

Proposed Revised Access Arrangement ~~for the~~
~~Dampier to Bunbury Natural Gas~~
~~Pipeline~~
21 January 2005

Annexure A : Access Contract Terms and Conditions

DAMPIER TO BUNBURY
NATURAL GAS PIPELINE

~~ANNEXURE B: ACCESS CONTRACT TERMS AND CONDITIONS~~

~~INDEPENDENT GAS PIPELINES ACCESS REGULATOR~~
~~WESTERN AUSTRALIA~~

~~30 December 2003~~

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1. ~~1.~~ ~~INTERPRETATION~~ **DEFINITIONS AND INTERPRETATION**

1.1 ~~1.1~~ Definition of Terms

In these Access Contract Terms and Conditions except where the context requires another meaning:

"Access Arrangement" means ~~Epic Energy~~Operator's access arrangement for the DBNGP as approved, varied or substituted by the Regulator;

"Access Contract" means the contract formed between ~~Epic Energy~~Operator and ~~the~~ Shipper when ~~Epic Energy~~Operator accepts an Access Request (by executing that Access Request), and comprises the Access Arrangement, that Access Request and ~~the~~these Access Contract Terms and Conditions;

"Access Guide" has the meaning given in sub-clause 5.1(a) of the Access Arrangement;

"Access Request" means the request for access to ~~Firm~~Tf Service in the form contained in the Access Guide;

"Access Request Form" means the Access Request form for lodging Access Requests for Reference Service in accordance with the Access Arrangement, or as the context requires, the Access Request Form forming part of the Access Contract;

"Actual Mass Flow Rate" means either a directly measured variable or a derived variable computed by multiplying the instantaneous actual volume flow of gas (measured by the Metering Equipment) by the density of the gas (either measured as the instantaneous measured density of the gas or calculated in accordance with the American ~~Gas~~gas Association's NX 19 or AGA 8 standards or such other gas industry standards as the ~~parties~~Parties may agree);

"Associated Delivery Point" means an associated delivery point specified from time to time in the System Description;

"Bare Transfer" means a transfer or assignment by ~~the~~ Shipper of its entitlement to capacity under the Access Contract in circumstances where:

(a) ~~(a)~~ ~~the~~ Shipper's obligations to ~~Epic Energy~~Operator under the Access Contract remain in full force and effect after the transfer or assignment; and

(b) ~~(b)~~ ~~the~~ terms of the Access Contract are not altered as a result of that transfer or assignment;

"Business Day" means any Day which is not a Saturday or Sunday or public holiday in Perth;

"Capacity" means the capacity in the DBNGP to transport gas from a Receipt Point to a Delivery Point;

"Capacity ~~Charges~~" means ~~the Pipeline Capacity Charge and the Compression Capacity Charge~~Charge means the aggregate of the Shipper's Delivery Point MDQs multiplied by the Capacity Reservation Tariff;

"Capacity End Date" means 08:00 hours on the date specified in the Access Request Form as the Capacity End Date;

~~"Category A gas" means gas which meets the specification for category A gas set out in Schedule 2, as may be varied from time to time by Epic Energy with the approval of the Coordinator of the Office of Energy;~~

~~"Category B gas" means gas which meets the specification for category B gas set out in Schedule 2, as may be varied from time to time by Epic Energy with the approval of the Coordinator of the Office of Energy;~~
"Capacity Reservation Tariff" means the tariff named as such set out in Schedule 1, as adjusted in accordance with clause 16.2;

"Capacity Service" means any capacity service offered by Operator on the DBNGP excluding Service for Spot Capacity;

~~"Charges" means the Pipeline Capacity Charge, Commodity Charge, Compression Capacity Charge, Compressor Fuel Charge, Delivery Point Charge and any other fee or charge payable pursuant to the Access Contract;~~

~~"Clause" means a Clause of these Access Contract Terms and Conditions;~~
~~"Commencement Date" means 08:00 hours on the date for commencement of the Service set out in the Access Request executed by Epic Energy;~~
Form;

"Commodity Charge" means the aggregate of the quantity of gas delivered to the Shipper at a Delivery Point or Delivery Points multiplied by the Commodity Tariff;

~~"Compression Capacity Charge" means the compression capacity charge calculated in accordance with the Tariff Schedule;~~
"Commodity Tariff" means the tariff named as such as set out in Schedule 1, as adjusted in accordance with clause 16.2;

"Contracted Capacity" means that part of the capacity which has been reserved by a shipper or shippers pursuant to an Access Contract or any other contract for capacity with Operator;

~~"Compressor Fuel Charge" means the compressor fuel charge calculated in accordance with the Tariff Schedule;~~

"Contribution Agreement" has a meaning given in clause 6.7(b);

"CPI" means the Consumer Price Index (All Groups, Eight Capital City) as published from time to time by the Australian Bureau of Statistics for any Quarter and if that Index is discontinued or modified, an alternative equivalent index provided by the Australian Bureau of Statistics. If no equivalent alternative index is available, or agreed, then as determined as a financial matter by the Independent Expert;

"DBNGP" means the Dampier to Bunbury Natural ~~Gas~~gas Pipeline as defined in the Access Arrangement;

"Day" means the 24 hour period starting at 08:00 hours on a day and ending at 08:00 hours on the following day~~;~~;

"Delivery Point" means the point specified in the Access ~~Contract~~Request (there may be more than one Delivery Point specified) as a point at which ~~the~~ Shipper may require ~~Epic Energy~~Operator to deliver gas, or any other point at which ~~the~~ Shipper may require ~~Epic Energy~~Operator to deliver gas in accordance with the Access Contract and includes a Notional Delivery Point;

~~"Delivery Point Charge" means the delivery point charge calculated in accordance with the Tariff Schedule;~~
~~"Delivery Point MDQ" means the maximum quantity of gas that the Shipper~~

may require ~~Epic Energy~~ Operator to deliver on a Day at a single Delivery Point as specified in the Access Contract;

"Delivery Point ~~Facilities~~ Facility" means the ~~metering equipment~~ Metering Equipment site associated with a delivery point, and includes any facilities installed at the site, examples being overpressure protection, reverse flow protection, excessive flow protection, odourisation, gas quality monitoring, gas metering and measurement, and telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services;

"Direct ~~Loss~~ Damage" means loss or damage which is not Indirect ~~Loss~~ Damage;

"Dispute" means a dispute, controversy or claim in relation to the Access Contract;

"Event of Default" has the meaning given in ~~Clause 15.1;~~ clause 17.1;

"Excess Imbalance Charge" means the excess imbalance charge rate set out in Schedule 1;

"Existing Gas Supply Contract" means a contract between a shipper and a customer for the sale and/or transport of gas to a customer of a shipper under which the gas is to be supplied to the customer at or immediately downstream of a delivery point, which was in existence as at the date of the relevant change in Law as contemplated in clause 2.8, and excluding any amendments to that contract having effect after such date;

"Existing Producer Contract" means a contract between a shipper and a Producer for the sale of gas to the shipper under which the gas is to be supplied to the shipper at or immediately upstream of a receipt point, which was in existence as at the date of the relevant change in Law as contemplated in clause 2.8, and excluding any amendments to that contract having effect after such date;

"Existing Station" means:

- (a) a Receipt Point Facility associated with a Receipt Point or a Delivery Point Facility associated with a Delivery Point that was installed and commissioned on or before 1 January 1995; or
- (b) a Receipt Point Facility associated with a Receipt Point or a Delivery Point Facility associated with a Delivery Point that is the subject of a Facility Agreement (which has the meaning given in clause 3.8) or similar agreement, as at the Commencement Date;

"Financial Matter" means a matter involving financial calculations which is capable of determination by audit or reference to financial or accounting records, knowledge or practice;

~~"Firm Service" has the meaning given in the Access Arrangement;~~ "Force Majeure" means any event or circumstance not within ~~the a Party's~~ a Party's control ~~of a Party~~ and which the Party, by the exercise of ~~due diligence, that Party~~ the standards of a reasonable and prudent person, is not able to prevent or overcome. ~~The following will not constitute (directly or indirectly) events or circumstances of Force Majeure, including:~~

- ~~(a) — changes in market structure, operations or conditions for:~~
 - ~~(i) — supply, purchase or sale of gas; or~~
 - ~~(ii) — any good or service manufactured or provided by the Shipper;~~

- ~~(b) — lack of, or reduction in, gas reserves, water supply or raw materials;~~
- ~~(c) — commercial failure, expiration or termination for whatever reason of a contract;~~
- ~~(d) — lack of funds/inability to pay money; or~~
- ~~(e) — strikes or industrial disputes (except to the extent that such strikes or industrial disputes are not within the control of a Party and which by the exercise of due diligence, that Party is not able to prevent or overcome);~~
- (a) acts of God, including epidemics, land slides, lightning, earthquakes, fires, storms, floods, wash outs and cyclones;
- (b) strikes, lock outs, stoppages, restraints of labour and other industrial disturbances;
- (c) acts of the enemy including wars, blockades and insurrection;
- (d) acts of terror, terrorism or terrorists;
- (e) riots and civil disturbances;
- (f) valid laws of the Commonwealth or any Commonwealth statutory authority;
- (g) valid laws of the State or a local government or any State statutory authority;
- (h) shortage of necessary equipment, materials or labour;
- (i) refusal or delay in obtaining any necessary consent or approval from any Commonwealth, State or local government or a Commonwealth or State statutory authority;
- (j) unavoidable accidents involving, or break down of or loss or damage to, any plant, equipment, materials or facilities necessary for the Party's operations;
- (k) any DBNGP shutdown or interruption which is validly required or directed by any Commonwealth, State or local government agency or any Commonwealth or State statutory authority having authority to so require or direct;
- (l) any DBNGP shutdown or interruption required to conform with design or regulatory limits on DBNGP facilities, whether arising due to environmental conditions or circumstances or otherwise;
- (m) DBNGP ruptures;
- (n) collisions or accidents; and
- (o) any other matter reasonably beyond the control of the Party;

"Gate Station" means the Metering Equipment site associated with a Physical Gate Point and includes all facilities installed at the site to perform over pressure protection, reverse flow protection, excessive flow protection, gas metering and measurement and telemetry and all standby, emergency and safety facilities and all ancillary equipment and services;

"GJ" means gigajoule;

"Governmental Agency" means any government department or any statutory, public, municipal, local or other authority (other than ~~the~~ Shipper) charged with the

responsibility for administering any relevant legislation, regulation, ordinance or by law;

"GST" ~~means goods and services tax;~~ "Imbalance" means the situation where the total quantity of gas supplied by ~~the Shipper to Epic Energy~~ Operator at Receipt Points on a Day (determined in accordance with ~~Clause 3.6~~ clause 3.4) is greater than (which is a "Positive Imbalance") or less than (which is a "Negative Imbalance") the total quantity of gas delivered to ~~the Shipper by Epic Energy~~ Operator at Delivery Points on that Day (determined in accordance with ~~Clause 3.7~~ clause 3.5);

"Imbalance Limit" means 8% of ~~the Shippers~~ Shipper's MDQ;

"Independent Expert" means an independent expert appointed under ~~Clause 16.18.2;~~ clause 18.2;

"Indirect ~~Loss~~ Damage" means ~~—~~ :

(a) ~~(a) — any consequential~~ indirect loss or damage however ~~caused~~ cause, including ~~without limitation any — any:~~

(i) consequential loss or damage;

(ii) ~~(i) —~~ loss of (or loss of anticipated) use, production, revenue, income, profits, business and savings; or

(iii) ~~(ii) —~~ loss due to business interruption; ~~or,~~

(iv) ~~(iii) — loss or liability under a contract with a third party;~~

whether or not the ~~consequential~~ indirect loss or damage was foreseeable; and

(b) ~~(b) —~~ any liability of the person to any other person, or any claim, demand, action or proceeding brought against the person by any other person, and any costs or expenses in connection with the claim, demand, action or proceeding;

"Insolvency Event" means in relation to any person:

(a) ~~(a) —~~ a receiver, receiver and manager, administrator, trustee or similar official is appointed over the whole or a substantial part of the assets or undertaking of the person and is not removed within 30 Days of appointment;

(b) ~~(b) —~~ the person suspends payment of its debts generally;

(c) ~~(c) —~~ the person is insolvent within the meaning of the Corporations Law;

(d) ~~(d) —~~ the person enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;

(e) ~~(e) —~~ an application (other than a vexatious application) or order is made for the winding up or dissolution of, or the appointment of a provisional liquidator to, the person or a resolution is passed or steps are taken to pass a resolution for the winding up or dissolution of the person otherwise than for the purpose of an amalgamation or reconstruction which has the prior written consent of the other Party and, in the case of an application, the application is not withdrawn or dismissed within 30 Days; or

- (f) ~~(+)~~ an administrator is appointed under Division 2 of Part 5.3A of the Corporations Law and, except in the case of an appointment by the person or its directors, is not withdrawn or removed within 14 Days;

"Interest Rate" means the corporate overdraft reference rate for overdrafts of greater than \$100,000 (monthly charging cycle) applied from time to time by the National Australia Bank;

"Law" means a statute, ordinance, code, clause, by-law, local law, official directive, order, instrument, undertaking, obligation or applicable judicial, administrative or regulatory decree, judgement or order and includes the terms and conditions of any licence, permit, consent, certificate, authority or approval issued thereunder or any assurance or bond or similar requirements including all applicable standards and obligations under the common law;

"Maintenance Charge" has the meaning given in clause 3.6;

"Major Works" means any enhancement, expansion, connection, pigging or substantial work that Operator needs to undertake on the DBNGP and that:

- (a) cannot reasonably be scheduled at a time when it will not affect services; and
- (b) by its nature or magnitude, would require the Operator (acting reasonably) to wholly or partially reduce services;

"MDQ" means the aggregate of ~~the~~ Shipper's Delivery Point MDQ's;

"Metering Equipment" means all equipment used to measure the physical quantity and quality of gas entering the DBNGP at a Receipt Point or exiting the DBNGP at Delivery Point, as the case may be, and all ancillary equipment required to compute derived variables and to produce printed reports at the Receipt Point or Delivery Point and to test and maintain the reliability and calibration accuracy of that equipment (including any metering facilities or equipment that are or could be used for proving, testing and calibration of the equipment);

"Month" means a calendar month starting at 08:00 hours on the first day of the month and ending at 08:00 hours on the first day of the following month;

"MHQ" or maximum hourly quantity, has the meaning given in ~~Clause 7.1;~~ clause 7.1;

"Multi-shipper Agreement" means an agreement under clause 6.3(d);

"Multi-shipper Delivery Point" means a delivery point at which more than one shipper receives gas from Operator;

"Multi-shipper Receipt Point" means a receipt point at which more than one shipper delivers gas to Operator;

"Negative Imbalance" has the meaning given in the definition of Imbalance;

"Nomination Surcharge" means the charge set out in Schedule 1;

"Notional Delivery Point" means a notional delivery point specified from time to time in the System Description;

"Notional Gate Point" has the meaning given in clause 3.9(a);

"Operating Specification" means the gas quality specification specified in Item 1 of Schedule 2, and includes each component of the specification;

"Operational Grounds" includes but is not limited to physical pipeline constraints, lack of Capacity, scheduled and unscheduled maintenance, compressor failure and emergency;

"Operator Owned Point" means a receipt point or a delivery point described in clauses 3.7(a)(ii)(A) or (B);

"Other Shipper" means a person other than ~~the~~ Shipper who has a contract with ~~Epic Energy~~ Operator for the transport of gas on the DBNGP;

"Out-~~of~~ Specification gas" means gas which does not comply with one or more of the gas specifications ~~for Category A gas at a Receipt Point or Category B gas at a Delivery Point specified in Item 1 or Item 2 of Schedule 2;~~

"Out ~~of~~ Specification ~~Gas~~ gas Charge" means the charge set out in Schedule 1;

"Overrun" has the meaning given in ~~Clause~~ clause 5.1;

"Overrun Zone" means any of Overrun Zone 1, Overrun Zone 2 or Overrun Zone 3;

"Overrun Zone 1" means the part of the DBNGP upstream of the outlet flange to Compressor Station 10 other than Overrun Zone 2;

"Overrun Zone 2" means the part of the DBNGP known as the Kwinana West Lateral and the Rockingham Lateral, as described in the Access Arrangement Information;

"Overrun Zone 3" means the part of the DBNGP not within Overrun Zone 1 or Overrun Zone 2;

"Party" means ~~Epic Energy~~ Operator or ~~the~~ Shipper as the context requires;

"Peaking Surcharge" means the charge set out in Schedule 1;

"Permissible Interruption" means an interruption of the kind described in ~~Clause~~ clause 14.1;

"Permissible Limit" means 1% of ~~the~~ Shipper's MDQ multiplied by the number of Days in the Year;

"Physical Gate Point" means a flange, joint or other point marked in the description of the DBNGP in the Access Arrangement Information as a point that marks the boundary between the DBNGP and a distribution network. A Physical Gate Point is not a Delivery Point;

"Pipeline ~~Licence~~ Licences" means the pipeline licences for the DBNGP ~~being PL 40 and the pipeline licence to be issued in respect of CS10 as may be amended, varied, substituted or added to from time to time~~ as identified in section 3 of the Access Arrangement;

"Planned Maintenance" means maintenance on the DBNGP which is scheduled in advance of the maintenance activities being undertaken;

"Positive Imbalance" has the meaning given in the definition of Imbalance;

"Previous Verification" means the verification at which the Metering Equipment was last found to be measuring the quantity of gas in accordance with these Access Contract Terms and Conditions;

"Producers" means the producers or suppliers of gas with whom ~~the~~ Shipper and (as the case may be) an Other Shipper has entered into a gas supply contract or contracts under which gas is to be delivered at the Receipt Point;

