

**ELECTRICITY SUPPLY LICENCE**

**GRANTED TO**

**ESB INDEPENDENT ENERGY LIMITED**

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

## TABLE OF CONTENTS

	<b>Page</b>
PART I TERMS OF LICENCE.....	1
PART II CONDITIONS OF THE LICENCE.....	2
Section A Transition Conditions.....	2
Condition 1: Application of Licence Conditions .....	2
Condition 2: Transition Steps.....	5
Condition 3: Run-Off Steps.....	8
Section B Conditions to Apply from SEM Go-Active to SEM Go-Live .....	10
Condition 1: Interpretation and construction .....	10
Condition 2: Separate accounts for the Supply Business.....	15
Condition 3: Prohibition of cross-subsidies .....	18
Condition 3A: Separation of Supply Business.....	19
Condition 3B: Restriction on Use of Brand Name.....	21
Condition 4: Prohibition of discrimination in supply.....	22
Condition 5: Market dominance.....	23
Condition 6: Compliance with the Distribution Code, the Grid Code and the Metering Code.....	24
Condition 7: Duty to offer terms for meter provision .....	25
Condition 8: Duty to offer terms for meter provision - functions of the Commission..	26
Condition 9: Security and safety of supply .....	27
Condition 10: Procedures for the detection and prevention of theft, damage and meter interference.....	28
Condition 11: Information given to final customers .....	29
Condition 12: Provision of information to the Commission .....	30
Condition 13: Payment of levy.....	31
Condition 14: Trading and Settlement Codes .....	32
Condition 15: Intermediaries.....	33
Condition 16: Health and Safety .....	34
Condition 17: Directions etc. by the Commission .....	35
Condition 18: Assignment of Licence and transfer of Supply Business.....	36
Condition 19: Change in control of the Licensee.....	37
Condition 20: Additional Conditions for holders of licences supplying low usage final customers.....	38
Condition 21: Additional Conditions for holders of licences under Section 14(1)(c) ..	40
Section C Conditions to Apply from SEM Go-Live.....	41
Condition 1: Interpretation and construction .....	41
Condition 2: Separate accounts for the Supply Business.....	46
Condition 3: Prohibition of cross-subsidies .....	49
Condition 3A: Separation of Supply Business.....	50
Condition 3B: Restriction on Use of Brand Name.....	52
Condition 4: Prohibition of discrimination in supply.....	53
Condition 5: Market dominance.....	54

Condition 6: Compliance with the Distribution Code, the Grid Code and the Metering Code.....	55
Condition 7: Duty to offer terms for meter provision .....	56
Condition 8: Duty to offer terms for meter provision - functions of the Commission..	57
Condition 9: Security and safety of supply .....	58
Condition 10: Procedures for the detection and prevention of theft, damage and meter interference.....	59
Condition 11: Information given to final customers .....	60
Condition 12: Provision of information to the Commission .....	61
Condition 13: Payment of levy.....	62
Condition 14: Trading and Settlement Codes .....	63
Condition 15: Intermediaries.....	64
Condition 16: Health and Safety .....	65
Condition 17: Directions etc. by the Commission .....	66
Condition 18: Assignment of Licence and transfer of Supply Business.....	67
Condition 19: Change in control of the Licensee.....	68
Condition 20: Additional Conditions for holders of licences supplying low usage final customers.....	69
Condition 21: Additional Conditions for holders of licences under Section 14(1)(c) ..	71
SCHEDULE 1 Customers whom the Licensee is licensed to supply .....	72
SCHEDULE 2 Right of Commission to revoke Licence.....	73

## PART I TERMS OF LICENCE

1. The Commission for Electricity Regulation (hereinafter referred to as the "**Commission**") in exercise of the powers conferred by Sections 14(1)(b), (c) and (d) and Section 14(2) of the Electricity Regulation Act, 1999 (hereinafter referred to as the "**Act**") hereby grants to ESB Independent Energy (hereinafter referred to as the "**Licensee**") a licence under Section 14(1)(b) 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 29/06/00 and, unless revoked in accordance with the provisions of Schedule 2, shall continue in full force and effect until determined by not less than 15 years' notice in writing given by the Commission to the Licensee, such notice not to be served earlier than the 15th anniversary of the date on which this licence comes into force.

Sealed with the common seal of the Commission for Electricity Regulation on 29/06/00.

Member of Commission

Member of staff of Commission

## PART II CONDITIONS OF THE LICENCE

### Section A Transition Conditions

#### Condition 1: Application of Licence Conditions

1. Notwithstanding any other provision of this licence, the following Conditions shall apply as follows:
  - (a) Condition 2 of this Section A shall cease to apply on the date which is three months after SEM Go-Live or on such other date as may be specified by the Commission;
  - (b) Condition 3 of this Section A shall cease to apply one day after the date which is six years and one month after SEM Go-Live or on such other date as may be specified by the Commission;
  - (c) the Conditions set out in Section B shall cease to apply on SEM Go-Live; and
  - (d) the Conditions set out in Section C shall apply from SEM Go-Live.
2. Where a Condition ceases to apply in accordance with paragraph 1(a), 1(b) or 1(c), the Conditions shall automatically be modified by the deletion of that Condition.
3. Once all of the Conditions referred to in paragraphs 1(a), 1(b) and 1(c) have been deleted in accordance with paragraph 2, the Conditions shall automatically be modified by the deletion of this Condition 1 (such deletion being without prejudice to the continued application of the Conditions referred to in paragraph 1(d)).
4. For the avoidance of doubt:
  - (a) the provisions of Condition 1 of Section B shall apply to the Conditions in this Section A in the period prior to SEM Go-Live; and
  - (b) the provisions of Condition 1 of Section C shall apply to the Conditions in this Section A from SEM Go-Live.
5. In this Section A:  

