

# **GOLDFIELDS GAS PIPELINE**

## **Revised Access Arrangement**

**Revised by the Economic Regulation Authority**

**30 June 2016**

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## 1 Introduction

### 1.1 Pipeline history relevant to access arrangement

The Goldfields Gas Pipeline was constructed by the Goldfields Gas Transmission Joint Venture pursuant to the 23rd March 1994 Goldfields Gas Pipeline Agreement entered into with the State of Western Australia (**GGP State Agreement**). This was ratified by the Goldfields Gas Pipeline Agreement Act 1994 (WA).

Its construction was underpinned by certain initial commitments to capacity reserved by each Joint Venturer for the requirements of each Joint Venturer and its "associates" (as defined in the GGP State Agreement) and any commitments to purchase capacity procured from Third Parties (as defined in the GGP State Agreement and which includes any Joint Venturer acting independently of the other Joint Venturers and outside of the Goldfields Gas Transmission Joint Venture). These commitments are referred to in the GGP State Agreement as "**Initial Committed Capacity**".

Section 321(1) of the National Gas Access (Western Australia) Law prohibits an applicable Access Arrangement having the effect of depriving a person of a relevant protected contractual right, which includes Pre-existing Contractual Rights.

Accordingly certain provisions of this Access Arrangement are made subject to those Pre-existing Contractual Rights.

Should a User or Prospective User of the Covered Pipeline have needs which cannot be accommodated through a Firm Service, Service Provider will discuss the provision of Negotiated Services.

### 1.2 General

This Access Arrangement is established pursuant to the National Gas Access (Western Australia) Law and Part 8 of the National Gas Rules. Under the National Gas Rules, the owner or operator of a covered pipeline is required to lodge an Access Arrangement with (and have it approved by) the Regulator.

An Access Arrangement must, as a minimum, contain the elements described in Rule 48. These include:

- (a) the terms and conditions on which the Service Provider will provide each Reference Service; and
- (b) capacity trading and queuing requirements, as well as how extensions and expansions will be treated for the pipeline.

The Access Arrangement must be accompanied by applicable Access Arrangement Information (Rule 43).

Part of the capacity of the Goldfields Gas Pipeline is a Covered Pipeline by operation of item 6 of Schedule 3 of the National Gas Access (Western Australia) Law.

This Access Arrangement sets out terms and conditions for access to the Covered Pipeline.

Completed in 1996, the Pipeline delivers natural gas from the offshore gas fields in the north west of Western Australia to the mineral rich, inland regions of the State. The Pipeline's Receipt Points are located at Yarraloola. There are no other gas sources located along the route of the Pipeline. Gas is delivered to Delivery Points along the length of the Pipeline, primarily for use in electricity generation facilities associated with mining and minerals processing.

A more detailed description of the Pipeline, including a map, is available on Service Provider's website at <http://www.apa.com.au/our-business/economic-regulation/wa.aspx>.

### 1.3 Ownership and Management of Pipeline

The Pipeline is owned by an unincorporated joint venture comprising:

- Southern Cross Pipelines Australia Pty Limited, ACN 084 521 997 whose Individual Share is 62.664%;
- Southern Cross Pipelines (NPL) Australia Pty Limited, ACN 085 991 948 whose Individual Share is 25.493%; and
- Alinta Energy GGT Pty Limited, ACN 167 710 590 whose Individual Share is 11.843%,

(collectively the **Owners**).

Goldfields Gas Transmission Pty Limited (GGT), ACN 004 273 241, is the operator of the Pipeline for and on behalf of each of the Owners.

### 1.4 Service Provider

GGT is the complying Service Provider for the Pipeline.

GGT enters into a Transportation Agreement as agent for each of the Owners in proportion to the relevant Owner's Individual Share and is not a party to a Transportation Agreement in GGT's personal capacity. All:

- rights expressed to arise under a Transportation Agreement in favour of GGT; and
- obligations expressed under a Transportation Agreement to be performed by GGT,

are not personal to GGT, and are held and performed by GGT as agent for and on behalf of the Owners.

## 1.5 Covered Pipeline

The Covered Pipeline has Capacity of approximately 109 TJ/day.

## 1.6 Commencement of this access arrangement

This Access Arrangement commenced on the date on which the approval of the Regulator took effect under Rule 62 or Rule 64 (as relevant).

## 1.7 Revisions to this access arrangement

Service Provider will submit revisions to this Access Arrangement (**Proposed Revisions**) to the Regulator on or before 1 January 2019 (**Review Submission Date**).

The revisions to this Access Arrangement are intended to commence on 1 January 2020 (**Revisions Commencement Date**).

## 1.8 Definitions and Interpretation

The definitions and interpretation provisions set out in Schedule C apply where relevant to this Access Arrangement.

## 1.9 Structure of this Access Arrangement

This Access Arrangement is set out as follows:

- Section 1: Introduction - sets out an overview of this Access Arrangement including its structure, Revisions Commencement Date and Review Submission Date.
- Section 2: Pipeline Services - describes the Services offered under this Access Arrangement and the procedure to obtain access to the Services.
- Section 3: Determination of Total Revenue - describes the Rules relevant for determining the Total Revenue requirement, and additional matters regarding New Capital Expenditure.
- Section 4: Reference Tariff - describes the components of the Reference Tariff, and Reference Tariff Adjustment Mechanism.
- Section 5: Queuing - describes the process through which unutilised Capacity and Developable Capacity of the Covered Pipeline will be allocated to Prospective Users.

- Section 6: Capacity Trading - sets out how a User may assign its Contracted Capacity and change its Receipt and Delivery Points.
- Section 7: Extensions and Expansions - describes the manner in which extensions or expansions to the Covered Pipeline and New Capital Expenditure will be dealt with.
- Schedule A Details
- Schedule B Registration of interest for Services to be provided by Spare Capacity or Developable Capacity
- Schedule C Definitions and Interpretation
- Schedule D Terms and Conditions applying to the Firm Service
- Schedule TC Definitions and Interpretation applying to the Terms and Conditions

## **2 Pipeline Services**

### **2.1 Services under Access Arrangement**

Service Provider offers the following Services on the Covered Pipeline under this Access Arrangement:

- (a) Firm Service – Reference Service, as described in section 2.2.
- (b) Negotiated Service – non-Reference Service, as described in section 2.3.

#### **2.1.1 Transportation Agreement**

Service Provider will provide the Services on the terms and conditions set out in a Transportation Agreement for the relevant Service from time to time. The provision of the Services by Service Provider under a Transportation Agreement is subject to the Prospective User complying with its obligations under the Transportation Agreement.

Service Provider and the Prospective User become bound to the Transportation Agreement and bound to satisfy or observe all Conditions from the date mutually agreed by Service Provider and the Prospective User.

#### **2.1.2 Access to and Request for Service**

In order to obtain access to a Service, a Prospective User must:

- (a) Follow the processes set out in Part 5 (Queuing) of this Access Arrangement;
- (b) Meet the following Prudential Requirements:
  - (i) the Prospective User must be resident in, or have a permanent establishment in, Australia;
  - (ii) the Prospective User must not be under external administration as defined in the Corporations Act or under any similar form of administration in any other Australian State or Territory jurisdiction;
  - (iii) the Prospective User must satisfy the requirements in clause D.3.1 of the Terms and Conditions; and
- (c) Enter into a Transportation Agreement specific to that User and that Service.

#### **2.1.3 Conditions**

- (a) Service Provider may notify a Prospective User that Service Provider is prepared to make available:
  - (i) a Firm Service; or
  - (ii) a Negotiated Service,

subject to specified Conditions being satisfied as conditions precedent.

- (b) The Conditions may relate to Service Provider's reasonable requirements in respect of:
  - (i) the occurrence of a defined event including installation and commissioning of equipment, processing facilities or infrastructure; and
  - (ii) copies of insurance policies or other evidence reasonably required by Service Provider being provided, which provide a reasonable indication to Service Provider that the Prospective User has insurance policies sufficient to satisfy the indemnities which the Prospective User will be required to provide under the proposed Transportation Agreement.
- (c) Unless the Prospective User notifies Service Provider to the contrary within 7 Business Days of receiving notice of the Conditions, the Prospective User is deemed to have accepted and agreed to be bound by the Conditions notified by Service Provider, which will form part of the Transportation Agreement.

## **2.2 Firm Service**

### **2.2.1 General**

The Firm Service is a Service on the Covered Pipeline for the receipt of Gas at the Receipt Point at Yarraloola, the transmission of Gas to, and the delivery of Gas at, the agreed Delivery Point(s).

Service Provider must provide the Firm Service on the following basis:

- (a) the receipt by Service Provider at the Receipt Point of quantities of Gas Nominated by the User, not exceeding the applicable Receipt Point MDQ, at a rate per Hour not exceeding the applicable Receipt Point MHQ;
- (b) the transportation of the Gas referred to in paragraph (a) on a firm basis and without interruption, except as is expressly permitted under the Transportation Agreement;
- (c) the delivery by Service Provider to, or on account of, User at the Delivery Point(s) of quantities of Gas Nominated by User, not exceeding the applicable Delivery Point MDQ and in aggregate not exceeding the Firm MDQ, at a rate per Hour not exceeding the applicable Delivery Point MHQ; and
- (d) the objective of the Firm Service is to transport energy in the form of natural gas between the Receipt Point and the Delivery Point(s);
- (e) Service Provider will receive into the Pipeline from the User quantities of Gas up to the MDQ as specified in the Order Form and MHQ at the Receipt Point and deliver from the Pipeline quantities of Gas up to the MDQ as specified in the Order Form and MHQ at the Delivery Point(s);

- (f) the Delivery Point(s) shall be downstream of the Receipt Point where the direction of flow is defined by Service Provider; and
- (g) the Firm Service will be provided on a firm basis and not be subject to curtailment or interruption except as provided in the Transportation Agreement,
- (h) the Delivery Point(s) shall be downstream of the Receipt Point where the direction of flow is defined by Service Provider, as Scheduled in accordance with clauses D.5.1 to D.5.5 (inclusive) of the Terms and Conditions.

Provision of the Firm Service is subject to there being sufficient Spare Capacity.

### 2.2.2 MDQ and MHQ

- (a) At the commencement of the Transportation Agreement the User will be required to:
  - (i) establish for each Contract Year a Firm MDQ and a Firm MHQ which fairly reflect the User's expected requirements; and
  - (ii) Advise Service Provider of its expected Firm MDQ and Firm MHQ requirements at the beginning of each Contract Year by indicating same on its Order Form.
- (b) The Firm Service may include multiple Delivery Points and in those circumstances the User must also establish an MDQ and MHQ for each Delivery Point which fairly reflects the User's expected requirements at each Delivery Point by maintaining records of Nominations for receipt or delivery which it submits to Service Provider pursuant to clause D.4.
- (c) The MHQ in either case will be no greater than the figure produced by the formula:  
$$\text{MDQ} \div 24 \times 1.2$$
- (d) Except as an Authorised Overrun, Service Provider will not be obliged:
  - (i) on any Gas Day, to receive or deliver a quantity of Gas greater than the Firm MDQ;
  - (ii) on any Gas Day, to receive at a Receipt Point a quantity of Gas, excluding System Use Gas and the User's Linepack, greater than the applicable Receipt Point MDQ or to deliver at any Delivery Point a quantity of Gas greater than the applicable Delivery Point MDQ; or
  - (iii) in any Hour, to receive at a Receipt Point a quantity of Gas greater than the MHQ for that Receipt Point, or to deliver at any Delivery Point a quantity of Gas greater than the MHQ for that Delivery Point.

### 2.2.3 Overruns

- (a) An Unauthorised Overrun will occur where the User incurs an Overrun Quantity on a Gas Day or in an Hour which is not an Authorised Overrun.
- (b) An Authorised Overrun is:
  - (i) the receipt by Service Provider at the Receipt Point of quantities of Gas Nominated by the User, in excess of the Receipt Point MDQ, at a rate per Hour Nominated by the User;
  - (ii) the transportation of the Gas referred to in subparagraph (i) on an interruptible basis; and
  - (iii) the delivery by Service Provider to the User or for User's account at the Delivery Points of quantities of Gas Nominated by the User, in excess of the applicable Delivery Point MDQ or in aggregate exceeding the Firm MDQ, at a rate per Hour Nominated by the User including System Use Gas and User's Line Pack.
- (c) An Authorised Overrun is requested by the User as part of the User's Nomination for the Firm Service by the User requesting an amount greater than the User's Firm MDQ or relevant Receipt Point or Delivery Point MDQ (as the case may be).
- (d) Service Provider is not obliged to provide an Authorised Overrun, or to provide an Authorised Overrun in respect of quantities or at a rate Nominated by the User where:
  - (i) the provision of the Authorised Overrun for the transportation of the requested quantities would cause Service Provider to curtail a service under a Transportation Agreement:
    - (A) for another User up to its MDQ on that Gas Day; or
    - (B) already Scheduled for transportation to another User at the time the User's Nomination is received; or
  - (ii) clauses D.5.1 to D.5.5 (inclusive) of the Terms and Conditions operate to exclude or reduce the provision of the Authorised Overrun.
- (e) If User requests an Authorised Overrun it must give Service Provider a Nomination for that Gas Day. User may, but need not, Nominate its Authorised Overrun with its monthly Nomination for the Firm Service (at least 3 Gas Days before the Month starts) but must nominate its Authorised Overrun by no later than the Nomination Deadline of 4.00pm on the day before the relevant Gas Day.
- (f) Upon receipt of the Nomination, Service Provider must review the availability of the Authorised Overrun and must, as soon as possible, advise User that:
  - (i) the Authorised Overrun is available;

- (ii) the Authorised Overrun is available for the relevant Gas Day but not as requested, together with the Authorised Overrun that is available on the relevant Gas Day; or
  - (iii) the Authorised Overrun is not available for the relevant Gas Day.
- (g) If pursuant to paragraph 2.2.3(f)(i), Service Provider advises the User that the Authorised Overrun is available then the User's request constitutes a Nomination for an Authorised Overrun in accordance with this Access Arrangement.
- (h) Within one hour of receipt of an advice under paragraph 2.2.3(f)(ii), the User may request provision of the Authorised Overrun described by Service Provider in its advice under that paragraph and the request constitutes a Nomination for the Authorised Overrun in accordance with this Access Arrangement.
- (i) The User acknowledges that Service Provider cannot advise User of the availability of an Authorised Overrun under this section 2.2.3 prior to Scheduling pursuant to clauses D.5.1 to D5.5 (inclusive) of the Terms and Conditions for the relevant Gas Day.
- (j) The User will be liable to pay Charges for Overruns (whether an Authorised Overrun or Unauthorised Overrun) as set out in section 4.2.2.
- (k) If for a period of 30 Gas Days the Daily Overrun Quantity at the Delivery Point for each of those Gas Days is positive then Service Provider may give notice to the User ("**Overrun Notice**"). If on any Gas Day after the expiry of 7 Gas Days from receipt of the Overrun Notice, the User's Daily Overrun Quantity at the Delivery Point is positive then with effect from the next Gas Day the User's MDQ will be increased by either:
  - (i) the average of the Daily Overrun Quantity at the Delivery Point for a period of 12 months; or
  - (ii) if the Transportation Agreement has been in force for less than 12 Months then the average of the Daily Overrun Quantity at the Delivery Point between the Commencement Date and the date of the Overrun Notice,and the Transportation Agreement will be deemed to be amended accordingly.

#### 2.2.4 Term

The term of the Firm Service will be 12 months or such longer period ending on the anniversary of the commencement of the User's Transportation Agreement, as the User elects at the time of entering into the Transportation Agreement.

### **2.2.5 Technical Specifications for connecting to the Pipeline**

If new Delivery Facilities are required by the User, the Delivery Facilities installed by Service Provider (at the User's cost) will comply with the technical specifications required by a reasonable and prudent pipeline operator.

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.

### **2.2.6 Gas Specification and commingling**

- (a) The Firm Service is offered subject to a Prospective User complying with Gas Specification for delivering Gas into the Pipeline, and any other gas quality requirements under Western Australian laws.
- (b) Subject to Pre-existing Contractual Rights, provided the Gas received from Users into the Pipeline complies with the Gas Specification, the Gas delivered by the Service Provider to the User at Delivery Points will meet the Gas Specification.
- (c) Service Provider may, by notice to the User, vary the Gas Specification if it is required to do so by law or any Governmental Authority or where the change is necessary to ensure the safety and integrity of the Pipeline, or is required in accordance with Good Engineering and Operating Practice.
- (d) The Gas received by Service Provider at the Receipt Point from the User may be commingled with other Gas in the Pipeline and with other elements for the operation and maintenance of the Pipeline. Subject to Service Provider's obligation to deliver at the Delivery Point(s) quantities of Gas meeting the requirements under a Transportation Agreement, Service Provider may commingle Gas received and deliver Gas in a commingled state to User.

### **2.2.7 Title to the Gas**

- (a) Subject to sections 2.2.7(c) and 2.2.7(f) and all applicable laws, and unless Service Provider otherwise undertakes or agrees, Service Provider will have no responsibility or liability with respect to any Gas prior to its supply to Service Provider at the Receipt Points or after its delivery to the User at the Delivery Points on account of anything which may be done, happen or arise with respect to that Gas prior to receipt at the Receipt Points or after delivery at the Delivery Points.
- (b) Title to the Gas received from the User by Service Provider at the Receipt Point does not pass to Service Provider except for:
  - (i) any liquid hydrocarbons which, during the normal transportation operations and in accordance with Good Engineering and Operating Practice, separate or condense from the gas stream after receipt of the Gas and before its delivery by Service Provider; and
  - (ii) System Use Gas the User is required to supply to Service Provider under a Transportation Agreement.

- (c) Subject to section 2.2.7(b) and this section 2.2.7(c), the User shall retain title to the Gas delivered by that User or on its behalf at the Receipt Point, despite any commingling of that Gas with Gas belonging to any other person in the Pipeline. When the User's Gas is commingled with other Gas in the Pipeline, the User is to retain ownership in common with each other owner of Gas comprised in the commingled Gas in proportion to their respective contributions. Service Provider's obligation to deliver Gas to the User at a Delivery Point is to deliver the same quantities of gas as received from the User at Receipt Points for transportation (subject to agreed adjustments) that meet the Gas Specification. Accordingly, when a quantity of commingled Gas is allocated to the User upon delivery at the Delivery Point (or otherwise), Service Provider must ensure the User acquires at that time good title to any quantity of that commingled Gas that did not already belong to the User. Similarly, when any quantity of the User's Gas that is commingled with other Gas in the Pipeline is properly allocated to any other User upon delivery or otherwise, the User must at that time relinquish title to that quantity of the User's Gas.
- (d) Service Provider must not itself act, or allow any other User of the Pipeline to act, inconsistently with the arrangements in this Access Arrangement (including section 2.2.6 and this section 2.2.7) or the Terms and Conditions (including clauses D.26.2, D.26.3, D.28, D.16.6, D.16.7, D.16.9 or D.16.10) regarding title to Gas supplied by the User, commingling of that Gas with Gas belonging to Service Provider and others and the delivery by Service Provider at Delivery Points of an equivalent quantity of Gas to that originally supplied by the User (excluding System Use Gas contributions).
- (e) If, contrary to the intention of the Parties expressed in this Access Arrangement (including section 2.2.6 and this section 2.2.7), for any reason (including by operation of law) other than by the express written agreement of the User or as contemplated by section 2.2.7(b), title to Gas supplied by the User at the Receipt Point does not transfer to Service Provider or any owner of the Pipeline, then Service Provider will (and it will procure that each such owner of the Pipeline will), hold all and any right and title to that Gas (and any interest in it) on trust for the User and will keep it free from any third party encumbrances or claims (other than any created by or with the express written agreement of the User itself).
- (f) Service Provider takes full responsibility for all Gas supplied by Users into the Pipeline (including for the risk of loss or damage to the gas or caused by the Gas) while it is in the Pipeline or otherwise in Service Provider's possession and control.
- (g) Service Provider warrants to the User that all Gas delivered to the User or on its behalf at a Delivery Point will, when delivered, be free from all and any third party encumbrances or claims (other than any created by or with the express written agreement of the User).

#### **2.2.8 Operational obligations - System Use Gas and the User's Linepack**

- (a) The User must supply at no cost to Service Provider and at times and in the manner notified by Service Provider (acting reasonably), the quantity of System Use Gas required by Service Provider at that time to operate the Pipeline in accordance with Good Engineering and Operating Practice, as determined by Service Provider (acting as a reasonable and prudent pipeline operator) in accordance with section 2.2.8(b).

- (b) In making its determination, Service Provider must have regard to the total quantity of System Use Gas that is required by Service Provider from time to time in order to operate the Pipeline in accordance with Good Engineering and Operating Practice, the total quantities of Gas to be received or delivered on the Pipeline on account of all Users during the relevant period and compressor fuel, necessary for the management, operation and maintenance of the Pipeline in accordance with Good Engineering and Operating Practice, which is reasonably and equitably attributable to the User's Services. However, Service Provider must allocate System Use Gas reasonably and equitably using allocation methodology which is demonstrably fair, reasonable and equitable (which subject to the foregoing, may include, on a User pays basis, a total share basis or such other basis as Service Provider reasonably determines) between all Users on the part of the Pipeline to which its determination relates.
- (c) Service Provider will own the System Use Gas supplied in the above manner.
- (d) Service Provider will provide (and retain ownership of) an amount of Gas to ensure that Service Provider can operate the Pipeline in accordance with Good Engineering and Operating Practice ("**Base Line Pack**").
- (e) The User will provide (and retain ownership of) Line Pack, which is in addition to the Base Line Pack provided by Service Provider on the first Gas Day the User uses the Firm Service and otherwise when advised by Service Provider from time to time (acting reasonably), in such proportion, as determined by Service Provider acting as a reasonable and prudent pipeline operator from time to time, equal to the proportion that the User's Firm MDQ bears to the total of all Users' MDQ (including the User's Firm MDQ). The Service Provider will provide to the User a monthly statement showing the amount of User's Line Pack.
- (f) The User must give Service Provider directions about the delivery of the User's Line Pack on or before 7 Gas Days after the end of the Term, and Service Provider must comply, if reasonably able to do so, with such directions at no cost to the User within 7 Gas Days of receiving such directions (or any longer period agreed between the User and Service Provider).
- (g) Service Provider must immediately return the User's Line Pack to the User or as it directs, in the event that Service Provider becomes insolvent.
- (h) If for any reason Service Provider does not return the User's Line Pack to the User or as it directs under sections 2.2.8(f) or 2.2.8(g), then User may, at its discretion and without prejudice to any other right or remedy it may have, charge Service Provider the price (plus GST) for that gas determined in accordance with this section 2.2.8(h), and Service Provider must pay User that price (plus any GST) within 7 Gas Days of receipt of a correct invoice for it. Title to the User's Line Pack transfers to Service Provider upon payment of that price. The price of the User's Line Pack gas is to be as agreed between the User and Service Provider, or if not so agreed within 7 Gas Days (or such longer period as is agreed between the Parties for this purpose), the price which is determined and certified by a reputable accountant engaged by the User for this task who is independent of both Parties and not subject to any conflict of interest in respect of this task

("Independent Accountant"). The price determined by the Independent Accountant must be a fair and reasonable price based on the cost to the User (including cost of gas plus transport and a reasonable allowance for the User's related overhead costs, if any) of providing the User's Line Pack contributions to the Receipt Point. The Independent Accountant is to examine the User's relevant books and documents on a confidential basis (including without disclosure to the Service Provider) and is to make that determination and certification to both Parties as soon as reasonably practicable. The costs of the Independent Accountant will be borne by the Parties equally and the price determined by the Independent Accountant will be treated as Confidential Information of the User.

### **2.2.9 Charges**

Charges for the Firm Service are specified in section 0.

### **2.2.10 Toll and Capacity Reservation Tariff**

The Toll Tariff and Capacity Reservation Tariff apply from the later of the Date of Transportation Agreement or satisfaction or waiver of all and any Conditions in the nature of conditions precedent.

### **2.2.11 Metered Quantities of Gas Used for Purposes of Transportation Agreement**

The Parties acknowledge and agree that from time to time there may be Measurement Variance. For the purposes of the Transportation Agreement, the quantities of Gas as measured at the Receipt Point or the Delivery Point(s), or as Used Gas, shall be deemed to be the true and correct measure of the quantity of Gas so measured unless it is shown that the measurements are incorrect by more than is allowed by the prescribed limits of accuracy of the meters as set out in the Appendix 1.

## **2.3 Negotiated Services**

- (a) Should any User or Prospective User have requirements which cannot be satisfied through the Firm Service, including for gas transportation from a receipt point other than the Receipt Point at Yarraloola, Service Provider will offer a service ("Negotiated Service") to meet that person's specific requirements. Negotiated Services will be provided on the terms and conditions which have been negotiated between Service Provider and the User or Prospective User.
- (b) No provision of this Access Arrangement necessarily limits or circumscribes the terms and conditions which may be negotiated for the provision of one or more Negotiated Services on the Covered Pipeline.
- (c) To the extent that the Spare Capacity of the Covered Pipeline is not sufficient to meet the User's requirements in their entirety with a Firm Service, Service Provider will, on the User contracting to take the entire Spare Capacity as a Firm Service, offer an Interruptible Service, as a Negotiated Service, for the balance of the User's requirements in excess of that contracted as Firm Service. Should Spare Capacity become available on the Covered Pipeline,

the User will be required to contract for that Spare Capacity as a Firm Service and reduce the amount of Interruptible Service accordingly.

- (d) Unless otherwise agreed by Service Provider, an Interruptible Service or As Available Service is available only to the extent the Firm Service is not available.

## **2.4 Variation of Terms and Conditions**

- (a) A Prospective User may seek variations of the Terms and Conditions applicable to the Firm Service.
- (b) Such variations constitute a request for a Service which differs from the Firm Service and hence will be treated as a request for a Negotiated Service for the purposes of this Access Arrangement. Service Provider will negotiate the tariffs and other terms and conditions for such a Negotiated Service with the Prospective User in good faith.

### 3 Determination of Total Revenue

#### 3.1 Principles

Total Revenue was calculated using a building block approach in accordance with Rule 76.

In addition, Total Revenue may vary during the Access Arrangement Period, as the Reference Tariff is varied (see Part 4 of the Access Arrangement).

The Reference Tariff was determined using a nominal weighted average of the return on equity and the return on debt resulting in an allowed rate of return over the Access Arrangement Period as detailed in the Access Arrangement Information.

#### 3.2 New Capital Expenditure

Reference Tariffs have been determined on the basis of:

- (a) the Capital Base; and
- (b) New Capital Expenditure that is forecast to occur within the Access Arrangement Period and is reasonably expected to satisfy the requirements of Rule 79 (Forecast Capital).

Service Provider may increase the Capital Base for the Covered Pipeline for any part of the New Capital Expenditure that satisfies Rule 79.

Service Provider may undertake New Capital Expenditure that does not satisfy Rule 79. Where Service Provider does so, Service Provider may increase the Capital Base for any part of that New Capital Expenditure that does satisfy Rule 79. Service Provider may also increase the Capital Base for Capital Contributions under Rules 82(2) and (3).

Where Capital Contributions are rolled into the Capital Base under Rule 82(2), the following mechanism is applied to ensure that Service Provider does not receive any benefit through increased revenue from that User's contribution to the Capital Base as required under Rule (82(3).

Capital Contributions are treated as revenue in the Year in which they are received. The forecast amount of Capital Contributions is then deducted from the Total Revenue requirement in determining the revenue requirement to be recovered through tariffs. Through this process, Service Provider returns to customers, by way of lower tariffs, the full benefits associated with the return on and return of contributed capital. The up-front reduction in tariff revenue exactly equals, in present value terms, the return on and return of capital over the life of the capital contributed.

Any amount of New Capital Expenditure that does not satisfy the requirements of Rule 79, to the extent that it is not to be recovered through a Surcharge on Users or a Capital Contribution, may, at the discretion of Service Provider, form part of the

Speculative Capital Expenditure Account (as contemplated by Rule 84). Service Provider may increase the Capital Base in accordance with Rule 84(3) if a part of the Speculative Capital Expenditure Account subsequently satisfies the requirements of Rule 79.

Any increase in the Capital Base under this section 3.2, or in accordance with Rule 80, may only take effect from the Revisions Commencement Date, or in accordance with the operation of the Cost Pass-through Reference Tariff Variation Mechanism.

### **3.3 Surcharge**

Service Provider may charge Users a Surcharge where permitted by the NGR. Service Provider will notify the Regulator of any proposed Surcharge to be levied on Users of Incremental Services and designed to recover non-conforming capital expenditure or a specified portion of non-conforming capital expenditure. Non-conforming capital expenditure which is recovered by means of a Surcharge will not be rolled into the Capital Base.

### **3.4 Capital Contributions**

Service Provider may charge Users a Capital Contribution to new capital expenditure where permitted by the NGR (see Rule 82).

### **3.5 Depreciation for Opening Capital Base for next access arrangement period**

The depreciation schedule for establishing the Opening Capital Base at 1 January 2020 will be based on forecast capital expenditure.

For the calculation of the nominal Opening Capital Base for the GGP for the Next Access Arrangement Period, for the purposes of rule 77(2)(d) of the NGR, depreciation over the Current Access Arrangement Period is to be calculated in accordance with the current cost accounting depreciation method, consistent with the Australian Energy Regulator's Post Tax Revenue Model method – where first, the real opening capital base in any year is divided by the remaining asset life to calculate the real depreciation for the regulatory year, second, indexation is applied to the real depreciation to convert it to nominal terms, and third, the nominal depreciation is adjusted for the resulting double count of inflation by subtracting the value ascribed to inflation from the opening regulatory asset base for that regulatory year, and is to be the sum of:

- 1) depreciation on the Opening Capital Base over the Current Access Arrangement Period; and
- 2) depreciation of the forecast Capital Expenditure for the Current Access Arrangement Period (being the amount of forecast Capital Expenditure used for the purpose of determining Tariffs for the Current Access Arrangement Period).

Indexing and adjustment for inflation should be calculated consistent with the rate of inflation as measured by the CPI All Groups, Weighted Average of Eight Capital Cities as at 31 December of each year of the regulatory period.

## 4 Reference Tariffs and Charges

### 4.1 Reference Service Tariff and Charges

The amount payable by the User for the Firm Service (Reference Service) consists of the sum of:

- (a) **Toll Charge** (capacity based) as described in section 4.1.1;
- (b) **Capacity Reservation Charge** (capacity and distance based) as described in section 4.1.2; and
- (c) **Throughput Charge** (throughput and distance based) as described in section 4.1.3.

User will also pay any Other Tariff Charges applicable.

#### 4.1.1 Toll Charge

During the Term of the Transportation Agreement the Toll Charge is the applicable Toll Tariff multiplied by the Firm MDQ (expressed in GJs) for the Delivery Point, multiplied by the number of Gas Days in a Month.

#### 4.1.2 Capacity Reservation Charge

Subject to section 0, during the Term of the Transportation Agreement the Capacity Reservation Charge in a Month is the product of:

- (a) the applicable Capacity Reservation Tariff;
- (b) the distance, in pipeline kilometres, from the Receipt Point to the Delivery Point; and
- (c) the MDQ expressed in GJs for the Delivery Point multiplied by the number of Gas Days in the Month.

