meaning given to it in the Offer Letter;

**“Network Operator Facility”** shall mean Network Operator equipment as further described in Annex 1 of the Offer Letter forming part of the Network Entry Facility which Network Operator shall Adopt, in accordance with Clause 0 and own, operate and maintain in accordance with Clause 26 of this Agreement;

**“Network Operator Licence”** shall mean the Gas Transporters Licence as granted to Network Operator, as modified from time to time, under Section 7(2) of the Gas Act 1986 (as amended);

**“Network Operator Manager”** shall mean the person nominated in paragraph 2 of Annex 6 of the Offer Letter as such person may be replaced from time to time by notice in writing to the Company;

**“Network Operator System”** shall mean the pipeline system operated by Network Operator for the conveyance of gas which it is authorised by Network Operator Licence;

**“NRO”** means non-routine operations under GDN/PM/SCO/1 Management Procedure For Safe Control Of Operations;

**“Offer Letter”** shall mean the letter referring to these Minimum Connection Conditions of Contract naming the Company containing inter alia details of the Works and the Budget Estimate and such other matters as may be specified in these Minimum Connection Conditions, together with any other documents attached to or expressly incorporated therein;

**“Overhead Charge”** shall mean the percentage uplift applied on Actual Costs as detailed in Annex 5 of the Offer Letter;

**“Party”** shall mean Network Operator on the one part and the Company of the other part and **“Parties”** shall be construed accordingly;

**“Permanent Facilities”** shall mean the permanent facilities detailed at Annex 2 of the Offer Letter which are to be provided to Network Operator in accordance with this Agreement;

**“Point of Connection”** shall mean the point at which the Production Facility is connected to the Network Entry Facility as detailed in the Offer Letter;

**“Production Facility”** means the Company or third party facility which produces Gas to be conveyed to the Network Entry Facility so that it can be injected into Network Operator System in accordance with a Network Entry Agreement;

**“Protected Information”** shall mean any confidential information relating to the affairs of Network Operator or the Company gained pursuant to or in the course of the negotiation,

implementation or performance of the Agreement;

**“Reasonable and Prudent Operator”** and **“RPO”** shall mean a person seeking in good faith to perform its contractual obligations, and in so doing and in the general conduct of its undertaking exercising that degree of skill, diligence, prudence, timeliness and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator complying with applicable law engaged in the same type of undertaking in the same or similar circumstances and conditions, and any reference to the standard of a Reasonable and Prudent Operator shall be construed accordingly;

**“Signals”** shall have the meaning given in Annex 1 of the Offer Letter;

**“Site”** means the site occupied by the Company or a third party on which the Network Entry Facility is to be located as further described in Annex 1 of Offer Letter;

**“Specification”** shall have the meaning given in Annex 2 of the Offer Letter;

**“Standard Pressure”** shall mean one decimal zero one three two five (1.01325) Bar;

**“Standard Temperature”** shall mean fifteen degrees Celsius (15°C);

**“Telemetry Testing”** shall mean the completion by Network Operator of all necessary functional testing of (a) communication between Network Operator telecoms and data interface housing(s) and the relevant Network Operator control centre; and (b) the satisfactory remote operation value (**ROV**);

**“Validation”** shall mean that the requirements listed in Annex 4 and Annex 11 of the Offer Letter have been achieved;

**“Works”** shall mean the Design, installation and Validation of the Network Entry Facility to achieve Commissioning; and

**“Working Day”** shall mean a day (not being a Saturday or Sunday) on which the clearing banks in the city of Edinburgh are normally open for business.

- 1.2. References in the Agreement to Clauses are to Clauses of these Standard Conditions of Contract, except where otherwise stated.
- 1.3. Any reference to statutes, statutory instruments, codes of practice, standards or Network Operator documents in these clauses or the Offer Letter are intended to refer to current statutes, statutory instruments, codes of practice, standards or Network Operator documents as may be amended, extended, re-enacted or replaced from time to time.
- 1.4. Words importing the singular number shall include the plural and vice versa and words importing the masculine shall include the feminine and neuter and vice versa.

## **2. THE AGREEMENT**

- 2.1. This Agreement comprises the following documents and if there is any ambiguity or inconsistency in or between these documents the priority of the documents shall be in



accordance with the following sequence:

- (a) the Offer Letter;
  - (b) the Annexes to the Offer Letter; and
  - (c) the Specification.
- 2.2. This Agreement shall commence on the Commencement Date and shall continue until Completion unless otherwise terminated in accordance with the terms of this Agreement.
- 2.3. Termination of this Agreement shall not affect any rights or obligations which may have accrued to either Party prior to such termination.
- 2.4. The Offer Letter is based upon:
- (a) the Initial Enquiry;
  - (b) the Capacity Study; and
  - (c) the Information.
- 2.5. In the event that the Company advises Network Operator on or after Acceptance that any of the information detailed at Clause 2.2 is incorrect, then Network Operator and the Company shall each use reasonable endeavours to agree a variation to the Offer Letter as necessary. Where the Company and Network Operator are unable to agree such a variation, then either party shall be entitled to terminate this Agreement in accordance with Clause 18.