<b>"core industry documents"</b>	means those documents which: <ol style="list-style-type: none"><li>(a) are referred to in, or are (or are to be) established or required to be entered into pursuant to, a licence granted under the Act; or</li><li>(b) in the opinion of the Commission, are central industry documents associated with the licensed activities of the Licensee or electricity undertakings and which have been designated as such by the</li></ol>
----------------------------------	---

Commission;

<b>"electricity undertaking"</b>	shall, in the period prior to SEM Go-Live, have the meaning set out in Condition 1 of Section B and shall, from SEM Go-Live, have the meaning set out in Condition 1 of Section C;
<b>"Island of Ireland"</b>	means the Republic of Ireland and Northern Ireland;
<b>"Market Operator Licensee"</b>	means EirGrid plc in its capacity as market operator licensed pursuant to Section 14(1)(j) of the Act or any other person which may, from time to time, hold a licence pursuant to Section 14(1)(j) of the Act;
<b>"Northern Ireland authorised electricity operator"</b>	has the meaning given to the expression "authorised electricity operator" in the licence granted under Article 10(1)(b) of the Electricity (Northern Ireland) Order 1992 to SONI Limited or a licence subsequently granted under Article 10(1)(b) of the Electricity (Northern Ireland) Order 1992;
<b>"pre-SEM arrangements"</b>	means the arrangements relating to the system of trading in electricity and settling electricity imbalances established by the Electricity Regulation Act 1999 (Trading Arrangements in Electricity) Regulations 2000 (S.I. 49 of 2000);
<b>"run-off"</b>	means, in relation to any arrangements, the bringing to an end of those arrangements, which shall include the determination and settlement (including by way of reconciliation) of electricity and payments in connection with periods up to and including the point at which such arrangements are brought to an end;
<b>"SEM Go-Live"</b>	means the time and date designated as such by the Commission for the purposes of the Single Electricity Market;
<b>"Single Electricity Market"</b>	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;
<b>"Single Electricity Market Trading and Settlement Code"</b>	shall, in the period prior to SEM Go-Live, have the meaning set out in Condition 1 of Section B and shall, from SEM Go-Live, have the meaning set

out in Condition 1 of Section C;

**"Single Market Regulations"**

shall, in the period prior to SEM Go-Live, have the meaning set out in Condition 1 of Section B and shall, from SEM Go-Live, have the meaning set out in Condition 1 of Section C; and

**"Transmission System Operator"**

shall, in the period prior to SEM Go-Live, have the meaning set out in Condition 1 of Section B and shall, from SEM Go-Live, have the meaning set out in Condition 1 of Section C.

## **Condition 2: Transition Steps**

1. The Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to give full and timely effect to:
  - (a) any modifications made (or which the Licensee knows, or should reasonably know, are to be made) to this licence and to the licences of electricity undertakings in accordance with the Act;
  - (b) the conditions of the licences held by the Transmission System Operator and the Market Operator Licensee;
  - (c) any conditions imposed (or which the Licensee knows, or should reasonably know, are to be imposed) by any exemption granted pursuant to section 14(2F) of the Act; and
  - (d) the matters envisaged by such modifications and conditions (including, without limitation, the establishment, amendment or termination of rights and obligations under, core industry documents),

so that the Licensee is able to comply with such modifications, conditions and matters from the time at which they are effective.

2. Without prejudice to paragraphs 1 and 4, the Licensee shall, to the extent reasonably requested by electricity undertakings or Northern Ireland authorised electricity operators, co-operate with electricity undertakings and Northern Ireland authorised electricity operators as well as the Transmission System Operator, the Market Operator Licensee, the Commission and such other persons as the Commission may direct, and shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to enable:
  - (a) such electricity undertakings to comply with their statutory or licence obligations to give full and timely effect to the modifications, conditions and matters referred to in paragraph 1, so that such electricity undertakings are able to comply with such modifications, conditions and matters from the time at which they are effective;
  - (b) such electricity undertakings to comply with any directions made by the Commission under the provisions of their licences which are equivalent to paragraph 3; and
  - (c) such Northern Ireland authorised electricity operators to comply with their statutory or licence obligations to prepare for the Single Electricity Market,

and where the Licensee considers that a request for co-operation is unreasonable, the Licensee shall refer the request to the Commission who shall issue a decision as to whether the request is reasonable, and the Licensee shall comply, and act in a manner consistent, with such a decision.

