

## UNIFORM NETWORK CODE – GENERAL TERMS

### SECTION B – GENERAL

#### 1 UNIFORM NETWORK CODE

##### 1.1 Uniform Network Code

1.1.1 The Uniform Network Code comprises:

- (a) the Introduction;
- (b) the Transportation Principal Document;
- (c) the Offtake Arrangements Document;
- (d) the Independent Gas Transporters Arrangements Document;
- (e) the Modification Rules;
- (f) the European Interconnection Document;
- (g) the Transition Document; and
- (h) these General Terms

(each for the purposes of this paragraph 1 a “**part**” of the Uniform Network Code).

1.1.2 References to the Transportation Principal Document, the Offtake Arrangements Document, the Independent Gas Transporters Arrangements Document, European Interconnection Document and the Modification Rules are to such parts of the Uniform Network Code as and to the extent from time to time modified or given effect by the Transition Document.

##### 1.2 Network Code

1.2.1 A “**Network Code**” is a network code prepared by a Transporter pursuant to Standard Special Condition A11(3) of its Transporter's Licence.

##### 1.3 Modifications

1.3.1 References to the Uniform Network Code (or any part thereof) or a Network Code are to the Uniform Network Code (or such part thereof) or Network Code as from time to time modified in accordance with the Modification Rules or any Transporter's Licence.

##### 1.4 Codes

1.4.1 A reference to the “**Code**” is a reference to:

- (a) the Uniform Network Code as, and to the extent, incorporated into a

Transporter's Network Code;

- (b) subject to any contrary provision in the Transporter's Network Code, such additional terms as are contained in the Transporter's Network Code;

and references to the Code (or to a Network Code) include such Code (or such Network Code) as given contractual effect by a Framework Agreement; and references to a part of the Code shall be construed accordingly.

- 1.4.2 **“IGT Code”** means the network code prepared by an Independent Gas Transporter pursuant to Condition 9 of its Transporter’s Licence and references to an IGT Code include such IGT Code as given contractual effect by an IGT Framework Agreement.

## 1.5 Framework Agreement

- 1.5.1 For the purposes of the Code:

- (a) **“Shippers Framework Agreement”** is the agreement pursuant to which a Transporter's Network Code is made binding between the Transporter and each Shipper User and each Trader User;
- (b) **“Transporters Framework Agreement”** is the agreement pursuant to which National Grid's Network Code is made binding:
  - (i) between the Transporters; and
  - (ii) between each DN Operator and each Independent Gas Transporter owning or operating an IGT System directly-connected or indirectly-connected to that DN Operator’s System; and
- (c) **“Framework Agreement”** means a Shippers Framework Agreement or the Transporters Framework Agreement.

- 1.5.2 References to a Framework Agreement are to such Agreement as is in force between the parties from time to time thereto (pursuant to the accession and withdrawal from time to time of such parties).

- 1.5.3 An **“IGT Framework Agreement”** is an agreement pursuant to which an Independent Gas Transporter’s IGT Code is made binding between the Independent Gas Transporter and IGTS Users (and for avoidance of doubt, such an agreement is not an Ancillary Agreement for the purposes of Code).

## 2 PARTIES

### 2.1 Transporters and Independent Gas Transporters

- 2.1.1 For the purposes of the Code:

- (a) **“National Grid NTS”** means National Grid as licensee under the Transporter’s Licence authorising the conveyance of gas through the NTS;
- (b) **“DN Operator”** or **“DNO”** means a person which is the owner or operator of one or more LDZ(s) and licensee under a Transporter's Licence authorising the

conveyance of gas through such LDZ(s);

- (c) **“Transporter”** means National Grid NTS or a DN Operator; and
- (d) **“National Grid”** means National Grid Gas plc.

2.1.2 For the purposes of the Code:

- (a) a reference to **“the Transporters”** is to the Transporters collectively;
- (b) anything required to be done by the Transporters which is done by or on behalf of any one or more of them shall be treated as having been done by all of them.

2.1.3 For the purposes of the Transportation Principal Document, a reference to a Transporter or **“the Transporter”** in the context of a System or a System Point is a reference to the Transporter which is the owner or operator of that System or the System on which that System Point is located.

2.1.4 For the purposes of the Code:

- (a) an **“Independent Gas Transporter”** means a person which is, and in its capacity as, the owner or operator of an IGT System and licensee under a gas transporter’s licence authorising the conveyance of gas through such IGT System; and
- (b) a reference to an Independent Gas Transporter in the context of an IGT System or Connected System Exit Point is to the Independent Gas Transporter which owns or operates that IGT System or (as the case may be) an IGT System connected to a DN Operator’s System at that Connected System Exit Point.

## 2.2 Users

2.2.1 For the purposes of the Code:

- (a) **“Shipper User”** means a person other than a Transporter (but subject to TPD Section V7) or a Trader User who is for the time being bound by the Code pursuant to a Shippers Framework Agreement;
- (b) **“Trader User”** means a person, other than National Grid NTS (but subject to TPD Section V7) or a Shipper User, who is for the time being bound by the Shippers Framework Agreement to which National Grid NTS is a party for the purposes of submitting Trade Nominations in accordance with TPD Section C5 and not for the purpose of arranging for gas to be introduced into, conveying by means of or taken out of the Total System;
- (c) **“DNO User”** means a DN Operator (as owner or operator of an LDZ) in the capacity of user (in accordance with the Transportation Principal Document) of another System (not being an LDZ in the same Distribution Network); and
- (d) **“User”** means a Shipper User or:
  - (i) (subject as provided in paragraph 2.2.5(a)) a Trader User;
  - (ii) (subject as provided in paragraph 2.2.5(b)) a DNO User.

