

**INTERIM PUBLIC ELECTRICITY SUPPLY LICENCE**

**GRANTED TO**

**Electricity Supply Board**

**Section 14 (1) (h) Electricity Regulation Act, 1999**

**CONDITIONS TO APPLY FROM SEM GO-ACTIVE UNTIL SEM GO-LIVE**

**CONSULTATION DRAFT**

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**PART I    TERMS OF THE LICENCE**

1. The Commission for Energy Regulation (hereinafter referred to as the "**Commission**") in exercise of the powers conferred by Sections 14(1)(b), (c), (d) and (h) and Section 14(2) of the Electricity Regulation Act, 1999 (hereinafter referred to as the "**Act**") as amended by Regulation 16 of the European Communities (Internal Market in Electricity) Regulations 2005 (hereafter referred to as '**S.I. 60 of 2005**') hereby grants to ESB (hereinafter referred to as the "**Licensee**") a licence under Section 14(1)(h) to supply electricity to final customers of the description specified in Schedule 1 during the period specified in paragraph 3, subject to the Conditions (hereinafter referred to as "**the Conditions**") set out in Part II.
2. The Conditions are subject to modification or amendment in accordance with their terms or with Sections 14(3), 14(6)(a) or 19 of the Act. The licence hereby granted (hereinafter referred to as "**this licence**") is further subject to the terms as to revocation specified in Schedule 2.
3. This licence shall come into force on 21st April 2006 and, unless revoked in accordance with the provisions of Schedule 2, shall continue in full force and effect until the coming into force of any subsequent licence to supply granted by the Commission to the Licensee.

Sealed with the common seal of the Commission for Energy Regulation on 21st April 2006.

Chairman  
Commission for Energy Regulation

## **PART II THE CONDITIONS**

### **Condition 1. Interpretation and construction**

1. Unless the contrary intention appears:
  - (a) words and expressions used in the Conditions or the Schedules shall be construed as if they were in an enactment and the Interpretation Acts, 1937 to 1997 applied to them; and
  - (b) references to an enactment shall include primary and subordinate legislation and in both cases any modification or re-enactment thereof after the date when this licence comes into force.
2. Any word or expression defined in the Act for the purposes of any provision of the Act shall, unless the contrary intention appears, have the same meaning when used in the Conditions or in the Schedules.
3. In the Conditions and in the Schedules, unless otherwise specified or the context otherwise requires:

<b>"Affiliate"</b>	in relation to the Licensee or any subsidiary of a holding company of the Licensee, means any holding company of the Licensee or any subsidiary of the Licensee or any subsidiary of a holding company of the Licensee, in each case within the meaning of the Companies Acts, 1963 to 2001;
<b>"Ancillary Services"</b>	has the meaning given in the Grid Code;
<b>"Auditors"</b>	mean the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies Acts, 1963 to 2001;
<b>"Board"</b>	means the Electricity Supply Board;
<b>"Business"</b>	means any business or activity of the Licensee, or any affiliate, or related undertaking of the Licensee, other than the Public Electricity Supply Business;
<b>"Distribution Business"</b>	means the business division of the Board designated by the Board to exercise the functions of the Distribution System Operator as required by Regulation 22 of the Regulations, 2000 (S.I. 445 of 2000);

<b>"Distribution Code"</b>	means the Distribution Code required to be prepared by the Board pursuant to Section 33 of the Act, and approved by the Commission, as from time to time revised, amended, supplemented or replaced with the approval or at the instance of the Commission;
<b>"Distribution System"</b>	means all electric lines of the Board (except lines forming part of the Board's transmission system) and any other electric lines which the Board may, with the approval of the Commission, specify as being part of the Board's distribution system, and includes any electric plant, transformers and switchgear of the Board and which is used for conveying electricity to final customers;
<b>"Distribution System Operator"</b>	means the Board in its capacity as distribution system operator licensed pursuant to Section 14 (1) (g) of the Act;
<b>"Electricity Undertaking"</b>	means any person engaged in the generation, transmission, distribution or supply of electricity including any holder of a licence or authorisation or a person who has been granted a permit under Section 37 of the Principal Act and any person transferring electricity to or from Ireland across an interconnector or who has made an application for use of an interconnector which has not been refused;
<b>"Final Customer"</b>	means customers purchasing electricity for their own use;
<b>"Financial Year"</b>	has the meaning given to it in paragraph 1 of Condition 2;
<b>"Generation Business"</b>	means the business (if any) of the Licensee and any affiliate or related undertaking of the Licensee in the generation of electricity or the provision of Ancillary Services;
<b>"Generator"</b>	means a person licensed to generate electricity under Section 14(1)(a) of the Act;
<b>"Grid Code"</b>	means the Grid Code required to be prepared by the Board pursuant to Section 33 of the Act, and approved by the Commission, as from time to time revised,

	amended, supplemented or replaced with the approval or at the instance of the Commission;
<b>"Holding Company"</b>	means a holding company within the meaning of Section 155 of the Companies Acts, 1963 to 2001;
<b>"Interconnector"</b>	means the electric lines and electric plant used solely for conveying electricity directly to or from a substation or converter station within Ireland, into or out of Ireland and where conveying of electricity may occur within but not into or out of Ireland without such electric lines and electric plant in their entirety;
<b><u>"Intermediary"</u></b>	<b><u>has the meaning given to it in the Single Electricity Market Trading and Settlement Code;</u></b>
<b><u>"Intermediary Activity"</u></b>	<b><u>means the business of the Licensee as an Intermediary;</u></b>
<b>"Licensee"</b>	means the Board;
<b>"Metering Code"</b>	means the Metering Code prepared by the Board and approved by the Commission, as from time to time revised, amended, supplemented or replaced with the approval of, or at the instance of, the Commission;
<b>"Metering Equipment"</b>	means meters, time-switches, measurement transformers, metering protection and isolation equipment, circuitry and their associated data storage and data communications equipment and wiring which are part of the active energy and reactive energy measuring equipment at or relating to a site;
<b>"Modification"</b>	includes addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;
<b>"Participating Interest"</b>	has the same meaning as defined in Regulation 35 of the European Communities (Companies: Group Accounts) Regulations, 1992 (S.I. 201 of 1992);
<b>"Power Generation Business"</b>	means the business of the Board in its capacity as owner and operator of generation units;