#### 4.1.3 Throughput Charge

Subject to section 0, during the Term of Transportation Agreement the Throughput Charge for any Month is the product of:

- (a) the quantity of Gas delivered during that Month measured in GJs;
- (b) the applicable Throughput Tariff; and
- (c) the distance, in pipeline kilometres, from the Receipt Point to the Delivery Point.

#### 4.1.4 Toll, Capacity Reservation and Throughput Tariffs

The Toll, Capacity Reservation and Throughput Tariffs to apply in the first Year of the Access Arrangement Period are set out in the Details, and will be adjusted each

Year in accordance with the Reference Tariff Variation Mechanism set out in section 4.5.

## **4.2 Other Charges**

### **4.2.1 Other Tariff Charges**

Subject to section 4.2.7, the User may also be required to pay the following charges:

- (a) Overrun Charges as set out in section 4.2.2;
- (b) Imbalance Charge as set out in section 4.2.3;
- (c) Daily Variance Charge as set out in section 4.2.4; and
- (d) Charges in respect of Connection and Delivery Points as set out in section 4.2.5.

### **4.2.2 Overrun Charges**

- (a) The User must pay an Overrun Charge for Overruns at a Delivery Point, except to the extent that Service Provider (or a Related Body Corporate of Service Provider) caused the Overrun without the prior approval of the User or if the Overrun occurred as a result of circumstances beyond the reasonable control of User.
- (b) A different charge applies to Authorised and Unauthorised Overruns, as set out in the Details.
- (c) The Authorised Overrun Charge is the product of:
  - (i) the Authorised Overrun Rate set out in the Details; and
  - (ii) the relevant Authorised Overrun Quantity excluding System Use Gas and User's Line Pack (expressed in GJ).
- (d) The Unauthorised Overrun Charge is the product of:
  - (i) the Unauthorised Overrun Rate set out in the Details; and
  - (ii) the relevant Unauthorised Overrun Quantity (expressed in GJ).
- (e) The Unauthorised Overrun Charge is a pre-estimate of Service Provider's loss or damage (other than Consequential Loss) incurred or suffered by Service Provider in receiving, transporting or delivering Unauthorised Overrun Quantities.

### **4.2.3 Imbalance Charge**

- (a) The provisions relating to Imbalances are set out in clauses D.8.1 to D.8.5 (inclusive) of the Terms and Conditions applying to the Firm Service.

- (b) Service Provider may charge the User an Imbalance Charge for each Gas Day on which an Imbalance, the absolute value of which exceeds the Imbalance Allowance, occurs, calculated by multiplying the Imbalance Rate set out in the Details by the amount which the aggregate of the absolute value of Unauthorised Imbalances for a Gas Day exceed the Imbalance Allowance for the Gas Day.

#### 4.2.4 Daily Variance Charges

- (a) A **Daily Variance** occurs when the quantity of Gas:
  - (i) received from or on behalf of the User at a Receipt Point during a Gas Day is different from the quantity of Gas Scheduled for the User for that Receipt Point; or
  - (ii) delivered to or for the account of the User at a Delivery Point during a Gas Day is different from the quantity of Gas Scheduled for the User for that Delivery Point,

the quantity of which at each Delivery Point and Receipt Point (as applicable), in GJ, is the **Daily Variance Quantity**.

- (b) If Service Provider, acting as a reasonable and prudent pipeline operator, believes that a Daily Variance has occurred because the User is not making Nominations in good faith, then Service Provider may give notice to the User ("**Variance Notice**") requiring the User to nominate in good faith.

- (c) If on any Gas Day after the expiry of 21 Gas Days from receipt of a Variance Notice the Daily Variance Quantity:

- (i) at a Receipt Point exceeds the Daily Variation Allowance; and
- (ii) at a Delivery Point exceeds the Daily Variation Allowance,

excluding any portion of that variation that has been caused by Service Provider or a Force Majeure Event, the User must pay to Service Provider the Daily Variance Charge for each Gas Day on which such an exceedance occurs until such time as the Variance Notice is withdrawn by Service Provider. If Service Provider has issued the User with a Variance Notice, Service Provider may withdraw that Variance Notice at any time in its discretion and must withdraw that Variance Notice immediately if a period of 3 consecutive Months has elapsed without the User incurring the Daily Variance Charge.

- (d) The **Daily Variance Charge** for a Gas Day is calculated by multiplying the Daily Variance Rate set out in the Details by the Daily Variance Quantity for that Gas Day for a Receipt Point or a Delivery Point (as applicable) for which the Daily Variance Charge is payable under paragraph (c) above and aggregating the amounts calculated above for each relevant Receipt Point and Delivery Point.

#### 4.2.5 Charges in respect of Connection and Delivery Points

(a) **Connection Charge**

The User must pay to Service Provider for the commencement of a Firm Service, a once-only Connection Charge, payable on the Date of Transportation Agreement, 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.

(b) **Additional Delivery Points during Term of Transportation Agreement**

User must pay to Service Provider a connection charge for each new Delivery Point added during the Term of the Transportation Agreement, being the costs reasonably incurred by Service Provider in establishing the new Delivery Point(s) nominated by User.

Clause D.28 of the Terms and Conditions applying to the Firm Service make provision for the addition of Delivery Points and the costs involved.

**4.2.6 General**

Any charge payable by a User in respect of an Overrun, Imbalance or Daily Variance, or any other charge specified above, is payable in addition to, and not in substitution for, any other charge payable by the User and does not affect the Firm MDQ, Firm MHQ, Receipt Point MDQ or Delivery Point MDQ or Receipt Point MHQ of Delivery Point MHQ (as the case may be) specified in the Transportation Agreement except as provided for in section 2.2.3 of this Access Arrangement.

**4.2.7 Quantity Variation Charges**

- (a) Service Provider may only impose Quantity Variation Charges relating to Imbalances or Overruns where, in the reasonable opinion of Service Provider acting as a reasonable and prudent pipeline operator, the conduct contemplated by those charges:
- (i) causes Service Provider or any User of the Pipeline loss or damage; or
  - (ii) exposes the Pipeline to significant risk (whether or not that risk becomes manifest) that threatens the integrity of the Pipeline.
- (b) Subject to section 4.2.7(a), the Quantity Variation Charges may be applied or waived solely at Service Provider's discretion. Waiver of the application of any such charges at any time does not constitute any precedent for waiver of the application of such charges at any time in the future.
- (c) Notwithstanding section 4.2.7(a), Service Provider will waive a User's liability for an Accumulated Imbalance Charge and a Daily Variance Charge where the liabilities are incurred during a period of interruption or reduction of Services that is the direct responsibility of Service Provider.
- (d) Service Provider must, upon User's request, rebate 95 percent of Quantity Variation Charges in excess of Service Provider's direct costs and expenses

associated with and arising from the User's acts or omissions which cause the Overruns or Imbalances to occur:

- (i) to any other User of the Reference Service not having caused the particular Quantity Variation Charges to occur; and
  - (ii) which rebate will be paid to the non-offending Users, where relevant, at the end of each calendar year.
- (e) For the avoidance of doubt where there is no other User of the Reference Service at the time at which the Overruns or Imbalances occur then this rebate mechanism will not be activated.
- (f) Service Provider is not responsible for eliminating any Imbalances between the User and an Interconnect Party or any other person operating Interconnection Facilities and, except in certain circumstances (eg as required by Good Engineering and Operating Practice), is not obliged to adjust or deviate from its standard operating and accounting procedures in order to alleviate those imbalances.
- (g) At the conclusion of the Term, each Party will use reasonable endeavours to ensure the Accumulated Imbalance is set to zero. This may be accomplished by the User trading the Accumulated Imbalance with another User or with Service Provider within 7 days. If this is not achieved within 7 days, Service Provider will issue an invoice or refund for the value of the Accumulated Imbalance at gas prices reasonably nominated by Service Provider, which may vary from time to time.

### **4.3 Multiple Delivery Points**

For the purposes of the calculation of the Capacity Reservation Charge and the Throughput Charge, the distance is calculated from the Receipt Facilities. Where a User has more than one Delivery Point, the Capacity Reservation Charge and the Throughput Charge will be calculated using the distance between the Receipt Point and each relevant Delivery Point and the corresponding Delivery Point MDQ.

### **4.4 Basis of Charges**

Unless otherwise agreed, all charges that rely on measurement are to be computed on measured quantities and qualities of Gas generated by the measuring equipment installed at the Receipt Point and Delivery Points. The Toll Charge and the Capacity Reservation Charge are fixed charges and are payable monthly during the Term of Transportation Agreement by the User whether or not the User delivers or receives Gas under the Transportation Agreement, except in circumstances explicitly provided for under the Terms and Conditions.

## 4.5 Reference Tariff Variation Mechanism

The Reference Tariff for the Firm Service may be varied during the Access Arrangement Period through the operation of the Reference Tariff Variation Mechanism, which is made up of:

- (a) a Scheduled Reference Tariff Variation Mechanism – which applies in respect of each Quarter of the Access Arrangement Period; and
- (b) a Cost Pass-through Reference Tariff Variation Mechanism – under which Service Provider may seek to vary the Reference Tariff components as a result of occurrence of a Cost Pass-through Event.

### 4.5.1 Scheduled Reference Tariff Variation Mechanism

- (a) Service Provider may vary the Reference Tariff for the Firm Service on the basis of the Scheduled Reference Tariff Variation Mechanism as set out in the Details (Schedule A).
- (b) Before Service Provider varies the Reference Tariff as provided for in section (a), Service Provider must:
  - (i) provide a written notice (a **Scheduled Reference Tariff Variation Notice**) to the Regulator setting out proposed variations to the Reference Tariff, including evidence that the proposed variations have been calculated in accordance with the Reference Tariff Variation Mechanism, including the formulae, set out in the Details;
  - (ii) provide the Scheduled Reference Tariff Variation Formula Notice to the Regulator at least 40 Business Days before the date that the relevant Reference Tariff is scheduled to be varied.
- (c) The Regulator will use its reasonable endeavours to give notice to the Service Provider before a proposed variation to the Reference Tariff is scheduled to take effect, advising whether the Regulator approves or does not approve the proposed tariff variation and the reasons for its decision, in accordance with the approved Reference Tariff Variation Mechanism.
- (d) If the Regulator approves the proposed tariff variation, it will take effect on the date specified in the proposed Scheduled Reference Tariff Variation Notice, or if the date or dates specified in the proposed Scheduled Reference Tariff Variation Notice have passed, the proposed tariff variation will take effect on the date or dates specified in the Regulator's notice to the Service Provider under section 4.5.1(c).
- (e) If the Regulator considers that it needs additional information from the Service Provider to adequately assess the proposed tariff variation, it may extend the period for assessment beyond the relevant Scheduled Reference Tariff Variation Date in order to consider the additional information.

- (f) The Regulator may, by notice to the Service Provider, disallow the proposed variation if it considers that the proposed variation does not comply with the approved Scheduled Reference Tariff Variation Mechanism. If the Regulator does not approve the Service Provider's proposed tariff variation, it will not take effect.
- (g) If the Regulator does not approve the Service Provider's proposed tariff variation, the Service Provider may submit a revised Scheduled Reference Tariff Variation Notice.

#### 4.5.2 Cost Pass-through Reference Tariff Variation Mechanism

- (a) If one or more Cost Pass-through Events occur or are expected to occur during the Access Arrangement Period Service Provider has discretion to vary the Reference Tariff for the Firm Service to recover the financial impact of the Cost Pass-through Event/s, to the extent that financial impact of these events is not already accounted for in the Reference Tariff.
- (b) Before Service Provider varies the Reference Tariff as provided for in section 4.5.2(a), Service Provider must:
  - (i) provide a written notice (a **Cost Pass-through Event Notice**) to the Regulator specifying the type of defined Cost Pass-through Event to which the Notice applies, the impact or expected impact of the Cost Pass-through Event, the proposed variations to the Reference Tariff, and an effective date for the changes; and
  - (ii) provide the Regulator with documentary evidence which substantiates the financial impact set out in the Cost Pass-through Event Notice and its compliance with the NGR.
- (c) The following is a Cost Pass-through Event for the purposes of section 4.5.2(a):
  - (i) a change in law or tax change event;

where:

**Change in law or tax change event**—means:

- a) A legislative or administrative act or decision that:
  - (i) has the effect of:
    - (A) varying, during the course of the Access Arrangement Period, the manner in which Service Provider is required to provide the Firm Service; or
    - (B) imposing, removing or varying, during the course of an Access Arrangement Period, minimum service standards applicable to the Firm Service; or

- (C) altering, during the course of an Access Arrangement Period, the nature or scope of the Firm Service, provided by Service Provider; and
  - (ii) materially increases or materially decreases the costs to Service Provider of providing the Firm Service.
- b) A tax change event occurs if any of the following occurs during the course of the Access Arrangement Period:
  - (i) a change in a relevant Tax, in the application or official interpretation of a relevant Tax, in the rate of a relevant Tax, or in the way a relevant Tax is calculated;
  - (ii) the removal of a relevant Tax;
  - (iii) the imposition of a relevant Tax; and

in consequence, the costs to Service Provider of providing the Firm Service are materially increased or decreased.
- (d) A Cost Pass-through Event is considered material where the cumulative costs of the event exceed 1.0% of the Total Revenue for the Covered Pipeline in the years in which costs are incurred.
- (e) Service Provider may submit a Cost Pass-through Event Notice with its annual Scheduled Reference Tariff Variation. Each notice may incorporate a number of claims relating to Cost Pass-through Events. The minimum notice period for a Cost Pass-through Event Notice is 40 Business Days prior to the date on which the proposed variations to the Reference Tariff are intended to take effect.
- (f) The Reference Tariff will use its reasonable endeavours to give notice to the Service Provider before a proposed variation to the Reference Tariff (arising from a Cost Pass-through Event Notice) is scheduled to take effect, advising whether the Regulator approves or does not approve the Cost Pass-through Event/s and the reasons for its decision, in accordance with the approved Reference Tariff Variation Mechanism.
- (g) If the Regulator approves the Cost Pass-through Event/s, it will take effect on the next Scheduled Reference Tariff Variation date identified in the Cost Pass-through Event Notice, or if the date or dates specified in the Cost Pass-through Event Notice have passed, the proposed tariff variation will take effect on the date or dates specified in the Regulator's notice to the Service Provider under section 4.5.2(f).
- (h) If the Regulator considers that it needs additional information from the Service Provider to adequately assess the Cost Pass-through Event Notice, it may extend the period for assessment beyond the date that the Cost Pass-through Notice is intended to take effect in order to consider additional information;

- (i) The Regulator may, by notice to the notice to the Service Provider, disallow the proposed variation if it considers that the proposed variation does not comply with the Cost Pass-through Reference Tariff Variation Mechanism. If the Regulator does not approve the Service Provider's Cost Pass-through Event/s it will not take effect.
- (j) If the Regulator does not approve the Service Provider's Cost Pass-through Event/s, the Service Provider may resubmit a revised Cost Pass-through Event Notice.

#### **4.6 Reference Tariff after 31 December 2019**

In the event that the Revisions Commencement Date is later than 1 January 2020 the tariff in effect at 31 December 2019 shall continue to apply without variation, to the provision of the Firm Service between 1 January 2020 and that later Revisions Commencement Date, but for the purposes of rule 92(3) of the National Gas Rules, 1 January 2020 shall be taken to be the "revision commencement date" stated in this Access Arrangement and nothing in this Access Arrangement prejudices or prevents the application or operation of rule 92(3) of the National Gas Rules in relation to the fixing of reference tariffs for the Access Arrangement Period next following the period of this Access Arrangement.

#### **4.7 GST**

All tariffs, charges and amounts payable under this Access Arrangement are expressed to be exclusive of GST. In addition to any tariff, charge or amount payable under the Access Arrangement by a User or Prospective User, the User or Prospective User will pay any applicable GST in accordance with clause D.41 of the Terms and Conditions.

## 5 Queuing

### 5.1 Registration of interest

#### 5.1.1 Registration of interest for Services to be provided by Spare Capacity or Developable Capacity

- (a) Prospective Users may lodge with Service Provider a registration of interest for Services to be provided by Spare Capacity and/or Developable Capacity. A registration of interest must be made in the form set out in Schedule BB.
- (b) A registration of interest is valid for 12 months from receipt of the registration of interest by Service Provider.
- (c) A Prospective User may submit a revised registration of interest at any time and the registration of interest as revised will be valid for a period of 12 months.
- (d) The order of receipt of registrations of interest does not determine and is not relevant to the priority of any request.

#### 5.1.2 Service Provider to respond to registrations of interest

- (a) Within 20 Business Days of receipt of a registration of interest pursuant to section 5.1.1, Service Provider must:
  - (i) notify the Prospective User that the registration of interest has been received and the date of its receipt;
  - (ii) subject to section 5.1.2 (a)(iii), advise the Prospective User of any existing Spare Capacity, or if no Spare Capacity is currently available, why Spare Capacity is not available, and the Service Provider's estimate of when the capacity sought may become available;
  - (iii) if Service Provider determines that investigations are required to determine whether Spare Capacity may be available, Service Provider must provide the Prospective User with a proposal for carrying out further investigations in accordance with Rule 112(3)(b) of the NGR;
  - (iv) if a Prospective User wishes Service Provider to conduct investigations in accordance with Service Provider's proposal under 5.1.2(a)(iii) (or a modified proposal agreed between Service Provider and the Prospective User), it must provide Service Provider with written acceptance of that proposal in accordance with Rule 112(5) of the NGR;
  - (v) if the registration of interest is for Spare Capacity, advise the Prospective user whether the Service sought may be able to be provided by Developable Capacity and any estimate of when that capacity may become available; and

- (vi) provide details of the other registrations of interest Service Provider has received that are valid (without identifying the Prospective Users who have lodged those registrations of interest), including the capacity sought, whether that capacity is sought in relation to Spare Capacity and/or Developable Capacity, and the time period in which the Services are being sought.

### 5.1.3 Service Provider to keep registrations of interest for Services under review

Service Provider will keep registrations of interest under review in order to determine whether there is likely to be sufficient demand for Services that could be provided by means of Developable Capacity.

## 5.2 Spare Capacity

### 5.2.1 Spare Capacity

- (a) Service Provider will include all Spare Capacity in the Spare Capacity Register, and will add a note on the Register describing the process for access to Spare Capacity.
- (b) Where the volume of Spare Capacity that is, or is likely to become, available is less than 2TJ/d, Service Provider may elect not to run an open season and auction for that Spare Capacity, and if so, Service Provider must make that Spare Capacity available by placing it on the Spare Capacity Register.
- (c) Service Provider will make that Spare Capacity available on a first come, first served basis to those Prospective Users who enter into an agreement for that Spare Capacity within 2 months of seeking access to the Spare Capacity and at a rate which is at or above the Reference Tariff and sections 5.2.2 to 5.2.6 will not apply to such of that Spare Capacity as is so taken up.

### 5.2.2 Spare Capacity – open season

- (a) Where Spare Capacity is or is likely to become available Service Provider must:
  - (i) provide all Prospective Users who have submitted a registration of interest for Capacity with a **Spare Capacity Notice**; and
  - (ii) publish in a local and national daily newspaper a copy of the Spare Capacity Notice.
- (b) The Spare Capacity Notice must advise that Expressions of Interest for Services to be provided by Spare Capacity are to be received by Service Provider by a date not less than 30 Gas Days after the date that the Spare Capacity Notice is published in the national daily newspaper (**Open Season Spare Capacity Closing Date**).
- (c) For the avoidance of doubt, where Service Provider and a User have agreed to enter into a new agreement for a Service that is currently being provided to

that User pursuant to an agreement or to otherwise extend the term of the existing agreement, Spare Capacity will not be considered likely to become available merely because a current agreement for Capacity is nearing its end date.

- (d) Where all Expressions of Interest for Services to be provided by Spare Capacity can be met with the available Spare Capacity, Service Provider will enter into negotiations with all Prospective Users that lodge Expressions of Interest, for the provision of Services using the available Spare Capacity. Service Provider may deal with complying Expressions of Interest in any order provided that Service Provider uses reasonable endeavours to ensure that no complying Expression of Interest is ultimately disadvantaged as a result.

### 5.2.3 Auction for Spare Capacity

- (a) In the event Service Provider determines that there is sufficient demand to proceed with an auction for the Spare Capacity (and that the available Spare Capacity is not sufficient to meet the Expressions of Interest for Services to be provided by Spare Capacity), Service Provider will notify all Prospective Users that lodged Expressions of Interest for Spare Capacity in response to the Spare Capacity Notice that Service Provider will accept bids for Spare Capacity (**Notice of Auction for Spare Capacity**).
- (b) The Notice of Auction for Spare Capacity must identify the Capacity that will be the subject of the auction and specify the date by which bids must be lodged. The date for the lodgement of bids must be at least 30 Gas Days after the date of the Notice of Auction for Spare Capacity.
- (c) Service Provider may provide the following documents or information together with the Notice of Auction for Spare Capacity:
  - (i) an auction application registration form;
  - (ii) the form of financial security required to participate in the auction, which may take the form of a parent company guarantee, bank guarantee or similar security as reasonably determined by Service Provider and in the amount reasonably determined by Service Provider. The form and amount of security required may vary as between Users, with any variation to be reasonably based; and
  - (iii) the terms and conditions upon which the Spare Capacity may be made available. These terms and conditions may vary depending on the category or categories of Services that may be provided by the Spare Capacity. Where a Prospective User is seeking access to the Firm Service the Terms and Conditions will be those in Schedule D.
- (d) In order to submit a complying bid, Prospective Users must complete and provide to Service Provider by the date specified in the Notice of Auction for Spare Capacity:
  - (i) the completed auction application registration;

- (ii) the required financial security in the form and amount specified by Service Provider; and
  - (iii) the terms and conditions relevant to the Service to which the bid applies in a form that is capable of immediate acceptance by Service Provider.
- (e) A Prospective User may consult with Service Provider on potential alternative terms and conditions prior to submitting a bid under section 5.2.3(d).

#### **5.2.4 If complying bids do not exceed Spare Capacity**

- (a) This section 5.2.4 applies only if the aggregate of all complying bids for Spare Capacity in the auction referred to in 5.2.3 does not exceed the Spare Capacity stated in the Notice of Auction for Spare Capacity.
- (b) In such case, each complying bid for Spare Capacity will be deemed to be an irrevocable request for Spare Capacity capable of immediate acceptance.
- (c) Service Provider may deal with complying bids for Spare Capacity in any order provided that Service Provider uses reasonable endeavours to ensure that no complying bid is ultimately disadvantage as a result.
- (d) Spare Capacity that has not been taken up in the auction will be placed on the Service Provider Spare Capacity Register and will be made available on a first come first served basis to Prospective Users who will contract for that Capacity within 2 months of it becoming unutilised.

#### **5.2.5 If complying bids exceed Spare Capacity**

- (a) This section 5.2.5 applies if the aggregate of all complying bids received on or before the auction cannot be satisfied by the Spare Capacity stated in the Notice of Auction for Spare Capacity.
- (b) Immediately after the auction, Service Provider will rank the applications on the basis of its assessment of the Net Present Value of the respective applications, from highest to lowest. The Net Present Value will be calculated using:
  - i. The Prospective User's nominated tariff;
  - ii. The Prospective User's requested capacity requirement;
  - iii. The Prospective User's requested contract term;
  - iv. The Prospective User's requested contract commencement date; and
  - v. The Service Provider's allowed rate of return as a discount rate.

As there are a number of variables to the NPV calculation (price, volume, term, commencement date), it is not possible to provide an advance

determinative ranking of bids. However, Service Provider will include information to the effect that:

All other things remaining equal:

- i. A bid at a higher offer price will outrank a bid at a lower price;
- ii. A bid for a larger volume will outrank a bid for a lower volume;
- iii. A longer term contract will outrank a shorter term contract;
- iv. A contract with an earlier commencement date will outrank a contract with a later commencement date.

Owing to the nature of present value calculations, an application featuring a large volume, long term contract could outrank a higher priced lower volume, shorter term application.

All applications will be discounted at the same discount rate.

- (c) Service Provider will then allocate the Spare Capacity amongst the auction participants on the basis of the ranking performed pursuant to section 5.2.5 (b).

### **5.2.6 Reserve price**

Service Provider may set a reserve price for the auction. For the provision of the Firm Service the reserve price will not exceed the Reference Tariff. If a reserve price applies this must be stated in the Notice of Auction for Spare Capacity.

## **5.3 Developable Capacity**

### **5.3.1 Service provider to undertake investigations to determine if Developable Capacity is available**

- (a) If
  - (i) a Prospective User requests Service Provider to prepare a proposal to perform an investigation under Rule 112 of the NGR; or
  - (ii) Service Provider determines on the basis of the registrations of interest for Services received under section 5.1 and any other available information that there is likely to be sufficient demand for a category or categories of Services that could be provided by means of Developable Capacity, and investigations are required to determine whether Developable Capacity can be made available,

Service Provider will notify each Prospective User that has lodged a registration of interest that Service Provider may commence to undertake such investigations.

- (b) Service Provider may notify Prospective Users that have not lodged a registration of interest that it may be commencing investigations to determine whether Developable Capacity can be made available, and, where the circumstances allow, will publish in a local and national daily newspaper, a Developable Capacity Notice stating that Service Provider may commence to undertake such investigations, and that if a Prospective User may want to acquire Services provided by that Developable Capacity in the event that it becomes available, that the Prospective User should lodge registration of interest in accordance with section 5.1 with Service Provider within 20 Gas Days.
- (c) Where Service Provider decides that it will undertake an investigation to determine whether Developable Capacity can be made available, Service Provider will advise each of the Prospective Users that have lodged registrations of interest of the nature, likely duration and cost of the investigations. Where there is more than one Prospective User considering participating in the investigation, Service Provider will advise each Prospective User of its share of the estimated cost of the investigations. This will be determined as the proportion that their requested capacity bears to the total requested capacity of all Prospective Users participating in the investigation. The Prospective User may then determine whether it wants Service Provider to undertake the investigation.
- (d) Service Provider is only obliged to undertake investigations if one or more Prospective Users agree to bear the costs of the investigation. The Service Provider will conduct any investigation to the standard of a reasonable and prudent pipeline operator.
- (e) Where a Prospective User declines to meet the cost of Investigations that Prospective User's Application will have lower priority than Applications where the Prospective Users have agreed to bear the costs of the Investigation, and will maintain relative priority with other Applications where the Prospective Users have not agreed to bear the costs of the Investigation. For the purpose of sub-section 5.3.1(d) a Prospective User is only obliged to bear those costs of the Investigations that are reasonably incurred.
- (f) A Prospective User who has paid for an investigation will, on entering into appropriate confidentiality arrangements, receive a written report that:
  - (i) describes the options considered to provide the Developable Capacity; and
  - (ii) describes Service Provider's preferred option to provide the Developable Capacity or provides reasons why no recommendation is made.
- (g) Where a Prospective User bears the costs of an Investigation and the Prospective User decides not to proceed with the Application that Prospective User may assign:
  - (i) the Application to which the Investigation relates; and

- (ii) information in the possession of that Prospective User relevant to the Investigation,

to a bona fide assignee and that assignee may use the results of the Investigation provided that the assignment does not disclose confidential information without the consent of persons to whom such information relates including GGT.

- (h) Where a Prospective User bears the costs of an Investigation GGT must provide that Prospective User with an itemisation of the costs incurred by GGT as soon as reasonably practicable following the completion of the Investigations and prior to a Prospective User being obliged to pay those costs.

### **5.3.2 Procedures when Capacity can be made available with investment in Developable Capacity**

- (a) Where Service Provider has, acting as a reasonable and prudent pipeline operator, reasonably determined on the basis of the investigations undertaken and the registrations of interest for Services that have been lodged that technically and economically feasible Developable Capacity can be made available, Service Provider will enter into negotiations with any Prospective Users with respect to any part of the Developable Capacity.
- (b) Where there is more than one Prospective User requesting Developable Capacity, concurrent negotiations will be held with all relevant Prospective Users to determine the appropriate scale and scope of any potential investment for any part of Developable Capacity.
- (c) In accordance with Rule 103(3), the outcome and timing of the conclusion of negotiations with each Prospective User will determine the order of priority between Prospective Users in respect of Developable Capacity, and may result in more than one Prospective User gaining access to Developable Capacity at the same time.

### **5.3.3 Service Provider is bound to undertake certain developments of capacity**

- (a) Subject only to paragraphs (b), (c) and (d) below, Service Provider must undertake an Expansion to provide Developable Capacity if requested by a User or Prospective User where it is:
  - (i) technically and economically feasible; and
  - (ii) consistent with the safe and reliable operation of the Pipeline.
- (b) Service Provider may elect, but cannot be required, to fund, in whole or part, an Expansion unless the extension and expansion requirements of the applicable access arrangement provide for the relevant funding.
- (c) Where an Expansion is proposed, Service Provider is not required to extend the geographical range of the Pipeline unless otherwise agreed by Service Provider.

- (d) A User or Prospective User acquires no interest in a Pipeline by funding an Expansion unless the Service Provider agrees.

## **6 Capacity Trading**

### **6.1 Governing provisions**

Transfers of Contracted Capacity will be undertaken in accordance with Rule 105 and sections 6.2 and 6.3.

### **6.2 Assignment of Contracted Capacity by subcontract**

The User may assign, by way of subcontract, all or any of the User's Contracted Capacity to another person without consent of Service Provider in accordance with the terms of the Transportation Agreement with the following consequences:

- (a) the User's rights against, and obligations to, Service Provider are (subject to paragraph (b)) unaffected by the assignment; but
- (b) the User must immediately give notice to Service Provider of:
  - i. the subcontract and its likely duration; and
  - ii. the identity of the third party; and
  - iii. the amount of the User's Contracted Capacity assigned and any other details (other than price) reasonably requested by Service Provider.

### **6.3 Other assignments**

Subject to any Pre-existing Contractual Rights affecting the transfer or assignment by Service Provider or any other party of rights in relation to Capacity, including under the GGP State Agreement and the GGTJV Agreement, a User may, with Service Provider's prior written consent which must not be unreasonably withheld, assign its Contracted Capacity, other than an assignment under section 6.2, provided that:

- (a) the User pays Service Provider's reasonable costs and expenses (including legal costs and internal costs) as reasonably determined and which Service Provider has reasonably and properly incurred, in respect of application for consent (whether or not the assignment proceeds to completion) and any assignment;
- (b) Service Provider and the assignee execute a Transportation Agreement acceptable to Service Provider (acting reasonably, based on reasonable commercial or reasonable technical considerations) in relation to the Contracted Capacity (that is being assigned) in a similar form to, and on substantially the same terms as, the User's Transportation Agreement;
  - (i) Where the assignment relates to an existing Firm Service Transportation Agreement, Service Provider and the assignee must execute a replacement Firm Service Transportation Agreement, unless

otherwise agreed by Service Provider (acting reasonably, based on reasonable commercial or reasonable technical considerations);

- (c) the Contracted Capacity to be assigned relates to the User's Receipt Point and Delivery Points under the User's Transportation Agreement or, if different Receipt Points or Delivery Points are proposed, the assignee meets Service Provider's reasonable technical and commercial requirements in relation to the assignment of Contracted Capacity to those different Receipt Points or Delivery Points having regard to what would be the reasonable requirements of a reasonable and prudent pipeline operator;
- (d) the assignee agrees with any other User using the relevant Receipt Point and Delivery Points to sharing of the use of facilities and any conditions and charges, at no additional cost to Service Provider;
- (e) the assignee confirms in writing that it has made all necessary arrangements with producers of Gas for the assignee, purchasers of Gas from the assignee and any other party relating to that service, including all Gas purchase, Gas sale, operating and multi-party Receipt Point and Delivery Point arrangements;
- (f) if the assignment of part or all of the Contracted Capacity to the assignee requires additional facilities at the Receipt Point or Delivery Point, the User or the assignee (or both) agree to pay Service Provider for the cost of construction on terms and conditions reasonably determined by Service Provider (acting reasonably, based on reasonable commercial or reasonable technical considerations);
- (g) the User agrees to comply with any other reasonable commercial or technical conditions of Service Provider.

