

Submission on Proposed Revisions to the Access Arrangement for the Goldfields Gas Pipeline

Terms and Conditions

Submitted by Goldfield Gas Transmission Pty Ltd

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Appendix 9 Authority’s required amendments and recommendations to GGT’s Terms and Conditions applying to the Firm Service

Part 1 – Provisions the Authority requires to be amended

Section in GGT’s revised T&Cs	GGT’s comments	Authority’s consideration and comments	Authority’s required amendment	GGT’s consideration and comments
Obligation to provide the Firm Service				
1-3	<p>Varies current clause 1.1 (General Terms and Conditions).</p> <p>Minor changes to terminology/definitions to be consistent with the terminology in NGR and other APA Group access arrangements, including changing references from “GGT” to “Service Provider” and “Service Agreement” to “Transportation Agreement”.</p>	<p>While the wording of proposed clause 3 is taken from the wording of current clause 4.1, the provision is now circuitous since GGT has also amended the definition of the "Firm Service" so that it is now defined as the "Reference Service...". It does not appear to serve any useful purpose or add anything to the document.</p>	<i>Delete proposed clause 3.</i>	Accepted.
4	<p>Varies current clause 2 (Agreement to Provide and to Accept Service).</p> <p>Concept of Order Form is no longer used. The</p>	<p>Proposed clause 4 is poorly worded. E.g. it refers to "Users" generally, where it should refer to the particular User who has entered into the Transportation</p>	<p><i>Amend proposed clause 4 as follows:</i></p> <p><u><i>"Where User has entered into a Transportation Agreement with</i></u></p>	Accepted.

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	<p>Order Form and associated processes are cumbersome and make commercial dealings difficult for Service Provider and User. Proposed clause 4 is taken from the AER approved Roma Brisbane Pipeline (RBP) AA T&Cs.</p>	<p>Agreement.</p>	<p><i><u>Service Provider to provide the Firm Service.</u> Service Provider will provide the Firm Service to Users with whom it has a Transportation Agreement to provide the Firm Service, in accordance with these Terms and Conditions."</i></p>	
<p>Prudential requirements</p>				
<p>5</p>	<p>Current clause 9.13 (bond/deposit) deleted and replaced with proposed clause 5. Proposed clause 5 covers prudential requirements for User. This clause is based on the RBP AA T&Cs clause and better reflects the commercial realities of these arrangements and what financial surety is provided. The concept of performance bond is also not used anymore in practice, hence its deletion.</p>	<p>While Proposed clause 5 may be "based on the RBP AA T&Cs clause", it also has some differences. The words "issued by a bank which has an office in Australia and has a credit rating of at least A by S&P or A2 by Moody's and is for an undrawn amount equal to a minimum of 6 months of Charges payable and User must maintain it for 6 months after termination of the Transportation Agreement" do not appear in the RBP AA. GGT has not explained why these additional words were included. While they may have been included in an attempt to give more certainty as to the type of guarantee required,</p>	<p><i>Amend T&Cs to require GGT to act reasonably when determining both the type of security and its amount and to reinstate User safeguards along the lines of current clauses 9.13(a)(1), (2), (3) & (4) (matters GGT must have regard to when determining type and amount of security) and 9.13(c) (interest on security deposits).</i></p>	<p>Accepted with further amendments. The further amendments proposed are consistent with ERA's requirements.</p>

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		<p>in doing so they also introduce some uncertainties of their own. E.g. How will "<i>a minimum of 6 months of Charges payable</i>" be calculated given that some of the Charges are variable based on throughput, and others may not necessarily arise (overrun, imbalance, daily variation). How will the amount of the bank guarantee be fixed for these charges?</p> <p>Also, in replacing current clause 9.13 of the current AA (which requires a "bond, deposit or other security") with proposed clause 5 (which requires a "parent company guarantee, bank guarantee or similar security") GGT has also, removed some important safeguards for Users, namely:</p> <p>while current clause 9.13(a) requires GGT to act reasonably when determining <i>both</i> the type of security <i>and</i> its amount, under proposed clause 5 GGT is only required to act reasonably when determining the type of guarantee, not its amount; and</p> <p>the list of matters GGT must have regard to when assessing the type and amount of security has been</p>		

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		<p>removed (see former clauses 9.13(a)(1), (2), (3) and (4), now deleted); and</p> <p>the requirement in current clause 9.13(c) (now deleted) for GGT to pay interest on any security deposit has been removed.</p>		
Nominations				
6-10	<p>Includes clause included in RBP AA T&Cs enabling Users to revise their nominations and requires User to vary their nomination if required by any direction or requirement of a Governmental Authority.</p> <p>Relocates current clause 5.2 (daily nominations) to proposed clause 6 with minor amendments. Nomination time revised down from 7 to 3 days which benefits User. The concept of the Nomination Form has also been deleted as Users make nominations through the APA Grid tool</p>	<p>The reduction in the notice period for nominations from 7 to 3 days appears acceptable as it benefits the User. However, it is unclear if the replacement of nomination forms with use of the APA Grid tool (Information Interface) has a net benefit for Users. Is the APA Grid tool compatible with Users' existing systems or must they outlay added expense in order to use it (e.g. hardware, software and/or staff training)? In the absence of user submissions, the Authority accepts the proposed change.</p> <p>The proposed Nomination Deadline of 4.00pm on the day before the relevant gas day under proposed clause 7 appears to allow Users 2 more hours in which to nominate than the current 18 hour deadline under current clause</p>	<p><i>Amend proposed clause 7 to read as follows:</i></p> <p><i>"7. The User may revise its Nomination:</i></p> <p><i>a. for the Firm Service a Delivery Point for a Day; or</i></p> <p><i>b. for the Receipt Point for a Day in order to correct an Imbalance, by giving Service Provider an updated Nomination for that Day prior to the Nomination Deadline."</i></p> <p><i>Amend proposed clause 10 to read as follows:</i></p> <p><i>"The User must promptly comply with all reasonable directions of Service Provider, (including by making or varying Nominations),</i></p>	Accepted.

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	(Information Interface).	<p>5.5.</p> <p>However, the User's right to revise its Nomination for the Receipt Point (proposed clause 7(b)) is now limited to cases where it does so "<i>in order to correct an Imbalance</i>". There was no such limitation in the current clause 5.5 and GGT has given no justification for it (other than that it applies in the RBP AA).</p> <p>It is not clear from the proposed clause 10 if the User must only comply with directions given by GGT <i>in order to facilitate compliance with any direction or requirement of a Governmental Authority</i>, or whether the User must comply with all <i>reasonable directions</i> of GGT. Proposed clause 10 should be amended to clarify that the new obligation for Users added by GGT is limited to cases of compliance with the requirement of a Governmental Authority.</p> <p>There is a drafting discrepancy between the proposed clause 6 and clause 7, in that "Firm Service" is referred to with a different name. This creates uncertainty and accordingly, the Authority requires an amendment to proposed clause</p>	<p><i>given in order to facilitate compliance with any <u>lawful</u> direction or requirement of a Governmental Authority."</i></p>	

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		7.		
Scheduling				
11-14	GGT has introduced scheduling provisions to avoid "ambiguity in respect of daily operation of pipeline" (see AA Supporting Information at page 13). GGT claims it has adopted the scheduling provisions of the RBP AA.	<p>Proposed clause 11: The scheduling is to occur following receipt of User's nomination. It should also be expressly subject to any <i>revised</i> nomination made under new clause 7. Drafting of proposed clause 11 also needs to expressly link the scheduling to each Gas Day to which the Nomination relates. The reference in proposed clause 11(b) to gas "confirmed" for supply does not make clear who provides that confirmation (and how or when).</p> <p>Proposed clause 12(b): refers to "Users <i>with</i> Transportation Agreements for Negotiated Services" but change "with" to "under" (as per terminology used in new cl 12(a)). Otherwise, if a single User has both negotiated and non-negotiated services, use of "with" creates a possibility that their nominations under <i>both</i> agreements could be counted at the second stage in clause 12(b) (which makes no sense).</p>	<p><i>Amend proposed clause 11 to read as follows:</i></p> <p><i>"Following the receipt of the User's Nomination <u>(including any revision of the User's Nomination in accordance with clause [7])</u>, Service Provider must (subject to any adjustments Service Provider (acting reasonably) deems necessary to maintain the operational integrity of the Pipeline <u>in accordance with Good Engineering and Operating Practice</u> or to comply with any laws and subject to certain other exceptions specified in these Terms and Conditions), <u>in respect of each Day to which the Nomination relates</u>, Schedule for acceptance at the Receipt Point and Delivery Points the lesser of:</i></p> <p><i>in respect of the Receipt Point,</i></p> <ol style="list-style-type: none"> <i>the quantity of Gas Nominated by the User at the Receipt Point <u>for that Day</u>; and</i> <i>the aggregate quantity of Gas confirmed for supply on account of the User at the Receipt</i> 	Accepted.

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		<p>Proposed clause 13: Does not expressly state when and how Service Provider will inform User of any scheduling or re-scheduling.</p> <p>Proposed clause 14: Should allow a User a <i>reasonable period</i> in which to respond to GGT's request for a schedule of User's nomination priorities. At the moment the clause expects an instant response from User or else User loses its right to choose its priorities.</p>	<p><i>Points for that Day by Interconnect Parties at the Receipt Point; and</i></p> <p><i>in respect of a Delivery Points,</i></p> <p><i>c. the quantity of Gas Nominated by the User for delivery at the Delivery Points for that Day;</i></p> <p><i>and</i></p> <p><i>d. the quantity of Gas confirmed for acceptance on account of the User at the Delivery Points for that Day by the Interconnect Parties at the Delivery Points."</i></p> <p><i>Amend proposed clause 12(b) to change "Users with Transportation Agreements for Negotiated Services" to "Users under Transportation Agreements for Negotiated Services".</i></p> <p><i>Amend proposed clause 13 to expressly state when and how Service Provider will inform User of any scheduling or re-scheduling (e.g. "as soon as reasonably practicable, but in any event within [] hours of it being made").</i></p>	

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			<i>Amend proposed clause 14 to allow a User a reasonable period in which to respond to GGT's request for a schedule of User's nomination priorities.</i>	
Curtailment				
15-16	Based on RBP AA T&Cs	<p>Clauses 15 & 16 provide GGT with rights to interrupt or curtail the firm service that are in addition to the rights to interrupt or reduce the firm service that GGT has under current clause 8 of the current AA2 T&Cs (which GGT has also sought to include in its revised T&Cs at proposed clauses 30-36 (Operation of the Pipeline)).</p> <p>This would allow GGT significant ability to interrupt/curtail that goes beyond what is permitted in the current AA2 T&Cs and, given GGT has also incorporated its rights from the current AA2 T&Cs, the Authority queries why GGT also needs proposed clauses 15 and 16?</p> <p>Proposed clause 15 should be confined to setting out the order of precedence for curtailments that GGT must (not "may") follow when</p>	<p><i>Amend proposed clause 15 to make it an obligation of GGT (change "may" to "must") and to expressly state that nothing in the clause is to be taken as excluding, restricting or modifying GGT's liability in respect of any curtailment of or interruption to the receipt, transportation or delivery of gas.</i></p> <p><i>Delete proposed clause 16 and replace with an indemnity from GGT to User for losses etc. suffered where GGT interrupts or reduces the firm service:</i></p> <p><i>except in accordance with proposed clauses 31, 32, 33 and 34 - but not where interruptions or reductions are for:</i></p> <ul style="list-style-type: none"> <i>unplanned maintenance or other unplanned activities,</i> <i>"emergencies" caused</i> 	<p>Amendment to proposed clause 15 accepted.</p> <p>The deletion of clause 16 is accepted.</p> <p>Request for the insertion of a clause that includes an indemnity from GGT to User is not accepted as this is most appropriately dealt with under the general liability regime which provides remedies for service failure and breach.</p>

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		<p>they occur, not (as currently drafted) potentially providing an expansion of GGT's exclusion of liability for interruptions and curtailments.</p> <p>Similarly, proposed clause 16 should be deleted so as to prevent it widening GGT's existing exclusions of liability for interruptions and curtailments.</p> <p>The Authority also notes a number of issues with GGT's existing rights and exclusions of liability in relation to interruptions and curtailments (i.e. current clause 8 which GGT has sought to include (in part) in proposed clauses 30-36 (Operation of the Pipeline). These issues are highlighted by proposed clause 16 and do not seem consistent with the efficient operation of a pipeline in accordance with Good Engineering and Operating Practice (GEOP) and the NGO.</p> <p>For example, given that GGT already has the protection of the force majeure provisions in the agreement (i.e. essentially</p>	<p><i>by circumstances that were within GGT's reasonable prevention or control, or</i></p> <ul style="list-style-type: none"> <i>planned maintenance or other planned activities exceeding a set number of consecutive days or a set number of days (whether or not consecutive) in any rolling period of 30 days; or</i> <p><i>except in accordance with proposed clauses 98-101 (force majeure).</i></p>	

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		<p>providing relief from liability where a matter is beyond GGT's reasonable control), the Authority is of the view that GGT does not require further relief for "unplanned" maintenance (as sought by GGT under proposed clause 16(a) and as also contemplated under current clause 8.3(b)(2)). If unplanned maintenance arises from something beyond GGT's reasonable control, it can seek relief under force majeure (and does not need a special liability exclusion). If, however, unplanned maintenance arises from something that is not beyond GGT's reasonable control, then there is no good reason why GGT should have any special liability exclusion for it.</p> <p>Similarly, while it is reasonable and consistent with GEOP that GGT be permitted to interrupt/curtail the firm service in emergencies and for planned maintenance, the Authority is of the view that some reasonable limits need to be set, such as:</p> <ul style="list-style-type: none"> • GGT should not escape liability for the 		

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		<p>interruption/curtailment if and to the extent the "emergency" could have been prevented by GGT taking reasonable precautionary measures (i.e. if the emergency was, in effect, within GGT's reasonable prevention or control). Otherwise, for example, the "emergency" excuse could be used even if GGT was to blame for causing the emergency, which could give rise to poorer pipeline safety and reliability, which in turn would not be consistent with the NGO.</p> <ul style="list-style-type: none"> the duration of the interruption/curtailment for planned maintenance does not exceed a set number of consecutive days or a set number of days (whether or not 		

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		<p>consecutive) in any rolling period of 30 days. This would provide an incentive for GGT to keep its planned maintenance to within reasonable limits.</p> <ul style="list-style-type: none"> • GGT must otherwise have complied with the requirements in new clauses 32 and 34. 		
Imbalances				
17-21	Based on RBP AA T&Cs.	<p>Proposed clause 17: requires Users to balance their receipts and deliveries of gas, but in order to do this they will presumably need to have relevant information available to them, some of which they will need to get from GGT. GGT has not included any express obligations to itself provide this information.</p> <p>Current clause 5.4(b) (which GGT has removed from its proposed T&Cs for AA3), required GGT to give Users notice of their imbalances and allow them to exchange those imbalances with other Users. The Authority</p>	<p><i>Amend proposed clause 17 as follows:</i></p> <p><i>"The User must use reasonable endeavors to ensure that receipts of Gas at the Receipt Point and deliveries of Gas at Delivery Points are equal, adjusted for any Authorised Imbalances. <u>Service Provider acting as a reasonable and prudent pipeline operator will, to the extent reasonably practicable, provide User [(which may be via the Information Interface)] with specific information on a timely basis sufficient for the User to assess potential liability for Imbalance Charges and Overrun Charges and take action to avoid</u></i></p>	<p>Amendment to clause 17 accepted.</p> <p>Amendment to clause 18 partly accepted. GGT will not agree to the inclusion of "or by exchanging all or part of their imbalances with the other Users". This is to remove uncertainty created by those words as to a form or methodology of exchange, other than assignment by way of subcontract provided for in the agreement.</p> <p>Proposed clause 18 further amended to:</p> <p><u><i>The User must promptly take</i></u></p>

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		<p>considers that this offered Users:</p> <ul style="list-style-type: none"> information they could use to reduce their imbalances; and a way of avoiding imbalance charges by exchanging imbalances with other Users. <p>Current clause 7.1(c) (which GGT has also removed from its proposed T&Cs for AA3), contains an important protection for Users. Current clause 7.1(c) provides: "GGT acting as a reasonable and prudent pipeline operator will to the extent reasonably practicable provide Users with specific information on a timely basis sufficient for the User to assess potential liability for Quantity Variation Charges and take action to avoid those charges"</p> <p>If provisions such as those in current clauses 5.4(b) and 7.1(c) are not included in the proposed T&Cs then this could potentially adversely affect Users.</p> <p>Proposed clause 18: requires Users to correct their gas imbalances adjusting nominations</p>	<p><u>those charges. Without limiting the foregoing, Service Provider will notify each User [(which may be via the Information Interface)] of its outstanding Imbalance before 11:00 am on each Day."</u></p> <p>Amend proposed clause 18 to reinstate provisions such as those in current clauses 5.4(c) and 7.2(f) and include references to the Information Interface (if that is the means by which GGT proposes providing Users with the necessary information). For example, amend proposed cl 18 as follows:</p> <p>"The User must promptly take steps to correct Unauthorised Imbalances or potential Unauthorised Imbalances by adjusting Nominations and coordinating receipts and deliveries with Service Provider <u>or by exchanging all or part of their Imbalances with other Users including by assigning by way of subcontract in accordance with clause [108] [(which may be via the Information Interface)], in which case Service Provider must adjust each such User's</u></p>	<p><u>steps to correct Unauthorised Imbalances or potential Unauthorised Imbalances by adjusting Nominations and coordinating receipts and deliveries with Service Provider or by assigning by way of subcontract in accordance with clause Error! Reference source not found. [(which may be via the Information Interface), in which case Service Provider must adjust each such User's Imbalance and relevant charges to reflect the exchange (and show the adjustment via the Information Interface).</u></p> <p>Amendments to clause 19, accepted.</p> <p>Imbalance charges:</p> <p>New clause 28: Requirement for the Service Provider to rebate 95 percent of Quantity Variation Charges is agreed, however he original drafting has been amended to:</p> <p><u>Service Provider may upon request, rebate 95 percent of</u></p>

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		<p>and coordinating their receipts and deliveries. It should also mention their ability to do this by exchanging imbalances with other users (as was previously expressly permitted by old clauses 5.4(c) and 7.2(f). If provisions such as those in current clauses 5.4 and 7.2(f) are not included in the proposed T&Cs then this could potentially adversely affect Users.</p> <p>Proposed clause 19: gives GGT rights to correct an imbalance by reducing the User's receipts and/or deliveries of gas and/or buying or selling "the User's Gas". The trigger for GGT to be able to exercise these rights is if GGT believes on reasonable grounds that an unauthorized imbalance may impair gas scheduled under any transportation agreement, whereas previously (under current clause 7.2(i) which GGT has removed) the trigger is if the User is liable for 7 or more consecutive days of imbalance charges – which is arguably a more transparent and clear threshold for Users.</p> <p>Further, GGT is now seeking to allow itself the ability to exercise its correction rights to the extent</p>	<p><u>Imbalance and relevant charges to reflect the exchange [(and show the adjustment via the Information Interface)] "</u></p> <p>Amend proposed clause 19 to:</p> <ul style="list-style-type: none"> reinstatement provisions from current clause 7.2(i) – so that the trigger for GGT to be able to exercise its correction rights should be changed back to 7 consecutive days of imbalance charges and the extent of GGT's correction rights is limited to resetting the outstanding imbalance to zero; delete reference to "the User's" gas, where it is used in relation to GGT buying or selling "the User's" Gas (as the gas in the pipeline will not belong to the User, as title will have passed to GGT at the receipt point); and include a longer cure period than 4 hours for 	<p><u>Quantity Variation Charges as defined in the Fourth Schedule in excess of Service Provider's direct costs and expenses associated with and arising from the User's acts or omissions which cause overruns or imbalances to occur.</u></p> <p>The reason GGT has proposed these further amendments is because the costs to administer the rebate for both parties would almost certainly outweigh the costs/charges that would be recovered. It is therefore appropriate to leave it to the user to determine the value of the rebate and to make a request for it accordingly in appropriate circumstances where there is a benefit to it in doing so.</p> <p>The remainder of Authority's proposed amendments is accepted.</p>