<b>"Protocol"</b>	means the approved procedure governing the transfer and dissemination of commercially sensitive information between the Licensee and any affiliate, related undertaking or Business of the Licensee pursuant to Condition 5 and 6 of this licence;
<b>"Public Electricity Supply Business"</b>	means the Board in its capacity as public electricity supplier licensed to supply electricity under Section 14(1)(h) of the Act;
<b>"Related Undertaking"</b>	means any undertaking having a participating interest in the Licensee or any undertaking in which the Licensee has a participating interest;
<b>"Regulated Business"</b>	means the Transmission System Owner's Business, the Distribution Operator's Business, the Power Generation business or any other business or affiliate of the licensee which is regulated pursuant to the Electricity Regulation Act, 1999.
<b>"Representation"</b>	includes any objection or any other proposal made in writing;
<b><u>"Single Electricity Market"</u></b>	<b><u>means the single wholesale electricity market for the Island of Ireland implemented in the Republic of Ireland pursuant to the Act and the Single Market Regulations;</u></b>
<b><u>"Single Electricity Market Trading and Settlement Code"</u></b>	<b><u>means the Trading and Settlement Code provided for in Regulation [•] of the Single Market Regulations, as from time to time, revised, amended, supplemented or replaced with the approval or at the instance of the Commission;</u></b>
<b><u>"Single Market Regulations"</u></b>	<b><u>means the Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007 (S.I. [•] of 2007);</u></b>
<b>"Supplier"</b>	means a person licensed to supply electricity under Sections 14(1)(b), (c), (d), (h) or 14(2) of the Act;

<b>"Supply Business"</b>	means the licensed business of the Licensee and any affiliate or related undertaking of the Licensee as a Supplier;
<b>"Subsidiary"</b>	has the meaning given in the Companies Acts, 1963 to 2001;
<b>"Total System"</b>	means the transmission system and the distribution system of the Board taken together;
<b>"Trading and Settlement Code"</b>	means the Trading and Settlement Code <del>to be</del> developed pursuant to Sections 9(1)(a), (b) and (d) of the Act <b><u>as from time to time, revised, amended, supplemented or replaced with the approval or at the instance of the Commission;</u></b>
<b>"Transmission System Owner"</b>	means the Board as owner of the transmission system licensed pursuant to section 14 (1)(f) of the Act;
<b>"Transmission System Owner's Business"</b>	means the business of the Board as owner of the transmission system;
<b>"Transmission System"</b>	means the system of electric lines comprising wholly or mainly the Transmission System Owner's high voltage lines and electric plant and which is used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another or to or from any interconnector or to final customers (but shall not include any such lines which the Board may, with the approval of the Commission, specify as being part of the distribution system) and shall include any interconnector owned by the Board;
<b>"Transmission System Operator"</b>	means the person licensed to operate the transmission system under Section 14 (1) (e) of the Act; and
<b>"Unmetered Supply"</b>	means a supply of electricity to single premises, which is not, for the purpose of calculating the charges for electricity, supplied to the final customer at such single premises, measured by metering equipment.





## **Condition 2. Separate Accounts for the Public Electricity Supply Business**

1. For the purposes of this Condition, the Licensee's financial year shall be determined as follows:
  - (a). the Licensee's first financial year shall run from (and including) the date of the grant of this licence up to (and including) the last day of the Licensee's accounting period, provided that if the period between the date of the grant of this licence and the last day of the Licensee's accounting period is three calendar months or less, then the Licensee's first financial year shall run from (and including) the date of the grant of this licence up to (and including) the last day of the Licensee's next accounting period;
  - (b). each subsequent financial year shall run from the day immediately following the last day of the preceding accounting period up to (and including) the last day of the accounting period.
2. Without prejudice to the provisions of Regulation 27 of European Communities (Internal Market in Electricity) Regulations 2000, the remaining paragraphs of this Condition apply for the purpose of ensuring that the Licensee (and any affiliate or related undertaking of the Licensee):
  - (a). maintains accounting and reporting arrangements which enable separate accounts to be prepared for the Public Electricity Supply Business and showing the financial affairs of the Public Electricity Supply Business; and
  - (b). makes available, in a form and to a standard reasonably satisfactory to the Commission, such regulatory accounting information as will:
    - (i). enable the Commission and the public to assess the financial position of the Public Electricity Supply Business, distinct from any other Business of the Licensee and its affiliate or related undertakings; and
    - (ii). assist the Commission to assess the Licensee's compliance with this licence.
3. The Licensee shall draw up in consultation with the Commission, publish and implement in a form approved by the Commission (such approval not to be unreasonably withheld), guidelines governing the format and content of regulatory accounting information and the basis on which it is to be prepared so as to fulfil the purpose set out in paragraph 2 (the "Regulatory Accounting Guidelines").
4. The Licensee shall keep, and shall procure that any affiliate keeps and, so far as it is able, procure that any related undertaking keeps the accounting records which each is required by Regulation 27 of European Communities (Internal Market in

Electricity) Regulations 2000 or by the Companies Acts, 1963 to 2001 to keep in such form as is necessary to enable the Licensee to comply with this Condition and the Regulatory Accounting Guidelines.