Service Provider must not withhold its consent to an assignment under this section 6.3 unless it has reasonable grounds, based on commercial and technical considerations for doing so.

Where a User assigns its Contracted Capacity in accordance with this section 6.3, the User's rights and obligations under or in relation to its Transportation Agreement in relation to such of its Contracted Capacity as is so assigned, will, when that assignment takes effect, transfer to the assignee absolutely (subject only to any modifications or changes made by virtue of the Transportation Agreement executed by Service Provider and assignee referred to in section 6.3 (b)) and will terminate and be of no further effect as between the User and Service Provider. However, unless expressly agreed otherwise between the User, the assignee and Service Provider, an assignment made under this section 6.3 does not affect rights or liabilities that had accrued under, or in relation to, the Transportation Agreement before the relevant assignment took effect.

Service Provider must, within 30 Gas Days of receiving User's request to assign its Contracted Capacity under section 6.3, notify User whether or not it consents to the assignment.

## **6.4 Changing delivery and receipt points**

The User may, by giving at least 45 Gas Days written notice before the proposed change, request substitution of all or part of an existing Receipt Point MDQ for a Receipt Point or Delivery Point MDQ for a Delivery Point to another Receipt Point or Delivery Point (respectively) provided the proposed substitution is to a Receipt Point or Delivery Point which has all the necessary facilities required to be located at the applicable Receipt Point or Delivery Point.

Service Provider must not withhold its consent to all or part of the above request or make its consent subject to conditions, unless it has reasonable grounds, based on technical or commercial considerations, for doing so.

Service Provider will notify the User in writing, within 30 Gas Days of receiving the User's notice, whether it can consent to all or part of the User's request.

If the Delivery Point MDQ for a Delivery Point is substituted, the amount payable under the Transportation Agreement will be no less than what was payable prior to the substitutions having been made.

## **7 Extensions and Expansions**

### **7.1 Extensions/Expansions**

Other than as required under the National Gas Rules and the GGP State Agreement, the Service Provider will not be required to provide funds for work involved in making an Extension or Expansion, unless the Service Provider agrees to do so.

### **7.2 Application of Access Arrangement to Pipeline Extensions/Expansions**

#### **(a) Extensions**

If Service Provider proposes an Extension of the Covered Pipeline, it must apply to the Regulator for the Regulator to decide whether the proposed Extension will be taken to form part of the Covered Pipeline such that this Access Arrangement would apply to the Incremental Services provided by means of the proposed Extension.

The application given by the Service Provider must be submitted to the Regulator when the Extension is first being considered, prior to making its final investment decision.

The Regulator's decision, may be made on such reasonable conditions as determined by the Regulator consistent with the National Gas Objective and will have the effect stated in its decision on the Service Provider's proposed pipeline Extension.

#### **(b) Expansions**

If there is an Expansion at any time, this Access Arrangement will apply to all and any Incremental Services provided after the Expansion comes into operation, except to the extent (if any) that the Service Provider proposes (by application to the Regulator) and the Regulator agrees that this Access Arrangement will not apply to all or any of those Incremental Services.

Any such application by the Service Provider must be submitted to the Regulator when the Expansion is first being considered, prior to making its final investment decision.

### **7.3 Pipeline Extensions/Expansions and Tariffs**

- (a) Pipeline Extensions or Expansions which form part of the Covered Pipeline such that this Access Arrangement will apply under section 7.2 to any Incremental Service provided by means of them, will result in no change to the Reference Tariff applied to a User when those Extensions or Expansions have been fully funded by that User's capital contributions except to contribute to Service Provider's operating costs in connection with those Extensions and Expansions. Any change to Reference Tariffs may occur only

pursuant to the processes set out in Part 8 of the NGR. To avoid doubt, and without limiting the above in any way, neither the Service Provider nor any of the Owners will benefit through a change to Reference Tariffs (except as regards any contributions to Service Provider's operating costs) to the extent that:

- (i) any such Extension or Expansion is undertaken for or in relation to any adjustments to Capacity occurring (or which, but for the Extension or Expansion, would occur) as a result of the application of the provisions of the *Gas Supply (Gas Quality Specifications) Act 2009* (WA); and
  - (ii) the funding of that Extension or Expansion was made by someone other than the Service Provider or any of the Owners or any Related Body Corporate of Service Provider or any of the Owners.
- (b) Users of Incremental Services which have not made capital contributions towards capacity investment needed to provide those Incremental Services which they use and which have been funded by others may be liable to pay a Surcharge as provided under Rule 83 of the National Gas Rules.
- (c) Pipeline Extensions or Expansions funded by Service Provider and which form part of the Covered Pipeline such that this Access Arrangement will apply under section 7.2 to any Incremental Services provided by means of them, may result in the application of a Surcharge on Users subject to Service Provider providing written notice to the Regulator, and the Regulator approving the same, in accordance with Rule 83 of the NGR.

## A Details

<b>Pipeline</b>	Covered portion of the Goldfields Gas Pipeline, being the pipeline from Yarraloola to Kalgoorlie described in Pipeline Licence PL24 granted under the Petroleum Pipelines Act 1969 (WA).
<b>Capacity of covered portion of the Pipeline</b>	Approximately 109TJ/day
<b>Service Provider</b>	Goldfields Gas Transmission Pty Ltd, ACN 004 273 241

### Reference Tariff, rates and allowances

<b>Toll Tariff at 1 July 2016 (\$/GJ):</b>	0.115668
<b>Capacity Reservation Tariff at 1 July 2016 (\$/GJ MDQ km):</b>	0.000616
<b>Throughput Tariff at 1 July 2016 (\$/GJ km):</b>	0.000226
<b>Authorised Overrun Rate</b>	120% of Toll Tariff + Capacity Reservation Tariff + Throughput Tariff
<b>Imbalance Rate</b>	250% of Toll Tariff + Capacity Reservation Tariff + Throughput Tariff
<b>Imbalance Allowance</b>	5% (either positive or negative) of the sum of the MDQ for all Delivery Points
<b>Daily Variance Rate</b>	200% of Toll Tariff + Capacity Reservation Tariff + Throughput Tariff
<b>Daily Variation Allowance</b>	the greater of:  (a) 5% (either positive or negative) of the MDQ for the applicable Delivery Point or Receipt Point;  (b) 8% of the quantity of Gas Scheduled for the User for the applicable Receipt Point or Delivery Point for the applicable Gas Day; and  (c) 1 TJ.

### Notes on Tariffs

- 1 Toll, Capacity and Throughput tariffs apply from the date on which the approval of the Regulator takes effect under Rule 62 or Rule 64 (as relevant)
- 2 These tariffs apply to the Firm Service. For other services and shorter terms, tariffs will be determined by negotiation
- 3 The minimum term for the Firm Service is Five Years

- 4 Refer to section 4 of this Access Arrangement for details of the charges to which the above rates apply and the basis upon which upon which they will be adjusted
- 5 These tariffs are quoted on a GST exclusive basis

<b>Payment Date</b>	Within 14 Gas Days after the receipt by User of Service Provider's valid Tax Invoice.
<b>Contact Details</b>	Business Development Manager – Goldfields Gas Pipeline (08) 6189 4300 East Point Plaza, Level 5, 233 Adelaide Terrace Perth WA 6000

## Scheduled Reference Tariff Variation Mechanism

### A1 Quarterly Scheduled Variation of Reference Tariffs

The Reference Tariff Components (as described in section 4.1 of the Access Arrangement) are adjusted for inflation on a Quarterly basis in accordance with the formula below.

$$C_t = C_{t-1} \times \frac{1}{(1+K)} \times \frac{CPI_{t-2}}{CPI_{t-3}}$$

Where

$C_t$  is the relevant charge in the Quarter t in which the adjustment occurs.

$C_{t-1}$  is the charge for the Quarter commencing three months prior to the commencement of Quarter t. For the Quarter commencing 1 September 2016,  $C_{t-1}$  is the relevant charge shown above for 1 July 2016.

K is  $(1+Z)^{0.25} - 1$

Z is 0.0146 (1.46% being the forecast annual percentage inflation rate used in the Final Decision).

$CPI_{t-2}$  is the CPI All Groups, Weighted Average of Eight Capital Cities for the Quarter commencing six months prior to the commencement of Quarter t.

$CPI_{t-3}$  is the CPI for the Quarter commencing nine months prior to the commencement of Quarter t.

## A2 Annual Scheduled Variation of Reference Tariffs

The Service Provider has adopted a ‘tariff basket price cap’ approach as the manner in which Reference Tariff Components (as described in section 4.1 of the Access Arrangement) may vary within this Access Arrangement Period.

The Service Provider has also adopted a ‘trailing average’ approach to estimate the Debt Risk Premium used to determine the Reference Tariff. The trailing average approach is a method of the type referred to in Rule 87(9)(b). The change in Total Revenue which results from use of a method of the type referred to in Rule 87(9)(b) must be effected through the automatic application of a formula. That formula, which was specified in the decision on this Access Arrangement for this Access Arrangement Period, is set out below.

The formula effects a change in Total Revenue in each year of the Access Arrangement Period. The change in Total Revenue requires an annual adjustment to the Reference Tariff. That adjustment is to be made using the formulae in this Annual Scheduled Variation of Reference Tariffs (A2).

The Service Provider may in its discretion vary any Reference Tariff Component annually (each annual period being a **Variation Year**) subject to the limit on the varied Reference Tariff Components and the limit on movement of the weighted average tariff basket described below.

Any annually varied Reference Tariff Component will be effective 1 January of each Year, and the annual variation in this way will be in lieu of the CPI adjustment specified in A1 above.

### Limit on varied Reference Tariff Components and the Tariff Basket for Access Arrangement Period (years) 2017, 2018 and 2019

Each Reference Tariff Component may be varied by the Service Provider provided the varied Reference Tariff Component satisfies the following conditions.

#### Limit on varied Reference Tariff Components

$$p_t^i \leq p_{t-1}^i \times (1 + X - Factor_i^i) \times \frac{(1 + Y^i)}{(1 + Z)^D} \times \left( \frac{SepCPI_{t-1}}{SepCPI_{t-2}} \right)^D$$

where

- $i$  is the tariff component with 1 being the Toll charge, 2 being the Reservation charge and 3 being the Throughput charge;
- $t$  is the  $j$ th period to which the varied tariff applies;
- $j$  is the period, with 1 being July - December 2016, 2 being January-December 2017, 3 being January- December 2018 and 4 being January- December 2019;
- $p_t^i$  is the value of Reference Tariff Component  $i$  as varied for Year  $t$  ;
- $p_{t-1}^i$  is the value of Reference Tariff Component  $i$  in Year  $t - 1$ ;

$P_{2016}^1$  is  $\$0.112142 \times (1 + X\_Factor_{2016}^1)$  per GJ at 1 July 2016 for Toll charge reference tariff;

$P_{2016}^2$  is  $\$0.000627 \times (1 + X\_Factor_{2016}^2)$  per GJ km at 1 July 2016 for Reservation charge reference tariff;

$P_{2016}^3$  is  $\$0.000218 \times (1 + X\_Factor_{2016}^3)$  per GJ km at 1 July 2016 for Throughput charge reference tariff;

$Y^i$  is a side constraint not greater than 0.02 (2%) for each of the Tariff Component  $i$  ;

$D$  is the number of calendar days in the regulatory period  $t$  divided by the number of calendar days in the regulatory year  $t$  ;

and

$Z$  is 0.0146 (1.46% being the forecast annual percentage inflation rate used in the Final Decision).

The X Factor is the change in Reference Tariff Component  $i$  as varied for Year  $t$  of 2017, 2018 and 2019 resulting from the annual update of the Debt Risk Premium and from any change in approved Cost Pass-through Events outlined in section 4.5.2 of the Access Arrangement. It is calculated using the approved Tariff Model and is the solution to the optimisation problem set out below.

$$X\_Factor_t^i = \frac{P_{x,t}^i}{P_{t-1}^i} - 1$$

Where

$X\_Factor_{2016}^i$  is the change in Reference Tariff Component  $i$  from the previous value to the 1 July 2016 value as calculated by the approved Tariff Model at the outset of the Access Arrangement.

$P_{x,t}^i$  is the tariff set for each component within the GGT post-tax nominal tariff model. The  $x$  subscript signifies that this price is a function of the X Factor solution and last year's price.

$$X\_Factor_t^i \text{ is set such that each } P_{x,t}^i \text{ results in } \sum_{i=1}^3 PVR^i = \sum_{j=1}^4 \frac{BBRev_j}{(1+r_j)}$$

Subject to the constraint

$$PVR^1 / \sum_{i=1}^3 PVR^i = 11.30\%;$$

$$PVR^2 / \sum_{i=1}^3 PVR^i = 72.20\%; \text{ and}$$

$$PVR^3 / \sum_{i=1}^3 PVR^i = 16.50\%.$$

Where

$PVR^i$  is the present value of tariff revenue already received and forecasted to be received for tariff component  $i$  and is calculated as

$$\left( \sum_{j=1}^{t-1} \frac{p_j^i q_j^i}{(1+r_j)} + \sum_{j=t}^4 \frac{p_t^i q_j^i}{(1+r_j)} \right);$$

$p_j^i$  is the tariff set for component  $i$  in period  $j$ ;

$q_j^i$  is the quantity or 'load' forecast associated with tariff component  $i$  in period  $j$ ;

$r_j$  is the compounded nominal vanilla weighted average cost of capital (WACC) applicable in period  $j$  calculated as:

$$r_1 = (1+WACC_1) - 1;$$

$$r_2 = (1+WACC_1) \times (1+WACC_2) - 1;$$

$$r_3 = (1+WACC_1) \times (1+WACC_2) \times (1+WACC_3) - 1; \text{ and}$$

$$r_4 = (1+WACC_1) \times (1+WACC_2) \times (1+WACC_3) \times (1+WACC_4) - 1;$$

$BBRev_j$  is the building block total revenue requirement for period  $j$  factoring in the annual update of the trailing average debt risk premium and any approved Cost pass-through Events; and

$P_{x,t}^i$  that satisfies these conditions becomes  $p_t^i$ .

For years  $t+1$  or greater  $X\_Factor_t^i$  is set to zero.

**Limit on movement of the weighted average tariff basket**

$$\sum_{i=1}^m (p_t^i \times q_{t-2}^i) \leq \frac{1}{(1+Z)^D} \times \left( \frac{SepCPI_{t-1}}{SepCPI_{t-2}} \right)^D \times \sum_{i=1}^m ((1+X\_Factor_t^i) \times p_{t-1}^i \times q_{t-2}^i)$$

Where

$i, t, j, p_t^i, p_{t-1}^i, p_{2016}^1, p_{2016}^2, p_{2016}^3$  and  $X\_Factor_t^i$  are defined above for the Limit on varied Reference Tariff Components;

$q_{t-2}^i$  is the quantity of service (GJ, GJ km, or GJ km throughput) provided at Reference Tariff Component  $i$  in Year  $t - 2$ ;

$Z$  is 0.0146 (1.46% being the forecast annual percentage inflation rate used in the Final Decision);

$D$  is the number of calendar days in the regulatory period  $t$  divided by the number of calendar days in the regulatory year  $t$ .

$SepCPI_{t-1}$  is the September Quarter CPI one year prior to  $t$ ;

$SepCPI_{t-2}$  is the September Quarter CPI two years prior to  $t$ ; and

$Y^i$  is not greater than 0.02 (2%) for each of the Tariff Component  $i$ .

The annual update of the trailing average debt risk premium component of the rate of return in each year starting from 1 January 2017 of the Access Arrangement Period is to be calculated by applying the following formula:

$$TA\ DRP_0 = \frac{\sum_{t=0}^{-9} DRP_t}{10}$$

Where

$TA\ DRP_0$  is the equally weighted trailing average of the DRP to apply in the following year as the annual update of the estimate used in the current year; and

$DRP_t$  is the DRP estimated for each of the 10 regulatory years  $t = 0, -1, -2, \dots, -9$ , which are either:

- the forward looking DRP estimators for the calendar year 2017, 2018 or 2019, estimated during the 20 trading days averaging period, using the method of automatic formulas set out in Appendix 3 of the Final Decision; or
- the published  $DRP_t$  estimates, derived from the Reserve Bank of Australia 10 year BBB credit spread to swap interpolated daily data (up

to 30 April 2016) and from the Authority's 31 May 2016 estimate of the DRP, as follows, as set out in Appendix 3 of the Final Decision:

calendar year 2007: DRP<sub>2007</sub>: 1.130 per cent;  
calendar year 2008: DRP<sub>2008</sub>: 3.756 per cent;  
calendar year 2009: DRP<sub>2009</sub>: 4.624 per cent;  
calendar year 2010: DRP<sub>2010</sub>: 2.125 per cent;  
calendar year 2011: DRP<sub>2011</sub>: 2.379 per cent;  
calendar year 2012: DRP<sub>2012</sub>: 3.168 per cent;  
calendar year 2013: DRP<sub>2013</sub>: 3.043 per cent;  
calendar year 2014: DRP<sub>2014</sub>: 2.251 per cent;  
calendar year 2015: DRP<sub>2015</sub>: 2.070 per cent;  
calendar year 2016: DRP<sub>2016</sub>: 2.582 per cent.

The first annual update will apply for the tariff variation for the 2017 calendar year. As noted, all annual updates of the debt risk premium should be determined consistent with the automatic formulas summarised in Automatic Formulas for Updating the Debt Risk Premium (A5) of the Access Arrangement and set out in detail in Appendix 3 of the Final Decision. The resulting automatic annual adjustment to the rate of return, based on the outputs of the updating of the tariff model for the revised debt risk premium for the regulatory year, should be incorporated in the relevant Annual Tariff Variation.

The Authority in the Final Decision required that GGT nominate the averaging period for each annual update applying in 2017, 2018 and 2019. The averaging periods for each year are a nominated 20 trading days (based on eastern states holidays) in the window 1 June to 31 October in the year prior to the relevant tariff variation, to allow estimation of the updated DRP for inclusion in the relevant annual tariff variation. The nominated 20 trading day averaging period for each of the four years do not need to be identical periods, only that they occur in the period 1 June to 31 October in each relevant year, and are nominated prior.

### **A3 Rounding**

- (a) All amounts per GJ to be paid pursuant to this Schedule A shall be expressed in dollars to 6 decimal places per GJ of Gas.
- (b) All quantities of Gas shall be rounded to the nearest whole Gigajoule.

### **A4 Cost Pass-through Events**

In addition to the tariffs and charges (and associated variations) described above, the User shall pay to the Service Provider an amount for any Cost Pass-through Event pursuant to section 4.5.2 of the Access Arrangement.

## **A5 Automatic Formulas for Updating the Debt Risk Premium**

The forward looking estimates of the debt risk premium (DRP) for each regulatory year will be estimated using the Authority's Revised Bond Yield Approach. Resulting estimates of the DRP will be included in the trailing average of the DRP.

The Authority in the Final Decision required that GGT nominate the averaging period for each annual update of the DRP applying in 2017, 2018 and 2019. The averaging periods for each year are a nominated 20 trading days (based on eastern states holidays) in the window 1 June to 31 October in the year prior to the relevant tariff variation, to allow estimation of the updated DRP for inclusion in the relevant annual tariff variation. The nominated 20 trading day averaging period for each of the four years do not need to be identical periods, only that they occur in the period 1 June to 31 October in each relevant year, and are nominated prior.

The first estimate of the DRP using the Revised Bond Yield Approach is that made for the 20 day period ending 31 May 2016, which has been included in the trailing average estimate of the DRP for calendar year 2016 included in the Final Decision.

The next DRP estimate that will be made will be based on the nominated 20 days falling in the period June to October 2016 (for  $DRP_{2017}$ ). That next DRP estimate will be incorporated in the trailing average DRP (that is,  $TA\ DRP_{2017}$ ), and hence the updated rate of return, which will then apply in 2017 through the annual tariff variation.

The following method of automatic formulas applies for updating the estimates of the DRP, and will remain unchanged for the duration of the AA3 period, and hence will apply for the estimates made for  $DRP_{2017}$ , as well as for the estimates  $DRP_{2018}$  and  $DRP_{2019}$ .

### **Techniques to estimate the forward looking debt risk premium**

The Authority's Revised Bond Yield Approach consists of the following six processes.

#### **Determining the Benchmark Sample**

Identifying a sample of bonds based on the benchmark sample selection criteria. This will comprise a 'cross section' of bonds.

#### **Collecting Data**

Collecting data for those bonds over the averaging period in question, for example 20 trading days. This represents 'time series' data related to each bond.

#### **Converting Yields to Australian Dollar Equivalents**

Converting yields for bonds denominated in foreign currencies into Australian dollar (AUD) equivalents so that all yields are expressed as an AUD equivalent.

### **Averaging Yields over the Averaging Period**

Calculating an average AUD equivalent bond yield for each bond in the cross section across the averaging period. For example, where a 20 trading day averaging period applies, each bond will have a single 20 day 'average yield' calculated.

### **Estimating 'Curves'**

Estimating three yield curves based on different methodologies and using the average yield for each bond; its remaining term to maturity; and AUD face value.

### **Calculating the DRP**

Calculating the DRP by subtracting the average of the 10 year AUD interest rate swap (IRS) rate from the 10 year cost of debt estimate, with the latter calculated as the average of the three estimated yield curves at the ten year tenor.

Each process is comprised of a series of automatic formulas that will be used for the annual updates of the DRP. Further details of the automatic update approach are set out in Appendix 3 of the Authority's Final Decision.

**B Registration of interest for Services to be provided by Spare Capacity or Developable Capacity**

**1. Prospective User Detail**

Name of Prospective User:

ACN:

Contact Officer:

Title:

Address:

Telephone:

Fax:

Email:

Service Requested:

If requested service is not the Firm Service, then what conditions, different from those available under a Firm Service, are sought?

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Date for Commencement of Service:

Duration of Transportation Agreement sought:

**2. Receipt Point Information**

Receipt Point Location:

Entity Responsible for  
Delivery of Gas to Receipt  
Point:

(if other than the  
Prospective User)

ACN:

Contact Officer:

Title:

Address:

Telephone:

Fax:

Email:

**3. Delivery Point Information:**

Delivery Point Location:

Entity Controlling  
Withdrawal of Gas at  
Delivery Point:

(if other than the  
prospective User)

ACN:

Contact Officer

Title:

Address:

Telephone:

Fax:

**4. Transportation Information**

Annual Quantity to be Transported (GJ):

Maximum Daily Quantity - MDQ (GJ):

Maximum Hourly Quantity - MHQ (GJ):

Transportation Patterns:

(graphically if possible, to assist with the assessment of the request)

Typical Daily Profile

Typical Weekly Profile

Typical Annual Profile

Examples of Atypical Profiles

Is the transportation service being sought to serve a new load or an existing load on the Pipeline?

**5. Technical Information**

Please provide details on the following:

Compliance with relevant gas quality standards

Any specific connection requirements

Any other detailed connection requirements

## C Definitions and Interpretation

### C.1 Definitions

Expressions used in the Access Arrangement have the following meanings, unless the context otherwise requires. Capitalised terms used in this Access Arrangement which are not defined have the meaning given to those terms in the National Gas Rules.

**Access Arrangement** has the meaning given to it in the NGL, and refers to this Access Arrangement as varied or replaced from time to time;

**Access Arrangement Information** has the meaning given to it in the NGL and refers to the 'Access Arrangement Information' approved by the Regulator for the Covered Pipeline;

**Access Arrangement Period** has the meaning given to it in the Rules and refers to the Access Arrangement Period currently scheduled to commence on 1 January 2015, unless the context requires otherwise;

**Accumulated Imbalance** means the arithmetic sum of all Daily Variance corrected for any adjustments made by trading of gas imbalances or purchase or sale of Gas to correct gas imbalances.

**Accumulated Imbalance Charge** has the meaning set out in Appendix 4.

**Adjustment Note** has the meaning in the GST Law;

**As Available Service** means the provision of Gas pipeline services by Service Provider on an as available basis;

**Authorised Imbalances** means one or more of the following:

- (a) any Imbalance caused by the User providing User's Line Pack share in accordance with the Transportation Agreement; or
- (b) any Imbalance caused by the User providing System Use Gas in accordance with the Transportation Agreement;

**Authorised Overrun** has the meaning given to it in section 2.2.3 of the Access Arrangement;

**Authorised Overrun Charge** is calculated in accordance with section 4.2.2 of the Access Arrangement;

**Authorised Overrun Quantity** means the amount of an Overrun Quantity which is attributable to an Authorised Overrun;

**Authorised Overrun Rate** has the meaning in Schedule A (Details) of the Access Arrangement;

**Base Line Pack** has the meaning given in clause D.13.4 of the Terms and Conditions;

**Billing Period** means the period:

- (a) from 8.00am on the first Gas Day the User receives Gas under the Service Agreement up to 8:00 am on the first calendar day in the next Month; and
- (b) thereafter from 8:00 am on the first calendar day in one Month up to 8:00 am on the first calendar day in the next Month;

**Business Day** means a day that is not a Saturday, Sunday or a gazetted public holiday in the capital city of Western Australia;

**Capacity** means the measure of the potential of the Covered Pipeline as currently configured from time to time during the life of the Access Arrangement, to deliver a particular Service between a Receipt Point and a Delivery Point at a point in time;

**Capacity Reservation Charge** is calculated in accordance with section 4.1 of the Access Arrangement;

**Capacity Reservation Tariff** has the meaning in Schedule A (Details) of the Access Arrangement;

**Capital Base** has the meaning given in the NGR;

**Capital Contribution** is a contribution made by a User under Rule 82;

**Change in Control** of an entity occurs if a person who did not previously do so acquires or holds, directly or indirectly:

- (a) securities conferring 50% or more of the voting or economic interests in the entity;
- (b) the power to control the appointment or dismissal of the majority of the entity's directors; or
- (c) the capacity to control the financial or operating policies or management of the entity.

**Charge** means tariffs, charges and other amounts pursuant to the Firm Service as set out in section 4 of the Access Arrangement, and includes the Overrun Charge;

**Commencement Date** means the date for commencement of the Service as specified in the applicable Transportation Agreement;

**Conditions** means the conditions to apply to the Service referred to in section 2.1.3 of the Access Arrangement;

**Confidential Information** means information (whether or not recorded in a material form) that is not publicly available and that becomes available to a Party in respect

of the Transportation Agreement including (without limitation) the terms and conditions of the Transportation Agreement;

**Connection** means the service of connecting the User's facilities to the Pipeline;

**Connection Charge** means the amount payable by a User to enable Delivery Facilities to be connected to the Pipeline in accordance with section 4.2.5 of the Access Arrangement but limited to Service Provider'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;

**Consequential Loss** means any of the following, however arising and even if it is reasonably contemplated by the Parties, at the date of the Transportation Agreement, as a probable result of breach of the Transportation Agreement:

- (a) loss or damage which does not arise directly or naturally from a breach of the Transportation Agreement;
- (b) indirect, incidental, special, remote, unforeseeable or consequential loss or damage;
- (c) direct or indirect loss of revenue, profit, income, bargain, opportunity or anticipated savings;
- (d) costs or expenses incurred to prevent or reduce loss or damage which otherwise may be incurred or suffered by a third party; or
- (e) direct or indirect loss or damage incurred or suffered by a third party.

**Contracted Capacity** means that part of the Capacity of the Pipeline which has been reserved by a User or Users pursuant to a Transportation Agreement entered into with Service Provider;

**Contract Year** means the period of a Year commencing on the first Gas Day of the Term of a Transportation Agreement (which shall be the first Gas Day of a Month), or on the anniversary of the first Gas Day of the Term;

**Corporations Act** means the Corporations Act 2001 (Cth);

**Cost Pass-through Event/s** has the meaning given to it under section 4.5.2(c) of the Access Arrangement;

**Cost Pass-through Event Notice** means a Notice provided to the Regulator in accordance with section 4.5.2 of the Access Arrangement;

**Cost Pass-through Reference Tariff Variation Mechanism** means the mechanism for adjustment of the Reference Tariff set out in section 4.5 of the Access Arrangement;

**Covered Pipeline** means that part of the Pipeline to which this Access Arrangement relates, and is described in the Access Arrangement Information (Section 1.2);

**CPI** means the Consumer Price Index (All Groups Weighted Average of Eight Capital Cities) as published by the Australian Bureau of Statistics for any Quarter and if such index ceases to be published, any official replacement index published by the Australian Bureau of Statistics and, in the absence of any official replacement index, an index nominated by Service Provider which is prepared and published by a Governmental Authority or independent third party and which most closely approximates the Consumer Price Index;

**Cubic Metre** or **m<sup>3</sup>** means the amount of gas which will occupy a volume of one cubic metre when such gas is at a temperature of 15°C and at a pressure of 101.325 kPa;

**Daily Variance, Daily Variance Charge, Daily Variance Quantity** have the meanings given in section 4.2.4 of the Access Arrangement;

**Daily Variance Allowance** has the meaning given to it in the Details of the Access Arrangement;

**Daily Variance Rate** has the meaning given to it in the Details;

**Date of Transportation Agreement** means the date the last Party signs the Transportation Agreement;

**DBNGP** means the gas transmission pipeline system that runs between Dampier and Bunbury in Western Australia, as expanded or amended from time to time to the extent that it is geographically located within the DBNGP pipeline corridor created under Part 4 of the Dampier to Bunbury Pipeline Act 1997 (WA);

**Default Rate** means the Bill Rate plus five percentage points, where "Bill Rate" means, 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 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;

**Delivery Facilities** means the facilities to be nominated by or provided for the User in the vicinity of the Delivery Point in accordance with clause D.24.1 of the Terms and Conditions;

**Delivery Point** means the point at which Service Provider delivers Gas to the User, being:

- (a) the flange on the outlet or downstream side of the Delivery Facilities in the case where the Delivery Facilities are owned by Service Provider; or

- (b) the flange on the outlet or downstream side of the offtake constructed by Service Provider in the case where the Delivery Facilities are owned by the User or a third party,

**Delivery Point MDQ** means the MDQ applicable to the User at a particular Delivery Point as set out in the Order Form/Form of Agreement, or otherwise agreed in writing by Service Provider and User;

**Delivery Point MHQ** means the MHQ applicable to User at a particular Delivery Point and has the meaning in section 2.2.2 of the Access Arrangement;

**Details** means the details set out in Schedule A of this Access Arrangement;

**Developable Capacity** means an increase in Capacity which, in Service Provider's opinion, acting reasonably and to the standard of a reasonable and prudent pipeline operator, is technically and economically feasible to develop consistent with the safe and reliable operation of the Pipeline;

**Developable Capacity Notice** means a notice pursuant to section 5.3.1 of the Access Arrangement;

**Existing Contracts** means all contracts for the provision of Gas transportation services whether or not in conjunction with other services entered into before the Relevant Date;

**Expansion** means additions of plant or pipeline made by Service Provider to the Covered Pipeline which result in an increase in Capacity;

**Extension** means an extension in the geographic range of the Pipeline that is not an Expansion; **Firm MDQ** means the maximum quantity of Gas which the Service Provider is from time to time obliged to deliver across all Delivery Points to or on account of Users on any Gas Day under a Firm Service;

**Final Decision** means the decision made by the Regulator under either of Rule 62 or Rule 64 of the NGR (as the case requires) or, where relevant, a variation to that decision made under Rule 67 of the NGR;

**Firm MDQ** means the maximum quantity of Gas which the Service Provider is from time to time obliged to deliver across all Delivery Points to or on account of the User in any Gas Day under the Firm Service as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User from time to time;

**Firm MHQ** means the maximum quantity of Gas which the Service Provider is from time to time obliged to deliver across all Delivery Points to or on account of the User in any Hour under the Firm Service as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User from time to time, provided that the MHQ must be no greater than the figure produced by the formula  $MDQ / 24 \times 1.2$ , where MDQ is the User's Firm MDQ;

**Firm Service** is the Reference Service, and is as described in section 2.2 of the Access Arrangement, except in the context of Scheduling and Curtailment under clauses D.5 and D.7.1 of the Terms and Conditions;

**Firm Service Reserved Capacity** means that part of the Capacity of the Covered Pipeline which has been contracted for Firm Service and for the avoidance of doubt excludes the Initial Committed Capacity;

**Forecast Capital** has the meaning given to it in section 3.2;

**Force Majeure Event** means any event or circumstance, or a combination of events or circumstances, which is beyond the reasonable control of a Party, which by the exercise of due diligence that Party is not reasonably able to prevent or overcome and which has the effect of preventing the Party from performing an obligation under the Transportation Agreement, including, without limitation (provided that they meet the foregoing criteria):

- (a) acts of God, including without limitation, earthquakes, floods, washouts, landslides, lightning, storms and other acts caused by the elements;
- (b) strikes, lockouts, bans, slowdowns or other industrial disturbances;
- (c) acts of enemy, wars (declared or undeclared), acts of terrorists, blockades or insurrections, riots and civil disturbances, arrest and restraint of rulers and peoples;
- (d) fire or explosion;
- (e) epidemic or quarantine;
- (f) any order or direction of any Governmental Authority, or omission or failure to act by any Governmental Authority; or the failure to obtain or maintain any necessary Approval;
- (g) in respect of the Pipeline, and any lateral pipelines owned or operated by the Service Provider and related machinery, equipment or facilities (including Interconnection Facilities), accidents, breakdown, or the necessity to undertake alterations, repairs or maintenance (other than routine maintenance for which notice has not been given).

