



Key:
 Option Area

Notes:

Coordinate System: TM65 Irish Grid
Projection: Transverse Mercator
Datum: TM65

Grantor:
Mid Ulster Council

Signed:

Date:

Location:
Railway Road, Dungannon BT71 7AA

Coords: 279,440 362,235

Scheme Name:
Gas to the West LP

Drawing Name:
Option Plan

Drawing No: 170486-ULST-OP-001-0

Rev	Date	Description
-	23.04.2018	First Issue

Drawn:	PR
Approved:	GD
Sheet No:	1 of 1
Sheet Size:	A3



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REGISTRY OF DEEDS (NI)

MID-ULSTER DISTRICT COUNCIL

and

SGN COMMERCIAL SERVICES LIMITED

**EVALUATION AND OPTION AGREEMENT
(EASEMENT)**

THIS AGREEMENT is made the _____ day of _____ 2018 **BETWEEN:**

1. **MID-ULSTER DISTRICT COUNCIL** of 50 Ballyronan Road, Magherafelt, BT45 6EN ("Grantor") of the one part; and
2. **SGN COMMERCIAL SERVICES LIMITED** a company registered in England and Wales under company number 05969465 and having its registered office at St Lawrence House, Station Approach, Horley RH6 9HJ ("Grantee") of the other part (together the "Parties").

RECITALS

- A. The Northern Ireland Utility Regulator has awarded a licence to Scotia Gas Networks Northern Ireland on the 11th of February 2015.
- B. The Grantee will require rights to lay the Pipeline through or in the vicinity of the Site being the lands of the Grantor as set out in Schedule 3 and adjoining land or lands within the vicinity of the Site in which the Grantee has or will have an interest
- C. The Grantor has agreed to grant the Grantee the Preparatory Works Licence the Works Licence and the Option for the consideration set out in the Agreement

IT IS AGREED AS FOLLOWS:

1. Definitions

In this clause the following expressions shall have the following meanings:-

"Agreement" means this agreement.

"Balancing Payment" means the higher of £250 and a sum calculated by the following formula:

(Length of Easement Strip x £23) less (the First Easement Payment plus the Works Payment)

By way of example:

if the length of the Works Corridor was 200 metres, the First Easement Payment was £2,300 and the Works Payment was £1,150 and the length of the Easement Strip proved to be 205 metres the calculation would be:

$$(205 \times £23) \text{ less } (£2,300 \text{ plus } £1,150) = £1,265$$

Here the calculated amount is above the minimum balancing payment so the balancing payment would be £1,265.

if the length of the Works Corridor was 135 metres, the First Easement Payment was £1,552.50 and the Works Payment was £776.25 and the Length of the Easement Strip proved to be 85 metres the calculation would be:

$$(85 \times £23) \text{ less } (£1,552.50 \text{ plus } £776.25) = -£373.75$$

Here the minimum balancing payment of £250 would be paid because the calculated amount is less than that.

“Code of Practice” means the Gas to the West Code of Practice HP Natural Gas Pipeline(s) dated September 2015.

“Completion Date” means the date of completion of the Deed of Easement.

“Debt Provider” means a provider of debt finance to the Grantee including without limitation its agent, nominee or trustee (as envisaged by clause 12)

“Deed of Easement” means a deed of easement in the form attached at Schedule 1 of the Agreement

“Development” means any equipment, structure or infrastructure the construction or erection of which is necessitated by the Project

“DOE” means the Department of the Environment for Northern Ireland or any successor body for the time being having or being entitled to exercise the powers conferred upon it

“Easement Strip” means the land 14 metres wide situated within the Works Corridor and to be granted by the Deed of Easement

“Effective Date” means the date written at the beginning of this Agreement.

“Expert” means an independent chartered surveyor appointed pursuant to clause 12.7

“First Easement Payment” means the sum of one thousand two hundred and sixty-five pounds (£7,763.00).

“Incentive Payment” means the sum of one thousand three hundred and twenty pounds (£8,100.00).

“Length of Easement” means the length (measured in metres) of the Easement Strip

“Option” means the option in favour of the Grantee specified in Clause 3.3 of the Agreement.

“Option Notice” means a notice in writing of the Grantee’s intention to take a Deed of Easement specifying the Easement Strip.

“the Option Period” means the period of 5 (five) years from and including the date of this Agreement.

“Operating Licence” means the licence awarded to Scotia Gas Networks Northern Ireland on the 11th of February 2015 or any other substituted or additional licence which may be awarded to any party undertaking the Project from time to time.

“the Pipeline” means a pipeline for the transmission storage and distribution of gas (and/or other materials, gas apparatus, other equipment or apparatus ancillary thereto) installed or to be installed along the route of the easement as comprised in the Deed of Easement and where (in relation to a system of pipes) there are a number of adjacent parallel lengths of pipe serving the same purpose as would be served by a single pipe of a diameter greater than any of those lengths, then that number shall be taken to constitute a single pipe for the purpose of the Deed of Easement and to that extent shall form an integral part of the gas main.

“Plan” means the plan annexed to this Option Agreement

“Preparatory Period” means the period of 5 (five) years from the date of this Agreement.

“Preparatory Works” means (without limitation) the making of Trial Holes, removing any hedges or trees on the Site, carrying out land surveys, ecological surveys, orthonological surveys or other surveys and/or archaeological trenching and other works which the Grantee in its absolute discretion deemed to be required to establish the suitability of the Site for the Project and establish the Grantee’s preferred route for the Easement Strip.