### **3. THE COMPANY'S OBLIGATIONS**

- 3.1. The Company, in respect of the Works, and in accordance with the terms and conditions of the Agreement:
- (a) shall make or procure the making of all payments due under the Agreement in accordance with the provisions set out in the Agreement;
  - (b) shall provide the Information by the Information Cut-off Date and without undue delay, and such further information as:
    - (i) Network Operator may reasonably request (having regard to the extent of the information requested and the timing of the request) for the proper completion of the Works and or safe and efficient operation of the Network Operator System; and
    - (ii) the Company has in its control that the Company believes may be relevant and necessary to the Works and or safe and efficient operation of the Network Operator System or any part thereof;
  - (c) agrees that such Information as it provides under paragraph 3.1 (b) of this Annex 8 is accurate and may be relied on by Network Operator and its subcontractors in connection with the performance of Network Operator's obligations under the Agreement and or safe and efficient operation of the Network Operator System;
  - (d) shall cooperate at all times with Network Operator in carrying out of all or any part of



the Works;

- (e) shall comply with the Company's Specific Obligations by the dates (if any) specified in the Agreement for doing so or, where no date is specified, without undue delay;
  - (f) shall ensure that the Network Entry Facility satisfies the requirements set forth in the Offer Letter and complies to the fullest extent with the Specification;
  - (g) shall provide free, safe and unrestricted access for Network Operator and its subcontractors at all times (subject to reasonable site rules and regulations) to and from the company facilities and any other area(s) within the control of the Company, its agents, contractors and sub-contractors in which the Works or any part thereof are to be carried out;
  - (h) shall comply with all relevant legislation in the performance of the Company's obligations under the Agreement;
  - (i) shall ensure that no works are commenced in the Network Operator System before, during or after the Works without formal consultation with Network Operator in accordance with Network Operator specification T/SP/SSW22 for "Safe Working In The Vicinity Of Network Operator High Pressure Gas Pipelines and Associated Installations – Requirements For Third Parties" (as amended from time to time) (a copy of which the Company acknowledges it has received) and without having first provided Network Operator with risk assessments in respect of the proposed works;
  - (j) acknowledges the importance of maintaining the integrity, safety and security of the Network Entry Facility and Network Operator System, and the Company confirms that it (and its employees, agents and sub-contractors) shall not do any act or omit to do any act which may cause harm to the Network Entry Facility and or Network Operator System or jeopardise or threaten to jeopardise any proprietary rights and interests which Network Operator has, from time to time, in the routes and land through which the Network Entry Facility and/or Network Operator System passes;
  - (k) nominate a competent and suitably qualified person to act as the Company Manager and use reasonable endeavours to ensure that the same person acts as the Company Manager throughout the term of this Agreement and shall further ensure to promptly inform Network Operator of the absence (or anticipated absence) of the Company Manager and where applicable provide a suitably qualified replacement; and
  - (l) procure all necessary permissions, rights and interests in and over any land required for the Network Operator Facility and (if necessary) shall assist the Network Operator in obtaining an easement or servitude (as necessary).
- 3.2. The Company warrants that on an ongoing basis, any consents or permits granted by the Scottish Environment Protection Agency, and any planning permission granted by the local authority will remain in place and there will be no act or omission by the Company that will breach any conditions attached to the consents or permits granted by the Scottish Environment Protection Agency or planning permission granted by the local authority.
- 3.3. The Company shall inform the Network Operator as soon as reasonably practicable and in any

event within 5 days of the Company becoming aware that the Company

- (a) Is in breach of any of the terms and conditions under this Agreement;
- (b) Is in breach of any consents or permit granted by the Scottish Environment Protection Agency; and/or
- (c) Is in breach of any conditions attached to its planning permission or any enforcement action is contemplated or being taken by the local authority.

#### **4. NETWORK OPERATOR'S OBLIGATIONS**

- 4.1. Network Operator shall perform its obligations set out in this Agreement to the standard of a RPO.
- 4.2. Network Operator shall cooperate with the Company and provide it with information within the possession or reasonable control of Network Operator as the Company may reasonably request in order to fulfil the Company obligations under the Agreement.

#### **5. THE WORKS**

- 5.1. The Company shall, acting as an RPO and in accordance with the terms and conditions of the Agreement:
  - (a) carry out the Works;
  - (b) ensure that the Works are fit for purpose and are of the best quality and are undertaken in accordance with the Specification;
  - (c) ensure that the Works are undertaken with the consent of the land owner; and
  - (d) comply with the Company obligations under this Agreement.
- 5.2. The Company shall not commence the Works until the Commencement Date.
- 5.3. The Parties agree that the Company shall be responsible for appointing the "principal contractor" and the "CDM Co-ordinator" for the purposes of the Works in accordance with the Construction (Design and Management) Regulations 2015.
- 5.4. Network Operator may (at its sole discretion) require a Network Operator representative to attend the Site for the purpose of monitoring and/or auditing the Works. The Network Operator representative shall not supervise the Company nor shall any such monitoring and/or auditing of the Works relieve the Company of its obligations or liabilities under this Agreement. The Company shall permit the Network Operator representative access to the Site and the Works at all reasonable times.
- 5.5. The Company shall procure and provide all utilities and consumables required for the Works.

#### **6. VALIDATION**

- 6.1. The Company shall demonstrate to the reasonable satisfaction of Network Operator that

Validation has been achieved.

- 6.2. Network Operator will undertake, in conjunction with the Company the Validation with a view to achieving Commissioning which shall include the Telemetry Testing.