The following events:

- (a) lack of finances;
- (b) changes in market conditions for the transportation, purchase or sale of Gas;
- (c) the inability of the User or a person supplying Gas at or upstream of the Receipt Point to provide Gas at a Receipt Point for transportation under the Transportation Agreement; or
- (d) the inability of the User or a person consuming the Gas at or downstream of the Delivery Points to take Gas,

will under no circumstances constitute or cause a Force Majeure Event.

**Form of Agreement** means the form attached to this Access Arrangement;

**Gas** means natural gas meeting the Gas Specification, and Non-Specification Gas knowingly accepted for receipt as Non-Specification Gas by Service Provider pursuant to clauses D.23.4 and D.23.5 of the Terms and Conditions;

**Gas Day** means a period of 24 consecutive hours, beginning and ending at 8:00 am. When referring to a particular Gas Day the date of that Gas Day shall be the date on which that Gas Day begins;

**Gas Specification** means the 'Receipt Gas Specification' and 'Delivery Gas Specification' set out in Appendix 2 of the Terms and Conditions and any amendments to Appendix 2 of the Terms and Conditions subsequently approved by the Regulator;

**GGP Act** means the Goldfields Gas Pipeline Agreement Act 1994 (WA);

**GGP State Agreement** means the agreement scheduled to the GGP Act;

**GGT** has the meaning in section 1.3 of the Access Arrangement;

**GGTJV** or **Goldfields Gas Transmission Joint Venture** means the unincorporated joint venture between the Owners known as the Goldfields Gas Transmission Joint Venture;

**GGTJV Agreement** means the agreement entered into between the Owners in respect of the joint venture relating to the Pipeline;

**GJ** or **Gigajoule** means one gigajoule and is equal to one thousand MJ;

**Good Engineering and Operating Practice** means generally accepted practices, methods, acts and omissions practised in the Australian pipeline industry at the relevant time to operate, maintain and repair a pipeline, exercising reasonable judgement, lawfully, safely, reliably, efficiently and economically, having regard to the type, size, design, configuration, location and other attributes and operating conditions of the Pipeline;

**Goods and Services Tax** or **GST** means the tax payable on taxable supplies under the GST Law;

**Governmental Authority** means a government, governmental authority or department, statutory authority, administrative authority or regulatory agency;

**Gross Heating Value** or **GHV** expressed in MJ/m<sup>3</sup> means the energy produced by the complete combustion of one Cubic Metre of Gas with air, at a temperature of 15°C and at an absolute pressure of 101.325 kPa, with the Gas free of all water vapour, the products of combustion cooled to a temperature of 15°C and the water vapour formed by combustion condensed to the liquid state;

**Gross Negligence** means a negligent act or omission, committed with reckless disregard for the consequences and the circumstances where the negligent Party knows or ought to know that those consequences would likely result from the act or omission, an which is not due to an honest mistake, oversight, error of judgement or accident;

**GST Law** means A New Tax System (Goods and Services Tax) Act 1999 (Cth)

**Hour** means a period of 60 consecutive minutes, beginning on the hour, in any Gas Day;

**Imbalance** means, in respect of a period of time, the difference between the quantity of Gas received from or on account of the User at the Receipt Point during that period and the aggregate of the quantity of Gas transported to or on account of the User at the Delivery Point(s) during that period. For any period, an Imbalance is **positive** when receipt quantities exceed delivery quantities, and **negative** when delivery quantities exceed receipt quantities, during the period;

**Imbalance Allowance** has the meaning given to it in the Details;

**Imbalance Rate** has the meaning given to it in the Details;

**Imbalance Charge** means the charge payable by User in accordance with section 4.2 of the Access Arrangement;

**Incremental Services** means pipeline services (as defined in the NGL) provided by means of an Extension or Expansion;

**Individual Share** means the Owners' respective interests in the GGTJV;

**Information Interface** means any secure, digital interface operated by Service Provider and used by the User for:

- (a) submitting Nominations under the Transportation Agreement; and
- (b) obtaining access to information regarding receipts, delivery, balances and gas flows under the Transportation Agreement;

**Initial Committed Capacity** has the meaning in subclause (3) of clause 8 of the GGP State Agreement and for the avoidance of doubt such capacity may from time to time be utilised or unutilised;

**Initial Customers Agreements** means:

- (a) any agreements of the kind referred to in subclause (1) of clause 8 of the GGP State Agreement by which each Joint Venturer reserved to itself, for such period and on such terms as the Joint Venturers agreed, access to such of the transmission capacity of the Pipeline as it requires for the transmission of such gas as each Joint Venturer or its associates (as defined in the GGP State Agreement) may require;

- (b) any commitments procured under subclause (2) of clause 8 of the GGP State Agreement by which Third Parties (as defined in the GGP Agreement and including (but not limited to) any one or more of the Joint Venturers, acting independently of the other Joint Venturers and outside the scope of the joint venture between them) gave binding commitment to purchase transmission capacity on terms and conditions acceptable to the Joint Venturers; and
- (c) any amendments, modifications, restatements or substitutions to each of the foregoing, including by way of any assignment or novation, made prior to the Relevant Date;

**Insolvent** means in relation to a Party:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it has had a controller appointed or is in liquidation, in provisional liquidation, under administration or wound up or has had a receiver or receiver and manager appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other Party); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this Agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the Law of any jurisdiction.

**Interconnect Party** means the User or another person, as the case may be, that operates Interconnection Facilities;

**Interconnection Facilities** means those pipeline facilities that are required to connect the Pipeline to the facilities of another person, and includes the Receipt Facilities and the Delivery Facilities;

**Interruptible Service** means the provision of Gas pipeline services by Service Provider, on a basis which in the sole discretion of Service Provider acting reasonably may be curtailed or interrupted from time to time.

**Joint Venturers** has the meaning in the GGP State Agreement and at the Relevant Date means the Owners and includes their respective predecessors in title;

**Joule** or **J** means the amount of work done when the point of application of a force of one newton is displaced a distance of one metre in the direction of the force;

**kPa** means one kilopascal and is equal to one thousand Pascals absolute;

**Line Pack** means the quantity of Gas, other than quantities of Gas being transported and System Use Gas, which the Service Provider determines is necessary to be in the Pipeline for the physical operation of the Pipeline from time to time in order to ensure that the Service Provider meets its obligations under all Transportation Agreements;

**Measurement Variance** means the difference in the total quantity of Gas measured at the Receipt Point and the total quantity of Gas measured at the Delivery Point(s) (taking into account Used Gas and changes in linepack) due solely to the measurement inaccuracies within the prescribed limits of accuracy of the meters as set out in the First Schedule of the General Terms and Conditions;

**Maximum Daily Quantity** or **MDQ** means the maximum quantity of Gas which Service Provider is from time to time obliged to receive at the Receipt Point and/or deliver at a Delivery Point (as applicable) to or on account of the User on any Gas Day, and if in respect to a particular Service the quantity for that particular Service. Where the term is used in relation to a Transportation Agreement other than the User's Transportation Agreement, the term means the maximum quantity of Gas which the Service Provider is obliged to deliver on any Gas Day under that Transportation Agreement or the relevant Service under the Transportation Agreement (as applicable);

**Maximum Hourly Quantity** or **MHQ** means the maximum quantity of Gas which Service Provider is from time to time obliged to receive at a Receipt Point and/or deliver at a Delivery Point (as applicable) to or on account of the User in any Hour, and if in respect to a particular Service, the quantity for that particular Service. Where the term is used in relation to a Transportation Agreement other than the User's Transportation Agreement, the term means the maximum quantity of Gas which the Service Provider is obliged to deliver in any Hour under that Transportation Agreement.

**Metering and Measurement Requirements** means specifications published by Service Provider from time to time for metering and measurement in relation to the Pipeline, which have been made available to the User, are consistent with Appendix 1 and ensure that Good Engineering and Operating Practices are observed reasonably and efficiently (consistent with achieving the national gas objective set out in section 23 of the National Gas Law);

**Metering Equipment** means all the equipment and facilities reasonably and efficiently required to be installed or provided at each Receipt Point to conform to the Metering and Measurement Requirements (and consistent with achieving the national gas objective set out in section 23 of the National Gas Law);

**MJ** means one megajoule and is equal to one million Joules;

**Month** means the period beginning on the first Gas Day of a calendar month and ending at 8:00 am on the first Gas Day of the next calendar month;

**National Gas Access (Western Australia) Law** has the meaning given in section 3 of the National Gas Access (WA) Act 2009 (WA);

**National Gas Law** or **NGL** means the National Gas Access (Western Australia) Law applying pursuant to the National Gas Access (WA) Act 2009 (WA);

**National Gas Rules** or **NGR** means the National Gas Rules referred to in section 294 of the NGL;

**Negotiated Service** has the meaning in section 2.3 of the Access Arrangement;

**Negotiated Service Agreement** means an agreement between the Owners and the User for the provision of a Negotiated Service, which arises under and in accordance with the Access Arrangement and is constituted by:

- (a) the executed and accepted Order Form and all attachments to it, as documented in the items of the Order Form;
- (b) any Conditions that may apply (whether on the Order Form or otherwise); and
- (c) the terms and conditions and any other special conditions negotiated by the Owners and the User;

**Negotiated Service Reserved Capacity** means that part of the Capacity of the Covered Pipeline which has been contracted for a Negotiated Service and for the avoidance of doubt excludes the Initial Committed Capacity;

**Negotiated Transportation Agreement** means an agreement between Service Provider and the User for the provision of a Negotiated Service, which arises under and in accordance with the Access Arrangement;

**New Capital Expenditure** has the meaning given to it under Rule 79;

**Nomination** means a request by the User to the Service Provider for a Service under a Transportation Agreement, given in accordance with the Transportation Agreement, in the manner and form (which may include by digital interface) advised by Service Provider from time to time. **Nominate** has a corresponding meaning;

**Nomination Deadline** means 4.00 pm Australian Western Standard Time on the Gas Day prior to which the Nomination relates (or such other time as the Service Provider advises the User in writing from time to time);

**Non-Specification Gas** means substances with one or more characteristics outside the limits defined in the Gas Specification;

**Notice of Auction for Spare Capacity** means a notice issued in accordance with section 5.2.3 of the Access Arrangement;

**Opening Capital Base** has the meaning given to it under Rule 77;

**Order Form** means a form, subject to change, under which, when completed and signed by User and Service Provider, indicates that the Prospective User has accepted the terms of the Access Arrangement and the Terms and Conditions.

**Other Tariff Charges** means the charges listed in section 4.2.1 of the Access Arrangement, when used in the Access Arrangement, and means the charges listed in clause D.10.1 of the Terms and Conditions when used in the Terms and Conditions;

**Overrun** means an Authorised Overrun or an Unauthorised Overrun (as the case may be);

**Overrun Charge** means an Authorised Overrun Charge or an Unauthorised Overrun Charge (as the case may be);

**Overrun Quantity** means each quantity of Gas which is delivered to or on account of the User at each Delivery Point:

- (a) on a Gas Day in excess of:
  - (i) if Service Provider curtails deliveries in accordance with clause D.7.1 of the Terms and Conditions, the quantity of Gas (if any) Scheduled for transportation on a firm basis up to the Delivery Point MDQ and not curtailed; or
  - (ii) otherwise, the lesser of the Delivery Point MDQ and the quantity of Gas (if any) Scheduled to be delivered at that Delivery Point on that Gas Day to or on account of User; or
- (b) at a rate per Hour in excess of the Delivery Point MHQ for the relevant Delivery Point (or, if Service Provider curtails deliveries in accordance with clauses D.7 of the Terms and Conditions, at a rate per Hour in excess of the curtailed rate);

**Owners** has the meaning in section 1.3 of the Access Arrangement;

**Party** means Service Provider and the User, respectively and **Parties** means both the Service Provider and the User;

**Pipeline** or **Goldfields Gas Pipeline** means the pipeline as defined in Pipeline Licence 24 issued under the Petroleum Pipelines Act 1969 (WA), being the pipeline or pipeline system for the transmission of natural gas from the North-West of Western Australia into the inland Pilbara and Goldfields regions, together with all structures for protecting or supporting the pipeline or pipeline system and

associated facilities for the compression of gas, the maintenance of the pipeline and the receipt and delivery of gas and all fittings, appurtenances, appliances, compressor stations, scraper stations, mainline valves, telemetry systems (including communication towers) works and buildings used in connection with the pipeline or pipeline system and includes the lateral pipeline to Newman;

**Pipeline Licence** means the pipeline licence issued by the relevant Governmental Authority, as amended or replaced, to construct and operate the Pipeline;

**Pre-existing Contractual Right** has the meaning given to 'relevant protected contractual right' in section 321 of the National Gas Law, and the date referred to therein as the "date that (proposed) access arrangement was submitted (or required to be submitted) for approval" for the purposes of the Access Arrangement is the Relevant Date, and for avoidance of doubt includes any contractual right (other than a 'relevant exclusivity right' as defined in section 321 of the National Gas Law, as evidenced by the Initial Customers Agreements and the Existing Contracts;

**Prospective User** has the meaning given to it in the National Gas Law;

**Prudential Requirements** has the meaning given in section 2.1.2 of the Access Arrangement and clause D.3 of the Terms and Conditions;

**Quantity Variation Charges** means all or any of the Overrun Charge, Imbalance Charge and Daily Variance Charge;

**Quarter** means a period of 3 Months commencing on the first day of the Months of July, October, January and April and **Quarterly** has a corresponding meaning;

**reasonable and prudent pipeline operator** means a person, firm or body corporate who, in the conduct of its undertaking, exercises that degree of diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced operators engaged in the same type of undertaking under the same or similar circumstances and conditions in accordance with applicable laws, regulations and standards, and any reference to the **standard of a reasonable and prudent pipeline operator** shall mean such degree of diligence, prudence and foresight;

**Receipt Facilities** means the facilities required for the receipt of Gas into the Pipeline in accordance with Good Engineering and Operating Practice.

**Receipt Point** is a point in the Pipeline where gas is received into the Pipeline. In respect of the Reference Service, the Receipt Point is the existing Receipt Point at Yaraloola;

**Receipt Point MDQ** means the MDQ applicable to the User at a particular Receipt Point as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User;

**Receipt Point MHQ** means the MHQ applicable to the User at a particular Receipt Point as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User, provided that the MHQ must be no greater

than the figure produced by the formula  $MDQ / 24 \times 1.2$ , where MDQ is the Receipt Point MDQ for the particular Receipt Point;

**Reference Service** has the meaning in section 2 of the Access Arrangement, and is also referred to as the Firm Service;

**Reference Service Agreement** means an agreement between the Owners and the User for the provision of the Reference Service, which arises under and in accordance with the Access Arrangement and is constituted by:

- (a) the executed and accepted Order Form and all attachments to it;
- (b) any conditions that may apply (whether on the Order Form or otherwise); and
- (c) the Terms and Conditions;

**Reference Tariff** has three components, being the Toll Charge, the Capacity Reservation Charge, and the Throughput Charge;

**Reference Tariff Component** means the Toll Charge, the Capacity Reservation Charge, and the Throughput Charge that make up the Reference Tariff;

**Reference Tariff Variation Mechanism** is the mechanism to vary Reference Tariffs referred to in section 4.5 of the Access Arrangement;

**Registration of Interest** means a registration of interest lodged in accordance section 5.1.1 of the Access Arrangement;

**Regulator** means the relevant Regulator for Western Australia under the National Gas Access (Western Australia) Law;

**Related Body Corporate** in relation to a body corporate, means a body corporate that is related to the first mentioned body by virtue of section 50 of the Corporations Act;

**Relevant Date** means 15 August 2014;

**Review Commencement Date** has the meaning in section 1.7 of the Access Arrangement;

**Revisions Submission Date** has the meaning in section 1.7 of the Access Arrangement;

**SCADA** means the supervisory control and data acquisition system for data gathering, monitoring and controlling of the Pipeline operations;

**Schedule** has the meaning in clauses D.5.1 to D.5.4 (inclusive) of the Terms and Conditions;

**Scheduled Reference Tariff Variation Date** means the dates on which the Scheduled Reference Tariff Variation Mechanism allows for the Reference Tariff to be varied, in accordance with Schedule A;

**Scheduled Reference Tariff Variation Mechanism** is the Reference Tariff Variation Mechanism described in section 4.5.1 of the Access Arrangement;

**Scheduled Reference Tariff Variation Notice** is a notice provided to the Regulator in accordance with section 4.5.1 of the Access Arrangement;

**Service** means:

- (a) a Reference Service; or
- (b) a Negotiated Service;

**Service Agreement** means a Reference Service Agreement or a Negotiated Service Agreement, as the context requires;

**Service Period** means the period from the Commencement Date until the Termination Date;

**Service Provider** has the meaning in section 1.4 of the Access Arrangement and includes Service Provider's successors and permitted assigns;

**Spare Capacity** in respect of the Covered Pipeline means at any time the aggregate of:

- (a) any difference between:
  - (i) the Capacity of the Covered Pipeline; and
  - (ii) the total of:
    - (A) the Firm Service Reserved Capacity;
    - (B) the Negotiated Service Reserved Capacity; and
    - (C) the Initial Committed Capacity; plus
- (b) any difference between:
  - (i) the Firm Service Reserved Capacity; and
  - (ii) the Firm Service Reserved Capacity then being used; plus
- (c) any difference between:
  - (i) the Negotiated Service Reserved Capacity; and
  - (ii) the Negotiated Service Reserved Capacity then being used; plus
- (d) any difference between:
  - (i) the Initial Committed Capacity; and

(ii) the Initial Committed Capacity then being utilised,

to the extent that this does not deprive any person of a Pre-existing Contractual Right;

**Spare Capacity Notice** means a notice pursuant to section 5.2.2 of the Access Arrangement;

**Spare Capacity Register** has the meaning in Rule 111.

**Speculative Capital Expenditure Account** has the meaning given in Rule 84.

**State** means the State of Western Australia;

**Surcharge** has the meaning given to it in Rule 83.

**System Use Gas** means the quantities of gas:

- (a) used as compressor fuel and for other purposes necessary for the management, operation and maintenance of the Pipeline; or
- (b) otherwise lost and unaccounted for in connection with the operation of the Pipeline,

other than Line Pack and Gas lost through the negligence of the Service Provider;

**Tax or Taxes** means any tax, levy, impost, deduction, charge, rate, rebate, duty, fee or withholding which is levied or imposed by a Governmental Authority;

**Tax Invoice** has the meaning in the GST Law;

**Term of Transportation Agreement** or **Term** means the period from the Date of Transportation Agreement, subject to earlier termination in accordance with these Terms and Conditions, until the Termination Date, subject to early termination pursuant to relevant provisions of the Transportation Agreement and shall expire on the Termination Date;

**Termination Date** means the earlier of the date for termination of the Service as specified in the applicable Order Form or the date on which the Transportation Agreement is terminated;

**Terms and Conditions** refer to the terms and conditions for the Firm Service set out in Schedule D;

**Throughput Charge** is calculated in accordance with section 4.1 of the Access Arrangement;

**Throughput Tariff** has the meaning in Schedule A (Details) of the Access Arrangement;

**TJ** means one terajoule and is equal to one thousand GJ;

**Toll Charge** is calculated in accordance with section 4.1 of the Access Arrangement;

**Toll Tariff** has the meaning in Schedule A (Details) of the Access Arrangement;

**Total Revenue** is the total revenue for the Access Arrangement Period for the Covered Pipeline determined in accordance with Rule 76 of the National Gas Rules, and can be varied during the Access Arrangement Period as Reference Tariffs are varied through the operation of the Reference Tariff Variation Mechanism as set out in section 4.5 of the Access Arrangement.

**Transportation Agreement** means any contract entered into between the Service Provider and a User for Services for that User (including a Service Agreement where applicable) and, as regards the Firm Service, means a contract entered into between the Service Provider and a User using the Order Form and the Terms and Conditions, and where used in relation to such a User, means that User's contract for the Firm Service;

**Unauthorised Imbalance** means any Imbalance which is not an Authorised Imbalance;

**Unauthorised Overrun** has the meaning given to it in section 2.2.3.

**Unauthorised Overrun Charge** has the meaning given in section 4.2.2 of this Access Arrangement;

**Unauthorised Overrun Quantity** means the amount of an Overrun Quantity which is attributable to an Unauthorised Overrun.

**Unauthorised Overrun Rate** has the meaning given in the Details of the Access Arrangement;

**User** means, as the context requires:

- (a) the 'User' of a Reference Service having the meaning given to it in the National Gas Law; and/or
- (b) a person who is a party to a Transportation Agreement with the Service Provider on the Pipeline who is provided services other than Reference Service;

**Used Gas** means Gas used, consumed or lost by Service Provider acting as a reasonable and prudent pipeline operator in the operation of the Pipeline, including Measurement Variance, instrument gas, compressor fuel, line loss and Gas which has been vented;

**User's Line Pack** means the quantity of Gas, in the Pipeline at any time, received by the Service Provider on account of the User under the Transportation Agreement, other than quantities of Gas Scheduled for transportation and System Use Gas;

**Variation Year** has the meaning in Schedule A to the Access Arrangement;

**Wilful Misconduct** means any act or omission done or omitted to be done with deliberate or reckless disregard for foreseeable, harmful and avoidable consequences which is not otherwise an act or omission done in good faith;

**Year** means a period of 365 consecutive Gas Days but, for any Year which contains a date of 29 February, means 366 consecutive Gas Days.

## **C.2 Interpretation**

Subject to the definitions above, the terms used in the Details (such as Pipeline) have the meaning set out in the Details.

Unless the context requires otherwise:

- (a) a reference to a 'Rule' is a reference to a Rule of the NGR;
- (b) a reference to a 'section' or a 'schedule' is a reference to a section in, or schedule to, this Access Arrangement;
- (c) a reference to a 'clause' or to an 'appendix' is a reference to a clause in, or appendix to, Schedule D;
- (d) the singular includes the plural and the opposite also applies;
- (e) references to any statute, regulations or other statutory instrument, standard or by-laws are deemed to be references to the statute, regulations, statutory instrument, standard or by-laws as are from time to time amended, consolidated, re-enacted or replaced, including substituted provisions that substantially correspond to those referred to;
- (f) words such as "including" or "for example" do not limit the meaning the words preceding them; and
- (g) all definitions above, have the same meaning in the Access Arrangement Information.

## **D Terms and Conditions applying to the Firm Service**

### **D.1 Term**

- D.1.1 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.
- D.1.2 If any additions or enhancements to the Pipeline which are required to provide the Service are not operational following the expiry of 12 Months from the Commencement Date the Parties may:
- (a) agree to defer the date for commencement of that Service to another date; or
  - (b) agree to the provision of a reduced scope of the Service which is feasible with the available Capacity; and
  - (c) if either clause D.1.2(a) or D.1.2(b) applies, agree the charges that will apply to reflect the new date for commencement or the reduced scope for the Service.
- D.1.3 If the Parties are unable to agree in accordance with either clause D.1.2(a), D.1.2(b) or D.1.2(c) then either Party may refer the matter for dispute resolution as provided for in clause D.29 of these Terms and Conditions. In the event that neither Party has referred the matter for dispute resolution within 30 days after the date of expiry of the period of 12 Months, the Transportation Agreement may be terminated by written notice by either Party without penalty or cost to either Party.

### **D.2 A Applicability and Character of Service**

- D2 A.1 The objective of the Firm Service is to transport energy in the form of natural gas between a Receipt Point and Delivery Point(s).
- D2 A.2 Subject to and in accordance with the terms of the Transportation Agreement, Service Provider will receive from the User into the Pipeline at the Receipt Point quantities of Gas up to the Receipt Point MDQ and deliver from the Pipeline at the Delivery Point(s) quantities of Gas up to the relevant Delivery Point MDQ and Delivery Point MHQ.
- D2 A.3 The Delivery Point(s) shall be downstream of the Receipt Point where the direction of flow is defined by Service Provider (acting as a reasonable and prudent pipeline operator).
- D2 A.4 The Firm Service will be provided on a firm basis and not be subject to curtailment or interruption except as expressly provided in the Transportation Agreement.

## **D.2 Obligation to provide the Firm Service**

- D.2.1 These are the Terms and Conditions applicable to the provision by Service Provider of the Firm Service to the User under and for the purposes of the Access Arrangement and a Transportation Agreement.
- D.2.2 Expressions defined in Schedule TC1.1 have those meanings when used in these Terms and Conditions, unless the content otherwise requires. These Terms and Conditions are to be interpreted in accordance with Schedule TC1.2.
- D.2.3 Where User has entered into a Transportation Agreement with Service Provider to provide the Firm Service, Service Provider will provide the Firm Service to User in accordance with these Terms and Conditions.

## **D.3 Prudential Requirements**

- D.3.1 Service Provider may:
- (a) acting reasonably, require the User to provide, prior to commencement of the Firm Service and thereafter as reasonably required, financial security in a form and for an amount acceptable to Service Provider (acting reasonably) and User must maintain it for 6 months after termination of the Transportation Agreement, for the performance of the User's obligations under the Transportation Agreement; and
  - (b) where the User:
    - (i) fails to pay when due any amounts payable under the Transportation Agreement, excepting any contested amounts; or
    - (ii) fails to obtain and maintain any Approvals required to meet its obligations under the Transportation Agreement; or
    - (iii) has a material adverse change to its credit rating or credit worthiness during the term of the Transportation Agreement and does not provide Service Provider with additional financial security as reasonably required to reflect this change in circumstance,
- subject to providing at least 7 Gas Days written notice to the User, refuse to provide or suspend the provision of the Firm Service, without liability to the User.
- D.3.2 In determining the amount of the financial security Service Provider requires the User to provide under clause D.3.1(a), Service Provider must have regard to:
- (a) the nature and extent of the User's obligations under the Transportation Agreement;

- (b) the financial position of the User and the User's parent company (where applicable);
- (c) the riskiness of the User's project in regard to which the Service is required; and
- (d) whether provision of the Service to the User requires expenditure of additional capital.

D.3.3 If the financial security provided under clause D.3.1 takes the form of a deposit, Service Provider shall deposit the amount in an interest bearing account maintained with a reputable financial institution to be held pending the complete performance by the User of its obligations under the Transportation Agreement or any default by the User under clause D.31.1. If the User defaults under clause D.31.1 then in addition to its remedies thereunder Service Provider may operate the account and apply all principal and interest therein towards remedying the default, if it is capable of remedy. Upon the expiry of 6 months from the completion of all of the User's obligations Service Provider will pay to the User the balance of the account less any Charges or Taxes but including any accrued interest balance.

#### **D.4 A MDQ and MHQ**

D.4 A.1 At the commencement of the Transportation Agreement the User will be required to:

- (a) establish for each Contract Year a Firm MDQ and a Firm MHQ which fairly reflect the User's expected requirements; and
- (b) advise Service Provider of its expected Firm MDQ and Firm MHQ requirements at the beginning of each Contract Year by indicating same on its Order Form.

D.4 A.2 The Firm Service may include multiple Delivery Points and in those circumstances the User must also establish an MDQ and MHQ for each Delivery Point which fairly reflects the User's expected requirements at each Delivery Point by maintaining records of Nominations for receipt or delivery which it submits to Service Provider pursuant to clause D.4 of these Terms and Conditions.

D.4 A.3 The MHQ in either case will be no greater than the figure produced by the formula:

$$\text{MDQ} \div 24 \times 1.2$$

D.4 A.4 Except as an Authorised Overrun, Service Provider will not be obliged:

- (a) on any Gas Day, to receive or deliver a quantity of Gas greater than the Firm MDQ;
- (b) on any Gas Day, to receive at a Receipt Point a quantity of Gas, excluding System Use Gas and the User's Line Pack, greater than the applicable Receipt Point MDQ or to deliver at

any Delivery Point a quantity of Gas greater than the applicable Delivery Point MDQ; or

- (c) in any Hour, to receive at a Receipt Point a quantity of Gas greater than the MHQ for that Receipt Point, or to deliver at any Delivery Point a quantity of Gas greater than the MHQ for that Delivery Point.

#### **D.4 Nominations**

D.4.1 Not later than 3 Gas Days prior to the start of each Month, the User will give to Service Provider a completed Nomination of the quantities of Gas required by the User to be received at the Receipt Point and delivered at each Delivery Point, on each Gas Day of that Month, which quantities shall not exceed the MHQ or the MDQ for that Receipt Point or that Delivery Point, respectively. If the User fails to make a Nomination then the User's previous valid nomination shall apply.

D.4.2 The User may revise its Nomination:

- (a) for a Delivery Point for a Gas Day; or
- (b) for the Receipt Point for a Gas Day,

by giving Service Provider an updated Nomination for that Gas Day prior to the Nomination Deadline.

D.4.3 Service Provider is not liable to provide Services Nominated by the User (other than to process that Nomination in accordance with the relevant nomination provisions of the Transportation Agreement) except to the extent that Service Provider Schedules the Firm Service for the User in accordance with the Transportation Agreement.