~~"Rebate Sharing Contract" means an access contract which states that Rebate Sharing Revenue may be payable to the Shipper;~~ "Receipt Point" means a flange, joint, or other point ~~in Zone 1,~~ specified in the Access Contract as a point at which ~~Epic Energy~~ Operator receives gas from ~~the~~ Shipper, or any other point at which ~~Epic Energy~~ Operator receives gas from ~~the~~ Shipper in accordance with the Access Contract;

"Receipt Point Facility" means ~~a flange or joint connecting the DBNGP to the Shipper's facilities but does not include metering equipment, which the Shipper is responsible to supply and install;~~ the Metering Equipment site associated with a receipt point, and includes any facilities installed at the site, examples being overpressure protection, reverse flow protection, excessive flow protection, odourisation, gas quality monitoring, gas metering and measurement, and telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services;

"Receipt Point MDQ" means the maximum quantity of gas that ~~the~~ Shipper may supply for delivery to ~~Epic Energy~~ Operator at a Receipt Point on a Day as specified in the Access Contract;

"Related Body Corporate" means a related body corporate as defined in the Corporations Law;

~~"Schedule" means a schedule to these Access Contract Terms and Conditions;~~

"Retail Market Rules" means the retail market rules that govern the retail gas market in Western Australia;

"Secondary Market" means the system of trading capacity as described in clause 11.3 of the Access Arrangement and conducted by ~~Epic Energy~~ Operator in accordance with the Secondary Market Rules;

"Secondary Market Rules" means the rules published by ~~Epic Energy~~ Operator from time to time under which the Secondary Market operates;

"Secondary Market Service" means the service acquired by a Shipper from the Secondary Market which is subject to the Secondary Market Terms and Conditions;

"Secondary Market Terms and Conditions" means the terms and conditions published by ~~Epic Energy~~ Operator from time to time to apply to Secondary Market Service in accordance with the Secondary Market Rules and sub-clause 11.3(c) of the Access Arrangement;

"Service" in these Access Contract Terms and Conditions means ~~Firm Service;~~ Tf Service;

"Spot Capacity" has the meaning given in the Standard Shipper Contract published by Operator on its nominated website from time to time;

"System Description" means the description of the DBNGP contained in the Access Arrangement Information;

"Tf Service" has the meaning given in the Access Arrangement;

"TJ" means Terajoule which is equal to 1000 GJ;

~~"Tariff Schedule" means the tariff schedule annexed to the Access Arrangement;~~

"Technical Matter" means a matter involving issues relating to the receipt, transportation and delivery of gas under the Access Contract which is capable of determination by reference to engineering or scientific knowledge and practice; ~~"Termination Date" means 08:00 hours on the date for termination of the Firm Service set out in the Access Contract;~~

"Unavailability Charge" means the charge set out in Schedule 1;

"Unavailability Notice" means a notice issued by ~~Epic Energy~~Operator to the Shipper (which may also have been issued to Other Shippers), stating that ~~Epic Energy can only deliver a quantity of gas to the Shipper at a Delivery Point set out in the notice~~Overrun gas is unavailable to Shipper or is only available to a limited extent for one or more Days;

"Variance Notice" has the meaning given in ~~Clause~~clause 4.4(b);

"Verification" means the process of testing Metering Equipment and components of that Metering Equipment to establish that it is measuring and registering in accordance with these Access Contract Terms and Conditions;

"Week" means a period of seven (7) consecutive Days commencing at 08:00 hours Monday; and

"Year" means a period of 365 Days (except for a leap year in which case the period is 366 Days) commencing at 08:00 hours on the 1st of January and ending at 08:00 hours on the following 1st of January; ~~and.~~

~~"Zone" means any one or more of zones 1a through 10 as more fully described in the Access Arrangement Information.~~

~~1.2 — Construction~~

1.2 Interpretation

In the ~~construction~~interpretation of these Access Contract Terms and Conditions, unless the context requires otherwise:

- (a) ~~(a)~~ — a reference to a ~~Clause~~clause number or Schedule is a reference to a ~~Clause~~clause or Schedule of these Access Contract Terms and Conditions;
- (b) ~~(b)~~ — words indicating the singular ~~number~~ include the plural ~~number~~, and vice versa;
- (c) ~~(c)~~ — words indicating one gender include any other gender;
- (d) ~~(d)~~ — headings are for convenience only and do not affect interpretation;
- (e) ~~(e)~~ — words indicating persons include natural persons, bodies corporate and unincorporated associations;
- (f) ~~(f)~~ — a reference to any statutory law extends to and includes any modification of, or substitution for, that law;
- (g) ~~(g)~~ — a reference to any contract or agreement is a reference to that contract or agreement as amended, varied, novated or substituted from time to time;
- (h) ~~(h)~~ — ~~references~~a reference to dollars or \$ ~~are references~~is a reference to Australian dollars;
- (i) ~~(i)~~ — where ~~the~~ Shipper comprises two or more persons, an obligation, representation or warranty of ~~the~~ Shipper binds, or is given by, those persons jointly and severally;
- (j) ~~(j)~~ — a reference to a time and date in connection with the performance of an obligation by a Party is a reference to the time and date in Perth, Western Australia, even if the obligation is to be performed elsewhere; and

(k) ~~(k) — Unless~~ unless specified otherwise, a reference to a quantity of gas is a reference to that quantity of gas measured in GJ.

~~2.~~

1A. TERM

Subject to the terms and conditions of the Access Contract, the Access Contract commences on the date Operator executes the Access Request Form and ends on the Capacity End Date.

2. GAS SPECIFICATIONS

2.1 Gas Must Comply With Operating Specifications

Gas supplied by Shipper at a Receipt Point or delivered to Shipper by Operator at a Delivery Point must comply with the relevant column in the Operating Specifications.

2.2 ~~2.1~~ Gas ~~to be~~ To Be Free ~~from~~ From Certain Substances

Gas supplied by ~~the~~ Shipper at a Receipt Point or delivered to ~~the~~ Shipper by ~~Epic Energy~~ Operator at a Delivery Point ~~shall~~ must be free, by normal commercial standards, from dust and other solid or liquid matters, waxes, gums and gum forming constituents, aromatic hydrocarbons, hydrogen, mercury and any other substance or thing which might cause injury to or interfere with the proper operation of any equipment through which it flows.

~~2.2~~ Gas Shall Comply with Operating Specifications

~~(a) Gas supplied by the Shipper for delivery to Epic Energy at a Receipt Point shall comply with the operating specification for Category A gas, and gas delivered to the Shipper by Epic Energy at a Delivery Point shall comply with the operating specification for Category B gas.~~

~~(b) Subject to Clause 2.2(c), the~~

2.3 Gas To Be Free From Objectionable Odours

Gas supplied by Shipper to Operator at a Receipt Point must be free, by normal commercial standards, from objectionable odours.

2.4 Gas Temperature and Pressure

(a) The minimum and maximum temperatures and ~~the~~ the minimum and maximum pressures ~~at which the Shipper may supply gas to Epic Energy at a Receipt Point, and Epic Energy may deliver gas to the Shipper at the Delivery Point are those set out in Schedule 2 to these Access Contract Terms and Conditions.~~ at which Shipper may supply gas to Operator at a Receipt Point, and Operator may deliver gas to Shipper at the Delivery Point, are those set out in Item 2 of Schedule 2.

(b) ~~(e)~~ The Parties may at any time agree in writing to vary any one or more of the pressures and temperatures set out in Item 2 of Schedule ~~2 to these Access Contract Terms and Conditions.~~ 2.

~~2.3~~ Epic Energy

(c) If Shipper supplies gas to Operator at a Receipt Point or Shipper receives gas from Operator at a delivery point at which the minimum and the maximum temperature and the minimum and maximum pressure are not as set out in Item 2 of Schedule 2, Shipper is entitled to supply gas to the Receipt Point or receive gas at the Delivery Point (as the case may be) under the Access Contract at the temperature and pressure at which Operator at the relevant Receipt Point or Delivery Point is otherwise receiving gas into the DBNGP or delivering gas out of the DBNGP at the time the gas is delivered or received by Shipper at that delivery point, or if Operator is otherwise not receiving gas into the DBNGP or delivering gas out of the DBNGP at that time, then at the temperature and pressure at which Operator was last entitled or obliged to

receive gas into the DBNGP or deliver gas out of the DBNGP at that receipt point or delivery point under the terms of a contract with the relevant shipper.

2.5 Operator May ~~Accept~~ Refuse To Receive Out-of-Specification Gas

~~Epic Energy may agree with the Shipper to accept Out-of-Specification gas from the Shipper prior to that gas entering the DBNGP, on terms and conditions acceptable to Epic Energy.~~

Subject to any agreement under clause 2.6, Operator may at any time without penalty refuse to receive from Shipper at a Receipt Point any Out-Of-Specification gas.

2.6 Operator May Receive Out-Of-Specification Gas

Operator may agree to receive Out-Of-Specification gas from Shipper at a Receipt Point on whatever terms and conditions (including as to pricing) that Shipper and Operator may agree.

2.7 ~~2.4~~ Shipper's Liability ~~for~~ For Out-of-Of-Specification Gas

~~If any Out-of-Of-Specification gas supplied by the or on behalf of Shipper enters the DBNGP without Epic Energy's prior written consent (which consent is in Epic Energy's sole discretion), then despite any other provision of these Access Contract Terms and Conditions —~~
Operator's agreement under clause 2.6:

- (a) ~~(a) — the Shipper shall~~ is to be liable to ~~Epic Energy~~ Operator for any ~~and all~~ loss and ~~or~~ damage arising ~~from that delivery, including Indirect Damage; and~~ in respect of the Out-Of-Specification gas.
- (b) ~~(b) — Epic Energy~~ Without limitation on any of its other rights at law, Operator is, to the extent necessary to allow it to deal with that entry of Out-Of-Specification gas:
- (i) ~~(i) — entitled to vent the Out-of-Of-Specification Gas~~ gas, and ~~the~~ Shipper shall be deemed not to have supplied a quantity of gas at the Receipt Point equivalent to the quantity of all gas necessarily vented by ~~Epic Energy~~ Operator; and
- (ii) ~~(ii) — is relieved of any obligation to deliver gas to the Shipper by an amount no greater than the quantity of gas necessarily vented by Epic Energy pursuant to Clause 2.5(b)(i); and~~ vented by Operator under clause 2.7(b)(i) on the basis that Shipper is deemed not to have delivered that quantity of gas at the Receipt Point.
- ~~(c) — subject to Clause 2.4(d), the Shipper shall pay Epic Energy a surcharge calculated by multiplying each GJ of that Out of Specification gas by the Out of Specification Gas Charge (which is payable in addition to the Charges).~~
- ~~(d) — Epic Energy shall only require the Shipper to pay the surcharge pursuant to Clause 2.4(c) where:~~
- ~~(i) — the supply of Out of Specification Gas causes actual pecuniary loss or damage; or~~
- ~~(ii) — in the reasonable opinion of the pipeline operator the supply of Out of Specification Gas exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.~~

~~3~~ ~~RECEIPT POINTS AND DELIVERY~~

- (c) The exclusion of Indirect Damage in clause 13.2 does not apply in relation to Shipper's liability under clause 2.7(a).

2.8 Change of Law

If:

- (a) at any time during the term of the Access Contract there is a change in Law which requires Operator to receive gas into the DBNGP with an operating specification for one or more components outside the Operating Specifications applying to the component or those components of the Operating Specifications (as may be amended from time to time pursuant to this clause 2.8) ("Permissible Specifications"); and
- (b) there is no shipper with an Inconsistent Existing Contractual Specification; and
- (c) Operator actually receives into the DBNGP gas outside the Operating Specifications but within the Permissible Specifications to such an extent that it is unable to comply with the Operating Specifications for a Delivery Point as set out in Schedule 2,

then Operator may notify Shipper that:

- (d) the Receipt Point Operating Specifications (and Item 1 of Schedule 2) are amended so as to substitute each operating specification of the Permissible Specification which is broader than that component of the Receipt Point Operating Specification, for the operating specification of that component of the Receipt Point Operating Specification; and
- (e) the Delivery Point Operating Specifications (and Item 1 of Schedule 2) are amended so as to broaden the specification for each component which has been amended in respect of the Receipt Point Operating Specification, by the same amount as the Receipt Point Operating Specification has been broadened by the operation of this clause.

In this clause, "Inconsistent Existing Contractual Specification" means:

- (f) in relation to a Receipt Point, if the amendments to the Receipt Point Operating Specification were made to accommodate the Permissible Specifications, the shipper could be in material breach of an Existing Producer Contract; or
- (g) in relation to a Delivery Point, if the amendments to the Delivery Point Operating Specification were made to accommodate the Permissible Specifications, the shipper could be in material breach of an Existing Gas Supply Contract.

2.9 Amendment Notice

The notice under clause 2.8 must:

- (a) contain details of the change in Law;

- (b) specify the amended operating specification for each component of the Receipt Point Operating Specification;
- (c) specify the amended operating specification for each component of the Delivery Point Operating Specification; and
- (d) specify the amendments to Item 1 of Schedule 2 which are made to give effect to the amended operating specifications for each component of the Receipt Point Operating Specification and the Delivery Point Operating Specification.

2.10 Shipper Changes of Gas Specification

- (a) Shipper may from time to time request Operator to vary the gas specification for a Receipt Point (with a corresponding change in respect of Delivery Points), and if each component of the proposed new specification is no less stringent than the corresponding component in the 'broadest specification' as specified in Item 3 of Schedule 2, then Operator must agree to the variation in the specification unless it can demonstrate to the standard of a reasonable and prudent person that there is a risk that its receiving gas in accordance with the varied specification would render it incapable of complying with a Delivery Point specification under a contract with any other shipper.
- (b) Any dispute under clauses 2.10(a) or 2.10(d) is a Technical Matter which can be referred to the Independent Expert.
- (c) To avoid doubt, nothing in this clause 2 is to be read as requiring Operator to install gas processing equipment to accommodate changes in Receipt Point gas specification agreed under this clause 2.10 or otherwise imposed by Law.
- (d) If receiving gas under the gas specification as varied under clause 2.10(a) will (compared with the position under the Operating Specification):
 - (i) materially increase Operator's costs;
 - (ii) materially adversely affect the capacity of the DBNGP (expressed in units of energy) to transport gas; or
 - (iii) in the opinion of Operator, acting as a reasonable and prudent person, adversely affect the rights of any shipper (other than Shipper),then Operator may refuse to receive gas under the varied gas specification until the Parties have agreed to reasonable compensation to be paid by Shipper to Operator.

3. RECEIPT POINTS AND DELIVERY POINTS

3.1 Receipt Points and Delivery Points

- (a) The Receipt Points for the Access Contract are set out in Item 1 of clause 5 of the Access Request Form; and
- (b) The Delivery Points for the Access Contract are set out in Item 2 of clause 5 of the Access Request Form.

3.2 Multi-shipper Agreement

Shipper must become a party to any Multi-shipper Agreement in respect of a receipt point or delivery point that the Operator advises exists at the Commencement Date.

3.3 Multi-shipper Receipt Point and Multi-shipper Delivery Point

- (a) The gas streams delivered to a Multi-shipper Receipt Point by or on behalf of Shipper are to be commingled at a point or points upstream of the receipt point with the gas streams delivered to that Multi-shipper Receipt Point by other shippers.
- (b) For any purpose under the Access Contract, Shipper's proportional share of the commingled inlet stream at a Multi-shipper Receipt Point is to be determined immediately upstream of the receipt point after all gas streams have been commingled, and Shipper's proportional share of the commingled outlet stream at a Multi-shipper Delivery Point is to be determined immediately downstream of the delivery point.
- (c) Subject to any contrary provisions in a Multi-shipper Agreement, Shipper's nominations, obligations and liabilities under the Access Contract in respect of any quantity, quality, temperature or pressure of gas at a Multi-shipper Receipt Point are to be determined solely in respect of Shipper's proportional share of the commingled inlet stream determined under clause 3.4, and not by reference to any quantity, quality, temperature or pressure of any gas delivered by or on behalf of Shipper into the commingled inlet stream.
- (d) All shippers using a receipt point or a delivery point (as the case may be) may enter into (with or without other parties which are not shippers) a written agreement ("Multi-shipper Agreement") with Operator dealing with, amongst other things, the way in which gas delivered by them to a receipt point or received by them from a delivery point is to be allocated between them.
- (e) Operator must promptly enter into a Multi-shipper Agreement in respect of a receipt point or delivery point if:
 - (i)
 - (A) the agreement contains a formula or mechanism for allocating gas deliveries to the receipt point or delivery point (as the case may be) for each gas hour between the shippers in a manner which enables Operator to determine the allocation by applying the formula or mechanism once it knows the total quantity of

- gas delivered at that receipt point or delivery point (as the case may be) during the relevant gas hour; or
- (B) the agreement relates to a receipt point, it provides that gas deliveries at the receipt point are allocated by a notice to Operator from the Producer that delivers gas into the receipt point on behalf of all shippers using that receipt point; or
- (C) the agreement relates to a delivery point, it provides that gas deliveries at that delivery point are allocated by a notice provided to Operator from one of the shippers at that delivery point or from a third party nominated by one of the shippers at that delivery point;
- (ii) the agreement allocates deliveries to the receipt point or delivery point (as the case may be) between the shippers on a daily basis;
- (iii) the agreement is between all shippers who use the receipt point or delivery point (as the case may be) and Operator;
- (iv) the agreement provides that as between each shipper and Operator for the purposes of each shipper's gas transportation contract, Operator may rely upon the allocation of gas delivered by the shippers at a receipt point, or received by the shippers at a delivery point, determined in accordance with the agreement, as being the quantity of gas delivered by each of those shippers at the receipt point and the quantity of gas received by each of those shippers at the delivery point;
- (v) the agreement provides that Operator may, in order to give effect to a curtailment of the Capacity of one or more of the shippers using the delivery point, physically reduce the Capacity of the delivery point by an amount up to the Contracted Capacity (or the equivalent under that shipper's contract) at that delivery point for the shipper to be curtailed;
- (vi) Operator is reasonably satisfied with the metering arrangements for any meters being used for the purpose of allocating gas deliveries at the receipt point or delivery point (as the case may be);
- (vii) the agreement provides that Operator is not liable to shippers where it acts in accordance with the provisions of the agreement;
- (viii) the agreement does not impose any other obligations or liabilities upon Operator or confer any other rights or benefits upon a shipper (other than in relation to the provision of metering information of the type contemplated in clause 15.5) and does not directly or indirectly vary or amend the Access Contract or any other contract between a shipper and Operator other than as specifically contemplated above.
- (f) A Dispute in relation to clause 3.3(d) is to be referred to an Independent Expert under clause 18.2 as a Technical Matter.