3. The Commission may issue directions to the Licensee setting out the steps (including, without limitation, those referred to in paragraph 5) to be taken or procured by the Licensee which are, in the opinion of the Commission, appropriate in order to:
  - (a) give full and timely effect to the modifications, conditions and matters referred to in paragraph 1, so that such electricity undertakings are able to comply with such modifications, conditions and matters from the time at which they are effective; and/or
  - (b) enable Northern Ireland authorised electricity operators to comply with their statutory or licence obligations to prepare for the Single Electricity Market.
4. Without prejudice to paragraphs 1 and 2, the Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to comply with directions made from time to time by the Commission in accordance with paragraph 3.
5. Directions made by the Commission under paragraph 3 may include, without limitation, requirements relating to the following steps:
  - (a) securing or facilitating the amendment or establishment of any of the core industry documents;
  - (b) securing the co-ordinated and effective commencement and implementation of the Single Electricity Market Trading and Settlement Code and operations thereunder (including, without limitation, the testing, trialling and start-up of the systems, processes and procedures employed in such implementation and employed by electricity undertakings and others in connection with such operations); and
  - (c) for the Licensee, an electricity undertaking or a Northern Ireland authorised electricity operator to refer to the Commission for determination disputes regarding the matters referred to in paragraph 1(d) and for the Licensee and electricity undertakings to comply with any such determination.
6. The Commission may, at any time, by a further direction in accordance with paragraph 3 (in order to give (or continue to give) full and timely effect to the modifications, conditions and matters referred to in paragraph 1 that are applicable to the Licensee), amend or cancel any direction (or part thereof) previously made under paragraph 3.
7. Without prejudice to any public, administrative or common law right or contractual right that the Licensee may have to bring any claim against any person the Licensee shall not take any step, or exercise any right, which is intended to hinder or frustrate the giving of full and timely effect to the modifications, conditions and matters referred to in paragraph 1.
8. If the Licensee is aware of any conflict between its compliance with the provisions of this Condition or any direction under paragraph 3 and its compliance with any other Condition of this licence, the Licensee shall promptly inform the Commission of such conflict.

9. Provided the Licensee complies with paragraph 8, the other Conditions of this licence shall prevail over this Condition in the event of conflict. If there is any conflict between a direction made under paragraph 3 and another requirement of this licence, the provisions of the direction shall prevail.
10. The Licensee shall provide to the Commission, in such manner and at such times as the Commission may reasonably require, such information and shall procure and furnish to it such reports as the Commission may reasonably require or deem necessary or appropriate to enable the Commission to monitor the Licensee's compliance with the requirements of this Condition, including (without limitation):
  - (a) information as to the Licensee's readiness concerning the modifications, conditions and matters referred to in paragraph 1; and
  - (b) status reports concerning the matters referred to in paragraph 1(d), and drafts of any legal documents by which such matters are to be achieved.
11. If the Licensee is aware (or should reasonably be aware) of any matter or circumstance which it considers will (or which the Licensee should reasonably consider likely to) hinder or frustrate the giving of full and timely effect to the modifications, conditions and matters referred to in paragraph 1, the Licensee shall forthwith inform the Commission of such matter or circumstance.

### **Condition 3: Run-Off Steps**

1. The Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to fully and effectively run-off, from SEM Go-Live, the pre-SEM arrangements for which it is responsible.
2. Without prejudice to paragraphs 1 and 4, the Licensee shall, to the extent reasonably requested by electricity undertakings or Northern Ireland authorised electricity operators, co-operate with electricity undertakings and Northern Ireland authorised electricity operators, as well as the Transmission System Operator, the Market Operator Licensee, the Commission and such other persons as the Commission may direct, and shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to:
  - (a) fully and effectively run-off, from SEM Go-Live, the pre-SEM arrangements;
  - (b) enable such electricity undertakings to comply with any directions made by the Commission under the provisions of their licences which are equivalent to paragraph 3; and
  - (c) enable such Northern Ireland authorised electricity operators to comply with their statutory or licence obligations to run-off the pre-SEM arrangements,

and where the Licensee considers that a request for co-operation is unreasonable, the Licensee shall refer the request to the Commission who shall issue a decision as to whether the request is reasonable, and the Licensee shall comply, and act in a manner consistent, with such a decision.

3. The Commission may issue directions to the Licensee setting out the steps to be taken or procured by the Licensee which are, in the reasonable opinion of the Commission, appropriate in order to fully and effectively run-off, from SEM Go-Live, the pre-SEM arrangements for which the Licensee is responsible.
4. Without prejudice to paragraphs 1 and 2, the Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to comply with directions made from time to time by the Commission in accordance with paragraph 3.
5. The Commission may, at any time, by a further direction in accordance with paragraph 3 (in order to fully and effectively run-off, from SEM Go-Live, the pre-SEM arrangements for which the Licensee is responsible), amend or cancel any direction (or part thereof) previously made under paragraph 3.
6. Without prejudice to any public, administrative or common law right or contractual right that the Licensee may have to bring any claim against any person, the Licensee shall not take any step, or exercise any right, which is intended to hinder or frustrate the full and effective run-off, from SEM Go-Live, of the pre-SEM arrangements.
7. If the Licensee is aware of any conflict between its compliance with the provisions of this Condition or any direction under paragraph 3 and its compliance with any other

Condition of this licence, the Licensee shall promptly inform the Commission of such conflict.

8. Provided the Licensee complies with paragraph 7 the other Conditions of this licence shall prevail over this Condition in the event of conflict. If there is any conflict between a direction made under paragraph 3 and another requirement of this licence, the provisions of the direction shall prevail.
9. The Licensee shall provide to the Commission, in such manner and at such times as the Commission may reasonably require, such information and shall procure and furnish to it such reports as the Commission may reasonably require or deem necessary or appropriate to enable the Commission to monitor the Licensee's compliance with the requirements of this Condition.
10. If the Licensee is aware (or should reasonably be aware) of any matter or circumstance which it considers will (or which the Licensee should reasonably consider likely to) hinder or frustrate the full and effective run-off, from SEM Go-Live, of the pre-SEM arrangements, the Licensee shall promptly inform the Commission of such matter or circumstance.