5. The Licensee shall in respect of the Public Electricity Supply Business:
- (a). keep or cause to be kept such accounting records in accordance with the Companies Acts, 1963 to 2001, as would be required to be kept in respect of the Public Electricity Supply Business if it were carried on by a separate company to which the Companies Acts, 1963 to 2001 apply, and, where appropriate, consolidated accounts for other activities, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Public Electricity Supply Business are separately identifiable in the books of the Licensee (and any affiliate or related undertaking of the Licensee) from those of any other Business of the Licensee and in accordance with the Regulatory Accounting Guidelines; and
  - (b). prepare on a consistent basis from such accounting records in respect of:
    - (i) the first financial year and each subsequent financial year, accounting statements comprising a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, and showing separately in respect of each Business and in appropriate detail any transactions with a value of €100,000 or more, or such other greater amount as may be specified by the Commission, from time to time, and any related transactions with an aggregated value of €100,000 or more, or such other greater amount as may be specified by the Commission, from time to time, which the Licensee has conducted with any of its affiliates or related undertakings, and the amounts of any revenue, cost, asset, liability, reserve or provision which has been either:
      - (A) charged from or to any other business together with a description of the basis of that charge; or
      - (B) determined by apportionment or allocation between the Public Electricity Supply Business and any other business together with a description of the basis of the apportionment or allocation; and
    - (ii) the first 6 months of the second financial year of the Licensee and the first 6 months of each subsequent financial year, an interim profit and loss account; and
  - (c). procure, in respect of the accounting statements prepared in accordance with this Condition (with the exception of interim accounts prepared in accordance with paragraph 5(b)(ii) of this Condition) in respect of a financial

year, a report by the Auditors and addressed to the Commission stating whether in their opinion those statements have been properly prepared in accordance with this Condition and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Public Electricity Supply Business to which the statements relate; and

- (d). deliver to the Commission a copy of the account referred to in sub-paragraph (b)(ii), the Auditors' report referred to in sub-paragraph (c), and the accounting statements referred to in sub-paragraph (b)(i), as soon as reasonably practicable, and in any event not later than three months after the end of the period to which it relates in the case of the account referred to in sub-paragraph (b)(ii), and six months after the end of the financial year to which they relate in the case of the accounting statements and Auditors' report referred to in sub-paragraphs (b)(i) and (c).

6.

- (a). The Licensee shall not in relation to the accounting statements in respect of a financial year change the bases of charge, apportionment or allocation referred to in sub-paragraph (b)(i) of paragraph 5 from those applied in respect of the previous financial year, unless the Commission shall previously have issued directions for the purposes of this Condition directing the Licensee to change such bases in a manner set out in the directions or the Commission shall have given its prior approval to the change in such bases. The Licensee shall comply with any directions issued for the purposes of this Condition.

- (b). Where, in relation to the accounting statements in respect of a financial year, the Licensee has changed such bases of charge, apportionment or allocation from those adopted for the immediately preceding financial year, the Licensee shall, if so directed in directions issued by the Commission for the purposes of this Condition, in addition to preparing accounting statements on those bases which it has adopted, prepare such accounting statements on the bases which applied in respect of the immediately preceding financial year.

7. Accounting statements in respect of a financial year prepared under sub-paragraph (b)(i) of paragraph 5 shall, so far as reasonably practicable and unless otherwise approved by the Commission having regard to the purposes of this Condition:

- (a). have the same content and format (in relation to the Public Electricity Supply Business) as the annual accounts of the Licensee prepared under the Companies Acts, 1963 to 2001 and conform to the best commercial accounting practices including Statements of Accounting Practice and Financial Reporting Standards currently in force; and

- (b). state the accounting policies adopted; and
  - (c). (with the exception of the part of such statements which show separately the amounts charged, apportioned or allocated and describe the bases of charge or apportionment or allocation respectively), be published with the annual accounts of the Licensee.
8. References in this Condition to costs or liabilities of, or reasonably attributable to any Business shall be construed as excluding taxation and capital liabilities which do not relate principally to a particular Business and interest thereon; and references to any accounting statement shall be construed accordingly.
9. In this Condition:

**“accounting period”** means:

the period for which the Licensee prepares annual accounts under the Companies Acts, 1963 to 2001, provided that if the Licensee is not required to prepare annual accounts under the Companies Acts, 1963 to 2001 or is not a company within the meaning of the Companies Acts, 1963 to 2001, then the accounting period shall run from (and including) 1 January up to (and including) the following 31 December.

**Condition 3. Terms of supply to Final Customers**

1. Except where the Commission determines otherwise, the Licensee shall comply with any directions given by the Commission under this Condition as to the terms on which the Licensee may supply electricity to final customers.
2. The tariffs charged to final customers by the Licensee in respect of its Public Electricity Supply Business for the supply of electricity and other services must be approved by the Commission.
3. From time to time, the Licensee may submit proposals to the Commission relating to tariffs (including prices) charged for the supply of electricity and other services to final customers.
4. The Commission may examine any proposals submitted by the Licensee relating to tariffs, and the costs underlying such tariffs.
5. The Licensee shall comply with directions issued to the Licensee in relation to either or both the nature and the amount of any tariff or proposed tariff.
6. The Licensee shall publish terms of supply and tariffs in such manner as the Commission considers appropriate for bringing them to the attention of those persons likely to be affected by them.

**Condition 4. Prohibition of anti-competitive behaviour**

1. In carrying on the Public Electricity Supply Business, the Licensee shall not prevent, restrict or distort competition to any appreciable extent in any market relating to the generation, transmission, distribution and/or supply of electricity.
2. In carrying on the Public Electricity Supply Business, the Licensee shall not abuse any dominant position it may have.
3. Any question arising as to whether the Licensee holds a dominant position for the purposes of paragraph 2 shall be determined by the Commission.