3.4 Allocation of Gas at Receipt Points

- (a) On any Day when Shipper is the only shipper delivering gas to Operator at a receipt point, Shipper shall be deemed to have delivered all gas received by Operator at the receipt point for that Day and clause 3.4(b) shall not apply.
- (b) If Shipper and any other shipper delivers gas to Operator at a receipt point on a Day, then Shipper's proportional share of gas at the receipt point will be determined by the Multi-shipper Agreement for the receipt point.

3.5 Allocation of Gas at Delivery Points

- (a) On any Day when Shipper is the only person taking delivery of gas from Operator at a delivery point, Shipper shall be deemed to have taken delivery of all gas delivered by Operator at the delivery point for that Day and clause 3.5(b) shall not apply.
- (b) If Shipper and any other shipper take delivery of gas from Operator at the delivery point on a Day, then if there is a Multi-shipper Agreement in relation to the delivery point Shipper's proportional share of gas at the delivery point must be determined under the Multi-shipper Agreement.

3.6 ~~3.1 Supply and~~ Installation, Operation and Maintenance of Receipt Point Facilities and Delivery Point Facilities

~~Epic Energy will supply and install all Receipt Point Facilities and Delivery Point Facilities for the DBNGP in accordance with the principles and standards of a reasonable and prudent pipeline operator.~~

~~3.2 Delivery Point Charge~~

- ~~(a) The Shipper shall pay the Delivery Point Charge at each Delivery Point at which Epic Energy delivers gas to the Shipper.~~
- ~~(b) Where Epic Energy delivers gas to the Shipper and Other Shippers at the same Delivery Point on a Day, then the Shipper's share of the Delivery Point Charge shall be the proportion that the gas delivered to the Shipper at the Delivery Point on that Day bears to the total quantity of gas delivered at that Delivery Point on that Day.~~
- ~~(c) Where no gas is delivered at a Delivery Point on a Day and the Shipper is the only person with Delivery Point MDQ at that Delivery Point, then the Shipper shall pay Epic Energy the entire Delivery Point Charge in respect of that Delivery Point for that Day.~~
- ~~(d) Where no gas is delivered at a Delivery Point on a Day and the Shipper and Other Shippers have Delivery Point MDQ at the Delivery Point, then the Shipper shall pay the Delivery Point Charge in the proportion that the Shipper's Delivery Point MDQ bears to the total of the Shipper's and the Other Shipper's Delivery Point MDQ's at that Delivery Point.~~

(a)

- (i) Shipper shall install, operate and maintain or procure the design, installation, operation and maintenance of, Receipt Point Facilities at its own expense and when (if ever) Shipper and other shippers deliver gas to Operator at a receipt point on the DBNGP, Shipper and those other shippers must, at their joint expense, collectively install, operate and maintain the associated Receipt Point Facility.

- (ii) Other than in respect of an Existing Station, and unless agreed otherwise, Operator shall install, operate and maintain Delivery Point Facilities that are not Gate Stations, at Shipper's request, and at Shipper's expense to be determined in accordance with clause 3.6(i).
- (iii) Other than in respect of an Existing Station, Shipper must pay a proportion of the Maintenance Charge relating to a Delivery Point Facility associated with an Operator Owned Point (but not otherwise) that:
 - (A) in the case of a Delivery Point Facility related to a delivery point, is equal to the proportion that Shipper's Contracted Capacity at that delivery point bears to the aggregate Contracted Capacity (across all Capacity Services) for all shippers at that delivery point, less any amount recovered under clause 3.6(a)(iii)(B); and
 - (B) in the case of a Delivery Point Facility related to a delivery point at which Shipper does not have Contracted Capacity, is equal to the proportion that the sum of Shipper's deliveries of gas at the delivery point, during the previous calendar month to which that Delivery Point Facility relates, bears to the sum of all shippers' delivery of gas (across all Capacity Services) at such delivery point, during the previous calendar month.
- (iv) For the purposes of this clause 3.6, an obligation to install, operate and maintain must include (but not be limited to) an obligation to ensure that a Receipt Point Facility or Delivery Point Facility (as the case may be) meets the requirements set out in clauses 3.6(b) to (f), the technical requirements of Operator as advised from time to time and the requirements of any Law.
- (v) Shipper must ensure that Operator is given access to a Delivery Point Facility which is not a Gate Station, to which Operator has no rights of access, for the purpose of maintaining and operating that Delivery Point Facility.
- (vi) Other than in respect of an Existing Station, all Gate Stations associated with a distribution network are to be installed, operated and maintained by Operator at the collective expense of all shippers who receive gas from Operator at the Notional Gate Point for the distribution network, and Shipper must pay a proportion of the Maintenance Charge that is equal to the proportion that the sum of Shipper's Contracted Capacity at the Notional Gate Point, for the time being bears to the sum of all Shipper's and other shippers' Contracted Capacity (across all Capacity Services) at such Notional Gate Point, for the time being.
- (vii) Without limiting the generality of clause 3.6(a)(vi), whenever a new Gate Station is installed, or a Gate Station is enhanced, the amounts referred to in clause 3.6(a)(vi) are to be included in the apportionments between all shippers who receive gas from Operator at the Notional Gate Point, including shippers with Access Contracts entered into before the date of installation or enhancement.
- (viii) For the purposes of assessing, reporting or otherwise dealing with the commercial viability of any capacity, service or thing related to a

Physical Gate Point, a Notional Gate Point or a Gate Station, Operator may have regard to the likely impact of clause 3.6(a)(vi).

- (b) (i) The site for a Receipt Point Facility or Delivery Point Facility must:
 - (A) be within a security fenced enclosure;
 - (B) provide suitable vehicular access and an alternative means of personnel access;
 - (C) provide adequate space for the installation of all equipment; and
 - (D) have a concrete, sealed, or gravel surface to enable access in all weather conditions.
- (i) Telemetry, power supply and other sensitive equipment at a Receipt Point Facility or Delivery Point Facility must be located in a weatherproof, secure and ventilated enclosure, with provision to allow for maintenance of equipment in all weather conditions.
- (c)
 - (i) Every Receipt Point Facility or Delivery Point Facility must provide a means, to a standard acceptable to a reasonable and prudent person, of automatically:
 - (A) preventing the reverse flow of gas through the Receipt Point Facility or Delivery Point Facility; and
 - (B) stopping or restricting gas flow in the event of any excessive pressure upstream of, or any failure, leak or rupture within or downstream of, the Receipt Point Facility or Delivery Point Facility.
 - (ii) Operator, whenever it is permitted by any written Law or a contract to stop or reduce gas flow (and whether or not there has been a failure, leak or rupture), may utilize for that purpose any mechanism installed under clause 3.6(c)(i).
 - (iii) Operator may at any time, for, or in anticipation of, the purposes of clause 3.6(c)(i), make any necessary connections, modifications or additions to any mechanism installed under clause 3.6(c)(i), to enable it to be utilized for the purposes of clause 3.6(c)(ii).
 - (iv) Operator cannot charge Shipper for any mechanism installed under clause 3.6(c)(i) or clause 3.6(c)(iii).
- (d)
 - (i) Every Receipt Point Facility must include filters or separators, or both, to a standard acceptable to a reasonable and prudent person.
 - (ii) A Delivery Point Facility must, whenever Operator as a reasonable and prudent person determines it to be necessary, include filters or separators, or both, to a standard acceptable to a reasonable and prudent person.
 - (iii) Operator may make a determination under clause 3.6(d)(ii) at any time, including after a Delivery Point Facility is commissioned.

- (iv) Neither filters nor separators are to be regarded as Metering Equipment.
- (e) All facilities upstream of a receipt point or downstream from a delivery point must be electrically isolated from the DBNGP by an isolating joint or flange located either:

 - (i) at the receipt point or delivery point; or
 - (ii) sufficiently close to the receipt point or delivery point so as to achieve the same operational effect as if the joint or flange were located in accordance with clause 3.6(e)(i),

which joint or flange must be fitted with a surge diverter or other approved means of discharging excessive potentials.
- (f) All facilities at a Receipt Point Facility or Delivery Point Facility must be connected to an effective earthing system.
- (g) Any new equipment installed at a Receipt Point Facility or Delivery Point Facility must be compatible with existing equipment and systems.
- (h)

 - (i) The quantity of gas passing through a Notional Gate Point in any period of time is to be taken to be the sum of the quantities metered as passing through all associated Physical Gate Points in that period of time.
 - (ii) Nothing in clause 3.6(h)(i) is to prevail over the deeming in clause 3.5 of the quantity of gas taken by a shipper or shippers at a Notional Gate Point.
- (i) For the purposes of this clause 3.6, "Maintenance Charge" means, with respect to a particular Delivery Point Facility or Gate Station associated with a distribution network, the charge determined by Operator for designing, installing (which is to be taken as including the capital cost of acquiring and installing all relevant components of a Delivery Point Facility or Gate Station), maintaining, operating and decommissioning such Delivery Point Facility or Gate Station (as the case may be) and which shall, in all cases, exceed the actual cost of such design, installation, maintenance, operation and decommissioning by a reasonable premium calculated to recognise Operator's management time and to allow Operator to realise a reasonable rate of return on the cost of such design, installation, maintenance, operation and decommissioning (as the case may be). Any disagreement as to the level of Maintenance Charge must be a Dispute for the purposes of clause 18 of these Access Contract Terms and Conditions.
- (j) Nothing in this clause 3.6 shall affect or derogate from charges payable under any other agreement between Operator and Shipper in respect to the installation, operation and maintenance of Receipt Point Facilities, Delivery Point Facilities and Gate Stations and any upgrades, modifications and expansions to Receipt Points or Delivery Points.
- (k) Operator agrees that it shall not be entitled to impose any charges under this clause 3.6 or otherwise under the Access Contract in respect of Existing

Stations, except in relation to the incremental costs of the design, installation, maintenance and operation of a modification of an Existing Station which occurred, or occurs, after 1 January 1995 and which increased or increases the capacity of that Existing Station to receive or deliver gas into or from the DBNGP, and Operator is entitled to impose charges on Shipper and other shippers who use that Existing Station in relation to their respective proportions of those incremental costs as determined in accordance with the provisions in clause 3.6(a)(iii).

- (l) Despite any other provisions of the Access Contract, each Existing Station and all facilities, ancillary equipment and services at each Existing Station and the metering arrangements entered into with the State Energy Commission of Western Australia prior to 1 January 1995 in respect of each Existing Station are to be taken to comply in all respects with the provisions of the Access Contract including this clause 3.6.

3.7 Contribution Agreement

- (a) Shipper may only deliver gas to a receipt point, or receive gas from a delivery point, to which it did not deliver gas or from which it did not receive gas, at the Commencement Date if:
- (i) the receipt point or delivery point is associated with an Existing Station;
 - (ii) the receipt point or delivery point is:
 - (A) owned by Operator, any of Operator's related bodies corporate or any entity controlled by any of the foregoing (other than related bodies corporate of Alcoa of Australia Limited or Alinta Limited); or
 - (B) leased by Operator, any of Operator's related bodies corporate or any entity controlled by any of the foregoing (other than related bodies corporate of Alcoa of Australia Limited or Alinta Limited) under an equipment lease,and Shipper has entered into a Contribution Agreement in respect of the receipt point or delivery point; or
 - (iii) the receipt point or delivery point is not of a type referred to in clauses 3.7(a)(i) or 3.7(a)(ii)(A) or (B) and Shipper has reached an agreement, arrangement or understanding, whether or not in writing to use that receipt point or delivery point with the owner of the receipt point or delivery point.
- (b) A Contribution Agreement in respect of a receipt point or a delivery point is an agreement between Operator and Shipper:
- (i) under which Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the receipt point or the delivery point, determined in accordance with clause 6.6(i);
 - (ii) under which Shipper's proportion of the Maintenance Charge is determined under clause 6.6(a)(iii) or is otherwise agreed in the Contribution Agreement; and

(iii) Shipper agrees that another shipper ("New Shipper") may deliver gas to the relevant receipt point or receive gas from the relevant delivery point, if:

(A) New Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the receipt point or the delivery point determined in a manner consistent with the principles in clause 3.6(a)(iii); and

(B) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 3.7(b)(iii)(A).

(c) Operator must not unreasonably refuse to enter into or delay entering into, or insist upon unreasonable conditions in, a Contribution Agreement.

(d) Nothing in this clause 3.7 requires Shipper to enter into an agreement with any person other than Operator.

3.8 Shipper Specific Facility Agreement

Operator must not grant to any shipper ("New Shipper") access to or use of (or enter into any agreement or arrangement to do so) any receipt point, delivery point, associated Receipt Point Facility or associated Delivery Point Facility, or related equipment ("Facility") which is or has been the subject of an agreement or arrangement ("Facility Agreement") under which Shipper has contributed, or is contributing, to the capital costs or operating and maintenance costs (or both) of the Facility without ensuring that:

(a) subject to clause 3.8(b), New Shipper is obliged to contribute to the capital costs or operating and maintenance costs (or both) of the Facility in a manner consistent with clause 3.7(b)(iii); and

(b) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 3.8(a).

3.9 Notional Gate Point

(a) There is a notional gate point for each distribution network at which all shippers' Contracted Capacity in respect of that distribution network is taken to be located ("Notional Gate Point").

(b) All curtailments or interruptions of services to a shipper for delivery of gas into the distribution network are to be taken to occur at the Notional Gate Point.

(c) Operator may in its absolute discretion manage whether, at what times, to what extent and in what manner gas deemed to be delivered at a Notional Gate Point is physically transported into the associated distribution network.

3.10 ~~3.3~~ Relocation of Delivery Point MDQ

(a) ~~(a)~~ Shipper may by notice in writing to ~~Epic Energy~~ Operator request a relocation of all or any part of its MDQ from an existing Delivery Point to a new ~~Delivery Point~~ delivery point ("Requested Relocation").

- (b) ~~(b)~~ After receiving ~~a notice~~ the request under clause ~~3.3~~3.10(a), ~~Epie Energy Operator~~ must assess whether the Requested Relocation is commercially and technically feasible (as reasonably determined by ~~Epie Energy Operator~~).
- (c) ~~(c)~~ As soon as practicable after completing its assessment under clause ~~3.3~~3.10(b), ~~Epie Energy Operator~~ must give notice in writing to ~~the~~ Shipper advising whether the Requested Relocation is approved or not. ~~Epie Energy Operator~~ may make its approval subject to conditions if they are reasonable on commercial and technical grounds (including but not limited to Operational Grounds).
- (d) ~~(d)~~ Without limiting clause ~~3.3~~3.10(b), ~~the~~ Shipper's ability to relocate its Delivery Point MDQ to another ~~Delivery Point~~ delivery point is subject to the rights of Other Shippers with contracted Delivery Point MDQ at that ~~Delivery Point~~ delivery point.
- (e) ~~(e)~~ Without limiting clause ~~3.3~~3.10(b), in the event ~~the~~ Shipper wishes to relocate any part of its Delivery Point MDQ to a delivery point downstream of ~~the~~ Shipper's contracted Delivery Point, ~~the~~ Shipper acknowledges that the equivalent downstream quantity may be less than the Delivery Point MDQ ~~the~~ Shipper seeks to relocate.
- (f) ~~(f)~~ ~~Epie Energy Operator~~ may without liability to ~~the~~ Shipper, curtail deliveries of gas to ~~the~~ Shipper relocated under this clause ~~3.3~~3.10, if ~~Epie Energy Operator~~ is required to deliver gas to an Other Shipper at the Delivery Point and that Other Shipper has Delivery Point MDQ at the Delivery Point.

3.11 ~~3.4~~ Charges

- (a) ~~(a)~~ If ~~the~~ Shipper reaches agreement with ~~Epie Energy Operator~~ under clause ~~3.3~~3.10(c) to relocate some or all of its Delivery Point MDQ to another delivery point (which may or may not be a Delivery Point) then the Charges payable by ~~the~~ Shipper will be in accordance with the Tariff Schedule.

3.12 ~~3.5~~ Receipt Point Flexibility

Subject to ~~Clause 3.6~~ clause 3.13:

- (a) ~~(a)~~ ~~The~~ Shipper may supply quantities of gas at any Receipt Point ~~in Zone 1~~ on a Day (not exceeding in aggregate across all ~~receipt points~~ the Receipt Points Shipper's MDQ) provided it is operationally feasible; and
- (b) ~~(b)~~ ~~The~~ Shipper may supply quantities of gas at a Receipt Point on a Day (not exceeding in aggregate across all Receipt Points ~~the~~ Shipper's MDQ) greater than those quantities specified in ~~the~~ Shipper's Access Contract for the Receipt Point provided it is operationally feasible.

3.13 ~~3.5A~~ Relocation of Receipt Point MDQ

- (a) ~~(a)~~ Shipper may by notice in writing to ~~Epie Energy Operator~~ request a relocation of all or any part of its MDQ from an existing Receipt Point to a new ~~Receipt Point~~ receipt point ("Requested Relocation").
- (b) ~~(b)~~ After receiving ~~a notice~~ the request under clause ~~3.5A~~3.13(a), ~~Epie Energy Operator~~ must assess whether the Requested Relocation is

commercially and technically feasible (as reasonably determined by ~~Epic~~
~~Energy~~Operator).