2.2.2 A reference in the Code to a User as a User of (or in relation to) a System is a reference:

- (a) in the case of a Shipper User, to the Shipper User in its capacity as a person bound (or to be bound) by the Code pursuant to the Shippers Framework Agreement to which the Transporter which owns or operates that System is party;
- (b) in the case of a Trader User, to the Trader User in its capacity as a person bound (or to be bound) by the Code pursuant to the Shippers Framework Agreement to which National Grid NTS is a party.

2.2.3 References in the Code to a Transporter in that capacity do not include a Transporter in the capacity of DNO User.

2.2.4 For the purposes of the Transportation Principal Document, a reference to a DNO User or **“the DNO User”** or the **“relevant DNO User”** is:

- (a) in the context of an LDZ, to the DNO User who is the owner or operator of that LDZ; and
- (b) in the context of an Inter-System Offtake, to the DNO User who is the owner or operator of the downstream System at that Inter-System Offtake.

2.2.5 References to Users in different parts of the Code:

- (a) include or exclude Trader Users;
- (b) include or exclude DNO Users

as provided in each such part of the Code (and references to Parties shall be construed accordingly).

2.2.6 For the purposes of the Code an **“IGTS User”** is a gas shipper which is, and in its capacity as, a user of an IGT System, pursuant to arrangements for the conveyance of gas made (in accordance with the relevant IGT Code) with the Independent Gas Transporter.

## 2.3 Parties

2.3.1 For the purposes of the Code **“Party”** means a Transporter, Independent Gas Transporter or a User.

2.3.2 References to a Party:

- (a) in the Transportation Principal Document and the European Interconnection Document are to a Transporter or User;
- (b) in the Offtake Arrangements Document, are to a Transporter; and
- (c) in the Independent Gas Transporters Arrangements Document, are to a Transporter or an Independent Gas Transporter;

and otherwise are to any Party.

2.3.3 References to a Party:

- (a) in the context of a Transporter's Network Code, are to:
  - (i) the Transporter or any User who is party to the relevant Shippers Framework Agreement; or (as the case may be)
  - (ii) (in the case of National Grid's Network Code) any Transporter or Independent Gas Transporter as a party to the Transporters Framework Agreement;
- (b) in the context of any Ancillary Agreement, are to the Transporter or a Shipper User who is party to that agreement; and
- (c) in the context of any Supplemental Agreement, are to a Transporter who is party to that agreement.

**2.4 Effect of Code**

2.4.1 Nothing in the Code or a Framework Agreement or any Ancillary Agreement creates contractual rights or liabilities:

- (a) between Shipper Users inter se;
- (b) between Trader Users inter se;
- (c) between DNO Users inter se;
- (d) between Independent Gas Transporters inter se;
- (e) between Independent Gas Transporters and Users or IGTS Users; or
- (f) between Transporters and IGTS Users;
- (g) between any Shipper User and any Trader User;
- (h) between any Shipper User and any DNO User; or
- (i) between any Trader User and any DNO User

except where the Code expressly provides otherwise or disapplies this paragraph 2.4.1 or except as may be provided for in an Ancillary Agreement.

2.4.2 Paragraph 2.4.1 shall not apply in respect of paragraphs 5 and 6.

2.4.3 Nothing in the Transportation Principal Document or any Ancillary Agreement creates contractual rights or liabilities between Transporters inter se (other than rights and liabilities between a Transporter and another Transporter in its capacity as DNO User).

2.4.4 Nothing in the Offtake Arrangements Document or any Supplemental Agreement creates contractual rights or liabilities:

- (a) between any Transporter and any User; or

- (b) between Users inter se.
- 2.4.5 Nothing in the Independent Gas Transporters Arrangements Document creates contractual rights or liabilities:
- (a) between Transporters inter se (except pursuant to the provisions of IGTAD Section F7 as to the IGTAD Committee); or
  - (b) between Transporters and Shipper Users, but without prejudice to the effect of the Independent Gas Transporters Arrangements Document (and CSEP Registrations) as CSEP Network Exit Provisions for the purposes of the Transportation Principal Document.
- 2.4.6 Save as expressly otherwise provided, the rights and liabilities of the Parties under the Transportation Principal Document shall not be affected by, or construed with reference to, any provision of the Offtake Arrangements Document.
- 2.4.7 A System Operation Managed Service Agreement (SOMSA) (as referred to in OAD Sections E, M and N) is not a part of, nor incorporated by reference into, the Code, and (subject to the express provisions of the SOMSA) nothing in the Code shall affect a SOMSA in any way.

### **3 FORCE MAJEURE**

#### **3.1 Meaning of Force Majeure**

- 3.1.1 For the purposes of the Code, subject to paragraph 3.1.2, **“Force Majeure”** means any event or circumstance, or any combination of events and/or circumstances, the occurrence of which is beyond the reasonable control of, and could not have been avoided by steps which might reasonably be expected to have been taken by, a Party (the **“Affected Party”**) and which causes or results in the failure of the Affected Party to perform or its delay in performing any of its obligations owed to any other Party or Parties (each an **“Other Party”**) under the Code or any Ancillary Agreement or any Supplemental Agreement, including:
- (a) war declared or undeclared, threat of war, act of public enemy, terrorist act, blockade, revolution, riot, insurrection, civil commotion, public demonstration, sabotage or act of vandalism;
  - (b) act of God;
  - (c) strike, lockout or other industrial disturbance;
  - (d) explosion, fault or failure of plant, equipment or other installation which the Affected Party could not prevent or overcome by the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same kind of undertaking under the same or similar circumstances;
  - (e) governmental restraint or the coming into force of any Legal Requirement.
- 3.1.2 Inability (however caused) of a Party to pay shall not be Force Majeure.