### **Condition 5. Prohibition of cross-subsidies**

1. This Condition and Condition 6 applies:
  - (a) where the Licensee (together with its affiliates and related undertakings) is in a dominant position in a market for the generation or supply of electricity; or
  - (b) where the Licensee (or any affiliate or related undertaking of the Licensee) carries on a Transmission System Owner's Business, or a Distribution Business or a Generation Business or a Supply Business.
2. Where this condition applies, the Licensee shall procure that the Public Electricity Supply Business does not give any direct or indirect cross-subsidy to, nor receive any direct or indirect cross-subsidy from, any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee, or any other Business of the Licensee, or any other person.
3. Nothing, which the Licensee is obliged to do or not do pursuant to this licence or any other licence granted to the Licensee under the Act, shall be regarded as a cross-subsidy for the purposes of this Condition.
4. The Licensee shall procure that the Public Electricity Supply Business does not disclose directly or indirectly any commercially sensitive information to any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee, or any other Regulated Business of the Licensee, or any other person, except insofar as the Licensee may be required to do so by law or as permitted pursuant to arrangements or agreements approved by the Commission.
5. Other than information made available to all Suppliers and/or customers, or a class of information made available to Suppliers and/or customers on equivalent terms, the Licensee shall procure that the Public Electricity Supply Business does not use or obtain directly or indirectly any commercially sensitive information from any affiliate or related undertaking of the Licensee, or of any related undertaking of an affiliate of the Licensee, any Regulated Business of the Licensee, or any other person, except insofar as the Licensee may be required to do so by law, or permitted pursuant to arrangements or agreements approved by the Commission.
6. For the purposes of paragraphs 4 and 5, the Licensee shall establish a Protocol which will govern the transfer and dissemination of commercially sensitive information, oral and written, between the Licensee and any affiliate, or any related undertaking of the Licensee, or any other Business of the Licensee, or **the Intermediary Activity, or** any other person. The Licensee shall, no later than one month after this licence comes into effect, submit for approval this Protocol to the Commission. From time to time as it sees fit, the Licensee may propose



amendments to the Protocol for the approval of the Commission. The Protocol may also be amended by the Commission on its own initiative as it deems appropriate.

7. For the purposes of this Condition, the Commission shall determine any question as to:
  - (a). what is or is not commercially sensitive information; and
  - (b). what constitutes a cross subsidy.

### **Condition 6. Separation of Public Electricity Supply Business**

1. The Licensee shall make arrangements in accordance with paragraph 3 to secure the complete and effective separation of the Public Electricity Supply Business, including full operational and managerial independence, from any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee, or **the Intermediary Activity, or** any other Regulated Business of the Licensee.
2. The arrangements referred to in paragraph 1 shall be subject to the approval of the Commission, who may from time to time direct the Licensee to take such steps or desist from such action as the Commission considers appropriate to secure compliance with this Condition.
3. Except insofar as the Licensee may be required by law, or as permitted pursuant to arrangements approved in writing by the Commission, the Licensee shall:
  - (a). have an officer of adequate seniority to monitor compliance with the provisions of this Condition (who shall not be a member of the board of the Licensee or any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee), who will, should the Commission request, report annually, or at such other intervals as the Commission may decide, to the Commission;
  - (b). have the officer referred to in paragraph 3 (a) prepare, within one month of licence issue, for approval by the Commission, a code of conduct on ring fencing provisions in relation to the transfer and/or movement of employees, either full time or part time, between the Licensee's Public Electricity Supply Business and any affiliate or related undertaking of the Licensee, or any affiliate of a related undertaking of the Licensee, any other Business of the Licensee. The Licensee shall comply with this approved code of conduct;
  - (c). not report (directly or indirectly) to any Transmission System Owner's Business or Distribution Business or Generation Business or any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee, or any other Regulated Business of the Licensee;
  - (d). ensure that any person, officers, agents or consultants employed (whether part time or full time) to work in the Public Electricity Supply Business, do not solicit, disclose or use confidential information obtained directly or indirectly from any affiliate or related undertaking of the Licensee or any affiliate of a related undertaking of the Licensee, or any other Business of the Licensee, nor disclose any confidential information about the Public Electricity Supply Business to any other person (including any affiliate or

related undertaking of the Licensee or any affiliate of any related undertaking of the Licensee, or any other Regulated Business of the Licensee);

- (e). ensure that any persons, officers, agents or consultants employed (whether part time or full time) to work in the Public Electricity Supply Business are not also concurrently employed with the Transmission System Owner's Business or Distribution Business or Generation Business, or any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee, or any other Regulated Business of the Licensee;
  - (f). not enter into any contracts with any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee, or any other Regulated Business of the Licensee, other than on an arms length basis on normal commercial terms, unless otherwise approved in advance by the Commission;
  - (g). ensure that, save as provided for by this Licence, assets used for any purpose relating to the Public Electricity Supply Business are not used by any affiliate or related undertaking of the Licensee, or any affiliate of any related undertaking of the Licensee, any other Regulated Business of the Licensee, for any purpose. For the purposes of this Condition, "asset" shall include (without limitation) any premises, offices, information systems, software, hardware, electronic systems, equipment, materials, resources, intellectual property, telephone numbers or lines, mobile telephones, email systems or addresses, websites or computer servers.
4. For the purposes of this condition the Licensee shall comply with the terms of the Protocol outlined in condition 5 of the licence. The Licensee shall report, as and when the Commission requires, on compliance with the Protocol.

**Condition 7. Prohibition of discrimination in supply**

1. The Licensee in supplying or offering terms for the supply of electricity to final customers in any market for the supply of electricity, shall not:
  - (a). show undue preference to any person (or class of persons) within such market;
  - (b). exercise undue discrimination between any persons (or classes of person) within such market; or
  - (c). set terms which are unduly onerous.
2. For the purposes of this Condition, terms are unduly onerous if the revenue from the supply of electricity to final customers on those terms:
  - (a). significantly exceeds the costs of that supply; and
  - (b). exceeds such costs to a significantly greater degree than the revenue from supply to all other final customers of the Licensee (and of its affiliates and related undertakings) within the same market.
3. In this Condition:

**“terms”** means all the terms on which a supply of electricity is offered or provided, including terms as to price, which significantly affect the evaluation of that supply.