- (c) ~~(c)~~—As soon as practicable after completing its assessment under clause ~~3.3~~3.13(b), ~~Epic Energy~~Operator must give notice in writing to ~~the~~ Shipper advising whether the Requested Relocation is approved or not. ~~Epic Energy~~Operator may make its approval subject to conditions if they are reasonable on commercial and technical grounds (including but not limited to Operational Grounds).
- (d) ~~(d)~~—Without limiting clause ~~3.3~~3.13(b), ~~the~~ Shipper's ability to relocate its Receipt Point MDQ to another ~~Receipt Point~~receipt point is subject to the rights of Other Shippers with contracted Receipt Point MDQ at that ~~Receipt Point~~receipt point.

~~3.6~~—Allocation of Gas at Receipt Points

- ~~(a)~~—Where the Shipper is the only person supplying gas to Epic Energy at a Receipt Point on a Day, the Shipper is deemed to have supplied all gas at that Receipt Point for that Day.
- ~~(b)~~—Subject to Epic Energy agreeing otherwise if the Shipper and any Other Shippers supply gas to Epic Energy at a Receipt Point on a Day, then the Shipper must by not later than 08.30 hours on the following Day:
- ~~(i)~~—provide written confirmation from the Producers of the amount of gas supplied by the Producers to the Shipper at that Receipt Point; or
- ~~(ii)~~—provide Epic Energy with a copy of an agreement entered into between the Shipper and Other Shippers in relation to the Shipper's proportional share of the gas stream at that Receipt Point;
- ~~and that written confirmation/agreement (as the case may be) shall be deemed to be the quantity of gas supplied by the Shipper to Epic Energy at that Receipt Point.~~
- ~~(c)~~—An agreement can be provided to Epic Energy pursuant to sub-clause 3.6(b)(ii) at any time before gas is delivered or supplied to the DBNGP by the Shipper and Other Shippers, or before 08.30 hours on the following Day, and that agreement will be held to apply until Epic Energy is otherwise advised by the Shipper.
- ~~(d)~~—If the Shipper fails to provide Epic Energy with a copy of the agreement under clause 3.6(b)(ii) or fails to provide written confirmation from the Producers under clause 3.6(i) by the time specified in clause 3.6(b), Epic Energy may determine that the Shipper has supplied gas to Epic Energy:
- ~~(i)~~—their respective nominations at the Receipt Point; or
- ~~(ii)~~—any other information to which a reasonable and prudent pipeline operator would have regard.

~~That will be deemed to be the allocation irrespective of any subsequent notification received by Epic Energy.~~

~~3.7~~—Allocation of Gas at Delivery Points

- ~~(a)~~—Where the Shipper is the only person to take delivery of gas from Epic Energy at a Delivery Point on a Day, then the Shipper is deemed to have taken delivery of all gas delivered at that Delivery Point.
- ~~(b)~~—If the Shipper and any Other Shippers take delivery of gas from Epic Energy at Delivery Point on a Day, then the Shipper's proportional share of the gas stream

at that Delivery Point may be determined by agreement between the Shipper and Other Shippers who take delivery of gas at that Delivery Point:

- (c) ~~If the Shipper fails to reach agreement with Other Shippers under Clause 3.7(b) or fails to provide Epic Energy with a copy any agreement under clause 3.7(b) or Epic Energy is not notified by 08:00 hours on the following Day of the Shipper's proportional share of gas at the Delivery Point then Epic Energy may determine the proportion of gas to be attributed to the Shipper and each Other Shipper by reference to:~~
- (i) ~~their respective nominations at the Delivery Point; or~~
 - (ii) ~~any other information to which a reasonable and prudent pipeline operator would have regard.~~

~~This will be deemed to be the allocation for that Day irrespective of any subsequent notification received by Epic Energy.~~

- (d) ~~The Shipper shall promptly deliver to Epic Energy a copy of any agreement reached under Clause 3.7(b).~~

3.14 ~~3.8~~ — Obligation to Accept and Deliver Gas

Subject to ~~the~~these Access Contract Terms and Conditions:

- (a) Operator must accept gas from Shipper up to Shipper's Receipt Point MDQ aggregated across all Receipt Points;
- (b) ~~(a) — Epic Energy~~Operator must ~~accept gas from and~~ deliver gas to ~~the~~ Shipper at nominated Delivery Points up to Shipper's Delivery Point MDQ aggregated across all Delivery Points; and
- (c) ~~(b) — The~~ Shipper must make gas available at the Receipt Point(s), in accordance with ~~the~~ Shipper's Access Contract.

~~3.9 — Epic Energy may refuse to accept Gas~~

3.15 Operator May Refuse to Accept Gas

In addition to any other rights and remedies that may be available to it under any Law or under the Access Contract or otherwise, ~~Epic Energy~~Operator may, subject to and in accordance with clause 17.2, refuse to accept ~~Gas~~gas from ~~the~~ Shipper at a Receipt Point:

- (a) to the extent that Operator is entitled to refuse to accept gas under:
 - (i) ~~(a) — if Epic Energy is entitled under clause 2 (Epic Energy~~Operator may refuse to accept Out-Of Specification ~~Gas), clause 6 (Imbalance Limit), clause 6.5 (Refusal to Accept Gas or Deliver Gas), or clause 7 (Peaking)~~gas);
 - (ii) clause 6.5 (Refusal to accept gas or deliver gas for Imbalance); or
 - (iii) clause 7.2 (Peaking);
- (b) ~~(b) — if the~~ Shipper is in default ~~under this Contract~~ as set out in clause 17 (Default by Shipper);
- (c) ~~(c) — if Epic Energy~~Operator is relieved from so doing under clause 15 (Force Majeure); or

- (d) ~~(d)~~ if ~~Epic Energy~~Operator considers as a reasonable and prudent service provider that it would be unsafe to do so; ~~or~~
- (e) if Operator considers as a reasonable and prudent service provider that to accept such gas would interfere with other shippers' rights to their Contracted Capacity; or
- (f) ~~(e)~~ if acceptance by ~~Epic Energy~~Operator of that ~~Gas~~gas would cause the DBNGP to exceed its maximum allowable operating pressure.

3.16 ~~3.10~~ Refusal to Deliver Gas

~~Subject to and in accordance with~~In addition to any other rights and remedies that may be available to it ~~at~~under any Law or under the Access Contract, including without limitation clause 14 (Curtailment), ~~Epic Energy~~Operator may refuse to deliver gas to Shipper at a Delivery Point:

- (a) ~~(a)~~ to the extent that ~~Epic Energy~~Operator is entitled to refuse to ~~Deliver Gas~~deliver gas under:

 - (i) ~~(i)~~ clause 2.4 (Shipper's liability for Out-~~of~~Of-Specification ~~Gas~~gas);
 - (ii) clause ~~6~~6.5 (Refusal to accept gas or deliver gas for Imbalance ~~Limit~~);
 - (iii) clause ~~6.5(Refusal to Accept Gas or Deliver Gas);(iv)~~ clause 77.2 (Peaking);
 - ~~(iv)~~ clause ~~17~~5.3(a) (Overrun); or
 - ~~(iv)~~ clause ~~17~~17.2 (Default and Termination);
- (b) ~~(b)~~ ~~Epic Energy~~if Operator considers as a reasonable and prudent service provider that it would be unsafe to do so; ~~or~~
- (c) if Operator is relieved from so doing under clause 15 (Force Majeure);
- (d) if Operator considers as a reasonable and prudent service provider that to deliver such gas would interfere with other shippers' rights to their Contracted Capacity; or
- (e) ~~(e)~~ if delivery by ~~Epic Energy~~Operator of that gas would cause the DBNGP to exceed its maximum allowable operating pressure.

~~4. NOMINATIONS~~

4. NOMINATIONS

4.1 ~~4.1~~ Requests for Advance Information

- (a) ~~(a)~~ ~~Epic Energy~~Operator may request and ~~the~~ Shipper ~~shall~~must provide good faith advance estimates (covering such periods and in such detail as ~~Epic Energy~~Operator may determine) of ~~the~~ Shipper's likely nominations at ~~the~~ Shipper's Receipt Points and Delivery Points on a Day or Days. ~~Epic Energy~~Operator will keep these estimates confidential.
- (b) ~~(b)~~ The information provided under ~~Clause~~clause 4.1(a) is not binding on ~~the~~ Shipper and ~~Epic Energy~~Operator will have no action against ~~the~~ Shipper if ~~the~~ Shipper's nominations materially differ except where the information given under ~~Clause~~clause 4.1(a) is not given in good faith.

4.2 ~~4.2~~ Weekly Nominations

- (a) ~~(a)~~ ~~The~~ Shipper ~~shall~~must nominate for each Day in the Week before the nominated Week, the quantity of gas that:
- (i) ~~(i)~~ ~~the~~ Shipper will supply to ~~Epic Energy~~Operator at a Receipt Point; and
- (ii) ~~(ii)~~ ~~the~~ Shipper requires ~~Epic Energy~~Operator to deliver to ~~the~~ Shipper at a Delivery Point,
- by notice to ~~Epic Energy~~Operator not later than 17:00 hours on Wednesday in the Week before the nominated Week.
- (b) ~~(b)~~ Subject to ~~Clause 3.3, the~~clause 3.10, Shipper may not nominate quantities of gas on a Day at a Delivery Point in excess of ~~the~~ Shipper's Delivery Point MDQ and the sum of ~~the~~ Shipper's nominations across all ~~the~~ Shipper's Delivery Points ~~shall~~must not exceed ~~the~~ Shipper's MDQ.
- (c) ~~(c)~~ ~~The~~ Shipper's nominations across all Receipt Points on a Day ~~shall~~must not (subject to ~~Clause~~clause 6.1) exceed ~~the~~ Shipper's MDQ.

4.3 ~~4.3~~ Daily Nominations

- (a) ~~(a)~~ Subject to ~~Clause~~clause 4.2 (b) and ~~Clause~~clause 4.2(c), ~~the~~ Shipper may by notice to ~~Epic Energy~~Operator by not later than 14:00 hours on a Day, amend the nominations given under ~~Clause~~clause 4.2(a) for the following Day.
- (b) ~~(b)~~ If ~~the~~ Shipper does not make any amendments to the nomination for the Day under ~~Clause~~clause 4.3(a), then ~~the~~ Shipper's nomination under ~~Clause~~clause 4.2(a) ~~shall~~must be used for the Day.

4.4 ~~4.4~~ Nominations ~~shall be~~Must Be Given ~~in~~In Good Faith

- (a) ~~(a)~~ ~~The~~ Shipper's nominations provided to ~~Epic Energy~~Operator pursuant to ~~Clause~~clause 4.2 and ~~Clause~~clause 4.3 ~~shall~~must be made in good faith.
- (b) ~~(b)~~ If ~~Epic Energy~~Operator as a reasonable and prudent pipeline operator believes that ~~the~~ Shipper is not making nominations pursuant to ~~Clause~~clause 4.2 and ~~Clause~~clause 4.3 in good faith, then ~~Epic Energy~~Operator may give a

notice to ~~the Shipper~~ (“~~Variance Notice~~”) requiring ~~the Shipper~~ to nominate in good faith (“Variance Notice”).

(c) ~~(e)~~ Subject to ~~Clause~~clause 4.4(d), if at the expiry of 21 Days from receipt of a Variance Notice:

(i) ~~(i)~~ the quantity of gas supplied by ~~the Shipper~~ at a Receipt Point on a Day; or

(ii) ~~(ii)~~ the quantity of gas delivered to ~~the Shipper~~ by ~~Epic Energy~~Operator at a Delivery Point on a Day,

varies by more than 10% of ~~the Shipper's~~ nomination at that Receipt Point or that Delivery Point on that Day, then ~~the Shipper~~ ~~shall~~must pay ~~Epic Energy~~Operator the Nomination Surcharge for each GJ of gas:

(iii) ~~(iii)~~ supplied by ~~the Shipper~~ to ~~Epic Energy~~Operator at a Receipt Point on a Day; or

(iv) ~~(iv)~~ delivered to ~~the Shipper~~ by ~~Epic Energy~~Operator at a Delivery Point on a Day,

in excess of, or below, ~~the Shipper's~~ nomination for that Day at that Receipt Point or that Delivery Point until such time as the Variance Notice is withdrawn.

(d) ~~(d)~~ ~~Epic Energy shall~~Operator may only require ~~the Shipper~~ to pay the ~~surcharge~~Nomination Surcharge pursuant to ~~Clause~~clause 4.4(c) where:

(i) ~~(i)~~ the failure to nominate in good faith causes actual pecuniary loss or damage; or

(ii) ~~(ii)~~ in the reasonable opinion of the pipeline operator, the failure to nominate in good faith exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.

(e) ~~(e)~~ If ~~Epic Energy~~Operator has issued ~~the Shipper~~ with a Variance Notice, ~~Epic Energy~~Operator:

(i) ~~(i)~~ may withdraw that Variance Notice at any time in its discretion; and

(ii) ~~(ii)~~ shall withdraw that Variance Notice if a period of 3 consecutive Months has elapsed without ~~the Shipper~~ incurring the Nomination Surcharge.

~~5. OVERRUN~~

5. OVERRUN

5.1 ~~5.1~~ Overrun Quantities

Any gas delivered to ~~the~~ Shipper:

- (a) ~~(a)~~ at a Delivery Point in excess of ~~the~~ Shipper's Delivery Point MDQ; or
 - (b) ~~(b)~~ at Delivery Points within an Overrun Zone which in aggregate exceeds ~~the~~ Shipper's MDQ in that Overrun Zone,
- is Overrun.

5.2 ~~5.2~~ Overrun Charge

~~(a)~~ Subject to ~~Clause~~ clauses 5.3 and 5.4, if the aggregate quantity of gas delivered to ~~the~~ Shipper on a Day ~~is within the Shipper's MDQ, then the Shipper shall pay for~~ in an Overrun as follows: Zone is:

- (a) ~~(i)~~ if the Overrun occurs within a zone in which the Shipper has more than one Delivery Point MDQ, and the aggregate quantity of gas delivered to the Shipper in that zone is within ~~the~~ within Shipper's aggregate Delivery Point MDQ in that ~~zone~~ Overrun Zone, then no further Charges are payable by ~~the~~ Shipper in respect of that Overrun; or

~~Example: The Shipper has two Delivery Point MDQ's for separate Delivery Points within zone 9. First Delivery Point MDQ is 5TJ and second delivery point MDQ is 10TJ. If 15TJ is delivered to first Delivery Point and 0TJ to second Delivery Point, the Shipper pays no additional Charges.~~

- ~~(ii) if the Overrun occurs within a zone in which the Shipper has only one Delivery Point MDQ, and the Shipper has a Delivery Point MDQ or Delivery Point MDQ's in a zone upstream of the zone in which the Overrun occurs, then the Shipper shall pay additional Capacity Charges as if the capacity had been relocated downstream from the unutilised Delivery Point MDQ, calculated at 110% of the Capacity Charges otherwise payable.~~

~~Example: The Shipper has Delivery Point MDQ of 10TJ/Day in zone 8 and Delivery Point MDQ of 5TJ/Day in zone 9. Epic Energy delivers to the Shipper 5 TJ in zone 8 and 10TJ in zone 9. The Shipper pays 110% of the additional zone 9 Capacity Charges for the 5 TJ delivered to zone 9.~~

- ~~(b) Subject to Clause 5.3 and 5.4, if the aggregate quantity of gas delivered to the Shipper on a Day exceeds the Shipper's MDQ, then the Shipper shall pay the greater of:~~

- ~~(i) 110% of the Capacity Charges which would otherwise be payable for each GJ of gas delivered to the Shipper at the Delivery Point in excess of the Shipper's Delivery Point MDQ at that Delivery Point if that quantity had been part of the Shipper's Delivery Point MDQ for that Delivery Point; or~~

- (b) greater than Shipper's aggregate Delivery Point MDQ in that Overrun Zone, then Shipper must pay the greater of:

- (i) 115% of the Base T1 Tariff as defined in the Standard Shipper Contract published by Operator on its nominated website from time to time; or

- (ii) ~~(ii) — 110% of the highest price (or its equivalent based on the location of the Delivery Point) paid on the Secondary Market on~~ paid for Spot Capacity on that Day.

~~Example: the Shipper delivers 20TJ in a Day to a Delivery Point in zone 8 at which the Shipper's Delivery Point MDQ is 15TJ/Day and the Shipper has no other Delivery Point MDQ's or if the Shipper has other Delivery Points the Shipper has delivered to those Delivery Point MDQ's. The Shipper pays 110% of the Capacity Charges and full Compressor Fuel Charge for the delivery of 5TJ to zone 8 unless the Secondary Market price for that Day is higher, in which case the Secondary Market Price applies instead. The Compressor Fuel Charge is charged as normal ie on the 20TJ delivered to the Delivery Point.~~

- ~~(c) — Nothing in Clause 5.2(a) or clause 5.2(b) affects the liability of the Shipper to pay the Compressor Fuel Charge of the Delivery Point Charge in accordance with the Tariff Schedule.~~

5.3 ~~5.3~~ — Interruptibility and Liability

- (a) ~~(a) — The Shipper has no right or entitlement to Overrun and therefore Overrun is interruptible in the absolute discretion of~~ Epic Energy Operator.
- (b) ~~(b) — If~~ Epic Energy Operator interrupts any Other Shipper, directly or indirectly as a result of ~~the Shipper taking Overrun, then the Shipper is liable for all loss or damage (including Indirect~~ Loss Damage) suffered by Epic Energy Operator or the Other Shipper subject to Epic Energy Operator and the Other Shipper taking all reasonable steps possible to mitigate any losses occurring.