“Preparatory Works Licence” means an exclusive right and its officers servants and all persons authorised by it to conduct a detailed evaluation of the Site to establish its suitability for the installation of the Pipeline and to carry out all Preparatory Works for the Preparatory Period.

“Project” means a scheme for the installation of a an intermediate pressure medium pressure and low pressure gas pipeline network in accordance with the Operating Licence.

“Rights” means the meaning given to it in the Deed of Easement

“The Unsuitable Portion of the Works Corridor” means any part of the Works Corridor which the Grantee in its discretion finds to be unsuitable for the Project.

“Trial Hole” means the trial hole(s) that the Grantee may bore in the Site

“the Site” means the lands as set out in Schedule 3

“the Works” together with the laying, construction, installation, operation, maintenance and repair of the Pipeline and all ancillary and associated equipment and infrastructure and any other rights required to carry out the Project.

“Works Commencement Date” means the date specified in the Works Notice for commencement of the Works Licence.

“The Works Corridor” means the land coloured blue on the Plan comprising part of the Site.

“Works Licence” means an exclusive right for the Grantee and its officers servants and all persons authorised by it to carry out the Works for a five year period commencing on the date specified by the Works Notice.

“Works Notice” means written notice to the Grantee from the Grantor specifying the Works Commencement Date.

“Works Payment” means the sum of six hundred and thirty-three pounds (£3,881.00).

“Works Period” means the period of 5 (five) years from the Works Commencement Date.

2. Construction

2.1 All references to a statutory provision shall be construed as including references to:

- (a) any statutory modification, consolidation or re-enactment (whether before or after the date of this Agreement) for the time being in force;
- (b) all statutory instruments, regulations or orders from time to time made pursuant thereto; and
- (c) any statutory provisions of which a statutory provision is a modification, consolidation or re-enactment.

2.2 Any reference to a statutory provision shall be construed as a reference to the laws of Northern Ireland unless the context otherwise indicates.

2.3 Words such as *“hereunder”*, *“hereto”*, *“hereof”*, and *“herein”* and cognate terms shall unless the context clearly indicates to the contrary refer to the whole of this Agreement and not to any particular Section or Clause thereof.

2.4 Save as otherwise provided herein any reference to a Section, Clause, paragraph or sub-paragraph shall be a reference to a Section, Clause paragraph or sub-paragraph (as the case may be) of this Agreement and any reference in a Clause to a paragraph or sub-paragraph shall be a reference to a paragraph or sub-paragraph of the Clause or paragraph in which the reference is contained unless it appears from the context that a reference to some other provision is intended.

- 2.5 Unless the context shall otherwise require, words importing the singular number shall include the plural number and *vice versa* and words importing a gender shall include every gender.
- 2.6 The Schedules to this Agreement shall form part of this Agreement and all references to Schedules shall be deemed to be references to Schedules to this Agreement.
- 2.7 Any reference to a person shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state, or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- 2.8 Any reference to the Grantor or the Grantee includes their personal representatives and successors in title.
- 2.9 The date of service of an Option Notice and Works Notice shall be deemed to be two working days after the date of posting.

3. Option and Licence

In consideration of the payment of the Incentive Payment and the First Easement Payment by the Grantee to the Grantor on the date hereof (the receipt of which is hereby acknowledged) the Grantor hereby grants to the Grantee with vacant possession:

- 3.1. the Preparatory Works Licence for the Preparatory Period;
- 3.2 the Works Licence for the Works Period with vacant possession;
- 3.3. an exclusive option to enter into a Deed of Easement or Deeds of Easement for the Site for the Option Period in the format of the Deed of Easement provided that the conditions in Clause 4 have been satisfied (unless waived by the Grantee) and provided also that the Grantee in its sole discretion is satisfied with the findings on foot of the Works Licence and for the avoidance of doubt including the plan to be supplied by the Grantee illustrating the Deed of Easement which shall be attached to the Deed of Easement prior to its completion.

- 3.4 The Grantor shall execute and enter into the Deed of Easement and complete it with the Grantee or such other party as is nominated by the Grantee within fourteen (14) days of the exercise of the Option by the Grantee.
- 3.5 The Option may be exercised by the Grantee at any time during the Option Period by the Grantee serving the Option Notice on the Grantor.
- 3.6 At any time after this Option shall have been exercised and in the event that the Grantor has not entered into the Deed of Easement in accordance with clause 3.4, the Grantee may without restriction exercise a power of attorney on the part of the Grantor to execute the Deed of Easement on the part of the Grantor.
- 3.7 The Grantee shall be entitled to assign the burden and benefit of the Agreement. This Agreement shall be capable of assignment by the Grantee without requiring the approval of the Grantor. The Grantee may require the Grantor to grant the Deed of Easement to such third party as the Grantee may direct.
- 3.8 If the Grantor shall assign its interest in the Site it shall do so subject to the Agreement.
- 3.9 On or prior to undertaking any Works (other than Preparatory Works), the Grantee shall pay the Works Payment to the Grantor.
- 3.10 On the Completion Date the Grantee shall pay to the Grantor the Balancing Payment.

4. Conditions

The creation of the Deed of Easement and any licence between the Grantor and Grantee in respect of the Site for the Project shall be conditional upon:

- 4.1 The Grantor showing good and marketable title to the Site in accordance with the Law Society of Northern Ireland's standard conveyancing practice, which shall include (without limitation) the curtailment or removal of any incorporeal hereditaments affecting the Site; and

- 4.2. The Grantee being entitled to identify the Unsuitable Portion of the Works Corridor and being accordingly entitled not to take the Deed of Easement in respect of the Unsuitable Portion of the Works Corridor without any penalty or costs;

Provided That the Grantee may waive any of the conditions in its absolute discretion.