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		<p>necessary to enable it to transport gas scheduled under any transportation agreement (not just the User's transportation agreement), whereas currently (under current clause 7.2(i)) GGT's correction rights are limited to what is necessary to reset the User's imbalance to zero. This would seem to potentially transfer excessive operational risk from GGT to the User.</p> <p>If GGT's rights are extended in this way, the Authority is of the view that Users will be disadvantaged.</p> <p>Proposed clause 20: requires the User to indemnify GGT for all costs and expenses reasonably incurred by GGT in buying or selling gas or re-scheduling to correct an imbalance under proposed clause 19. The indemnity is expressly not to be limited by the exclusion of liability in clause 93 (consequential loss etc.). It would allow GGT to recover all of its costs and expenses reasonably incurred, including not only the actual gas price paid where it buys gas, but also potentially the amount of any loss made where it sells gas or has to re-schedule to correct an</p>	<p><i>Users to correct an imbalance.</i></p> <p><i>Amend proposed clause 20 to include additional limits on the indemnity:</i></p> <ul style="list-style-type: none"> • <i>to prevent double recovery by GGT (e.g. to the extent it is compensated for its costs via the imbalance charge, by inclusion in the regulated tariff or otherwise, it should not be allowed to recover for them via the indemnity);</i> • <i>to require GGT to use at least reasonable endeavours to ensure that the price paid for the gas is reasonable (as was required under item 2 of the Fourth Schedule to the existing T&Cs) – and GGT must be able to demonstrate (with documentary evidence) to the User's reasonable satisfaction that this has been</i> 	

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		<p>imbalance. There is no requirement for GGT to act reasonably to mitigate its loss.</p> <p>By comparison, under current clause 7.2(j)(1) (which GGT has removed), the User is to be charged for gas <i>bought</i> by GGT to re-set an imbalance to zero at "twice the prevailing Used Gas price" – where Used Gas is charged "at cost" (item 2 of Fourth Schedule to existing T&Cs). This "twice actual gas price" aspect made the existing process appear potentially "penal" in nature (and therefore potentially unenforceable by GGT at law) unless the "twice actual gas price" aspect could be justified as necessary to compensate for GGT's other costs (i.e. other than the gas price) associated with buying gas (and provided that GGT was not already compensated for those "other costs" via the "accumulated imbalance charge" mechanism or by allowance made for cost recovery in the regulated tariff). In any case, GGT's proposed new indemnity for actual costs (by replacing the "twice actual gas price" mechanism) would appear to address these concerns where GGT is buying gas, provided that</p>	<p><i>done;</i></p> <ul style="list-style-type: none"> <i>to require that, if the buyer/seller is in any way related to GGT, then, in addition to GGT acting reasonably, GGT must be able to show (with documentary evidence) to the User's reasonable satisfaction that the price is a fair and reasonable market price as if the parties were acting at arm's length; and</i> <i>to reduce the amount GGT can recover under the indemnity to the extent the loss was caused or contributed to by negligence, breach of contract or other default on the part of GGT or anyone acting for or on behalf of GGT (or a related body corporate of GGT) or by a force majeure event. The liability limitations for consequential loss etc. and liability cap (new</i> 	

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		<p>additional limits are set on the indemnity:</p> <ul style="list-style-type: none"> to prevent double recovery by GGT (e.g. to the extent it is compensated for its costs via the imbalance charge, by inclusion in the regulated tariff or otherwise, it should not be allowed to recover for them via the indemnity); to require GGT to use at least reasonable endeavours to ensure that the price paid for the gas is reasonable (as was required under item 2 of the Fourth Schedule to the existing T&Cs); if the buyer/seller is in any way related to GGT, then, in addition to GGT acting reasonably, there should also be a requirement for the price to be a fair and reasonable market price as if the parties were acting at arm's length; and to reduce the amount 	<p><i>clauses 93 and 94) should also apply to the indemnity, including by deleting new cl 93(c)(i).</i></p> <p><i>Amend imbalance charging mechanism (including rates) to ensure users are no worse off than under existing AA. This includes reinstating current clauses 9.6(b), 9.6(d) and 9.6(e) and imbalance allowance thresholds and charging rates such that users are no worse off.</i></p> <p><i>Reinstate "settle-up" provision for outstanding imbalance at end of agreement term as per current clause 7.2(h) and/or provide some other reasonable means (e.g. post term run-off) for Users to recover any excess imbalance in their favour outstanding at end of term.</i></p>	

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		<p>GGT can recover under the indemnity to the extent the loss was caused or contributed to by negligence, breach of contract or other default on the part of GGT or anyone acting for or on behalf of GGT (or a related body corporate of GGT) or by a force majeure event. The liability limitations for consequential loss etc. and liability cap (proposed clauses 93 and 94) should also apply to the indemnity – (refer to the Authority's recommendations on those clauses).</p> <p>Current clause 7.2(h) required a settle-up for any accumulated imbalance remaining at the end of the agreement term. GGT has not included such a provision. This omission could be detrimental to Users if they have an excess of gas "trapped" in the pipeline at the end of the term and are not permitted a reasonable run-off period to recover that gas.</p>		

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		<p>Imbalance charges:</p> <p>GGT has deleted current clause 9.6(b). Under current clause 9.6(b), GGT was only entitled to impose imbalance (and overrun) charges where it reasonably considered that the imbalance or overrun caused GGT or any User loss or damage or exposed the GGP to significant risk that threatens the integrity of the GGP. The Authority is of the view that GGT has not provided sufficient justification for the removal of these restrictions.</p> <p>GGT has proposed a new formula for calculating imbalance charges without any good justification for doing so. The existing "Accumulated Imbalance Charge" payable by User is based on a \$2.85 per GJ tariff (indexed for CPI) for imbalances outside an allowance of whichever is the greater of 1TJ or 8% of MDQ (old cl 7.2(d)). GGT proposes to replace this with the "Imbalance Charge" in proposed section 4.2.3 of the third AA (which is based on a rate of 250% of Toll Charge + Capacity Reservation Charge +</p>		

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		<p>Throughput Tariff charged on excess imbalances outside an imbalance allowance of 5% of all delivery point MDQs). It would appear GGT's proposed new Imbalance Charge is worse for Users as it appears to be chargeable at a lower threshold (5%) and to be charged at a higher rate (assuming 250% of Toll Charge + Capacity Reservation Charge + Throughput Tariff will be higher than \$2.85 per GJ where significant gas transportation distances are involved).</p> <p>Also, it is not clear why GGT is splitting imbalance provisions between the AA and T&Cs.</p> <p>GGT has also removed the "settle-up" provision for outstanding imbalances at end of agreement term (current clause 7.2(h)), so User may forfeit value of any excess gas (positive imbalance) left in pipeline at end of agreement.</p> <p>Proposed clause 19 would only allow Users 4 hours in which to correct an imbalance before consequences kick in (e.g. forced sale/purchase of gas by GGT at User's expense).</p>		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
<p>Adjustments to Rates and Charges/ Additional Payments</p>				
<p>22</p>	<p>Current clause 9.1 "Deleted and replaced with proposed clause 22. Proposed clause 22 is consistent with the RBP AA T&Cs and provides for the Reference Tariff under the Transportation Agreement to be varied in accordance with the Reference Tariff Variation Mechanism."</p>	<p>Current clause 9.1 set out the User's obligation to pay Transportation Tariff and Charges. If it is deleted there is no clear statement in the T&Cs of a User's obligation to pay these charges. While GGT may be seeking to rely on proposed clause 4.1 of the revised AA (which sets out the "amount payable by User for the Firm Service") that is not sufficient. The AA T&Cs should contain all the terms for the transportation agreement other than contract specific variables such as names, locations, quantities and commencement dates which should be in the form of agreement.</p> <p>Proposed clause 22 is not itself a charging clause (and so, in its scope, does not "replace" current clause 9.1 as GGT claims), but merely refers to how a reference tariff may be varied. Proposed clause 22 is acceptable but the</p>	<p><i>Reinstate current clause 9.1 into the T&Cs.</i></p> <p><i>Amend proposed clause 22 by deleting the words "set out in section 4.5 of the Access Arrangement"</i></p>	<p>Accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>drafting could be improved by removing the unnecessary words "set out in section 4.5 of the Access Arrangement" as they are already included in the definition of "Reference Tariff Variation Mechanism" in Schedule C and so do not need to be repeated.</p>		
23	<p>Current cl 9.12 "Relocated to clause 23 – no change to content. Structural change only to accord with structure of RBP AA T&Cs".</p>	<p>While GGT claim they have simply relocated current clause 9.12 to proposed clause 23 with "no change to content", that is not entirely true.</p> <p>Current clause 9.12 provided: "Subject to clauses 9.3 and 9.6, where the flow of Gas is restricted in accordance with clauses 8 and 17, all tariffs and charges will continue to apply."</p> <p>Proposed clause 23 provides: "Where the flow of Gas is restricted in accordance with these Terms and Conditions, all tariffs and charges will continue to apply".</p> <p>As can be seen, GGT has omitted the "subject to clauses 9.3 and</p>	<p><i>Reinstate current clauses 9.3 and 9.6(d) in full into the T&Cs (including the exceptions they contain). At the same time, the current cl 9.3 exceptions should be re-instated in the version of old clause 9.3 that was relocated to section 4.4 of the main body of the AA.</i></p> <p><i>Reinstate current clause 9.12 in full (including "subject to" wording and specific clause references).</i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>9.6" wording at the beginning of old clause 9.12.</p> <p>Current clause 9.3 (Basis of Charges) was relocated by GGT to section 4.4 of the main body of the AA, but when making that relocation GGT omitted to include two important exceptions that were in current clause 9.3 that excuse Users from having to pay the Toll Charge and Capacity Reservation Charge where User is unable to deliver or accept gas because of an FM claimed by GGT or where GGT has interrupted or reduced services otherwise than for a properly notified emergency interruption.</p> <p>Current clause 9.6 (Quantity Variation Charges), which has also not been included by GGT in its revised T&Cs, also included an important exception where Users were excused from imbalance and variance charges during a period of interruption or reduction of services for which GGT was directly responsible (current clause 9.6(d)).</p> <p>The exceptions in current clauses</p>		

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		<p>9.3 and 9.6 are valuable to Users and should be reinstated, and consequently, proposed clause 23 must also be made expressly subject to these exceptions (once they are reinstated).</p> <p>Also, current clause 9.12, limited GGT's rights under the clause to only those situations where gas flow is restricted in accordance with clause 8 [interruption of service] and clause 17 [force majeure], whereas, GGT's proposed new clause 23 does not have that limitation to specific clauses, but extends to potentially <i>any</i> of the T&Cs (creating far greater uncertainty for Users and the need to examine each and every term of the T&Cs to see if it allows a restriction in gas flow over and above what is permitted by old clauses 8 and 17).</p>		
System Use Gas and Line Pack				
24-29	Proposed section 2.2.9 "Operational obligations – System Use Gas and User's Linepack" Set out User	<p>System Use Gas (SUG) – Proposed clauses 24-26:</p> <p>Proposed clause 24 provides: "<i>User must supply, at no cost to</i></p>	<i>Delete proposed clauses 24-29 unless safeguards are included to cover the following concerns:</i>	Accepted, save for the addition of system use gas and line pack to Firm MDQ. Adding these to Firm MDQ is operationally fraught as Firm MDQs and associated

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	<p>operational obligations in respect of system use gas and linepack. Further details are in Schedule D – T&Cs, which will be reflected in the firm service transportation agreement.</p>	<p><i>Service Provider and at times and in the manner notified by Service Provider, the quantity of System Use Gas required by Service Provider at that time to operate the Pipeline, as determined by Service Provider (acting reasonably but at its discretion)."</i></p> <p>This is a new obligation for Users. Under the current AA T&Cs, User did not have to supply SUG, but paid a charge ("Used Gas Charge") to GGT in respect of the quantity of SUG ("Used Gas") allocated by GGT in respect of User. The Authority has the following concerns with the new SUG provisions:</p> <ul style="list-style-type: none"> • There is no safeguard to provide Users with reasonable warning where they are required to supply this gas. • There is no safeguard to ensure that the allocation methodology between Users is fair and reasonable. • There are no safeguards to prevent GGT using SUG and User's line 	<ul style="list-style-type: none"> • <i>a reasonable minimum notice period from GGT where Users are being required to supply this gas.</i> • <i>allocation methodology between Users must be demonstrably fair, reasonable and equitable.</i> • <i>there must be adequate safeguards to prevent GGT using SUG and User's line pack as substitutes for its efficient operation of the pipeline or to reduce its own operational and maintenance costs (or those of any related body corporate) and/or "game" the regulate tariffs.</i> • <i>GGT must not have too much discretion.</i> • <i>there should be greater use of objective standards such as Good Engineering and Operating Practice and the standard of a</i> 	<p>constraints on receipt points are calculated by reference to the total gas in the system/required to be in the system; and to add it to the system could collapse the system. Line pack is generally only provided once (at the commencement of the agreement). System use gas is provided as required but does not materially affect haulage quantities from an individual user's perspective.</p> <p>Please note that System Use Gas calculations are made the day after the relevant Gas Day. This is because the actual amount of gas required to operate the pipeline (that is, SUG) depends, on any day, on the amount of gas in the pipeline. According, in practice (as of necessity) GGT determines the total SUG required for the previous day and allocates between users equitably (rather than specifying quantities upfront). This is the case for every APA Group pipeline.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>pack as substitutes for its efficient operation of the pipeline.</p> <ul style="list-style-type: none"> There are no safeguards to prevent GGT from having too much discretion. <p>User's Linepack – proposed clauses 27-29: This is a new obligation for Users. Under the current AA T&Cs, the User did not have to supply any line pack gas. GGT still supplies some "Base Line Pack" (proposed clause 27), but the User must supply Line Pack in addition to the Base Line Pack on its first day using the service and thereafter "when advised by Service Provider from time to time" (proposed clause 28). The Authority has the following concerns with the new User's line pack provisions:</p> <ul style="list-style-type: none"> What minimum notice period from GGT is reasonable where Users are being required to supply this gas? Is the allocation methodology between 	<p><i>reasonable and prudent pipeline operator.</i></p> <ul style="list-style-type: none"> <i>there must be adequate provisions for timely return or adequate compensation in lieu of, User's line pack at end of contract term.</i> <i>there must be adequate safeguards to protect Users from loss of the value of their line pack contributions in the event of GGT's insolvency.</i> <p><i>System Use Gas and User's Linepack also need to be expressly excluded from the determination of whether the Service Provider has received more than the "Firm MDQ" on any gas day (i.e. proposed section 2.2.2(d)(i) of the revised AA, needs to contain the same exclusion for System Use Gas and User's Linepack as regards receipt of gas as exists in proposed section 2.2.2(d)(ii)).</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Users fair and reasonable?</p> <ul style="list-style-type: none"> • Query whether there are adequate provisions for timely return of or compensation in lieu for User's line pack at end of contract term? Where Users do not recover their line pack gas in kind, how will the price at which GGT compensates them for it be determined to ensure it is fair and reasonable? • Will GGT provide users with "prudential security" to cover the risk that GGT does not return/compensate users for their line pack contributions (e.g. insolvency credit risk)? • Again, there are no safeguards in the new clause to prevent GGT "gaming" User's line pack contributions to reduce its own operational and maintenance costs. 	<p><i>System Use Gas and User's Linepack gas quantities also need to be expressly included in the calculation of "Authorised Overrun" for gas receipt (but excluded from the calculation of the Authorised Overrun Charge) so that Users do not end up paying Overrun Charges (proposed section 4.2.2 of revised AA) or having their MDQ forcibly increased (proposed section 2.2.4(l) of revised AA) because of their System Use Gas and User's Linepack gas contributions.</i></p>	
Operation of				

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
Pipeline				
30	Relocates current clause 8.1 to proposed clause 30 – no change to content. Structural change only to accord with structure of RBP AA T&Cs.	GGT is correct that current clause 8.1 has been relocated to new clause 30 with no change to content. However, the current clause 8.1 provision does not exist in the RBP AA T&Cs. So GGT's claim that this is a "Structural change only to accord with structure of RBP AA T&Cs" is incorrect.	<i>Proposed relocation is acceptable to the extent it does not change content of existing AA provisions.</i> <i>Amend proposed clause 30 to make GGT's rights under the clause also subject to GGT's obligations under the Transportation Agreement (not just its obligations at law).</i>	Accepted.
31-34	Relocates current clauses 8.2, 8.3 & 8.4 to proposed clauses 31, 32 & 33 (respectively) – no change to content. Structural change only to accord with structure of RBP AA T&Cs.	GGT is correct that current clauses 8.2, 8.3 & 8.4 have been relocated to proposed clauses 31, 32 & 33 (respectively) with no change to content, except that only current clause 8.4(a) was relocated to proposed clause 33; current cl 8.4(b) has actually been relocated to proposed clause 34 (not mentioned by GGT). However, while this may “accord with structure of RBP AA T&Cs”, the <i>content</i> of the similar provisions in the RBP AA T&Cs (see RBP AA T&Cs clauses 35 & 36) is less generous to the Service Provider in some respects than current clauses 8.2, 8.3 and 8.4 of	<i>Proposed relocation is acceptable to the extent it does not change content of existing AA provisions but, consistent with GGT's “national template”, add a limitation on its right to curtail/interrupt firm service to conduct pipeline works where GGT has been negligent, in breach of contract or failed to comply with Good Engineering and Operating Practice (i.e. see clause 36 of the RBP AA T&Cs).</i> <i>Consistent with the Authority's recommendations at proposed clauses 15-16 above (i.e. to delete proposed clause 16 and replace it with an indemnity from GGT to the User for losses etc. suffered where GGT interrupts or</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>the existing AA.</p> <p>For example, in RBP AA T&Cs clause 36, the Service Provider's right to curtail the firm service without liability in order to carry out pipeline works is subject to the curtailment being not predominantly caused by the Service Provider's negligence, breach of contract or failure to comply with GEOP, whereas no such proviso applies in current clauses 8.2, 8.3 or 8.4. GGT appears to be applying its argument for consistency with APA's national template on a subjectively selective basis.</p> <p>Also, GGT has imported proposed clause 16 from clause 16 of the RBP AA T&Cs which grants GGT extensive rights to interrupt or curtail in circumstances that go beyond force majeure and the provisions in proposed clauses 31, 32 & 33. The Authority is of the view that this is unnecessary given GGT's rights under the force majeure provisions and proposed clauses 31, 32 & 33.</p>	<p><i>reduces the firm service except in certain permitted circumstances) and at new clause 23 above (to reinstate the payment exceptions in current clauses 9.3 and 9.6(d)), amend proposed clauses 31 and 33 to clarify that where the words "without penalty or cost" are used in those clauses, that is to be subject to an exception for any penalty, cost or other amount payable or foregone by GGT as a result of any provision in the transportation agreement that requires GGT to indemnify the User, or excuses the User from paying any charge or other amount, where there is an interruption or reduction in service (such as, for example, the new indemnity proposed to replace proposed clause 16 and the payment exceptions proposed by reinstatement of current clauses 9.3 and 9.6(d)).</i></p> <p><i>Amend proposed clause 33 to change "risk of injury or damage" to "<u>real and imminent</u> risk of <u>serious</u> injury or damage".</i></p> <p><i>Amend proposed clause 34 to</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Proposed clauses 31 and 33 will also need to be amended to make them consistent with the Authority's recommendations at proposed clauses 15-16 above (i.e. to delete proposed clause 16 and replace it with an indemnity from GGT to the User) and at proposed clause 23 above (to reinstate current clauses 9.3 and 9.6(d) in full into the T&Cs including the exceptions they contain).</p> <p>Proposed clause 33 uses "risk of injury or damage" as an excuse for GGT to interrupt or reduce the service without penalty or cost, but does not set any reasonable safeguards against GGT using this even if the risk is minimal and/or far off or the injury or damage minor.</p> <p>Proposed clause 34 (which is a relocation from current clause 8.4(b) and as such was more clearly linked to clause 8.4(a)) is no longer clear that it applies only to interruptions or reductions under proposed clause 33 (current clause 8.4(a)). This creates a risk of overlap and uncertainty with</p>	<p>read as follows:</p> <p><i>"Service Provider shall as soon as reasonably practicable inform the User and other Users of the circumstances giving rise to the interruption or reduction <u>referred to in clause [33] and must use all reasonable endeavours consistent with the standard of a reasonable and prudent pipeline operator to overcome the interruption or reduction in the Services and return them to normal as soon as possible.</u>"</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>proposed clause 32 that did not exist under the current T&Cs. Proposed clause 34 should be amended to expressly link its application to proposed clause 33. Also, a provision comparable to proposed clause 32(c) should be added to proposed clause 34 to make it clear that GGT has some obligation to get things back to normal, even in emergencies.</p>		
35 &36	<p>Proposed clauses 35 and 36. These clauses are consistent with the RBP AA T&Cs and are to ensure the User's operations are consistent with the operation of the Pipeline.</p>	<p>Proposed clause 35 provides for a vague, uncertain and potentially wide and onerous obligation requiring Users to ensure their "arrangements for Gas supply to the Receipt Point and Gas acceptance at the Delivery Points are compatible with Service Provider's Pipeline operations." It matches clause 37 of the RBP AA T&Cs but the Authority is of the view that it is unnecessary and unreasonable given that Users must already observe various, more specific, obligations (e.g. for gas specification, balancing, overrun, variance and other operational matters) that should already ensure that there is compatibility with pipeline operation.</p>	<p><i>Delete proposed clauses 35 and 36.</i></p>	<p>Accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Proposed clause 36 provides for another potentially wide and onerous obligation requiring Users to <i>"facilitate the Service Provider's access as reasonably required by the Service Provider to relevant charts, electronic and other data and records, including (without limitation) access to relevant measurement and SCADA information, at no cost to Service Provider"</i>. The only apparent limitation on the scope of this potentially very wide and onerous obligation would seem to be "relevance", but it is not clear what the standard of relevance relates to. The Authority also notes the requirement to provide reasonable access is not mutual.</p>		
Metering				
37-42	<p>Clauses 11.1-11.9 deleted and replaced with clauses 37- 42 of revised AA T&Cs.</p> <p>Clauses 37-42 are consistent with those in the RBP AA T&Cs and better reflect the arrangements between Users and the Service Provider.</p>	<p>No independent standard is set for the "Metering and Measurement Requirements". The Authority is of the view there needs to be a safeguard against GGT producing a set of self-serving requirements.</p> <p>While GGT has retained as proposed Appendix One the Test Procedures that were in the First Schedule of the current T&Cs,</p>	<p><i>Set an independent standard for the "Metering and Measurement Requirements", including so it is consistent with Appendix One and applicable Good Engineering and Operating Practice.</i></p> <p><i>Include an obligation in the T&Cs for GGT to publish the Metering and Measurement Requirements and make them available to</i></p>	Generally accepted