5.4 ~~5.4~~ — Unavailability Notice

- (a) Subject to ~~Clause~~ clause 5.4(b), if Epic Energy Operator issues an Unavailability Notice, then, without limiting Clause clause 5.3, ~~(a) — the Shipper shall~~ must pay the Unavailability Charge for each GJ of gas delivered to ~~the Shipper at a Delivery Point, or in aggregate as the case may be, in excess of the quantity specified in the Unavailability Notice.~~
- (b) ~~(b) —~~ Epic Energy Operator shall only require ~~the Shipper to pay the Unavailability Charge pursuant to~~ Clause clause 5.4(a) where:
- (i) ~~(i) —~~ the delivery to ~~the Shipper at a Delivery Point, or in aggregate as the case may be, in excess of the quantity specified in the Unavailability Notice causes actual pecuniary loss or damage; or~~
- (ii) ~~(ii) —~~ in the reasonable opinion of the pipeline operator the delivery to ~~the Shipper at a Delivery Point, or in aggregate as the case may be, in excess of the quantity specified in the Unavailability Notice exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.~~

~~6. IMBALANCES~~

6. IMBALANCES

6.1 ~~6.1~~ Daily Balancing

For the purposes of determining ~~the~~ Shipper's Imbalance for a Day:

- (a) ~~(a)~~ ~~If~~ there is a Positive Imbalance for a Day, then ~~the~~ Shipper is deemed to have supplied the quantity of gas comprising the Positive Imbalance on the next Day in priority to other gas supplied by ~~the~~ Shipper at a Receipt Point~~(s)~~; and
- (b) ~~(b)~~ ~~If~~ there is a Negative Imbalance for a Day, then ~~the~~ Shipper is deemed not to have supplied any gas to ~~Epic Energy~~ Operator at a Receipt Point~~(s)~~ on the next Day until the Negative Imbalance is cleared.

6.2 ~~6.2~~ Shipper's Obligation to Balance

It is ~~the~~ Shipper's obligation to ensure that the absolute value of its Imbalance does not exceed ~~the~~ Shipper's Imbalance Limit. ~~Epic Energy is entitled to charge the Shipper in accordance with Clause 6.4 irrespective of whether or not Epic Energy has given the Shipper notice that the Shipper's Imbalance Limit has been exceeded.~~

6.3 ~~6.3~~ Provision of Notice

Without limiting ~~Clause~~ clause 6.2, ~~Epic Energy~~ Operator will use its reasonable endeavours to provide ~~the~~ Shipper with notice if ~~the~~ Shipper's Imbalance Limit is exceeded, as soon as possible after ~~Epic Energy~~ Operator becomes aware of such. This may be by way of posting on the Electronic Bulletin Board.

6.4 ~~6.4~~ Excess Imbalance Charge

- (a) ~~(a)~~ Subject to ~~Clause~~ clause 6.4(b), if the absolute value of ~~the~~ Shipper's Imbalance at the end of a Day exceeds ~~the~~ Shipper's Imbalance Limit, then ~~the~~ Shipper ~~shall~~ must pay the Excess Imbalance Charge for each GJ of gas by which the absolute value of such Imbalance exceeds ~~the~~ Shipper's Imbalance Limit, except where ~~the Shippers imbalance~~ Shipper's Imbalance is caused by a ~~party~~ Party other than ~~the~~ Shipper.
- (b) ~~(b)~~ ~~Epic Energy~~ Operator shall only require ~~the~~ Shipper to pay the Excess Imbalance Charge pursuant to ~~Clause~~ clause 6.4(a) where:
 - (i) ~~(i)~~ ~~the~~ Shipper's Imbalance causes actual pecuniary loss or damage; or
 - (ii) ~~(ii)~~ in the reasonable opinion of the pipeline operator ~~the~~ Shipper's Imbalance exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.

6.5 ~~6.5~~ Refusal to Accept Gas or Deliver Gas

If ~~Epic Energy~~ Operator acting as a reasonable and prudent pipeline operator determines that the quantum of ~~the~~ Shipper's Imbalance is such that the operation or integrity of the DBNGP may be compromised, then ~~Epic Energy~~ Operator may without liability to ~~the~~ Shipper:

- (a) ~~(a)~~ — refuse to accept gas from ~~the~~ Shipper at a Receipt Point or deliver gas to ~~the~~ Shipper at a Delivery Point; ~~and~~
- (b) ~~(b)~~ — take such action as it deems necessary to enforce its rights under this ~~Clause 6.5~~clause 6.5, including physically curtailing receipts and deliveries of gas; ~~and~~
- (c) recover Direct Damages suffered by Operator which is caused by or arises out of Shipper's failure to ensure that the absolute value of its Imbalance does not exceed Shipper's Imbalance Limit.

6.6 ~~6.6~~ — Trading Imbalances

~~The~~ Shipper may exchange all or part of its accumulated Imbalances with another Shipper, at any time and on terms they may agree, and must give notice in writing of any such exchange to ~~Epic Energy~~Operator prior to the exchange occurring. On receipt of such written notice ~~Epic Energy~~Operator shall calculate adjustments in ~~the~~ Shipper's accumulated Imbalances to reflect the exchange and notify both shippers of the adjustments by the beginning of the next Day.

~~7.~~ PEAKING

7. PEAKING

7.1 ~~7.1~~ Hourly Peaking

- (a) ~~(a)~~ Without limiting ~~Clause~~clause 6, ~~the~~ Shipper may take hourly delivery of quantities of gas ("MHQ") at a Delivery Point on a Day not exceeding 120% of one twenty-fourth of ~~the~~ Shippers Delivery Point MDQ at that Delivery Point.
- (b) ~~(b)~~ Subject to ~~Clause~~clause 7.1(c), ~~Epic Energy~~Operator may require ~~the~~ Shipper to pay, and ~~the~~ Shipper ~~shall~~must if so required pay, the Peaking Surcharge for each GJ of gas by which ~~the~~ Shipper has exceeded ~~the~~ Shipper's MHQ in aggregate across all of that Shipper's Delivery Points:
- (i) ~~for zones 1-9 in a pipeline zone; or:~~
- (i) in any pipeline zone (where "pipeline zone" means the part of the DBNGP between any 2 compressor stations which are upstream of Kwinana Junction, or between the Domgas plant at Dampier and CS1, or between CS9 and Kwinana Junction); or
- (ii) ~~(ii) for zone 10 on a~~any single lateral pipeline ~~in the zone~~which is downstream of Kwinana Junction.
- (c) ~~(c)~~ ~~Epic Energy~~Operator shall only require ~~the~~ Shipper to pay the Peaking Surcharge pursuant to ~~Clause~~clause 7.1(b) where:
- (i) ~~(i) the~~ Shipper's Peaking causes actual pecuniary loss or damage; or
- (ii) ~~(ii)~~ in the reasonable opinion of the pipeline operator ~~the~~ Shipper's Peaking exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.
- (d) ~~(d)~~ Clause 7.1(a) does not alter or affect ~~the~~ Shipper's MDQ.

7.2 ~~7.2~~ Refusal to ~~Accept~~Deliver Gas

Operator may, as a reasonable and prudent pipeline operator and without liability to Shipper:

- (a) ~~Epic Energy may, as a reasonable and prudent pipeline operator and without liability to the Shipper, refuse to deliver gas to the Shipper at a Delivery Point, at any time that the Shipper exceeds the Shipper's MHQ; and~~
- (b) recover Direct Damages suffered by Operator which is caused by or arises out of Shipper's Peaking.

~~8. INVOICING AND PAYMENT~~

8. INVOICING AND PAYMENT

8.1 ~~8.1~~ Monthly Invoicing

~~Epic Energy will~~ Operator must, within 5 Business Days after the end of a Month, provide to ~~the~~ Shipper an invoice or invoices for the Month just ended showing—:

- (a) ~~(a)~~ the quantity of gas received by ~~Epic Energy~~ Operator from ~~the~~ Shipper at each Receipt Point and the quantity of gas delivered by ~~Epic Energy~~ Operator to ~~the~~ Shipper at each Delivery Point on each Day for that Month;
- (b) ~~(b)~~ ~~the Pipeline Capacity Charge and the Compression~~ the Capacity Charge payable in advance for the next Month;
- (c) ~~(c)~~ ~~the Compressor Fuel Charge and the Delivery Point Charge for that Month;~~
- (d) ~~(d)~~ all other amounts which under the Access Contract are payable ~~in arrears~~ or refundable for the Month including ~~any~~ the Commodity Charge, the Maintenance Charge and any other charges in ~~schedule~~ Schedule 1; and
- (e) ~~(e)~~ any outstanding amounts (whether those amounts were originally payable in arrears or advance) from previous Months and the interest payable thereon ~~and~~
- (f) such other information as may be agreed between the Parties.

8.2 ~~8.2~~ Payment by ~~the~~ Shipper

~~The~~ Shipper ~~will~~ must pay each invoice by direct payment to a bank account nominated by ~~Epic Energy~~ Operator within ~~14~~ 10 Days of receipt of the invoice from ~~Epic Energy~~ Operator.

8.3 ~~8.3~~ Shipper's Dispute

If ~~the~~ Shipper disputes part or all of an ~~Invoice~~ invoice:

- (a) ~~(a)~~ ~~the~~ Shipper ~~shall~~ must, within ~~7~~ 10 Days after receipt of the ~~Invoice~~ invoice, notify ~~Epic Energy~~ Operator in writing specifying the amount in dispute and the reasons for the dispute; ~~and~~
- (b) ~~(b)~~ ~~the~~ Shipper ~~shall~~ must pay in accordance with ~~Clause~~ clause 8.2 that part of the ~~Invoice~~ invoice (if any) not in dispute; ~~and~~
- (c) ~~(c)~~ ~~the~~ Shipper may, subject to ~~Clause~~ clause 8.4, withhold that part of the ~~Invoice~~ invoice in dispute; and
- (d) ~~(d)~~ each Party will ~~appoint~~ an officer to meet with the other Party's officer to try to resolve the dispute and if the officers are unable to resolve the dispute within 7 Days then either Party may refer the matter to an Independent Expert for determination in accordance with ~~Clause~~ clause 18.

8.4 ~~8.4~~ Interest on Disputed or Incorrect Amount

If, as a result of the resolution of:

- (a) ~~(a)~~ a dispute of the nature described in ~~Clause~~ clause 8.3; or

- (b) ~~(b)~~ — an incorrect ~~Invoice~~invoice as described in ~~Clause~~clause 8.5, either Party has an obligation to pay an amount to the other Party, then the amount ~~shall~~must be paid within 14 Days after the Day of resolution together with interest on that amount calculated on a daily basis at the Interest Rate from:
- (c) ~~(c)~~ — in the case of ~~the~~ Shipper, the date the amount should have been paid in accordance with this ~~Clause 7~~clause 8; or
- (d) ~~(d)~~ — in the case of ~~Epic Energy~~Operator, the date ~~Epic Energy~~Operator received the payment from ~~the~~ Shipper.

8.5 ~~8.5~~ — Incorrect Invoices

- (a) ~~(a)~~ — If ~~the~~ Shipper:
- (i) ~~(i)~~ — has been overcharged or undercharged; and
- (ii) ~~(ii)~~ — has paid the ~~Invoice~~invoice(s) to which the overcharge(s) or undercharge(s) relate(s),
- then, within ~~14~~10 Days after the error has been discovered and the amount has either been agreed by the Parties or determined pursuant to ~~Clause~~clause 8.3, either:
- (iii) ~~(iii)~~ — ~~Epic Energy~~Operator will repay to Shipper the amount of the overcharge (together with interest in accordance with ~~Clause~~clause 8.4); or, ~~as the case may be~~;
- (iv) ~~(iv)~~ — ~~the~~ Shipper will pay to ~~Epic Energy~~Operator the amount of the undercharge (together with interest in accordance with ~~Clause~~clause 8.4).
- (b) ~~(b)~~ — A Party may not claim from the other any amount overcharged or undercharged if more than 18 Months have elapsed since the date of the ~~Invoice~~invoice in question.

8.6 ~~8.6~~ — Default Interest

If either Party fails, without lawful excuse, to pay any amount due then that Party will pay interest on the overdue amount, calculated on a daily basis at the Interest Rate plus 2% per annum, from the due date for payment until actual payment.

~~9. RIGHTS OF EPIC ENERGY~~

9. RIGHTS OF OPERATOR

9.1 ~~9.1~~ — Commingling of Gas

~~Epic Energy~~ Operator will have the right to commingle gas supplied by ~~the~~ Shipper with other gas in the DBNGP during transportation and is entitled to deliver different molecules to Shipper.

9.2 ~~9.2~~ — Processing

~~Epic Energy~~ Subject to its obligations under the Access Contract, Operator may compress, cool, heat, clean and apply other processes to gas during transportation, acting as a reasonable and prudent pipeline operator consistent with its operation of the DBNGP.

9.3 ~~9.3~~ — Operation of Pipeline System

Subject to its obligations under the Access Contract, ~~Epic Energy~~ including its obligations to use good gas industry practice, Operator reserves the right to decide the manner in which it will operate the DBNGP.

9.4 ~~9.4~~ — Delivery of Gas

~~Epic Energy~~ Operator may satisfy its obligation to deliver gas to ~~the~~ Shipper by using a gas pipeline other than the DBNGP, provided that Operator meets its obligations under the Access Contract and there is no extra cost or risk to Shipper in doing so.

~~10. CONTROL, POSSESSION AND TITLE TO GAS~~

10. CONTROL, POSSESSION AND TITLE TO GAS

10.1 ~~10.1~~—Warranty of Title

- (a) ~~The~~ Shipper warrants that at the time it supplies gas to ~~Epie Energy~~Operator at a Receipt Point, ~~the~~ Shipper has good title to the gas free and clear of all liens, encumbrances and claims of any nature inconsistent with ~~Epie Energy~~Operator's operation of the DBNGP.
- (b) Subject to clause 10.1(a) being true and accurate at all times, Operator warrants that at the time it supplies gas to Shipper at a Delivery Point, Operator has good title to the gas free and clear of all liens, encumbrances and claims of any nature whatsoever.

10.2 ~~10.2~~—Control, Possession, Responsibility and Title of Shipper

~~The~~ Shipper warrants to ~~Epie Energy~~Operator at each relevant time that ~~the~~ Shipper:

- (a) ~~(a)~~—is in control and possession of the gas immediately prior to its supply at a Receipt Point and immediately after its delivery to ~~the~~ Shipper at a Delivery Point; and
- (b) ~~(b)~~—has legal responsibility and liability for gas while it is within the control and possession of ~~the~~ Shipper.

10.3 ~~10.3~~—Title, Custody, Control and Responsibility of ~~Epie Energy~~Operator

~~Epie Energy~~Operator will:

- (a) ~~(a)~~—take title to and have ~~custody and~~ control and possession of gas from the receipt of gas from ~~the~~ Shipper at a Receipt Point until delivery of gas to ~~the~~ Shipper at a Delivery Point; and
- (b) ~~(b)~~—have legal responsibility and liability for gas only while it is within ~~Epie Energy's custody and~~Operator's control and possession.

~~11. NOTIONAL DELIVERY POINTS~~

11. NOTIONAL DELIVERY POINTS

11.1 ~~11.1~~—Determination of Notional Delivery Points

~~Epic Energy~~Operator may from time to time determine that there is a Notional Delivery Point between the DBNGP and a gas distribution system.

11.2 ~~11.2~~—Aggregation of Associated Delivery Points

Gas delivered at the Notional Delivery Point on a Day will be deemed to equal the aggregate of all gas delivered at Associated Delivery Points on that Day.

11.3 ~~11.3~~—Amendment of Access Contract to Reflect Notional Delivery Point

If ~~the~~ Shipper has Delivery Point MDQ at a Delivery Point which subsequently becomes an Associated Delivery Point, then ~~the~~ Shipper's Access Contract is amended to substitute the Notional Delivery Point associated with the Associated Delivery Point, for the Delivery Point.

11.4 ~~11.4~~—Location of Delivery Point

A Notional Delivery Point is deemed to be located at the most downstream Associated Delivery Point.

11.5 ~~11.5~~—Multiple Transmission Systems

Where gas is delivered to a distribution network (to which the DBNGP is connected) by a gas transmission system other than the DBNGP, the quantities of gas measured at a Notional Delivery Point will need to take into account arrangements between ~~Epic Energy~~Operator, that other gas transmission system and the operator of that distribution network ~~and~~, any agreement reached between them from time to time. ~~Epic Energy~~ and the Retail Market Rules. Operator will notify ~~the~~ Shipper of any such arrangement or agreement prior to the time ~~the~~ Shipper becomes subject to any contractual obligation that may be affected by those arrangements or agreement.

~~12. METERING~~

12. METERING

12.1 ~~12.1~~ Shippers Responsibility

~~The Shipper shall~~ must, or must procure another party to:

- (a) ~~(a) — after first consulting Epic Energy,~~ supply, install, operate and maintain Metering Equipment immediately upstream of each Receipt Point at which it supplies gas to ~~Epic Energy~~ Operator, in good working order and condition and in accordance with the standard of a reasonable and prudent person; and
- (b) ~~(b) — ensure that at all times all data required by Epic Energy~~ Operator from Metering Equipment at each Receipt Point is electronically accessible by ~~Epic Energy~~ Operator.

12.2 ~~12.2~~ Epic Energy Operator's Responsibility

~~Epic Energy shall:~~

Operator must:

- (a) ~~(a) —~~ supply, install, operate and maintain Metering Equipment at each Delivery Point in good working order and condition and in accordance with the principles and standards of a reasonable and prudent pipeline operator; ~~and~~
- (b) ~~(b) — calculate and record —;~~
 - (i) ~~(i) — the quantity of gas supplied to Epic Energy~~ Operator by ~~the~~ Shipper; and
 - (ii) ~~(ii) — the quantity of gas delivered to the Shipper by Epic Energy.~~ Operator; and
- (c) ~~(c) — provide the information referred to in clause 12.2(b) to the Shipper and any other metering information as is available to Epic Energy~~ Operator, which can reasonably be provided to ~~the~~ Shipper and which ~~Epic Energy~~ Operator reasonably determines is necessary to enable ~~the~~ Shipper to assess its potential liability for Charges.