D.4.4 Service Provider will not be obliged to receive or deliver on any Gas Day a quantity of Gas in excess of the quantities Scheduled.

D.4.5 The User must promptly comply with all reasonable directions of Service Provider, (including by making or varying Nominations), given in order to facilitate compliance with any lawful direction or requirement of a Governmental Authority.

#### **D.5 Scheduling**

D.5.1 Following the receipt of the User's Nomination (including any revision of the User's Nomination in accordance with clause D.4.1), Service Provider must (subject to any adjustments Service Provider (acting reasonably) deems necessary to maintain the operational integrity of the Pipeline in accordance with Good Engineering and Operating Practice or to comply with any laws and subject to certain other exceptions specified in these Terms and Conditions), in respect of each Gas Day to which the Nomination relates, Schedule for acceptance at the Receipt Point and Delivery Points the lesser of:

in respect of a Receipt Point,

- (a) the quantity of Gas Nominated by the User at the Receipt Point for that Gas Day; and
- (b) the aggregate quantity of Gas confirmed for supply on account of the User at the Receipt Points for that Gas Day by Interconnect Parties at the Receipt Point; and

in respect of a Delivery Point,

- (c) the quantity of Gas Nominated by the User for delivery at the Delivery Point for that Gas Day; and
- (d) the quantity of Gas confirmed for acceptance on account of the User at the Delivery Points for that Gas Day by the Interconnect Parties at the Delivery Point.

D.5.2 If there is not sufficient Capacity to transport all the quantities of Gas Nominated by all Users on a Gas Day, then Service Provider will (subject to any laws and the operability of applicable gas markets and pipeline networks) Schedule the quantities nominated by Users (including the User) in the following priority and sequence:

- (a) First – quantities nominated by Users under Firm Service Transportation Agreements, not to exceed their respective MDQs for firm transportation services. If the capacity available is not sufficient to serve all such Firm Service Users' nominated quantities, then the available capacity will be allocated among those Users pro rata on the basis of their respective MDQs. To the extent reasonably practicable, such Scheduling limitations will be applied only to the portion or portions of the Pipeline that are capacity constrained.
- (b) Second – quantities nominated by Users under Transportation Agreements for Negotiated Services, not to exceed their respective MDQs for Negotiated Services. If the capacity available is not sufficient to serve all Users' Nominations pursuant to those Negotiated Services, then the available capacity will be allocated among those Users pro rata based on their Nominations for those Negotiated Services.
- (c) Third – quantities accepted for transportation by Service Provider from Users as an Authorised Overrun under the Users' Transportation Agreement or Authorised Overruns under other Transportation Agreements for Firm Services or Negotiated Services (as the case may be). If the capacity available is not sufficient to serve all Users' Nominations pursuant to Authorised Overruns, then the available capacity will be allocated among those Users pro rata based on their Nominations for those Authorised Overruns.
- (d) Fourth – quantities accepted for transportation by Service Provider from Users under Transportation Agreements for Negotiated Services in excess of their respective MDQs for Negotiated Services, (otherwise referred to as Interruptible Services). If the capacity available is not sufficient to serve all Users requesting that service, then Service Provider will

allocate the available capacity first on the basis of the highest tariff being paid, second on a first-come, first-served basis, based upon the date of execution of the Transportation Agreement for Negotiated Services and third on a pro rata basis among Users who have entered into a Transportation Agreement for Negotiated Services on the basis of Nominated quantities.

- D.5.3 In accordance with clauses D.5.1 to D.5.45 (inclusive) of these Terms and Conditions, Service Provider may Schedule or re-Schedule at any time receipts and deliveries Nominated by the User, without liability to the User and must give the User notice (which may be via the Information Interface) of any proposed Scheduling or re-Scheduling as soon as reasonably practicable, but in any event within 24 hours after the receipts or deliveries have been Scheduled or re-Scheduled.
- D.5.4 If on Service Provider's request, the User does not provide a schedule of its nomination priorities for the purpose of Scheduling within a reasonable time then Service Provider may, without liability to the User, select which Nominated receipts or deliveries will not be Scheduled to balance the User's Scheduled receipts and deliveries.
- D.5.5 The Parties acknowledge and agree that from time to time there may be Measurement Variance. For the purpose of the Transportation Agreement, the quantities of Gas as measured at the Receipt Point or Delivery Point(s), or as Used Gas, shall be deemed to be the true and correct measure of the quantity of Gas so measured unless it is shown that the measurements are incorrect by more than is allowed by the prescribed limits of accuracy of the meters as set out in Appendix 1.

## **D.6 Changing delivery and receipt points**

- D.6.1 The User may, by giving at least 45 Gas Days written notice before the proposed change, request substitution of all or part of an existing Receipt Point MDQ for a Receipt Point or Delivery Point MDQ for a Delivery Point to another Receipt Point or Delivery Point (respectively) provided the proposed substitution is to a Receipt Point or Delivery Point which has all the necessary facilities required to be located at the applicable Receipt Point or Delivery Point.
- D.6.2 Service Provider may withhold its consent to all or part of the above request on reasonable commercial or technical grounds or make its consent subject to conditions which are on reasonable commercial or technical grounds.
- D.6.3 Service Provider will notify the User, within 30 Gas Days of receiving the User's notice, whether it can consent to all or part of the User's request.
- D.6.4 If the Delivery Point MDQ for a Delivery Point is substituted, the amount payable under the Transportation Agreement will be no less than what was payable prior to the substitutions having been made.

## D.7 Curtailment

- D.7.1 If on any Gas Day the Capacity of the Pipeline or any portion of it, or the capacity of the Receipt Point or any Delivery Point, is insufficient to serve all the quantities of Gas Scheduled for all Users, then Service Provider must curtail or interrupt the receipt, transportation or delivery of Gas (as the case may be) in accordance with the sequence and priorities set out below to the extent necessary to provide transportation services within the capacity of the Pipeline on the Gas Day (subject to any laws and the operability of applicable gas markets and pipeline networks);
- (a) First – Unauthorised Overrun Quantities under the User's Transportation Agreement and unauthorised overrun quantities under other Transportation Agreements.
  - (b) Second – quantities Scheduled pursuant to Transportation Agreements for Negotiated Services for Users in excess of their respective MDQs for Negotiated Services (namely for Interruptible Services), except for quantities referred to in paragraph (c). If the capacity available is not sufficient to serve all the Users requesting such service, then Service Provider will allocate the available capacity first on the basis of the highest tariff being paid, second on a first-come, first-served basis, based upon the date of execution of the Transportation Agreement for such Negotiated Services and third on a pro rata basis among the Users who have entered into Transportation Agreements for Negotiated Services on the basis of Scheduled quantities.
  - (c) Third – quantities accepted for transportation by Service Provider from Users as an Authorised Overrun under the Users' Transportation Agreement or Authorised Overruns under other Transportation Agreements, for Firm Services or Negotiated Services (as the case may be). If the capacity available is not sufficient to serve all Users' Authorised Overruns then the available capacity will be allocated among those Users pro rata based on Scheduled Authorised Overruns.
  - (d) Fourth – quantities for transportation for the Users with Transportation Agreements for Negotiated Services, up to their respective MDQs for those Negotiated Services (other than quantities referred to in paragraph D.7.1(e)). If the capacity available is not sufficient to serve all such Users' Negotiated Service quantities (other than those referred to in paragraph D.7.1(e)), then the available capacity will be allocated among those Users pro rata based on the Scheduled quantities.
  - (e) Fifth – quantities Scheduled for transportation to Users pursuant to Firm Service Transportation Agreements, not to exceed their respective MDQs for firm transportation services. If the capacity available is not sufficient to serve all such Users' quantities then the available capacity will be allocated among those Users' pro rata on the basis of their respective MDQs for firm transportation services.

- D.7.2 Nothing in clause D.7.1 is to be taken as excluding, restricting or modifying Service Provider's liability in respect of any curtailment of or interruption to the receipt, transportation or delivery of gas.

## **D.8 A Overruns**

- D.8 A.1 An Unauthorised Overrun will occur where the User incurs an Overrun Quantity on a Gas Day or in an Hour which is not an Authorised Overrun.

- D.8 A.2 An Authorised Overrun is:

- (a) the receipt by Service Provider at the Receipt Point of quantities of Gas Nominated by the User in excess of the Receipt Point MDQ, at a rate per Hour Nominated by the User;
- (b) the transportation of the Gas referred to in subclause (a) on an interruptible basis; and
- (c) the delivery by Service Provider to the User or for User's account at the Delivery Points of quantities of Gas Nominated by the User, in excess of the applicable Delivery Point MDQ or in aggregate exceeding the Firm MDQ, at a rate per Hour Nominated by the User including System Use Gas and User's Line Pack.

- D.8 A.3 An Authorised Overrun is requested by the User as part of the User's Nomination for the Firm Service by the User requesting an amount greater than the User's Firm MDQ or relevant Receipt Point or Delivery Point MDQ (as the case may be).

- D.8 A.4 Service Provider is not obliged to provide an Authorised Overrun, or to provide an Authorised Overrun in respect of quantities or at a rate Nominated by the User where:

- (a) the provisions of the Authorised Overrun for the transportation of the requested quantities would cause Service provider to curtail a service under a Transportation Agreement:
  - (i) for another User up to its MDQ on that Gas Day; or
  - (ii) already Scheduled for transportation to another User at the time the User's Nomination is received; or
- (b) clauses D.5.1 to D.5.45 (inclusive) of these Terms and Conditions operate to exclude or reduce the provision of the Authorised Overrun.

- D.8 A.5 If the User request an Authorised Overrun it must give Service Provider a Nomination for that Gas Day. User may but need not, Nominate its Authorised Overrun with its monthly Nomination for the Firm Service (at least 3 Gas Days before the Month starts) but must nominate its Authorised Overrun by no later than the Nomination Deadline of 4.00pm on the day before the relevant Gas Day.

- D.8 A.6 Upon receipt of the Nomination, Service Provider must review the availability of the Authorised Overrun and must, as soon as possible, advise User that:
- (a) the Authorised Overrun is available;
  - (b) the Authorised Overrun is available for the relevant Gas Day but not as requested, together with the Authorised Overrun that is available on the relevant Gas Day; or
  - (c) the Authorised Overrun is not available for the relevant Gas Day.
- D.8 A.7 If pursuant to clause D.8A.6(a) above, Service Provider advises the User that the Authorised Overrun is available then the User's request constitutes a Nomination for an Authorised Overrun in accordance with these Terms and Conditions.
- D.8 A.8 Within one hour of receipt of an advice under clause D.8A.6(b) above, the User may request provision of the Authorised Overrun described by Service Provider in its advice under that clause and the request constitutes a Nomination for the Authorised Overrun in accordance with these Terms and Conditions.
- D.8 A.9 The User acknowledges that Service Provider cannot advise User of the availability of an Authorised Overrun under this clause D.8 A prior to Scheduling pursuant to clauses D.5.1 to D.5.45 (inclusive) of these Terms and Conditions for the relevant Gas Day.
- D.8 A.10 The user will be liable to pay Charges for Overruns (whether an Authorised Overrun on Unauthorised Overrun) as set out in clause D.10.2.
- D. 8A.11 If for a period of 30 Gas Days the Daily Overrun Quantity at the Delivery Point for each of those Gas Days is positive then Service Provider may give notice to the User ("**Overrun Notice**"). If on any Gas Day after the expiry of 7 Gas Days from receipt of the Overrun Notice, the User's Daily Overrun Quantity at the Delivery Point is positive then with effect from the next Gas Day then the User's MDQ will be increased by either:
- (a) the average of the Daily Overrun Quantity at the Delivery Point for a period of 12 months; or
  - (b) if the Transportation Agreement has been in force for less than 12 Months then the average of the Daily Overrun Quantity at the Delivery Point between the Commencement Date and the date of the Overrun Notice,
- and the Transportation Agreement will be deemed to be amended accordingly.

## D.8 Imbalances

- D.8.1 The User must use reasonable endeavours to ensure that receipts of Gas at the Receipt Point and deliveries of Gas at Delivery Points are

equal, adjusted for any Authorised Imbalances. 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 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 Gas Day.

- D.8.2 The User must promptly take steps to correct Unauthorised Imbalances or potential Unauthorised Imbalances by adjusting Nominations and co-ordinating receipts and deliveries with Service Provider or by exchanging all or part of their Imbalances with other Users in any way permitted by the User's Transportation Agreement, including by assigning by way of subcontract in accordance with clause D.36.7 (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).
- D.8.3 If Service Provider believes on reasonable grounds that its ability to transport the quantities of Gas Scheduled under the User's Transportation Agreement or any other Transportation Agreement may be impaired by an Unauthorised Imbalance and the User does not, within 7 Gas Days of receipt of a notice from Service Provider, take all steps reasonably practicable to correct such Unauthorised Imbalance as soon as possible, then Service Provider may (but is not obliged to) correct such Unauthorised Imbalance by reducing the User's receipts and/or deliveries of quantities of Gas or buying or selling sufficient quantities of the Gas or a combination of both, to the extent necessary to enable Service Provider to reduce the Unauthorised Imbalance to zero or transport the quantities of Gas Scheduled under the User's Transportation Agreement or any other Transportation Agreement, or to operate the Pipeline in accordance with Good Engineering and Operating Practice.
- D.8.4 Subject to clauses D.34.1 and D.34.2, the User will indemnify the Service Provider for all costs and expenses reasonably incurred by Service Provider in purchasing or selling Gas or re-Scheduling when making the correction contemplated in clause D.8.3 of these Terms and Conditions for an amount not exceeding the charges incurred by User with Service Provider as a result of Service Provider exercising its rights under clause D.8.3 provided that User will have no liability to indemnify Service Provider to the extent that Service Provider is compensated for the costs and expenses by some other means (such as, for example, via the Imbalance Charge) or that the costs and expenses are incurred:
- (a) as a result of Service Provider's, or Service Provider's Related Body Corporates', default or negligence; or
  - (b) as a result of a Force Majeure Event.
- D.8.5 When exercising its rights to purchase or sell Gas under clause D.8.3 Service Provider agrees to:

- (a) use reasonable endeavours to ensure that the price paid for the Gas which is bought or sold is reasonable;
- (b) provide User with documentation evidencing (to the User's reasonable satisfaction):
  - (i) the price paid for the Gas which is bought or sold; and
  - (ii) that the price paid for the Gas which is bought or sold is reasonable; and
  - (iii) where Gas is sold to or bought by an entity related to Service Provider, that the sale took place at arm's length and for a reasonable price having regard to market prices for Gas on that Gas Day.

## D.9 Reference Tariff and Charges

D.9.1 The amount payable by the User for the Firm Service (Reference Service) consists of the sum of:

- (a) **Toll Charge** (capacity based) as described in clause D.9.2;
- (b) **Capacity Reservation Charge** (capacity and distance based) as described in clause D.9.3; and
- (c) **Throughput Charge** (throughput and distance based) as described in clause D.9.4.

User will also pay any Other Tariff Charges applicable.

D.9.2 Toll Charge

During the Term of the Transportation Agreement the Toll Charge is the applicable Toll Tariff multiplied by the Firm MDQ (expressed in GJs) for the Delivery Point, multiplied by the number of Gas Days in a Month.

D.9.3 Capacity Reservation Charge

Subject to clause D.10.8, during the Term of the Transportation Agreement the Capacity Reservation Charge in a Month is the product of:

- (a) the applicable Capacity Reservation Tariff;
- (b) the distance, in pipeline kilometres, from the Receipt Point to the Delivery Point; and
- (c) the MDQ expressed in GJs for the Delivery Point multiplied by the number of Gas Days in the Month.

D.9.4 Throughput Charge

Subject to clause D.10.8, during the Term of Transportation Agreement the Throughput Charge for any Month is the product of:

- (a) the quantity of Gas delivered during that Month measured in GJs;
- (b) the applicable Throughput Tariff; and
- (c) the distance, in pipeline kilometres, from the Receipt Point to the Delivery Point.

**D.9.5 Toll, Capacity Reservation and Throughput Tariffs**

The Toll, Capacity Reservation and Throughput Tariffs to apply in the first Year of the Access Arrangement Period are set out in the Details, and will be adjusted each Year in accordance with the Reference Tariff Variation Mechanism set out in section 4.5.

**D.10 Other Charges**

**D.10.1 Other Tariff Charges**

Subject to clause D.10.6, the User may also be required to pay the following charges:

- (a) Overrun Charges as set out in clause D.10.2;
- (b) Imbalance Charge as set out in clause D.10.3;
- (c) Daily Variance Charge as set out in clause D.10.4; and
- (d) Charges in respect of Connection and Delivery Points as set out in clause D.10.5.

**D.10.2 Overrun Charges**

- (a) The User must pay an Overrun Charge for Overruns at a Delivery Point, except to the extent that Service Provider (or a Related Body Corporate of Service Provider) caused the Overrun without the prior approval of the User or if the Overrun occurred as a result of circumstances beyond the reasonable control of User.
- (b) A different charge applies to Authorised and Unauthorised Overruns, as set out in the Details.
- (c) The Authorised Overrun Charge is the product of:
  - (i) the Authorised Overrun Rate set out in the Details; and
  - (ii) the relevant Authorised Overrun Quantity excluding System Use Gas and User's Line Pack (expressed in GJ).
- (d) The Unauthorised Overrun Charge is the product of:
  - (i) the Unauthorised Overrun Rate set out in the Details; and

- (ii) the relevant Unauthorised Overrun Quantity (expressed in GJ).
- (e) The Unauthorised Overrun Charge is a pre-estimate of Service Provider's loss or damage (other than Consequential Loss) incurred or suffered by Service Provider in receiving, transporting or delivering Unauthorised Overrun Quantities.

#### D.10.3 Imbalance Charge

- (a) The provisions relating to Imbalances are set out in clauses D.8.1 to D.8.5 (inclusive) of the Terms and Conditions applying to the Firm Service.
- (b) Service Provider may charge the User an Imbalance Charge for each Gas Day on which an Imbalance, the absolute value of which exceeds the Imbalance Allowance, occurs, calculated by multiplying the Imbalance Rate set out in the Details by the amount which the aggregate of the absolute value of Unauthorised Imbalances for a Gas Day exceed the Imbalance Allowance for the Gas Day.

#### D.10.4 Daily Variance Charges

- (a) A **Daily Variance** occurs when the quantity of Gas:
  - (i) received from or on behalf of the User at a Receipt Point during a Gas Day is different from the quantity of Gas Scheduled for the User for that Receipt Point; or
  - (ii) delivered to or for the account of the User at a Delivery Point during a Gas Day is different from the quantity of Gas Scheduled for the User for that Delivery Point,the quantity of which at each Delivery Point and Receipt Point (as applicable), in GJ, is the **Daily Variance Quantity**.
- (b) If Service Provider, acting as a reasonable and prudent pipeline operator, believes that a Daily Variance has occurred because the User is not making Nominations in good faith, then Service Provider may give a notice to the User ("**Variance Notice**") requiring the User to nominate in good faith.
- (c) If on any Gas Day after the expiry of 21 Gas Days from receipt of a Variance Notice the Daily Variance Quantity:
  - (i) at a Receipt Point exceeds the Daily Variation Allowance; and
  - (ii) at a Delivery Point exceeds the Daily Variation Allowance, excluding any portion of that variation that has been caused by Service Provider or a Force Majeure Event, the User must pay to Service Provider the Daily Variance Charge for each Gas Day on which such an exceedance occurs until such time as the Variance Notice is withdrawn by Service Provider. If Service

Provider has issued the User with a Variance Notice, Service Provider may withdraw that Variance Notice at any time in its discretion and must withdraw that Variance Notice immediately if a period of 3 consecutive Months has elapsed without the User incurring the Daily Variance Charge.

- (d) The **Daily Variance Charge** for a Gas Day is calculated by multiplying the Daily Variance Rate set out in the Details by the Daily Variance Quantity for that Gas Day for a Receipt Point or a Delivery Point (as applicable) for which the Daily Variance Charge is payable under clause D.10.4(c) and aggregating the amounts calculated above for each relevant Receipt Point and Delivery Point.

#### D.10.5 Charges in respect of Connection and Delivery Points

- (a) Connection Charge

The User must pay to Service Provider for the commencement of a Firm Service, a once-only Connection Charge, payable on the Date of the Transportation Agreement, 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.

- (b) Additional Delivery Points during Term of Transportation Agreement

User must pay to Service Provider a Connection Charge for each new Delivery Point added during the Term of the Transportation Agreement, being the costs reasonably incurred by Service Provider in establishing the new Delivery Point(s) nominated by User.

Clause D.24.1 of these Terms and Conditions make provision for the connection of Delivery Facilities and the costs involved.

#### D.10.6 Quantity Variation Charges

- (a) Service Provider may only impose Quantity Variation Charges relating to Imbalances or Overruns where, in the reasonable opinion of Service Provider acting as a reasonable and prudent pipeline operator, the conduct contemplated by those charges:
  - (i) causes Service Provider or any User of the Pipeline loss or damage; or
  - (ii) exposes the Pipeline to significant risk (whether or not that risk becomes manifest) that threatens the integrity of the Pipeline.
- (b) Subject to clause D.10.6(a), the Quantity Variation Charges may be applied or waived solely at Service Provider's

discretion. Waiver of the application of any such charges at any time does not constitute any precedent for waiver of the application of such charges at any time in the future.

- (c) Notwithstanding clause D.10.6(a), Service Provider will waive a User's liability for an Accumulated Imbalance Charge and a Daily Variance Charge where the liabilities are incurred during a period of interruption or reduction of Services that is the direct responsibility of Service Provider.
- (d) Service Provider must, upon User's request, rebate 95 percent of Quantity Variation Charges in excess of Service Provider's direct costs and expenses associated with and arising from the User's acts or omissions which cause the Overruns or Imbalances to occur:
  - (i) to any other User of the Reference Service not having caused the particular Quantity Variation Charges to occur; and
  - (ii) which rebate will be paid to the non-offending Users, where relevant, at the end of each calendar year.
- (e) For the avoidance of doubt where there is no other User of the Reference Service at the time at which the Overruns or Imbalances occur then this rebate mechanism will not be activated.
- (f) Service Provider is not responsible for eliminating any Imbalances between the User and an Interconnect Party or any other person operating Interconnection Facilities and, except in certain circumstances (eg as required by Good Engineering and Operating Practice), is not obliged to adjust or deviate from its standard operating and accounting procedures in order to alleviate those imbalances.
- (g) At the conclusion of the Term, each Party will use reasonable endeavours to ensure the Accumulated Imbalance is set to zero. This may be accomplished by the User trading the Accumulated Imbalance with another User or with Service Provider within 7 days. If this is not achieved within 7 days, Service Provider will issue an invoice or refund for the value of the Accumulated Imbalance at gas prices reasonably nominated by Service Provider, which may vary from time to time.

#### D.10.7 General

- (a) Any charge payable by a User in respect of an Overrun, Imbalance or Daily Variance, or any other charge specified above, is payable in addition to, and not in substitution for, any other charge payable by the User and does not affect the Firm MDQ, Firm MHQ, Receipt Point MDQ or Delivery Point MDQ or Receipt Point MHQ of Delivery Point MHQ (as the case may be) specified in the Transportation Agreement except as provided for in section 2.2.3 of this Access Arrangement.

- (b) Service Provider may charge Users a Surcharge where permitted by the NGR. Service Provider will notify the Regulator of any proposed Surcharge to be levied on Users of Incremental Services and designed to recover non-conforming capital expenditure or a specified portion of non-conforming capital expenditure. Non-conforming capital expenditure which is recovered by means of a Surcharge will not be rolled into the Capital Base.
- (c) Service Provider may charge Users a Capital Contribution to new capital expenditure where permitted by the NGR (see Rule 82).

D.10.8 Multiple Delivery Points

For the purposes of the calculation of the Capacity Reservation Charge and the Throughput Charge, the distance is calculated from the Receipt Facilities. Where a User has more than one Delivery Point, the Capacity Reservation Charge and the Throughput Charge will be calculated using the distance between the Receipt Point and each relevant Delivery Point and the corresponding Delivery Point MDQ.

## D.11 Adjustments to Rates and Charges/Additional Payments

- D.11.1 The Reference Tariff payable under a Transportation Agreement may be varied in accordance with the Reference Tariff Variation Mechanism.

## D.12 Basis of Charges

- D.12.1 Unless otherwise agreed, all charges that rely on measurement are to be computed on measured quantities and qualities of Gas generated by the measuring equipment installed at the Receipt Point and Delivery Points. The Toll Charge and the Capacity Reservation Charge are fixed charges and are payable monthly during the Term by the User whether or not the User delivers or accepts Gas under the Transportation Agreement, except where:
- (a) the User is unable to deliver or accept Gas due to an Force Majeure Event claimed by Service Provider; or
  - (b) Service Provider has interrupted or reduced the Services for a period which was not a consequence of an emergency interruption as referred to in clause D.14.4 and where Service Provider did not provide notice as stipulated in clause D.14.3(b).
- D.12.2 Quantity Variation Charges are intended to maximise the safe and efficient utilisation of the Pipeline in the manner intended. Operational disturbances caused by such Users may risk the integrity of the Pipeline or may cause commercial disadvantage or loss to Service Provider or other Pipeline Users.
- D.12.3 Subject to clauses D.12 and D.10.6, where the flow of Gas is restricted in accordance with clauses D.14 and D.35, all tariffs and charges will continue to apply.

## **D.13 System Use Gas and Line Pack**

- D.13.1 The User must supply at no cost to Service Provider and at times and in the manner notified by Service Provider (acting reasonably), the quantity of System Use Gas required by Service Provider at that time to operate the Pipeline in accordance with Good Engineering and Operating Practice, as determined by Service Provider (acting as a reasonable and prudent pipeline operator) in accordance with clause D.13.2.
- D.13.2 In making its determination, Service Provider must have regard to the total quantity of System Use Gas that is required by Service Provider from time to time in order to operate the Pipeline in accordance with Good Engineering and Operating Practice, the total quantities of Gas to be received or delivered on the Pipeline on account of all Users during the relevant period and compressor fuel, necessary for the management, operation and maintenance of the Pipeline in accordance with Good Engineering and Operating Practice, which is reasonably and equitably attributable to the User's Services. However, Service Provider must allocate System Use Gas reasonably and equitably using allocation methodology which is demonstrably fair, reasonable and equitable (which subject to the foregoing, may include, on a User pays basis, a total share basis or such other basis as Service Provider reasonably determines) between all Users on the part of the Pipeline to which its determination relates.
- D.13.3 Service Provider will own the System Use Gas supplied in the above manner.
- D.13.4 Service Provider will provide (and retain ownership of) an amount of Gas to ensure that Service Provider can operate the Pipeline in accordance with Good Engineering and Operating Practice ("Base Line Pack").
- D.13.5 The User will provide (and retain ownership of) Line Pack, which is in addition to the Base Line Pack provided by Service Provider on the first Gas Day the User uses the Firm Service and otherwise when advised by Service Provider from time to time (acting reasonably), in such proportion, as determined by Service Provider acting as a reasonable and prudent pipeline operator from time to time, equal to the proportion that the User's Firm MDQ bears to the total of all Users' MDQ (including the User's Firm MDQ). The Service Provider will provide to the User a monthly statement showing the amount of User's Line Pack.
- D.13.6 The User must give Service Provider directions about the delivery of the User's Line Pack on or before 7 Gas Days after the end of the Term, and Service Provider must comply, if reasonably able to do so, with such directions at no cost to the User within 7 Gas Days' of receiving such directions (or any longer period agreed between the User and Service Provider).
- D.13.7 Service Provider must immediately return the User's Line Pack to the User or as it directs, in the event that Service Provider becomes insolvent.
- D.13.8 If for any reason Service Provider does not return the User's Line Pack to the User or as it directs under clauses D.13.6 or D.13.7, then User

may, at its discretion and without prejudice to any other right or remedy it may have, charge Service Provider the price (plus GST) for that gas determined in accordance with this clause, and Service Provider must pay User that price (plus any GST) within 7 Gas Days of receipt of a correct invoice for it. Title to the User's Line Pack transfers to Service Provider upon payment of that price. The price of the User's Line Pack gas is to be as agreed between the User and Service Provider, or if not so agreed within 7 Gas Days (or such longer period as is agreed between the Parties for this purpose), the price which is determined and certified by a reputable accountant engaged by the User for this task who is independent of both Parties and not subject to any conflict of interest in respect of this task (**Independent Accountant**). The price determined by the Independent Accountant must be a fair and reasonable price based on the cost to the User (including cost of gas plus transport and a reasonable allowance for the User's related overhead costs, if any) of providing the User's Line Pack contributions to the Receipt Point. The Independent Accountant is to examine the User's relevant books and documents on a confidential basis (including without disclosure to the Service Provider) and is to make that determination and certification to both Parties as soon as reasonably practicable. The costs of the Independent Accountant will be borne by the Parties equally and the price determined by the Independent Accountant will be treated as Confidential Information of the User.

#### **D.14 Operation of Pipeline**

- D.14.1 Subject to its obligations at law and under the Transportation Agreement and Access Arrangement, Service Provider reserves the right to decide the manner in which it may operate, shut in, enhance, maintain or expand all or any part of the Pipeline.
- D.14.2 Subject to clause D.14.3, in addition to the rights of Service Provider otherwise provided for in the Transportation Agreement, Service Provider may without penalty or cost (excluding any penalties, costs or other amounts which are payable or foregone by Service Provider to User pursuant to any provision in the Transportation Agreement, including any provision which requires Service Provider to indemnify User or excuses User from paying any Charge or other amount to Service Provider where there is an interruption or reduction in service) interrupt or reduce the Service either totally or partially for any period which, in its opinion as a reasonable and prudent pipeline operator, is necessary for the purposes of testing, adding to, altering, repairing, replacing, cleaning, upgrading or maintaining any part of the Pipeline (including without limitation, pipelines, compressors, valves and monitoring equipment) or for any other purpose which in Service Provider's opinion as a reasonable and prudent operator requires interruption or reduction of the Services.
- D.14.3 Service Provider shall:
- (a) be non-discriminatory in the interruption of the Service effected as a result of clause D.14.2;
  - (b) use all reasonable endeavours to give the User notice when any of the activities in clause D.14.2 are likely to interrupt or reduce the Service which shall be:

- (i) in the case of planned activities, then the User will be given at least 30 days' notice; and
  - (ii) in the case of unplanned or emergency activities, then the User will be given notice as early as reasonably practicable, consistent with the standard of a reasonable and prudent pipeline operator;
  - (c) use all reasonable endeavours consistent with the standard of a reasonable and prudent pipeline operator to minimise the period of interruption or reduction of the Services; and
  - (d) when practicable, consult with the User regarding the timing of the interruption or reduction so as to minimise the disturbance to the User's business and other Users' businesses.
- D.14.4 Service Provider shall have the right without penalty or cost (excluding any penalties, costs or other amounts which are payable or foregone by Service Provider to User pursuant to any provision in the Transportation Agreement, including any provision which requires Service Provider to indemnify User or excuses User from paying any Charge or other amount to Service Provider where there is an interruption or reduction in service) to immediately interrupt or reduce the Services in situations of emergency or real and imminent risk of serious injury or damage to any person or property, including the Pipeline, without notice and for such period as in the opinion of Service Provider is necessary, except where such interruption or curtailment occurs as a result of Service Provider's negligence, default or failure to observe Good Engineering and Operating Practice.
- D.14.5 Service Provider shall as soon as reasonably practicable inform the User and other Users of the circumstances giving rise to the interruption or reduction referred to in clause D.14.4 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.