### 3.1.3 The act or omission:

- (a) of any agent or contractor of a Party; or
- (b) (for the purposes of the Transportation Principal Document) in relation to a User, of any person selling or supplying gas to such User, or any Delivery Facility Operator or Connected System Operator (other than in either case National Grid LNG Storage (for the purposes only of TPD Section Z)), or any supplier or consumer;
- (c) (for the purposes of the Offtake Arrangements Document) in relation to a Transporter, of any User of that Transporter's System(s) or (in relation to such a User) any such person as is referred to in paragraph (b); or
- (d) (for the purposes of the Independent Gas Transporters Arrangements Document) in relation to:
  - (i) a DN Operator, of any User of that Transporter's System(s) or (in relation to such a User) any such person as is referred to in paragraph (b);
  - (ii) an Independent Gas Transporter, of any IGTS User of any IGT System of that Independent Gas Transporter, or in relation to such IGTS User any person selling or supplying gas to such IGTS User, or any supplier or consumer,

shall not be Force Majeure unless such act or omission is caused by or results from events and/or circumstances which would be Force Majeure within the meaning of paragraph 3.1.1 if such person were the Affected Party.

3.1.4 In this paragraph 3 references to Users include Trader Users and DNO Users.

## 3.2 Effect of Force Majeure

3.2.1 Subject to paragraph 3.2.2, the Affected Party shall be relieved from liability (including any requirement under the Code to make payment of any sum or to take any other action) for any delay or failure in the performance of any obligation under the Code or any Ancillary Agreement which is caused by or results from Force Majeure.

3.2.2 The Affected Party shall be relieved from liability under paragraph 3.2.1 only for so long as and to the extent that the occurrence of Force Majeure and/or the effects of such occurrence could not be overcome by measures which the Affected Party might reasonably be expected to take with a view to resuming performance of its obligations.

## 3.3 Information

3.3.1 Following any occurrence of Force Majeure the Affected Party shall:

- (a) as soon as reasonably practicable notify each Other Party of the occurrence and nature of the Force Majeure, the expected duration thereof (insofar as the same can reasonably be assessed) and the obligations of the Affected Party performance of which is affected thereby; and
- (b) from time to time thereafter provide to each Other Party reasonable details of:

- (i) developments in the matters notified under paragraph (a); and
- (ii) the steps being taken by the Affected Party to overcome the Force Majeure occurrence or its effects and to resume performance of its relevant obligations.

## **4 UNIFORM NETWORK CODE COMMITTEE AND SUB-COMMITTEES**

### **4.1 Uniform Network Code Committee**

- 4.1.1 There is hereby established a committee (the “**Uniform Network Code Committee**” or “**UNC Committee**”) constituted of all of the persons who are for the time being members of the Modification Panel established pursuant to the Modification Rules.
- 4.1.2 Paragraphs 3.2, 3.5 and 5 (excluding paragraphs 5.1 and 5.2) of the Modification Rules shall apply, mutatis mutandis, and disregarding references therein to other provisions of the Modification Rules, in respect of the Uniform Network Code Committee; provided a member of the Uniform Network Code Committee who is a Consumers’ Representative shall not be entitled to vote for the purposes of determining any decision of the Uniform Network Code Committee.
- 4.1.3 The persons who are for the time being Chairperson and Secretary of the Modification Panel shall be Chairperson and Secretary of the Uniform Network Code Committee.
- 4.1.4 The Uniform Network Code Committee shall be distinct from the Modification Panel and accordingly:
  - (c) the agenda of each meeting of the Uniform Network Code Committee and of the Modification Panel shall be separate;
  - (d) no business of the Uniform Network Code Committee shall be conducted at a meeting of the Modification Panel and vice versa; and
  - (e) at the commencement of each meeting the Chairperson thereof shall confirm the capacity in which the persons present are meeting.
- 4.1.5 Subject to the requirements of paragraph 4.1.4, meetings of the Uniform Network Code Committee and the Modification Panel may take place on the same Day and consecutively.

### **4.2 Functions of Uniform Network Code Committee**

- 4.2.1 The function of the Uniform Network Code Committee shall (subject to paragraph 4.4) be to review such matters concerned with the implementation of the Code and to do such other things as are provided for by the Code.
- 4.2.2 To the extent that any procedure of the Uniform Network Code Committee is not provided for under this paragraph 4 or pursuant to paragraph 4.1.2, the Uniform Network Code Committee may by panel majority decide upon the procedures to be adopted by it.
- 4.2.3 The Uniform Network Code Committee shall have no functions, powers or duties in relation to the EPG Scheme or in relation to the CDSP acting as the EPG Scheme

Administrator.

### **4.3 Network Code Sub-committees**

- 4.3.1 The Uniform Network Code Committee may by panel majority establish sub-committees (each a “**Network Code Sub-committee**” or, for the purposes of this paragraph 4, a “**Sub-committee**”) for the purposes of doing or assisting in doing anything to be done by the Uniform Network Code Committee; and the Uniform Network Code Committee may by panel majority decide that a Sub-committee (other than the Performance Assurance Committee) shall cease to be established.
- 4.3.2 Where the Code provides for anything to be done by the Uniform Network Code Committee or a relevant Sub-committee, the reference to a relevant Sub-committee is to a Sub-committee established pursuant to this paragraph 4.3 for the purposes of (or including) doing that thing.
- 4.3.3 A Sub-committee may be established for a fixed period (or for such period as shall be required for a fixed purpose) or on a standing basis.
- 4.3.4 When establishing a Sub-committee the Uniform Network Code Committee shall determine by panel majority:
- (a) the members of the Sub-committee, or the manner of appointment of such members;
  - (b) the basis on which the Sub-committee is to report to the Uniform Network Code Committee and/or to Transporters and Users; and
  - (c) the procedures by which the Sub-committee shall conduct its business, provided that (except where the Code expressly provides for such a vote) such procedures shall not require or permit a vote to be taken on any matter.
- 4.3.5 Each Sub-committee shall be comprised of persons representing the Transporters (one of whom shall, unless otherwise agreed, be the Chairperson of such Sub-committee), persons representing Users, persons representing Independent Gas Transporters, a person representing the Authority (if the Authority shall nominate such a person) and any other persons whom the Uniform Network Code Committee shall determine shall be members thereof.
- 4.3.6 Members of a Sub-committee appointed to represent Users shall be appointed having regard to the contribution which they may as individuals make to the business of the Sub-committee and not to the Users by whom they are employed or engaged.
- 4.3.7 The provisions of this paragraph 4.3 are subject to any express provisions of the Code in relation to any Sub-committee.
- 4.3.8 In this paragraph 4.3 references to Users include Trader Users and DNO Users.