## Section B Conditions to Apply from SEM Go-Active to SEM Go-Live

### 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:

**"affiliate"** 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 1999;

**"Ancillary Services"** has the meaning given in the Grid Code;

**"Auditors"** mean the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies Acts, 1963 to 1999;

**"Board"** means the Electricity Supply Board;

**"Distribution Business"** 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);

**"Distribution Code"** 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;

**"distribution system"** 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;

**"Distribution System Operator"** means the Board in its capacity as distribution system operator licensed pursuant to Section 14 (1) (g) of the Act;

**"electricity undertaking"** 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;

**"eligible customer"** means a consumer of electricity whose consumption of electricity at any single premises in any 12 month period is estimated and calculated to be or likely to be greater than four gigawatt hours or such other figure as the Minister may, by Order, substitute;

**"financial year"** has the meaning given to it in paragraph 1 of Condition 2;

**"Generation Business"** 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;

**"generation unit"** means any plant or apparatus for the production of electricity;

**"Generator"** means a person licensed to generate electricity under Section 14(1)(a) of the Act;

**"Grid Code"** 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;

**"holding company"** means a holding company within the meaning of Section 155 of the Companies Acts, 1963 to 1999;

**"interconnector "** 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>"Licensee"</b>	means ESBIE;
<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>"Public Electricity Supply Business"</b>	means the business of the Board for the supply of electricity to final customers;
<b>"Regulated Business"</b>	means the Transmission System Owner's Business, the Distribution Business, the Public Electricity Supply Business or the Power Generation Business;
<b>"Regulations"</b>	means the European Communities (Internal Market in Electricity) Regulations 2000;
<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>"representation"</b>	includes any objection or any other proposal made in writing;
<b>"Single Electricity Market Trading and Settlement Code"</b>	means the Trading and Settlement Code provided for in Regulation 4 of the Single Market Regulations, as from time to time, revised, amended, supplemented or replaced;

<b>"Single Market Regulations"</b>	means the Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007;
<b>"Supplier"</b>	means a person licensed to supply electricity under Sections 14(1)(b), (c) or (d) or 14(2) of the Act or the Board in its capacity as public electricity supplier;
<b>"Supply Business"</b>	means the licensed business of the Licensee and any affiliate or related undertaking of the Licensee as a Supplier but shall not include the business carried out by the Board in its capacity as public electricity supplier;
<b>"subsidiary"</b>	has the meaning given in the Companies Acts, 1963 to 1999;
<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 developed pursuant to Section 9(1)(d) of the Act as from time to time, revised, amended, supplemented or replaced with the approval or at the instance of the Commission;
<b>"Transmission System Owner"</b>	means the Board as owner of the transmission system under 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.

4. Unless otherwise specified, any reference to a numbered Condition is a reference to the Condition bearing that number in the Section of this licence in which the reference occurs.

## **Condition 2: Separate accounts for the 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. The remaining paragraphs of this Condition apply for the purpose of ensuring that the Licensee (and any affiliate or related undertaking of the Licensee) maintains accounting and reporting arrangements which enable separate accounts to be prepared for the Supply Business and showing the financial affairs of the Supply Business. 3. The Licensee shall in respect of the Supply Business:
3. The Licensee shall in respect of the Supply Business:
  - (a) keep or cause to be kept such accounting records in accordance with the Companies Acts, 1963 to 1999, in respect of the Supply Business as would be required to be kept in respect of the Supply Business if it were carried on by a separate company, and, where appropriate, consolidated accounts for other, non-licensed activities, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the 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
  - (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 the Supply Business and in appropriate detail any transactions with a value of €100,000 or more 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 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 3(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 Supply Business; 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).
- 4.
- (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 3 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 written 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.
5. Accounting statements in respect of a financial year prepared under sub-paragraph (b)(i) of paragraph 3 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 Supply Business) as the annual accounts of the Licensee (and any affiliate or related undertaking of the Licensee) prepared under the Companies Acts, 1963 to 1999 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.
6. References in this Condition to costs or liabilities of, or reasonably attributable to, the Supply Business shall be construed as excluding taxation and capital liabilities which do not relate principally to the Supply Business and interest thereon; and references to any accounting statement shall be construed accordingly.

7. In this Condition:

**“accounting period”** means the period for which the Licensee prepares annual accounts under the Companies Acts, 1963 to 1999, provided that if the Licensee is not required to prepare annual accounts under the Companies Acts, 1963 to 1999 or is not a company within the meaning of the Companies Acts, 1963 to 1999, then the accounting period shall run from (and including) the 1 January up to (and including) the following 31 December.

### **Condition 3: Prohibition of cross-subsidies**

1. This Condition, Condition 3A and Condition 3B apply:
  - (a) where the Licensee (taken together with its affiliates and related undertakings) is in a dominant position in a market for the supply of electricity to final customers, which shall be determined by the Commission in accordance with Condition 5; or
  - (b) where the Licensee (or any affiliate or related undertaking of the Licensee) also carries on a Regulated Business.
2. Where this Condition applies, the Licensee shall procure that the Supply Business does not give any direct or indirect cross-subsidy to, nor receive any direct or indirect cross-subsidy from, any other business of the Licensee or of an affiliate or related undertaking of the Licensee.
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 Supply Business does not disclose directly or indirectly any commercially sensitive information to any other regulated business of the Licensee or of an affiliate or related undertaking of the Licensee, 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 Supply Business does not use or obtain directly or indirectly any commercially sensitive information from any regulated business of the Licensee or of an affiliate or related undertaking of the Licensee, or of any related undertaking of an affiliate of the Licensee, 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 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 3A: Separation of Supply Business**