## **D.15 Pressure of Gas at Delivery Point**

Service Provider will use reasonable endeavours consistent with the standard of a reasonable and prudent pipeline operator to deliver Gas to the User at a pressure in excess of 3,000 kPa at any Delivery Point.

## **D.16 Metering**

- D.16.1 The Service Provider will provide reasonable notice to the User of any changes to the Metering and Measurement Requirements and such changes are to be reasonably determined by the Service Provider.
- D.16.2 The Service Provider will, acting as a reasonable and prudent pipeline operator, in accordance with Good Engineering and Operating Practice and efficiently (consistent with achieving the national gas objective set out in section 23 of the National Gas Law), install, operate and maintain Metering Equipment required for the purposes of the Transportation Agreement unless otherwise agreed, and the User will reimburse Service

Provider's direct costs of doing so, to the extent they are reasonably and properly incurred by Service Provider in accordance with the above requirements. If the User or another Interconnect Party owns equipment used for measuring or monitoring Gas at a Receipt Point or a Delivery Point, the User must, or must use reasonable endeavours to cause the Interconnect Party to, install Metering Equipment or upgrade its equipment to conform to the Metering and Measurement Requirements.

- D.16.3 The Parties must take all action reasonably necessary to ensure that access to their respective Metering Equipment is provided to permit inspections and tests to be carried out as required in the Metering and Measurement Requirements.
- D.16.4 The Metering and Measurement Requirements govern the measurement of Gas for the purposes of the Transportation Agreement, unless otherwise negotiated by the Parties.
- D.16.5 Service Provider shall operate, at or near the Receipt Point, the Receipt Facilities necessary for Service Provider to be able to properly establish the quality and quantity of Gas delivered by the User to Service Provider at the Receipt Point.
- D.16.6 Where more than one User delivers Gas in a commingled stream through common Receipt Facilities, each such User (referred to in this clause as the "Common Stream Gas User") shall advise or cause to be advised to Service Provider, on a daily basis or such other basis as may be required by Service Provider from time to time, the quantity of Gas allocated to it by the transporter of the Gas to the Receipt Point. Should such advice not be provided within 30 minutes of the end of the Gas Day, Service Provider shall be entitled to determine the daily Gas quantity delivered by each Common Stream Gas User using the allocation procedure set out in clause D.16.7 or as it otherwise deems appropriate, acting as a reasonable and prudent pipeline operator. Service Provider's determination as to quantity and quality shall, in the absence of manifest error, be deemed to be correct.
- D.16.7 Unless Service Provider is notified otherwise pursuant to clause D.16.6 each Common Stream Gas User shall be allocated its share of the Gas received by Service Provider in a commingled stream in proportion to the quantity of Gas nominated by such User at the Receipt Facilities for that Gas Day divided by the sum of the quantities of Gas nominated by the Common Stream Gas Users at the Receipt Facilities, such that the sum of the quantities allocated to each Common Stream Gas User shall equal the total quantity of Gas as measured at the Receipt Facilities.
- D.16.8 The Delivery Facilities installed by Service Provider or the User or a third party under clause D.22 will enable Service Provider to properly establish the quantity and quality of Gas delivered by Service Provider to the User at the Delivery Point.
- D.16.9 Where more than one User receives Gas in a commingled stream through common Delivery Facilities, each such User (referred to in this clause as the "Common Stream Gas User") shall advise Service Provider, on a daily basis or such other basis as may be required by Service Provider from time to time, the quantity of Gas allocated to it at the Delivery Point. Should such advice not be provided within 30

minutes of the end of the Gas Day, Service Provider shall be entitled to determine the daily Gas quantity delivered by each Common Stream Gas User using the allocation procedure set out in clause D.16.11 or as it otherwise deems appropriate, acting as a reasonable and prudent pipeline operator. Service Provider's determination as to quantity and quality shall, in the absence of manifest error, be deemed to be correct.

- D.16.10 If required by clause D.16.9, each Common Stream Gas User shall be allocated its share of the Gas delivered by Service Provider in a commingled stream in proportion to the quantity of Gas nominated by such User at the relevant Delivery Facilities for that Gas Day divided by the sum of the volumes of Gas nominated by the Common Stream Gas Users at those Delivery Facilities, such that the sum of the quantities allocated to each Common Stream Gas User shall equal the total quantity of Gas as measured at those Delivery Facilities.
- D.16.11 Where the quantities of Gas to be received through the Receipt Point or delivered through an Delivery Point do not in Service Provider's reasonable opinion justify the installation of bulk measuring equipment and alternative measuring methods are available or Service Provider and the User can otherwise agree upon alternative measuring techniques, Service Provider may waive the requirements of clauses D.16.5 to D.16.10.

## **D.17 Check Metering**

Service Provider grants to the User the right to install and maintain check metering equipment subject to this equipment not being installed on or within the Service Provider's property or within Delivery Facilities owned by Service Provider, and so long as the equipment does not interfere with the operation of the Pipeline, to enable the User to check the bulk measuring equipment located at any site provided that such check metering equipment shall not interfere in any way with any measuring equipment (or other equipment) and that the cost of installing and maintaining any such check metering equipment shall be borne by the User and such equipment shall meet the accuracies contained in Appendix 1. Provided that the quality, installation and operation of the User's check metering equipment is in accordance with Good Engineering and Operating Practice, the above prohibitions on "interference" shall not prohibit any interference of a minor and materially inconsequential nature that is necessary for the proper operation of the User's check metering equipment.

## **D.18 Meter Testing**

- D.18.1 The owner of the measuring equipment shall be responsible for its accuracy and unless required by clause D.19, the owner is not obliged to verify the accuracy of the measuring equipment more than once in any 60 day period.
- D.18.2 Where the accuracy of the measuring equipment is being verified it must be tested in accordance with either the manufacturer's recommendation or, in accordance with good pipeline industry practices.

- D.18.3 The verification of the measuring equipment's accuracy may on request to the owner be carried out in the presence of other interested parties.

#### **D.19 Special Test**

The owner of the measuring equipment shall upon receipt of notice from an interested party, that it requires a special test to verify the accuracy of any measuring equipment, as soon as reasonably practical commence the verification process to assess the measuring equipment's accuracy. The cost of any such special test shall be borne by the interested party if the equipment is accurate as that term is used in the Appendix 1.

#### **D.20 Test Procedures**

The procedures outlined in the Appendix 1 shall apply to tests on equipment carried out pursuant to clauses D.18 to D.19.

#### **D.21 Receipt Facilities**

The cost of operation and maintenance of the Receipt Facilities will be borne by Service Provider

#### **D.22 Delivery Facilities**

- D.22.1 Each Party must ensure that all Delivery Facilities for which it is responsible comply (including as to their construction, installation, operation, maintenance, replacement and decommissioning) with all applicable technical specifications, licensing obligations, laws, relevant standards and codes (including AS2885) and regulatory approval processes, as would be required of or by a reasonable and prudent pipeline operator, acting efficiently, in accordance with Good Engineering and Operating Practice and consistent with achieving the national gas objective set out in section 23 of the National Gas Law.
- D.22.2 Unless otherwise agreed with Service Provider, Service Provider is responsible for all existing Delivery Facilities and, subject to clauses D.22.3 and D.22.4, the User is responsible for any new Delivery Facilities.
- D.22.3 Where use of any new Delivery Facilities is shared by the User with any other User, then, unless otherwise agreed between those Users and Service Provider, those Users are jointly and severally responsible for those Delivery Facilities.
- D.22.4 Service Provider will, if required by the User, construct, install, operate, maintain, replace or decommission (or do any combination of those things requested by the User) any new Delivery Facilities, in which case:
- (a) Service Provider will do so in accordance with all applicable technical specifications, licensing obligations, laws, relevant standards and codes (including AS2885) and regulatory approval processes, as would be required of or by a reasonable and prudent pipeline operator, acting efficiently, in accordance with Good Engineering and Operating Practice and

consistent with achieving the national gas objective set out in section 23 of the National Gas Law; and

- (b) the User will reimburse Service Provider's direct costs of doing so, to the extent they are reasonably and properly incurred by Service Provider in accordance with the above requirements.

## **D.23 Quality**

- D.23.1 Subject to clauses D.23.2 to D.23.6 (inclusive), User must ensure that all Gas received at the Receipt Point pursuant to the Transportation Agreement must be in accordance with the quality required by the Gas Specification, any lawful additional parameters agreed between the User and Service Provider or any other quality as the law in Western Australia requires. Service Provider may, by notice to the User, vary the above specifications if it is required to do so by law or any Governmental Authority.
- D.23.2 Service Provider shall ensure that all Gas delivered to the Delivery Point(s) pursuant to the Transportation Agreement shall conform with the Gas Specification modified 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 in accordance with Good Engineering and Operating Practice.
- D.23.3 The User and Service Provider must each notify the other immediately on becoming aware that Gas offered for transportation or delivery at any Delivery Point is or may be Non-Specification Gas.
- D.23.4 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 other as soon as is reasonably practicable of such refusal.
- D.23.5 Subject to the responsibilities of Service Provider in clause D.23.6 of these Terms and Conditions, if the User requests that Service Provider agrees to receive, transport and deliver Non-Specification Gas, and Service Provider accedes to that request, then the User is responsible for and indemnifies and holds harmless the Service Provider from and against any loss or damage suffered or incurred by the Service Provider to the extent it results from the receipt, transportation and delivery of that Gas by the Service Provider 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 D.34.1.
- D.23.6 If the User instructs the Service Provider in writing not to receive, transport or deliver any Non-Specification Gas, and Service Provider continues to receive, transport and or deliver the Non-Specification Gas notwithstanding the instruction, then:

- (a) User is not required to pay any Throughput Charge, Overrun Charge, Imbalance Charge, Daily Variance Charge or any other tariff or charge based on quantity of Gas received, transported or delivered in respect of that Non-Specification Gas;
- (b) that Non-Specification Gas will not count towards the User's Firm MDQ, MDQ or MHQ or to the calculation of any Overrun, Imbalance or Daily Variance; and
- (c) Service Provider is responsible for and indemnifies and holds harmless the User from and against all and any loss or damage suffered or incurred by 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. 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 D.34.1.

D.23.7 The User acknowledges and accepts that as one of a number of users of the Pipeline, Gas delivered to it at the Delivery Point(s) may not match exactly the specifications of the Gas provided by the User at the Receipt Point.

D.23.8 Except as expressly stated in the Transportation Agreement, the Service Provider makes no warranty regarding the reliability of the supply of Gas to be delivered at the Delivery Point(s), or the merchantability or suitability for any purpose of Gas delivered at the Delivery Point(s) and all implied warranties are hereby excluded to the extent permitted by law from the Transportation Agreement and in respect of the subject matter thereof.

## **D.24 Connection to the Pipeline**

D.24.1 Service Provider will in exchange for the Connection Charge, connect the Delivery Facilities to the Pipeline. In this regard, Service Provider will provide for the benefit of the User at the User's cost unless otherwise specified:

- (a) advice in respect of the engineering and planning for the connection of the User's facilities to the Pipeline;
- (b) a remotely actuated shut off valve and a remotely actuated flow control valve at the Delivery Facilities at each Delivery Point;
- (c) supervision of connection activities for connection to the Pipeline or to the Delivery Facilities;
- (d) services related to the commissioning of the Delivery Facilities; and

- (e) access to data as specified by Service Provider acting reasonably and supplied from Service Provider 's SCADA and other systems in a manner as determined by Service Provider acting reasonably,

as necessary for the commencement and provision of the Service to the User.

- D.24.2 The Connection Charge is the total and only amount payable by User for Service Provider connecting the Delivery Facilities to the Pipeline.
- D.24.3 Service Provider will, at no charge to the User, connect the User's Receipt Facilities to the Pipeline.
- D.24.4 Gas shall be delivered by the User to, and received by Service Provider into the Pipeline at, the Receipt Point.
- D.24.5 The Pipeline has Receipt Facilities at Yarraloola for receiving Gas from:
  - (a) the Harriet and East Spar Joint Ventures' pipelines at Yarraloola in the vicinity of the inlet to the Pipeline; and
  - (b) the DBNGP in the vicinity of the inlet to the Pipeline.

## **D.25 Receipt Pressures**

- D.25.1 The User must supply Gas to Service Provider at the Receipt Point at the pressure nominated by Service Provider from time to time as being sufficient to allow Gas to enter the Pipeline, but subject to clause D.25.4, in no case greater than the maximum allowable Receipt Point pressure advised by Service Provider.
- D.25.2 Service Provider is under no obligation to install inlet compression to permit the entry of User's Gas into the Pipeline.
- D.25.3 The User shall deliver Gas to Service Provider at a Receipt Point at temperature not exceeding 45oC and not less than 2oC.
- D.25.4 Any Gas delivered by the User to Service Provider at a Receipt Point at the Receipt Facilities referred to in clause D.24.5 will be at a pressure of between 7,800 kPa and 10,200 kPa.

## **D.26 Possession of gas, responsibility and title**

- D.26.1 Subject to clauses D.23.2 and D.23.6 and all applicable laws, and unless Service Provider otherwise undertakes or agrees, Service Provider will have no responsibility or liability with respect to any Gas prior to its supply to Service Provider at the Receipt Points or after its delivery to the User at the Delivery Points on account of anything which may be done, happen or arise with respect to that Gas prior to receipt at the Receipt Points or after delivery at the Delivery Points.
- D.26.2 Title to the Gas received from the User by Service Provider at the Receipt Point does not pass to Service Provider except for:

- (a) any liquid hydrocarbons which, during normal transportation operations and in accordance with Good Engineering and Operating Practice, separate or condense from the gas stream after receipt of the Gas and before its delivery by Service Provider; and
  - (b) System Use Gas the User is required to supply to Service Provider under a Transportation Agreement.
- D.26.3 Subject to clause D.26.2 and this clause D.26.3, the User shall retain title to the Gas delivered by that User or on its behalf at the Receipt Point, despite any commingling of that Gas with Gas belonging to any other person in the Pipeline. When the User's Gas is commingled with other Gas in the Pipeline, the User is to retain ownership in common with each other owner of Gas comprised in the commingled Gas in proportion to their respective contributions. Service Provider's obligation to deliver Gas to the User at a Delivery Point is to deliver the same quantities of gas as received from the User at Receipt Points for transportation (subject to agreed adjustments) that meet the Gas Specification. Accordingly, when a quantity of commingled Gas is allocated to the User upon delivery at the Delivery Point (or otherwise), Service Provider must ensure the User acquires at that time good title to any quantity of that commingled Gas that did not already belong to the User. Similarly, when any quantity of the User's Gas that is commingled with other Gas in the Pipeline is properly allocated to any other User upon delivery or otherwise, the User must at that time relinquish title to that quantity of the User's Gas.
- D.26.4 Service Provider must not itself act, or allow any other User of the Pipeline to act, inconsistently with the arrangements in these Terms and Conditions (including clauses D.26.2, D.26.3, D.28, D.16.6, D.16.7, D.16.9 or D.16.10) or the Access Arrangement (including sections 2.2.6 and 2.2.7) regarding title to Gas supplied by the User, commingling of that Gas with Gas belonging to Service Provider and others and the delivery by Service Provider at Delivery Points of an equivalent quantity of Gas to that originally supplied by the User (excluding System Use Gas contributions).
- D.26.5 If, contrary to the intention of the Parties expressed in these Terms and Conditions (including clauses D.26.2, D.26.3, D.28, D.16.6, D.16.7, D.16.9 or D.16.10), for any reason (including by operation of law) other than by the express written agreement of the User or as contemplated by clause D.26.2, title to Gas supplied by the User at the Receipt Point does not transfer to Service Provider or any owner of the Pipeline, then Service Provider will (and it will procure that each such owner of the Pipeline will), hold all and any right and title to that Gas (and any interest in it) on trust for the User and will keep it free from any third party encumbrances or claims (other than any created by or with the express written agreement of the User itself).
- D.26.6 Service Provider takes full responsibility for all Gas supplied by Users into the Pipeline (including for the risk of loss or damage to the Gas or caused by the Gas) while it is in the Pipeline or otherwise in Service Provider's possession and control.

- D.26.7 Service Provider warrants to the User that all Gas delivered to the User or on its behalf at a Delivery Point will, when delivered, be free from all and any third party encumbrances or claims (other than any created by or with the express written agreement of the User itself).

## **D.27 Warranties & Representations**

- D.27.1 The User represents and warrants as follows:

- (a) it has in full force and effect all Approvals necessary to enter into the Transportation Agreement and to observe obligations under it and allow them to be enforced;
- (b) at the time of supply of any Gas to Service Provider at the Receipt Point it has unencumbered title to the Gas;
- (c) neither the User nor any of its Related Bodies Corporate is in default under a law, regulation, official directive, instrument, undertaking or obligation affecting any of them or their respective assets and which will or is likely to materially affect User's ability to perform its obligations under this Agreement; and
- (d) there is no pending or threatened action or proceeding affecting the User or any of its Related Bodies Corporate or any of their respective assets before a court, governmental agency, commission or arbitrator which will or may materially affect its ability to perform its obligations under the Transportation Agreement.

- D.27.2 These representations and warranties are taken to be also made on each Gas Day on which any Gas is delivered by the User to Service Provider or any amount is or may be outstanding under the Transportation Agreement.

## **D.28 Allocation of receipts and deliveries**

- D.28.1 If the quantities of Gas actually received at the Receipt Point or delivered at the Delivery Points do not equal the quantities Scheduled by Service Provider in accordance with the Transportation Agreement for a particular Hour on any Gas Day, then those quantities actually received or delivered by Service Provider (as the case may be) must be allocated among Users as follows:

- (a) Firstly, to the User that Service Provider is aware caused the discrepancy;
- (b) Secondly, to the User that Service Provider reasonably suspects caused the discrepancy;
- (c) for a particular Hour or on a particular Gas Day on a pro rata basis according to each User's Scheduled receipts for the Receipt Point or Scheduled deliveries for a Delivery Point (as the case may be) as a proportion of all Users' Scheduled

receipts at the Receipt Point or Scheduled deliveries at the relevant Delivery Point (as the case may be).

- D.28.2 If all Users for the Receipt Point or a Delivery Point agree on an alternative allocation methodology then Service Provider may (but is not obliged to) apply such alternative methodology.
- D.28.3 Without limiting its other rights under the Transportation Agreement, Service Provider may, contrary to User's Nomination (if any) and without liability to User comply with any lawful directions or requirements of a Governmental Authority, including to act or refrain from acting in a particular manner.
- D.28.4 The User may, by giving Service Provider at least 14 days' prior notice, request that Service Provider transfers all or part of that User's MDQ with effect from the date specified in the notice, from the Delivery Point nominated in the applicable Order Form to another Delivery Point subject to:
- (a) the User having complied with any other preconditions for the Service to the new Delivery Point including the payment of a further Connection Charge for any new Delivery Point, as required by any of clauses D.10.5(a) and D.24 as applicable;
  - (b) the User remaining liable under the Transportation Agreement to pay a Capacity Reservation Charge and Toll Charge which, in total, is not less than the aggregate Capacity Reservation Charge and Toll Charge payable prior to the operation of the new Delivery Point;
  - (c) where the distance between the Receipt Point and the new Delivery Point is greater than the distance between the Receipt Point and the Delivery Point prior to the operation of the new Delivery Point, the User under the Transportation Agreement shall pay the Toll Charge, Capacity Reservation Charge and Throughput Charge for the greater distance;
  - (d) the Pipeline, in the opinion of Service Provider, having the capacity to transport Gas from the Receipt Point and deliver Gas to the new Delivery Point; and
  - (e) there being no reasonable commercial and technical grounds which, in the opinion of Service Provider, prevent the delivery of Gas to the new Delivery Point.
- D.28.5 Within 30 days of receipt of a notice under clause D.28.4, Service Provider shall advise the User of its acceptance of the MDQ of the proposed alternative or additional Delivery Point, or an alternative MDQ that will apply, giving reasons for the alteration to the MDQ.

## **D.29 Dispute Resolution**

- D.29.1 If a dispute arises in respect of the Transportation Agreement, a Party must not commence legal proceedings in relation to the dispute (except

proceedings seeking interlocutory relief) unless and until it complies with the procedures set out in clauses D.29.2 to D.29.16 (inclusive).

- D.29.2 In the event of any dispute or difference arising between the User and Service Provider as to the construction of the Transportation Agreement or as to any matter or thing arising under or in connection with the Transportation Agreement then either Party will give to the other written notice identifying the matters the subject of the dispute or difference.
- D.29.3 Upon receipt of a notice pursuant to clause D.29.2 each of the User and Service Provider will designate a representative for the negotiation who will have authority to settle the dispute on behalf of that Party and those representatives will meet promptly and use their best endeavours to resolve the dispute by negotiation.
- D.29.4 If, within 21 days of receipt of the notice, the User and Service Provider have been unable to resolve the matter, or to agree a method of resolving the matter, by negotiation, then if the dispute or difference is in respect of an amount of \$500,000 or less the Parties will refer the matter for determination by an Expert in accordance with clause D.29.7.
- D.29.5 If the dispute or difference is in respect of an amount in excess of \$500,000 then, unless the Parties agree that the matter should be determined by an Expert in accordance with clauses D.29.7 to D.29.15, the Parties will resolve the matter by arbitration in accordance with clause D.30.
- D.29.6 Any dispute which is referred to an Expert by the agreement of the Parties made under clause D.29.5 will thereupon cease to be referable to arbitration.
- D.29.7 If a matter is referred for determination by an Expert pursuant to clauses D.29.4 to D.29.5, an Expert will be appointed by the Parties, or in default of agreement upon such appointment within 10 days of the referral, either Party may refer the appointment of the Expert to:
- (a) in the case of financial matters, the President for the time being of the Institute of Chartered Accountants of Australia;
  - (b) in the case of technical matters, the President for the time being of the Institution of Engineers, Australia; and
  - (c) in the case of any other matters (including without limitation a dispute as to the interpretation of this Transportation Agreement) the President for the time being of the Law Society of Western Australia.

In all events, the Expert must have reasonable qualifications and commercial and practical experience in the area of dispute and have no interest or duty which conflicts with his or her function as an Expert.

- D.29.8 The Expert will be instructed to:

- (a) promptly fix a reasonable time and place for receiving submissions or information from the Parties or from any other persons as the Expert may think fit;
  - (b) accept oral or written submissions from the Parties as to the subject matter of the dispute within 20 days of being appointed;
  - (c) not be bound by the rules of evidence; and
  - (d) make a determination in writing with appropriate reasons for that determination within 20 days of the expiry of the period referred to in clause D.29.8(b).
- D.29.9 The Expert will be required to undertake to keep confidential matters coming to the Expert's knowledge by reason of being appointed under these this clause D.29 and the performance of his or her duties.
- D.29.10 The Expert will have the following powers:
- (a) to inform himself or herself independently as to facts and if necessary technical and/or financial matters to which the dispute relates;
  - (b) to receive written submissions sworn and unsworn written statements and photocopy documents and to act upon the same;
  - (c) to consult with such other professionally qualified persons as the Expert in his or her absolute discretion thinks fit; and
  - (d) to take such reasonable measures as he or she thinks fit to expedite the completion of the resolution of the dispute.
- D.29.11 Any person appointed as an Expert will be deemed not to be an arbitrator but an expert and the law relating to arbitration will not apply to the Expert or the Expert's determination or the procedures by which he or she may reach his or her determination.
- D.29.12 The dispute resolution will be held in Perth unless the User and Service Provider otherwise agree.
- D.29.13 In the absence of manifest error, the decision of the Expert will be final and binding upon the Parties.
- D.29.14 The costs of the Expert and any advisers appointed pursuant to clause D.29.10(c) will be borne by the User or Service Provider or both as determined in the discretion of the Expert taking into account the Expert's decision in the dispute.
- D.29.15 The User and Service Provider will give the Expert all information and assistance that the Expert may reasonably require. The User and Service Provider will be entitled to be legally represented in respect of any representations that they may wish to make to the Expert, whether orally or in writing.

- D.29.16 Notwithstanding a reference of a dispute or difference to the dispute resolution procedure in this clause D.29 the Parties will, so far as it is reasonably practicable, continue to perform and comply with their respective obligations under the Transportation Agreement.

### **D.30 Arbitration**

Arbitration in accordance with the *Commercial Arbitration Act 2012*

- D.30.1 If clause D.29.5 applies the matter in dispute shall be referred to arbitration in accordance with the *Commercial Arbitration Act 2012* (WA).
- D.30.2 The arbitration shall be convened by either Party giving to the other notice in writing stating the subject matter and details of the dispute, including the amount of the dispute for the purposes of clause D.29.5 and that Party's desire to have the matter referred to arbitration.
- D.30.3 The arbitration shall be by one arbitrator to be agreed upon by the Parties or, in the event that a single arbitrator cannot be agreed, then before two arbitrators one to be appointed by each Party and their umpire to be appointed by the arbitrators before they enter upon the reference, as provided for in the *Commercial Arbitration Act 2012* (WA).
- D.30.4 The User and Service Provider will be entitled to be legally represented in respect of any representations that they may wish to make to the Arbitrator, whether orally or in writing.
- D.30.5 The award in the arbitration shall be final and binding on the Parties.
- D.30.6 The apportionment of the costs of and incidental to the reference to arbitration shall be at the discretion of the arbitrator, who may determine the amount thereof and the basis upon which the same shall be ascertained provided that where one Party has behaved unreasonably in the view of the arbitrator, that Party shall bear the costs of the arbitration. Each Party shall bear its own counsel - client costs, and any costs associated with witnesses called by such Party (if any).
- D.30.7 The arbitrator shall give his determination in writing with reasons.
- D.30.8 Pending resolution of any dispute or difference, the Parties shall continue to perform their respective obligations under the Transportation Agreement.
- D.30.9 If any dispute concerning an invoiced amount, measurement or procedure arises and remains unresolved for a period of 60 days then subject always to the right of each Party to withhold confidential information or information not related to the performance of the Transportation Agreement, each Party shall have the right to appoint an independent firm of chartered accountants to examine at any reasonable time the books, records and documents of the other to the extent necessary to carry out an audit for the purposes of verifying any statement, computation or claim made under the provisions of the Transportation Agreement.

### **D.31 Default & Termination**

D.31.1 The Transportation Agreement may, by written notice, be terminated or suspended for default by a Party, after a 7 Business Day cure period for a financial default, beginning on the date that notice of the default is given (including if a Party is Insolvent) and after a 21 Business Day cure period for a non-financial default beginning on the date that notice of the default is given. If a non-financial default is not capable of remedy then a non-defaulting Party may terminate or suspend the Transportation Agreement, after the 21 Business Day cure period, if the defaulting Party does not:

- (a) take the steps and do the things that the non-defaulting Party, acting reasonably, requires to ensure that the event of default will not be repeated; and
- (b) pay the non-defaulting Party the sum (if any) that the non-defaulting Party reasonably determines is required to compensate the non-defaulting Party for the event of default and its consequences such sum being limited having regard to clauses D.34.1, D.34.2 and D.35 of the Transportation Agreement.

D.31.2 For the avoidance of doubt the Parties agree that only a non-defaulting Party can terminate for a financial default.

D.31.3 In addition to the above right to terminate or suspend the Transportation Agreement, a non-defaulting Party may also sue for damages or exercise any rights or remedies available to it under the Transportation Agreement, at law, in equity or otherwise.

D.31.4 Termination by a Party shall be without prejudice to any accrued rights or remedies of either Party as at the Termination Date.

### **D.32 Billing & Payment**

D.32.1 On or before the 10th day of each Month, Service Provider shall render to the User an invoice in the form of a Tax Invoice 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

D.32.2 The invoices rendered pursuant to clause D.32.1 shall include:

- (a) the quantity of Gas received from the User at the Receipt Point in the Billing Period;
- (b) the quantity of Gas delivered to the User at the Delivery Point(s) in that Billing Period;
- (c) a statement of Quantity Variation Charges (if any) used by the User during that Billing Period;

- (d) details of all charges payable pursuant to clause D.9 for that Billing Period;
  - (e) a statement of adjustments (if any) made pursuant to clauses D.11, **Error! Reference source not found.** and D.42 for that Billing Period;
  - (f) any additional, increased or varied tariffs and charges payable pursuant to the Transportation Agreement for that Billing Period, together with an explanation of the reason for the addition, increase or variation;
  - (g) the quantity of Used Gas used, consumed or lost in the Billing Period and the purchase price(s) paid by Service Provider for gas for system-use purposes used, consumed or lost in that Billing Period; and
  - (h) the additional amount of GST as referred to in clause D.41.
- D.32.3 The User shall pay the Service Provider's Tax Invoices within 14 Gas Days of receipt of the invoice except where there is a manifest error in the invoice. Late payment will attract an interest charge in accordance with clause D.32.4.
- D.32.4 If either Party makes default without lawful excuse in the payment of moneys payable on the due date for payment (or, where moneys are payable upon demand) then interest shall be payable on the amount unpaid from the due date for payment until actual payment, at a rate equal to the Default Rate calculated on a daily basis.
- D.32.5 Any disputed amount which is subsequently found to be payable by or repayable to the User will be due and payable no later than 14 Gas Days after issue of an Adjustment Note by Service Provider (such note must be issued within 28 Gas Days of resolution regarding the disputed amount), together with interest charged at the Default Rate.
- D.32.6 If an error is discovered in any Tax Invoice, then the error will be adjusted, with interest at the Default Rate, on the next Tax Invoice provided to the User after the error is discovered. However, no adjustment will be made for errors discovered more than 12 Months after the date of the delivery of Gas to which the erroneous Tax Invoice relates if and to the extent such errors result in the User being undercharged.

### D.33 Information Interface

- D.33.1 Service Provider retains ownership of and all intellectual property rights in the Information Interface and grants, for the Term of this Transportation Agreement and for a further term (if extended by Service Provider by notice in writing) and for such period (if any) thereafter as may be reasonably necessary in order for the User to recover User's Line Pack or exercise any other post-termination rights, to the User a non-exclusive, non-assignable, non-transferable right to access and use the Information Interface solely for the purposes of submitting Nominations and for receiving information regarding receipts, deliveries,

balances and Gas flows under the Transportation Agreement and for any other purpose for which the User reasonably requires use of and access to the Information Interface in order to exercise its rights and perform its obligations under this Transportation 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 D.36.7).

- D.33.2 Service Provider must ensure that the types of information that the Information Interface is capable of providing/receiving includes all types of information that the User will reasonably require in order to exercise rights and perform obligations under the agreement relating to the specified licensed purposes.
- D.33.3 Service Provider warrants that, during the term of the licence, the information accessed by the User via the Information Interface is reliable and accurate and the Information Interface will remain available as reasonably necessary and fit for purpose.
- D.33.4 Only the User's employees or contractors acting on the User's behalf and authorised by the Service Provider may use or access the Information Interface pursuant to the above right of access. The User is liable for any direct loss incurred by the Service Provider resulting from use of the Information Interface by the User's employees or contractors acting on the User's behalf other than to the extent such loss is caused by the negligence or misconduct of the Service Provider or any of its directors, officers, employees, agents or contractors.