### **4.4 No powers to bind**

- 4.4.1 Except as expressly provided in the Code, neither the Uniform Network Code Committee nor any Sub-committee shall have any power to bind any Party and no decision of the Uniform Network Code Committee or any Sub-committee shall be

effective to modify any provision of the Code or the application thereof.

- 4.4.2 Without prejudice to any requirement under the Code for a Transporter to consult with the Uniform Network Code Committee or any Sub-committee in respect of any matter, no Party may be required to provide to the Uniform Network Code Committee or any Sub-committee any information which such person is not willing so to provide (other than information reasonably required by the Performance Assurance Committee for the purposes of undertaking its functions under TPD Section V16; and for the avoidance of doubt where a Party does not provide such information the Party shall be deemed to be in breach of the obligation in TPD Section V16.1.5).

## 5 NOTICES AND COMMUNICATIONS

### 5.1 General

- 5.1.1 The Code contemplates that Code Communications, and Offtake Communications (collectively “**Communications**”) may be given by the following means:

- (a) (in the case of Code Communications) by UK Link Communication, in accordance with GT Section D5;
- (b) (in the case of Offtake Communications) by the relevant means specified in the Offtake Communications Document;
- (c) (in the case of IGTAD Communications) by the relevant means specified in IGTAD Section F8;
- (d) in the circumstances and manner prescribed in paragraphs 5.2 and 5.3;
- (e) for the purposes of TPD Section V5.13.3 only, by such methods as set out in the Shipper Incident Communication Procedure; or
- (f) for the purposes of TPD Annex B-3, paragraph 8.4 only, by such methods as set out therein,

subject to and in accordance with the provisions of the Code.

- 5.1.2 Subject to GT Section D5.9, and except where the means by which a Communication is to be given is specified in the Code, the particular means (in accordance with paragraph 5.1.1) by which:

- (a) each Code Communication is to be given, is set out in the UK Link Manual;
- (b) each Offtake Communication is to be given, is set out in the Offtake Communications Document; and
- (c) each IGTAD Communication is to be given, is set out in IGTAD Section F8,
- (d) provided that, where in any case such means is not so specified, such Communication shall be given as a Conventional Notice.

- 5.1.3 For the purposes of the Code a “**Conventional Notice**” is a notice or communication which is or may be given by any of the means in paragraph 5.2.

- 5.1.4 Any reference in the Code to the time or date of any Communication, or the giving or

making of a Communication, is a reference to the time or date when (in accordance with this paragraph 5, or GT Section D5 or the Offtake Communications Document or IGTAD Section F8) the Communication is deemed to have been received by the Party to which it was sent.

5.1.5 Subject to paragraph 5.1.6, a Communication which is given after 24:00 hours, or such other time as may be specified in the UK Link Manual the Offtake Communications Document or (as the case may be) IGTAD Section F8 in respect of such Communication, on a Day may be deemed to have been received on the following Day.

5.1.6 Paragraph 5.1.5 does not apply in respect of:

- (a) the following Code Communications:
  - (i) a Nomination, Interruption Notice, or notice of a System Capacity Trade, Trade Nomination or Storage Trade;
  - (ii) a communication to be made (in accordance with TPD Section Q) during an Emergency; or
  - (iii) any other communication to be made by UK Link Communication or by telephone or by facsimile where the context requires that such communication be treated as received within the Day on which it is given; and
- (b) Offtake Communications or IGTAD Communications whose nature requires that they are treated as received within the Day on which they are given (as specified in the Offtake Communications Document or IGTAD Section F8).

5.1.7 Where any provision of the Code or the Contingency Procedures or the Offtake Communications Document or IGTAD Section F8 specify any requirement to be complied with by any Party in respect of any specific Communication, such requirement shall be in addition to (and, to the extent inconsistent, in substitution for) the provisions of this paragraph 5.

5.1.8 Where under any provision of the Code a Communication may be given in the form of a computer disk (including an optical disk), it shall be given by delivering or sending by post such disk in accordance with paragraph 5.2 (and shall be treated for the purposes of paragraph 5.2 as being in writing), but without prejudice to any procedures which the relevant Parties may agree for the purposes of ensuring that it is received in appropriately readable form.

5.1.9 In this paragraph 5 references to Users include Trader Users and DNO Users.

## **5.2 Notices by delivery, post, email or facsimile**

5.2.1 References in this paragraph 5.2 to “**a notice**” are to any Communication or other notice or communication to be given by one Party to another under the Code, a Framework Agreement or an Ancillary Agreement or a Supplemental Agreement, other than one which is given as a UK Link Communication or by telephone or (as the case may be) by other means provided for in the Offtake Communications Document or IGTAD Section F8.