## **7. COMMISSIONING**

- 7.1. The Company will, at its cost, have control and responsibility for Commissioning.
- 7.2. The Company shall commence Commissioning, within six (6) months (unless otherwise agreed), after:
- (a) the Permanent Facilities detailed have been provided to the reasonable satisfaction of Network Operator;
  - (b) the Commissioning requirements detailed in Annex 2 have been satisfied;
  - (c) a Commissioning procedure has been agreed with Network Operator;
  - (d) the Connection has been made;
  - (e) if applicable, the Point of Connection has been registered under the Network Code;
  - (f) a Network Entry Agreement has been executed in respect of the Point of Connection;
  - (g) a sale and purchase agreement between the Customer and a gas shipper licensed under Part 1 of the Gas Act 1986 has been executed for the sale and purchase of Gas produced by the Production Facility; and
  - (h) Gas is available from the Production Facility.
- 7.3. If the Company has not started Commissioning within twelve (12) months of Acceptance, Network Operator shall not be obliged to commence Commissioning under this Agreement and any such Commissioning may be the subject of a separate agreement between the Parties (unless otherwise agreed in writing).
- 7.4. Nothing in the Agreement shall confer any right or entitlement on the Company or any other person to inject Gas through the Network Entry Facility and any such right or entitlement shall be the subject to a Network Entry Agreement.
- 7.5. In the event that:
- (a) successful Commissioning has not taken place as a result of the Company's failure to comply with its obligations under this Agreement;
  - (b) as a result, Gas has not been injected into the Network Operator System; and
  - (c) in consequence Network Operator is required to make payment to one or more persons pursuant to Network Operator Network Code (or any applicable statutory standards of service) as a result of a failure to accept Gas tendered for delivery from, the Production Facility,

then the Company shall hold harmless and indemnify Network Operator from and against any and all amounts paid by Network Operator pursuant to Network Operator Network Code (or any applicable statutory standards of service) as a result of a failure to accept Gas tendered

for delivery from, the Company System due to the circumstances set out above.

## **8. COMPLETION FILE**

- 8.1. The Company shall provide Network Operator the Completion File within twenty (20) Working Days of achieving Commissioning.
- 8.2. Network Operator hereby undertakes to notify the Company within ten (10) Working Days of receiving the Completion File as to whether (acting reasonably) it shall accept or reject the Completion File. Where Network Operator rejects the Completion file it shall issue a Correction Notice to the Company in respect of the Completion File which shall detail its reasons for the Correction Notice. The Company shall then be required to, within ten (10) Working Days of receiving the Correction Notice, amend the Completion File to address the reasons detailed in the Correction Notice and re-submit the amended Completion File to Network Operator for Acceptance.
- 8.3. The Parties agree that the provision of this Clause 8.2 shall continue to apply until such time that Network Operator accepts the Completion File in writing.
- 8.4. Network Operator shall only be obliged to accept the Completion File whereby it is (acting reasonably) satisfied with the contents of the Completion File.
- 8.5. Any acceptance by Network Operator of the Completion File shall not in any way relieve the Company of its obligations or liabilities under this Agreement.

## **9. ADOPTION**

- 9.1. The Network Operator shall Adopt the Network Operator Facility forming part of the Network Entry Facility upon acceptance of the Completion File in accordance with Clause 8.
- 9.2. The Company warrants that upon acceptance of the Completion File it shall procure at its own expense that full ownership of the Network Operator Facility and the ancillary rights relating thereto shall transfer to the Network Operator.
- 9.3. The Company warrants that the Network Operator Facility shall be free from all defects for a period of two (2) years from the date of acceptance of the Completion File.
- 9.4. Should any defect in the Network Operator Facility arise during the period referred to in clause 9.3, then the Company shall:
  - (a) remedy such defects, including taking any reasonable remedial action that may be notified to them by the Network Operator, save for remedial action which the Company is prevented from taking for reasons beyond its reasonable control which it shall request the Network Operator to undertake on its behalf;
  - (b) ensure that such remedial action is taken as soon as is reasonably practicable and in any event no later than five (5) Working Days of such defect being notified (unless otherwise agreed in writing), save for remedial action which is immediately required for emergency or security of gas supply reasons or where the Company has failed to take such remedial action within five (5) Working Days (unless otherwise agreed in writing) in which case the Network Operator shall be entitled to undertake the

remedial action without notice to the Company; and

- (c) pay all of the Network Operator's reasonable costs incurred as a result of the defects in the Network Operator Facility.

9.5. Without prejudice to any other rights or remedies that may accrue to the Network Operator, if the Company fails to comply with the provisions of Clause 9.4 or does not effect all necessary remedial work to the reasonable satisfaction of the Network Operator, or where the Network Operator is required to take remedial action pursuant to Clause 9.4, then the Network Operator shall be entitled to perform the remedial work, or part thereof, or make arrangements for the remedial work to be performed by a third party, and the costs of so doing shall be payable by the Company on demand by the Network Operator.

## **10. COMPLETION DATES**

- 10.1. The Company shall use reasonable endeavours to complete the Works by the Date for Completion.
- 10.2. Following Completion, the Network Operator shall give notice to the Company confirming the date of Completion.
- 10.3. The Company shall procure that gas must flow, and be injected through the Network Entry Facility within 12 months of the date of Completion, failing which the Network Operator shall be entitled to abandon such Network Entry Facility and any recommissioning shall be subject to additional charges notified by the Network Operator.

## **11. EMERGENCIES**

- 11.1. In the event of an emergency situation arising in relation to any of the Works or any part thereof at a time when a Network Operator representative is on Site, the Company shall, notwithstanding any other Clause in this Agreement, temporally pass over all control over such Works to the Network Operator representative. The Company shall take all action, as a RPO, to safeguard life and property and shall ensure that its employees, servants or agents remain on Site at the disposal of the Network Operator representative until released by the Network Operator representative. The Company shall follow all instructions and directions (whether oral or written) given by the Network Operator Representative during such emergency.
- 11.2. In the event of an emergency situation arising in relation to the Works or any part thereof at a time when a Network Operator representative is not in attendance, the Company shall contact the Network Operator national emergency telephone helpline, and shall cease all Works immediately and shall follow all instructions and directions (whether oral or written) given by Network Operator. In addition, the Company shall take all action, as a RPO, to safeguard life and property and shall ensure that its employees, servants or agents remain on Site at the disposal of the Network Operator emergency personnel until released by the Network Operator emergency personnel.