#### **D.34 Limitation of Liability & Indemnity**

- D.34.1 Subject to clause D.34.2, unless otherwise agreed by the Parties and expressly set out in the Order Form, but otherwise despite any other provision to the contrary in the Transportation Agreement, to the extent permitted by law, neither Party (including Service Provider's and the User's Related Bodies Corporate and their respective directors, officers, employees, agents and contractors) is liable to the other Party for Consequential Loss or for punitive or exemplary damages arising in respect of the Transportation Agreement except where such Consequential Loss or punitive or exemplary damage arises out of:
  - (a) Gross Negligence or Wilful Misconduct by either the Service Provider or the User; or
  - (b) the Service Provider's or the User's liability relating to payment liabilities arising under the Transportation Agreement.
- D.34.2 This clause D.34.2 applies despite any other provision of the Transportation Agreement to the contrary, including any contrary provision in clause D.34.1. The aggregate liability of any of Service Provider and User and any of their respective Related Bodies Corporate, directors, officers, employees, agents and contractors in respect of the Transportation Agreement, excluding for the Gross Negligence or Wilful Misconduct of Service Provider or User and their respective Related Bodies Corporate, will:

- (a) be limited to an amount that is no more than whichever is the greater of:
  - (i) an amount equal to one Year of Toll Charges and Capacity Reservation Charges which would have been payable for the provision of the Service and;
  - (ii) an amount equal to 10% of Toll Charges and Capacity Reservation Charges which would have been payable for the provision of the Service over the entire Term; and
- (b) exclude any liability or loss (including consequential loss) suffered by the other Party to the extent that the negligence of the other Party or its Related Bodies Corporate, directors, officers, employees, agents and contractors caused or contributed to this liability or loss.

D.34.3 The User indemnifies Service Provider and its Related Bodies Corporate from and against any liability, claim, action, loss, damage, cost or expense Service Provider or its Related Bodies Corporate sustains or incurs, during the term of the Transportation Agreement, because of any of the following to the extent occurring in or about, or incidental to activities in or about, the locations specified in clause D.34.8:

- (a) a customer or contract counterparty of the User suffers, or claims to suffer, loss or damage in respect of Service Provider's or its Related Bodies Corporate acts or omissions under the Transportation Agreement, except that the obligation to indemnify 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 the User or persons under the direct control of the User and will be reduced in proportion to the extent that the loss or damage is caused by the Gross Negligence or Wilful Misconduct of the Service Provider or its Related Bodies Corporate; or
- (b) a third party (including another User and a customer or contract counterparty of the User or another User) suffers, or claims to suffer, loss or damage in respect of the User's acts or omissions under the Transportation Agreement, 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 Wilful Misconduct of the Service Provider or its Related Bodies Corporate.

D.34.4 Each Party indemnifies the other for any loss arising out of its Gross Negligence or Wilful Misconduct with such amount to be reduced to the extent the indemnified Party fails to take reasonable steps to mitigate its loss.

D.34.5 Notwithstanding clauses D.14.2, D.14.4, D.34.1 or D.35.6:

- (a) where the Firm Service is not provided such that the User does not receive Gas for more than 48 consecutive hours and the failure or continuation of the failure to provide Gas is directly or indirectly caused by Service Provider, Service Provider will,

refund or credit to the User for each period of 24 hours for which the failure continues beyond the 48 consecutive hours; and

- (b) the refund or credit will be calculated as “the sum of the Capacity Reservation Charge and the Toll Charge payable for each 24 hour period in excess of the initial 48 consecutive hours.”

D.34.6 Where negligence is found to have been contributory each Party will bear responsibility in accordance with that Party's proportionate fault.

D.34.7 Each limitation or exclusion of the above clauses and any statutory limitation or exclusion of liability are to be construed as a separate limitation or exclusion applying and surviving even if for any reason any of the provisions is held inapplicable in any circumstances and may limit each other.

D.34.8 The locations specified for the purposes of clause D.34.3 are:

- (a) Receipt Facilities;
- (b) Delivery Facilities;
- (c) the Pipeline;
- (d) such other premises, facilities or places used for the storage, transportation, distribution, delivery or consumption of Gas, received from or delivered to the User; and
- (e) such other premises or places where any of the following:
  - (i) property of the Owners or Service Provider or persons employed by or dealing with the Owners or Service Provider; and
  - (ii) property of the User or persons employed by the User; and
  - (iii) property of persons relying upon the provision of goods or services of the User,

are in proximity with each other.

## **D.35 Force Majeure**

D.35.1 Subject to certain exceptions as specified under clause D.35.3 of these Terms and Conditions, the obligations of a Party under the Transportation Agreement will be suspended during the time, and to the extent, that their performance is prevented, wholly or in part, by a Force Majeure Event and no liability to the other Party accrues for loss or damage of any kind arising out of, or in any way connected with that non-performance.

D.35.2 Such suspension referred to in clause D.35.1 does not relieve the User of its obligation to pay the Toll Charge or the Capacity Reservation

Charge unless during a Month the Service Provider fails to deliver quantities of Gas Scheduled under the Firm Service as a result of a Force Majeure Event affecting the Service Provider in which case the User is relieved of its obligation to pay the Toll Charge and the Capacity Reservation Charges where the User is unable to deliver or accept Gas due to a Force Majeure Event claimed by Service Provider and Service Provider shall include a credit for the value of the Toll Charge and the Capacity Reservation Charges applicable to the period of the Force Majeure Event in the User's next invoice as provided for in clause D.32, in the same proportion as the number of Gas Days of the Month during any part of which the Service Provider fails to deliver quantities of Gas to the User as a result of the Force Majeure Event bears to the total number of Gas Days in that Month.

D.35.3 Force Majeure Events do not relieve a Party of liability:

- (a) if and to the extent that its negligence, Gross Negligence, Wilful Misconduct or breach of contract caused or contributed to its failure to perform under the Transportation Agreement;
- (b) if and to the extent that it fails to use all reasonable endeavours to remedy the situation and to remove the circumstance giving rise to the Force Majeure Event adequately and promptly; or
- (c) to make payments of amounts then due in respect of Gas previously delivered.

D.35.4 If either Party seeks relief under clause D.35.1, the Party shall:

- (a) as soon as reasonably practicable but in any event within 4 days give notice to the other Party of the occurrence of the event or circumstance claimed to be a Force Majeure Event and provide to the other Party full particulars relating to the event or circumstance and the cause of such failure (such notice shall also contain an estimate of the period of time required to remedy such failure);
- (b) render the other Party reasonable opportunity and assistance to examine and investigate the event or circumstance and the matters which caused the event or circumstance and failure;
- (c) exercise reasonable endeavours to mitigate or remove the effects of the Force Majeure Event but excluding any measures which are not economically feasible for such Party; and
- (d) give notice immediately to the other Parties upon termination of the Force Majeure Event.

D.35.5 If despite reasonable endeavours on the part of the Party affected by a Force Majeure Event to mitigate or remove the effects of the Force Majeure Event the situation in clause D.35.1 continues substantially unabated for a period of 6 Months from the date of notice under clause D.35.4(a), then the Parties shall meet to seek to find a resolution of the difficulty and if after a further period of 3 Months they are unable to agree a resolution then either Party may terminate the Transportation Agreement upon 3 Months' notice.

- D.35.6 If due to a Force Majeure Event referred to in clause D.35.1 transportation services are interrupted or reduced, then Service Provider shall use all reasonable endeavours consistent with the standard of a reasonable and prudent pipeline operator to maintain transportation services so that a User who has an agreement for transportation services in the nature of a Firm Service can deliver and take Gas in such quantities as is pro-rated between all Users who have entered into agreements for transportation services in the nature of a Firm Service on the basis of their respective MDQs, unless Service Provider and all such Users otherwise agree. In doing so Service Provider will, in a fair and reasonable manner, take account of the location of the Force Majeure Event, the relative location of the Receipt Point and Delivery Point(s), the health and safety requirements within the facilities of the Owners, Service Provider, Users and Users' gas customers and the potential for damage to those facilities resulting from the interruption or curtailment to transportation services and the Service under the Transportation Agreement.

### **D.36 Assignment**

- D.36.1 Subject to clauses D.36.2 to D.36.8, a Party must not assign, novate, transfer or otherwise dispose of (in this clause D.36.1 and clauses D.36.2 to D.36.8 "assign") all or part of its rights or obligations arising under the Transportation Agreement, without the prior consent in writing of the other Party, which consent must not be withheld unreasonably in the case of an assignee that is technically and financially capable of performing the assigned rights and obligations.
- D.36.2 Notwithstanding clause D.36.1, an Owner may at any time without the consent of the User (but having first notified the User) assign all or part of its rights and obligations under the Transportation Agreement to:
- (a) any one or more of an Owner's Related Bodies Corporate; or
  - (b) any one or more of the other Owners; or
  - (c) to any assignee who has acquired the whole or any part of the Owner's right or interest in and to the GGTJV.
- D.36.3 Any assignment pursuant to clauses D.36.1 or D.36.2 shall not take effect until the assignee has executed in favour of the non-assigning Party a legally enforceable covenant under which the assignee agrees to be bound by the Transportation Agreement in regard to the matters the subject of the assignment, in favour of the User.
- D.36.4 Service Provider may without the consent of the User:
- (a) delegate to one or more third parties that are technically competent and reputable the performance of all or any of its functions under the Transportation Agreement but will remain responsible for the performance of those obligations; and
  - (b) assign all or part of its rights obligations and interests arising under the Transportation Agreement where:

- (i) it is replaced as operator and manager for the GGTJV;
- (ii) it is replaced as the Service Provider under the Access Arrangement; or
- (iii) the Owners resolve that this is desirable for the better administration of the Pipeline or of the Owners' obligations under the NGR or for a corporate reorganisation of the Service Provider or the GGTJV or both,

provided it first notifies the User in writing.

D.36.5 Notwithstanding the foregoing provisions, Service Provider may at any time without the consent of the User assign in whole or in part any right to payment arising under the Transportation Agreement. Notice of any such assignment must be given by Service Provider to the User as soon as reasonably practicable thereafter.

D.36.6 In this clause D.36.6, an "Affected Party" means any Party or Owner. If:

- (a) there is a Change in Control of an Affected Party or its ultimate holding company;
- (b) neither the Affected Party or its ultimate holding company is listed on a recognised public securities exchange and;
- (c) the Change in Control is not imposed by law,
- (d) then:
  - (i) the Affected Party cannot enforce the Transportation Agreement unless and until it procures the written consent of the other Party (which consent must not be unreasonably withheld);
  - (ii) paragraph D.36.6(d)(i) does not affect the Affected Party's obligations under the Transportation Agreement; and
  - (iii) the other Party may terminate the Transportation Agreement if consent is not obtained within 60 Business Days of the earlier of the date on which the Affected Party first notifies the other Party of the Change in Control and the date on which the other Party becomes aware of the Change in Control.
- (e) The Service Provider must not withhold its consent under this clause D.36.6 unless it has reasonable grounds, based on technical or commercial considerations, for doing so.

D.36.7 Notwithstanding clause D.36.1, User may, without Service Provider's consent, assign, by way of subcontract, all or any of User's Contracted Capacity under this Agreement to another person (the third party) with the following consequences:

- (a) User's rights against, and obligations to, Service Provider are (subject to clause D.36.7(b)) unaffected by the assignment; and
- (b) User must immediately give notice to Service Provider of:
  - (i) the subcontract and its likely duration; and
  - (ii) the identity of the third party; and
  - (iii) the amount of the Contracted Capacity assigned and any other details (other than price) reasonably requested by Service Provider.

D.36.8 Notwithstanding clause D.36.1, User may, with Service Provider's prior written consent which must not be unreasonably withheld, assign all or any of its Contracted Capacity, other than an assignment under this clause D.36.7 provided that:

- (a) User pays Service Provider's reasonable costs and expenses (including legal costs and internal costs) as reasonably determined and which Service Provider has reasonably and properly incurred, in respect of application for consent (whether or not the assignment proceeds to completion) and any assignment;
- (b) Service Provider and the assignee execute a Transportation Agreement acceptable to Service Provider (acting reasonably based on reasonable commercial or reasonable technical considerations) in relation to the Contracted Capacity (that is being assigned) in a similar form to, and on substantially the same terms as, the User's Transportation Agreement;
- (c) the Contracted Capacity to be assigned relates to the Receipt Point and Delivery Points under the User's Transportation Agreement or, if different Receipt Points or Delivery Points are proposed, the assignee meets Service Provider's reasonable technical and commercial requirements in relation to the assignment of Contracted Capacity to those different Receipt Points or Delivery Points having regard to what would be the reasonable requirements of a reasonable and prudent pipeline operator;
- (d) the assignee agrees with any other User using the relevant Receipt Points and Delivery Points to sharing of the use of facilities and any conditions and charges, at no additional cost to Service Provider;
- (e) the assignee confirms in writing that it has made all necessary arrangements with producers of Gas for the assignee, purchasers of Gas from the assignee and any other party relating to that service, including all Gas purchase, Gas sale, operating and multi-party Receipt Point and Delivery Point arrangements;

- (f) if the assignment of part or all of the Contracted Capacity (as the case may be) to the assignee requires additional facilities at the Receipt Point or Delivery Point, the User or the assignee (or both) agree to pay Service Provider for the cost of construction on terms and conditions reasonably determined by Service Provider (acting reasonably, based on reasonable commercial or reasonable technical considerations);
- (g) the User agrees to comply with any other reasonable commercial or technical conditions of Service Provider;
- (h) Service Provider must not withhold its consent under this clause D.36.8D.36.8 unless it has reasonable grounds, based on technical or commercial considerations, for doing so;
- (i) Service Provider must, within 30 Gas Days of receiving User's request to assign its Contracted Capacity under clause D.36.8, notify User whether or not it consents to the assignment.
- (j) Where User assigns its Contracted Capacity in accordance with this clause D.36.8, the User's rights and obligations under or in relation to the Transportation Agreement in relation to such of its Contracted Capacity as is so assigned, will, when that assignment takes effect, transfer to the assignee absolutely (subject only to any modifications or changes made by virtue of the Transportation Agreement executed by Service provider and assignee referred to in clause D.36.8(b)) and will terminate and be of no further effect as between the User and Service Provider. However, unless expressly agreed otherwise between the User, the assignee and Service Provider, an assignment made under this clause D.36.8 does not affect rights or liabilities that had accrued under, or in relation to, the Transportation Agreement before the relevant assignment took effect.

## D.37 Insurances

### D.37.1 Insurances to be effected

The User shall procure and maintain at its own expense throughout the Term of the Transportation Agreement the following insurances with reputable insurers:

- (a) workers compensation insurances in accordance with the *Workers Compensation and Rehabilitation Act 1981*;
- (b) all risks property insurance to indemnify it against damage, loss or destruction of Delivery Facilities owned by the User; and
- (c) public liability insurance for an amount of not less than \$20,000,000 to indemnify it against the risk of damage, death or injury to the property or personnel of third parties.

D.37.2 Endorsements

The User shall arrange for endorsement on the policy in clauses D.37.1(b) and D.37.1(c) of the interests of the Owners and Service Provider such that those interests are effectively insured under those policies and for the insurers to waive rights of subrogation against them.

D.37.3 Certificates of currency

The User will provide Service Provider with certificates of currency of these insurances and endorsements on or prior to the Commencement Date and prior to the commencement of each Year thereafter.

## D.38 Security

Either Party may charge or mortgage its interest in the Transportation Agreement as security for the payment of amounts owing or to become owing whether in a contingency or otherwise under or in connection with agreements or arrangements for raising of finance provided that any assignment of the Transportation Agreement upon enforcement of the charge or mortgage by the chargee or mortgagee is made subject to and conditional upon the proposed assignee agreeing with the other Party to be bound by the Transportation Agreement.

## D.39 Records and Information

D.39.1 Each Party shall prepare and maintain proper books, records and inventories of all matters pertaining to the Access Arrangement

D.39.2 If any dispute concerning an invoiced amount, measurement or procedure arises and remains unresolved for a period of 60 days then subject always to the right of each Party to withhold confidential information or information not related to the performance of the Transportation Agreement, each Party shall have the right to appoint an independent firm of chartered accountants to examine at any reasonable time the books, records and documents of the other to the extent necessary to carry out an audit for the purposes of verifying any statement, computation or claim made under the provisions of the Transportation Agreement.

## D.40 Notices

D.40.1 All notices, demands, consents and requests required or permitted to be given or made to either Party pursuant to the Transportation Agreement, shall be in writing and shall be deemed to be sufficiently given or made if personally delivered, if sent by registered mail, or facsimile addressed to the address or facsimile number specified in the Order Form or to such other address or facsimile number as the Party to be notified shall designate by written notice given to the other Party. Each Party must ensure that it includes in the Order Form an address or addresses capable of accepting personal delivery and registered mail delivery between the hours of 9am and 5pm at that place on Mondays to Fridays

and a facsimile number, for service of notices, demands, consents and requests on that Party.

D.40.2 A notice sent by registered mail shall be deemed served on the earlier of the date of receipt or 4 days after the same was committed to post. If sent by facsimile transmission such notice shall:

- (a) sent prior to 4:00pm on any Business Day, be deemed served on that Business Day; or
- (b) if sent after 4:00pm on any Business Day, it shall be deemed served on the next Business Day.

#### **D.41 A Rounding**

D.41 A.1 All amounts per GJ to be paid pursuant to the Transportation Agreement shall be expressed in dollars to 6 decimal places per GJ of Gas.

D.41 A.2 All quantities of gas shall be rounded to the nearest whole Gigajoule.

#### **D.41 GST**

D.41.1 Words or expressions used in this clause D.41 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or, if not so defined, then which are defined in the *Competition and Consumer Act 2010* (Cth), have the same meaning in this clause.

D.41.2 For the purposes of the Transportation Agreement where the expression GST inclusive is used in relation to an amount payable or other consideration to be provided for a supply under the Transportation Agreement, the amount or consideration will not be increased on account of any GST payable on that supply.

D.41.3 Any consideration to be paid or provided for a supply made under or in connection with the Transportation Agreement, unless specifically described in the Transportation Agreement as GST inclusive, does not include an amount on account of GST.

D.41.4 Despite any other provision in the Transportation Agreement, if a Party ("Supplier") makes a supply under or in connection with the Transportation Agreement on which GST is imposed (not being a supply the consideration for which is specifically described in the Transportation Agreement as GST inclusive):

- (a) the consideration payable or to be provided for that supply under the Transportation Agreement but for the application of this clause ("GST exclusive consideration") is increased by, and the recipient of the supply ("Recipient"), must also pay to the Supplier, an amount equal to the GST payable by the Supplier on that supply; and
- (b) the amount by which the GST exclusive consideration is increased must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time

as the GST exclusive consideration is payable or to be provided.

D.41.5 If a payment to a Party under the Transportation Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that Party, then the payment will be reduced by the amount of any input tax credit to which that Party is entitled for that loss, cost or expense.

D.41.6 If the rate of GST is increased above 10 (ten) percent then the Parties must agree to adjust the CPI to reflect the real change in the CPI that would have been calculated by the CPI but for the increase in the rate of the GST. If Service Provider and the User are unable to agree on an appropriate adjustment to the CPI within 90 days, either Service Provider or the User may refer the matter for resolution under clause D.29.

#### **D.42 Refunds and Credits**

D.42.1 Notwithstanding clauses D.14.2, D.14.4 and D.35:

- (a) where the Firm Service is not provided such that the User does not receive Gas for more than 48 consecutive hours and the failure or continuation of the failure to provide Gas is directly or indirectly caused by Service Provider, Service Provider will, refund or credit to the User for each period of 24 hours for which the failure continues beyond the 48 consecutive hours; and
- (b) the refund or credit will be calculated as “the sum of the Capacity Reservation Charge and the Toll Charge payable for each 24 hour period in excess of the initial 48 consecutive hours.”

#### **D.43 Waiver**

Any failure or delay by either Party in exercising any of its rights under the Transportation Agreement shall not operate as a waiver of its rights and shall not prevent such Party from subsequently enforcing any right or treating any breach by the other Party as a repudiation of the Transportation Agreement.

#### **D.44 Entire agreement**

The Transportation Agreement constitutes the entire agreement between the Parties on the subject matter of the Transportation Agreement and supersedes all prior negotiations, representations and agreements between the Parties.

#### **D.45 Severability**

If any clause or provision of the Transportation Agreement shall be held illegal or unenforceable by any judgment of any court or tribunal having competent jurisdiction, such judgment shall not affect the remaining provisions of the Transportation Agreement which shall remain in full force and effect as if such

clause or provision held to be illegal or unenforceable had not been included in the Transportation Agreement.

#### **D.46 Governing law**

The Transportation Agreement shall be construed and interpreted in accordance with the law of the State and the Parties submit to the exclusive jurisdiction of the courts of the State.

#### **D.47 Confidentiality**

- D.47.1 A Party receiving Confidential Information may use it solely for the purposes of performing its obligations under the Transportation Agreement or for internal purposes related to the governance of the Party or its Related Bodies Corporate.
- D.47.2 A Party must obtain the prior written consent of the other Party in order to use or disclose Confidential Information for any other purpose except where:
- (a) disclosure is required by law or lawfully required by a Governmental Authority; or
  - (b) if the information is at that time lawfully generally available to the public, other than as a result of a breach of the Transportation Agreement; or
  - (c) disclosure is required in order to comply with the listing rules of a recognised stock exchange; or
  - (d) to the extent required by an order of a court of competent jurisdiction for the purposes of any litigation or arbitration.
- D.47.3 The Service Provider must comply with any confidentiality requirements imposed on it pursuant to the NGL and the NGR (Part 16).
- D.47.4 A Party shall be entitled to disclose any details contained in the Transportation Agreement without the consent of the other Party to such of the following persons who on reasonable grounds have a clear need to know:
- (a) employees, directors, officers, contractors and agents of the Party;
  - (b) the Party's Related Bodies Corporate or employees, officers and agents of the Related Body Corporate;
  - (c) any professional consultant or expert retained by the Party;
  - (d) any person with whom the User is in bona fide negotiations for transfer of capacity;
  - (e) a prospective purchaser of an Owner's interest in the GGTJV or Service Provider;

- (f) a prospective purchaser of any of the issued shares in an Owner, Service Provider, or User or any Related Body Corporate of an Owner or Service Provider or User; and
- (g) any financier or prospective financier of an Owner, Service Provider, the User or any Related Body Corporate of an Owner, Service Provider or the User,

provided that such parties are bound by a similar obligation of confidentiality.

D.47.5 Service Provider and User agree that this clause D.47 survives the expiry or earlier termination of the Transportation Agreement and continues to bind each of them with full force and effect.

## Appendix One

### TEST PROCEDURES

1. A gas chromatograph or other device used for the determination of Gross Heating Value shall be deemed to be accurate if such equipment shall have an accuracy of +/- 0.5%. Pressure, differential pressure, temperature, specific gravity and density transducers shall be deemed to be accurate if such equipment shall have an accuracy of +/- 1.0%. Meters and correcting instruments shall be deemed to be accurate if such equipment shall have an accuracy of +/- 2.0%. For the purposes of Section 1:
  - (a) the accuracy of any measurement equipment shall be taken to mean the difference in the output reading or signal of the device with respect to that of a suitable calibration standard, expressed as a percentage; and
  - (b) a correcting instrument is any device connected to a meter either directly or indirectly and which incorporates means to convert actual quantities or volume as measured by the meters into quantities or volume at some standard conditions.
2. If, upon testing, any measuring equipment is found to be accurate within the meaning of Section 1, all previous recordings or output of such equipment shall be considered accurate in computing the acceptance, transmission, and delivery of Gas. To the extent that the accuracy of the measuring equipment is not zero the equipment shall be adjusted immediately such that its accuracy is as close as practicable to zero. No adjustment to User's account shall be made.
3. If, upon testing, any measuring equipment shall be found to be inaccurate within the meaning of Section 1, any previous recordings or output of such equipment shall be corrected by the full magnitude of the inaccuracy found for any period wherein it is known definitely that and to what extent the measuring equipment was operating inaccurately. In the event the period or degree of inaccuracy is not known or not agreed upon and no superior information is available from check measuring of other appropriate equipment, such correction shall be for a period extending over one half of the time elapsed since the date of the preceding test. The extent of the adjustment shall be based on procedures incorporating good pipeline industry practice in regard to estimating the circumstances in which meters fail. The equipment shall be adjusted immediately such that its inaccuracy is as close as practicable to zero.
4. To determine the accuracy of any measurement device it shall be tested so that the output signal or reading of the device is as close as possible to the normal operating point or, if the device normally operates within a particular range, at points within that range. In the latter case the accuracy shall be an average across the range.

5. For the purposes of Section 1 a suitable calibration standard shall be any facility or testing device with traceability to a primary standard, or a testing laboratory or facility having appropriate National Association of Testing Authorities (NATA) or other accreditation recognised by Service Provider.

As far as possible, the accuracy of the calibration standard should be at least twice that achievable from the measuring equipment installed in the field.

## Appendix Two

### GAS SPECIFICATION

The quality of Gas supplied hereunder at the Receipt Point and delivered to the Delivery Point shall conform to the following.

#### 1. Merchantable Gas

The gas shall be merchantable natural gas comprised primarily of methane and free of impurities, objectionable odours, solid and liquid matters, trace metals, waxes, gums and gum-forming constituents, hydrogen, carbon monoxide, helium, aromatic hydrocarbons, mercury, crude oils, lubricants (including compressor lubricant) which may be injurious to, or unsuitable for use in, pipelines, control equipment, gas turbine or reciprocating engines and associated auxiliaries and equipment and to commercial and domestic appliances which are designed to use natural gas.

#### 2. Additives

##### (a) Glycols

The gas will not contain glycols in concentration detectable by the test method, unless otherwise agreed.

##### (b) Methanol

The gas will not contain methanol in concentration detectable by the test method, unless agreed otherwise.

#### 3. Gas Properties

##### (a) Wobbe Index

The Wobbe Index is defined as the Gross Heating Value of the gas (MJ/m<sup>3</sup>) divided by the square root of the specific gravity of the gas.

The specific gravity of the gas is relative to air and is to be determined at a temperature of 15oC and a pressure of 101.325 kPa absolute.

##### (b) Flammability Limit

The ratio of higher flammability limit to lower flammability limit shall exceed 2.2:1 for the gas.

Flammability limits are the upper and lower extremes of fuel air ratio that will permit ignition and sustain combustion of the fuel air mixture at a temperature of 15oC and a pressure of 101.325 kPa absolute.

#### 4. Test Methods

The suggested methods for testing that gas supplied at the Receipt Point complies with the agreed specification are detailed below.

#### **4.1 Fuel Components**

(a) Merchantable Gas

Not applicable.

(b) Oxygen

ASTM D 1945 Chemical analysis of natural gas by gas chromatography

ASTM D 7607 – 11e1 Standard Test Method Analysis of Oxygen in Gaseous Fuels (Electrochemical Sensor Method)

(c) Total Inert Gases

To be agreed.

#### **4.2 Gas Contaminants**

(a) Total Sulphur

ASTM D 1072 Test method for total sulphur in fuelled gases

D4468-95 Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry

(b) Hydrogen Sulphide

ASTM D 2385 Hydrogen sulphide content by methylene blue method;

ASTM D4084-94 Standard test method for analysis of Hydrogen Sulphide in gases fuels (lead acetate reaction rate method)

ASTM D4323-97 Standard Test Method for Hydrogen Sulphide in the Atmosphere by Rate of Change of Reflectance

(c) Water

ASTM D 1142 Water vapour content of gas fuel by measurement of dew point temperatures

(d) Carbon Dioxide

ISO 6976:1995. Natural gas -- Calculation of calorific values, density, relative density and Wobbe index from composition

ISO 6974-(1-5): Natural gas -- Determination of composition and associated uncertainty by gas chromatography.

### 4.3 Additives

(a) Glycols

Thermal desorption Perkin-Elmer Model ATD-50.

(b) Methanol

Limits and test method to be advised where use of methanol is agreed.

### 4.4 Gas Properties

(a) Gross Heating Value

ISO 6976:1995. Natural gas -- Calculation of calorific values, density, relative density and Wobbe Index from composition

ISO 6974-(1-5) : Natural gas -- Determination of composition and associated uncertainty by gas chromatography

(b) Wobbe Index

ISO 6976:1995. Natural gas -- Calculation of calorific values, density, relative density and Wobbe Index from composition.

ISO 6974-(1-5): Natural gas -- Determination of composition and associated uncertainty by gas chromatography.

### Receipt Gas Specification<sup>1</sup>

Component	Units	Minimum	Maximum
Carbon Dioxide	mol %		4.0
Total Inerts	mol %		7.0
Hydroc. Dewpoint 102 to 10,000 kPa	Deg C		0
Oxygen by Volume	mol %		0.2
Total Sulphur	mg/m <sup>3</sup>		10.0 <sup>2</sup>
Hydrogen Sulphide	mg/m <sup>3</sup>		2.0
Wobbe Index	MJ/m <sup>3</sup>	46.0	51.0
Water Vapour	mg/m <sup>3</sup>		48.0
Gross Heating Value	MJ/m <sup>3</sup>	35.5	42.3
Radioactive Components	Becq/m <sup>3</sup>		600

<sup>1</sup> Separate gas specifications for the Inlet and Delivery as it is expected that there may be different gas specifications for Inlet and Delivery.

<sup>2</sup> Including hydrogen sulphide and mercaptans.

**Delivery Gas Specification**

<b>Component</b>	<b>Units</b>	<b>Minimum</b>	<b>Maximum</b>
Carbon Dioxide	mol %		4.0
Total Inerts	mol %		7.0
Hydroc. Dewpoint 102 to 10,000 kPa	Deg C		0
Oxygen by Volume	mol %		0.2
Total Sulphur	mg/m <sup>3</sup>		10.0 <sup>3</sup>
Hydrogen Sulphide	mg/m <sup>3</sup>		5.0
Wobbe Index	MJ/m <sup>3</sup>	46.0	51.5
Water Vapour	mg/m <sup>3</sup>		48.0
Gross Heating Value	MJ/m <sup>3</sup>	35.5	42.5
Radioactive Components	Becq/m <sup>3</sup>		600

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<sup>3</sup> Including hydrogen sulphide and mercaptans.

**Appendix Three**

**Not used**

**Appendix 4**

**Not used**

## T C1 Definitions and Interpretation

### T C1.1 Definitions

Expressions used in the Terms and Conditions have the following meanings, unless the context otherwise requires. Capitalised terms used in these Terms and Conditions which are not defined have the meaning given to those terms in the National Gas Rules.

**Access Arrangement** has the meaning given to it in the NGL, and refers to the Access Arrangement as varied or replaced from time to time;

**Access Arrangement Information** has the meaning given to it in the NGL and refers to the 'Access Arrangement Information' approved by the Regulator for the Covered Pipeline;

**Access Arrangement Period** has the meaning given to it in the Rules and refers to the Access Arrangement Period currently scheduled to commence on 1 January 2015, unless the context requires otherwise;

**Accumulated Imbalance** means the arithmetic sum of all Daily Variance corrected for any adjustments made by trading of gas imbalances or purchase or sale of Gas to correct gas imbalances.