- 5.2.2 Any notice shall be in writing and shall be addressed to the recipient Party at the recipient Party's address, facsimile number or e-mail address referred to in paragraph 5.2.3, and marked for the attention of the representative (identified by name or title) referred to in that paragraph, or to such other address or facsimile number or e-mail address and/or marked for the attention of such other representative as the recipient Party may from time to time specify by notice given in accordance with this paragraph 5.2 to the Party giving the notice.
- 5.2.3 The initial address, facsimile number, or e-mail address of a Party, and representative for whose attention notices are to be marked, shall be as specified by a User pursuant to TPD Section V2.1.2(a)(iii) or by the Transporter pursuant to TPD Section V2.2.2(a)(i) or by an Independent Gas Transporter pursuant to IGTAD Section F3.2.2(a)(iii).
- 5.2.4 Any notice given by delivery shall be given by letter delivered by hand, and any notice given by post shall be sent by first class prepaid post (airmail if overseas).
- 5.2.5 Any notice shall be deemed to have been received:
- (a) in the case of delivery by hand, when delivered; or
  - (b) in the case of first class prepaid post, on the second Day following the Day of posting (or, if sent airmail overseas or from overseas, on the fifth Day following the Day of posting); or
  - (c) in the case of facsimile, on acknowledgement by the recipient Party's facsimile receiving equipment; or
  - (d) in the case of e-mail, subject to 5.2.8, shall be deemed to have been received one hour after being sent in the absence of any undeliverable return receipt received by the sender during that period.
- 5.2.6 Where a notice is sent by facsimile:
- (a) the Party giving the notice shall (but without prejudice to paragraph 5.2.5(c)) if requested by the recipient Party, resend as soon as reasonably practicable the notice by facsimile; and
  - (b) in the case of a Termination Notice, the Transporter will in any event, within 2 Days following the sending of such facsimile, send to the recipient Party a copy of the notice by first class prepaid post (airmail if overseas).
- 5.2.7 A Party may specify different addresses or facsimile numbers and representatives pursuant to paragraph 5.2.2 for the purposes of notices of different kinds or relating to different matters.
- 5.2.8 If the time at which any notice or communication sent by e-mail is deemed to have been received falls after 1700 hours on a day, the notice or communication shall be deemed to have been received at the start of the next Business Day.
- 5.2.9 Where a notice is sent by e-mail, the Party giving the notice shall (but without prejudice to paragraph 5.2.5(d)) if requested by the recipient Party, resend as soon as reasonably practicable the notice by email.

### 5.3 Communication by telephone

5.3.1 For the purposes of enabling Communications to be given (where required or permitted to be so given) by telephone:

- (a) each Party shall provide to the other Party not more than three (or such other number as they may agree) telephone numbers and details (by name or title) of the representative to whom the Party giving such a Communication should speak;
- (b) each Party shall use reasonable endeavours to ensure that a Party seeking to give such Communication will at any time be able to contact a representative (of the first Party) by means of one of such telephone numbers;
- (c) the Parties shall, if either of them shall so request, establish such further procedures as may be reasonable and appropriate for the purposes of ensuring:
  - (i) that a Communication being given by telephone may be identified by the recipient as such; and/or
  - (ii) that such Communication may be given securely, without delay and effectively.

5.3.2 Where a Party seeking to give a Communication by telephone is unable to contact a representative of the receiving Party, such Party must give the Communication by facsimile and the Communication will not be deemed to have been received except in accordance with paragraph 5.2.5(c).

5.3.3 Unless otherwise agreed between the relevant Parties a telephone notice may not be given as a message recorded on a telephone answering device.

5.3.4 Where a Communication is given by telephone:

- (a) the Transporter (or relevant Transporter) will promptly after the telephone communication is completed make and keep a record in which the time and content of the telephone notice is logged, but may do so by recording the telephone communication where it has notified the User other Transporter or Independent Gas Transporter, on the occasion or on a standing basis, of its intention to do so; and
- (b) the Communication shall be treated as given at the time at which the telephone communication is completed.

5.3.5 A Party may specify different telephone numbers and representatives pursuant to paragraph 5.3.1 for the purposes of receiving by telephone Communications of different kinds or relating to different matters.

5.3.6 For the purposes of this paragraph 5.3:

- (a) in relation to Code Communications, references to **“Parties”** shall be construed as the Transporter and the User by or to whom such Code Communications are to be given;

- (b) in relation to Offtake Communications, references:
  - (i) to **“Parties”** are to the Transporters; and
  - (ii) to **“the relevant Transporter”** are to the upstream Transporter;
- (c) in relation to IGTAD Communications, references to **“Parties”** are to the Transporter and the Independent Gas Transporter(s) by or to whom such Code Communications are to be given.

## 6 GENERAL

### 6.1 Assignment

- 6.1.1 Subject to paragraphs 6.1.4 and 6.1.5, a Party may assign its rights under the Code, a Framework Agreement and any Ancillary Agreement:
  - (a) to a 33 1/3% Affiliate of such Party, provided that the assigning Party shall continue to be bound by and liable under the Code, the Framework Agreement and any such Ancillary Agreement;
  - (b) subject to paragraph 6.1.6, with the prior agreement in writing of each relevant other Party, which shall not unreasonably be withheld, to any person.
- 6.1.2 For the purposes of this paragraph 6.1, a relevant other Party is:
  - (a) where the assigning Party is a Transporter, each User, each other Transporter and each Independent Gas Transporter who is bound by the assigning Transporter’s Network Code;
  - (b) where the assigning Party is a User, the Transporter.
- 6.1.3 Except as provided in paragraph 6.1.2, a Party shall not assign or transfer and shall not purport to assign or transfer any of its rights or obligations under the Code, a Framework Agreement or (except as may be expressly permitted thereby) any Ancillary Agreement.
- 6.1.4 No assignment shall be made to a person unless:
  - (a) where the assigning Party is a Transporter, that person holds an appropriate Transporter’s Licence and has complied with the other requirements which:
    - (i) if the person were a New DNO, it would be required under OAD Section N4 to comply with;
    - (ii) if the person were a New Independent Gas Transporter, it would be required under IGTAD Section F3 to comply with;
  - (b) where the assigning Party is a Shipper User, that person holds a Shipper’s Licence and has complied with the other requirements which (if the person were an Applicant User) it would be required under TPD Section V2 to comply with:
- 6.1.5 No assignment shall be made by a Transporter unless the assignment relates to the rights

of the Transporter both:

- (a) as the Transporter under the Transporter's Network Code and the relevant Framework Agreement, and
- (b) as a Transporter and (except in the case of National Grid NTS) DNO User under National Grid's Network Code and the Transporters Framework Agreement.