12.3 ~~12.3~~ Metering Design, Adjustment, Operation and Verification

Subject to ~~Epic Energy~~ Operator agreeing otherwise, Metering Equipment shall be designed, adjusted, operated and verified in accordance with Schedule 3.

12.4 ~~12.4~~ Approval of Receipt Point Metering Equipment

- (a) ~~(a) — The Shipper shall —~~ must obtain, or must procure that a third party obtains:
 - (i) ~~(i) — prior to commencing the construction, installation or modification of any Receipt Point Metering Equipment or any component thereof; and also~~

- (ii) ~~(ii)~~ prior to the commissioning of any newly constructed, installed or modified Receipt Point Metering Equipment or any component thereof,

obtain ~~Epic Energy~~ Operator's written approval (which may not be unreasonably withheld) of, or of any amendment to, the design, location and construction of, and the proposed operating and maintenance procedures in relation to, that equipment or component.

- (b) ~~(b)~~ ~~Epic Energy~~ Operator will, after receipt of a valid notice of the anticipated date of commencement of the relevant construction, installation or modification, use all reasonable endeavours, before that anticipated date, to consider and to give notice to ~~the~~ Shipper of ~~Epic Energy~~ Operator's approval of or refusal to approve the Receipt Point Metering Equipment.

12.5 ~~12.5~~ Inaccurate Equipment

- (a) ~~(a)~~ If the Verification of Metering Equipment in accordance with Schedule 3 reveals that it is operating outside the prescribed limits of uncertainty but is measuring the quantity of gas with an inaccuracy of less than or equal to ~~:~~ :

- (i) ~~(i)~~ plus or minus 1.5% for Metering Equipment with a design flow of 5 TJ/d or greater; and

- (ii) ~~(ii)~~ plus or minus 3% for Metering Equipment with a design flow of less than 5 TJ/d,

then the measurements from that Metering Equipment are by force of this ~~Clause~~ clause to be taken to be correct.

- (b) ~~(b)~~ If the Verification of Metering Equipment pursuant to Schedule 3 reveals that any Metering Equipment is measuring the quantity of gas with an inaccuracy of greater than the relevant limit prescribed by ~~Clause~~ clauses 12.5(a)(i) or (ii), then (unless the ~~parties~~ Parties agree otherwise) all measurements affected or potentially affected by that inaccuracy are to be determined in accordance with ~~Clause~~ clause 12.6.

12.6 ~~12.6~~ Correction of measurements

- (a) ~~(a)~~ If ~~z~~ at any time, any of the Metering Equipment is found to be registering inaccurately, it will be adjusted as soon as reasonably possible to its specification. The reading of such Metering Equipment will be corrected for any period of inaccuracy ("Correction Period") which is definitely known or agreed upon~~z~~. If the Correction Period is not known or cannot be agreed by the ~~parties~~ Parties, the Correction Period will not extend beyond one half of the time elapsed since the date of the Previous Verification.

- (b) ~~(b)~~ Measurement during the Correction Period will be determined by ~~Epic Energy~~ Operator on the basis of the best data available, using the first of the following methods which, when considered in the following order, is feasible:

- (i) ~~(i)~~ recordings by any other measuring equipment acceptable to ~~Epic Energy~~ Operator and ~~the~~ Shipper; or

- (ii) ~~(ii)~~ trend data recorded by ~~Epic Energy~~Operator or ~~the~~ Shipper, where this data can be proven to represent a reasonable estimate of the actual measurement; or
- (iii) ~~(iii)~~ by making the appropriate correction if the deviation from the accurate reading is ascertainable by calibration test or mathematical calculation; or
- (iv) ~~(iv)~~ by estimation acceptable to ~~Epic Energy~~Operator and ~~the~~ Shipper based upon receipts or deliveries of gas under similar conditions during a period when the Metering Equipment was registering accurately.

12.7 ~~12.7~~ Metering records

- (a) ~~(a)~~ Any record produced by Metering Equipment (including check metering equipment) in paper form is to be retained for 2 years, and in electronic form is to be retained for 5 years, after the date of production, by and at the expense of the ~~party~~Party owning the equipment which produces the record.
- (b) ~~(b)~~ Each Party ~~shall~~must, within ~~10 working days~~20 Business Days after receipt of a request from the other Party, submit to the other Party its records and other information produced by, and any calculations and other information derived from, its Metering Equipment (including check metering equipment), for inspection and verification by that other Party, and the other Party may make and retain any copies of those records, calculations and other information and ~~shall~~must return the originals within 10 ~~working days~~Business Days of receipt.

~~13. LIABILITY~~

13. LIABILITY

13.1 ~~13.1~~ Liability Limited to Direct Damage

Subject to these Access Contract Terms and Conditions, a Party who:

- (a) is negligent; or
- (b) defaults in respect of its obligations to the other Party under the Access Contract.

is liable to the other Party (including its directors, servants, consultants, independent contractors and agents) for, and is to indemnify the other Party (including its directors, servants, consultants, independent contractors and agents) against, any Direct Damage caused by or arising out of the negligence or default.

13.2 No Liability for Indirect Damage

Except as specifically provided elsewhere in these Access Contract Terms and Conditions, neither Party is in any circumstances liable to the other Party under any circumstances for Indirect Damage howsoever caused.

13.3 ~~13.2~~ Liability ~~for~~ For Fraud

A Party who is fraudulent ~~or who shows wilful disregard~~ in respect of its obligations to the other Party under the Access Contract is to be liable to the other Party for, and is to indemnify the other Party against all loss or damage (including Indirect Damage) caused by, consequential upon or arising out of the fraud ~~or wilful disregard~~.

~~13.3 — No liability arising out of any approval by Epic Energy~~

13.4 No Liability Arising Out Of Any Approval By Operator

Subject to ~~Clause~~ clauses 13.1 and 13.2, ~~Epic Energy~~ Operator is not in any circumstances to be liable to ~~the~~ Shipper for any ~~loss, injury, or damage~~ Direct Damage or Indirect Damage arising out of any approval by ~~Epic Energy~~ Operator of any design, location or construction of, or proposed operating or maintenance procedures in relation to, any equipment, apparatus, machine, component, installation, cable, pipe or facility connected to, or adjacent to and associated with, the DBNGP.

13.5 ~~13.4~~ Shipper Responsible ~~for its~~ For Its and ~~its~~ Its Contractors' Personnel and Property

- (a) Subject to clause 13.1, Shipper alone is liable for any:
 - (i) injury to or death of any person employed by Shipper or by any person (except Operator) contracting with Shipper; and
 - (ii) loss of or damage to any property of Shipper or of any person (except Operator) contracting with or employed by Shipper,
- ~~(a) — Except to the extent~~ however ~~caused by the negligence of Epic Energy, the Shipper is liable for any loss or damage,~~ which occurs during the duration of the Access Contract, in or about, or incidental to activities in or about, any Receipt Point, any Delivery Point, the DBNGP, or any other premises, facilities or places used for the storage, transportation or delivery of gas received from

or delivered to ~~the~~ Shipper, or where Operator's property or directors, servants, consultants, independent contractors or agents are in proximity.

- (b) ~~(b) — The Shipper indemnifies Epic Energy Operator~~ and any person (except ~~the~~ Shipper) contracting with ~~Epic Energy, Operator, and their respective directors, servants, consultants, independent contractors and agents,~~ against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in ~~Clause 13.4~~clause 13.5(a).

14. ~~14.~~ CURTAILMENT AND CURTAILMENT AND INTERRUPTION

14.1 Permissible Interruption

~~14.1~~ Permissible Interruption

~~Epic Energy~~Operator may curtail or interrupt ~~the~~ Shipper without liability to ~~the~~ Shipper:

- (a) where the duration of the curtailment together with the aggregate duration of all other curtailments of the Tf Service during the Year (other than curtailments or interruptions permitted under clause 14.1(b)) does not cause the Permissible Limit to be exceeded; and
- (b) in any of the following circumstances:
 - (i) ~~(a)~~ in such circumstances as ~~Epic Energy~~Operator considers necessary as a reasonable and prudent pipeline operator, including for Planned Maintenance, ~~provided that the interruption or curtailment is within the Permissible Limit~~ and Major Works;
 - (ii) in order to comply with obligations under any prior contract or any contract which is subject to curtailment or interruption only after the curtailment or interruption of the Tf Service;
 - (iii) ~~(b)~~ for if there is an event of Force Majeure where Operator is the affected party; or
 - (iv) ~~(c)~~ in the circumstances described in ~~Clause 3.3(d)~~ clause 3.10(d); or
 - (v) by reason of, or in response to a reduction in Capacity caused by the default, negligence, breach of contractual term or other misconduct of Shipper.

14.2 ~~14.2~~ ~~Epic Energy~~Operator must provide ~~the~~ Shipper with reasonable, and in any event not less than ~~30 days~~ 3 Days, prior written notice of all Planned Maintenance that may reasonably be considered likely to interrupt normal gas transmission.

14.3 ~~14.3~~ Non Permissible Interruption

~~Epic Energy~~Operator may curtail or interrupt ~~the~~ Shipper in circumstances which are not a Permissible Interruption ~~PROVIDED THAT~~ provided that in that case, ~~Epic Energy~~Operator shall:

- (a) ~~(a)~~ compensate ~~the~~ Shipper for any Direct ~~Loss~~ Damage suffered by ~~the~~ Shipper; and
- (b) ~~(b)~~ credit ~~the~~ Shipper in the next invoice issued by ~~Epic Energy~~Operator to ~~the~~ Shipper, with the Capacity Charge applicable to that capacity so interrupted or curtailed.

~~15. FORCE MAJEURE~~

15. FORCE MAJEURE

- (a) ~~(a)~~—A Party is excused from performance of, and is not liable for any failure in carrying out, any of its obligations under ~~this contract~~ the Access Contract if it is prevented from doing so by Force Majeure.
- (b) ~~(b)~~—If a Party claims the benefit of Force Majeure, it ~~shall~~ must:
- (i) ~~(i)~~—promptly give notice to the other Party of the occurrence and circumstances in which the claim arises;
 - (ii) ~~(ii)~~—use its best endeavours to remedy the consequences without delay; and
 - (iii) ~~(iii)~~—resume full performance of its obligations under the Access Contract as soon as reasonably practicable.
- (c) ~~(c)~~—Without limiting the generality of ~~Clause~~ clause 15(a), a refusal by ~~Epie Energy Operator~~ due to Force Majeure to accept gas from or deliver gas to ~~the~~ Shipper is not a curtailment or interruption of ~~the~~ Shipper's capacity.
- (d) ~~(d)~~—~~The~~ Shipper is relieved of its obligation to pay the Capacity Charges where an event of Force Majeure is claimed by ~~Epie Energy Operator~~ in respect of an interruption or curtailment of the Service to that Shipper.

~~16. CHARGES~~

16. CHARGES

16.1 ~~16.1~~—Obligation ~~to~~To Pay

~~The~~ Shipper ~~shall~~must pay the Charges, in the manner and at the times set out in the Access Contract, that relate to the Service in accordance with the Access Contract.

16.2 ~~16.2~~—CPI Adjustment of Reference Tariff and Charges

~~All of the Charges will be adjusted in accordance with clause 7.12 of the Access Arrangement.~~

~~17. DEFAULT AND TERMINATION~~

With effect from 08:00 hours on 1 January 2006 the Capacity Reservation Tariff, the Commodity Tariff and the Unavailability Charge shall each be adjusted each year with effect from 08:00 hours on 1 January of each year on the following basis:

$$Tariff_n = Tariff_b \times \left(\frac{CPI_n}{CPI_b} \right)$$

where:

<u>$Tariff_n$</u>	<u>\equiv</u>	<u>Capacity Reservation Tariff, Commodity Tariff or Unavailability Charge (as the case may be) in year n, where year n is each of the years 2006, 2007, 2008, 2009;</u>
<u>$Tariff_b$</u>	<u>\equiv</u>	<u>Capacity Reservation Tariff, Commodity Tariff or Unavailability Charge (as the case may be) set out in Schedule 1;</u>
<u>CPI_n</u>	<u>\equiv</u>	<u>CPI for the quarter ending on 30 September of the year before the year for which the Reference Tariff is being adjusted; and</u>
<u>CPI_b</u>	<u>\equiv</u>	<u>CPI for the quarter ending on 30 September 2004.</u>

17. DEFAULT AND TERMINATION

17.1 ~~17.1~~ Default by Shipper

An Event of Default by ~~the~~ Shipper occurs when ~~the~~ Shipper:

- (a) ~~(a)~~ suffers an Insolvency Event and the event has not been remedied within 5 Business Days from the date of a notice from Operator requiring the default to be remedied;
- (b) ~~(b)~~ defaults in performance of a material obligation and, where the default is capable of being remedied, does not remedy the default within a period of ~~21~~40 Business Days from the date of a notice from ~~Epie Energy~~Operator requiring the ~~Default~~default to be remedied; ~~or~~
- (c) ~~(c)~~ fails to pay any amount due to ~~Epie Energy~~Operator and that amount, plus any Interest, is still outstanding ~~75~~5 Business Days after the date of ~~posting~~ ~~of~~ a notice of demand from ~~Epie Energy~~Operator;
- (d) without Operator's prior consent, sells, parts with possession of, or attempts to sell or part with possession of, the whole or a substantial part of its undertaking, and this default is not remedied within a period of 40 Business Days from the date of a notice from Operator requiring the default to be remedied; or
- (e) suffers an adverse change in its business or financial condition or any event occurs which could, in the reasonable opinion of Operator, in any way jeopardise the ability of Shipper to meet its obligations to Operator under the Access Contract, and this default is not remedied within a period of 5 Business Days from the date of a notice from Operator requiring the default to be remedied.

17.2 ~~17.2~~ Rights of Service Provider

If an Event of Default by ~~the~~ Shipper occurs, ~~Epie Energy~~Operator may, at its discretion, take any one or more of the following actions:

- (a) ~~(a)~~ suspend the Service to ~~the~~ Shipper (including any rights of ~~the~~ Shipper to trade capacity on the Secondary Market) whilst the Event of Default continues and, if ~~Epie Energy~~Operator wishes to do so, provide access to a third ~~party~~Party to that amount of the Capacity in the DBNGP contracted to ~~the~~ Shipper under the Access Contract, until (as the case may be):
 - (i) ~~(i)~~ the Insolvency Event has been removed or rectified; or
 - (ii) ~~(ii)~~ the default has been remedied; and/or
- (b) ~~(b)~~ terminate the Access Contract by notice in writing to Shipper.

17.3 ~~17.3~~ Continuation of Payment Obligations

If ~~Epie Energy~~Operator elects to suspend the Service under ~~Clause~~clause 17.2(a), ~~the~~ Shipper will not be relieved of any of its obligations to make payments under the Access Contract.

17.4 ~~17.4~~ Default by ~~Epic Energy~~ Operator

(a) ~~(a)~~ ~~The Operator is in default under the Access Contract, and~~ Shipper may terminate the Access Contract, ~~if Epic Energy Operator~~:

(i) ~~(i)~~ defaults in providing the Service to ~~the~~ Shipper for 21 consecutive Days and does not remedy that default within 48 hours of receipt of a notice from ~~the~~ Shipper requiring that default to be remedied; or

(ii) ~~(ii)~~ otherwise defaults in the performance of a material obligation and does not remedy that default within a period of ~~21~~40 Days from the date of a notice from ~~the~~ Shipper requiring the default to be remedied or if the default is not capable of being remedied, adequate compensation paid.

(b) ~~(b)~~ A Permissible Interruption by ~~Epic Energy~~ Operator is not an Event of Default, nor a default for the purpose of ~~Clause~~clause 17.4(a).

17.5 ~~17.5~~ Other Rights and Remedies

The rights and remedies described in ~~Clauses~~clauses 17.2 and 17.4 are in addition to any other rights and remedies available to the Parties whether in law, in equity or otherwise.

17.6 ~~17.6~~ Prior Rights

Termination of the Access Contract will not prejudice the rights or remedies of either Party that have accrued ~~prior to~~at the date of termination.

18. ~~18.~~ DISPUTE RESOLUTION AND INDEPENDENT EXPERTS

18.1 Dispute Resolution~~AND INDEPENDENT EXPERTS~~

18.1 ~~Dispute Resolution~~

- (a)** ~~(a)~~ — If any Dispute arises between the Parties, either ~~party~~Party may give the other written notice of ~~a~~the Dispute and, within 5 Business Days of receipt of the notice, each Party will appoint a senior manager or executive to meet within 5 Business Days in an attempt to resolve the Dispute.
- (b)** ~~(b)~~ — The senior managers or executives will use their best endeavours to resolve the Dispute within a period of 20 Business Days from receipt of the notice referred to in ~~Clause~~clause 18.1(a).
- (c)** ~~(c)~~ — If the Parties believe that it would be beneficial, and they agree, they may retain the non-binding mediation services of an agreed mediator.
- (d)** ~~(d)~~ — If the Dispute remains unresolved at the end of the period referred to in ~~Clause~~clause 18.1(b), and the Dispute is a Technical Matter or a Financial Matter, then either Party may require that the Dispute be determined by an ~~independent expert~~Independent Expert under ~~Clause~~clause 18.2.

18.2 ~~18.2~~ Resolution of Technical and Financial Matter

(a) ~~(a)~~ Appointment of Independent Expert

The Party wishing to have the Dispute determined by an Independent Expert will give written notice to that effect to the other Party specifying the nature of the Dispute. The Parties will meet and use all reasonable endeavours to agree upon the identity of the Independent Expert, but if they are unable to agree within ~~20~~10 Business Days of the notice, then either Party may refer the matter:

- (i)** ~~(i)~~ — if it is a Technical Matter, to the ~~president~~President for the time being of the Institution of Engineers, Australia;
- (ii)** ~~(ii)~~ — if it is a Financial Matter, to the ~~president~~President for the time being of the Institute of Chartered Accountants in Australia; or
- (iii)** ~~(iii)~~ — in either case, if the relevant body referred to in ~~Clause~~clause 18.2(a)(i) or ~~Clause~~clause 18.2(a)(ii) no longer exists, then to the ~~president~~President for the time being of such successor body or association as is then performing the function formerly carried out by the relevant body,

who will nominate a suitably qualified person to act as the Independent Expert to determine the Dispute.