5. Access

- 5.1 The Grantor grants to the Grantee during the Preparatory Period and the Works Period access with or without vehicles and equipment to and from the public highway to and from and over the Works Corridor and any adjoining lands upon which the Grantee is carrying out the Project over such parts of the Site as provide access to the Works Corridor for all proper purposes connected with the Project or any other project at all times.
- 5.2 The Grantor shall procure that the Grantee shall have vacant possession of the Works Corridor during the Works Period

6. Grantor's covenants

- 6.1 The Grantor shall do nothing during the currency of the Agreement which could hinder or jeopardise or make more onerous or expensive the Works Licence or the Works and without limitation the Grantor shall not:
- (a) construct or erect anything (including without limitation any buildings, walls, fences, structures or apparatus) in through or on the Works Corridor;
 - (b) lay or install any surface in the Works Corridor;
 - (c) carry out any excavation in the Works Corridor;
 - (d) increase or decrease the ground level of the Works Corridor; or
 - (e) plant any trees or shrubs or allow any trees or shrubs to grow in the Works Corridor.
- 6.2 The Grantor shall not object (directly or indirectly) to any planning application made by or on behalf of the Grantee in relation to the Development

- 6.3 The Grantor shall not dispose of the Site by way of transfer, lease, licence, conacre or any other dealing without the consent of the Grantee (not to be unreasonably withheld or delayed) and any such disposal shall be subject to this Agreement. In the event that the Grantor disposes or grants a lease of all or part of the Site the Grantor must procure that the transferee or lessee enters into a direct covenant with the Grantee in the form attached at Schedule 2 (save for any amendment agreed between the parties)
- 6.4 The Grantor covenants not to do anything which could interfere with the Rights or compliance with any planning obligation or other statutory requirement. Nothing contained in this Agreement restricts the Grantor's right to use the Site during the Option Period for [estate/agricultural/forestry] purposes in a manner which does not prevent or impede the exercise of the Rights or the rights granted to the Grantee in this Agreement or both.
- 6.5 The Grantor must make good as soon as practicable and to the reasonable satisfaction of the Grantee any damage caused to the Grantee's machinery or equipment caused by the Grantor or the Grantor's authorised personnel. If the Grantor fails in the Grantee's reasonable opinion to make good any damage as soon as practicable, the Grantee may carry out works to make good the damage and recover the proper costs and expenses of doing so from the Grantor on demand.
- 6.6 If the Grantor receives any requirement, notice, requisition or order from a local or public authority which is or may become prejudicial or a hindrance to the full exercise and enjoyment of the Rights or the rights granted to the Grantee by this Agreement or both, the Grantor must promptly provide a copy to the Grantee.
- 6.7 To the extent that consent has not been obtained prior to the date of this Agreement, the Grantor must use all reasonable endeavours to procure that any tenant, conacre tenant, mortgagee or chargee of any part of the Site enters into or grants written consent to this Agreement, the Deed of Grant and any planning agreement.

7. Grantee's covenants

7.1 Following completion of the Works, to make good and restore the surface of the Works Corridor to its state and condition as at the date of the commencement of the Works to the reasonable satisfaction of the Grantor.

7.2. To keep the Grantor indemnified against all actions or claims which may be brought or made against the Grantor by reason of:

(a) any default or neglect on the part of the Grantee in the exercise of the rights hereby granted;

(b) any accidental bodily injury, or any accidental loss or damage to property and/or livestock where such injury or damage is caused by any failure of the Grantee's obligations set out in this Deed

EXCEPT the Grantee shall be relieved of the indemnity where such action or claim arises by virtue of any act, neglect or default on the part of the Grantor or any of his servants or agents

Provided That the Grantor shall as soon as practicable give notice in writing to the Grantee of any such action or claim brought, made or threatened against the Grantor under this paragraph 7.2 and shall not settle, adjust or compromise such action, claim or demand without the consent of the Grantee and Provided Further that the Grantee may at its own expense settle, adjust, compromise or take over the conduct of any such action or claim in the name of the Grantor who shall at the expense of the Grantee give such information and assistance as the Grantee may reasonably require

7.3 During the Preparatory Period the Grantee shall liaise with the Grantor and comply with any reasonable requests from the Grantor regarding carrying out the Preparatory Works.

7.4 During the Works Period the Grantee shall comply with the Code of Practice.

7.5 On the grant of the Deed of Easement, the Grantee's obligations contained in this clause 7 shall merge and extinguish with the grant of the Deed of Easement save for any obligation to make good and restore the surface of the Works Corridor to its state and condition as at the date of the commencement of the Works.

8. Assignment

- 8.1 The Grantee shall be entitled to assign the burden and benefit of the Agreement without requiring the approval of the Grantor.
- 8.2 The Grantee may require the Grantor to grant the Deed of Easement to such third party as the Grantee may direct.

9. Warranty as to title

The Grantor warrants that he is the legal and beneficial owner of the lands at Railway Park, Dungannon, as set out in Schedule 3.

10. Confidentiality

The Grantor shall not divulge the contents of the Agreement or any of the Schedules to the Agreement to any other person without the prior written consent of the Grantee.