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

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

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

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

## **6.2 Waiver**

6.2.1 No delay by or omission of any Party in exercising any right, power, privilege or remedy under the Code or a Framework Agreement or any Ancillary Agreement or Supplemental Agreement shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof.

6.2.2 Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or future exercise thereof or the exercise of any other right, power, privilege or remedy.

## **6.3 Language**

6.3.1 Every Code Communication, Offtake Communication, IGTAD Communication and every notice or other communication to be given by one Party to another under a Framework Agreement or any Ancillary Agreement or Supplemental Agreement, shall be in the English language.

## **6.4 Severance**

6.4.1 If any provision of the Code, a Framework Agreement or any Ancillary Agreement or Supplemental Agreement is or becomes invalid, unenforceable or illegal, or is declared to be invalid, unenforceable or illegal by any court of competent jurisdiction or by order of any other Competent Authority, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of the Code, a Framework Agreement

or Ancillary Agreement or Supplemental Agreement, which shall continue in full force and effect notwithstanding the same.

## **6.5 Rights of Third Parties**

- 6.5.1 Unless expressly otherwise provided, the Parties do not intend that any term of the Code or a Framework Agreement or any Ancillary Agreement or Supplemental Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party.
- 6.5.2 Notwithstanding any express provision of the Code pursuant to which paragraph 6.5.1 is disapplied in relation to a term of the Code or a Framework Agreement or any Ancillary Agreement or Supplemental Agreement, the Parties may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under the Code or a Framework Agreement or any Ancillary Agreement or Supplemental Agreement without the consent of any person who is not a Party.

## **6.6 Entire Agreement**

- 6.6.1 The Code and (as respects the Parties thereto) each Framework Agreement, each Ancillary Agreement or (as the case may be) each Supplemental Agreement, contain or expressly refer to the entire agreement between the Parties with respect to the subject matter thereof, and supersede all previous agreements or understandings between the Parties with respect thereto; and any warranty, condition or other term implied at law or by custom is (to the fullest extent permitted by law) expressly excluded therefrom.
- 6.6.2 Each Party acknowledges that in entering into a Framework Agreement and any Ancillary Agreement or Supplemental Agreement it does not rely on any representation, warranty or other understanding not expressly contained in the Code, such Framework Agreement, Ancillary Agreement or Supplemental Agreement.
- 6.6.3 Nothing contained in a document (other than a Framework Agreement or an Ancillary Agreement or a Supplemental Agreement) referred to in the Code, beyond what is expressly contemplated by the Code as being contained in such document or is necessary for the purposes of giving effect to a provision of the Code, shall modify or have any effect for the purposes of the Code or be construed as relevant to the interpretation of the Code.

## **6.7 Jurisdiction**

- 6.7.1 Subject and without prejudice to the provisions of Section A as to Expert Determination, all the Parties irrevocably agree that the courts of England are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with the Code, a Framework Agreement and any Ancillary Agreement or Supplemental Agreement and that accordingly any suit, action or proceeding (collectively “**proceedings**”) arising out of or in connection with the Code, a Framework Agreement and any Ancillary Agreement or Supplemental Agreement may be brought in such courts.
- 6.7.2 Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any proceedings in any such court as is referred to in paragraph 6.7.1 and any claim that any such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any proceedings brought in the

English courts shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction.

- 6.7.3 Any User which is not a company incorporated under the Companies Act 1985 shall provide to each Transporter an address in England or Wales for service of process on its behalf in any proceedings.

## 6.8 Governing law

- 6.8.1 The Code, each Framework Agreement and every Ancillary Agreement and Supplemental Agreement shall be governed by, and construed in all respects in accordance with, English law.

## 7 DEROGATIONS

### 7.1 UNC Derogations

- 7.1.1 Subject to paragraph 7.4.3, the Authority may, in accordance with this paragraph 7, grant a Derogation Party a derogation from one or more provisions of the Code in which case paragraph 7.3 will apply ("**UNC Derogation**").

- 7.1.2 For the purposes of this paragraph 7:

- (a) "**Derogation Guidance Document**" is the document prepared and maintained by UNC Committee containing guidance in relation to UNC Derogation Applications;
- (b) "**Derogation Party**" means the applicant Party, and where the scope of the proposed UNC Derogation relates to the delivery of gas, and acceptance of gas for delivery, at specific System Entry Points or the making available of gas for offtake, or the offtaking of gas, at specific System Exit Points, in addition any Party undertaking such activity at any such points as described in the UNC Derogation Application;
- (c) "**Excluded Code Provision**" means:
  - (i) the provisions of GT Section A;
  - (ii) the Modification Rules;
  - (iii) any provision of the Code which is, at the date the application is submitted, within the scope of a Significant Code Review or the subject of a Significant Code Review Modification Proposal;
  - (iv) any provision of the Code which facilitates a consumer changing supplier or shipper and which (in the opinion of the Modification Panel) may be adversely impacted by a proposed UNC Derogation; and
  - (v) the terms of a Network Code Ancillary Agreement.
- (d) "**Industry Code**" means a multilateral code or agreement created and maintained pursuant to a licence granted by the Authority under sections 7, 7ZA or 7A of the Gas Act 1986 or section 6 of the Electricity Act 1989,

including the Independent Gas Transporter's Network Code, the Retail Energy Code and the Smart Energy Code;

- (e) "**Relevant Day**" means in relation to a Derogation Period, a Day in such period when a conditional derogation (if any) is also in force;
- (f) "**Relevant Person**" means all Parties, all Third Party Participants, such Non-Code Parties as the Code Administrator considers appropriate in the context of a UNC Derogation Application and the CDSF;
- (g) "**UNC Derogation Use Case**" means a use case specified in Annex B-1.