**Accumulated Imbalance Charge** has the meaning set out in Appendix 4..

**Adjustment Note** has the meaning in the GST Law;

**As Available Service** means the provision of Gas pipeline services by Service Provider on an as available basis;

**Authorised Imbalances** means one or more of the following:

- (a) any Imbalance caused by the User providing User's Line Pack share in accordance with the Transportation Agreement; or
- (b) any Imbalance caused by the User providing System Use Gas in accordance with the Transportation Agreement;

**Authorised Overrun** has the meaning given to it in section 2.2.3 of the Access Arrangement;

**Authorised Overrun Charge** is calculated in accordance with section 4.2.2 of the Access Arrangement;

**Authorised Overrun Quantity** means the amount of an Overrun Quantity which is attributable to an Authorised Overrun;

**Authorised Overrun Rate** has the meaning in Schedule A (Details) of the Access Arrangement;

**Base Line Pack** has the meaning given in clause D.13.4 of the Terms and Conditions;

**Billing Period** means the period:

- (a) from 8.00am on the first Gas Day the User receives Gas under the Service Agreement up to 8:00 am on the first calendar day in the next Month; and
- (b) thereafter from 8:00 am on the first calendar day in one Month up to 8:00 am on the first calendar day in the next Month;

**Business Day** means a day that is not a Saturday, Sunday or a gazetted public holiday in the capital city of Western Australia;

**Capacity** means the measure of the potential of the Covered Pipeline as currently configured from time to time during the life of the Access Arrangement to deliver a particular Service between a Receipt Point and a Delivery Point at a point in time;

**Capacity Reservation Charge** is calculated in accordance with section 4.1 of the Access Arrangement;

**Capacity Reservation Tariff** has the meaning in Schedule A (Details) of the Access Arrangement;

**Capital Base** has the meaning given in the NGR;

**Capital Contribution** is a contribution made by a User under Rule 82;

**Change in Control** of an entity occurs if a person who did not previously do so acquires or holds, directly or indirectly:

- (a) securities conferring 50% or more of the voting or economic interests in the entity;
- (b) the power to control the appointment or dismissal of the majority of the entity's directors; or
- (c) the capacity to control the financial or operating policies or management of the entity.

**Charge** means tariffs, charges and other amounts pursuant to the Firm Service as set out in section 4 of the Access Arrangement, and includes the Overrun Charge;

**Commencement Date** means the date for commencement of the Service as specified in the applicable Transportation Agreement;

**Conditions** means the conditions to apply to the Service referred to in section 2.1.3 of the Access Arrangement;

**Confidential Information** means information (whether or not recorded in a material form) that is not publicly available and that becomes available to a Party in respect

of the Transportation Agreement including (without limitation) the terms and conditions of the Transportation Agreement;

**Connection** means the service of connecting the User's facilities to the Pipeline;

**Connection Charge** means the amount payable by a User to enable Delivery Facilities to be connected to the Pipeline in accordance with section 4.2.5 of the Access Arrangement but limited to Service Provider'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;

**Consequential Loss** means any of the following, however arising and even if it is reasonably contemplated by the Parties, at the date of the Transportation Agreement, as a probable result of breach of the Transportation Agreement:

- (a) loss or damage which does not arise directly or naturally from a breach of the Transportation Agreement;
- (b) indirect, incidental, special, remote, unforeseeable or consequential loss or damage;
- (c) direct or indirect loss of revenue, profit, income, bargain, opportunity or anticipated savings;
- (d) costs or expenses incurred to prevent or reduce loss or damage which otherwise may be incurred or suffered by a third party; or
- (e) direct or indirect loss or damage incurred or suffered by a third party.

**Contracted Capacity** means that part of the Capacity of the Pipeline which has been reserved by a User or Users pursuant to a Transportation Agreement entered into with Service Provider;

**Contract Year** means the period of a Year commencing on the first Gas Day of the Term of a Transportation Agreement (which shall be the first Gas Day of a Month), or on the anniversary of the first Gas Day of the Term;

**Corporations Act** means the Corporations Act 2001 (Cth);

**Cost Pass-through Event/s** has the meaning given to it under section 4.2.5 (c) of the Access Arrangement;

**Cost Pass-through Event Notice** means a Notice provided to the Regulator in accordance with section 4.5.2 of the Access Arrangement;

**Cost Pass-through Reference Tariff Variation Mechanism** means the mechanism for adjustment of the Reference Tariff set out in section 4.5 of the Access Arrangement;

**Covered Pipeline** means that part of the Pipeline to which this Access Arrangement relates, and is described in the Access Arrangement Information (Section 1.2);

**CPI** means the Consumer Price Index (All Groups Weighted Average of Eight Capital Cities) as published by the Australian Bureau of Statistics for any Quarter and if such index ceases to be published, any official replacement index published by the Australian Bureau of Statistics and, in the absence of any official replacement index, an index nominated by Service Provider which is prepared and published by a Governmental Authority or independent third party and which most closely approximates the Consumer Price Index;

**Cubic Metre** or **m<sup>3</sup>** means the amount of gas which will occupy a volume of one cubic metre when such gas is at a temperature of 15°C and at a pressure of 101.325 kPa;

**Daily Variance, Daily Variance Charge, Daily Variance Quantity** have the meanings given in section 4.2.4 of the Access Arrangement;

**Daily Variance Allowance** has the meaning given to it in the Details of the Access Arrangement;

**Daily Variance Rate** has the meaning given to it in the Details;

**Date of Transportation Agreement** means the date the last Party signs the Transportation Agreement;

**DBNGP** means the gas transmission pipeline system that runs between Dampier and Bunbury in Western Australia, as expanded or amended from time to time to the extent that it is geographically located within the DBNGP pipeline corridor created under Part 4 of the Dampier to Bunbury Pipeline Act 1997 (WA);

**Default Rate** means the Bill Rate plus five percentage points, where "Bill Rate" means, 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 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;

**Delivery Facilities** means the facilities to be nominated by or provided for the User in the vicinity of the Delivery Point in accordance with clause D.24.1 of the Terms and Conditions;

**Delivery Point** means the point at which Service Provider delivers Gas to the User, being:

- (a) the flange on the outlet or downstream side of the Delivery Facilities in the case where the Delivery Facilities are owned by Service Provider; or

- (b) the flange on the outlet or downstream side of the offtake constructed by Service Provider in the case where the Delivery Facilities are owned by the User or a third party,

**Delivery Point MDQ** means the MDQ applicable to the User at a particular Delivery Point as set out in the Order Form/Form of Agreement, or otherwise agreed in writing by Service Provider and User;

**Delivery Point MHQ** means the MHQ applicable to User at a particular Delivery Point and has the meaning in section 2.2.2 of the Access Arrangement;

**Details** means the details set out in Schedule A of this Access Arrangement;

**Developable Capacity** means an increase in Capacity which, in Service Provider's opinion, acting reasonably and to the standard of a reasonable and prudent pipeline operator, is technically and economically feasible to develop consistent with the safe and reliable operator of the Pipeline;

**Developable Capacity Notice** means a notice pursuant to section 5.3.1 of the Access Arrangement;

**Existing Contracts** means all contracts for the provision of Gas transportation services whether or not in conjunction with other services entered into before the Relevant Date;

**Expansion** means additions of plant or pipeline made by Service Provider to the Covered Pipeline which result in an increase in Capacity;

**Extension** means an extension in the geographic range of the Pipeline that is not an Expansion; **Firm MDQ** means the maximum quantity of Gas which the Service Provider is from time to time obliged to deliver across all Delivery Points to or on account of Users on any Gas Day under a Firm Service;

**Final Decision** means the decision made by the Regulator under either of Rule 62 or Rule 64 of the NGR (as the case requires) or, where relevant, a variation to that decision made under Rule 67 of the NGR;

**Firm MDQ** means the maximum quantity of Gas which the Service Provider is from time to time obliged to deliver across all Delivery Points to or on account of the User in any Gas Day under the Firm Service as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User from time to time;

**Firm MHQ** means the maximum quantity of Gas which the Service Provider is from time to time obliged to deliver across all Delivery Points to or on account of the User in any Hour under the Firm Service as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User from time to time, provided that the MHQ must be no greater than the figure produced by the formula  $MDQ / 24 \times 1.2$ , where MDQ is the User's Firm MDQ;

**Firm Service** is the Reference Service, and is as described in section 2.2 of the Access Arrangement, except in the context of Scheduling and Curtailment under clauses D.5 and D.7.1 of the Terms and Conditions

**Firm Service Reserved Capacity** means that part of the Capacity of the Covered Pipeline which has been contracted for Firm Service and for the avoidance of doubt excludes the Initial Committed Capacity;

**Forecast Capital** has the meaning given to it in section 3.2;

**Force Majeure Event** means any event or circumstance, or a combination of events or circumstances, which is beyond the reasonable control of a Party, which by the exercise of due diligence that Party is not reasonably able to prevent or overcome and which has the effect of preventing the Party from performing an obligation under the Transportation Agreement, including, without limitation (provided that they meet the foregoing criteria):

- (a) acts of God, including without limitation, earthquakes, floods, washouts, landslides, lightning, storms and other acts caused by the elements;
- (b) strikes, lockouts, bans, slowdowns or other industrial disturbances;
- (c) acts of enemy, wars (declared or undeclared), acts of terrorists, blockades or insurrections, riots and civil disturbances, arrest and restraint of rulers and peoples;
- (d) fire or explosion;
- (e) epidemic or quarantine;
- (f) any order or direction of any Governmental Authority, or omission or failure to act by any Governmental Authority; or the failure to obtain or maintain any necessary Approval;
- (g) in respect of the Pipeline, and any lateral pipelines owned or operated by the Service Provider and related machinery, equipment or facilities (including Interconnection Facilities), accidents, breakdown, or the necessity to undertake alterations, repairs or maintenance (other than routine maintenance for which notice has not been given).

The following events:

- (a) lack of finances;
- (b) changes in market conditions for the transportation, purchase or sale of Gas;
- (c) the inability of the User or a person supplying Gas at or upstream of the Receipt Point to provide Gas at a Receipt Point for transportation under the Transportation Agreement; or
- (d) the inability of the User or a person consuming the Gas at or downstream of the Delivery Points to take Gas,

will under no circumstances constitute or cause a Force Majeure Event.

**Form of Agreement** means the form attached to this Access Arrangement;

**Gas** means natural gas meeting the Gas Specification, and Non-Specification Gas knowingly accepted for receipt as Non-Specification Gas by Service Provider pursuant to clauses D.23.4 and D.23.5 of the Terms and Conditions;

**Gas Day** means a period of 24 consecutive hours, beginning and ending at 8:00 am. When referring to a particular Gas Day the date of that Gas Day shall be the date on which that Gas Day begins;

**Gas Specification** means the 'Receipt Gas Specification' and 'Delivery Gas Specification' set out in Appendix 2 of the Terms and Conditions and any amendments to Appendix 2 of the Terms and Conditions subsequently approved by the Regulator;

**GGP Act** means the Goldfields Gas Pipeline Agreement Act 1994 (WA);

**GGP State Agreement** means the agreement scheduled to the GGP Act;

**GGT** has the meaning in section 1.3 of the Access Arrangement;

**GGTJV** or **Goldfields Gas Transmission Joint Venture** means the unincorporated joint venture between the Owners known as the Goldfields Gas Transmission Joint Venture;

**GGTJV Agreement** means the agreement entered into between the Owners in respect of the joint venture relating to the Pipeline;

**GJ** or **Gigajoule** means one gigajoule and is equal to one thousand MJ;

**Good Engineering and Operating Practice** means generally accepted practices, methods, acts and omissions practised in the Australian pipeline industry at the relevant time to operate, maintain and repair a pipeline, exercising reasonable judgement, lawfully, safely, reliably, efficiently and economically, having regard to the type, size, design, configuration, location and other attributes and operating conditions of the Pipeline;

**Goods and Services Tax** or **GST** means the tax payable on taxable supplies under the GST Law;

**Governmental Authority** means a government, governmental authority or department, statutory authority, administrative authority or regulatory agency;

**Gross Heating Value** or **GHV** expressed in MJ/m<sup>3</sup> means the energy produced by the complete combustion of one Cubic Metre of Gas with air, at a temperature of 15°C and at an absolute pressure of 101.325 kPa, with the Gas free of all water vapour, the products of combustion cooled to a temperature of 15°C and the water vapour formed by combustion condensed to the liquid state;

**Gross Negligence** means a negligent act or omission, committed with reckless disregard for the consequences and the circumstances where the negligent party knows or ought to know that those consequences would likely result from the act or omission, an which is not due to an honest mistake, oversight, error of judgement or accident;

**GST Law** means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

**Hour** means a period of 60 consecutive minutes, beginning on the hour, in any Gas Day;

**Imbalance** means, in respect of a period of time, the difference between the quantity of Gas received from or on account of the User at the Receipt Point during that period and the aggregate of the quantity of Gas transported to or on account of the User at the Delivery Point(s) during that period. For any period, an Imbalance is **positive** when receipt quantities exceed delivery quantities, and **negative** when delivery quantities exceed receipt quantities, during the period;

**Imbalance Allowance** has the meaning given to it in the Details;

**Imbalance Rate** has the meaning given to it in the Details;

**Imbalance Charge** means the charge payable by User in accordance with section 4.2 of the Access Arrangement;

**Incremental Services** means pipeline services (as defined in the NGL) provided by means of an Extension or Expansion;

**Individual Share** means the Owners' respective interests in the GGTJV;

**Information Interface** means any secure, digital interface operated by Service Provider and used by the User for:

- (a) submitting Nominations under the Transportation Agreement; and
- (b) obtaining access to information regarding receipts, delivery, balances and gas flows under the Transportation Agreement;

**Initial Committed Capacity** has the meaning in subclause (3) of clause 8 of the GGP State Agreement and for the avoidance of doubt such capacity may from time to time be utilised or unutilised;

**Initial Customers Agreements** means:

- (a) any agreements of the kind referred to in subclause (1) of clause 8 of the GGP State Agreement by which each Joint Venturer reserved to itself, for such period and on such terms as the Joint Venturers agreed, access to such of the transmission capacity of the Pipeline as it requires for the transmission of such gas as each Joint Venturer or its associates (as defined in the GGP State Agreement) may require;

- (b) any commitments procured under subclause (2) of clause 8 of the GGP State Agreement by which Third Parties (as defined in the GGP Agreement and including (but not limited to) any one or more of the Joint Venturers, acting independently of the other Joint Venturers and outside the scope of the joint venture between them) gave binding commitment to purchase transmission capacity on terms and conditions acceptable to the Joint Venturers; and
- (c) any amendments, modifications, restatements or substitutions to each of the foregoing, including by way of any assignment or novation, made prior to the Relevant Date;

**Insolvent** means in relation to a Party:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it has had a controller appointed or is in liquidation, in provisional liquidation, under administration or wound up or has had a receiver or receiver and manager appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other Party); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this Agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the Law of any jurisdiction.

**Interconnect Party** means the User or another person, as the case may be, that operates Interconnection Facilities;

**Interconnection Facilities** means those pipeline facilities that are required to connect the Pipeline to the facilities of another person, and includes the Receipt Facilities and the Delivery Facilities;

**Interruptible Service** means the provision of Gas pipeline services by Service Provider, on a basis which in the sole discretion of Service Provider acting reasonably may be curtailed or interrupted from time to time.

**Joint Venturers** has the meaning in the GGP State Agreement and at the Relevant Date means the Owners and includes their respective predecessors in title;

**Joule** or **J** means the amount of work done when the point of application of a force of one newton is displaced a distance of one metre in the direction of the force;

**kPa** means one kilopascal and is equal to one thousand Pascals absolute;

**Line Pack** means the quantity of Gas, other than quantities of Gas being transported and System Use Gas, which the Service Provider determines is necessary to be in the Pipeline for the physical operation of the Pipeline from time to time in order to ensure that the Service Provider meets its obligations under all Transportation Agreements;

**Measurement Variance** means the difference in the total quantity of Gas measured at the Receipt Point and the total quantity of Gas measured at the Delivery Point(s) (taking into account Used Gas and changes in linepack) due solely to the measurement inaccuracies within the prescribed limits of accuracy of the meters as set out in the First Schedule of the General Terms and Conditions;

**Maximum Daily Quantity** or **MDQ** means the maximum quantity of Gas which Service Provider is from time to time obliged to receive at the Receipt Point and/or deliver at a Delivery Point (as applicable) to or on account of the User on any Gas Day, and if in respect to a particular Service the quantity for that particular Service. Where the term is used in relation to a Transportation Agreement other than the User's Transportation Agreement, the term means the maximum quantity of Gas which the Service Provider is obliged to deliver on any Gas Day under that Transportation Agreement or the relevant Service under the Transportation Agreement (as applicable);

**Maximum Hourly Quantity** or **MHQ** means the maximum quantity of Gas which Service Provider is from time to time obliged to receive at a Receipt Point and/or deliver at a Delivery Point (as applicable) to or on account of the User in any Hour, and if in respect to a particular Service, the quantity for that particular Service. Where the term is used in relation to a Transportation Agreement other than the User's Transportation Agreement, the term means the maximum quantity of Gas which the Service Provider is obliged to deliver in any Hour under that Transportation Agreement.

**Metering and Measurement Requirements** means specifications published by Service Provider from time to time for metering and measurement in relation to the Pipeline, which have been made available to the User, are consistent with Appendix 1 and ensure that Good Engineering and Operating Practices are observed reasonably and efficiently (consistent with achieving the national gas objective set out in section 23 of the National Gas Law);

**Metering Equipment** means all the equipment and facilities reasonably and efficiently required to be installed or provided at each Receipt Point to conform to the Metering and Measurement Requirements (and consistent with achieving the national gas objective set out in section 23 of the National Gas Law);

**MJ** means one megajoule and is equal to one million Joules;

**Month** means the period beginning on the first Gas Day of a calendar month and ending at 8:00 am on the first Gas Day of the next calendar month;

**National Gas Access (Western Australia) Law** has the meaning given in section 3 of the National Gas Access (WA) Act 2009 (WA);

**National Gas Law** or **NGL** means the National Gas Access (Western Australia) Law applying pursuant to the National Gas Access (WA) Act 2009 (WA);

**National Gas Rules** or **NGR** means the National Gas Rules referred to in section 294 of the NGL;

**Negotiated Service** has the meaning in section 2.3 of the Access Arrangement;

**Negotiated Service Agreement** means an agreement between the Owners and the User for the provision of a Negotiated Service, which arises under and in accordance with the Access Arrangement and is constituted by:

- (d) the executed and accepted Order Form and all attachments to it, as documented in the items of the Order Form;
- (e) any Conditions that may apply (whether on the Order Form or otherwise); and
- (f) the terms and conditions and any other special conditions negotiated by the Owners and the User;

**Negotiated Service Reserved Capacity** means that part of the Capacity of the Covered Pipeline which has been contracted for a Negotiated Service and for the avoidance of doubt excludes the Initial Committed Capacity;

**Negotiated Transportation Agreement** means an agreement between Service Provider and the User for the provision of a Negotiated Service, which arises under and in accordance with the Access Arrangement;

**New Capital Expenditure** has the meaning given to it under Rule 79;

**Nomination** means a request by the User to the Service Provider for a Service under a Transportation Agreement, given in accordance with the Transportation Agreement, in the manner and form (which may include by digital interface) advised by Service Provider from time to time. **Nominate** has a corresponding meaning;

**Nomination Deadline** means 4.00 pm Australian Western Standard Time on the Gas Day prior to which the Nomination relates (or such other time as the Service Provider advises the User in writing from time to time);

**Non-Specification Gas** means substances with one or more characteristics outside the limits defined in the Gas Specification;

**Notice of Auction for Spare Capacity** means a notice issued in accordance with section 5.2.3 of the Access Arrangement;

**Opening Capital Base** has the meaning given to it under Rule 77;

**Order Form** means a form, subject to change, under which, when completed and signed by User and Service Provider, indicates that the Prospective User has accepted the terms of the Access Arrangement and the Terms and Conditions.

**Other Tariff Charges** means the charges listed in section 4.2.1 of the Access Arrangement, when used in the Access Arrangement, and means the charges listed in clause D.10.1 of the Terms and Conditions when used in the Terms and Conditions;

**Overrun** means an Authorised Overrun or an Unauthorised Overrun (as the case may be);

**Overrun Charge** means an Authorised Overrun Charge or an Unauthorised Overrun Charge (as the case may be);

**Overrun Quantity** means each quantity of Gas which is delivered to or on account of the User at each Delivery Point:

- (a) on a Gas Day in excess of:
  - (i) if Service Provider curtails deliveries in accordance with clause D.10.7 of the Terms and Conditions, the quantity of Gas (if any) Scheduled for transportation on a firm basis up to the Delivery Point MDQ and not curtailed; or
  - (ii) otherwise, the lesser of the Delivery Point MDQ and the quantity of Gas (if any) Scheduled to be delivered at that Delivery Point on that Gas Day to or on account of User; or
- (b) at a rate per Hour in excess of the Delivery Point MHQ for the relevant Delivery Point (or, if Service Provider curtails deliveries in accordance with clauses D.7 of the Terms and Conditions, at a rate per Hour in excess of the curtailed rate);

**Owners** has the meaning in section 1.3 of the Access Arrangement;

**Party** means Service Provider and the User, respectively and **Parties** means both the Service Provider and the User;

**Pipeline** or **Goldfields Gas Pipeline** means the pipeline as defined in Pipeline Licence 24 issued under the Petroleum Pipelines Act 1969 (WA), being the pipeline or pipeline system for the transmission of natural gas from the North-West of Western Australia into the inland Pilbara and Goldfields regions, together with all structures for protecting or supporting the pipeline or pipeline system and

associated facilities for the compression of gas, the maintenance of the pipeline and the receipt and delivery of gas and all fittings, appurtenances, appliances, compressor stations, scraper stations, mainline valves, telemetry systems (including communication towers) works and buildings used in connection with the pipeline or pipeline system and includes the lateral pipeline to Newman;

**Pipeline Licence** means the pipeline licence issued by the relevant Governmental Authority, as amended or replaced, to construct and operate the Pipeline;

**Pre-existing Contractual Right** has the meaning given to 'relevant protected contractual right' in section 321 of the National Gas Law, and the date referred to therein as the "date that (proposed) access arrangement was submitted (or required to be submitted) for approval" for the purposes of the Access Arrangement is the Relevant Date, and for avoidance of doubt includes any contractual right (other than a 'relevant exclusivity right' as defined in section 321 of the National Gas Law, as evidenced by the Initial Customers Agreements and the Existing Contracts;

**Prospective User** has the meaning given to it in the National Gas Law;

**Prudential Requirements** has the meaning given in section 2.1.2 of the Access Arrangement and clause D.3 of the Terms and Conditions;

**Quantity Variation Charges** means all or any of the Overrun Charge, Imbalance Charge and Daily Variance Charge.

**Quarter** means a period of 3 Months commencing on the first day of the Months of July, October, January and April and **Quarterly** has a corresponding meaning;

**reasonable and prudent pipeline operator** means a person, firm or body corporate who, in the conduct of its undertaking, exercises that degree of diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced operators engaged in the same type of undertaking under the same or similar circumstances and conditions in accordance with applicable laws, regulations and standards, and any reference to the **standard of a reasonable and prudent pipeline operator** shall mean such degree of diligence, prudence and foresight;

**Receipt Facilities** means the facilities required for the receipt of Gas into the Pipeline in accordance with Good Engineering and Operating Practice.

**Receipt Point** is a point in the Pipeline where gas is received into the Pipeline. In respect of the Reference Service, the Receipt Point is the existing Receipt Point at Yaraloola;

**Receipt Point MDQ** means the MDQ applicable to the User at a particular Receipt Point as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User;

**Receipt Point MHQ** means the MHQ applicable to the User at a particular Receipt Point as set out in the Order Form/Form of Agreement or otherwise agreed in writing by Service Provider and User, provided that the MHQ must be no greater

than the figure produced by the formula  $MDQ / 24 \times 1.2$ , where MDQ is the Receipt Point MDQ for the particular Receipt Point;

**Reference Service** has the meaning in section 2 of the Access Arrangement, and is also referred to as the Firm Service;

**Reference Service Agreement** means an agreement between the Owners and the User for the provision of the Reference Service, which arises under and in accordance with the Access Arrangement and is constituted by:

- (a) the executed and accepted Order Form and all attachments to it;
- (b) any conditions that may apply (whether on the Order Form or otherwise); and
- (c) the Terms and Conditions;

**Reference Tariff** has three components, being the Toll Charge, the Capacity Reservation Charge, and the Throughput Charge;

**Reference Tariff Component** means the Toll Charge, the Capacity Reservation Charge, and the Throughput Charge that make up the Reference Tariff;

**Reference Tariff Variation Mechanism** is the mechanism to vary Reference Tariffs referred to in section 4.5 of the Access Arrangement;

**Registration of Interest** means a registration of interest lodged in accordance section 5.1.1 of the Access Arrangement;

**Regulator** means the relevant Regulator for Western Australia under the National Gas Access (Western Australia) Law;

**Related Body Corporate** in relation to a body corporate, means a body corporate that is related to the first mentioned body by virtue of section 50 of the Corporations Act;

**Relevant Date** means 15 August 2014;

**Review Commencement Date** has the meaning in section 1.7 of the Access Arrangement;

**Revisions Submission Date** has the meaning in section 1.7 of the Access Arrangement;

**SCADA** means the supervisory control and data acquisition system for data gathering, monitoring and controlling of the Pipeline operations;

**Schedule** has the meaning in clauses D.5.1 to D.5.4 (inclusive) of the Terms and Conditions;

**Scheduled Reference Tariff Variation Date** means the dates on which the Scheduled Reference Tariff Variation Mechanism allows for the Reference Tariff to be varied, in accordance with Schedule A;

**Scheduled Reference Tariff Variation Mechanism** is the Reference Tariff Variation Mechanism described in section 4.5.1 of the Access Arrangement;

**Scheduled Reference Tariff Variation Notice** is a notice provided to the Regulator in accordance with section 4.5.1 of the Access Arrangement;

**Service** means:

- (a) a Reference Service; or
- (b) a Negotiated Service;

**Service Agreement** means a Reference Service Agreement or a Negotiated Service Agreement, as the context requires;

**Service Period** means the period from the Commencement Date until the Termination Date;

**Service Provider** has the meaning in section 1.4 of the Access Arrangement and includes Service Provider's successors and permitted assigns;

**Spare Capacity** in respect of the Covered Pipeline means at any time the aggregate of:

- (a) any difference between:
  - (i) the Capacity of the Covered Pipeline; and
  - (ii) the total of:
    - (A) the Firm Service Reserved Capacity;
    - (B) the Negotiated Service Reserved Capacity; and
    - (C) the Initial Committed Capacity; plus
- (b) any difference between:
  - (i) the Firm Service Reserved Capacity; and
  - (ii) the Firm Service Reserved Capacity then being used; plus
- (c) any difference between:
  - (i) the Negotiated Service Reserved Capacity; and
  - (ii) the Negotiated Service Reserved Capacity then being used; plus
- (d) any difference between:
  - (i) the Initial Committed Capacity; and

(ii) the Initial Committed Capacity then being utilised,

to the extent that this does not deprive any person of a Pre-existing Contractual Right;

**Spare Capacity Notice** means a notice pursuant to section 5.2.2 of the Access Arrangement;

**Spare Capacity Register** has the meaning in Rule 111.

**Speculative Capital Expenditure Account** has the meaning given in Rule 84.

**State** means the State of Western Australia;

**Surcharge** has the meaning given to it in Rule 83.

**System Use Gas** means the quantities of gas:

- (a) used as compressor fuel and for other purposes necessary for the management, operation and maintenance of the Pipeline; or
- (b) otherwise lost and unaccounted for in connection with the operation of the Pipeline,

other than Line Pack and Gas lost through the negligence of the Service Provider;

**Tax or Taxes** means any tax, levy, impost, deduction, charge, rate, rebate, duty, fee or withholding which is levied or imposed by a Governmental Authority;

**Tax Invoice** has the meaning in the GST Law;

**Term of Transportation Agreement** or **Term** means the period from the Date of Transportation Agreement, subject to earlier termination in accordance with these Terms and Conditions, until the Termination Date, subject to early termination pursuant to relevant provisions of the Transportation Agreement and shall expire on the Termination Date;

**Termination Date** means the earlier of the date for termination of the Service as specified in the applicable Order Form or the date on which the Transportation Agreement is terminated;

**Terms and Conditions** refer to the terms and conditions for the Firm Service set out in Schedule D;

**Throughput Charge** is calculated in accordance with section 4.1 of the Access Arrangement;

**Throughput Tariff** has the meaning in Schedule A (Details) of the Access Arrangement;

**TJ** means one terajoule and is equal to one thousand GJ;

**Toll Charge** is calculated in accordance with section 4.1 of the Access Arrangement;

**Toll Tariff** has the meaning in Schedule A (Details) of the Access Arrangement;

**Total Revenue** is the total revenue for the Access Arrangement Period for the Covered Pipeline determined in accordance with Rule 76 of the National Gas Rules, and can be varied during the Access Arrangement Period as Reference Tariffs are varied through the operation of the Reference Tariff Variation Mechanism as set out in section 4.5 of the Access Arrangement.

**Transportation Agreement** means any contract entered into between the Service Provider and a User for Services for that User (including a Service Agreement where applicable) and, as regards the Firm Service, means a contract entered into between the Service Provider and a User using the Order Form and the Terms and Conditions, and where used in relation to such a User, means that User's contract for the Firm Service;

**Unauthorised Imbalance** means any Imbalance which is not an Authorised Imbalance;

**Unauthorised Overrun** has the meaning given to it in section 2.2.3.

**Unauthorised Overrun Charge** has the meaning given in section 4.2.2 of this Access Arrangement;

**Unauthorised Overrun Quantity** means the amount of an Overrun Quantity which is attributable to an Unauthorised Overrun.

**Unauthorised Overrun Rate** has the meaning given in the Details of the Access Arrangement;

**User** means, as the context requires:

- (a) the 'User' of a Reference Service having the meaning given to it in the National Gas Law; and/or
- (b) a person who is a party to a Transportation Agreement with the Service Provider on the Pipeline who is provided services other than Reference Service;

**Used Gas** means Gas used, consumed or lost by Service Provider acting as a reasonable and prudent pipeline operator in the operation of the Pipeline, including Measurement Variance, instrument gas, compressor fuel, line loss and Gas which has been vented;

**User's Line Pack** means the quantity of Gas, in the Pipeline at any time, received by the Service Provider on account of the User under the Transportation Agreement, other than quantities of Gas Scheduled for transportation and System Use Gas;

**Variation Year** has the meaning in Schedule A to the Access Arrangement;

**Wilful Misconduct** means any act or omission done or omitted to be done with deliberate or reckless disregard for foreseeable, harmful and avoidable consequences which is not otherwise an act or omission done in good faith;

**Year** means a period of 365 consecutive Gas Days but, for any Year which contains a date of 29 February, means 366 consecutive Gas Days.

## **T C1.2 Interpretation**

Subject to the definitions above, the terms used in the Details (such as Pipeline) have the meaning set out in the Details.

Unless the context requires otherwise:

- (a) a reference to a 'Rule' is a reference to a Rule of the NGR;
- (b) a reference to a 'section' or a 'schedule' is a reference to a section in, or schedule to, this Access Arrangement;
- (c) a reference to a 'clause' or to an 'appendix' is a reference to a clause in, or appendix to, the Terms and Conditions;
- (d) the singular includes the plural and the opposite also applies;
- (e) references to any statute, regulations or other statutory instrument, standard or by-laws are deemed to be references to the statute, regulations, statutory instrument, standard or by-laws as are from time to time amended, consolidated, re-enacted or replaced, including substituted provisions that substantially correspond to those referred to;
- (f) words such as "including" or "for example" do not limit the meaning the words preceding them; and
- (g) all definitions above, have the same meaning in the Access Arrangement Information.