11. Debt Provider Agreements

- 11.1 The Grantor recognises that the Grantee may wish to finance or refinance the Development through limited recourse or other financing in the commercial bank debt and or capital markets and that the entering into one or more direct agreements (by which there is given to the Debt Provider a right to step into and/or procure an assignment or other transfer of the premises to be demised by the Deed of Easement or the Grantee's rights and obligations under this agreement or the Deed of Easement) may be a pre-condition to the provision of such debt finance by the Debt Provider.
- 11.2 The Grantor will co-operate in good faith with the Grantee and use all reasonable endeavours to satisfy the requirements of any Debt Provider in respect of such financing or refinancing.
- 11.3 The Grantor undertakes to use all reasonable endeavours without delay to agree the format of and enter into a direct agreement with any Debt Provider the Grantee or any other relevant party in respect of this agreement.

- 11.4 That the Grantor shall enter into a direct agreement with any party from whom the Grantee is obtaining finance in respect of the subject matter of this agreement and shall execute such documentation as is reasonably necessary to enable such financial institution to obtain satisfactory security PROVIDED HOWEVER that the Grantor shall not be obliged under this clause to execute any documentation which would seek to extend the terms of this agreement.
- 11.5 The Grantor recognises that in entering into any direct agreement it will have to grant certain rights to any Debt Provider including a right of step-in within a specified period and/or a right to procure that the Grantee's rights and obligations under this agreement and the Deed of Easement are assumed (by way of assignment or such other transfer as may be appropriate) by another person in certain specified circumstances

Nothing in this clause 11 shall oblige the Grantor to enter into any direct agreement with any Debt Provider on terms less favourable to the Grantor than those as set out in this Agreement.

12. General

12.1 Governing Law

The law of Northern Ireland shall apply to the Agreement, and the Parties agree to submit to the non-exclusive jurisdiction of the Courts of Northern Ireland.

12.2 Counterparts

The Agreement may be executed in any number of counterparts, each in like form, all of which when taken together shall constitute one and the same document and any Party may execute the Agreement by signing any one or more of such counterparts.

12.3 Waiver

Any liability to any Party under the provisions of this Agreement may in whole or in part be released varied compounded or compromised by such Party in its absolute discretion as regards any Party under such liability without in any way prejudicing or affecting its rights against any other Party under the same or a like liability whether joint and several or otherwise. A waiver by any Party of any breach by any other Party of any of the terms provisions or conditions of this Agreement or the acquiescence of a

Party in any act (whether of commission or omission) which but for such acquiescence would be a breach as aforesaid shall not constitute a general waiver of such term provision or condition or of any subsequent act contrary thereto.

12.4 Force Majeure

Neither Party shall be responsible for any failure to fulfil their respective obligations under the Agreement where such failure is occasioned by strike, lock-out, hostilities or any other cause not within the control of such Party.

12.5 Notices

Any Notice required to be given under the Agreement by any Party shall be in writing sent by pre-paid ordinary post or fax (provided such fax is confirmed by pre-paid ordinary post) and shall be deemed effective if sent by post at the expiration of seventy two hours after the same was posted whether or not received or if by fax, twenty four hours after dispatch to the correct fax number of the addressee. Each of the Parties shall notify the other of any change of address within forty-eight hours of such change.

12.6 Registration

12.6.1 The Grantor hereby consents to the registration of this Agreement as a burden on the Grantor's unregistered title at the Registry of Deeds of Northern Ireland and for the avoidance of doubt it is intended to bind successors in title to the Grantor from time to time.

12.6.2 In the event that the unregistered title is registered during the term of the Agreement the Grantor consents to an inhibition being entered on the new Folio comprising the Site as follows:

"All dealings with the land herein (save and except dealings overriding the registered ownership) are inhibited unless consented to by SGN Commercial Services Limited (or the successor of its interest under an Option Agreement made on the [] day of [] 2018 and made between Mid-Ulster District Council of the one part and SGN Commercial Services Limited of the other part) whose address for service of notices is A&L Goodbody Solicitors, 42-46 Fountain Street, Belfast, BT1 5EF.

12.7 Dispute Resolution

Any disagreement between the parties under this Agreement will be determined pursuant to this Clause 12.7 and shall be referred for determination to a person of appropriate professional qualification and expertise appointed jointly by the parties or in default of agreement within 5 Working Days by the then Chairman of the Northern Ireland Branch of the Royal Institution of Chartered Surveyors on the application of either party. The Expert shall act as an arbitrator not an expert. His decision will be final and binding. The following terms shall apply:-

12.7.1 the Expert's fee will be borne as the Expert directs or otherwise equally;

12.7.2 the Expert will give written reasons for his determination;

12.7.3 the Expert will invite representations from both Parties;

12.7.4 the Expert will comply with any time limits reasonably specified by the Parties;

12.7.5 the Expert's decision will be within the range of the Parties' representations or if it should be outside that range he will adopt the representation of whichever of the Parties is closest to his own opinion.

12.8 Rights of Third Parties

Nothing in this Agreement is intended to confer on any person any right to enforce any term of this Agreement which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

12.9 Variations

No variation to this Agreement shall be effective unless made in writing and signed by or on behalf of the Parties.

SCHEDULE 1

The Deed of Easement

SCHEDULE 2

The Deed of Covenant

(1)

(2)

DEED OF COVENANT

for []

LAND REGISTRY OF NORTHERN IRELAND

FOLIO: COUNTY:

Registered Owner:

THIS DEED is made on the day of 201[X] BETWEEN:-

(1) [] (the "Grantor"); and

(2) [] (the "Grantee").