1. The Licensee shall make arrangements in accordance with paragraph 3 to secure the complete and effective separation of the Supply Business from the Regulated Businesses.
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. The Licensee shall:
  - (a) nominate an officer of adequate seniority to monitor compliance with the provisions of the Condition and Condition 3B (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 a related undertaking of the Licensee) who will report at regular intervals to the Commission;
  - (b) ensure that any employees (whether part or full time), officers, agents or consultants of the Licensee do not solicit, disclose or use commercially sensitive information obtained directly or indirectly from the Regulated Businesses, other than as required by law or as permitted pursuant to arrangements or agreements approved by the Commission;
  - (c) not engage in any capacity whatsoever any person who works or has previously worked for or on behalf of the Regulated Businesses, at any time during the period of three (3) months prior to joining the Supply Business of the Licensee, without the prior approval of the Commission; the Commission shall have due regard to considerations of seniority and involvement in commercially sensitive activities in deciding whether to give its approval;
  - (d) establish and maintain an up-to-date register of all persons engaged by the Licensee confirming that the provisions of paragraphs (b) and (c) have been complied with in respect of each person engaged by the Licensee;
  - (e) not enter into any contracts with any affiliate or related undertaking of the Licensee, or a related undertaking of an affiliate of the Licensee, other than on arms length basis on normal commercial terms;
  - (f) not, save as required by law or as provided for by this Licence, use any assets of (or obtained from) the Regulated Businesses, for any purpose whatsoever, and 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. For the avoidance of doubt, this paragraph shall not restrict any rights the Licensee may have in respect of access to the transmission and/or distribution system;

- (g) except insofar as the Licensee may be required to do so by law, or permitted pursuant to arrangements or agreements approved by the Commission, not offer to supply electricity to any customer or conclude a contract with any customer where customer metering or billing information or other commercially sensitive customer information used directly or indirectly in formulating that offer has been obtained from a source other than a permitted source; and
  - (h) prepare for approval by the Commission and comply with 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 and any affiliate or related undertaking of the Licensee, or any affiliate of a related undertaking of the Licensee.
4. For the purposes of this Condition, the Commission shall determine any question as to what is or is not commercially sensitive information.

In this Condition:

**'permitted source'**

means:

(i) historical metering data provided to the Licensee by the Meter Registration System Operator for the purposes of invoicing that customer for electricity consumed; (ii) historical meter reading or billing data provided to the Licensee directly by the customer; (iii) historical meter reading data provided to the Licensee by the Meter Registration System Operator with the written consent of the customer; (iv) historical meter reading or billing data provided to the Licensee by a person authorised by the customer to provide such information; (v) the Licensee's estimates of consumption for that customer or (vi) metering data which may be made available to all Suppliers on a non-discriminatory basis from such sources as may be authorised from time to time by the Commission and notified to all Suppliers.

**Condition 3B: Restriction on Use of Brand Name**

1. Subject to paragraph 2, the Licensee shall not use a name, brand or trade name associated with a regulated business in the Licensee's name, brand, trade name or advertising and shall make it clear in all its dealings with existing and future customers that the Licensee is independent of the regulated businesses.
2. The restriction in paragraph 1 shall not apply if the Licensee only supplies electricity or only offers to supply electricity under this Licence to permitted customers.
3. The Licensee shall submit a certificate addressed to the Commission, approved by a resolution of the board of directors of the Licensee and signed by a director of the Licensee pursuant to that resolution. Such certificate shall be submitted together with the accounting statements referred to under paragraph 3(b)(i) of Condition 2 of this Licence. Each certificate shall be in one of the following forms:
  - (a) "The directors of the licensee certify that the licensee has not during the accounting period to which the accounting statements relate, supplied or offered to supply electricity to customers other than permitted customers"; or
  - (b) "The directors of the licensee certify that the licensee has during the accounting period to which the accounting statements relate, supplied or offered to supply electricity to customers other than permitted customers".
4. Without prejudice to paragraph 3, the Commission may require the Licensee to certify the matters referred to in paragraph 3 at such times and in respect of such periods as the Commission may determine from time to time.
5. In this Condition:

**'permitted customer'** means a customer having at least one site at which its annual consumption is estimated and calculated to be or likely to be greater than 225,000KWh.

**'site'** means a supply point with a single meter registration point number.

#### **Condition 4: Prohibition of discrimination in supply**

1. This Condition applies where the Licensee (taken together with its affiliates and related undertakings) is in a dominant position in a market for the supply of electricity to final customers, which shall be determined by the Commission in accordance with Condition 5.
2. Where this Condition applies, the Licensee shall not supply or offer to supply electricity to final customers in any market for the supply of electricity in which it is dominant on terms which are predatory.
3. Where this Condition applies, the Licensee (taken together with its affiliates and related undertakings) shall not, in supplying or offering terms for the supply of electricity to final customers in any market for the supply of electricity in which it is dominant:
  - (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.
4. 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.
5. 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 5: Market dominance**