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Appendix One is not referred to in GGT's revised AA or T&Cs. The definition of "Metering and Measurement Requirements" should be amended so that they are in accordance with the requirements in Appendix One.</p> <p>While the defined term is "Metering and Measurement Requirements", GGT has used "Metering and Measuring Requirements" in proposed clauses 37 and 42. This needs to be corrected.</p> <p>Proposed clause 38: GGT's obligation to install, operate and maintain the metering equipment should refer to a relevant standard it must meet for doing this (e.g. "in accordance with all applicable laws, standards, Good Engineering and Operating Practice and the Metering and Measurement Requirements"). By comparison, current clause 11.3 required measuring equipment at inlet and outlet facilities to comply with "the standard of a reasonable and prudent pipeline operator".</p> <p>Proposed clauses 38 and 39 seem to be inconsistent. It is not</p>	<p><i>Users.</i></p> <p><i>Use defined terms correctly (including by correcting references to "Metering and Measuring Requirements" in proposed clauses 37 and 42 and by creating a defined term for "Metering Equipment" and using it consistently).</i></p> <p><i>Amend proposed clause 38 to include a relevant objective standard GGT must meet when exercising its obligation to install, operate and maintain the metering equipment.</i></p> <p><i>Amend proposed clauses 38 and 39 to remove apparent inconsistency.</i></p> <p><i>Amend proposed clause 39 to provide for a fair and equitable sharing of metering costs between users.</i></p> <p><i>Delete proposed clause 40 because too vague and uncertain as to its precise meaning and scope and could potentially add a</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>clear whether GGT or the User is to install, operate and maintain metering equipment at receipt points and delivery points.</p> <p>Proposed clause 39: if User is, at its cost, to provide, operate, validate and maintain all metering equipment (other than at GGT's compressor stations) the Authority is concerned that there is no mechanism for User to be reimbursed for a fair share of those costs by other users of the pipeline.</p> <p>The terms "Metering Equipment" (capitalized) and "metering equipment" (all lower case) are both used in the clauses. There is no definition of "Metering Equipment".</p> <p>Proposed clause 40: User's obligation to provide "<i>facilities which will permit co-ordination of activities....in the metering, Nomination, Scheduling and transportation of Gas...</i>" seems vague and uncertain as to its precise meaning and scope. The Authority is concerned this could potentially add a significant cost burden for Users if they are required to install, operate and maintain costly hardware and</p>	<p><i>significant but unquantifiable cost burden for Users</i></p> <p><i>Reinstate the following provisions or provide adequate justification why they are not required or require variation:</i></p> <ul style="list-style-type: none"> • <i>current clauses 11.1 and 11.2 ("commingled gas" provisions for inlet and outlet points)</i> • <i>current clause 11.5 (alternative arrangements where metering not required).</i> • <i>current clause 11.6 (Check metering).</i> • <i>current clauses 11.7, 11.8 and 11.9 (Meter Testing)</i> • <i>current clause 5.6 (measurement variance)</i> 	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>software systems.</p> <p>While the definition of "Metering and Measurement Requirements" in schedule C to the revised AA provides that they are specifications "published by Service Provider from time to time" and which are "made available to the User", there is no actual obligation in the T&Cs for GGT to publish the Metering and Measurement Requirements and make them available to Users.</p> <p>There do not appear to be any provisions in GGT's proposed T&Cs that are comparable to:</p> <ul style="list-style-type: none"> • the "commingled gas" provisions for inlet and outlet points in current clauses 11.1 and 11.2. • provision for "alternative arrangements" that do not require metering expense (current clause 11.5). • user's right to have "check metering" (current clause 11.6). • the meter testing 		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>provisions (current clauses 11.7, 11.8 and 11.9).</p> <ul style="list-style-type: none"> • measurement variance (current clause 5.6). 		
Quality				
43	<p>Current clause 10.1 relocated to proposed clause 43 and revised. Clause expanded to incorporate references to agreement made between User and Service Provider and WA law.</p>	<p>While GGT has relocated the content of current clause 10.1 to the start of proposed clause 43, that content would be improved by clearly stating which party has the obligation to ensure all gas received at the receipt point complies with the gas specification.</p> <p>Proposed clause 43 also expands current clause 10.1. The additional last sentence of proposed clause 43 now includes a <i>unilateral</i> right for GGT to vary the gas specification if it is "authorised or required to do so by law or any Authority".</p> <p>The Authority considers this may be acceptable where GGT is <i>required</i> by law or a Governmental Authority (as defined) to amend the specification (although GGT's right to make the change is</p>	<p><i>Amend proposed clause 43 to:</i></p> <ul style="list-style-type: none"> • <i>clearly state which of the parties is obliged to ensure gas received at the receipt point complies with the gas specification;</i> • <i>delete "authorised or"; and</i> • <i>change "Authority" (not a defined term) to "Governmental Authority" (defined term)</i> 	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>arguably already covered by the preceding sentence in proposed clause 43).</p> <p>However, the Authority does not think it is acceptable for GGT to <i>unilaterally</i> vary the gas specification simply because it is <i>authorised</i> (but not <i>required</i>) by law or an <i>Authority</i> to do so. Also, as the term "Authority" is not defined, it should be amended to use the defined term "Governmental Authority".</p>		
44	Relocates current clause 10.2 to new clause 44 – no change to content. Structural change only to accord with structure of RBP AA T&Cs.	<p>While GGT has relocated the content of current clause 10.2 to new clause 44, that content would be improved by clearly stating:</p> <ul style="list-style-type: none"> • which party has the obligation (i.e. GGT). • a standard for the modification of the gas specification "to reflect any change in the gas quality arising from the odourisation, compression or transmission of the Gas or the injection of other additives necessary for the operation of the Pipeline". 	<p><i>Amend proposed clause 44 to:</i></p> <ul style="list-style-type: none"> • <i>delete "All" at the start of the clause and replace it with "Service Provider shall ensure that all"; and</i> • <i>insert at the end of the clause after "Pipeline": " -in accordance with Good Engineering and Operating Practice".</i> 	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
45	Relocates and revises current clause 10.3. Clauses 45 – 48 of the revised AA T&Cs reflect the provisions in the RBP AA T&Cs. The concepts are similar to current AA, but expanded and provide for firmer processes and provide for notification obligations for non-spec gas.	Proposed clause 45 (notification obligation) – should be extended to cover gas offered for <i>delivery</i> at delivery points (not just gas offered for <i>transportation</i>).	Amend proposed clause 45 as follows: <i>"The User and Service Provider must each notify the other immediately on becoming aware that Gas offered for <u>transportation or delivery at any Delivery Point</u> is or may be Non-Specification Gas"</i>	Accepted.
46	Relocates and revises current clause 10.3. Clauses 45 – 48 of the revised AA T&Cs reflect the provisions in the RBP AA T&Cs. The concepts are similar to former AA, but expanded and provide for firmer processes and provide for notification obligations for non-spec gas.	Proposed clause 46: (right to reject) – First sentence should be amended so that provision applies both ways – i.e. extended to allow User to refuse to accept non-spec gas for delivery at delivery point. Second sentence should be amended to allow User to be relieved of obligation to pay relevant charges for non-spec gas in circumstances where it has refused to accept it for delivery. Also, insert "reasonably" before "practicable" at beginning of third line and correct typo in first line (should be "accept for transport or delivery").	Amend proposed clause 46 as follows: <i>"<u>Each of User and Service Provider may refuse to accept for transport or delivery, as the case may be, all or any portion of Non-Specification Gas and must advise the User-other as soon as is reasonably practicable after of such refusal. Such refusal If Service Provider has refused to, or has been requested or instructed not to, transport or deliver all or any portion of Non-Specification Gas, the User is not required to pay any tariff or charge in respect of that Non-Specification Gas, even if or the Service Provider not transports ing or delivers ing all or any</u></i>	GGT will accept the following further amendments to proposed clause 46: <i><u>Each of User and Service Provider may refuse to accept for transport or delivery, as the case may be, all or any portion of Non-Specification Gas and must advise the User-other as soon as is reasonably practicable after of such refusal. Such refusal If Service Provider has refused to, or has been requested or instructed not to, transport or deliver all or any portion of Non-Specification Gas, the User is not required to pay any tariff or charge in respect of that Non-</u></i>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<p>portion of the Non-Specification Gas after acceding contrary to an the User's instruction or request from the User to reject receipts of such Gas, does not relieve the User from its obligation pay any tariff or charge."</p>	<p>Specification Gas, even if or the Service Provider not transports ing or delivers ing all or any portion of the Non-Specification Gas after acceding contrary to an the User's instruction or request from the User to reject receipts of such Gas, does not relieve the User from its obligation pay any tariff or charge."</p> <p>The amendment to the proposed clause takes out the no payment requirement. Under a take-or-pay arrangement, users pay for haulage irrespective of quantities transported or the quality of gas. If non-specification gas is delivered in breach of the agreement, this is appropriately dealt with in the liability regime. If a user tenders non-specification gas which is not transported, that should be user's responsibility (and loss).</p> <p>The remainder of the Authority's proposed amendments is accepted.</p>
47	Relocates and revises current clause 10.3.	Proposed clause 47: Potentially requires User to indemnify GGT	Amend proposed clause 47 by adding the following at the end of	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>Clauses 45 – 48 of the revised AA T&Cs reflect the provisions in the RBP AA T&Cs. The concepts are similar to former AA, but expanded and provide for firmer processes and provide for notification obligations for non-spec gas.</p>	<p>even where the loss was caused by negligence or other default on the part of GGT or anyone acting for or on GGT's behalf or by any matter beyond User's reasonable control. It also does not include any duty for GGT to mitigate its loss.</p> <p>Consistent with current clauses 10.4 and 18.2, the Authority's recommendations regarding the liability exclusion in clause 93, the indemnity in this clause should not be not limited by clause 93.</p>	<p><i>the clause (after "Service Provider"):</i></p> <p><i>" and was not caused by any negligence, breach of contract or other default on the part of Service Provider, any of its related bodies corporate or any person acting for or on behalf of any of them or by any Force Majeure Event. The amount of this indemnity will be reduced to the extent Service Provider does not use reasonable endeavours to mitigate its loss. This indemnity is not limited by clause [93]"</i></p>	
48	<p>Relocates and revises current clause 10.3. Clauses 45 – 48 of the revised AA T&Cs reflect the provisions in the RBP AA T&Cs. The concepts are similar to former AA, but expanded and provide for firmer processes and provide for notification obligations for non-spec gas</p>	<p>Proposed clause 48: The Authority considers GGT's obligation to be "responsible for any loss" should be converted into an express indemnity by GGT, which should be expressly stated not to be limited by the liability exclusion in clause 93. Also, some corrections are required: correct "and delivery" at start of second line to read "or deliver" and correct "and deliver" in the third line to read "or deliver, as the case may be,".</p> <p>Consistent with the Authority's recommendations regarding the liability exclusion in clause 93, the</p>	<p><i>Amend proposed clause 48 as follows:</i></p> <p><i>"If the User instructs the Service Provider in writing not to receive, transport and or deliver any Non-Specification Gas, and Service Provider continues to receive, transport and or deliver the Non-Specification Gas notwithstanding the instruction, <u>User is not required to pay any tariff or charge in respect of that Non-Specification Gas and Service Provider is responsible for and indemnifies and holds harmless the User from and against all and any loss or</u></i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		indemnity in this clause should not be not limited by clause 93.	<i>damage suffered or incurred by itself Service Provider, the User or any other person as a result of the continued receipt, transportation or delivery of the Gas after the time at which the Service Provider, in accordance with Good Engineering and Operating Practice, could reasonably have stopped receipt, transportation or deliveries. <u>The amount of this indemnity will be reduced to the extent the User does not use reasonable endeavours to mitigate its loss. This indemnity is not limited by clause [93].</u></i>	
49	Relocates current clause 10.5– no change to content. Structural change only to accord with structure of RBP AA T&Cs.	Typographical error in first line of proposed clause 49.	<i>Amend proposed clause 49 to correct typographical errors in first line by inserting "that" after "accepts" and deleting apostrophe after "users".</i>	Accepted.
50	Relocates current clause 10.6 to clause 50 – no change to content Structural change only to accord with structure of RBP AA T&Cs.	While GGT has relocated the content of current clause 10.6, the Authority is concerned there is a potential argument (both under current clause 10.6 and proposed clause 50) that the clause excludes even the warranties expressly given by GGT in the contract concerning this subject	<i>Amend proposed clause 50 by inserting the following at the start of the clause (in place of "The"): "Except as expressly stated in the Transportation Agreement, the"</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		matter.		
Connection to the Pipeline				
51	Relocates and updates current clause 6.1. Update to clause provides a positive obligation on Service Provider to connect User's Receipt and Delivery Facilities to the Pipeline at User's expense.	<p>Current clauses 6.4(c)(10), 6.4(e)(1) and 6.4(f)(1) require the User to pay a Connection Charge in respect of the Outlet Facilities. The Connection Charge is defined in Appendix 1 as the amount payable by a User to enable Outlet Facilities to be connected to the Pipeline and is set out in item 3 of the current Fourth Schedule as:</p> <p><i>"Users will be charged GGT's direct costs for the installation of facilities associated with the connection of the User's facilities to the Pipeline."</i></p> <p>The first sentence of proposed clause 51 provides:</p> <p><i>"Service Provider will at the User's expense connect the User's Receipt Facilities and the Delivery Facilities to the Pipeline. "</i></p> <p>This indicates two potentially significant changes:</p> <ul style="list-style-type: none"> • Users are now to be charged for connection of their <i>Receipt Facilities</i>, not just the <i>Delivery Facilities</i>; and 	<p><i>Amend proposed clause 51 to:</i></p> <ul style="list-style-type: none"> • <i>delete "the User's Receipt Facilities and" in the opening sentence.</i> • <i>set reasonable limits on the Connection Charge – being the costs GGT may recover from Users for connection of their Delivery Facilities (e.g. only direct costs that have been reasonably and properly incurred in accordance with GEOP?)</i> • <i>clarify that Connection Charge is the only charge payable for connection (and there is no charge for connecting User's receipt facilities).</i> <p><i>Consider if Connection Charge provisions under section 4.2.5(a) of the proposed AA are</i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<ul style="list-style-type: none"> Users must bear the full expense of connection charges (including indirect costs), whereas previously GGT's "direct costs" were passed to Users, with no apparent requirement in new clause 51 for those costs to be incurred reasonably (cf. s 4.2.5(a) of the proposed AA – discussed below). <p>Proposed clause 51 of the T&Cs also overlaps with section 4.2.5(a) of the proposed AA which requires the User to pay "a <i>once-only Connection Charge.... being the costs reasonably incurred by Service Provider in establishing the new Connection, including the installation of new facilities associated with the connection of the User's facilities to the Pipeline</i>"</p> <p>The <i>direct</i> costs limitation that applies under current clause 6.4 is also missing from this proposed clause 4.2.5(a) (although there is at least a requirement for the costs to be <i>reasonably incurred</i> by GGT - which is not present in proposed</p>	<p><i>necessary given overlap with proposed clause 51 of the T&Cs (or vice versa).</i></p> <p><i>Amend definitions given for "Receipt Facilities" and "Delivery Facilities" in proposed schedule C to give adequate definitions (e.g. how it is determined if something is/is not part of the facilities - e.g. used for what purpose, nominated by whom?).</i></p> <p>Consider use of:</p> <ul style="list-style-type: none"> <i>"Technical Requirements for Delivery Facilities" in Appendix Three.</i> <i>current definition of "Outlet Facilities" in old Appendix 1 used to incorporate by reference specifications contained in old clause 6.4. Consider if any of those specifications should be included in the definition of "Delivery Facilities" in proposed schedule C.</i> <i>current definition of</i> 	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>clause 51).</p> <p>The definitions given for "Receipt Facilities" and "Delivery Facilities" in new Schedule C are inadequate.</p> <p>GGT has also deleted current clause 6.2 claiming it is "Not required as description of Firm Service is in the body of the revised AA (s 2)". However, deleting current clause 6.2 would also remove current clause 6.2(c) which provided:</p> <p><i>"The cost of operation and maintenance of the Inlet Facilities will be borne by GGT"</i></p> <p>The Authority is concerned that if connection and ongoing upkeep of outlet facilities are dealt with by separate agreement (as GGT proposes), there are no safeguards of GGT potentially using this to take advantage of Users (e.g. by offering a less onerous connection agreement "package" if the User agrees to take an unregulated non-reference service).</p>	<p><i>"Inlet Facilities" in current Appendix 1 used to incorporate by reference descriptions contained in current clause 6.2(b) (which GGT now proposes deleting). Consider if any of those descriptions should be included in the definition of "Receipt Facilities" in proposed Schedule C.</i></p> <p><i>Reinstate a provision to the same effect as current clause 6.2(c), so that the cost of operation and maintenance of the Receipt Facilities will be borne by GGT.</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Also, by deleting current clause 6.4 in its entirety, GGT is also removing many provisions that have continued effect beyond the establishment of a new connection, including provisions relating to ongoing operation and maintenance of outlet facilities, access to the outlet facilities and maintaining insurances.</p>		
Receipt Pressures				
52-54	<p>Relocated to clauses 52-54 and revised. Clauses 52-54 are consistent with the RBP AA and other APA Group access arrangements. Proposed clauses 53 and 54 are consistent with the RBP AA T&Cs.</p>	<p>Inlet pressure risk: Current clause 6.3(b) set clear limits for Users as regards receipt point delivery pressure. Proposed clause 52 removes that certainty for Users and gives GGT very wide discretion to effectively set whatever pressure it likes from time to time. The Authority is concerned that this places a much greater inlet pressure compliance risk on Users than under the current AA.</p> <p>Inlet temperature risk: Current clause 6.3(a) set clear temperature limits for Users delivering gas at receipt point of not more than 45°C and not less than 2°C. There is no reference in</p>	<p>Proposed clause 52 (inlet pressure risk): <i>Reinstate current clause 6.3(b) or amend proposed clause 52 so that Users have certainty about what they must comply with and can plan accordingly.</i></p> <p>Proposed clause 53 (indemnity) <i>Delete proposed clause 53.</i></p> <p>Proposed clause 54 (non-compression receipt point facilities) <i>Amend proposed clause 54 to clarify that it does not affect GGT's responsibility for installing facilities downstream of the</i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>proposed clauses 52-54 of any temperature requirements for delivery of gas to GGT. This could create uncertainty for Users.</p> <p>Indemnity re breach of inlet pressure obligation</p> <p>This indemnity is new. It is unlimited (being expressly not subject to the exclusion of liability for indirect loss etc in proposed clause 93 - see proposed clause 93(c)(iv)). Also, while the indemnity is expressed not to apply where loss or damage was caused by GGT's negligence, there is no similar exception for any other blameworthy conduct on the part of GGT or anyone acting for or on GGT's behalf (e.g. breach of contract, willful default), nor is there any express exception for matters beyond the User's reasonable control (given that the Force Majeure provisions are drafted with exceptions that may mean they do not apply to this indemnity). There is also no duty for GGT to take reasonable steps to mitigate its loss (as would apply in a damages claim). GGT has provided no good reason why Users should be exposed to such a wide indemnity in these</p>	<p><i>Receipt Point or the Receipt Facilities themselves (e.g. delete "or other facilities").</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>circumstances. The Authority considers GGT should rely instead on a damages claim.</p> <p>Proposed clause 54</p> <p>Proposed clause 54 provides: <i>"Service Provider is under no obligation to install inlet compression or other facilities to permit the entry of User's Gas into the Pipeline."</i></p> <p>While GGT's denial of responsibility for installing inlet compression may be reasonable, its attempt to exclude its responsibility for <i>" other facilities to permit the entry of User's Gas into the Pipeline "</i> seems to go too far as it could literally extend to a denial of responsibility by GGT for installing facilities downstream of the Receipt Point or even the Receipt Facilities themselves.</p>		
Possession of gas and responsibility				
55-59	Relocated to clause 55 and updated. Proposed clauses 57-59 added. Proposed clause 55 is essentially unchanged,	Generally: Provisions for possession of gas and title to gas should be grouped together in the T&Cs and the section heading needs to be amended to include a	<i>Change section heading to read "Possession of gas, responsibility and title".</i>	GGT will not accept reinstatement of current clauses 14.3 (title transfer) and 14.4 (title re-transfer). The remainder of the Authority's