**Condition 8. Duty to offer supply**

1. Subject to the provisions of this Condition, and without prejudice to any of the Licensee's obligations and rights under any electricity legislation or this licence, the Licensee shall, upon receipt of a reasonable request from a person who the Licensee is authorised to supply by this License and who is a final customer, as soon as is reasonably practicable:
  - (a). offer to enter into a supply contract to supply electricity to the single premises in respect of which the supply is requested; and
  - (b). where the terms offered are accepted by the customer, give a supply of electricity to those premises in accordance with the terms offered.
  
2. The Licensee shall not be required by paragraph 1 to give a supply of electricity where:
  - (a). the premises in question are not connected to the distribution or transmission networks;
  - (b). the premises in question have been de-energised by a system operator;
  - (c). the Licensee has been informed by the relevant system operator that compliance with the requirement in question would give rise to an abnormal risk affecting the safety of any person, land, building or other property;
  - (d). it is not reasonable in all the circumstances for the Licensee to be required to supply electricity, provided that the Licensee shall:
    - (i). refer any question as to whether the circumstances are reasonable to the Commission for determination promptly (and in any event no later than five working days after the Licensee's receipt of the request); and
    - (ii). where the Licensee already supplies electricity to the single premises in respect of which supply is requested, give not less than three months notice of its intention to discontinue supply (or such shorter notice as has been approved by the Commission); or
  - (e). to do so would be likely to involve the Licensee in a contravention or breach of:
    - (i). any legislation, or any regulations made, consent or licence granted or obligation imposed there under;
    - (ii). the Act of 1999;
    - (iii). Statutory Instrument No. 445 of 2000;
    - (iv). Statutory Instrument No. 60 of 2005;

(v). any industry code.

3. In this Condition:

"**request**" includes, to the extent that the Licensee so requires, the following information:

- (a). the premises in respect of which supply is required;
- (b). the day on which the supply is required to commence; and
- (c). the minimum period for which supply is required to be given;
  - (i). any reference to giving a supply of electricity includes a reference to continuing to give such a supply and any reference to requesting a supply includes a reference to requesting such a supply to continue to be given; and
  - (ii). "supply contract" means a contract for the supply of electricity which complies with the Licensee's obligations under this licence.

4. Any question arising as to:

- (a). what constitutes a reasonable request to supply, including the terms and conditions under which a request to supply electricity may, as respects a customer or a group or class of customers be considered to be unreasonable

shall be determined by the Commission for the purposes of this Condition.

**Condition 9. Economic Purchasing of Electricity**

1. The Licensee shall engage in economic purchase of electricity on terms (including timescales) approved and/or directed by the Commission from time to time.

**Condition 10. Standards of performance in relation to supply**

1. The Licensee shall comply with such standards of performance as may be specified by the Commission.
2. The Licensee shall, no later than three months after this Licence has come into force, submit to the Commission for approval a report setting out the criteria against which the performance of the Public Electricity Supply Business can be measured. The Commission may from time to time make amendments to such criteria as it sees fit and shall notify the Licensee of such amendments.
3. The Licensee shall conduct the Public Electricity Supply Business in the manner which it reasonably considers to be best calculated to achieve any and all standards and/or targets of performance.
4. The Licensee shall, periodically review (including at the request of the Commission) the performance criteria. Following any such review, the Licensee shall send to the Commission:
  - (a). a report of the outcome of such review; and
  - (b). revisions which it proposes to make to the performance criteria (having regard to the outcome of the review).
5. Revisions to the performance criteria proposed by the Licensee shall be subject to the approval of the Commission.
6. The Licensee shall report annually on the performance of the Public Electricity Business using the criteria specified in paragraph 1.
7. For the purposes of this condition:

**"Standards of Performance"** means the set of standards set by the Commission relating to, but not limited to, the quality of customer service offered by the licensee as proscribed in this licence.



**Condition 11. Records and reporting**

1. The Licensee shall keep a record of its general operation of the arrangements mentioned in Condition 10 and, if the Commission so directs in writing, of its operation of any particular cases specified, or of classes specified, by the Commission.
2. The Licensee shall, from time to time as required by the Commission in writing, provide to the Commission such information contained in the records prepared in accordance with paragraph 1.
3. No later than three months after the end of each calendar year, the Licensee shall submit to the Commission a report dealing with the matters mentioned in paragraph 1 in relation to that year.
4. The Licensee shall publish the report and make it available on the Licensee's website except that, in performing its obligations under this Condition, the Licensee shall exclude from the published report such information as appears to it to be necessary or expedient to protect the legitimate interests of the Licensee and to ensure that, save where they consent, individual final customers referred to therein cannot readily be identified.
5. The report shall be presented in a standard form to be approved by the Commission for the purposes of this Condition.

**Condition 12. Compliance with the Distribution Code, the Grid Code and the Metering Code**

1. The Licensee shall comply with the provisions of the Distribution Code, the Grid Code and the Metering Code insofar as applicable to it.
2. The Commission may, following consultation with the Distribution System Operator, and the Transmission System Operator, issue directions relieving the Licensee of its obligation under paragraph 1 above in respect of such parts of the Distribution Code, the Grid Code and the Metering Code and to such extent as may be specified in those directions.