1. For the purposes of Conditions 3 and 4, a market for the supply of electricity may be defined by reference to a geographical area, or to a class of final customer or both.
2. In determining, for the purposes of Conditions 3 and 4, whether any persons constitute a class of final customer, due regard shall be had to the circumstances of supply to such final customers including (without limitation) volumes, load factors, conditions of interruptibility, location of premises being supplied and date and duration of the supply contract.
3. For the purposes of Conditions 3 and 4, the Commission shall determine any question as to:
  - (a) whether any area or class of final customers constitutes a market for the supply of electricity;
  - (b) whether the Licensee (taken together with its affiliates and related undertakings) is dominant in any market for the supply of electricity;
  - (c) whether there is established competition in respect of the supply of electricity in any area or to any class of final customers; and
  - (d) whether any terms are predatory, having due regard to whether such terms:
    - (i) incorporate charges which do not reasonably cover the avoidable costs incurred in consequence of supplying the class of final customers in question; and
    - (ii) are intended or are likely to restrict, distort or prevent competition in the supply of electricity.
4. Having first consulted with the Licensee and such other persons as it considers appropriate (and having taken into account any representations made to it), the Commission may determine that the Licensee is dominant in a specified market for the supply of electricity, and where the Commission does make a determination it shall thereafter notify the Licensee as soon as is reasonably practicable.
5. If the Licensee believes it is no longer dominant in a specified market for the supply of electricity, it may submit this issue to the Commission for redetermination.

**Condition 6: 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 7: 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 8: 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 9: 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 10: 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 11: 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 12: 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 13: 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 14: 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 Licensee shall be party to, and shall comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to it.

**Condition 15: 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, 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; and

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

**Condition 16: Health and Safety**

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 17: Directions etc. by the Commission**

1. The Licensee shall comply with any directions or determinations made by the Commission pursuant to Sections 23, 24 and 25 of the Act or the Single Market Regulations, and any court orders made pursuant to Section 26 of the Act.
2. Any costs associated with compliance with such directions, determinations and court orders shall be the responsibility of the Licensee.

**Condition 18: 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 19: 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 20: 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.

**Condition 21: Additional Conditions for holders of licences under Section 14(1)(c)**

1. This Condition shall apply to holders of licences under Section 14(1)(c).
2. The Licensee shall, on the date one year after this licence is granted and on the same date of each subsequent year, deliver to the Commission a certificate, duly audited, specifying the source of the electricity supplied and confirming that the Licensee has not, for the previous year, supplied more electricity in aggregate than the amount which is available to the Licensee and which is produced using renewable, sustainable or alternative forms of energy.

## Section C Conditions to Apply from SEM Go-Live

### 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:

**"affiliate"** 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 1999;

**"Ancillary Services"** has the meaning given in the Grid Code;

**"Auditors"** mean the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies Acts, 1963 to 1999;

**"Board"** means the Electricity Supply Board;

**"Distribution Business"** 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);

**"Distribution Code"** 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;

**"distribution system"** 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;

**"Distribution System Operator"** means the Board in its capacity as distribution system operator licensed pursuant to Section 14 (1) (g) of the Act;

**"electricity undertaking"** 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 the Republic of Ireland across an interconnector or across the North/South Circuits or who has made an application for use of an interconnector which has not been refused;

**"eligible customer"** means a consumer of electricity whose consumption of electricity at any single premises in any 12 month period is estimated and calculated to be or likely to be greater than four gigawatt hours or such other figure as the Minister may, by Order, substitute;

**"financial year"** has the meaning given to it in paragraph 1 of Condition 2;

**"Generation Business"** 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;

**"generation unit"** means any plant or apparatus for the production of electricity;

**"Generator"** means a person licensed to generate electricity under Section 14(1)(a) of the Act;

**"Grid Code"** 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;

**"holding company"** means a holding company within the meaning of Section 155 of the Companies Acts, 1963 to 1999;

**"interconnector "** means for the purpose of this licence, equipment used to link the transmission system to electricity systems outside

of the Island of Ireland, and (for the avoidance of doubt) does not include the North/South Circuits;

<b>"Island of Ireland"</b>	means the Republic of Ireland and Northern Ireland;
<b>"Licensee"</b>	means ESBIE;
<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>"North/South Circuits"</b>	means the electric lines and electrical plant and meters used for conveying electricity directly to or from a substation or converter station within the Republic of Ireland directly to or from a substation or converter station within Northern Ireland (and not for conveying electricity elsewhere);
<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>"Public Electricity Supply Business"</b>	means the business of the Board for the supply of electricity to final customers;
<b>"Regulated Business"</b>	means the Transmission System Owner's Business, the Distribution Business, the Public Electricity Supply Business or the Power Generation Business;
<b>"Regulations"</b>	means the European Communities (Internal Market in Electricity) Regulations 2000;
<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>"representation"</b>	includes any objection or any other proposal made in writing;
<b>"Single Electricity Market Trading and Settlement Code"</b>	means the Trading and Settlement Code provided for in Regulation 4 of the Single Market Regulations, as from time to time, revised, amended, supplemented or replaced;
<b>"Single Market Regulations"</b>	means the Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007;
<b>"Supplier"</b>	means a person licensed to supply electricity under Sections 14(1)(b), (c) or (d) or 14(2) of the Act or the Board in its capacity as public electricity supplier;
<b>"Supply Business"</b>	means the licensed business of the Licensee and any affiliate or related undertaking of the Licensee as a Supplier but shall not include the business carried out by the Board in its capacity as public electricity supplier;
<b>"subsidiary"</b>	has the meaning given in the Companies Acts, 1963 to 1999;
<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 developed pursuant to Section 9(1)(d) of the Act as from time to time, revised, amended, supplemented or replaced with the approval or at the instance of the Commission;
<b>"Transmission System Owner"</b>	means the Board as owner of the transmission system under 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 (including such part of the North/South Circuits as is owned by the Board) (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;

**"Transmission System Operator"**

means the person licensed to operate the transmission system under Section 14 (1) (e) of the Act; and

**"unmetered supply"**

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.