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>however concept of System Use Gas has been incorporated, which is consistent with the RBP AA T&Cs.</p> <p>Proposed clauses 57-59 incorporate allocation of responsibility for the gas and introduce the concept of the practicality of commingled gas.</p>	<p>reference to "title". Consistent with the Authority's Required Amendment 2, title to gas must transfer to GGT at the receipt point and must pass to the User at the delivery point. Current clauses 14.3 and 14.4 should be reinstated in this section.</p> <p>Proposed clause 55: The words "<i>net of any System Use Gas provided by the User</i>" added at the end of the first sentence make no sense. If GGT does not take control and possession of System Use Gas when it is delivered at the receipt point then who does?</p> <p>Proposed clause 57: (disclaimer of GGT's responsibility for loss of <i>User's gas</i> while in GGT's control or possession) is not really necessary and should be deleted, given that the transfer of title provision in current clause 14.3 is being reinstated, so there never will be any situation where GGT has control or possession of a <i>User's gas</i> (because gas transferred to GGT will belong to GGT). New clause 57 is redundant and should be deleted.</p>	<p><i>Reinstate current clauses 14.3 (title transfer) and 14.4 (title re-transfer).</i></p> <p><i>Amend proposed clause 55 by deleting the words "net of any System Use Gas provided by the User" at the end of the first sentence.</i></p> <p><i>Delete proposed clause 57.</i></p> <p><i>Add the following at the beginning of proposed clause 58: "Subject to clauses [44] and [48] and all applicable laws, and unless Service Provider otherwise undertakes or agrees, "</i></p> <p><i>Delete proposed clause 59.</i></p>	<p>proposed amendments is accepted.</p> <p>Some legacy provisions in WA have title transfer provisions, but these reflect an (inappropriate) comparison with gas that is re-injected into underground storage (where subsurface petroleum title vests in the State).</p> <p>GGT's proposed title to gas provisions reflect general industry practice across Australia as well as the substance of the agreement as one for haulage of another's property. In no commercial sense is GGT an owner of the gas, it is a mere transporter and bailee of gas belonging to users.</p> <p>As a matter of law, when gas is commingled in these circumstances, pipeline users retain ownership in common of the gas in proportion to their respective contributions. GGT's obligation to deliver gas to users is not to deliver the same molecules, which would be impossible. Rather, it is to deliver the same quantities of gas received for transportation (subject to agreed adjustments) that meet the agreed specification.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Proposed clause 58: is not necessary. If it is retained, the Authority is of the view that it should expressly carve out situations where GGT may have liability in respect of gas prior to its supply at the receipt point or after its delivery at the delivery point. For example, GGT may have such liability in respect of non-specification gas which it has been told not to receive at the receipt point or which it seeks to deliver at the delivery point without user consent.</p> <p>Proposed clause 59: (GGT's right to commingle gas in the GGP): is not necessary and should be deleted, given that the transfer of title provision in current clause 14.3 is being reinstated. Proposed clause 59 is redundant and should be deleted.</p>		<p>GGT's proposed provisions leave users in a better position. Users retain continuity of property rights in their gas assets (and therefore priority to creditors in the event of GGT's insolvency) and an insurable interest in the event of loss. GGT accepts responsibility for gas in its possession and control and has never sought to avoid it. The proposed deletion (which GGT no longer seeks) was to limit that responsibility to loss arising from GGT's negligence, breach of agreement or wilful misconduct; that is, for losses beyond its control, the risk would remain with the owner as a normal incidence of ownership.</p>
Warranties and Representations				
60	Relocates and updates current clause 12.1. Warranties and representations by User	The reduction in User warranties in proposed clause 60 is to be welcomed. However, the Authority notes that GGT requires even	<i>Accepted.</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>have been reduced to those which are required by Service Provider.</p>	<p>fewer warranties (2 not 4) from users under its RBP AA T&Cs (yet has not sought to align the GGP AA T&Cs to the RBP AA T&Cs in this respect).</p> <p>The Authority also notes that the warranties (e.g. all necessary approvals, unencumbered title to gas when supplied, no legal default and no pending material proceedings) address risks that are also faced by Users in respect of GGT and therefore, could reasonably be expected to also be given by GGT (with necessary changes). This already occurs, for example, in relation to the T&Cs for the DBNGP. Further, given that Users are now being expected to lodge gas as line pack for the duration of the agreement, they potentially have a greater exposure to risks of operator insolvency and operation in accordance with laws.</p> <p>However, the Authority has not received any submissions specifically concerning whether GGT should also give warranties and on this basis is prepared to continue with the position under the current AA2 T&Cs.</p>		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
61	Relocates current clause 12.2 – no change to content	Acceptable	<i>Accepted.</i>	
62	Relocates current clause 12.3 – no change to content. Structural change only to accord with structure of RBP AA T&Cs.	The relocation is acceptable, but the Authority notes that GGT does not require any such obligation (settlements for royalties) from users under its RBP AA T&Cs.	<i>Delete proposed clause 62 unless GGT can provide good justification why it requires this obligation under the GGP AA T&Cs.</i>	Accepted.
63-64	Relocates current clause 12.4 to clauses 63 – 64 and revised. Clauses 63-64 updated to incorporate language used in other APA Group access arrangements.	The Authority queries whether there is a genuine need for proposed clauses 63-64. While they restate (with some minor changes) the provisions in current clause 12.4, GGT does not require any such obligations from users under its RBP AA T&Cs.	<i>Delete proposed clauses 63-64 unless GGT can provide good justification why it requires this obligation under the GGP AA T&Cs.</i>	Accepted.
Title				
65	Proposed clause 65 inserted. This clause is consistent with that in the RBP AA T&Cs and is beneficial for the User.	Proposed clause 65 could be improved by specifying a reasonable period during which a User can exercise its rights under the clause. As currently drafted the right arises "on termination of a Transportation Agreement" but it is not specified for how long the right continues.	<i>Amend proposed clause 65 by inserting the following words immediately after "On" at the start of the clause: "and at any time during a period of not less than [12] months after"</i>	Accepted.
66	Deletes and replaces current clauses 14.3 and 14.4. In the current AA	Title must transfer to GGT at the receipt point and to the User at the delivery point. Proposed clause 66	<i>Delete proposed clause 66. Reinstate current clauses 14.3 and 14.4.</i>	Not accepted – original drafting reinstated.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>T&Cs, title passed from User to Service Provider at the Receipt Point. This is not the case in any other APA Group access arrangement (wherein title does not pass) and there is no legislative basis for this distinction.</p>	<p>must be deleted and the title transfer provisions in current clauses 14.3 and 14.4 should be reinstated. See the Authority's Required Amendment 2.</p> <p>Doing so is consistent with clause 63 of the RBP AA T&Cs (APA's national standard), which states: "<i>In Western Australia title to the Gas received by the Service Provider on behalf of the User at the Receipt Points passes to the Service Provider and title to the Gas delivered by the Service Provider on behalf of the User at the Delivery Points passes to the User</i>".</p>	<p><i>See the Authority's Required Amendment 2.</i></p>	<p>Refer comments re 55-59 above.</p>
<p>Allocation of receipts and deliveries</p>				
<p>67</p>	<p>Not referred to in GGT's log of changes. Apparently based on clause 64 of RBP AA T&Cs</p>	<p>Proposed clause 67 allows GGT to allocate gas between multiple users at the receipt point or a delivery point where the hourly quantities do not match scheduled quantities on a pro rata basis according to each user's scheduled quantities as a proportion of the scheduled quantities for all users. While on its face this appears reasonable, it</p>	<p><i>Amend proposed clause 67 to provide that GGT is to allocate any discrepancy first to the user(s) (if any) which GGT is aware caused the discrepancy (to the extent GGT reasonably believes they caused it) and otherwise (if there is any remaining discrepancy that GGT is not reasonably able to attribute to any particular user(s)) pro-rata</i></p>	<p>Accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>does not deal reasonably with the situation where GGT is fully aware which user(s) have caused the scheduling discrepancy. Where GGT is aware who caused the discrepancy (e.g. because they have shut down their plant and are therefore not taking scheduled gas at a delivery point), the Authority is of the view that it is fair and reasonable for the re-allocation to be confined to the "defaulting" user(s) and the "non-defaulting" user(s) be allocated as per their scheduled quantities. (While such an alternative allocation methodology could be implemented by <i>unanimous</i> agreement of all users at a receipt point or delivery point under proposed clause 68, there is a risk that the necessary <i>unanimous</i> agreement could not be obtained where a habitually "defaulting" user exists.)</p>	<p><i>between all users.</i></p>	
68	<p>Not referred to in GGT's log of changes. Apparently based on clause 65 of RBP AA T&Cs</p>	<p>Proposed clause 68 allows <i>all</i> users at a receipt point or delivery point to agree an alternative allocation methodology.</p>	<p><i>Accepted.</i></p>	
69	<p>Not referred to in GGT's log of changes. Apparently based on</p>	<p>Proposed clause 69 allows GGT to comply with lawful directions or requirements of Governmental</p>	<p><i>Amend proposed clause 69 by replacing the reference to "this Access Arrangement" in the first</i></p>	<p>Accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	clause 67 of RBP AA T&Cs.	Authorities without liability to users (and even if contrary to a user's nomination. The Authority considers that this provision is acceptable, but the reference to "this Access Arrangement" in the first line should be changed to "the Transportation Agreement".	<i>line with "the Transportation Agreement".</i>	
70	Not referred to in GGT's log of changes. Apparently based on clause 68 of RBP AA T&Cs	Proposed clause 70 allows GGT to change the allocation methodology to reflect any allocation methodologies "imposed on Service Provider by a third party in respect of a particular Receipt Point or Delivery Point." This is too vague and uncertain. Further, it contains no safeguards against GGT "engineering" an agreement with a third party in order to allow itself to unilaterally vary the allocation methodology. GGT has not provided any justification for this clause.	<i>Delete proposed clause 70.</i>	Accepted.
Addition of Delivery Points				
71-76	Replace current clauses 6.9 and 6.10. Proposed clauses 71-76 reflect those in the RBP AA T&Cs in respect of User requesting new or	The replacement provisions GGT is proposing in proposed clauses 71-76: <ul style="list-style-type: none"> require User to give far more notice to GGT (12 months instead of 14 	<i>Delete proposed clauses 71-76.</i> <i>Reinstate current clauses 6.9 and 6.10 in T&Cs.</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>additional delivery points. This proposed clause is consistent with other APA Group access arrangements.</p>	<p>days);</p> <ul style="list-style-type: none"> • give GGT greater discretion to refuse a request and/or impose conditions; • do not set a time limit for GGT to give its response (current clause 6.10 required acceptance within 30 days); • require User to pay GGT's costs in evaluating the request (not required under current clause 6.9); and • do not clearly state that User can transfer existing MDQ to the new delivery points (i.e. while proposed clause 72 requires User to notify GGT of proposed changes to existing MDQs and MHQs, current clause 6.9 is much clearer that User can request a transfer of all or part of its MDQ from one delivery point to another). 		
Dispute				

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
resolution				
77-83	<p>Current clauses 22 and 23 in their entirety have been replaced with proposed clauses 77-83. The concept of referral of disputes to an expert or arbitrator has been replaced with referral to each party's representative and then senior representatives. This process is consistent with that set out in the Service Provider's standard agreements and in practice provides greater efficiencies and effectiveness than referral to experts and arbitration.</p>	<p>The Authority considers that GGT's proposed clause 77 essentially prohibits a party commencing legal proceedings (except to seek urgent injunctions or other interlocutory relief which may be necessary e.g. to thwart an imminent breach of confidentiality) until the parties have complied with the procedures in proposed clauses 78-83.</p> <p>The procedure in proposed clauses 78-83 essentially seek to resolve a dispute by negotiation. But, if a resolution cannot be negotiated, the new process offers no alternative than to go to court. That is, it has the effect that a dispute escalates from negotiations to legal proceedings with no pre-agreed alternative dispute resolution option for a possibly less costly and/or quicker means of resolution than court proceedings. While the parties can always agree at the time to try some other form of mediation or arbitration, this would require them to agree to do so at a time when they are already in dispute and it may be more difficult to reach agreement, especially if it is in the</p>	<p><i>Delete proposed clauses 78-83.</i></p> <p><i>Reinstate current clauses 22 and 23.</i></p> <p><i>Proposed clause 77 may be retained, if desired.</i></p> <p><i>Amend all references to "Commercial Arbitration Act 1985" in clause 23 of the current access arrangement terms and conditions to "Commercial Arbitration Act 2012".</i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>interests of one of them to delay or prolong the dispute.</p> <p>Proposed clause 77 has some potential benefit in that it forcibly requires a period of negotiation before the parties go to court. However, clauses 22 and 23 of the current access arrangement terms and conditions offer pre-agreed mechanisms for resolving disputes by negotiation (current clause 22.2), expert determination and/or arbitration that may (or may not) provide quicker and less costly resolutions than going to court. They do not contain an equivalent to proposed clause 77, but if a party chose to go to court ignoring the provisions in existing clauses 22 or 23, then it may be in breach of contract. Further, if the dispute is one which could have gone to arbitration under the arbitration agreement in clauses 22.3(b) and 23, then the other party could challenge the court proceedings and require the court to refer the dispute to arbitration, under section 8 of the Commercial Arbitration Act 2012.</p> <p>The Authority considers that GGT has not provided a good justification for its proposal to</p>		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>replace expert determination and arbitration with referral to each party's representative and then senior representatives (with court proceedings being the next likely step if those senior representatives cannot resolve the dispute).</p> <p>In place of proposed clauses 77-83, the provisions in clauses 22 and 23 of the current access arrangement terms and conditions should therefore be reinstated together with a version of GGT's proposed new clause 77 requiring the dispute to be referred to senior representatives of the parties for negotiation in the first instance. All references in clause 23 of the current access arrangement terms and conditions to the Commercial Arbitration Act 1985 should be changed to the current version of that Act which is the Commercial Arbitration Act 2012.</p> <p>Submissions from BHPB and Santos strongly oppose this proposal. Santos submits this "provides no protection to the Shipper" and BHPB submits this change is "unnecessary and may delay the effective resolution of disputes" as expert determination and arbitration processes are</p>		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		"likely to be lower cost and more efficient methods of resolving disputes than litigation"		
	Current clause 15.2 deleted. This concept relates to a dispute which is covered under proposed clauses 77 – 83. This specific clause is not required.	Current clause 15.2 provides a mutual (but especially valuable for the User) right to effectively audit the relevant books of the other to verify a disputed invoice, measurement or procedure. Such an audit could be a helpful adjunct to any dispute resolution procedure and should not be given up lightly for Users.	<i>Reinstate current clause 15.2.</i>	Accepted.
Default				
84-86	Replaces current clauses 16.1–16.6. The Default/Termination provisions have been substantially amended to simplify and streamline the process. In addition, instead of setting out two separate rights for the User and Service Provider, there are mutual rights. This approach is consistent with other APA Group access arrangements and the	Acceptable in principle, but the drafting of proposed clause 84 should be improved for clarity. The Authority notes that the cure period for financial default is now longer (7 business days, not 7 days) and the cure period for non-financial default is (in the absence of intervening public holidays) likely to be marginally shorter (21 business days, not 30 days). The Authority also notes that proposed clause 85 basically covers the same ground as current	<i>Amend proposed clause 84 to clarify:</i> <ul style="list-style-type: none"> <i>the date from when each cure period runs;</i> <i>that only the non-defaulting party can terminate for a financial default that is not remedied within the cure period; and</i> <i>that the "compensation" payment obligation in new clause 84(b) (which is, in effect, a form of indemnity) is</i> 	GGT will accept the following further amended clause: <i>For the avoidance of doubt the parties agree that:</i> <ol style="list-style-type: none"> <i>only a non-defaulting party can terminate for a financial default;</i> <i>a defaulting party is not liable to the non-defaulting party under clause 151(b) to the extent (if at all) that the loss</i>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	RBP AA T&Cs.	<p>clause 16.4 (if changed to apply both ways, not just to GGT and the Owners). However, the Authority considers that current clause 16.4 (once it is changed to apply both ways, not just to GGT and the Owners) is marginally wider, in that it refers to "rights and remedies" (not just "remedies", as in proposed clause 85) and to "the Service Agreement, at law, at equity or otherwise" (not just "legal or equitable", as in proposed clause 85).</p>	<p><i>to be limited so that it is expressly subject to the limitations of liability in new clauses 93 and 94 and so that the defaulting party is not required to compensate (indemnify) the non-defaulting party for any loss to the extent caused by the non-defaulting party or any of its related bodies corporate or any person acting for or on behalf of any of them or by any Force Majeure Event. Also, the amount of compensation is to be reduced to the extent the non-defaulting party fails to use reasonable endeavours to mitigate its loss arising from the event of default and its consequences.</i></p> <p><i>Amend proposed clause 85 to</i></p>	<p>suffered by the non-defaulting party is caused by the non-defaulting party's or the non-defaulting party's agent's negligence or default or if the loss suffered is caused by a Force Majeure Event</p> <p>e. the amount of compensation payable is to be reduced to the extent that the non-defaulting party fails to use reasonable endeavours to mitigate its loss arising from the event of default and its consequences.</p> <p>This is a default clause, not a compensation clause. The deleted paragraphs refer to damages which flow from a breach, which are more appropriately dealt with in the liability clause. Inclusion in this clause could produce confusion/inconsistency.</p> <p>The remainder of the Authority's proposed amendments is accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<i>ensure it extends to rights and remedies arising under the Transportation Agreement, at law, in equity or otherwise.</i>	
Billing & Payment				Accepted.
87	Replaces current clause 13.1 (invoicing). Current clause 13.1 amended to take into account the practice of monthly billing and not necessarily requiring the issue of invoices on the 10 th day of each month. In addition, language in this section has been updated to reflect references to Charges and the "Billing Period" concept has been removed. These changes are all consistent with the other APA Group access arrangements and the RBP T&Cs.	GGT has -deleted its obligation to issue invoices by the 10 th of each month following the preceding billing period and replaced it with an obligation to render "monthly" invoices, with no time limit set for when an invoice must be given in respect of a billing period. This could potentially allow GGT to issue invoices long after the relevant billing period (so long as the invoice was rendered "monthly"). This effectively exposes Users to uncertainty and risk that previously they did not have. The Authority notes that "Billing Period" under the existing T&Cs is also essentially monthly (but also allows for a shorter first billing period where the agreement doesn't start at the beginning of a calendar month).	<i>Amend proposed clause 87 to reinstate old clause 13.1 requirements. For example, proposed clause.87 could be amended as follows:</i> <i><u>"On or before the 10th day of each Month Service Provider shall render to the User an monthly invoices in the form of a Tax Invoices to the User in respect of the Charges and any other amounts payable to Service Provider under the Transportation Agreement incurred in the immediately preceding Month, together with any outstanding invoiced amounts in respect of any previous Months-or Access Arrangement."</u></i>	
	Current clause 13.2	If minimum invoice contents are	<i>Reinstate current clause 13.2</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>(contents of invoice) is not included in the RBP AA T&Cs and invoice contents do not need to be so prescribed.</p>	<p>not prescribed in the T&Cs (as per current clause 13.2), how will Users be sure to receive sufficient basic information to be able to check the accuracy of an invoice?</p>	<p><i>requirements.</i></p>	
<p>88-89</p>	<p>Proposed clause 88 replaces current clause 13.4 (payment) and current clause 13.8 (default interest). The proposed clause is simplified and is as per the RBP AA T&Cs. Current clause 13.8 (default interest) concept contained in proposed clause 88.</p> <p>Proposed clause 89 relocates and revises current clauses 13.5 (disputed invoices) and 13.6 (interest on disputed amount). The concept of a disputed invoice is retained however the language of this clause is revised to be consistent with the RBP AA T&Cs.</p>	<p>The proposed clause 88 payment terms appear slightly less onerous for Users. See our comments at current clause 13.4 above</p> <p>However, the Authority notes that:</p> <ul style="list-style-type: none"> whereas current clause 13.8 provided for default interest to apply both ways on late payments, proposed clause 88 only applies to require the User to pay default interest on late payments. There is no longer any obligation for GGT to pay interest when it is late making a payment (unless in the limited circumstances of disputed invoices or adjustments for errors in invoices under proposed clauses 89 	<p><i>Amend proposed clause 88 to:</i></p> <ul style="list-style-type: none"> <i>include a right for User not to pay where there is a manifest error in the invoice (as per current clause 13.5(a)); and</i> <i>amend the last sentence to read "Late payment will attract an interest charge in accordance with clause [insert number of reinstated current clause 13.8]".</i> <p><i>Reinstate current clause 13.8 requirements (mutual obligation to pay default interest on overdue payments).</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>and 90). As there may be other circumstances where GGT has to make payments (eg line pack refund payment or compensation for a default) GGT should also have the same obligation as Users to pay default interest on late payments.</p> <ul style="list-style-type: none"> the default interest rate for late payments has changed. The proposed new rate is the CBA corporate overdraft rate plus two percentage points, whereas under the existing AA T&Cs it is the Bill Rate plus five percentage points (where "Bill Rate" means, <i>on any Business Day, the 90 Business Day domestic dealer's bill rate as published in the Australian Financial Review on the last Business Day of the preceding</i> 		