## 7.2 UNC Derogation Application

7.2.1 A Party may make a written application for a UNC Derogation to the Code Administrator ("**UNC Derogation Application**").

7.2.2 A UNC Derogation Application shall be in the form specified in the Derogation Guidance Document and shall include (inter alia) the following details:

- (a) the identity of the Party making the application ("**applicant Party**");
- (b) the applicable UNC Derogation Use Case;
- (c) the provisions of the Code (and for the purposes of this paragraph 7 a reference to the Code shall be deemed to include a reference to each UNC Related Document) from which a UNC Derogation is required;
- (d) the period in respect of which the applicant Party proposes the UNC Derogation should be in force, being either:
  - (i) a period commencing on a specified date and ending on a later specified date (a "**fixed date period**"); or
  - (ii) a specified number of consecutive days (not commencing or ending on a specified date) (an "**unspecified period**")
- (e) the date after which the UNC Derogation (if implemented) is no longer to apply ("**backstop date**");
- (f) whether the implementation of the proposed UNC Derogation is conditional on the approval and coming into force of another derogation in respect of any other Legal Requirement ("**conditional**" derogation);
- (g) the basis on which applicant Party demonstrates compliance with the health and safety requirements described in the Derogation Guidance Document; and
- (h) such other matters as required by the Derogation Guidance Document.

7.2.3 Following receipt of a UNC Derogation Application the Code Administrator shall:

- (a) send a copy of the application to each Relevant Person, each Member and the Authority;

- (b) provide such guidance at the Modification Panel may request in relation to the applicable Derogation Use Case;
  - (c) schedule consideration of the UNC Derogation Application a meeting of the Modification Panel occurring not less than ten (10) days after receipt of the application by the Code Administrator.
- 7.2.4 At least seven (7) days before the Modification Panel meeting referred to in paragraph 7.2.3(c) the Code Administrator shall give notice to all Relevant Persons, each Member and the Authority of the date on which the Modification Panel will first consider the UNC Derogation Application.
- 7.2.5 At the meeting referred to in paragraph 7.2.3(c) the Modification Panel will either:
- (a) reject the UNC Derogation Application in accordance with paragraph 7.2.6; or
  - (b) make a determination in respect the UNC Derogation Application in accordance with paragraph 7.2.7,
- provided the Modification Panel shall not be required to independently verify any statement or representation made by the applicant Party regarding health and safety matters contained in the UNC Derogation Application.
- 7.2.6 The Modification Panel will reject the UNC Derogation Application where:
- (a) any of the requirements of paragraph 7.2.2 are not complied with or the application relates to an Excluded Code Provision;
  - (b) the Modification Panel is of the opinion the UNC Derogation Application is not in accordance with the applicable UNC Derogation Use Case;
  - (c) the UNC Derogation Application is not materially different from an earlier application which the Authority directed should not to implemented.
- 7.2.7 In respect of a UNC Derogation Application which is not rejected in accordance with paragraph 7.2.6 the Modification Panel will make a determination under paragraph 7.2.8 having:
- (a) discussed the UNC Derogation Application and considered whether or not the application complies with the UNC Derogation Use Case;
  - (b) considered all the information submitted by the applicant Party in support of the UNC Derogation Application; and
  - (c) considered the representations of the applicant Party's representative and the responses to any questions raised by the Modification Panel relating to the UNC Derogation Proposal.
- 7.2.8 The Modification Panel may determine (by Panel Majority):
- (a) the UNC Derogation Application does not comply with the Derogation Use Case, in which case the UNC Derogation Application shall lapse and have no further effect;

- (b) additional steps need to be undertaken, or additional analysis or information is required, before the UNC Derogation Application can proceed to consultation, in which case the applicant Party shall be invited to revise and re-submit the UNC Derogation Application;
- (c) the UNC Derogation Application should proceed to consultation, in which case the Code Administrator shall invite each Relevant Person to make representations in respect of the UNC Derogation Application to the Code Administrator within fifteen (15) Business Days (or such other period as the Modification Panel may determine) of the Code Administrator's invitation;
- (d) consideration of the UNC Derogation Application should be deferred to a subsequent meeting of the Modification Panel.

7.2.9 Where the Modification Panel has determined the UNC Derogation Application should proceed to consultation:

- (a) the Code Administrator shall schedule consideration of the UNC Derogation Application and all representations received following consultation at the meeting of the Modification Panel taking place no earlier than ten (10) days following the end of the referred to in paragraph 7.2.8(c) (or as the Modification Panel may otherwise agree);
- (b) at the meeting referred to in paragraph (a) the Modification Panel shall:
  - (i) decide (by Panel Majority) whether or not to recommend implementation of the UNC Derogation;
  - (ii) instruct the Code Administrator to submit to the Authority the UNC Derogation Application, its decision under paragraph (a), the factors which the Modification Panel took into account in making its decision and details of all consultation responses.

7.2.10 Following the Modification Panel's decision under paragraph 7.2.9(b) in relation to a UNC Derogation Application, the Code Administrator shall promptly notify the applicant Party and all other Relevant Persons of the Modification Panel's decision to approve or not approve implementation of the UNC Derogation together with the reasons for its decision.

7.2.11 Where the Authority receives a UNC Derogation Application and the Modification Panel's recommendation pursuant to paragraph 7.2.10 or this paragraph 7.2.11, the Authority:

- (a) may direct whether or not the proposed UNC Derogation should be implemented (and whether a different backstop date should apply to that proposed by the applicant Party ("**Authority backstop date**") and the Code Administrator shall circulate to each Relevant Person and each Member notice of:
  - (i) the Authority's direction;
  - (ii) where directed, any Authority backstop date;
  - (iii) details of any conditional derogation for which approval is a condition

of the coming into force of the UNC Derogation.