IT IS AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed unless the context requires otherwise:-

"Commencement Date" means the date hereof;

"Deed of Covenant" means the draft deed of covenant attached hereto

"Deed of Easement" has the meaning given to it in the Option

"Grantee" means the party named as the Grantee in this Deed and includes its successors in title and assigns;

"Grantor" means the party named as the Grantor in this Deed and includes its successors in title and assigns;

"Grantor's Property" means the lands at [];

"Plan" means the plan annexed to this Deed;

"Term" means a term of years beginning on and including the Commencement Date and ending on the date of expiry of termination of the Option;

"Project" means a scheme for the installation of a low pressure gas pipeline in accordance with the Operating Licence

"Operating Licence" means the means the licence awarded to Scotia Gas Networks Northern Ireland on the 11th of February 2015 or any other substituted or additional licence which may be awarded to any party undertaking the Project from time to time

"Option" means the option dated [] between [] including any renewal of it.

"Site" means the site comprised in and referred to in the Option

1.2 Interpretation

Unless the context or an express provision of this Deed requires otherwise, in this Deed:-

1.2.1 words importing any gender include all other genders;

1.2.2 words importing the singular number only include the plural number and vice versa;

1.2.3 reference to the Grantor's Property or to the Site or the Project is to the whole and any part of it or them;

1.2.4 where there are two or more persons included in the expressions "Grantor" or "Grantee" each reference to the Grantor or the Grantee includes a separate reference to each of those persons and the covenants made with or by the Grantor or Grantee are to be treated as made with or by those persons jointly and severally;

- 1.2.5 a person includes a corporate or unincorporated body and vice versa;
- 1.2.6 reference to this Deed or to any other document is to be construed as reference to this Deed or to that other document as modified, amended, varied, supplemented, assigned, novated or replaced from time to time;
- 1.2.7 reference to the parties is to be construed as reference to the parties to this Deed at that time;
- 1.2.8 any references to a specific statute or statutory instrument shall unless otherwise stated be construed as including a reference to any statutory extension or modification, amendment or re-enactment of such statute or statutory instrument and any general reference to "statute" or "statutes" includes any regulations or orders made under such statute or statutes;
- 1.2.9 any phrase introduced by the words "including", "include", "in particular" or any similar expression is to be construed as illustrative only and is not to be construed as limiting the generality of any preceding words; and
- 1.2.10 an obligation on a party not to do or omit to do something includes an obligation not to agree or suffer that thing to be done or omitted by another person.

1.3 Headings

The table of contents and the headings in this Deed are included for convenience only and are to be ignored in construing this Deed.

2. GRANT

2.1 In consideration of the payment by the Grantee to the Grantor of the sum of One Pound (£1.00) the Grantor hereby covenants with the Grantee for the benefit of such interest as the Grantee currently has (or may have in the future) of the Site:

2.1.1 not to transfer or lease any part of the Grantor's Property to any third party without first procuring that the transferee or lessee enters into a Deed of Covenant with the Grantee; and

2.1.2 to comply with the provisions of the Option and grant the Deed of Easement to the Grantor or consent to its grant as required by the Grantee in accordance with the provisions of the Option.

2.2 AGREEMENTS AND DECLARATIONS

The parties agree as follows:

2.2.1 The Grantor consents to the registration of this Deed as a burden affecting the Folio comprising the Grantor's Property.

2.2.2 The Grantor consents to an inhibition being entered on the Folio comprising the Grantor's Property as follows:

"All dealings with the land herein (save and except dealings overriding the registered ownership) are inhibited unless consented to by [] (or the successor of its interest under a Deed of Covenant made on the [] day of [] 201[] and made between [] of the one part and the said [] Limited of the other part) whose address for service of notices is []".

2.2.3 The Grantee agrees that where consent is sought to any dealings with the Grantor's Property pursuant to Clause 2.2.2. the Grantee shall not be entitled to withhold consent where it is satisfied that any successor in title, transferee or lessee has provided the deed required by Clause 2.1.

SCHEDULE 3

Description of Unregistered Land

Tenure: _____

Documents under which the Site is held or which are relevant to the Site and/or the title of the Grantor

[Insert List once title is provided]

SIGNED AS A DEED by
THE GRANTOR
in the presence of:-

Signature of Witness

Name of Witness:-

Address

Signature of Witness

Name of Witness:-

Address

)
)
)
)
)
)

EXECUTED AS A DEED by
THE GRANTEE
acting by one Director
in the presence of:-

Signature of Witness

Name of Witness:-

Address

Signature of Witness

Name of Witness:-

Address

)
)
)
)
)

SIGNED AND SEALED AND DELIVERED
by the said **MID-ULSTER DISTRICT COUNCIL**
in the presence of:

Witness 1:

Witness 2:

EXECUTED as a DEED by affixing THE)
COMMON SEAL of **SGN COMMERCIAL**)
SERVICES LIMITED hereunto)
affixed in the presence of:-)

Duly authorised by a resolution of the Board
of Directors of the Company pursuant to the
Company's Articles of Association

DATED

2018

MID-ULSTER DISTRICT COUNCIL

to

[SGN NATURAL GAS LIMITED]

DEED OF GRANT

of gas pipeline easements at
Lands at Railway Park, Dungannon

05-510757 AD
GD/015

REGISTRY OF DEEDS OF NORTHERN IRELAND

THIS DEED is dated

2018

BETWEEN

- (1) **MID-ULSTER DISTRICT COUNCIL** of 50 Ballyronan Road, Magherafelt, BT45 6EN (“the Grantor”); and
- (2) **[SGN NATURAL GAS LIMITED]** (company registered in Northern Ireland under number 0596945 whose registered office is at St Lawrence House, Station Approach, Horley, Surrey, RH6 9HJ] (“the Grantee”)

THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following words and expressions shall have the following meanings:-

Debt Provider	means a provider of debt finance to the Grantee including without limitation its agent, nominee or trustee.
Easement Strip	means that part of land having a width of [] metres centred upon the Gas Main and along the route shown coloured [green] on the Plan.
Gas	has the same meaning as is ascribed to it in Article 3 of Part II of the Order.
Gas Apparatus	has the same meaning as is ascribed to it in Article 3 of Part II of the Order.
Gas Main	means a pipeline for the transmission storage and distribution of Gas (and/or other materials, Gas Apparatus, other equipment or apparatus ancillary thereto) installed or to be installed along the Easement Strip, and where (in relation to a system of pipes) there are a number of adjacent parallel lengths of pipe serving the same purpose as would be served by a single pipe of a diameter greater than any of those lengths, then that number shall be taken to constitute a single pipe for the purpose of this Deed and to that extent shall form an integral part of the Gas Main.
Grantor's Land	means the Grantor's land more particularly set out

	in Schedule 4 of this Deed
the Order	means the Gas (Northern Ireland) Order 1996 as it may be amended from time to time by any subsequent enactment.
Plan	the plan ref: [] annexed to this Deed.
the Rights	the rights set out in Schedule 1 of this Deed.

- 1.2 The expression "the Grantor" wherever the context so admits shall include its successors in title and all persons deriving title under the Grantor and the owners and occupiers for the time being of the Grantor's Land and where the Grantor's Land has been disposed of in parts be construed as comprising all the owners and occupiers for the time being of the respective parts
- 1.3 The expression "the Grantee" wherever the context so admits shall include its successors and assigns and/or the operator for the time being of the Gas Main.
- 1.3 Words importing one gender shall be construed as importing any other gender and words importing the singular shall be construed as importing the plural and vice versa
- 1.4 Where any party to this Deed comprises more than one person any obligations shall be joint and several obligations on the part of those persons
- 1.5 Any covenant not to do any act or thing includes an obligation not to permit or suffer that act or thing to be done

2. RECITALS

- 2.1 The Grantor is seized and possessed of the Grantor's Land, the tenure of which is Freehold
- 2.2 The Grantee is a licence holder as defined in and for all the purposes set out in the Order
- 2.3 The Grantor has agreed with the Grantee to grant the Grantee for the purposes of its functions as a licence holder under the Order the rights, easements and irrevocable licences which are set out in this Deed, and the Grantee and the Grantor have mutually agreed to give each other the several covenants which are provided for on their respective parts below to the intent that the said covenants and conditions will bind their respective successors in title.
- 2.4 It is acknowledged by the parties that the Grantee may wish, or may be directed to transmit Gas on behalf of other persons.

3. GRANT

In consideration of the sum of [] paid by the Grantee to the Grantor (the receipt of which is hereby acknowledged) and of the covenants on the part of the Grantee as set out at Schedule 2 the Grantor as beneficial owner grants unto the Grantee the Rights TO HOLD in fee simple or for such lesser interest as the Grantor may have in the Grantor's Land in

perpetuity to the intent that the easements hereby granted shall be appurtenant to the Grantee's undertaking and the Easement Strip (and each and every part thereof)).

4. GRANTEE'S COVENANTS

The Grantee covenants with the Grantor to the intent that the benefit of the covenant will be annexed to and run with the Grantor's Land and every part of it to observe and perform the covenants set out in Schedule 2.

5. GRANTOR'S COVENANTS

The Grantor covenants with Grantee to the intent that the burden of the covenant will run with and bind the Grantor's Land and every part of it to observe and perform the covenants set out in Schedule 3.

6. DEBT PROVIDER AGREEMENTS

- 6.1 The Grantor recognises that the Grantee may wish to finance or refinance its undertaking and/or facilities through limited recourse or other financing in the commercial bank debt and or capital markets and that the entering into one or more direct agreements (by which there is given to the Debt Provider a right to step into and/or procure a charge assignment or other transfer of this Deed and/or the Rights may be a pre-condition to the provision of such debt finance by the Debt Provider.
- 6.2 The Grantor will co-operate in good faith with the Grantee and use all reasonable endeavours to satisfy the requirements of any Debt Provider in respect of such financing or refinancing.
- 6.3 The Grantor undertakes to use all reasonable endeavours without delay to agree the format of and enter into a direct agreement with any Debt Provider the Grantee or any other relevant party in respect of this Deed.
- 6.4 The Grantor shall enter into a direct agreement with any party from whom the Grantee is obtaining finance in respect of the subject matter of this Deed and shall execute such documentation as is reasonably necessary to enable such financial institution to obtain satisfactory security.
- 6.5 The Grantor recognises that in entering into any direct agreement it will have to grant certain rights to any Debt Provider including a right of step-in within a specified period and/or a right to procure that the Grantee's rights and obligations under this Deed are assumed (by way of charge or assignment or such other transfer as may be appropriate) by another person in certain specified circumstances.
- 6.6 Nothing in this clause 6 shall oblige the Grantor to enter into any direct agreement with any Debt Provider on terms less favourable to the Grantor than those as set out in this Deed.

7. ARBITRATION

Where any dispute shall arise between the parties, same may be referred on the application of either party to the Lands Tribunal for Northern Ireland whose decision (including as to costs) shall be final and binding on the parties.