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		<p><i>Month, or if that rate is not published, then the rate agreed by the parties or, if either party is a defaulting party, as determined by the non-defaulting party in good faith to be representative of the domestic dealer's bill rate on that Business Day).</i> The Authority has not received any submissions specifically concerning the change in default interest rate.</p> <ul style="list-style-type: none"> proposed clause 88 does not include a right for User not to pay where there is a manifest error in the invoice (as per current clause 13.5(a)). <p>Proposed clause 89 does not contain the 14 day time limit for disputing invoices that exists under current clause 13.5. It also does not contain the User's right (under current clause 13.5(a)) not to pay in the event of a manifest error (so,</p>		

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		<p>unless GGT issued an adjustment note, the User would still have to pay within 14 days even if there is a manifest error).</p> <p>The Authority also notes that the default interest rate for payment of disputed amounts (proposed clauses 89 & 90) has also changed in the same way as the default interest rate for late payments (proposed clause 88) - see comments above).</p>		
90	<p>Relocated and revised current clause 13.7 (incorrect invoices). The clause has been simplified to be consistent with that in the RBP AA T&Cs but there is essentially no change to the process set out in the current clause 13.7.</p>	<p>GGT claims that "<i>there is essentially no change to the process set out in the former clause 13.7</i>", however that is not correct.</p> <p>Proposed clause 90 introduces a 12 month time limit on making adjustments for errors in invoices, which effectively acts as a time bar on claims. No such time bar on claims to rectify invoices exists under old clause 13.7. Indeed, current clause 13.7(a) provides a claim may be made where an overcharge or undercharge is discovered "at any time". The 12 month limit in current clause 13.7(b) only applies to claims for interest (not to claims for</p>	<p><i>Amend proposed clause 90 to include the following words at the end of the clause:</i></p> <p><i><u>" if and to the extent such errors result in the User being undercharged."</u></i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>refund/payment of over- or undercharged amounts).</p> <p>Any time bar on <i>Users</i> bringing claims that they have been overcharged is not acceptable. That is because the matters that may give rise to an overcharge in an invoice (e.g. metering data and billing calculations) are largely within the control of GGT, not <i>Users</i>. So <i>Users</i> should not be penalized for this by having their claims time barred.</p> <p>However, a time bar should be placed on GGT claiming against <i>Users</i> for undercharges, since GGT is better placed than <i>Users</i> to determine if an undercharge has occurred and should not be allowed to sit on its hands about claiming for one.</p> <p>The fact that the 12 month time limit is calculated from date of delivery of gas (not date of invoice) should also encourage GGT to invoice <i>Users</i> promptly so that GGT maximizes the time remaining under its 12 month limit in which to determine if the invoice</p>		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		contains an undercharge.		
Information Interface				
91	User is granted non-exclusive, non-transferrable, non-assignable access to information interface for purpose of submitting nominations and obtaining information regarding receipts, deliveries, balances and gas flows.	<p>Proposed clause 91 grants a licence for users to "access" the Information Interface for certain specified purposes. It should also expressly allow them to use the Information Interface for those purposes.</p> <p>The specified licensed purposes are limited to "<i>the purposes of submitting Nominations and for receiving information regarding receipts, deliveries, balances and Gas flows under the Transportation Agreement</i>". These need to be widened to include all of the things that a user may reasonably be expected to require the Information Interface to do. For example, if the parties are intending that users use the Information Interface for exchanging imbalances and otherwise trading the User's contracted capacity with other Users in accordance with the Terms and Conditions (including clause 108), then this should be expressly included as one of the licensed purposes. Also, the</p>	<p><i>Amend proposed clause 91:</i></p> <ul style="list-style-type: none"> <i>to ensure the licence includes an express right to access and use (not just access) the Information Interface;</i> <i>to ensure that the specified licensed purposes include all purposes for which the User will reasonably require the Information Interface in order to exercise its rights and perform its obligations under the agreement, including for exchanging imbalances and otherwise trading the User's contracted capacity with other Users in accordance with the Terms and Conditions (including clause 108);</i> <i>to ensure that the types of information that the Information</i> 	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Authority requires particular "information regarding receipts, deliveries, balances and Gas flows under the Transportation Agreement" to be specified (e.g. "historical and real-time information") to ensure that users are provided with the information they need to perform their relevant obligations regarding receipts, deliveries, balancing and gas flows under the agreement.</p> <p>Proposed clause 91 also needs to specify the duration of the licence and this should continue beyond the term of the agreement if reasonably required in order for the user to recover line pack or exercise any other post-termination rights.</p> <p>If the "information interface" is to provide this functionality for users as a substitute for GGT's notification obligation in current clause.5.4, then as users will be placing reliance on the Information Interface in order to exercise rights and perform obligations under the agreement, the T&Cs will need to include warranties from GGT as to the quality, availability and fitness for purpose of the Information</p>	<p><i>Interface is capable of providing/receiving includes all types of information (e.g. historical and real-time) that the user will reasonably require in order to exercise rights and perform obligations under the agreement relating to the specified licensed purposes;</i></p> <ul style="list-style-type: none"> • <i>to specify the duration of the licence (which may have to continue beyond the term of the agreement if reasonably necessary in order for the user to recover line pack or exercise any other post-termination rights); and</i> • <i>to include reasonable warranties from GGT as to the quality, availability throughout the term, and fitness for purpose of the Information Interface</i> <p><i>Also amend:</i></p>	

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		<p>Interface, so that users are no worse off by this change. Although no submissions were received on this issue, the Authority queries whether the Information Interface is compatible with Users' existing systems or if they must outlay additional expense in order to install and use it (e.g. hardware, software and/or staff training)?</p>	<ul style="list-style-type: none"> • <i>proposed clause 17 to clarify that GGT may provide information relevant to that clause via the Information Interface (if that is what is intended) – see the Authority's recommendation at proposed clause 17 above.</i> • <i>proposed clause 18 to clarify that capacity trading to correct imbalances may take place using the Information Interface – see the Authority's recommendation at proposed clause 18 above.</i> 	
92	<p>Employees of the user must be approved by the service provider before access may be provided. User liable for any loss incurred by GGT resulting from use (except where it is caused by negligence by GGT)</p>	<p>GGT has not justified why GGT has to approve the user's employees to use the Information Interface (especially given that the User is to be liable for any loss) nor has GGT stated the criteria it will use to assess approval or the safeguards against GGT unreasonably preventing approval.</p> <p>GGT has not justified why the user</p>	<p><i>Delete proposed clause 92.</i></p>	<p><i>Not accepted. Reinstate clause.</i></p> <p>GGT requires that there is system integrity and security by ensuring it is responsible for approving use of the Information Interface.</p> <p>The information interface is a</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>is to have liability for "any loss" (which, as clause 93 is currently drafted, is expressly not limited by the exclusion of liability for consequential loss etc. in clause 93) that GGT incurs from "use of the Information Interface" (which is not expressly limited to use by the User) other than to the extent caused by GGT's negligence (which could mean the User is still liable despite any other blameworthy conduct by GGT such as breach of contract, statutory duty or willful default or if the loss was caused by a third party). The Authority is of the view that this puts potentially extremely wide liability and risk upon the user without any good justification from GGT.</p>		<p>confidential interface between users and GGT which enables users to create binding obligations (such as nominations). Like any proprietary system, its use requires training and good user conduct and, as the owner of the system, GGT must retain the right to admit or exclude individuals at its discretion. The user should always be responsible for the actions of its employees and agents.</p> <p>The remainder of the Authority's proposed amendments is accepted.</p>
Limitation of Liability & Indemnity				
93	Relocated to clause 93 and updated. The position remains that neither party is liable to the other for consequential losses however the revised AA T&Cs provide carve outs for a number of matters	The carve outs GGT has included in proposed clause 93 for " <i>matters which are within the control of the relevant party</i> " include carve-outs that do not exist under the current AA T&Cs. As they mostly relate to the User, this would give the User unlimited liability for matters that it does not have unlimited	<p><i>Amend proposed clause 93 (consequential loss exclusion):</i></p> <ul style="list-style-type: none"> <i>to make it expressly subject to the liability cap provision (proposed clause 94), but otherwise operate despite any other</i> 	GGT will not agree to replace "Gross Negligence" in paragraph (a) with simple "negligence". The Authority's proposed deletion of "gross" is against the interests of both GGT and users given the mutuality of the clause and, leaving mere negligence, undermines the efficacy of the

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	<p>which are within the control of the relevant party. This position is consistent with the RBP AA T&Cs.</p>	<p>liability for under the current AA T&Cs. For example, under clause 93 of GGT's proposed new terms and conditions, the User would have unlimited liability for:</p> <ul style="list-style-type: none"> • "Gross Negligence" or "Willful Misconduct" (whereas under current clause 18.2, the liability limitation to direct loss extended to excluding a party's liability for all loss including negligence); • liability relating to rates, Charges and other payments under the Transportation Agreement; • liability relating to Imbalances; • liability relating to the receipt, transportation or delivery of Overrun Quantities; • liability relating to the User's obligation to 	<p><i>provision to the contrary in the agreement.</i></p> <ul style="list-style-type: none"> • <i>to extend the protection to related bodies corporate of the User (not just GGT's) and their respective directors, officers, employees, agents and contractors.</i> • <i>to replace "Gross Negligence" in paragraph (a) with simple "negligence" (as per the limitation in current clause 18.2(a)).</i> • <i>to restrict the carve-out in paragraph (b) expressly to payment liabilities arising in relation to the transportation agreement.</i> • <i>to restrict the carve-outs in paragraph (c) to just the User's liability for its obligations to provide gas at the receipt point within the gas specification (GGT's proposed clause 43) and to</i> 	<p>consequential loss exclusion for all parties. The (mutual) consequential loss principle should be that if a party breaches the agreement other than by reason of gross negligence or willful misconduct, consequential loss is excluded.</p> <p>GGT will not agree to restrict the carve-outs in paragraph (c) to just the User's liability for its obligations to provide gas at the receipt point within the gas specification (GGT's proposed clause 43) and to indemnify GGT where User has requested and GGT has agreed to transport and deliver non-specification gas (GGT's proposed clause 47). All other carve-outs in paragraph (c) should be deleted. (This is consistent with the carve-out in current clause 18.2 in relation to current clause 10.4.)</p> <p>GGT has deleted paragraph (c) altogether. Given the mutuality, this reflects the principles set out above.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>deliver Gas which meets the quality required by the Gas Specification or any other quality as the law in Western Australia requires;</p> <ul style="list-style-type: none"> liability relating to a failure to supply Gas at Receipt Points within a specified pressure range; liability relating to the indemnity described in clause 95 of the Terms and Conditions; liability relating to the use of the Information Interface by the User's employees who have been authorised for use by the Service Provider. <p>Also, as GGT's proposed new AA T&Cs include many more indemnities by the User than under the existing AA T&Cs, the above carve-outs mean that the liability limitation in proposed clause 93 will not apply to the</p>	<p><i>indemnify GGT where User has requested and GGT has agreed to transport and deliver non-specification gas (GGT's proposed clause 47). All other carve-outs in paragraph (c) should be deleted. (This is consistent with the carve-out in current clause 18.2 in relation to current clause 10.4.)</i></p> <ul style="list-style-type: none"> <i>by adding as a new carve-out in paragraph (d), GGT's liability arising in respect of its obligations to deliver gas at delivery points within the gas specification (GGT's proposed clause 44) and not to receive, transport or deliver non-specification gas against the User's instructions (GGT's proposed clause 48). (This is the converse of the carve-out for the User's obligation regarding non-spec</i> 	<p>The remainder of the Authority's proposed amendments is accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>User's liability relating to those various indemnities given by User in relation to imbalances (proposed clause 20), non-specification gas (proposed clause 47), receipt point pressure (proposed clause 53), third party claims (proposed clause 95) and its "Gross Negligence" and "Willful Misconduct" (proposed clause 96). None of these indemnities contain protections for the User, such as requiring GGT to take reasonable steps to mitigate its loss (as would apply in a damages claim) or to off-set from the indemnity claim any loss caused by GGT or anyone acting for or on its behalf). This potentially exposes the User to greater liability than under the existing AA T&Cs.</p> <p>Given the extent of the above carve-outs from the liability limitation in proposed clause 93, there may not actually be many circumstances where Users would get the benefit of the liability limitation in practice. By comparison, under the current AA T&Cs, the liability limitation in current clause 18.2 (Direct</p>	<p><i>gas and is also consistent with GGT's stated reasoning that parties should take responsibility for matters "within the control of the relevant party").</i></p> <ul style="list-style-type: none"> <i>by adding as a new carve-out in paragraph (e), GGT's liability arising in respect of its obligations to deliver gas at a delivery point within a specified pressure range (see comments at current clause 6.5 above).</i> 	