- (b) may direct the UNC Derogation Application should be amended and re-submitted, and where it makes such a direction it shall give notice of its decision to the Code Administrator and:
    - (i) the Code Administrator shall notify each Relevant Person and each Member of the Authority's direction;
    - (ii) the Modification Panel will discuss the UNC Derogation at the next meeting of the Modification Panel and re-submit the UNC Derogation Application in accordance with the Authority's direction;
    - (iii) the Code Administrator shall send the revised UNC Derogation Application to the Authority as soon as practicable.
- 7.2.12 An applicant Party may withdraw an UNC Derogation Application by notice to the Code Administrator at any time prior to the UNC Derogation coming into force, in which case the UNC Derogation Application (or if already approved but not yet in force, the UNC Derogation) shall lapse and have no further effect.
- 7.2.13 A Party may submit a UNC Derogation Application notwithstanding any other UNC Derogation submitted by such Party remains under consideration by the Modification Panel or the Authority.
- 7.2.14 Where a Party submits a UNC Derogation Application ("**second application**") which is intended to replace an earlier application ("**first application**") submitted by the same Party:
- (a) where the Modification Panel has yet to make a decision under paragraph 7.2.9(b) in respect of the first application, the first application shall lapse and have no further effect;
  - (b) where the Modification Panel has made a decision regarding the first application under paragraph 7.2.9(b), the first application and the second application shall each be considered by the Modification Panel and the Authority in accordance with the provisions of this paragraph 7.
- 7.2.15 An applicant Party shall ensure a representative attends each meeting of the Modification Panel at which the applicant Party's UNC Derogation Application is considered.
- 7.2.16 Notwithstanding any provision of this paragraph 7, the Modification Panel may determine, in its absolute discretion, the priority and timetable for any steps proposed to be undertaken by the Modification Panel in relation to a UNC Derogation Application.

### **7.3 Impact of UNC Derogation**

- 7.3.1 Any UNC Derogation Application that has been approved by the Authority shall be a UNC Derogation and such UNC Derogation shall, subject to any conditional derogation coming into force, remain in force for each Relevant Day during the period relating to such UNC Derogation ("**Derogation Period**").
- 7.3.2 In relation to a UNC Derogation the Derogation Period shall be:

- (a) where the applicant Party specified a fixed date period in the UNC Derogation Application:
  - (i) and the Authority did not direct an Authority backstop date, the fixed date period:
  - (ii) and the Authority directed an Authority backstop date, (provided the fixed date period started before the Authority backstop date) the period:
    - (1) from the start of the fixed date period;
    - (2) ending on the earlier of the end of the fixed date period and the Authority backstop date;
- (b) where the applicant Party specified an unspecified period in the UNC Derogation Application, the period (provided such period commences before any Authority backstop date):
  - (i) commencing on the date, no earlier than sixteen (16) Business Days after that date by which:
    - (1) the applicant Party notifies the Code Administrator the UNC Derogation shall come into force; and
    - (2) applicant Party or another Party notifies the Code Administrator a conditional derogation shall come into force;
  - (ii) ending on:
    - (1) the earlier of the end of the unspecified period and the applicant backstop date,
    - (2) where any Authority backstop date is earlier than the applicant backstop date, the earlier of the end of the unspecified period and the Authority backstop date; or
    - (3) where any Authority backstop date is later than the applicant backstop date, the later of the end of the unspecified period and the Authority backstop date, and the Code Administrator shall notify each Relevant Person, each Member and the Authority of the Derogation Period in relation to a UNC Derogation.

7.3.3 Subject to paragraph 7.3.4, for the duration of the Derogation Period:

- (a) a Derogation Party shall be relieved of its obligation to comply with the Code to the extent permitted by the UNC Derogation;
- (b) no act or omission by a Derogation Party that would be a breach (or in the case of a User, a User Default) shall be deemed to be a breach (or User Default) of the Code to the extent only that such act or omission is permitted by a UNC Derogation.

7.3.4 In respect of a UNC derogation:

- (a) a Derogation Party shall be required to comply with all provisions of the Code that are relevant to such Party and which are outside the scope of such UNC Derogation;
- (b) a Derogation Party shall be required to comply with any conditions included in such UNC Derogation;
- (c) such UNC Derogation shall have no effect to the extent that it purports to derogate from:
  - (i) any conditions of a gas transporters licence or a gas shippers licence;
  - (ii) any other Industry Code (but without prejudice to any other regulatory derogation arrangements);
  - (iii) any Legal Requirement; or
  - (iv) any provision of this paragraph 7,

and each Derogation Party acknowledges and agrees that it shall be responsible for its compliance with any such Code provision, licence condition or Legal Requirement.

- 7.3.5 With effect from 05:00 on the day following the end of the Derogation Period the UNC Derogation shall no longer be in force and each Derogation Party shall comply with the Code in full from such time and such date.
- 7.3.6 The approval of a UNC Derogation in respect of any Derogation Party shall not relieve any other Party of all or any of its obligations under the Code.
- 7.3.7 Once approved by the Authority no variation to a UNC Derogation shall be permitted.



## **Annex B-1**

### **UNC Derogations**

#### **UNC Derogation Use Case(s)**

##### *Derogation Use Case A*

The UNC Derogation Application relates to a project which is consistent with:

- (a) a change in national government policy (including policy of the national devolved parliaments);
- (b) a change in local government policy;
- (c) the trialling of new technologies or the making of technological advances;
- (d) facilitating the uptake of low carbon technologies;
- (e) any requirement contained in a local area energy plan or equivalent arrangement

the purpose of which is to facilitate net zero and the achievement of a 100% reduction of greenhouse gas emissions (compared to 1990 levels) in the UK by 2050.