## **12. BUDGET ESTIMATE**

- 12.1. The Company hereby acknowledges that the costs, expenses and fees set out in the Budget



Estimate should only be regarded as a guide. The Company hereby agrees that charges will be based on the Actual Costs. Increase in costs will be advised at the time of occurrence or as soon as reasonably practicable thereafter however any failure or delay to advise the Company of any increases in costs shall not permit the Company to withhold payment.

12.2. The Parties agree that Overhead Charges will be added to the Actual Costs.

### **13. PAYMENT**

- 13.1. The Company shall make payment (including VAT when applicable) of the amount of the Budget Estimate in full on Acceptance or at such times and amounts as are stated in the Offer Letter or Budget Estimate (as the case may be).
- 13.2. In the unlikely case, where the Actual Costs incurred during the carrying out of Works is more than the Budget Estimate amounts paid to date, Network Operator shall be entitled to make, and the Company shall pay, additional charges (“**Additional Charges**”) in respect of such work including for the avoidance of doubt the Overhead Charge on any such Additional Charges.
- 13.3. The Additional Charges shall be calculated in accordance with the Clause 12.
- 13.4. The Company shall make payment of the Additional Charges within 30 days after the date of submission of an invoice by the Network Operator. Such Additional Charges will be invoiced to the Company monthly in arrears.
- 13.5. Payment shall be made by the Company in pounds sterling free from any right of set-off, counterclaim or deduction by direct bank transfer or equivalent instantaneous transfer of funds within thirty (30) days of receipt of each invoice issued pursuant to the Budget Estimate (in each case, the “**Due Date**”) and (to the extent permitted by law) free from any right of set-off, counterclaim, deduction, retention, reservation or withholding in respect of tax PROVIDED ALWAYS that in the event that any payment is subject in law to deduction, retention or withholding the Company shall forthwith pay to the Network Operator such further amount as is necessary to ensure that the Network Operator receives as cleared funds an amount equivalent to the amount which would have been received if no deduction, retention or withholding had been made.
- 13.6. The Company shall pay, upon presentation of proper VAT invoices, all VAT charges properly payable in connection with the Works.
- 13.7. Any amounts reasonably and properly incurred becoming due under the Agreement shall bear interest (payable by the Company) from the Due Date at an annual rate of three percent (3%) per annum above the Barclays Bank plc base rate in force from time to time, compounded quarterly, until the date of payment. The Parties agree that the provisions of this Clause 13.7 constitute a substantial remedy for late payment of any sum due under the Agreement. The Parties further agree that the provisions of the Late Payment of Commercial Debts (Interest) Act 1998, and any orders or regulations made pursuant thereto, as to rates of interest or credit periods shall (insofar as is possible) not apply to the Agreement.
- 13.8. In the event any undisputed amount properly invoiced remains unpaid after the Due Date, Network Operator may thereafter, upon giving not less than five (5) Working Days prior written notice and without prejudice to any other of its termination or remedial rights, suspend work



on the Works pending receipt of payment due.

- 13.9. Invoices, and the statements referred to in this Clause 13, shall be sent to the address specified in Annex 6 of the Offer Letter, or such other address as the Company may from time to time notify to Network Operator.

#### **14. LIABILITY**

- 14.1. This clause sets out the entire financial liability of the Parties (including any liability for the acts or omissions of its employees, agents and sub-contractors) in respect of:

- (a) this Agreement; and
- (b) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

- 14.2. Nothing in this Agreement is intended to limit or restrict the liability of either Party for death or personal injury caused by its negligence or for fraudulent misrepresentation.

- 14.3. Network Operator shall not be liable to the Company for any Consequential Loss, howsoever caused and whether arising in contract, tort (including in negligence) or otherwise and whether foreseeable or not.

- 14.4. If Network Operator's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Company, its agents, sub-contractors or employees, then Network Operator shall not be liable for any claims, costs, charges, or losses whatsoever sustained or incurred by the Company arising directly or indirectly from such prevention or delay.

- 14.5. Subject to Clause 14.3, the maximum aggregate liability of Network Operator under the Agreement to the Company whether in contract, or tort (including in negligence) or otherwise for any loss or damage suffered by the Company to the extent caused by Network Operator or as a result of any breach of contract or negligence of Network Operator (or of its agents or employees) shall be limited to the aggregate of the Actual Costs and Overhead Charges.

- 14.6. The Company shall be under a duty to take all necessary measures to mitigate and minimise any loss or damage which may arise from breach of contract, or by reason of tort (including, without limitation, negligence) by Network Operator.

- 14.7. The Company shall indemnify Network Operator against all liabilities, costs, expenses, damages and losses (including any direct, indirect or Consequential Losses) suffered or incurred by Network Operator arising out of or in connection with:

- (a) any breach of any term or provision of this Agreement by the Company;
- (b) any of the Company, its employees, agents breach or negligent or wilful acts, negligent or wilful omissions arising by reason of or in consequence of the construction the Works;
- (c) any subsidence of the Network Operator System resulting from the Works;
- (d) any damage caused to any property of Network Operator including damage caused to the Network Operator System resulting from the Works;
- (e) any claim and or fine made against Network Operator by a third party arising by reason

or in consequence of the Works to the extent that such claim or fine arises out of the breach, negligent performance or failure or delay in performance of the Works by the Company, its employees or agents;

- (f) any claim and/or cause of action for injury to or death of Network Operator's employees, directors, servants or agent or third party arising out of or in connection with the Works;
- (g) any claim and/or cause of action for any breach of any statutory approval, licence or regulation or any permission, right or interest in land granted to or held by Network Operator arising out of or in connection with the Works; and
- (h) any breach of any terms of Network Operator's Network Code, gas transporter licence and/or statutory standards of service arising out of or in connection with the Works.