8. SERVICE OF NOTICES

All notices which relate to this Deed shall be sufficiently served if addressed to the Grantor and/or the Grantee at their respective addresses given at the commencement of this Deed, or at such other address as may from time to time be noted by one party to the other as being its then current address for the service of notices.

9. PRODUCTION OF DOCUMENTS

The Grantor hereby acknowledges the right of the Grantee to the production of the Deeds and documents which are set out in the definition of Grantor's Land above (possession of which is retained by the Grantor) and to the delivery of copies thereof, and hereby undertakes for the safe custody of those documents.

9. GENERAL PROVISIONS

It is agreed and declared that Grantee shall have the benefit of the right to enforce the Rights and the Grantor's Covenants contained in this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

10. CONSENT TO REGISTRATION AS A BURDEN

The Grantor as registered owner or as the person entitled to be registered as owner HEREBY ASSENTS to the registration of the aforesaid Rights, easements, licenses and covenants as burdens on the Grantor's Land.

11. DEVELOPMENT CLAUSE

The provisions of Schedule 5 shall apply.

Executed as a Deed and delivered on the date set out at the head of this Deed

SCHEDULE 1
Rights Granted to the Grantee

1. The right for the Grantee, its officers and servants, and all persons authorised by the Grantee to pass and re-pass to and from all parts of the Easement Strip to and from the public highway with or without vehicles plant and equipment at all reasonable times (and at any time in cases of emergency) over and along such areas of the Grantor's Land as provide access to the Easement Strip and/or to any gas mains of the Grantee on neighbouring land and to park a motor vehicle thereon for all proper purposes connected with the exercise of the Rights granted in this Schedule 1.
2. The right for the Grantee, its officers and servants, and all persons authorised by the Grantee with or without vehicles plant and equipment to enter onto and pass over the Easement Strip (and to park a motor vehicle thereon) and to enter onto and pass over such areas of the Grantor's Land as abut the Easement Strip for all proper purposes connected with the exercise of the Rights granted in this Schedule 1, to remedy any breach by the Grantor of any obligations on it hereunder (including removal of any tree or shrub which could adversely affect the Gas Main) and to access any gas mains of the Grantee on neighbouring land.
3. The right for the Grantee, its officers and servants, and all persons authorised by the Grantee to lay construct use inspect maintain protect repair relay replace renew supplement connect into operate remove or render unusable the Gas Main installed or to be installed in under and along the Easement Strip and to use the same for the transmission, distribution and/or storage of Gas and all other materials connected with the exercise and performance of the functions of the Grantee as authorised by the Order (and whether such Gas or materials are transmitted by the Grantee on its own behalf, or on behalf of other persons) and to erect marker posts (including aerial marker posts) within the Easement Strip and to break up the surface of and excavate so much of the Grantor's Land as is reasonably necessary from time to time for the purpose of exercising the rights granted in this Schedule 1, the person exercising this right causing as little damage as reasonably possible and making good to the reasonable satisfaction of the Grantor at the sole cost of the person exercising such right any damage caused to the Grantor's Land.
4. The full right of shelter protection and vertical and lateral support for the benefit of the Gas Main from the Grantor's Land.

SCHEDULE 2
Grantee's covenants

1. When exercising the Rights to take reasonable precautions to avoid undue obstruction to or interference with the user of the Grantor's Land.
2. Insofar as it is reasonably practicable and insofar as the works to the Gas Main relate to the laying, maintenance, repair or renewal of the Gas Main below ground, to make good and restore the surface of the Grantor's Land to its state and condition as at the date of the commencement of such works to the reasonable satisfaction of the Grantor.
3. So far as is reasonably practicable and for so long as the Gas Main is used for or in connection with the transmission storage or distribution of gas, to keep the Gas Main in a proper state of repair and condition and upon abandonment of the whole or any part of the Gas Main to render the same permanently safe.
4. To keep the Grantor indemnified against all actions or claims which may be brought or made against the Grantor by reason of:
 - (a) any default or neglect on the part of the Grantee in the exercise of the Rights hereby granted;
 - (b) any failure to keep the Gas Main in a proper state of repair and condition, or by reason of any (if any) abandonment of the Gas Main or any escape of Gas;
 - (c) any accidental bodily injury, or any accidental loss or damage to property and/or livestock where such injury or damage is caused by any defect in the Gas Main or any failure of the Grantee's obligations set out in this Deed

EXCEPT the Grantee shall be relieved of the indemnity where such action or claim arises by virtue of any act, neglect or default on the part of the Grantor or any of his servants or agents

Provided That the Grantor shall as soon as practicable give notice in writing to the Grantee of any such action or claim brought, made or threatened against the Grantor under this paragraph 4 and shall not settle, adjust or compromise such action, claim or demand without the consent of the Grantee and Provided Further that the Grantee may at its own expense settle, adjust, compromise or take over the conduct of any such action or claim in the name

of the Grantor who shall at the expense of the Grantee give such information and assistance as the Grantee may reasonably require