(b) ~~(b)~~ Expert ~~not~~Not an Arbitrator

Unless the ~~parties~~Parties agree otherwise, the Independent Expert appointed under ~~Clause~~clause 18.2(a) ~~will~~:

- (i)** ~~(i)~~ ~~will~~ act as an expert and not as an arbitrator;

(ii) ~~(ii)~~ ~~will~~must have no interest or duty which conflicts, or which may conflict, with his or her function as the Independent Expert;

(iii) ~~(iii)~~ ~~will~~ not be a former or current employee or representative of ~~the Shipper or Epic Energy~~ Operator or of a Related Body Corporate of either of them; and

~~(iv)~~ ~~shall~~must disclose fully to the Parties, before being appointed as the Independent Expert, any interest or duty which may conflict with his or her position.

(c) ~~(c)~~ Representation and Evidence

Each Party:

(i) ~~(i)~~ may be legally represented at any hearing before the Independent Expert;

(ii) ~~(ii)~~ ~~will~~ be entitled to produce to the Independent Expert any materials or evidence which that Party believes is relevant to the Dispute; and

(iii) ~~(iii)~~ ~~will~~ make available to the Independent Expert all materials requested by him or her and all other materials which are relevant to his or her determination.

(d) ~~(d)~~ Rules of Evidence

The Independent Expert will not be bound by the rules of evidence.

(e) ~~(e)~~ Confidentiality

Subject to any privileges under law, unless otherwise agreed by the Parties, all material and evidence made available for the purposes of the determination will be kept confidential.

(f) ~~(f)~~ Powers

The Independent Expert will have the power to inform himself or herself independently as to the facts to which the Dispute relates and to take such measures as he or she thinks fit to expedite the determination of the Dispute.

(g) ~~(g)~~ Determination

The Independent Expert will make a determination on the Dispute and will determine what, if any, adjustments may be necessary between the Parties. The determination of the Independent Expert will be final and binding upon the Parties. so far as the Law allows, except where a Party has been denied natural justice.

(h) ~~(h)~~ Costs

The allocation of costs in relation to a determination by the Independent Expert will be dealt with as follows:

(i) ~~(i)~~ ~~the~~ remuneration of the Independent Expert will, unless the Parties otherwise agree before the reference of the Dispute to the Independent Expert, or if there is a disagreement over the amount of

that remuneration, be finally determined by the President for the time being of the appropriate body referred to in ~~Clause~~clause 18.2(a);

- (ii) ~~(ii)~~ — unless the Parties otherwise agree, the Independent Expert will determine which Party will bear the costs of the determination and in what proportion, having regard to the degree to which he or she considers that Party was at fault or unreasonable in failing to agree to the matter under reference, and that Party will bear those costs accordingly; and
- (iii) ~~Epic Energy and the Shipper~~unless the Parties otherwise agree, the Independent Expert will determine whether the Parties will bear their own costs incurred in the preparation and presentation of any submissions or evidence to the Independent Expert.

19. ~~19.~~ ASSIGNMENT

19.1 Assignment by Operator

~~19.1~~ Assignment by Epic Energy

- (a) ~~Epic Energy~~ Subject to clause 19.1(b), Operator may not assign its ~~right~~ rights and ~~interest~~ interests under the Access Contract without obtaining the consent of ~~the Shipper where that assignment is to:~~ Shipper, which consent must not be unreasonably withheld.
- (b) Operator may assign its rights and interests under the Access Contract without obtaining the consent of Shipper where that assignment is to:

- (i) ~~(a)~~ a Related Body Corporate; or
- (ii) ~~(b)~~ a person holding an interest in the DBNGP;

~~but otherwise with the consent of the Shipper, which consent shall not be unreasonably withheld.~~

provided that such assignment does not release Operator from liability, and that upon the assignee ceasing to be a Related Body Corporate of Operator, the assignee must immediately transfer all of its rights and interests under the Access Contract to Operator.

19.2 ~~19.2~~ Assignment by Shipper

- (a) ~~(a)~~ The Shipper may undertake a Bare Transfer for any period without Epic Energy Operator's consent. The Shipper is not required to supply Epic Energy Operator with any information in relation to a Bare Transfer.
- (b) ~~(b)~~ Subject to the Shipper's rights to trade capacity in the Secondary Market, the accordance with the Access Contract, Shipper shall must not otherwise assign or encumber its right and interest under the Access Contract without obtaining the prior written consent of Epic Energy Operator, which consent shall not be unreasonably withheld.

~~20. CONFIDENTIALITY~~

- (c) Without limiting clause 19.2(b), Shipper may assign its rights and interests under the Access Contract without obtaining the consent of Operator where that assignment is to a Related Body Corporate, provided that such assignment does not release Shipper from liability, and that upon the assignee ceasing to be a Related Body Corporate of Shipper, the assignee must immediately transfer all of its rights and interests under the Access Contract to Shipper.

20. CONFIDENTIALITY

20.1 ~~20.1~~ Confidential Information

Subject to ~~Clause~~clauses 20.2 and 20.3, each Party shall keep the terms and conditions of the Access Contract, and all information provided pursuant to or in accordance with the Access Contract, confidential ("Confidential Information").

20.2 ~~20.2~~ Exceptions to Confidentiality

Either Party may disclose Confidential Information which:

- (a) ~~(a)~~ at the time when it is disclosed or communicated to or created, ascertained, discovered or derived by the Party, is publicly known;
- (b) ~~(b)~~ at the time when it is disclosed, is already known to the Party through some independent means not involving breach of any confidentiality undertaking owed pursuant to ~~Clause~~clause 20.1;
- (c) ~~(c)~~ after the time when it is disclosed or communicated to or created, ascertained, discovered or derived by the Party, comes into the public domain otherwise, than as a result of any breach of the confidentiality undertaking owed pursuant to ~~Clause~~clause 20.1; ~~or~~
- (d) ~~(d)~~ that ~~party~~Party is required by the ASX, court order, ~~law~~Law or the Regulator, or requested by the ACCC to disclose, and in ~~that case~~such cases, the disclosing ~~party shall~~Party must promptly notify the other ~~party~~Party of that requirement; or
- (e) disclosure is in accordance with the consent of the other Party and subject to any conditions of that consent.

20.3 ~~20.3~~ Permitted Disclosure

Either Party may disclose Confidential Information to:

- (a) ~~(a)~~ its employees; and
- (b) ~~(b)~~ consultants, lawyers, bankers and financial advisers; ~~;~~
to the extent those persons have a need to know the Confidential Information ~~PROVIDED THAT~~provided that the disclosing Party is responsible for ensuring those persons keep the Confidential Information confidential.

~~21. REPRESENTATIONS AND WARRANTIES~~

21. REPRESENTATIONS AND WARRANTIES

21.1 ~~21.1~~ Epic Energy Operator's Representations and Warranties

Epic Energy Operator represents and warrants to ~~the~~ Shipper that ~~—~~:

- (a) ~~(a)~~ — it has duly complied, and will up to the termination of the Access Contract continuously comply, with all environmental and safety laws with respect to any of its obligations connected with, arising out of or in relation to the Access Contract;
- (b) ~~(b)~~ — its obligations under the Access Contract are valid and binding and are enforceable against it in accordance with their terms;
- (c) ~~(c)~~ — Epic Energy Operator does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (d) ~~(d)~~ — ~~it controls~~ it is the operator of the DBNGP; and
- (e) ~~(e)~~ — the Access Contract does not contravene Epic Energy Operator's constituent documents or any ~~law~~ Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its or its directors' powers.

The representations and warranties in this ~~Clause~~ clause 21.1 are made on and from the Commencement Date, and are to be taken to be made anew on each Day thereafter for the duration of the Access Contract.

21.2 ~~21.2~~ Shipper's Representations and Warranties

~~(a)~~ ~~The~~ Shipper, by making an Access Request and by entering into the Access Contract, represents and warrants to Epic Energy Operator that ~~—~~:

- (a) ~~(i)~~ — it has duly complied, and will up to the termination of the Access Contract continuously comply, with all environmental and safety laws with respect to any of its obligations connected with the Access Contract;
- (b) ~~(ii)~~ — it has in full force and effect all necessary leases, licences or easements to construct, operate and maintain all facilities for which it is responsible under the Access Contract;
- (c) ~~(iii)~~ — it has in full force and effect all necessary approvals, licences and authorities required to use the gas delivered by Epic Energy Operator under the Access Contract in any facilities which use gas, and will throughout the term of the Access Contract comply with all legal requirements pertaining to those facilities;
- (d) ~~(iv)~~ — its obligations under the Access Contract are valid and binding and are enforceable against it in accordance with their terms;
- (e) ~~(v)~~ — the Access Contract and any transaction under it does not contravene ~~the~~ Shipper's constituent documents or any ~~law~~ Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;

- (f) ~~(vi)~~ — its obligations to make payments under the Access Contract rank at least equally with all unsecured and unsubordinated indebtedness of ~~the~~ Shipper except debts mandatorily preferred by ~~law~~ Law;
- (g) ~~(vii)~~ — neither ~~the~~ Shipper nor any of its ~~related bodies corporate~~ Related Bodies Corporate is in default under a ~~law~~ Law affecting any of them or their respective assets, or any obligation or undertaking by which it or any of its assets are bound;
- (h) ~~(viii)~~ — there is no pending or threatened action or proceeding affecting ~~the~~ Shipper or any of its ~~related bodies corporate~~ Related Bodies Corporate or any of their respective assets before a court, referee, governmental agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under the Access Contract;
- (i) ~~(ix)~~ — neither ~~the~~ Shipper nor any of its Related Bodies Corporate have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise); and
- (j) ~~(x)~~ — ~~the~~ Shipper is not an agent or trustee (except if and to the extent that it is disclosed as such in its Access Request) in relation to the Access Contract or the gas to be received or delivered under the Access Contract.
- ~~(b)~~ — The representations and warranties in ~~Clause~~ this clause 21.2~~(a)~~ are made on and from the Commencement Date, and are by force of this ~~Clause~~ clause to be taken to be made anew on each Day thereafter for the duration of the Access Contract.

21.3 ~~21.3~~ — Creditworthiness of Shipper

Epic Energy Operator may from time to time seek confirmation from ~~the~~ Shipper (including but not limited to provision of the most recent audited financial accounts of ~~the~~ Shipper) that ~~the~~ Shipper is in a position to meet its obligations under an Access Contract.

21.4 ~~21.4~~ — Failure to Satisfy ~~Epic Energy~~ Operator of Creditworthiness

If Epic Energy Operator is not (acting reasonably) satisfied that ~~the~~ Shipper is in a position to meet or continue to meet its obligations under an Access Contract, Epic Energy Operator may require, and ~~the~~ Shipper ~~shall~~ must provide, security for those obligations to Epic Energy Operator's reasonable satisfaction.

~~22. RECORDS AND INFORMATION~~

22. RECORDS AND INFORMATION

Except where otherwise provided in the Access Contract, both ~~Epic Energy~~Operator and ~~the~~ Shipper ~~shall~~must prepare and maintain proper books, accounts, records and inventories of all matters connected with or relating to the Access Contract, and shall retain those books, accounts, records and inventories for at least ~~5~~7 years.

~~23. INSURANCES~~

23. INSURANCES

- (a) ~~(a)~~ Subject to ~~Clause~~clause 23(d), ~~the~~ Shipper ~~shall~~must procure and maintain at its own expense throughout the duration of the Access Contract the following insurances with insurers having a reputation satisfactory to a reasonable and prudent person—:
- (i) ~~(i)~~ worker's compensation insurance in accordance with the Workers' Compensation and Rehabilitation Act 1981, and for ~~the~~ Shipper's common law liability to workers;
 - (ii) ~~(ii)~~ property damage insurance against damage, loss or destruction of ~~the~~ Shipper's plant and equipment at the Receipt Point or Delivery Point; and
 - (iii) ~~(iii)~~ liability insurance for such amount as ~~Epic Energy~~Operator may reasonably require (not exceeding \$100 million indexed for CPI) against risk of loss, damage, death or injury to property or personnel ~~(however caused) of Epic Energy, the~~of Operator. Shipper or the public in connection with, related to or arising out of the Access Contract, caused by negligence.
- (b) ~~(b)~~ Subject to clause 23(d) ~~the~~, Shipper ~~shall~~must arrange for ~~Epic Energy Operator's~~ interest to be noted on ~~those~~the policies referred to in clauses 23(a)(ii) and 23(a)(iii) to the reasonable satisfaction of ~~Epic Energy Operator~~ so that ~~Epic Energy Operator~~ is covered under those policies ~~and, and must use~~ reasonable endeavours to arrange for the insurers to waive rights of subrogation against ~~Epic Energy Operator~~.
- (c) ~~(c)~~ Subject to clause 23(d) ~~the~~, Shipper ~~shall~~must, prior to the commencement of the Access Contract and prior to the commencement of each Year thereafter, provide ~~Epic Energy Operator~~ with certificates of currency of the insurances and endorsements required by this ~~Clause~~clause.
- (d) ~~(d)~~ ~~Epic Energy Operator~~ may waive compliance—:
- (i) ~~(i)~~ by ~~the~~ Shipper; or
 - (ii) ~~(ii)~~ if ~~the~~ Shipper is a joint venture, by a joint venture participant, with any or all of the requirements of ~~Clauses~~clauses 23(a), 23(b) and 23(c) if ~~Epic Energy~~ Operator;
 - (iii) ~~(iii)~~ is satisfied that ~~the~~ Shipper or the joint venture participant, as the case may be, has adequate alternative arrangements;
 - (iv) ~~(iv)~~ accepts ~~the~~ Shipper or the joint venture participant, as the case may be, as a self-insurer; or
 - (v) ~~(v)~~ determines that there is other sufficient reason to do so.

~~24. NO WAIVER~~

24. NO WAIVER

No failure or delay by a Party in exercising any of its rights under the Access Contract operates as a waiver of the Party's rights or prevents the Party from subsequently enforcing any right or treating any breach by the other Party as a repudiation of the Access Contract.

~~25. ENTIRE AGREEMENT~~

25. ENTIRE AGREEMENT

The Access Contract constitutes the entire agreement between the ~~parties~~Parties on the subject matter of the Access Contract and supersedes all prior negotiations, representations and agreements between the ~~parties~~Parties.

~~26. SEVERABILITY~~

26. SEVERABILITY

If any ~~Clause~~clause or provision of the Access Contract is held illegal or unenforceable by any judgment of a referee, court, arbitrator or tribunal having competent jurisdiction, the judgment does not affect the remaining provisions of the Access Contract which remain in full force and effect as if the ~~Clause~~clause or provision held to be illegal or unenforceable had not been included in the Access Contract.

~~27. ENTRY AND INSPECTION~~

27. ENTRY AND INSPECTION

- (a) ~~(a)~~ Each Party ~~shall~~must grant to, or use its reasonable endeavours to procure for, the other Party all reasonable rights of entry~~—~~:
- (i) ~~(i)~~ for the purposes of constructing, installing, operating, maintaining and verifying the accuracy of any Metering Equipment, other equipment or thing (and if the ~~party~~Party is ~~Epie Energy~~Operator, the DBNGP);
 - (ii) ~~(ii)~~ to inspect for safety or other reasons the construction, installation, operation, maintenance and repair of any Metering Equipment, other equipment or thing (and if the ~~party~~Party is ~~Epie Energy~~Operator, the DBNGP); and
 - (iii) for any other purpose connected with or arising out of the Access Contract.
- (b) ~~(b)~~ Any entry under ~~Clause~~clause 27(a) is made in all respects at the expense and risk of the entering Party, who ~~shall~~must make good any damage occasioned by or resulting from the entry.
- (c) ~~(c)~~ Except in the case of emergency, a Party ~~shall~~must:
- (i) ~~(i)~~ when it seeks to exercise a right of entry under this ~~Clause~~clause 27, give reasonable notice to the other Party specifying the proposed time and duration of entry; and
 - (ii) ~~(ii)~~ take all reasonable steps to ensure that during the entry its servants, consultants, independent contractors and agents cause as little inconvenience to the other Party as possible and at all times comply with all reasonable safety standards and other requirements of that Party.
- (d) ~~(d)~~ To the extent that any equipment or thing is located on the premises of a third person, the ~~parties shall~~Parties must use their reasonable endeavours to secure for either or both of the Parties a right of entry to that third person's premises.

~~28. OWNERSHIP, CONTROL, MAINTENANCE AND RISK~~

28. OWNERSHIP, CONTROL, MAINTENANCE AND RISK

- (a) ~~(a)~~ — In the absence of any agreement between the ~~parties~~ Parties to the contrary, the Receipt Point and the Delivery Point on the DBNGP mark the boundaries of ownership of all plant, equipment, pipelines and facilities, and, as between the ~~parties~~ Parties and in the absence of evidence to the contrary, ~~the~~ Shipper is to be presumed to own any relevant thing upstream of the Receipt Point and downstream of a Delivery Point, and ~~Epic Energy~~ Operator is to be presumed to own any relevant thing between the Receipt Point and the Delivery Point.
- (b) ~~(b)~~ — In the absence of any agreement between the ~~parties~~ Parties to the contrary, the responsibility to install, commission, operate and maintain, and the risk in relation to, all plant, equipment, pipelines and facilities follows ownership.

~~29. REBATES~~

~~29.1 Rebate Sharing Contract~~

- ~~(a) The Access Contract is a Rebate Sharing Contract;~~
- ~~(b) Clause 29.1(a) does not apply to and is not a term of a contract for Secondary Market Service or Seasonal Service;~~

~~29.2 Rebate of Charge Revenues~~

- ~~(a) The Shipper is a Charge Revenue Rebate Shipper as defined in sub-clause 9.5 of the Access Arrangement and is entitled to Charge Revenue Rebates in accordance with the provisions of this sub-clause.~~

~~30. No Common Carriage~~

29. NO COMMON CARRIAGE

Neither ~~Epic Energy~~Operator nor ~~the~~ Shipper is a common carrier of gas transported through the DBNGP.