## **15. INSURANCE**

15.1. The Company shall effect and maintain a:

- (a) construction all risk policy or policies of insurance in respect of the Network Entry Facility to the full reinstatement value; and
- (b) operations all risk policy or policies of insurance in respect of the Delivery Facility to the full reinstatement value.

15.2. Both Parties shall be required to maintain insurance cover with insurers of good repute carrying out business in the United Kingdom to the value of £10,000,000 (TEN MILLION POUNDS STERLING) in respect of any one event for the following: (a) public liability; (b) product liability; (c) employers liability insurance; and (d) professional indemnity insurance.

15.3. The Company shall provide to Network Operator within ten (10) Working Days of Acceptance evidence of the insurance policies as is required by this Clause 15 are being maintained.

15.4. The Company shall hold harmless and indemnify Network Operator against any losses, charges, liabilities, claims, fines, penalties, costs or expenses (including but not limited to legal expenses) incurred as in connection with or resulting from any breach of the Company's obligations as to insurance under this Agreement.

## **16. BRIBERY, GIFTS AND PAYMENT OF COMMISSION**

16.1. The Parties shall (and shall procure that any Associated Person shall) in connection with this Agreement:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act;
- (b) undertake that they will not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act; and
- (c) not authorise or acquiesce in or turn a blind eye to, and undertake that they have not authorised or acquiesced in or turned a blind eye to, any bribery, extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence,

money-laundering, or any similar activity.

- 16.2. Each Party shall indemnify the other Party against any losses, liabilities, damages, costs or expenses and other liabilities (including but not limited to legal fees) incurred by, or awarded against, the other Party as a result of any breach of this Clause 16.
- 16.3. Regardless of any other provision in this Agreement, neither Party shall be obliged to do, or omit to do, any act which would, in its reasonable opinion, put it in breach of any of the requirements of Clause 16.1 above.
- 16.4. Neither Party shall:
- (a) offer, give or agree to give to any person in the service of the other Party or any other person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to the obtaining or execution of this Agreement, or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement; or
  - (b) enter into this Agreement or any other contract with the other Party in connection with which commission has been paid or agreed to be paid by it or on its behalf, or to its knowledge, unless before the Agreement is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in Writing to the other Party and the approval in Writing of the other Party has been obtained.
- 16.5. In the event of any breach of this Clause 16 shall be deemed to be a material breach, and without prejudice to any other rights or remedies, either Party may (acting reasonably) require the other to remove any person or persons responsible for breaching this Clause from any further involvement with this Agreement.

## **17. FORCE MAJEURE**

- 17.1. If either Party is rendered unable wholly or in part by Force Majeure Event to carry out its obligations (other than payment of money) under the Agreement it shall as soon as reasonably practicable after becoming aware of the occurrence of the event or circumstances of Force Majeure Event give written notice to the other Party giving full particulars of the event or circumstances constituting Force Majeure Event and of the obligations which cannot as a result be performed. The Party giving notice shall thereafter be excused from liability for non-performance of such obligations, subject to the provisions of Clause 17.2 below, to the extent and for so long as the inability to perform the obligations as a result of the event or circumstances of Force Majeure Event may continue. For the avoidance of doubt, the relief from liability for non-performance of any obligation under this Clause 17 shall not affect the existence of that obligation for the purposes of any other provision of the Agreement.
- 17.2. A Party relieved from liability for the non-performance of any obligations under the Agreement as a result of Force Majeure Event shall use all reasonable endeavours to overcome or circumvent such Force Majeure Event and shall on request in writing from the other Party give

full details of the measures it is taking in that regard.

## **18. TERMINATION**

18.1. Without prejudice to any of its antecedent rights or remedies, Network Operator may terminate the Agreement without liability to the Company:

- (a) forthwith on written notice if:
  - (i) the Company goes into liquidation (either voluntary or compulsory);
  - (ii) any administrator or administrative receiver shall be appointed in respect of the whole or any part of the Company's assets;
  - (iii) the Company makes or offers to make any arrangement or composition for the benefit of creditors generally;
  - (iv) Network Operator acting as a RPO considers there are circumstances which may lead to the endangerment of life or property; or
- (b) by giving fourteen (14) calendar days' notice in writing:
  - (i) if the Parties have been unable to agree (acting reasonably) a variation to the Works in accordance with Clause 2.5;
  - (ii) if either Party is prevented by reason of Force Majeure from performing any of its obligations under the Agreement for a period exceeding six (6) months;
  - (iii) where Network Operator delivers written notice to the Company that it has committed a breach of the Agreement and the Company has failed to remedy such breach within twenty-eight (28) days of being notified;
  - (iv) if the Company has not commenced Commissioning within six (6) months (or other agreed timescale in accordance with clause 7) of Acceptance; or
  - (v) if the Company has not achieved Completion within twelve (12) months of Acceptance (unless a different timescale is agreed in accordance with paragraph 1.3 of Annex 1).

18.2. Without prejudice to any of its antecedent rights or remedies, Network Operator may terminate the Agreement without liability to the Company forthwith on written notice if within 30 days of the company being:

- (a) in breach of any of the terms and conditions under this Agreement;
- (b) in breach of any consents or permit granted by the Scottish Environment Protection Agency; and/or
- (c) in breach of any conditions attached to its planning permission or any enforcement action is contemplated or being taken by the local authority;

the Company has not remedied such breach to the satisfaction of the Network Operator.