4. Unless otherwise specified, any reference to a numbered Condition is a reference to the Condition bearing that number in the Section of this licence in which the reference occurs.

## **Condition 2: Separate accounts for the 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. The remaining paragraphs of this Condition apply for the purpose of ensuring that the Licensee (and any affiliate or related undertaking of the Licensee) maintains accounting and reporting arrangements which enable separate accounts to be prepared for the Supply Business and showing the financial affairs of the Supply Business. 3. The Licensee shall in respect of the Supply Business:
3. The Licensee shall in respect of the Supply Business:
  - (a) keep or cause to be kept such accounting records in accordance with the Companies Acts, 1963 to 1999, in respect of the Supply Business as would be required to be kept in respect of the Supply Business if it were carried on by a separate company, and, where appropriate, consolidated accounts for other, non-licensed activities, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the 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
  - (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 the Supply Business and in appropriate detail any transactions with a value of €100,000 or more 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 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 3(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 Supply Business; 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).
- 4.
- (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 3 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 written 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.
5. Accounting statements in respect of a financial year prepared under sub-paragraph (b)(i) of paragraph 3 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 Supply Business) as the annual accounts of the Licensee (and any affiliate or related undertaking of the Licensee) prepared under the Companies Acts, 1963 to 1999 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.
6. References in this Condition to costs or liabilities of, or reasonably attributable to, the Supply Business shall be construed as excluding taxation and capital liabilities which do not relate principally to the Supply Business and interest thereon; and references to any accounting statement shall be construed accordingly.

7. In this Condition:

**“accounting period”** means the period for which the Licensee prepares annual accounts under the Companies Acts, 1963 to 1999, provided that if the Licensee is not required to prepare annual accounts under the Companies Acts, 1963 to 1999 or is not a company within the meaning of the Companies Acts, 1963 to 1999, then the accounting period shall run from (and including) the 1 January up to (and including) the following 31 December.

### **Condition 3: Prohibition of cross-subsidies**

1. This Condition, Condition 3A and Condition 3B apply:
  - (a) where the Licensee (taken together with its affiliates and related undertakings) is in a dominant position in a market for the supply of electricity to final customers, which shall be determined by the Commission in accordance with Condition 5; or
  - (b) where the Licensee (or any affiliate or related undertaking of the Licensee) also carries on a Regulated Business.
2. Where this Condition applies, the Licensee shall procure that the Supply Business does not give any direct or indirect cross-subsidy to, nor receive any direct or indirect cross-subsidy from, any other business of the Licensee or of an affiliate or related undertaking of the Licensee.
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 Supply Business does not disclose directly or indirectly any commercially sensitive information to any other regulated business of the Licensee or of an affiliate or related undertaking of the Licensee, 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 Supply Business does not use or obtain directly or indirectly any commercially sensitive information from any regulated business of the Licensee or of an affiliate or related undertaking of the Licensee, or of any related undertaking of an affiliate of the Licensee, 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 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 3A: Separation of Supply Business**

1. The Licensee shall make arrangements in accordance with paragraph 3 to secure the complete and effective separation of the Supply Business from the Regulated Businesses.
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. The Licensee shall:
  - (a) nominate an officer of adequate seniority to monitor compliance with the provisions of the Condition and Condition 3B (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 a related undertaking of the Licensee) who will report at regular intervals to the Commission;
  - (b) ensure that any employees (whether part or full time), officers, agents or consultants of the Licensee do not solicit, disclose or use commercially sensitive information obtained directly or indirectly from the Regulated Businesses, other than as required by law or as permitted pursuant to arrangements or agreements approved by the Commission;
  - (c) not engage in any capacity whatsoever any person who works or has previously worked for or on behalf of the Regulated Businesses, at any time during the period of three (3) months prior to joining the Supply Business of the Licensee, without the prior approval of the Commission; the Commission shall have due regard to considerations of seniority and involvement in commercially sensitive activities in deciding whether to give its approval;
  - (d) establish and maintain an up-to-date register of all persons engaged by the Licensee confirming that the provisions of paragraphs (b) and (c) have been complied with in respect of each person engaged by the Licensee;
  - (e) not enter into any contracts with any affiliate or related undertaking of the Licensee, or a related undertaking of an affiliate of the Licensee, other than on arms length basis on normal commercial terms;
  - (f) not, save as required by law or as provided for by this Licence, use any assets of (or obtained from) the Regulated Businesses, for any purpose whatsoever, and 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. For the avoidance of doubt, this paragraph shall not restrict any rights the Licensee may have in respect of access to the transmission and/or distribution system;

- (g) except insofar as the Licensee may be required to do so by law, or permitted pursuant to arrangements or agreements approved by the Commission, not offer to supply electricity to any customer or conclude a contract with any customer where customer metering or billing information or other commercially sensitive customer information used directly or indirectly in formulating that offer has been obtained from a source other than a permitted source; and
  - (h) prepare for approval by the Commission and comply with 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 and any affiliate or related undertaking of the Licensee, or any affiliate of a related undertaking of the Licensee.
4. For the purposes of this Condition, the Commission shall determine any question as to what is or is not commercially sensitive information.