SCHEDULE 3
Grantor's Covenants with the Grantee

1. To permit the Grantee and any other person lawfully claiming through it to peaceably and quietly hold and enjoy the easements, licenses and rights which are granted by this Deed without any interruption or disturbance from or by the Grantor or any person claiming under, through or in trust for the Grantor.
2. Not at anytime to do, permit or suffer to be done anything whereby the cover of soil over or the support of the Gas Main shall be altered or otherwise interfered with.
3. Not to cause, permit or suffer to be done on the Grantor's Land anything that may be or may be likely to cause damage to the Gas Main and to take all reasonable precautions to prevent any such damage.
4. Not without the prior written consent of the Grantee to make, permit or suffer to be made any alteration to or deposit upon nor carry out any development upon any part of the Grantor's Land so as to interfere with or obstruct the access to the Gas Main or render access thereto more difficult or expensive.
5. Not to cause, permit or suffer the erection or installation of any wall, building, wall structure or apparatus or any tree or shrub to grow in through upon or over the Easement Strip provided that nothing in this paragraph shall prevent the Grantor with the prior written consent and under the supervision of the Grantee from installing pipes, wires, drains or cables or constructing roads, footpaths or car parks or carrying on normal agricultural operations including fencing, hedging and ditching provided that the effects of such works do not cause any interference or obstruction to the rights of the Grantee or a material reduction in the depth of soil above the Gas Main.
6. Not to adversely affect the free flow and passage of Gas or means of communication along or through the Gas Main.

SCHEDULE 4

Description of unregistered lands: **[DN- TBC WHEN TITLE IS SUPPLIED]**

Tenure:

Documents under which the Grantor's Lands are held or which are relevant to the Grantor's Lands and/or the title of the Grantor

[Insert List]

SCHEDULE 5

(Compensation in respect of restrictions on certain development)

1. The parties, acting in good faith and using all reasonable endeavours and expeditiously shall seek to agree how best to accommodate any development proposed by the Grantor on land subject to this Deed and adjacent land owned by him. Accordingly, if at any time:-

- 1.1 permission (otherwise than by a development order) is granted under Part 3 of the Planning Act (Northern Ireland) 2011 for development which consists of or includes building operations which the Grantor is prevented from carrying out by the covenants on the part of the Grantor under this deed or the Grantor can demonstrate that but for the Gas Main such permission might reasonably have been expected to be granted, and

- 1.2 the Grantor cannot reasonably implement the said permission or a variation of such permission of equivalent value, which might reasonably be expected to be granted in another part of the Grantor's Land because of the covenants on the part of the Grantor under this deed, and

- 1.3 the principal amount of compensation which would have been payable in respect of a compulsory acquisition by the Grantee of the Rights, following a notice to treat served on the date of the grant of the said permission exceeds the amount paid to the Grantee under this Deed plus the amount paid by the Grantee under any option agreement related to this Deed (calculated without reference to the prospect of any such operations),

then subject to the provisions of this Clause the Grantee will pay to the Grantor a sum equal to the excess referred to in paragraph 1.3 of this Schedule ("the Excess Payment"). The amount of the Excess Payment shall be such amount as may be agreed between the Grantor and the Grantee or in default of agreement as may be determined by arbitration in accordance with paragraph 1.4. The payment of the compensation shall be made in full and final settlement of all then present and/or future claims for compensation under any and all heads of claim.

- 1.4 Where any dispute shall arise between the parties, relating to the operation of the provisions of these paragraph 1 – 4 (including in particular any dispute relating to compensation) same may be referred on the application of either party to the Lands Tribunal for Northern Ireland whose decision (including as to costs) shall be final and binding on the parties.

2. The Grantor shall give written notice of a claim for an Excess Payment to the Grantee providing such information as the Grantee may reasonably require
3. There will be deducted from the Excess Payment an amount equal to any sum previously so paid in respect of the same land.
4. Any compensation paid by the Grantee to the Grantor, pursuant inter alia to the Land Acquisition and Compensation (NI) Order 1973, shall be deducted from any further or additional compensation payable by the Grantee to the Grantor pursuant to this Schedule 5.
5. Rather than paying compensation referred to in paragraphs 1 to 4 of this Schedule, the Grantee may elect by written notice to the Grantor such notice to be served as soon is as reasonably practicable:
 - 5.1 to carry out at its own cost reinforcement works of protection to the Gas Main enabling the development to be carried out; or
 - 5.2 to divert the Gas Main along a route over the Grantor's Land to be agreed with the Grantor or failing agreement as shall be determined by the provisions of Clause 7 of this deed, and
 - 5.3 in determining the route of any such diversion the Grantee shall expeditiously consider how best to accommodate the development proposed by the Grantor and shall endeavour to work with the Grantor to a solution that maximizes the benefits and minimises the costs of diversion, and
 - 5.4 the Grantor will enter into a supplemental deed of grant of rights with the Grantee either where an Excess Payment is to be paid or the Grantee agrees to lay the said main or pipe in its diverted position in through under upon or over a strip of land of the same width as referred to in the definition of Easement Strip at clause 1.1 of this deed and in both cases the said deed of grant shall be in similar terms to this deed save that no payment shall be payable for the said rights other than loss of crop or other damage caused to the occupier nor shall the said deed of grant contain terms equivalent to Clauses 1 to 6 of this Schedule and the Grantee shall pay the Grantor's reasonable surveyors fees and solicitors costs incurred in such grant, and
 - 5.5 As soon as practicable following the completion of the said deed of grant of rights referred to in paragraph 5.4 of this Schedule the Grantee will relay the Gas Main along the diverted route or if the Grantee elects lay a new main or pipe and all

necessary Gas Main ancillary thereto along the said diverted route and at the further election of the Grantee remove or abandon purge and make safe the original Gas Main making good all damage or injury occasioned to the Grantor's Land in the course thereof or pay compensation for all damage or injury not made good.

was hereunto affixed
in the presence of:

Chief Executive

Duly authorised by a resolution of the Board
of Directors of the Company pursuant to the
Company's Articles of Association