18.3. The Company may terminate the Agreement for any reason whatsoever by giving fourteen (14) calendar days' notice in writing to the Network Operator.

18.4. Where the Agreement is terminated under any provision of this Clause 18, Network Operator

shall be entitled to receive:

- (a) payment of all amounts due at the time of termination;
- (b) any Additional Charges for which the Company is liable under Clause 13.2;
- (c) any cost or expense reasonably incurred, or for which Network Operator is liable and is unable lawfully or contractually to avoid or recover from third parties in connection with any contracts placed in connection with the Agreement (insofar as these have not already been paid by the Company) including without limitation, forfeited deposits, cancellation fees and legal expenses; and
- (d) any and all reasonable costs incurred or expended in the restoration and/or reinstatement of land or buildings and removal of plant, apparatus and equipment which in the opinion of Network Operator is necessary as a result of the termination of the Agreement taking into account inter alia environmental considerations and contractual commitments.

18.5. Any termination of the Agreement pursuant to any provision of this Clause 18 shall be without prejudice to any rights or obligations of the Parties that accrued prior to the effective date of such termination.

18.6. In the event any government or governmental supranational state agency or regulatory body shall:

- (a) rule or direct that the Agreement (or any part thereof) should not be performed by Network Operator;
- (b) institute, threaten or thereafter take any action, suit or investigation to restrain, prohibit or otherwise challenge the rights or obligations contemplated by the Agreement; or
- (c) thereafter to take any other action as a result of or in anticipation of the implementation of the Agreement which would have adverse effects on the rights of the parties hereto,

the Network Operator and the Company shall immediately commence negotiations in good faith with a view to agreeing provisions, actions and measures which as far as reasonably practicable retain the economic and commercial effect of the rights or obligations set out in the Agreement which shall include but is not limited to the assignment of the Agreement to an Affiliate of Network Operator.

## **19. CONFIDENTIALITY**

19.1. Each Party shall keep confidential and shall not disclose to any third party Protected Information provided that:

- (a) this restriction shall not apply to any information which at the time of disclosure is in the public domain or thereafter becomes party of the public domain otherwise than as a consequence of a breach by a Party of its obligations under this Clause 19;
- (b) nothing in the Agreement shall prevent the disclosure of information to any government department or any governmental or regulatory agency having jurisdiction over any Party (including but not limited to the Gas and Electricity Markets Authority),



or as required by law or any lawful subpoena or recognised stock exchange or other process in connection with any judicial arbitration or administration proceeding, or where reasonably necessary to effect the purpose of the Agreement; and

- (c) in the event disclosure to any third party is necessary in order to give effect to the purposes of the Agreement or permissible under this Clause 19, the disclosing Party shall use all reasonable endeavours to ensure that such third party shall respect the confidentiality of such information and be bound by the terms of this Clause 19 as if a party thereto.

19.2. Nothing in Clause 19.1 shall apply to the disclosure of Protected Information to any:

- (a) lending or other financial institution in connection with the financing or the disclosing Party's business or operations;
- (b) bona fide intending assignee of the whole or any part of the rights and interests of the disclosing Party under the Agreement; or
- (c) person that is considering acquiring shares in either Party or (in the case of the Company) any equity investment in the company's system.

19.3. The disclosing Party, pursuant to Clause 19.2 shall:

- (a) keep the disclosure of the Protected Information to the minimum necessary for the purpose for which it is disclosed; or
- (b) obtain an undertaking from the person to whom the Protected Information is disclosed, satisfactory to the non-disclosing Party acting reasonably to maintain the confidentiality of the Agreement.

## **20. INTELLECTUAL PROPERTY**

20.1. All Intellectual Property and, to the extent that Intellectual Property is embodied therein, documents (including but not limited to drawings, transparencies, prints, photographs, negatives, tapes, discs, working notes and reports), software or other items created or supplied by Network Operator in connection with the Works shall be owned by Network Operator and the originals and all copies of them, if any, supplied to the Company shall be delivered to Network Operator on completion of the Works and the Company shall be required to certify that none are retained in its possession.

20.2. All Intellectual Property and, to the extent that Intellectual Property is embodied therein, documents (including but not limited to drawings, transparencies, prints, photographs, negatives, tapes, discs, working notes and reports), software or other items supplied by the Company in connection with the Works shall be owned by the Company and save for documents required by Network Operator for the purposes of operating and maintaining the Network Operator Facility all the originals and all copies of them, if any, supplied to Network Operator shall be delivered to the Company on completion of the Works and Network Operator shall be required to certify that apart from the documents referred to above none are retained in its possession.

20.3. Network Operator shall have by virtue of the Agreement a royalty-free, perpetual non-exclusive licence (with power to sub-licence) for the purposes only of designing, constructing, commissioning, testing, operating and maintaining pipelines, metering and pressure reduction



equipment, in respect of any such Intellectual Property of the Company as forms part of any invention or development made by Network Operator under or in connection with the Agreement.