**Condition 13. Duty to offer terms for meter provision**

1. This Condition shall apply where the Licensee, or any affiliate or related undertaking of the Licensee, is the owner of any relevant metering equipment.
2. The Licensee shall, and shall procure that any affiliate or related undertaking of the Licensee shall, on an application made by any person:
  - (a) offer to enter into an agreement for the provision of any relevant metering equipment whether, at the discretion of the Licensee, by way of sale, hire or loan; and
  - (b) where the terms offered are acceptable to the person making the application, sell, hire or lend the relevant metering equipment in accordance with such terms.
3. In making an offer to enter into an agreement in accordance with paragraph 2, the Licensee shall, and shall procure that any affiliate or related undertaking of the Licensee shall, set out:
  - (a) the date by which the agreement is to take effect (time being of the essence unless otherwise agreed between the parties);
  - (b) the charges to be paid to the Licensee or to any affiliate or selected undertaking of the Licensee, as the case may be; and
  - (c) such other detailed terms as are or may be appropriate for the purpose of the agreement.
4. The Licensee shall, and shall procure that any affiliate or related undertaking of the Licensee shall, offer terms for agreements in accordance with paragraph 2 as soon as practicable after the receipt by the Licensee or affiliate or related undertaking of the Licensee, as the case may be, of an application containing all such information as it may reasonably require for the purpose of formulating the terms of the offer.
5. The Commission may, on the application of the Licensee, issue a direction relieving the Licensee of its obligations under paragraph 2 in respect of such relevant metering equipment and subject to such terms and conditions as may be specified in the direction.
6. The Licensee shall not, and shall procure that any affiliate or related undertaking by the Licensee shall not, enter into an agreement with any person for the provision of an electricity meter at any premises (whatever the nature of that agreement) which is intended or is likely to restrict, distort or prevent competition in the supply of electricity.

7. In this Condition:

**"relevant metering equipment"** means

metering equipment sited at any single premises to which a supply of electricity is being or is required to be given by a Supplier other than the Licensee.

**Condition 14. Duty to offer terms for meter provision - functions of the Commission**

1. If, after a period which appears to the Commission to be reasonable for the purpose, the Licensee has failed to enter into an agreement with any person entitled or claiming to be entitled thereto pursuant to an application in accordance with Condition 7, the Commission shall, on the application of such person or the Licensee, settle any terms of the agreement in dispute between the Licensee and the person in question in such manner as appears to the Commission to be reasonable having (insofar as relevant) regard, in particular, to the following considerations:
  - (a) that the person should pay to the Licensee the whole or an appropriate proportion of the costs directly or indirectly incurred by the Licensee in the sale, hire or the loan of any relevant metering equipment;
  - (b) that the performance by the Licensee of its obligations under the agreement should not cause it to be in breach of any other Condition of this licence or any other statutory requirement;
  - (c) that any methods by which the relevant metering equipment is installed (if applicable) shall be in accordance with good industry practice;
  - (d) that the terms and conditions of agreements entered into by the Licensee pursuant to an application in accordance with Condition 7 should be, so far as circumstances allow, as similar in substance and form as is practicable.
2. If the person wishes to proceed on the basis of the agreement as settled by the Commission, the Licensee shall forthwith enter into and implement such agreement in accordance with its terms.
3. If either party to an agreement for the provision of any relevant metering equipment entered into pursuant to Condition 7 or this Condition proposes to vary the contractual terms of such agreement in any manner provided for under such agreement, the Commission shall, at the request of the Licensee or the other party to such agreement, settle any dispute relating to such variation in such manner as appears to the Commission to be reasonable having regard (insofar as relevant), in particular, to the considerations set out in sub-paragraphs (a) to (d) of paragraph 1.

**Condition 15. Security and safety of supply**

1. The Licensee shall make arrangements to keep each of its final customers informed of the postal address, telephone number, facsimile number and electronic mail address of an enquiry service established and operated for the purposes of receiving reports from any person about any matter or incident that:
  - (a) causes danger or requires urgent attention, or is likely to cause danger or require urgent attention, in relation to the supply or distribution of electricity; or
  - (b) affects or is likely to affect the security, availability or quality of service of the distribution system through which the relevant final customer is supplied with electricity.
2. The enquiry service referred to at paragraph 1 must be:
  - (a) provided without charge to the final customer;
  - (b) available to receive and process telephone reports and enquiries at all times on every day of each year; and
  - (c) operational no later than such date as the Commission shall specify.
3. The Licensee may discharge the duty imposed by paragraph 1 by providing the requisite information to each of its final customers:
  - (a) on the occasion of the final customer first commencing to take a supply from the Licensee; and thereafter
  - (b) either:
    - (i) where bills or statements in respect of charges for the supply of electricity are rendered to the final customer, on a quarterly or more frequent basis (it being sufficient that the information is included on or with any bill or statement); or
    - (ii) in any other case, on an annual basis;

and by publishing such information in such manner as will secure adequate publicity for it.
4. The Licensee shall, in so far as is practicable, take steps to inform each of its final customers of any change to the address, telephone number, facsimile number or electronic mail address of the service referred to at paragraph 1 prior to such change becoming effective.

**Condition 16. Procedures for the detection and prevention of theft, damage and meter interference**

1. The Licensee shall (and shall ensure that its agents shall) take all reasonable steps to detect and prevent:
  - (a). the theft of electricity at premises which are supplied by it;
  - (b). damage to or fault in any electric plant, electric line or electricity meter through which such premises are supplied;
  - (c). interference with any electricity meter through which such premises are supplied; and
  - (d). any unrecorded consumption of electricity at premises which are supplied by it.
  
2. The Licensee shall, as soon as is reasonably practicable, inform the owner of the relevant electric plant, electric lines or meter of any incident where it has reason to believe:
  - (a). there has been damage to or a fault in any electric plant, electric line or meter; or
  - (b). there has been interference with any meter to alter its register or prevent it from duly registering the quantity of electricity supplied; or
  - (c). the consumption of electricity at premises which are supplied by it has not been recorded.
  
3. Where the Licensee has reason to believe that any incident reported to the owner in accordance with paragraph 2 has been caused by the criminal act of any person it shall, on complying with the requirement of that paragraph, provide the owner with such information as is reasonably required for the purposes of investigating the incident and resolving any safety concerns arising out of it.
  
4. The Licensee shall inform the owner of its policy in relation to incidents of the type referred to at paragraph 3, and in particular of the circumstances in which it requires the owner to remedy such incidents by the use of:
  - (a). the substitution of alternative meters;
  - (b). the provision of prepayment meters; and
  - (c). the discontinuation of supply to the premises at which the incident occurred.