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		<p>Losses Only) only has one carve-out, being that it does not apply to limit the User's liability in relation to the indemnity given in current clause 10.4 regarding non-specification gas.</p> <p>Accordingly, GGT's proposed revised AA T&Cs would appear to provide far greater exposure for Users to unlimited liability than under the existing AA T&Cs.</p> <p>Further, GGT's reason for extending the carve-outs to "matters which are within the control of the relevant party" does not extend to all the matters that are within the control of GGT. For example, GGT has not explained why the carve-outs do not extend to include GGT's liability relating to its obligations:</p> <ul style="list-style-type: none"> • to deliver gas at the delivery point that meets the gas specification (see proposed clause 44); • not to continue receiving, transporting or delivering non-spec gas 		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>contrary to User's instructions (see proposed clause 48); and</p> <ul style="list-style-type: none"> to deliver gas at a delivery point within a specified pressure range (see comments at current clause 6.5 above). 		
94	<p>Replaced with proposed clause 94. The concept in clause 18.1 of the current AA T&Cs is replaced with a liability cap of 10% of the contract value over the life of a Transportation Agreement in proposed clause 94. This position is consistent with the RBP AA T&Cs.</p>	<p>Proposed new clause 94 sets an overall cap on just GGT's liability (excluding for Gross Negligence or Willful Misconduct) of 10% of contract value over the life of the contract. Current clause 18.1(c) set an overall cap on the liability for both parties at the amount of 1 years' service charges.</p> <p>The Authority is of the view that any new liability cap should be set at an appropriate level and apply mutually (not just to GGT, although, as GGT is service provider and the liability limitations are expressed not to apply to the User's payment obligations, it is GGT that would most likely be placing reliance on them in practice).</p> <p>Even if GGT is successful in</p>	<p><i>Amend proposed clause 94 (liability cap):</i></p> <ul style="list-style-type: none"> <i>to make it expressly operate despite any other provision to the contrary in the agreement, e.g. by adding the following sentence to new clause 94: "This clause 94 applies despite any other provision of the Transportation Agreement to the contrary, including any contrary provision in clause 93."</i> <i>to make liability cap apply both ways (as per current clause 18.1(c)) and to reinstate liability cap at</i> 	<p>New clause 155 (a) further amended:</p> <p><i>Notwithstanding anything provided in the Transportation Agreement, neither party, its contractors, officers, directors, employees and agents shall be liable for:</i></p> <p><i>(a) any amount that is more than the equivalent of one Year of <u>capacity</u> charges which would have been payable for the provision of the Service</i></p> <p>The insertion of "capacity" is for certainty of the cap. Capacity charges comprise the vast (95%+) amount of revenue and the inclusion of variable charges would make it difficult at any time</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>having a minimum 5 year contract term, 10% of 5 years' contract value would be less than 1 full years' charges. All the more so if the minimum contract term is reduced to 1 year (as User's have submitted should be the case).</p>	<p><i>amount equal to 1 year of charges (as per current clause 18.1(c)(1)) – although some form of assumption presumably needs to be expressly stated in order to quantify what the variable charges would be for this purpose for a year (e.g. assumed full MDQ taken throughout year with no imbalance, variance or overrun charges?).</i></p> <ul style="list-style-type: none"> • <i>to extend the protection to related bodies corporate of the User (not just GGT's) and their respective directors, officers,, employees, agents and contractors (as per limitation in current clause 18.1(c)).</i> • <i>to reinstate the principle that neither party is to be liable for any liability or loss suffered by the other to the extent that the</i> 	<p>to assess the quantum of the cap.</p> <p>The remainder of the Authority's proposed amendments are accepted. However, GGT notes that a one year charges cap may be too high for short term contracts and too low for long term contracts (which is why GGT's preference, which has been approved by the AER, is to have a cap at 10% of contract value). GGT is prepared to accede to the Authority's preference in this instance but reiterates that this may be a sub-optimal result for all parties.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<p><i>negligence of the other party contributed to that liability or loss (as per current clause 18.1(c)(2)).</i></p>	
95-96	<p>Replace current 18.3 (proximate losses). Proposed clauses 95 and 96 set out the indemnities and are in accordance with the RBP AA T&Cs.</p>	<p>The User's liability under current clause 18.3 (proximate losses) is geographically limited to activities in or about the locations specified in current clause 18.4. However, the indemnities in proposed clause 95 have no such geographic limitation and consequently potentially extend the liability for Users much more widely. Further, proposed clause 95 purports to apply to liabilities arising not only during but also after the expiry of the transportation agreement. GGT provides no real justification for these changes.</p> <p>The Authority requires proposed clause 95 to be amended:</p> <ul style="list-style-type: none"> • so it does not apply to liability arising after the transportation agreement ends; • by including a geographic proximity 	<p><i>Amend proposed clause 95:</i></p> <ul style="list-style-type: none"> • <i>so that indemnity does not apply to liability arising after the termination of the transportation agreement.</i> • <i>so that User's liability is limited by reference to certain specified geographic locations (as per current clause 18.4).</i> • <i>by inserting the following words (taken from current clause 18.3(b)) immediately after "indemnify" on line four of paragraph (a): "does not apply in respect of any liability to the extent that the liability is unrelated to any fault, action or omission on the part of</i> 	<p>GGT will not accept proposed amendment:</p> <p><i>"does not apply on respect of any liability to the extent that the liability is unrelated to any fault, action or omission on the part of the User or persons under the direct control of the User.</i></p> <p>GGT cannot control third parties with which the users contract and should not have a duty of care to them. Users can adequately and expediently manage their risk profile by back-to-back arrangements in their third party contracts; GGT cannot manage that risk.</p> <p>The remainder of the Authority's proposed amendments is accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>limitation on the User's liability under proposed clause 95 (as per those set out in current clause 18.4);</p> <ul style="list-style-type: none"> so the indemnity in proposed clause 95(a) contains a limitation (as per current clause 18.3(b)) that it is not to apply in respect of any liability to the extent that the liability is unrelated to any fault, action or omission on the part of the User or persons under the direct control of the User; and so the indemnity in proposed clause 95(b) contains a similar carve-out in respect of Gross Negligence and Willful Misconduct on the part of GGT or its related bodies corporate as that already contained in proposed clause 95(a). This would be consistent with the concept in proposed 	<p><i>the User or persons under the direct control of the User and ”.</i></p> <ul style="list-style-type: none"> <i>by inserting the following words immediately after “Agreement” on line four of paragraph (b): “except that the obligation to indemnify will be reduced in proportion to the extent that the loss or damage is caused by the Gross Negligence or Willful Misconduct of the Service Provider or its Related Bodies Corporate”.</i> <p><i>Amend proposed clause 96 to provide that the amount of the indemnity is to be reduced to the extent the indemnified party fails to take reasonable steps to mitigate its loss.</i></p>	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		clause 96 that each party is responsible for its own Gross Negligence and Willful Misconduct.		
	Current clause 18.4 (locations) deleted. Not required in accordance with revised liability/indemnity position.	Deletion is not acceptable. See comments on proposed clause 95 above.	<i>See recommended amendments to proposed clause 95 above.</i>	GGT cannot accept this amendment. See notes above re third party liability. Additionally, the inclusion of specific locations serves no utility, adds confusion (e.g. damage is not always suffered at a particular location, viz. economic loss) and potentially undermines the general principle that third party claims, where the third party is only involved by reason of the user's contractual arrangements, should not be visited on GGT.
	Current clause 18.5 (refunds and credits) deleted. Not required in accordance with revised liability/indemnity position.	GGT has not provided any adequate explanation as to why current clause 18.5 has been deleted. It seems to be a valuable provision for Users.	<i>Reinstate current clause 18.5.</i>	Accepted.
	Current clause 18.6 (no liability for fault of others) deleted. The concept is incorporated in proposed clause 95(a).	The justification that GGT has provided for deleting current clause 18.6 only really relates to the first sentence of current clause 18.6. The second sentence of current clause 18.6 should be reinstated.	<i>Reinstate second sentence of current clause 18.6: "Where negligence is found to have been contributory each party will bear responsibility in accordance with that party's proportionate fault."</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		It provides that: " <i>Where negligence is found to have been contributory each party will bear responsibility in accordance with that party's proportionate fault.</i> " This would seem to be a reasonable provision to preserve.		
97	Current clause 18.7 (each limitation separate) relocated to clause 97. Structural change only to accord with structure of RBP AA T&Cs.	Relocation is acceptable.	<i>The Authority accepts relocation to proposed clause 97.</i>	Accepted.
Force majeure				
98	Current clause 17.1 relocated to clause 98 and updated. This clause has been simplified and amended so that it relates to the extent performance is prevented by an FM Event rather than specifying failure to accept or deliver gas or perform obligations. This is consistent with other APA Group access arrangements and the	Proposed clause 98 is acceptable. The Authority also notes proposed clause 16 grants GGT extensive rights to interrupt or curtail in circumstances that go beyond force majeure and the provisions in proposed clauses 31 & 32 (please refer to the Authority's comments in proposed clause 16, above).	<i>Proposed clause 98 accepted. Delete proposed clause 16.</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	RBP AA T&Cs.			
99	<p>Current clause 17.2 relocated to 99 and updated. Concept remains the same but the language used is that in the RBP AA T&Cs.</p> <p>Clause 100 has also been introduced to be consistent with RBP AA T&Cs to specify which events do not relieve a party of liability under the Force Majeure provisions.</p>	<p>Proposed clause 99 gives GGT a discretion (albeit acting reasonably) to determine the reduction in Toll Charge or Capacity Reservation Charge where GGT fails to deliver due to FM, whereas current clause 17.2(b) does not, requiring GGT to include a credit for the value of the Toll Charge and Capacity Reservation Charge for the period of FM.</p>	<p><i>Amend proposed clause 99 to remove GGT's discretion as to the amount of the reduction in Toll Charge or Capacity Reservation Charge where GGT fails to deliver due to FM (i.e. revert to current clause 17.2(b) principle that GGT must credit User with the full value of those charges for the period of FM).</i></p>	Accepted.
100	<p>Current clause 17.3 deleted. Not required.</p>	<p>The Authority is not satisfied that GGT has provided sufficient justification as to why current clause 17.3 is not required. While proposed clause 100 goes some way to addressing current clause 17.3(c), it does not expressly require any efforts to mitigate or remove the <i>effects</i> of the FM (as is required by old clause 17.3(c)).</p> <p>Current clauses 17.3(a), (b) and (d) also need to be reinstated, as presumably Users will want GGT to give them notice and details of the FM (17.3(a)), allow them to examine and investigate the event (17.3(b)) and tell them when it's</p>	<p><i>Amend proposed clause 100(b) to add a requirement to "mitigate or remove the effects of the Force Majeure Event" (as per current clause 17.3(c)).</i></p> <p><i>Add provisions to reinstate current clauses 17.3(a), (b) and (d).</i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		over (17.3(d)).		
101	Relocates and updates current clause 17.4. Amended to incorporate timeframes used in other APA Group access arrangements and to be consistent with the RBP AA T&Cs.	On balance the Authority is of the view that the new timeframes seem more likely to favour GGT at the expense of Users. Proposed clause 101 requires a FM event to have prevented performance of an obligation for 12 months plus a further 7 days consultation before a party can terminate on 2 months' notice (i.e. 14 months and 7 days in all). This is altogether longer than under old clause 17.4, which requires the FM to last 6 months plus a further 3 months consultation (i.e. 9 months in all) before a party can terminate on 3 months' notice (i.e. 12 months in all). It also allows a party claiming FM twice as long (12 months instead of 6 months) before it even has to consult with the other party, and the consultation period is significantly shorter (7 days, not 3 months). Given that, on balance, FM provisions tend to favour the service provider in practice (i.e. GGT), these changes would seem to worsen the position for Users where a protracted FM event affects GGT.	<i>Reinstate timeframes from current clause 17.4.</i>	Accepted.
	Current clause 8.5	Current clause 8.5 provides Users	<i>Reinstate current clause 8.5</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>deleted. Not required as force majeure provisions in clauses 98 – 101 deal with consequences of a force majeure event.</p>	<p>with potentially valuable protection in the event gas transportation is interrupted due to FM, in that it positively requires GGT to use reasonable endeavours (consistent with the standard of a reasonable and prudent pipeline operator) to <i>maintain</i> transportation services so that a User with a Firm Service can deliver and take gas pro-rata with all Firm Service Users, unless GGT and all such Users otherwise agree. Current clause 8.5 also lists some specific matters GGT must take into account "in a fair and reasonable manner" when doing that.</p> <p>This provides much more substance to what GGT must do (and therefore enhances the protection for Users) than the bare requirements of GGT's proposed new clauses 98-101, which in this respect simply require GGT to "use all reasonable endeavours to remedy the situation" (proposed clause 100(b)).</p> <p>Current clause 8.5 is therefore a valuable addition for Users to the FM provisions sought by GGT and also to the current FM provisions in current clause 17 if they are</p>		

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		retained without being replaced by GGT's proposed clause 98-101 (see discussion on current clause 17 below).		
Assignment				
102	Relocates and updates current clause 20.1. Clause updated to include right to assign obligations as well as rights and to also provide that consent cannot be withheld if the assignee is financially and technically capable of performing the assigned rights and obligations. The clause also extends the right to assign to novate, transfer or otherwise dispose. The updates to this clause are consistent with the RBP AA T&Cs and provisions under Rule 105 of the NGR.	Appears reasonable, however requires some minor amendment to clarify that it is subject to new clauses 103-110 and to apply the extended definition of "assign" in those clauses also.	<i>Amend definition of "assign" on line 2 of proposed clause 102 so that it also applies where "assign" is used in clauses 103 to 110.</i> <i>Amend new clause 102 to make it expressly subject to all of new clauses 103-110.</i>	Accepted.
103	Relocates current clause 20.2 – no change to content. Structural change only to accord with structure of RBP	Appears acceptable.	<i>Accepted.</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	AA T&Cs.			
104	Relocates and updates current clause 20.3. Proposed clause 104 updated so that the form of covenant must be in a form reasonably acceptable to the non-assigning party and the concept of "deed of covenant" has been removed to enable flexibility in the type of document used.	GGT's replacement of concept of "deed of covenant" with just "covenant" raises potential issues of enforceability. Suggest inserting "legally enforceable" immediately before "covenant" in line 2 of proposed clause 104.	<i>Amend proposed clause 104 to insert "legally enforceable" immediately before "covenant" in line 2.</i>	Accepted.
105	Relocates current clause 20.4 – no change to content. Structural change only to accord with structure of RBP AA T&Cs.	Relocation appears acceptable	<i>Suggest minor change to wording of clause 105(b)(iii) to improve readability: "the Owners resolve <u>that</u> this is desirable..."</i>	Accepted.
106	Relocates current clause 20.5 – no change to content. Structural change only to accord with structure of RBP AA T&Cs.	Relocation appears acceptable	<i>Accepted</i>	Accepted.
107	Proposed clause. Proposed clause 107 to address change in control of a party. This	While GGT has not offered any adequate justification for adding a change in control provision, the Authority accepts that such a	<i>Amend proposed clause 107 as follows:</i> <ul style="list-style-type: none"> <i>Add a sentence at</i> 	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
	<p>clause is consistent with such clause in the RBP AA T&Cs.</p>	<p>restriction is usual where restrictions are placed on assignment (as it acts as a safeguard against a party bypassing the restrictions on assignment by effecting a change in control).</p> <p>However, the proposed change of control provision in proposed clause 107, does not have the same safeguards around withholding of consent as exist for an assignment under proposed clause 102 (and NGR 105(4)).</p> <p>Further, while GGT claims that proposed clause 107 "is consistent with such clause in the RBP AA T&Cs", it in fact omits paragraph (e) from the relevant clause in the RBP AA T&Cs (clause 100) which provides that the provision preventing the Affected Party from enforcing the transportation agreement before it obtains consent for the change of control "does not affect the Affected Party's obligations under the Transportation Agreement". It is not clear why GGT has omitted this provision.</p> <p>Given that, unlike with the RBP</p>	<p><i>the end of proposed clause 107 to the effect that "The Service Provider must not withhold its consent under this clause 107 unless it has reasonable grounds, based on technical or commercial considerations, for doing so."</i></p> <ul style="list-style-type: none"> • <i>Add a provision as per para 100(e) from the RBP AA T&Cs (which provides that the provision preventing the Affected Party enforcing the transportation agreement before it obtains consent for the change of control "does not affect the Affected Party's obligations under the Transportation Agreement").</i> • <i>Add a provision to make clear that not</i> 	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>AA T&Cs, GGT is acting as agent for several Owners, it needs to be made clear that the change in control restriction applies to GGT and each Owner, not just GGT.</p>	<p><i>only GGT but also any of the Owners can be an "Affected Party" (i.e. clarify that the change in control restriction applies to GGT and each Owner, not just GGT).</i></p> <p><i>It would also improve the readability of proposed clause 107 if the introductory paragraph were split into three paragraphs as is done in clause 100 of the RBP AA T&Cs.</i></p>	
108	<p>Relocates and updates current clause 20.6. Proposed clause 108 is streamlined and simplified but the same concepts remain. Required under the new AA and provisions under Rule 105 of the NGR.</p>	<p>The Authority requires the words "Notwithstanding clause 102" to be inserted at the beginning of proposed clause 108 to put beyond doubt that (consistent with rule 105(2) of the NGR) proposed clause 108 takes precedence over proposed clause 102. The Authority notes that similar wording is used in proposed clauses 103 and 106.</p> <p>Proposed clause 108 accords with rule 105(2) of the NGR, except that the requirement in proposed clause 108(b)(iii) for the User to give GGT notice of "any</p>	<p><i>Amend new clause 108 by inserting at the beginning of that clause: "Notwithstanding clause 102".</i></p>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p><i>other details (other than price) reasonably requested by Service Provider</i> does not appear to be an NGR requirement.</p> <p>GGT has not explained why it has included this requirement for additional details in proposed clause 108(b)(iii), nor has the Authority received any submissions specifically concerning this requirement for additional details.</p> <p>While these additional words are not included in rule 105(2) of the NGR, the Authority notes that the requirement is subject to a reasonableness test and the Authority considers their inclusion to be acceptable.</p> <p>Proposed section 6.2 of the AA must also be amended to be consistent with this change.</p>		
109		GGT has not explained why proposed clause 109 is considered necessary nor has the Authority received any submissions specifically concerning this requirement. The Authority notes that while rule 105(2) of the NGR	<i>Delete proposed clause 109.</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>already requires the user to "immediately give notice" of the subcontract (and hence new clause 108(b) does this too), proposed clause 109 is not required by rule 105 of the NGR. However, the Authority notes that under current clause 20.6(a)(2), an assignee must notify GGT of the transferred capacity "prior to utilising" the transferred capacity. A pre-notification requirement is not expressly permitted or required by the NGR, and no such additional requirement has been included by GGT in the capacity trading requirements in section 6 of the proposed revised AA. Including the requirement here could be discriminatory and thereby inconsistent with the NGR.</p>		
110	<p>Current clause 20.7 deleted, but replaced with proposed clause 110. Proposed clause 110 is required under the new AA and provisions under rule 105 of the NGR.</p>	<p>The Authority requires the words "Notwithstanding clause 102" be inserted at the beginning of proposed clause 110 to put beyond doubt that (consistent with rule 105(3) of the NGR) proposed clause 110 takes precedence over proposed clause 102. The Authority notes that similar wording is used in proposed clauses 103 and 106.</p>	<p><i>Amend proposed clause 110:</i></p> <ul style="list-style-type: none"> • <i>to insert "Notwithstanding clause 102" at the beginning of proposed clause 110;</i> • <i>to ensure proposed clause 110(a) is consistent with proposed section 6.3(a) of the revised</i> 	<p>Accepted.</p>

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>Proposed clause 110 adds various requirements to be satisfied by Users wishing to assign MDQs. The specification in advance of conditions for giving consent or which are to apply if consent is given is in principle consistent with rule 105(6) of the NGR. The Authority has not received any submissions specifically concerning these requirements.</p> <p>The requirement in proposed clause 110(b) that the assignee must execute a "Firm Transportation Agreement acceptable to Service Provider" is unclear. The term "Firm Transportation Agreement" is not defined. The words "acceptable to the Service Provider" are too subjective and have no safeguard against GGT acting unreasonably.</p> <p>While the opening paragraph of proposed clause 110 requires that GGT must not unreasonably withhold its consent to an assignment of MDQ, under rule 105(4) of the NGR, the prescribed reasonableness test is even more restrictive than that: GGT must not withhold its consent "unless it has reasonable grounds, based on</p>	<p><i>AA, including:</i></p> <ul style="list-style-type: none"> - <i>Amend so GGT will only be allowed reimbursement of costs etc that it has "reasonably and properly incurred".</i> • <i>to ensure proposed clause 110(b) is consistent with proposed section 6.3(b) of the revised AA, including:</i> <ul style="list-style-type: none"> - <i>by deleting "Firm" from line 1 of proposed clause 110(b);</i> - <i>by adding "(acting reasonably based on reasonable commercial or reasonable technical considerations)" after "Service Provider" in line 2 of proposed clause 110(b);</i> • <i>to ensure proposed clause 110(c) is consistent with proposed section 6.3(c) of the revised</i> 	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>technical or commercial considerations, for doing so". Accordingly, the Authority requires the inclusion of a new clause 110(h) which ensures the more stringent test is applied.</p> <p>Proposed clause 110(g) requires that the user wishing to assign must not be in default under the Transportation Agreement. To be consistent with rule 105 of the NGR, that requirement must be reasonable based on technical or commercial considerations and also be consistent with the NGO. The Authority is of the view that provided the existence of the default is an objective test, this restriction is acceptable.</p> <p>Further, current clause 20.7(d) requires GGT to give its consent to a transfer within 30 days or specify reasonable technical or commercial conditions to be complied with in order to obtain consent. Proposed clause 110 does not contain any such time limit. The Authority notes that the NGR does not specifically require the inclusion of such a time limit; however GGT has not provided any justification for removing it and</p>	<p><i>AA, including by amending proposed clause 110(c) to clarify the meaning of "reasonable requirements";</i></p> <ul style="list-style-type: none"> • <i>to ensure proposed clause 110(d) is consistent with proposed section 6.3(d) of the revised AA;</i> • <i>to ensure proposed clause 110(e) is consistent with proposed section 6.3(e) of the revised AA;</i> • <i>to ensure new clause 110(f) is consistent with proposed section 6.3(f) of the revised AA, including by adding the words "(acting reasonably, based on reasonable commercial or reasonable technical considerations)" after "Service Provider" at the end of proposed clause 110(f);</i> • <i>to ensure proposed</i> 	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		<p>the Authority is of the view that inclusion of such a time limit promotes the efficient operation and use of the pipeline consistent with the NGO.</p>	<p><i>clause 110(g) is consistent with proposed section 6.3(g) of the revised AA, including;</i></p> <ul style="list-style-type: none"> - <i>by amending proposed clause 110(c) to clarify the meaning of "reasonable requirements";</i> • <i>to add the following as proposed clause 110(h) so as to satisfy NGR rule 105(6): "Service Provider must not withhold its consent under this clause 110 unless it has reasonable grounds, based on technical or commercial considerations, for doing so."; and</i> • <i>to include a requirement for GGT to notify the User whether or not GGT consents to an assignment under proposed clause 110, within 30 days of GGT's receipt of the</i> 	

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<i>User's request for that assignment</i>	
Confidentiality				
111-113	Current clauses 21.1 – 21.3 have been replaced with proposed clauses 111-113. The revised clauses replicate what has been approved by the AER in the RBP AA T&Cs. The obligations have been simplified and consent for disclosure is now required unless certain circumstances exist. This is consistent with the confidentiality provisions in other APA Group access arrangements.	Proposed clauses 111-113 appear reasonable but do not include the specific carve-outs for permitted disclosures in paragraphs (a) to (g) of current clause 21.2. In particular, there are now no permitted disclosures to prospective transferees of capacity (current clause 21.2(d) and prospective new owners of a User (current clause 21.2(f)). In such cases, a User would now have to seek GGT's prior written consent which would not only give GGT advance notice of the sale but also an opportunity to delay/block it. There is no clear statement that the confidentiality obligations are to survive termination of the agreement.	<i>Amend proposed clause 112 to include as a new paragraph (e), the permitted disclosure provisions from current clause 21.2. Add a proposed clause to provide that the obligations of confidentiality in the Terms and Conditions survive the expiry or earlier termination of the Transportation Agreement and continue afterwards in full force and effect.</i>	Accepted.
Appendix One – Test Procedures				
	Replaces current First Schedule	The Authority notes that, on the proposed drafting of the T&Cs, Appendix One is not invoked. However, this will be corrected if	<i>Follow the Authority's recommendations concerning the Metering provisions (proposed clauses 37-42)</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
		the Authority's recommendations concerning the Metering provisions (new clauses 37-42) are followed.		
Appendix Two – Gas Specification				
	Replaces current Second Schedule	<p>The Authority notes that the figures for the Wobbe Index and Gross Heating Value in the Gas Specifications have been changed.</p> <p>Refer to the Authority's Required Amendment 2 for discussion on the Gross Heating Value change. The Authority notes that the figure for the minimum Wobbe Index has also changed in the gas specification in Appendix 2 of the proposed terms and conditions, from 46.0 MJ/m³ to 46.5 MJ/m³.</p>	<i>Refer to the Authority's Required Amendment 2. The Authority also does not accept GGT's proposal to increase the Wobbe index to 46.5 MJ/m³ and the previous value of 46.0 MJ/m³ should be reinstated.</i>	Accepted.
Appendix Three – Technical Requirements for Delivery Facilities				
	Replaces current Fifth Schedule			
Schedule A - Details			<i>The Details must also be included in the Order Form/Form</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<i>of Agreement</i>	
Schedule C - Defined Terms & Interpretation				
			<i>Separate set of Defined Terms and Interpretation clauses is required for the T&Cs to ensure Transportation Agreement is fully standalone. See the Authority's Required Amendment 21.</i>	Accepted.
			<i>Defined terms need to be amended to ensure correct cross references to terms defined in T&Cs once provisions currently in the main body of the AA are reinstated into the T&Cs.</i>	Accepted.
			<i>Insert a defined term for date of actual commencement of Firm Service (e.g. "Commencement Date"?)</i>	Accepted.
			<i>Amend definition of Connection Charge to limit it to GGT's direct costs reasonably and properly incurred by Service Provider in establishing the new Connection, including the installation of new facilities associated with the connection of the User's facilities to the Pipeline in accordance with Good Engineering and Operating Practice.</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<i>Seems unnecessary to have definitions for both "Day" and "Gas Day" when they essentially cover the same ground.</i>	Accepted.
			<i>Define Delivery Point MDQ by reference to the MDQ applicable to the User at a particular Delivery Point (in case the delivery point has multiple users) and specify how it is to be determined (e.g. as specified in Order Form?)</i>	Accepted.
			<i>Define Delivery Point MHQ by reference to the MDQ applicable to the User at a particular Delivery Point (in case the delivery point has multiple users).</i>	Accepted.
			<i>Amend definition of "Firm MDQ" so that it refers to "the User", not "Users"</i>	Accepted.
			<i>Add definition for Order Form or Form of Agreement (the form of which should be scheduled to the AA).</i>	Accepted.
			<i>Consider if a new definition of Metering Equipment is required</i>	Accepted.
			<i>Consider if the definition of Other Tariff Charges is still required.</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<i>Amend definition of Receipt Facilities to better describe the facilities to be caught by the definition e.g. facilities required for or in relation to receipt of Gas into the Pipeline in accordance with Good Engineering and Operating Practice?</i>	Accepted.
			<i>Define Receipt Point MDQ by reference to the MDQ applicable to the User at a particular Receipt Point (in case the receipt point has multiple users) and specify how it is to be determined (e.g. as specified in Order Form?)</i>	Accepted.
			<i>Define Receipt Point MHQ by reference to the MHQ applicable to the User at a particular Receipt Point (in case the receipt point has multiple users) and specify how it is to be determined.</i>	Accepted.
			<i>Consider if a defined term is required for date of actual termination of Firm Service (e.g. "Termination Date")?</i>	Accepted.
			<i>Amend definition of Transportation agreement to capture one for the Firm Service, e.g. by adding: "and, as regards</i>	Accepted.