## **21. DISPUTES RESOLUTION PROCEDURE**

- 21.1. Any Dispute shall be resolved in accordance with the procedure set out in this Clause.
- 21.2. Either Party shall give to the other notice in writing (“**Dispute Notice**”) of the Dispute, setting out its nature and full particulars, together with relevant supporting documentation.
- 21.3. Within 14 days of service of the Dispute Notice, the Network Operator Manager and Company Manager shall meet and attempt in good faith to resolve the Dispute.
- 21.4. If the Network Operator Manager and Company Manager are for any reason unable to resolve the Dispute within 21 days of service of the Dispute Notice, the Dispute shall be referred to the Network Director of the Network Operator and a senior representative of one or more of the Members of the Company (the “**Executives**”) who shall attempt in good faith to resolve it.
- 21.5. If the Dispute remains unresolved within 21 days of it being referred to the Executives, either Party may refer the Dispute to mediation in accordance with the CEDR Model Mediation Procedure.
- 21.6. The mediation shall be conducted in accordance with the following procedure:
  - (a) unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR Solve;
  - (b) to initiate the mediation, a Party must serve a notice in writing (“**Mediation Notice**”) to the other Party requesting mediation, with a copy of the Mediation Notice being sent to CEDR Solve;
  - (c) the mediation will start not later than 14 days after the date of the Mediation Notice;
  - (d) unless otherwise agreed by the Parties, the place of mediation shall be nominated by the mediator; and
  - (e) the commencement of mediation shall not prevent the Parties commencing or continuing court proceedings or adjudication in respect of the Dispute.

## **22. NOTICES**

- 22.1. Any notice or other document to be given under the Agreement shall be in writing and shall be deemed to have been duly given if left or delivered by hand or sent by registered post or given by email to a Party at the address set out in the Offer Letter for such Party, or such other address as the receiving Party may from time to time designate by written notice to the other.
- 22.2. Any such notice or other document shall be deemed to have been received by the addressee two (2) Working Days following the date of dispatch if the notice or other document is sent by

registered post or upon delivery if left or delivered by hand

### **23. ENTIRETY OF AGREEMENT**

- 23.1. This Agreement shall constitute the entire agreement between the Parties with respect to its subject matter and supersedes all previous agreements and understandings between the Parties with respect thereto.
- 23.2. Each of the Parties acknowledges and confirms that it does not enter into this Agreement in reliance on any representation or warranty or other undertaking not fully reflected in the terms of this Agreement, provided that this clause shall not have the effect of excluding liability on the part of either Party for any fraudulent misrepresentation.

### **24. ASSIGNMENT**

- 24.1. Subject to Clause 24.2, Network Operator or the Company may assign/novate all or any of its rights and obligations under the Agreement with the consent of the other Party such consent should not be unreasonably withheld.
- 24.2. In the event that the Company proposes to assign/novate all or any of its rights and obligations under the Agreement or the future operation of the Delivery Facility, the Company shall procure that the transferee formally enters into an assignment/novation agreement with the Network Operator prior to such assign/novation. The terms of such novation shall be dictated by the Network Operator and the Company and the transferee shall enter into such assignment/novation without amendment or modification.

### **25. SUB-CONTRACTING**

The Company shall be entitled to sub-contract the whole or any part of the Works. Any such sub-contracting shall not relieve the Company from any liability or obligation that it has, or may have, in connection with the Agreement.

### **26. OWNERSHIP, OPERATION AND MAINTENANCE**

26.1. The Parties agree that:

- (a) on Adoption the Network Operator shall own outright, operate and maintain the Network Operator Facility;
- (b) the Company shall own outright, operate and maintain the Delivery Facility unless otherwise agreed in writing;
- (c) Network Operator shall have no right or obligation to operate and/or maintain, and shall have no responsibility for the operation and/or maintenance of, the Delivery Facility; and
- (d) the Company shall have no right or obligation to operate and/or maintain, and shall have no responsibility for the operation and/or maintenance of, the Network Operator

Facility.

- 26.2. The Parties hereby agree that the ongoing operational requirements of the Network Entry Facility will be subject to separate Network Entry Agreement which shall be entered into prior to Commissioning.

## **27. WAIVER AND AMENDMENTS**

- 27.1. None of the provisions of the Agreement shall be considered waived by a Party unless such waiver is given in writing and signed by a duly authorised representative of the Party making the waiver. No such waiver shall be a waiver of any past or future default or breach or modification of any other term, provision, condition or covenant of the Agreement unless expressly set forth in such waiver.
- 27.2. No amendments to the Agreement shall be valid unless made in writing and agreed and signed by the duly authorised representatives of the Parties.

## **28. PUBLICITY**

Each Party shall obtain written approval from the other, which will not be unreasonably withheld, prior to taking publicity photographs or issuing publicity releases or announcements regarding the Agreement or the Works.

## **29. SURVIVAL**

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

## **30. THIRD PARTY RIGHTS**

Subject to any rights which may accrue to any successor or permitted assign of the Parties, no provision of the Agreement shall or may be construed as creating any rights enforceable by a third party and all third party rights as may be implied by law are hereby excluded to the fullest extent permitted by law from the Agreement.

## **31. SEVERABILITY**

If any term or provision in the Agreement shall be held to be illegal or unenforceable in whole or in part, under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of the Agreement but the validity and enforceability of the remainder of the Agreement shall not be affected.

## **32. GOVERNING LAW AND JURISDICTION**

- 32.1. Unless otherwise provided for by mandatory local law, this Agreement (including non-

contractual disputes or claims) arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the laws of England and Wales.

- 32.2. Each Party irrevocably agrees that the Courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement.