In this Condition:

**'permitted source'**

means:

(i) historical metering data provided to the Licensee by the Meter Registration System Operator for the purposes of invoicing that customer for electricity consumed; (ii) historical meter reading or billing data provided to the Licensee directly by the customer; (iii) historical meter reading data provided to the Licensee by the Meter Registration System Operator with the written consent of the customer; (iv) historical meter reading or billing data provided to the Licensee by a person authorised by the customer to provide such information; (v) the Licensee's estimates of consumption for that customer or (vi) metering data which may be made available to all Suppliers on a non-discriminatory basis from such sources as may be authorised from time to time by the Commission and notified to all Suppliers.

**Condition 3B: Restriction on Use of Brand Name**

1. Subject to paragraph 2, the Licensee shall not use a name, brand or trade name associated with a regulated business in the Licensee's name, brand, trade name or advertising and shall make it clear in all its dealings with existing and future customers that the Licensee is independent of the regulated businesses.
2. The restriction in paragraph 1 shall not apply if the Licensee only supplies electricity or only offers to supply electricity under this Licence to permitted customers.
3. The Licensee shall submit a certificate addressed to the Commission, approved by a resolution of the board of directors of the Licensee and signed by a director of the Licensee pursuant to that resolution. Such certificate shall be submitted together with the accounting statements referred to under paragraph 3(b)(i) of Condition 2 of this Licence. Each certificate shall be in one of the following forms:
  - (a) "The directors of the licensee certify that the licensee has not during the accounting period to which the accounting statements relate, supplied or offered to supply electricity to customers other than permitted customers"; or
  - (b) "The directors of the licensee certify that the licensee has during the accounting period to which the accounting statements relate, supplied or offered to supply electricity to customers other than permitted customers".
4. Without prejudice to paragraph 3, the Commission may require the Licensee to certify the matters referred to in paragraph 3 at such times and in respect of such periods as the Commission may determine from time to time.
5. In this Condition:

**'permitted customer'** means a customer having at least one site at which its annual consumption is estimated and calculated to be or likely to be greater than 225,000KWh.

**'site'** means a supply point with a single meter registration point number.

#### **Condition 4: Prohibition of discrimination in supply**

1. This Condition applies where the Licensee (taken together with its affiliates and related undertakings) is in a dominant position in a market for the supply of electricity to final customers, which shall be determined by the Commission in accordance with Condition 5.
2. Where this Condition applies, the Licensee shall not supply or offer to supply electricity to final customers in any market for the supply of electricity in which it is dominant on terms which are predatory.
3. Where this Condition applies, the Licensee (taken together with its affiliates and related undertakings) shall not, in supplying or offering terms for the supply of electricity to final customers in any market for the supply of electricity in which it is dominant:
  - (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.
4. 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.
5. 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 5: Market dominance**

1. For the purposes of Conditions 3 and 4, a market for the supply of electricity may be defined by reference to a geographical area, or to a class of final customer or both.
2. In determining, for the purposes of Conditions 3 and 4, whether any persons constitute a class of final customer, due regard shall be had to the circumstances of supply to such final customers including (without limitation) volumes, load factors, conditions of interruptibility, location of premises being supplied and date and duration of the supply contract.
3. For the purposes of Conditions 3 and 4, the Commission shall determine any question as to:
  - (a) whether any area or class of final customers constitutes a market for the supply of electricity;
  - (b) whether the Licensee (taken together with its affiliates and related undertakings) is dominant in any market for the supply of electricity;
  - (c) whether there is established competition in respect of the supply of electricity in any area or to any class of final customers; and
  - (d) whether any terms are predatory, having due regard to whether such terms:
    - (i) incorporate charges which do not reasonably cover the avoidable costs incurred in consequence of supplying the class of final customers in question; and
    - (ii) are intended or are likely to restrict, distort or prevent competition in the supply of electricity.
4. Having first consulted with the Licensee and such other persons as it considers appropriate (and having taken into account any representations made to it), the Commission may determine that the Licensee is dominant in a specified market for the supply of electricity, and where the Commission does make a determination it shall thereafter notify the Licensee as soon as is reasonably practicable.
5. If the Licensee believes it is no longer dominant in a specified market for the supply of electricity, it may submit this issue to the Commission for redetermination.

**Condition 6: 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 7: 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 8: 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 9: 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 10: 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 11: 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 12: 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 13: 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 14: 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 Licensee shall be party to, and shall comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to it.

**Condition 15: 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, 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; and

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

**Condition 16: Health and Safety**

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 17: Directions etc. by the Commission**

1. The Licensee shall comply with any directions or determinations made by the Commission pursuant to Sections 23, 24 and 25 of the Act or the Single Market Regulations, and any court orders made pursuant to Section 26 of the Act.
2. Any costs associated with compliance with such directions, determinations and court orders shall be the responsibility of the Licensee.

**Condition 18: 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 19: 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 20: 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.

**Condition 21: Additional Conditions for holders of licences under Section 14(1)(c)**

1. This Condition shall apply to holders of licences under Section 14(1)(c).
2. The Licensee shall, on the date one year after this licence is granted and on the same date of each subsequent year, deliver to the Commission a certificate, duly audited, specifying the source of the electricity supplied and confirming that the Licensee has not, for the previous year, supplied more electricity in aggregate than the amount which is available to the Licensee and which is produced using renewable, sustainable or alternative forms of energy.

## **SCHEDULE 1**

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

1. The Licensee is licensed to supply electricity to eligible 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 "£1,000" there was substituted "£50,000" 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.