Section in GGT's revised T&Cs	GGT's comments	Authority's consideration and comments	Authority's required amendment	GGT's consideration and comments
			<p><u>the Firm Service, means a contract entered into between the Service Provider and a User using the [Order Form/Form of Agreement] and the Terms and Conditions, and where used in relation to such a User, means that User's contract for the Firm Service"</u></p>	
			<p>Amend the interpretation provisions in Part C.2 of Schedule C to provide to the effect that the words "includes", "including" and "for example" are not used as words of limitation.</p>	<p>Accepted.</p>

Part 2 – Provisions the Authority requires to be added to GGT’s Terms and Conditions

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
Term of Transportation Agreement				
	Current clause 3.1 (Term and Termination) deleted. This provision is not required as each Transportation Agreement will refer to the Term.		<i>Amend T&Cs to reinstate a provision such as current clause 3.1, setting out the term. For example: "The Transportation Agreement shall come into force on the Date of Transportation Agreement and, subject to earlier termination in accordance with these Terms and Conditions, shall expire on the Termination Date."</i>	Accepted.
Enhancements not operational				
	Old clause 3.2 (Enhancements not operational) deleted. This provision is not required in the AA T&Cs as it is inconsistent with the description of the Firm Service.	If GGT means the Firm Service being "subject to there being sufficient Spare Capacity" (AA clause 2.2.1), this should not require any enhancements to capacity. If enhancements apart from capacity may be required (e.g. metering at delivery points), then clause 3.2 of former AA should be retained.	<i>Amend T&Cs to reinstate current clause 3.2, setting out consequences if any enhancements are not operational.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
Firm Service				
	Old clause 4.3 deleted and replaced by new section 2.2.1 of the revised AA.	The T&Cs and Order Form should be "standalone" and so must contain all of the terms and conditions, including a full description of the Firm Service. See the Authority's Required Amendment 21.	<p><i>Include full description of Firm Service in the T&Cs.</i></p> <p><i>See the Authority's Required Amendment 21.</i></p>	Accepted.
MDQ and MHQ				
	Proposed section 2.2.2 of the revised AA.	<p>The Authority is of the view that proposed sections 2.2.2(a) and 2.2.2(b) do not clearly state how the user must "establish" "Firm MDQ and Firm MHQ" and "MDQ and MHQ" for multiple delivery points, respectively. As per the current AA T&Cs, the Authority considers that the revised AA can specify how the quantities are to be "established" in the following way:</p> <ul style="list-style-type: none"> for MDQ, as specified by the user in the user's Order Form (or 	<p><i>MDQ and MHQ provisions should be included in the T&Cs in full.</i></p> <p><i>Amend proposed section 2.2.2(a) of the revised AA to clarify precisely how the User is to "establish" a Firm MDQ and Firm MHQ for each contract year. For example, the User's MDQ for each contract year should be set out in the User's Order Form (or similar document lodged by the User and forming part of the transportation agreement) and the Firm MHQ should be determined from that by application of a formula specified in the T&Cs (as is the case under the existing AA T&Cs – see</i></p>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>other contractual document); and</p> <ul style="list-style-type: none"> for MHQ, as mathematically derived from the MDQ by application of a formula. <p>In proposed section 2.2.2(c), GGT has revised the MHQ formula such that the MHQ is to be no greater than $MDQ \div 24 \times 1.1$ (as opposed the current formula – $MDQ \div 24 \times 1.2$). This will have the effect of reducing the maximum figure a user can have for its MHQ.</p> <p>GGT did not provide any evidence to support its claims that the variation to the MHQ formula is to be in line with other APA contracts on the GGP and more in line with load profiles for industrial customers and to facilitate more efficient utilisation of the pipeline. Nor did the GGT provide any evidence to justify the proposed variation</p>	<p><i>definitions of "MDQ" and "MHQ" in Appendix 1 of the current AA).</i></p> <p><i>Amend proposed section 2.2.2(b) of the revised AA to clarify precisely how a User with multiple delivery points is to "establish" a MDQ and MHQ for each delivery point.</i></p> <p><i>Amend proposed section 2.2.2(c) of the revised AA to reinstate the existing MHQ formula from the definition of MHQ in Appendix 1 to the current AA.</i></p> <p><i>Amend new section 2.2.2(d)(i) of the revised AA so as to contain the same exclusion for System Use Gas and User's Linepack as regards receipt of gas (not deliveries) as exists in new section 2.2.2(d)(ii).</i></p> <p><i>Amend new section 2.2.2(d)(iii) so as to exclude System Use Gas and User's Linepack contributions from the receipt point MHQ restriction.</i></p>	

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>based on the NGO.</p> <p>No submissions were received which specifically ment the proposed revision to the MHQ formula – however, BPB Billiton submitted that the amendments to the T&Cs generally represent a significant deterioration in the rights of both new and existing users from the current AA, that no compelling rationale has been provided for the changes and absent clearly articulated reasons, the previous terms and conditions should remain. BPB Billiton notes that the proposed amendments would be contrary to the achievement of the NGO.</p> <p>Without adequate justification for the proposed change, the current MHQ formula should be reinstated.</p> <p>In proposed section 2.2.2(d)(i) of the revised AA, System Use Gas and User's</p>		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>Linepack need to be expressly excluded from the determination of whether the Service Provider has <i>received</i> more than the "Firm MDQ" on any gas day.</p> <p>Also, the current drafting in proposed section 2.2.2(d)(iii) does not exclude System Use Gas and User's Linepack contributions from the receipt point MHQ restriction. The Authority notes that GGT is proposing that the service provider dictates the timing and quantity of System Use gas and the linkepack a user must provide without necessarily providing users with adequate notice. Proposed section 2.2.2(d)(iii) should be amended to exclude System Use gas and User's Linepack so as to ensure that users are not prejudiced for exceeding receipt point MDQ and MHQ limits.</p>		
Overruns				

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
	<p>Change to terminology of "Overrun" to align terminology and approach to other APA access arrangements and relocated to section 2.2.4 of the revised AA. New section 2.2.4 "Overruns"</p> <p>Replaces section 4.4 "Supplementary Quantity Option" of General Terms and Conditions of the current AA. Change to align terminology and approach with other APA Group access arrangements</p>	<p>It is not clear why GGT has removed the overrun provisions from T&Cs and put them into sections 2.2.4 and 4.2.2 of the revised AA. They need to be fully included in the T&Cs.</p> <p>Effect of overrun on MDQ</p> <p>Current clause. 7.3(d) should be reinstated in place of new section 2.2.4(l). Proposed section 2.2.4(l) of GGT's revised AA is potentially worse for users because:</p> <p>It applies to exceeding receipt point MDQ or delivery point MDQ, whereas current clause 7.3(d) only applies to exceeding delivery point MDQ;</p> <p>It requires a user to exceed its MDQ by over five per cent on any 12 occasions each year (which need not be consecutive), whereas current clause 7.3(d) requires 30 consecutive days of excesses (although they need not be more than five per cent), so current clause.7.3(d) arguably gives a user a greater buffer before</p>	<p><i>Overrun provisions should be included in the T&Cs in full.</i></p> <p><i>Amend new AA section 2.2.4(e) to clarify that User may, but need not, Nominate its Authorised Overrun with its monthly Nomination for the Firm Service (at least 3 Days before the Month start) but must Nominate its Authorised Overrun by no later than the Nomination Deadline of 4.00pm on the day before the relevant gas day.</i></p> <p><i>Amend overruns charging mechanism (including rates) to ensure users are no worse off than under existing AA. This includes reinstating old clauses 9.6(b) and 9.6(e)) and amending Authorised Overrun Charge rate so it is no worse for users than the rate applicable for SQO under the existing AA and providing an Unauthorised Overrun Charge rate which leaves users no worse off than under existing AA.</i></p> <p><i>Amend to make expressly clear in the drafting if Authorised Overrun is or is not intended to be on a take or pay basis.</i></p> <p><i>Delete the indemnities for unauthorised overrun in section 2.2.4(k) and section 4.2.2(f) of</i></p>	<p>Accepted, except for the deletion of the indemnity for unauthorised overruns. A balanced pipeline is critical both to pipeline operability and the ability to meet the requirements of all users. The only practical way to deal with rogue shipper behaviour is to have the flexibility to pull them into line quickly. As all users have a legitimate expectation that GGT will ensure that the pipeline is operated in balance, it is not unlikely that they may seek redress from GGT for failure to provide contracted services resulting from the actions of other shippers. Given that creating an imbalance per se is not a breach of the agreement, the indemnity is necessary to attach liability for such rogue behaviour. APA does not benefit from rogue behaviour and should not bear the risk.</p>

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>action is taken; and</p> <p>It applies even if the overrun is an Authorised Overrun, whereas under current clause 7.3(d) the SQO quantity (equivalent of authorised overrun) is subtracted from the calculation of "Daily Overrun Quantity" so it is only unauthorised overruns that can trigger the threshold.</p> <p>If the threshold is triggered, then the user's MDQ is increased by average of the "highest daily quantities" irrespective of whether or not any of those quantities were authorised, whereas under current clause.7.3(d) the user's MDQ is to be increased by the average of the "Daily Overrun Quantity" (which specifically does not include authorised overruns).</p> <p>Authorised Overrun</p> <p>GGT has deleted the supplementary quantity option (SQO) provision from the current AA (see current clauses.4.4 & 9.4) and replaced it with the "Authorised Overrun" process in its revised AA (see new</p>	<p><i>GGT's revised AA.</i></p> <p><i>Delete new section 2.2.4(l) of the revised AA and reinstate old clause. 7.3(d) in the T&Cs.</i></p> <p><i>Extend the circumstances where Users are excused from payment of the Overrun Charge (see new clause 4.2.2(a) of the revised AA) to cover situations where Overrun is caused to any extent (not just "solely caused") by GGT or by any Related Body Corporate of GGT or by any person acting for on behalf of any of them, or is caused by any event beyond the reasonable control of the User.</i></p> <p><i>System Use Gas and User's Linepack gas quantities also need to be expressly included in the calculation of "Authorised Overrun" for gas receipt (but excluded from the calculation of the Authorised Overrun Charge) so that Users do not end up paying Overrun Charges (new section 4.2.2 of revised AA) or having their MDQ forcibly increased (new section 2.2.4(l) of revised AA) because of their System Use Gas and User's Linepack gas contributions.</i></p>	

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>sections 2.2.4 & 4.2.2).</p> <p>Both the SQO and Authorised Overrun processes are at GGT's discretion and are fully interruptible.</p> <p>In its AA Supporting Information (at page 12, paragraph (c)), GGT claim the supplementary quantity option has been removed because it has "never been used in gas transportation agreements". If the supplementary quantity option is broadly equivalent to authorised overrun then GGT's claim seems unlikely.</p> <p>In any case, GGT's change leads to some subtle, but potentially significant, differences between the current and proposed regimes for dealing with overrun. For example, under current clause 4.4(b), the User has to give at least 18 hours' notice of its supplementary quantity option (i.e. authorised overrun) prior to the relevant gas day. However, under the overrun provisions in the</p>		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>proposed AA, the User must give notice of its overrun requirement "as part of the User's Nomination for the Firm Service" (see proposed AA section 2.2.4(c)) or else the overrun will be treated as unauthorised overrun (with potentially higher rates to pay). As the "User's Nomination for the Firm Service" is a two stage process requiring monthly Nomination (at least 3 Days before the Month start – see proposed clause 6) with the potential to revise that Nomination by no later than the Nomination Deadline of 4.00pm on the day before the relevant gas day (see proposed clause 7), this may mean the User has to give much more notice of its proposed overrun than under the current AA if it is to avoid it being treated as unauthorised overrun (with potentially higher rates to pay for that consequence).</p> <p>Under the current SQO process, the user would have to pay a "Supplementary Quantity Option Charge" in</p>		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>addition to the usual transportation charges for the SQO overrun gas (see current clause.9.4 and item 4 of Fourth Schedule); and the Toll Charge and Capacity Reservation Charge for the nominated overrun are expressed to be payable on a take or pay basis (see current clause 4.4(e)).</p> <p>Under the proposed Authorised Overrun process, the user pays an Authorised Overrun Charge in addition to the usual transportation charges for the overrun gas (see proposed section 4.2.2(c)). The drafting is not entirely clear whether it is intended that users must pay Toll Charge and Capacity Reservation Charge for the nominated overrun on a take or pay basis. It would be more transparent for users if GGT made it expressly clear in its drafting if Authorised Overrun is or is not intended to be on a take or pay basis.</p> <p>So, as regards SQO/Authorised Overrun, it would appear that, while</p>		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>GGT is changing the terminology here, most of the substance remains the same, except for:</p> <ul style="list-style-type: none"> • the notice requirements (see below); • the proposed new Authorised Overrun Charge rate appears worse for users than the existing "Supplementary Quantity Option Charge" rate; and • under the SQO process, the Toll Charge and Capacity Reservation Charge for the nominated overrun are expressed to be payable whether or not the user actually delivers or accepts the SQO overrun 		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>gas (i.e. on a take or pay basis - see current clause 4.4(e)), whereas this is arguably the same, but less clearly the case, with Authorised Overrun under the revised AA (and so the revised AA is potentially less transparent in this respect).</p> <p>Overrun charges and indemnities</p> <p>GGT has deleted current clause 9.6(b). Under current clause 9.6(b), GGT is only entitled to impose overrun (and imbalance) charges where it is reasonably considered that the imbalance or overrun has caused GGT or any User loss or damage or exposed the GGP to significant risk that threatens the integrity of the GGP. GGT has not provided any good justification for the</p>		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>removal of these restrictions.</p> <p>The replacement provisions GGT is proposing in proposed sections 2.2.4 and 4.2.2 of the revised AA:</p> <ul style="list-style-type: none"> • contain a formula for the "Authorised Overrun Charge" (based on 120% (i.e. a 1.20 multiplier) of transportation tariffs, multiplied by authorised overrun quantities at delivery points). This formula is different from the formula used for the "Supplementary Quantity Option Charge" in old clause 9.4(e) (based on a multiplier of 1.05 times transportation tariffs – which may be varied by GGT - see 		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>item 4 of Fourth Schedule to Appendix 3 of existing AA)). So (subject to any differences between the old and new transportation tariffs) it would seem Users are worse off under GGT's proposed new "Authorised Overrun Charge". GGT has not provided any good justification for this proposed change;</p> <ul style="list-style-type: none"> • contain a formula for the "Unauthorised Overrun Charge". Contrary to what is stated in new section 4.2.2(d)(i) of the revised AA, 		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>there is no "Unauthorised Overrun Rate set out in the Details". As GGT has not provided the Unauthorised Overrun Rate, the Authority cannot determine to what extent users are or are not to be potentially worse off. The Authority is therefore unable to approve the Unauthorised Overrun Rate or the Unauthorised Overrun Charge. GGT needs to disclose its proposed Unauthorised Overrun Rate so that the true effect of GGT's</p>		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>proposed changes on Users can be determined.</p> <ul style="list-style-type: none"> contain indemnities for unauthorised overrun by the User in clauses 2.2.4(k) and 4.2.2(f) of the revised AA which are both unlimited (see new clause 93(c)(ii)) and do not require GGT to take reasonable steps to mitigate any loss before claiming under the indemnity. The indemnities for unauthorised overrun in section 2.2.4(k) and section 4.2.2(f) of GGT's revised AA should be deleted. 		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>There were no such indemnities for overrun in AA2 and GGT has not provided any good justification why it requires these indemnities in addition to the overrun charges; and</p> <ul style="list-style-type: none"> • contain circumstances where Users are excused from payment of the Overrun Charge (see new clause 4.2.2(a) of the revised AA) that need to be extended to cover situations where Overrun is caused to <i>any</i> extent (not just "solely caused") by GGT or any person acting for on GGT's 		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>behalf (not just by GGT alone) or is caused by any event beyond the reasonable control of the User.</p>		
<p>Metered Quantities of Gas Used for Purposes of Transportation Agreement</p>				
	<p>Current clause 5.6 deleted. Clause not required for provision of Firm Service.</p>	<p>GGT has not provided any justification why GGT thinks this provision is not required for the Firm Service.</p> <p>Current clause 5.6 contains a deeming provision that deemed the measured quantities of gas at inlet points and outlet points to be true and correct unless shown to be outside prescribed limits set out in current First Schedule (Test Procedures). (Those Test Procedures are now set out in proposed Appendix One, but new Appendix One does not appear to be referred to</p>	<p><i>Reinstate current clause 5.6.</i></p>	<p>Accepted.</p>