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## Annex 9 – CAPACITY STUDY

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## Annex 10 – COMMISSIONING CERTIFICATE DOCUMENTATION

<b>Electrical Documentation</b>	
1	Method Statement & Risk Assessment
2	Commissioning Procedure / Sequence
3	Inspection & Test Record Sheet – General (EL4/1)
4	EC Type Examination Certificates
5	Initial Inspection Sheets (BS EN 60079-17)
6	Hazardous Area Equipment Schedule
7	Factory Acceptance Test (FAT) - Documentation
8	Inspection & Test Record Sheet–Earthing Systems (EL4/7)
9	Electrical Installation Certificate (BS7671)
10	Installation As Built Redline Drawings
11	Pre-commissioning Snag-List (Electrical)
12	O&M Manual (Electrical)
<b>Instrumentation Documentation</b>	
1	Method Statement & Risk Assessment
2	Commissioning Procedure / Sequence
3	EC Type Examination Certificates
4	Initial Inspection Sheets (BS EN 60079-17)
5	Hazardous Area Equipment Schedule
6	I.S Barrier Configuration Sheets
7	Temperature / Pressure Flow Configuration Sheets
8	Factory Acceptance Test (FAT) – Documentation
9	Workshop Acceptance Test (WAT) (Telemetry)
10	Satellite Commissioning Certificate
11	Instrumentation & Control Cable Inspection & Test Sheet
12	Installation As Built Redline Drawings
13	Pre Commissioning Snag-List (Instrumentation)
14	O&M Manual (Instrumentation)
15	Small bore pipework pressure test





<b>General Documentation</b>	
Hazardous Area Drawing	
PS/5 Part D Signed by Installer	
<ul style="list-style-type: none"><li>• Electrical</li></ul>	
<ul style="list-style-type: none"><li>• Instrument</li></ul>	
<ul style="list-style-type: none"><li>• Comms</li></ul>	
Other items of relevance (list below):	
Local Operating Procedure	
Shutdown RTU trip Procedure	
<b>Biomethane sites only</b>	
1	SGN/PM/GQ/8 Risk Assessment
2	OFGEM Letter of Direction
3	Analyser Evaluation ISO/10723
4	OFGEM Log available
5	Metering ME/2 checks complete
6	Ensure Chromat daily & 35 day tests are complete
7	GSMR trip settings
8	Odorant Primary Sample Point available



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## Annex 11 - PROJECT CHECK LIST

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<b>Project Check List</b>	
<b>Design</b>	
1.1	GQ8 Risk Workshop undertaken
1.2	Review Conceptual Design
1.3	Project Meeting
1.4	Review Detailed Design Pack (PS5/GL5)
<b>Off Site Testing</b>	
2.1	Final Factory Acceptance Test (Network Operator in attendance)
<b>SCADA</b>	
3.1	SCADA Requirements Pack Received
3.2	Confirm Third Party ISDN Order
3.3	Arrange Communications Links
3.4	Configure SCADA Screens
3.5	Configure SCADA I/O
3.6	SCADA Internal System Test
3.7	Develop Alarm Response Document
3.8	Review End to End Testing NRO
3.9	Network Operator SCADA Group Approval Letter
3.10	SCADA Standby Battery Test
3.11	Complete End to End Testing from site
<b>On Site Testing</b>	
4.1	Final Site Acceptance Test (Network Operator in attendance)
<b>GSMR Trip Witness Test</b>	
5.1	Confirm site to flare if Wobbe Index is greater than trip point
5.2	Confirm site to flare if Wobbe Index is less than trip point
5.3	Confirm site to flare if Soot Index is greater than trip point
5.4	Confirm site to flare if Soot Index is less than trip point
5.5	Confirm site to flare if ICF Factor is greater than trip point
5.6	Confirm site to flare if ICF factor is less than trip point
5.7	Confirm site to flare if H2S is greater than trip point
5.8	Confirm site to flare if Water Dewpoint is greater than trip point
5.9	Confirm site to flare if O2 is greater than trip point

5.10	Confirm site to flare if H2 is greater than trip point
5.11	Confirm site to flare if CV is less than 0.6 below CV target trip point
5.12	Confirm site to flare if LGT is in Fault
5.13	Confirm all trip set points are set as specified.
5.14	Take copy of Trip PLC program
<b>Metering &amp; Gas Quality</b>	
6.1	Site Visit with Ofgem to confirm metering point
6.2	Confirm Remote HPMIS Connection
6.3	Confirm HPMIS is operating
6.4	Request Letter of Direction
6.5	Network Operator Witness Site ME2 Testing
6.6	Confirm Test Equipment Certification
6.7	Obtain copies of Calibration sheets
6.8	Obtain copies of Flow Meter Calibration sheets
6.9	Ensure sample point is as per OFGEM Letter of Direction
6.10	Confirm Danview is configured correctly
6.11	Confirm Chromatograph is configured correctly
6.12	Obtain copies of Test Gas Certificates
6.13	Is the OFGEM documentation & site log available
6.14	Witness System 1 Function Test for all trip points
6.15	Witness Site Acceptance Test of LGT System
<b>Electrical Power supply</b>	
7.1	Check electrical inspection & Test certificate is available
7.2	Ensure cable has been tested and circuit protection is as per approved drawings.
7.3	Ensure supply to Network Operator system can be isolated and locked off.
7.4	Confirm Hazardous Area initial inspection sheet has been completed
<b>Rhinology</b>	
8.1	Is Primary sample available and acceptable
<b>Mechanical Checks</b>	
9.1	Obtain copies of PSSR Inspections
9.2	Visual Inspection of equipment connected to Network Operator System
<b>Site Documentation</b>	

10.1	Are Network Operator required drawings available
10.2	Are relevant instruction manuals available for Network Operator equipment
10.3	PS5 signed to relevant part
10.4	Planning permission for the design, build and operation of the Network Entry Facility
10.5	Consent from the Scottish Environment Protection Agency for the design, build and operation of the Network Entry Facility
10.6	Confirmation that the consents and permissions at 10.4 and 10.5 are in place and have not been challenged or revoked and not the subject of any enforcement notices/proceedings

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