5. In this Condition:

**"theft"**

means the dishonest use, waste or diversion of electricity, within the meaning of Section 15 of the Energy (Miscellaneous Provisions) Act, 1995.



**Condition 17. Information given to final customers**

1. The Licensee shall keep each of its final customers (save insofar as the final customer receives an unmetered supply) informed of the amount of electricity which, since the final customer was last informed, its records show as having been consumed by that final customer:
  - (a). according to the meter through which the final customer is supplied; or
  - (b). where no meter reading is available, according to the estimate of the Licensee.
2. The Licensee shall keep each of its final customers informed:
  - (a). that the Commission can assist in resolving complaints which the Licensee has not resolved to the final customer's satisfaction; and
  - (b). of how the Commission can be contacted.
3. The Licensee may discharge its duties under paragraphs 1 and 2 by providing the relevant information on or with each bill or statement given to a final customer in respect of charges for the supply of electricity, and annually to each final customer to whom no such bills or statements are rendered.

**Condition 18. Provision of information to the Commission**

1. The Licensee shall furnish to the Commission, in such manner and at such times as the Commission may require, such information and shall procure and furnish to it such reports as the Commission may consider necessary in the light of the Conditions or as it may require for the purpose of performing the functions assigned or transferred to it by or under the Act.
2. Without prejudice to the generality of paragraph 1, the Commission may call for the furnishing of accounting information which is more extensive than or differs from that required to be prepared and supplied to the Commission under Condition 2.
3. The power of the Commission to call for information under paragraph 1 is without prejudice to the power of the Commission to call for information under or pursuant to any other Condition of this licence or under or pursuant to the Act or any other enactment.
4. In this Condition "**information**" shall include any books, documents, records, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Commission) of any description and in any format specified by the Commission.

**Condition 19. Payment of levy**

1. The Licensee shall pay to the Commission any amounts specified in, or determined under, a Levy Order, in accordance with the provisions of such Levy Order.
2. In this Condition:

**"Levy Order"** means an Order made by the Commission under paragraph 16 of the Schedule to the Act.

**Condition 20. Trading and Settlement Codes**

1. The Licensee shall be a party to, and shall comply with the Trading and Settlement Code insofar as applicable to it.
2. ~~The Commission may issue directions relieving the Licensee of its obligation under paragraph 1 above in respect of such parts of the~~**Licensee shall be a party to, and shall comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to it.**
3. **The Licensee shall, in accordance with the provisions of the Single Electricity Market Trading and Settlement Code, register, and maintain the registration of, the Error Supplier Unit for the Republic of Ireland.**
4. **In this Condition:**

**"Error Supplier Unit" has the meaning given to it in the Single Electricity Market Trading and Settlement Code.**

**Condition 21. Intermediaries**

**1. Where the Commission has consented to the registration of any generation units by the Licensee, acting as an Intermediary, the Licensee shall:**

**(a) comply with the Single Electricity Market Trading and Settlement Code insofar as it is applicable to the Licensee in respect of such generation units; and**

**(b) when submitting the price components of Commercial Offer Data under the Single Electricity Market Trading and Settlement Code and to such extent as may be specified in those directions, comply with the relevant conditions of the licence granted pursuant to Section 14(1)(a) of the Act to the person on whose behalf the Licensee is acting as Intermediary.**

**2. In this Condition:**

**“Commercial Offer Data” has the meaning given to it in the Single Electricity Market Trading and Settlement Code.**

**Condition 21. Condition 22. Health and Safety**

1. The Licensee shall take all reasonable steps to protect persons and property from injury and damage that may be caused by the Licensee and shall comply with all applicable enactments when carrying out its Supply Business.

**Condition 22-23. Directions etc. by the Commission**

1. The Licensee shall comply with any directions, requirements or determinations made by the Commission pursuant to the Act, the Regulations, **the Single Market Regulations** or this Licence.
2. Any costs associated with compliance with such directions, determinations and court orders shall be the responsibility of the Licensee.

**Condition 23-24. Assignment of Licence and transfer of Supply Business**

1. The Licensee shall not, without the prior written consent of the Commission, assign this licence.
2. The Licensee shall not, without the prior written consent of the Commission, transfer to another person (the "**transferee**") all or any part of the Supply Business carried out under this licence.
3. Any consent of the Commission to any assignment of this licence or transfer of the Supply Business of the Licensee shall be subject to the Commission being satisfied that the assignee or transferee, as the case may be, will have the technical and financial capability to comply with the Conditions of this licence and, in the case of a transfer only, the transferee being granted a Supply Licence, and may be subject to compliance by the assignee or transferee as the case may be, with any other matters determined by the Commission to be necessary, including the modification of this licence where deemed necessary by the Commission.
4. Nothing in this Condition shall prevent the Licensee transferring its Supply Business to an assignee where the Commission has consented to such assignment provided that such transfer is effected as soon as practicable after such consent has been given.



**Condition 24-25. Change in control of the Licensee**

The Licensee shall notify the Commission of a change in control of the Licensee as soon as is practicable after such a change in control occurs.