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		in the revised AA.)		
Transportation Charges				
	Current clause 9.4 relocated to new section 4 of the revised AA. Description of the Firm Service more appropriate to include in the body of the AA.	A description of the Firm Service (including all charges for the Firm Service) should be included in the T&Cs. The rates for the transportation charges have changed (compare item 1 of Fourth Schedule to Appendix 3 of current AA (subject to adjustment in accordance with clause 5 of current AA) with Details in Schedule A to the revised AA).	<i>A description of the Firm Service (including all charges for the Firm Service) should be included in the T&Cs.</i> <i>GGT's proposed rates are not accepted unless shown to be reasonable and consistent with NGR.</i>	Accepted.
Other Charges				
	Current clause 9.5 relocated to section 4.2 of the revised AA. Description of the Firm Service more appropriate to include in the body of the AA.	A description of the Firm Service (including all charges for the Firm Service) should be included in the T&Cs. The rates for the other charges have changed (compare items 3 & 4 of Fourth Schedule to Appendix 3 of current AA with Details in Schedule A to the revised AA).	<i>A description of the Firm Service (including all charges for the Firm Service) should be included in the T&Cs.</i> <i>GGT's proposed rates are not accepted unless shown to be reasonable and consistent with NGR.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
	<p>Current clause 9.6 revised and replaced with section 4.2 of the revised AA.</p> <p>These charges have been replaced by imbalance and overrun charges as described in section 4.2 of the revised AA.</p>	<p>These charges should be included in the T&Cs.</p> <p>GGT has not included the following provisions from current clause 9.6:</p> <p>Current clause 9.6(b) – restriction on GGT charging for imbalances or overruns charges unless reasonable view that the imbalance/overrun causes loss or damage to GGT or any user or exposes the GGP to significant risk threatening pipeline integrity;</p> <p>Current clause 9.6(d) - waiver of User's liability for imbalance and variance charges where liabilities incurred during interruption or reduction of service for which GGT directly responsible;</p> <p>Current clause 9.6(e) – rebate of 95% of "quantity variation charges" (i.e. transportation tariff, imbalance charge, overrun charges and variance charge) in excess of GGT's direct costs arising from the User's acts/omissions which caused the overrun or</p>	<p><i>Include all charges provisions in T&Cs in full - See the Authority's Recommendation [XX]</i></p> <p><i>Reinstate current clauses 9.6(b), (d) & (e) provisions into T&Cs.</i></p> <p><i>GGT's proposed new rates are not accepted unless shown to be reasonable and consistent with NGR.</i></p> <p><i>Amend overruns charging mechanism (including rates) to ensure users are no worse off than under current AA. This includes reinstating current clauses 9.6(b) and 9.6(e)) and amending Authorised Overrun Charge rate so it is no worse for users than the rate applicable for SQO under the current AA and providing an Unauthorised Overrun Charge rate which leaves users no worse off than under current AA.</i></p> <p><i>Amend imbalance charging mechanism (including rates) to ensure users are no worse off than under current AA. This includes reinstating current clauses 9.6(b), 9.6(d) and 9.6(e)) and imbalance allowance thresholds and charging rates such that users are no worse off.</i></p>	

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>imbalance, to any other user of the reference service who did not cause the particular "quantity variation charges" to occur (only applies where more than on user of reference service).</p> <p>The rates for the imbalance and overrun charges have changed (apparently in GGT's favour) – see our comments at current clause 7 above.</p>		
Daily Variation Charge		<p>See proposed section 4.2.4 of the revised AA. It is not clear why GGT has removed variance provisions from T&Cs and put them into AA. They should be kept together with rest of T&Cs for user transparency reasons.</p> <p>The replacement provisions GGT is proposing in section 4.2.4 of the revised AA:</p> <p>Contain a formula for the "Daily Variation Allowance" (5% of MDQ for applicable Delivery Point/Receipt Point) which is different from that used for the "Variance Tolerance" in current clause 7.5 (greater of 8% of User's</p>	<p><i>Include all charges provisions in T&Cs in full.</i></p> <p><i>Amend s 4.2.4 of the revised AA and the T&Cs to:</i></p> <p><i>Put all provisions dealing with variance into the T&Cs;</i></p> <p><i>Amend the proposed provisions for Daily Variance Charges (including the formulae for "Daily Variation Allowance" and "Daily Variance Charge" to ensure users are no worse off than under existing AA (including by adding a 21 day cure period before charges arise as per current clause 5.3(c)).</i></p>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>nomination for applicable Delivery Point/Receipt Point and 1TJ). In cases where User is nominating at or near its MDQ, this would seem to indicate that the User would be worse off under GGT's proposed s 4.2.4 of the revised AA as regards its variation allowance (and the consequent potential for paying extra charges).</p> <p>Contain a formula for the "Daily Variation Charge" (uses a "Daily Variation Rate" multiplier of 250% (i.e. 2.5) of toll tariff + capacity reservation tariff + throughput tariff) which is different from the formula used for the "Variance Charge" in item 5(e) of the Fourth Schedule to Appendix 3 of the current AA (uses a multiplier of "2.0" of toll tariff + capacity reservation tariff + throughput tariff). So (subject to any differences between the current and proposed transportation tariffs) it would seem Users are worse off under the proposed new "Daily Variation Charge" because it uses a greater</p>		

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>transportation tariff multiplier (2.5 times instead of 2.0 times).</p> <p>Also, its AA Supporting Information (at page 12, paragraph (c)), GGT claim that variation notices have been removed because they are "obsolete" and have "never been used in gas transportation agreements".</p>		
Surcharge				
	Proposed section 3.3 "Surcharge". Details of how and under what condition a surcharge may be charged	As this is another potential charge for Users, a clear reference to it as a possible charge should also be included in the T&Cs for transparency so that Users are aware they may have to pay the surcharge.	<i>Include in T&Cs</i>	Accepted.
Capital Contributions				
	Proposed section 3.4 links the charging of capital contributions with the requirements of the NGR	As this is another potential charge for Users, clear reference to it should be included in the T&Cs for transparency.	<i>Include in T&Cs</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
Basis of Charges				
	Current clause 9.3 deleted. Proposed section 4.4 in revised AA only partially reinstates.		<i>Reinstate provision in T&Cs as per current clause 9.3 (including the exceptions stated in it)</i>	Accepted.
Waiver of Charges				
	Current clause 9.6(d) deleted		<i>Reinstate provision in T&Cs as per current clause 9.6(d).</i>	Accepted.
Rebate of Charges				
	Current clause 9.6(e) deleted		<i>Reinstate provision in T&Cs as per current clause 9.6(e)</i>	Accepted.
Refunds and Credits				
	Current clause 18.5 (refunds and credits) deleted. Not required in accordance with revised liability/indemnity position.	GGT has not provided any good reason why current clause 18.5 has been deleted. It seems to be a valuable provision for Users where GGT has caused a supply interruption lasting more than 48 hours.	<i>Reinstate current clause 18.5.</i>	Accepted.
Reference Tariff and Reference Tariff Variation				

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
Mechanism				
	<p>Current clause 9.8 deleted and incorporated into the revised AA (s 4.5 and Sch A). Reference Tariff Variation Mechanism in revised AA replaces the formula in clause 9.8.</p> <p>Operation of quarterly inflation adjustment not materially changed from current AA</p>	<p>Appropriate for T&Cs to cross refer to Reference Tariff Variation Mechanism in AA so that each transportation agreement entered into using the T&Cs can have its tariffs varied by whatever Reference Tariff Variation Mechanism applies from time to time under the AA</p>	<i>Change accepted.</i>	
	<p>Current clause 9.9 relocated to section A4 of the revised AA Replaced with Cost Pass-through Tariff Variation Mechanism as described in Chapter 11 of the GGP AA Supporting Information.</p>	<p>Appropriate for T&Cs to cross refer to Cost Pass-through Tariff Variation Mechanism in AA so that each transportation agreement entered into using the T&Cs can have its tariffs varied by whatever Cost Pass-through Tariff Variation Mechanism applies from time to time under the AA.</p>	<i>Change accepted.</i>	
Multiple Delivery Points				
	<p>Current clause 9.7 relocated to section 4.3 of the revised AA. Description of the Firm Service more appropriate to include in the body of the</p>	<p>This provision should be included in the T&Cs. See our comments at current clause 9.1 above.</p>	<i>Relocate to T&Cs.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
	AA.			
Rounding				
	Current clause 9.10 (rounding) relocated to section A3 of the revised AA. All detailed provision relevant to the expression of the Reference Tariff are included in Schedule A of the revised AA.	This provision should also be included in the T&Cs.	<i>Relocate to T&Cs.</i>	Accepted.
GST				
	Current clause 9.11 replaced with text under section 4.7 of the revised AA.GST provisions simplified in line with those in the RBP AA and included in body of the AA.	The replacement form of GST provision that GGT is proposing only operates in favour of GGT to enable them to charge GST on amounts payable by User. Current clause 9.11, on the other hand, operates to cover GST on taxable supplies going either from GGT to User or vice versa. Given that the revised AA does contemplate supplies from Users to GGT (e.g. for System Use Gas and User's Linepack) and payments by GGT to Users (e.g. in respect of leftover User's Linepack at end of contract), the GST provision should be drafted to	<i>Either reinstate current clause 9.11 or revise proposed GST provision to cover taxable supplies going both ways. Include GST provision in T&Cs.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		cover taxable supplies going both ways. The GST provision should be included in the T&Cs.		
Proper Books and Records				
	Current clause 15.1 deleted. Not required to be stated, but in any event is covered by proposed clause 36.	GGT is seeking to replace an obligation in current clause 15.1 to keep proper books and records that applied to <i>both</i> parties, with an obligation in proposed clause 36 that applies to just the User to give GGT access to data and records (with no actual obligation to keep proper records). See our comments after current clause 8.4 above concerning proposed clause 36.	<i>Reinstate current clause 15.1.</i> <i>Delete proposed clause 36.</i>	Accepted.
Independent Examination				
	Current clause 15.2 deleted. This concept relates to a dispute which is covered under proposed clauses 77 – 83. This specific clause is not required.	Current clause 15.2 provides a mutual (but especially valuable for the User) right to effectively audit the relevant books of the other to verify a disputed invoice, measurement or	<i>Reinstate current clause 15.2.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		procedure. Such an audit could be a helpful adjunct to any dispute resolution procedure and should not be given up lightly for Users.		
Check Metering				
	Current clause 11.6 deleted.		<i>Reinstate current clause 11.6. See the Authority's recommendations on proposed clauses 37-42 (Metering) above</i>	Accepted.
Meter Testing				
	Current clause 11.7 deleted.		<i>Reinstate current clause 11.7. See the Authority's recommendations on proposed clauses 37-42 (Metering) above</i>	Accepted.
Special Test				
	Current clause 11.8 deleted.		<i>Reinstate current clause 11.8. See the Authority's recommendations on proposed clauses 37-42 (Metering) above</i>	Accepted.
Test Procedures				
	Current clause 11.9 deleted.		<i>Reinstate current clause 11.9. See the Authority's recommendations on proposed</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
			<i>clauses 37-42 (Metering) above</i>	
Receipt Facilities	Current clause 6.2			
	Current clause 6.2 deleted. Not required as description of Firm Service is in the body of the revised AA (s 2).	GGT has failed to mention that deleting current clause 6.2 would also remove current clause 6.2(c) which provided: <i>"The cost of operation and maintenance of the Inlet Facilities will be borne by GGT"</i>	<i>Reinstate current clause 6.2(c).</i>	Accepted.
	Changing receipt points (AA section 6.4)	Provisions dealing with changing receipt points are currently contained only in the AA. They should also be included in the T&Cs.	<i>Amend T&Cs to include provisions (matching those in the current AA) dealing with changing receipt points.</i>	Accepted.
Delivery Points				
	Current clause 6.4 deleted. Relates to Connection Charges as described in the revised AA (section 4.2.5(a)). Connection Charges are described as being the costs reasonably incurred by Service Provider in establishing the new Connection. Arrangements for these charges are	The Authority is concerned that if connection and ongoing upkeep of outlet facilities were dealt with by a separate agreement (as GGT proposes), there are no safeguards of GGT potentially using this to take advantage of Users (e.g. by offering a less onerous connection agreement	<i>The Authority rejects GGT's proposed separate agreement approach.</i> <i>Reinstate the T&Cs provisions dealing with operation and maintenance of outlet facilities, access to the outlet facilities and maintaining insurances.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
	appropriately subject to a separate agreement between Service Provider and User and precede the Transportation Agreement.	"package" if the User agrees to take an unregulated non-reference service). Also, by deleting current clause 6.4 in its entirety, GGT is removing many provisions that have continued effect beyond the establishment of a new connection, including provisions relating to ongoing operation and maintenance of outlet facilities, access to the outlet facilities and maintaining insurances.		
	Changing delivery points (AA section 6.4)	Provisions dealing with changing delivery points are currently contained only in the AA. They should also be included in the T&Cs.	<i>Amend T&Cs to include provisions (matching those in the AA) dealing with changing delivery points.</i>	Accepted.
Pressure of Gas at Delivery Point				
	Current clause 6.5 deleted. Not relevant to include in the T&Cs as can relate to individual delivery points.	Current clause 6.5 set a minimum delivery pressure obligation for GGT. If such an obligation is simply deleted from the T&Cs how will GGT be compelled to include such an obligation in individual Transportation	<i>Reinstate provision similar to current clause 6.5 requiring GGT to delivery at least at that minimum pressure.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		Agreements?		
Ownership, Possession and Access to Delivery Facilities				
	Current clause 6.6 deleted. Relates to connection assets to which a number of different arrangements could apply. Arrangements are appropriately subject to a separate agreement between Service Provider and User and precede the Transportation Agreement.	See comments on current clause 6.4 above.	<i>No difficulty if current clause 6.6 (obligations for User) is deleted. But see comments on current clause 6.4 above as to whether GGT should be allowed to have (unregulated) agreement dealing with connection and upkeep of outlet facilities outside the transportation agreement.</i>	Accepted.
Compliance				
	Current clause 6.7 deleted. Relates to connection assets to which a number of different arrangements could apply. Arrangements are appropriately subject to a separate agreement between Service Provider and User and precede the Transportation Agreement.	No problem for users if current clause 6.7 (obligations for User) is deleted but see comments on current clause 6.4 above.	<i>GGT is not permitted to have an (unregulated) agreement dealing with connection and upkeep of outlet facilities outside the transportation agreement.</i>	Accepted.
Service Provider's obligations as				

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
regards delivery facilities				
	<p>Current clause 6.8 deleted. This matter is addressed in section 2.2 of the revised AA.</p>	<p>Current clause 6.8 provides: <i>"If new Outlet Facilities are required by the User, the Outlet Facilities installed by GGT (at the User's cost) will comply with the technical specifications required by a reasonable and prudent pipeline operator."</i></p> <p>It is not clear which part of section 2.2 of the revised AA GGT is referring to as none of them seem to specifically deal with new delivery facilities required by a User. While section 2.2.6 deals generally with technical specifications for connecting to the pipeline, it appears to be limited to dealing with prospective users, not existing users (i.e. <i>"The Firm Service is offered subject to a Prospective User complying with technical specifications for connecting to the Pipeline which are referred to in a Transportation Agreement."</i>). Nor does the Transportation Agreement clearly set out</p>	<p><i>Reinstate current clause 6.8 in T&Cs.</i></p> <p><i>Delete Appendix Three to the revised AA ("Technical Requirements for Delivery Facilities")</i></p> <p><i>The Authority requires GGT to:</i></p> <ul style="list-style-type: none"> • <i>Replace section 2.2.6 with existing clause 6.8 of the existing terms and conditions and to reinstate clause 6.8 into GGT's proposed revised terms and conditions; and</i> • <i>Delete Appendix Three to the revised AA ("Technical Requirements for Delivery Facilities")</i> 	<p>Accepted.</p>

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>any technical specifications (e.g. it does not appear to contain any cross-reference to or other provision adopting the "Technical Requirements for Delivery Facilities" in Appendix Three).</p> <p>The Authority also notes that section 2.2.6 places on the User a compliance obligation that current clause 6.8 placed on GGT (albeit at the User's cost). GGT has not provided an adequate justification for this proposed change.</p>		
Title to Gas				
	<p>Current clauses 14.3 & 14.4 (title transfer and re-transfer) deleted. Not required given title does not pass pursuant to proposed clause 66.</p> <p>Proposed section 2.2.8 "Title to the Gas" Makes clear that title in and to gas does not pass to the service provider on receipt of gas.</p> <p>This is a variation to the current AA and is discussed in respect of clause 66 of the terms and conditions later in</p>	<p>Current clauses 14.3 & 14.4 are required because title must transfer. See the Authority's Required Amendment 2</p>	<p><i>Delete proposed clause 66.</i></p> <p><i>Amend section 2.2.8 of revised AA to clarify that title to gas does pass to GGT at receipt point and will pass from GGT to User at delivery point.</i></p> <p><i>Reinstate current clauses 14.3 & 14.4 in T&Cs.</i></p> <p><i>See the Authority's Required Amendment 2.</i></p>	<p>Not accepted.</p> <p>Clause 14.3 and 14.4 not reinstated.</p> <p>Refer earlier comments re title to gas.</p>

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
	this table.			
Contents of Invoices				
	Current clause 13.2 (contents of invoice) is not included in the RBP AA T&Cs and invoice contents do not need to be so prescribed.	If minimum invoice contents are not prescribed in the T&Cs (as per current clause 13.2), how will Users be sure to receive sufficient basic information to be able to check the accuracy of an invoice?	<i>Reinstate provision stipulating contents of invoice that are sufficient to allow User to verify accuracy of invoiced charges.</i>	Accepted.
Insurances				
	Current clause 19 deleted. Not consistent with APA standard form contracting approach and the RBP AA T&Cs.	The Authority recommends including insurance provisions as per current clause 19 in the T&Cs. If no insurance requirements are specified in the T&Cs then that creates an unsatisfactory lack of clarity and certainty as to what insurances would be required by GGT under the process contemplated proposed section 2.1.3(b) of GGT's revised AA.	<i>Reinstate requirements in current clause 19 in the T&Cs.</i>	Accepted.
Security				
	Current clause 20.9	GGT has not provided any	<i>Reinstate current clause 20.9 or</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
	(security) not required.	<p>good justification why it thinks current clause 20.9 is “not required”. Current clause 20.9 permits either party to charge or mortgage its interest in the transportation agreement, provided that any assignment of the transportation agreement upon enforcement of the charge or mortgage is made subject to, and conditional upon the proposed assignee agreeing to be bound by the transportation agreement. If current clause 20.9 is removed then this may have implications for a party's ability to raise loan funds based on its interest in the transportation agreement.</p> <p>The Authority has not received any submissions specifically concerning the removal of current clause 20.9.</p>	<i>provide good justification for why it is not required.</i>	
Notices				
	Current clause 24 deleted. This is a boilerplate clause and not required to be in the AA T&Cs.	We do not agree with GGT's claim that boilerplate clauses are not required to be in the AA T&Cs.	<i>Reinstate current clause 24</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
Waiver				
	Current clause 25 deleted. This is a boilerplate clause and not required to be in the AA T&Cs.	See comments at current clause 24.1 above.	<i>Reinstate current clause 25</i>	Accepted.
Entire agreement				
	Current clause 26 deleted. This is a boilerplate clause and not required to be in the AA T&Cs.	See comments at current clause 24.1 above.	<i>Reinstate current clause 26</i>	Accepted.
Severability				
	Current clause 27 deleted. This is a boilerplate clause and not required to be in the AA T&Cs.	See comments at current clause 24.1 above.	<i>Reinstate current clause 27</i>	Accepted.
Governing law				
	Current clause 28 deleted. The governing law will be Western Australian given the location of the asset. This clause is not required however as it is a boilerplate clause and not required to be in the AA T&Cs.	See comments at current clause 24.1 above.	<i>Reinstate current clause 28</i>	Accepted.
Order Form/Form of				

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
Agreement	Current Appendix 2.2 (Order Form) deleted and definition of Order Form in current Appendix 1 not included in proposed Schedule C.	GGT's revised AA is unclear as to the precise documents to be used for a Transportation Agreement. Section 5 (Queuing) contemplates that, if there is an auction for spare capacity, then a prospective user seeking the Firm Service (reference service) must submit a completed "auction application registration form" together with the schedule D T&Cs (see sections 5.2.3(c) & (d)). While section 5.2.3(d)(iii) states that the T&Cs must be "in a form that is capable of immediate acceptance by Service Provider", that is not something GGT has created with their schedule D T&Cs. Nor has GGT set out in its revised AA the form of the "auction application registration form" or any other document that prospective users seeking the Firm Service must use with the Schedule D T&Cs in order to create a binding contract without the need for	<i>Reinstate Order Form or another "form of agreement" template document that should be scheduled to AA and can be completed and submitted by prospective users together with the schedule D T&Cs so as to form a binding contract (without negotiation), if accepted by GGT.</i>	Accepted.

Provisions Missing from T&Cs	GGT's comments	Authority's consideration and comments	Authority's recommendation	GGT's consideration and comments
		<p>negotiation. The "registration of interest" form in schedule B of the AA is merely a preliminary document to be used in the queuing process (see section 5.1 of GGT's revised AA) and is not apparently itself intended to form part of the Transportation Agreement.</p> <p>If GGT dispenses with the Order Form, then it needs to include with its revised AA some other "form of agreement" type of document that can be completed and submitted by prospective users together with the schedule D T&Cs so as to form a binding contract (without negotiation), if accepted by GGT. That form of agreement document (which could be an order form) needs to be included with the AA so that the full T&Cs of the reference service are included with the AA (as required by rule 48 of the NGR) and can be reviewed by the ERA.</p>		