30. OPERATOR NOT A SUPPLIER OF GAS

Nothing in the Access Contract requires Operator to supply gas to Shipper.

~~31. EPIC ENERGY NOT A SUPPLIER OF GAS~~

31. STAMP DUTY

~~Nothing in~~ Shipper must pay all stamp duty which may be payable in respect of the
Access Contract ~~requires Epic Energy to supply gas to the Shipper.~~

~~32. STAMP DUTY~~

32. NO THIRD PARTY BENEFIT

~~The~~No person other than Operator or Shipper ~~shall pay all stamp duty which may be payable in respect of the Access Contract.~~

~~33. No Third Party Benefit~~ No person other than Epic Energy or the Shipper is to obtain any benefit or entitlement under ~~this contract~~ [the Access Contract](#), despite that person being referred to in ~~this contract~~ [the Access Contract](#) or belonging to a class of persons which is referred to in ~~this contract~~ [the Access Contract](#).

SCHEDULE 1
RATES AND CHARGES

Schedule 1

Reference Tariff and Charges

<u>Capacity Reservation Tariff</u>	<u>\$0.9847/GJ</u>
<u>Commodity Tariff</u>	<u>\$0.1077/GJ</u>
Unavailability Charge	\$15/GJ
Nominations Surcharge	350% of the relevant 100% load factor Reference Tariff
Excess Imbalance Charge	350% of the relevant 100% load factor Reference Tariff
Out of <u>Of</u> Specification Gas <u>gas</u> Charge	350% of the relevant 100% load factor Reference Tariff
Peaking Surcharge	350% of the relevant 100% load factor Reference Tariff

SCHEDULE 2

GAS QUALITY, PRESSURE AND TEMPERATURE

Schedule 2

Gas Quality, Pressure and Temperature

Item 1. Gas Quality

Component		Category A Gas <u>Receipt Points</u>	Category B Gas <u>Delivery Points</u>
Maximum carbon dioxide (mol %)		3.6	4.0
Maximum inert gases (mol %)		5.5	6.0
Minimum higher heating value (MJ/m ³)		37.3	37.3
Maximum higher heating value (MJ/m ³)		42.3	42.3
Minimum Wobbe Index		47.3	47.3
Maximum Wobbe Index		51.0	51.0
Maximum total sulphur (mg/m ³)	Unodorised gas	10	10
	Odorised gas	n/a	20
Maximum Hydrogen Sulphide (mg/m ³)		2	2
Maximum Oxygen (mol %)		0.2	0.2
Maximum Water (mg/m ³)		48	48
Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute		Below 0 °C	Below 0 °C
Maximum radioactive components (Bq/m ³)		600	600
Minimum extractable LPGs – (t/TJ)		1.45	n/a

Item 2. Gas Temperature and Pressure

Receipt Point or Delivery Point	Pressure		Temperature	
	Min (kPag)	Max (kPag)	Min (°C)	Max (°C)
Receipt Point <u>I1-01</u>	Line pressure	MAOP permitted by the Pipeline Licence <u>8480</u>	0	50 <u>60</u>
Delivery Point <u>Receipt</u> <u>Points other</u> <u>than I1-01</u>	Line pressure	MAOP permitted by the Pipeline Licence <u>Licences</u>	0	50
<u>Delivery Point</u>	<u>Line pressure</u>	<u>MAOP permitted</u> <u>by the Pipeline</u> <u>Licences</u>	<u>0</u>	<u>50</u>

SCHEDULE 3

METERING REQUIREMENTS

Item 3 – Broadest Specification

<u>Component</u>		
<u>Maximum carbon dioxide (mol%)</u>		<u>4.0</u>
<u>Maximum inert gases (mol%)</u>		<u>6.0</u>
<u>Minimum higher heating value (MJ/m³)</u>		<u>37.3</u>
<u>Maximum higher heating value (MJ/m³)</u>		<u>42.3</u>
<u>Minimum Wobbe Index</u>		<u>47.3</u>
<u>Maximum Wobbe Index</u>		<u>51.0</u>
<u>Maximum total sulphur (mg/m³)</u>	<u>Unodorised Gas</u>	<u>10</u>
	<u>Odorised Gas</u>	<u>20</u>
<u>Maximum Hydrogen Sulphide (mg/m³)</u>		<u>2</u>
<u>Maximum Oxygen (mol %)</u>		<u>0.2</u>
<u>Maximum Water (mg/m³)</u>		<u>48</u>
<u>Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute</u>		<u>Below 0°C</u>
<u>Maximum radioactive component (Bq/m³)</u>		<u>600</u>
<u>Minimum extractable LPGs (t/TJ)</u>		<u>n/a</u>

Schedule 3

Metering Requirements

1. ~~1.~~ Design, Adjustment and Operation
- (a) ~~(a)~~ Metering Equipment shall be designed, adjusted and operated so as to achieve ~~—~~ —:
- (i) ~~(i)~~ subject to clauses 1(a)(ii) and (iii) and clause 1(b) below, the best accuracy of measurement which is technically and economically feasible consistent with standard gas industry practices;
- (ii) ~~(ii)~~ measurement to within a maximum uncertainty of ~~—~~ —:
- (A) ~~(A)~~ subject to clause 1(b) below, plus or minus 1% of Actual Mass Flow Rate at a minimum of the 95% confidence level for metering equipment with a design maximum flow rate of 5 TJ/d or greater; and
- (B) ~~(B)~~ plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level for metering equipment with a design maximum flow rate of less than 5 TJ/d; and
- (iii) ~~(iii)~~ measurement to within a maximum uncertainty of plus or minus one quarter of one percent of higher heating value at a minimum of the 95% confidence level.
- (b) ~~(b)~~ Alternative Metering Equipment referred to in clause 2(b)(i) below need not comply with clause 1(a)(ii)(A) above if ~~—~~ —:
- (i) ~~(i)~~ it is designed, adjusted and operated so as to achieve measurement to within a maximum uncertainty of plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level; and
- (ii) ~~(ii)~~ it is not used or likely to be used for more than 72 hours in any gas year.
- (c) ~~(c)~~ ~~Each~~ Subject to clauses 1(a) and 1(b) above, each component of Metering Equipment may be designed, adjusted and operated within limits of uncertainty agreed between the ~~parties~~ Parties.
- (d) ~~(d)~~ In this clause, "95% confidence level" has the meaning given to that expression by ISO 5168 as amended varied or replaced.
2. ~~2.~~ Metering Requirements
- (a) ~~(a)~~ Metering Equipment shall ~~—~~ —:
- (i) ~~(i)~~ continuously compute and record ~~—~~ —:
- (A) ~~(A)~~ (in the case of Receipt Point Metering Equipment) the quantity and quality of gas delivered by ~~the Shipper~~ to ~~Epie Energy~~ Operator under the Access Contract; and
- (B) ~~(B)~~ (in the case of Delivery Point Metering Equipment) the quantity of gas delivered by ~~Epie Energy~~ Operator to ~~the Shipper~~ under the Access Contract;

- (ii) ~~(ii)~~ be of a standard of manufacture acceptable to ~~Epie~~
~~Energy Operator~~ in its discretion as a reasonable and prudent pipeline operator;
- (iii) ~~(iii)~~ comply with AS 2885 and any Australian or international standards required from time to time by ~~Epie Energy Operator~~;
- (iv) ~~(iv)~~ subject to clauses 2(a)(ii) and 2(a)(iii) above, encompass newest proven technology;
- (v) ~~(v)~~ be able in all streams to withstand gas flows of up to 120% of the design flow;
- (vi) ~~(vi)~~ provide data signals in the form of galvanically isolated 4-20 milliamp current loops or potential free contacts, as appropriate, or in such other form as the ~~parties~~ Parties as reasonable and prudent persons may agree; and
- (vii) ~~(vii)~~ include facilities to enable electronic data collection by ~~Epie Energy Operator~~'s electronic data collection system.
- (b) ~~(b)~~ Metering Equipment with a design maximum flow rate of 5 TJ/d or more shall include—:

 - (i) ~~(i)~~ alternative Metering Equipment capable of measuring gas quantity and (for Receipt Point Metering Equipment) gas quality;
 - (ii) ~~(ii)~~ a means for detecting a fault in duty equipment which is likely to materially affect the accuracy of any measurements produced by the duty equipment, and a means in the event of such a fault for automatically switching metering from the faulty duty equipment to the alternative Metering Equipment referred to in sub-clause (i); and
 - (iii) ~~(iii)~~ a means for manually switching metering from duty equipment to the alternative Metering Equipment referred to in clause 2(b)(i) above.
- (c) ~~(c)~~ Metering Equipment at a Receipt Point shall provide digital signals associated with valve or other equipment status, and shall include components for signalling the following primary measurements and derived variables associated with gas quality and quantity—:

 - (i) ~~(i)~~ delivery temperature;
 - (ii) ~~(ii)~~ delivery pressure;
 - (iii) ~~(iii)~~ instantaneous energy flow rate in terajoules per day;
~~instantaneous energy flow rate in terajoules per day; instantaneous energy flow rate in terajoules per day; instantaneous energy flow rate in terajoules per day;~~
 - (iv) ~~(iv)~~ totalised energy flow in gigajoules;
 - (v) ~~(v)~~ relative density;
 - (vi) ~~(vi)~~ higher heating value in megajoules per kilogram;
 - (vii) ~~(vii)~~ nitrogen content in mole percent;
 - (viii) ~~(viii)~~ carbon dioxide content in mole percent;
 - (ix) ~~(ix)~~ LPG content in tonnes per terajoule of gas;
 - (x) ~~(x)~~ moisture level in milligrams per cubic metre;

- (xi) ~~(xi)~~ instantaneous hydrocarbon dew point in degrees Celsius; and
- (xii) ~~(xii)~~ all primary measurements and derived variables used in any computation required by sub-clauses (i) to (xi).
- (d) ~~(d)~~ Unless ~~Epic Energy~~ Operator and ~~the~~ Shipper as reasonable and prudent persons agree to the contrary, Delivery Point Metering Equipment may utilise gas quality data (the "remote data") from equipment which is not located at the Delivery Point station in question, in which case—:

 - (i) ~~(i)~~ ~~Epic Energy~~ Operator may as a reasonable and prudent person adopt procedures relating to that utilisation, including without limitation relating to the use of preset gas quality values when the remote data is unavailable for any reason; and
 - (ii) ~~(ii)~~ clauses 4 and 7 below apply, with appropriate modifications, to any procedures adopted under clause 2(d)(i) above.
- (e) ~~(e)~~ Delivery Point Metering Equipment shall provide digital signals associated with valve or other equipment status, and shall include components for signalling the following primary measurements and derived variables associated with gas quantity—:

 - (i) ~~(i)~~ delivery temperature;
 - (ii) ~~(ii)~~ delivery pressure;
 - (iii) ~~(iii)~~ instantaneous energy flow rate in terajoules per day derived using the higher heating value;
 - (iv) ~~(iv)~~ totalised energy flow in gigajoules; and
 - (v) ~~(v)~~ all primary measures and derived variables used in any computation required by clauses 2(e) (i) to (iv) above; and
 - (vi) higher heating value in megajoules per cubic metre.
- (f) ~~(f)~~ The Receipt Point Metering Equipment, and any building erected for such equipment, is the property of ~~the~~ Shipper, and the Delivery Point Metering Equipment, and any building erected for such equipment, is the property of ~~Epic Energy~~ Operator.

3. ~~3.~~ Changes to Requirements for Metering Equipment

~~Epic Energy~~ Operator may modify, or may by notice in writing require ~~the~~ Shipper to modify, existing Metering Equipment to comply with requirements or standards specified by ~~Epic Energy~~ Operator after that equipment was installed, and if the modification is necessary to comply with safety laws of general application, or to comply with an amendment to the Access Arrangement implementing such laws, the modification is to be made at ~~the~~ Shipper's expense, and otherwise the modification is to be made at ~~Epic Energy~~ Operator's expense.

4. ~~4.~~ Preservation of Accuracy

- (a) ~~(a)~~ All Metering Equipment is to be installed in a manner which permits an accurate measurement of the quantity, and (for Receipt Point Metering Equipment) the quality, of gas delivered, and a ready Verification of the accuracy of measurement.
- (b) ~~(b)~~ Each Party shall, in the installation, maintenance and operation of any Metering Equipment, exercise the care of a reasonable and prudent person to

prevent any inaccuracy in the measurement of the quantity of gas delivered under the Access Contract.

5. ~~5.~~ Presumptions of ~~accuracy~~ Accuracy

- (a) ~~(a)~~ Subject to ~~Clause 11.5,~~ clause 12.5 of these Access Contract Terms and Conditions, a measurement of the quantity or quality of gas from any Metering Equipment is to be presumed to be correct.
- (b) ~~(b)~~ If any 2 consecutive Verifications show any Metering Equipment to be operating within the prescribed limits of uncertainty, the Metering Equipment is to be presumed to have been operating within the prescribed limits of uncertainty throughout the intervening period.
- (c) ~~(c)~~ The presumptions in clauses 5(a) and 5(b) are to apply until the contrary is shown.
- (d) ~~(d)~~ If either or both of the presumptions in clauses 5(a) and 5(b) above is, or are, shown to be incorrect in respect of any period or periods, ~~Clause 11.5 and Clause 11.6~~ clause 12.5 and clause 12.6 of the Access Contract apply, with appropriate modifications, to measurements taken by the Metering Equipment during the period or periods.

6. ~~6.~~ Verification of ~~metering equipment~~ Metering Equipment

~~(a)~~ ~~Epic Energy~~

(a) Operator:

- (i) ~~(i)~~ shall, subject to clause 6(b), at least once each ~~month~~ 3 months during the duration of the Access Contract; and
- (ii) ~~(ii)~~ may at such greater frequency or on any occasion that either Party may request,

verify the accuracy of any Metering Equipment in accordance with a procedure described in clause 6(c).

- (b) ~~(b)~~ Either Party may from time to time, by at least 3 months' advance notice in writing to the other Party, vary the interval between verifications under clause 6(a)(i) of any Metering Equipment, provided that the established performance of the Metering Equipment is such that a reasonable and prudent person would be satisfied that the interval can be so varied without materially detrimentally affecting the accuracy of measurements provided by the Metering Equipment and without materially increasing the risk of the Metering Equipment operating outside the prescribed limits of uncertainty.
- (c) ~~(c)~~ The Verification procedure is to consist of ~~—~~ :
 - (i) ~~(i)~~ a comparison between simultaneous independent measurements of gas flows;
 - (ii) ~~(ii)~~ the physical substitution of the Metering Equipment to be verified with similar metering equipment having a demonstrated accuracy within the prescribed limits of uncertainty; or
 - (iii) ~~(iii)~~ any Metering Equipment testing procedure complying with applicable Australian or International standards that the ~~parties~~ Parties agree in writing to use.
- (d) ~~(d)~~ Each Party may have representatives present at the time of any Verification of the accuracy of any Metering Equipment (unless the number of

persons present shall be restricted for safety or logistical reasons, in which case the ~~parties~~Parties are to agree on which representatives are to be present), and ~~Epic Energy Operator~~ shall give ~~the~~ Shipper sufficient notice of an intended Verification to enable ~~the~~ Shipper's representative to be present.

- (e) ~~(e)~~ — The results of any Verification are binding on both ~~parties~~Parties unless within 7 ~~working days~~Business Days after a Verification either Party gives notice to the other Party that it disputes the conduct of the Verification, in which case —:
- (i) ~~(i)~~ — the dispute resolution provisions of ~~Clause 17~~clause 18; and
- (ii) ~~(ii)~~ — any reference to accuracy figures produced by a Verification means the accuracy figures finally determined for that verification under a dispute resolution process adopted in accordance ~~Clause 17~~clause 18.
- (f) ~~(f)~~ — Subject to ~~Clause~~clause 6(g) below, any Verification under clause 6(a) above is to be made at ~~the~~ Shipper's expense, provided that Operator is to bear the cost of attendance of Operator's representatives.
- (g) ~~(g)~~ — If a Verification requested by ~~Epic Energy Operator~~ under ~~Clause~~clause 6(a)(ii) above reveals that the accuracy of the Metering Equipment is within the prescribed limits of uncertainty, the Verification is to be at ~~Epic Energy Operator's~~ expense and ~~Epic Energy Operator~~ shall pay ~~the~~ Shipper's reasonable expenses of that Verification.

7. ~~7.~~ — Adjustment or ~~replacement of defective equipment~~Replacement of Defective Equipment

- (a) ~~(a)~~ — If any component of Metering Equipment is at any time found to be defective or otherwise out of service or operating outside the prescribed limits of uncertainty, ~~Epic Energy Operator~~ shall at ~~an~~a Delivery Point station and ~~the~~ Shipper shall at ~~an Receipt Point~~a receipt point station (in either case at ~~the~~ Shipper's expense) forthwith either —:
- (i) ~~(i)~~ — adjust it to read accurately within the prescribed limits of uncertainty; or
- (ii) ~~(ii)~~ — if such adjustment is not possible, replace it with a serviceable component.
- (b) ~~(b)~~ — Without limiting the generality of ~~Clause~~clause 7(a), if Metering Equipment with a design maximum flow rate of less than 5 TJ/d is at any time found to be for any reason operating outside the prescribed limits of uncertainty, ~~Epic Energy Operator~~ shall at a Delivery Point and ~~the~~ Shipper shall at any Receipt Point (in either case at ~~the~~ Shipper's expense) within 48 hours cause the Metering Equipment to operate within the prescribed limits of uncertainty.

Document comparison done by DeltaView on Monday, January 24, 2005 15:18:29

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Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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