**Condition 25-26. Additional Conditions for holders of licences supplying low usage final customers**

1. This Condition shall apply to holders of licences supplying electricity to final customers whose consumption of electricity at any single premises in any 12 month period is estimated and calculated to be or likely to be less than 10,000 kilowatt hours or such other figure as the Commission may substitute ("**low usage final customers**").
2. All contracts or arrangements for the supply of electricity which the Licensee enters into with low usage final customers shall be in a standard form, which shall be approved by the Commission, and shall include the following:-
  - (a). provisions concerning the payment of electricity bills by low usage final customers, which shall include appropriate guidance for the assistance of such customers who may have difficulty in paying such bills, and which shall set out the methods for dealing with those customers who, through misfortune or inability to cope with electricity supplied on credit terms, incur obligations to pay for electricity so supplied which they find difficulty in discharging including, in particular, methods for:
    - (i). distinguishing such low usage final customers from others in default;
    - (ii). detecting failures by such low usage final customers to comply with arrangements entered into for paying by instalments charges for electricity supplied;
    - (iii). making such arrangements so as to take into account the low usage final customer's ability to comply with them;
    - (iv). ascertaining, with the assistance of other persons or organisations, the ability of low usage final customers to comply with such arrangements;
    - (v). providing for a low usage final customer who has failed to comply with such arrangements a prepayment meter where safe and practical to do so; and
    - (vi). calibrating any prepayment meter so provided so as to take into account the low usage final customer's ability to pay any of the charges due from the low usage final customer under such arrangements in addition to the other charges lawfully being recovered through the prepayment meter;
  - (b). a procedure for handling complaints from such low usage final customers about the manner in which the Licensee conducts the Supply Business,

which shall specify the periods within which it is intended that different descriptions of complaint should be processed and resolved;

- (c). provisions for offering services to prepayment meter customers which shall include
  - (i). instructions for the operation of the prepayment meter system, including token availability, emergency credit and other such facilities;
  - (ii). details of the advantages and disadvantages of prepayment meters, including situations or types of final customer for which they are particularly suited or unsuited; and
  - (iii). details of any additional charges which may be payable for the use of prepayment meters and the basis on which these charges are calculated.
- 3. The Licensee shall not enter into any contracts or arrangements with low usage final customers except in conformity with the approved standard form, save where the Commission shall have given its prior approval in writing to any variation thereof.
- 4. The Licensee shall, in a form approved by the Commission, develop, publish, adhere to and keep up to date a customer charter, in respect of household customers, the content of which charter shall be reviewed by the supplier concerned at regular intervals and approved by the Commission.

**Condition 26:27. Additional Conditions for holders of licences under Section 14(1)(c) and (d)**

1. This Condition shall apply to holders of licences under Section 14 (1) (c) and (d).
2. The Licensee shall, each year within 90 days of the anniversary of the date of issue of the licence, deliver to the Commission a certificate, duly audited, specifying the source of the electricity supplied for the previous year ending on the anniversary of the date of issue of the licence. ~~This certificate shall also certify that the Licensee has, for the previous year to the anniversary of the date of issue of the licence, complied with the electricity balancing criteria, pursuant to the Trading and Settlement Code.~~

**SCHEDULE 1**

**Customers whom the Licensee is licensed to supply**

1. The Licensee is licensed to supply electricity to final customers.

**SCHEDULE 2**  
**Right of Commission to revoke Licence**

1. The Commission may at any time revoke this licence by not less than 30 days' notice in writing to the Licensee:
  - (a). if the Licensee agrees in writing with the Commission that this licence should be revoked;
  - (b). if any amount payable under a Levy Order is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Commission has given the Licensee notice in writing that the payment is overdue. Provided that no such notice shall be given earlier than the 16th day after the day on which the amount payable became due;
  - (c). if the Licensee fails to comply with a direction under Section 24 of the Act, a determination under Section 25 of the Act or an order under Section 26 of the Act and which (in respect of any of these cases) has been made in respect of a contravention or apprehended contravention of any of the Conditions of this licence and (in respect of any of these cases) such failure is not rectified to the satisfaction of the Commission within three months or such other period as the Commission may determine, after the Commission has given notice of such failure to the Licensee. Provided that in respect of a direction under Section 24 of the Act, no such notice shall be given by the Commission before the expiration of the period within which representations or objections under Section 24 of the Act could be made questioning a direction under Section 24 of the Act or before the proceedings relating to any such representations or objections are finally determined;
  - (d). if the Licensee fails to comply with any order made by the Minister under Sections 39 or 40 of the Act;
  - (e). if the Licensee:
    - (i). is unable to pay its debts (within the meaning of Section 214 of the Companies Act, 1963) or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission); or
    - (ii). has a receiver or an examiner within the meaning of Section 1 of the Companies (Amendment) Act, 1990 of the whole or any material part of its assets or undertaking appointed; or

- (iii). passes any resolution for winding-up other than a resolution previously approved in writing by the Commission; or
  - (iv). becomes subject to an order for winding up by a court of competent jurisdiction; or
  - (v). is dissolved, declared bankrupt or being of unsound mind;
- (f). if:
- (i). there is a change in the control of the Licensee; and
  - (ii). the Commission is satisfied that the new shareholder (together with the other companies in its group), does not have adequate technical, financial or managerial strength, taking into account the size of its shareholding in the Licensee; and
  - (iii). the Commission serves notice on the Licensee stating that the Commission proposes to revoke this licence in pursuance of this paragraph unless such further change in control of the Licensee as is specified in the notice takes place within the period of three months beginning with the date of service of the notice; and
  - (iv). that further change does not take place within that period;
- (g). if the Licensee fails to notify the Commission as soon as practicable thereafter that a change in the control of the Licensee shall have occurred;
- (h). if the Licensee ceases to carry on the Supply Business for a period of 6 months except where the Commission is satisfied that this has occurred as a result of events beyond the reasonable control of the Licensee in which case the Commission shall substitute such longer period as it, in its sole discretion, considers reasonable in all the circumstances; or
- (i). if the Licensee has not commenced carrying on the Supply Business within 6 months of the date this licence comes into force except where the Commission is satisfied that this has occurred as a result of events beyond the reasonable control of the Licensee in which case the Commission shall substitute such longer period as it, in its sole discretion, considers reasonable in all the circumstances.
2. (a). For the purposes of paragraph 1(e)(i) of this Schedule, Section 214 of the Companies Act, 1963 shall have effect as if for "€1,269.74" there was substituted "€65,000" or such higher figure as the Commission may from time to time determine by notice in writing to the Licensee.



- (b). There is a change in the control of the Licensee for the purposes of paragraphs 1(f) and (g) of this Schedule whenever a person has control of the Licensee who did not have control of the Licensee when this licence was granted.

