

TUBRIDGI PIPELINE SYSTEM ACCESS ARRANGEMENT

Tubridgi Parties

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ANNEXURE B

GENERAL TERMS & CONDITIONS

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GENERAL TERMS AND CONDITIONS

These are the terms and conditions applicable to the provision of the Haulage Reference Service by the Tubridgi Parties for the Tubridgi Pipeline System. These terms and conditions will also apply to the provision of Negotiated Services to the extent that the Tubridgi Parties determine that these terms and conditions are appropriate and applicable to those Negotiated Services.

1. THE AGREEMENT

1.1. Contents of Agreement

The Agreement between the Tubridgi Parties and the Pipeline User comprises these terms and conditions and the Specific Terms and Conditions.

1.2. Inconsistency

If these terms and conditions and the Specific Terms and Conditions are inconsistent in any respect, the Specific Terms and Conditions will prevail to the extent of the inconsistency.

1.3. Interpretation

Definitions given to terms in the Access Arrangement (to which these terms and conditions are annexed) apply to those terms in the Agreement except where the contrary intention appears.

2. HAULAGE REFERENCE SERVICE

2.1. Haulage Reference Service

During the Term, in consideration of the Charges payable by the Pipeline User under the Agreement, the Tubridgi Parties jointly will:

- (a) receive Gas from or for the account of the Pipeline User at each User Receipt Point; and
- (b) deliver Gas to or for the account of the Pipeline User through each User Delivery Point,

in accordance with, and subject to, the terms of the Agreement.

2.2. Delivery Quantities

The Pipeline User irrevocably authorises the Tubridgi Parties during the Term to deliver through each Transmission Delivery Point whatever Gas is taken through that Transmission Delivery Point (whether the taking of that Gas is or is not specifically authorised by the Pipeline User or any other person).

2.3. Service Standards

The Tubridgi Parties jointly will ensure that the Tubridgi Pipeline System is operated and managed during the Term in accordance with the Access Arrangement (to which these terms and conditions are annexed) and in accordance with any Pipeline Licence.

3. CAPACITY MANAGEMENT

3.1. Maximum Daily Quantity

The Maximum Daily Quantity (MDQ) for a User Delivery Point is the maximum Quantity of Gas which the Tubridgi Parties are obliged to deliver through that User Delivery Point to or for the account of the Pipeline User during any Pipeline Day.

3.2. Tubridgi Pipeline System Limitations

At no time will the Tubridgi Parties have any obligation to deliver more Gas through a User Delivery Point than is possible given the technical, physical and practical limitations of the Tubridgi Pipeline System, and the pressure and flow-rate of Gas within the Tubridgi Pipeline System, at that time.

3.3. Gas Balancing

At all times during the Term, the Pipeline User must ensure that the aggregate Quantity of Gas delivered through each User Receipt Point by or for the account of the Pipeline User is equal to the aggregate Quantity of Gas delivered to or for the account of the Pipeline User through each User Delivery Point.

3.4. Constant Rate

At all times during the Term, the Pipeline User must ensure that the rate at which Gas is delivered through each User Receipt Point by or for the account of the Pipeline User is as constant as possible and that the rate at which Gas is taken through each User Delivery Point to or for the account of the Pipeline User is as constant as is possible.

4. OVERRUN CHARGES

4.1. Overrun Charge

Whenever the Quantity of Gas delivered through any User Delivery Point to or for the account of the Pipeline User on any Pipeline Day exceeds the MDQ for that User Delivery Point, the Pipeline User will pay the Tubridgi Parties a daily overrun charge in accordance with this clause.

4.2. Calculation of Daily Overrun Charge

The daily overrun charge payable to the Tubridgi Parties in respect of a given Pipeline Day will be calculated in accordance with the formula:

$$(PDQ - MDQ) \times OR$$

where:

PDQ (peak day quantity) is the Quantity of Gas delivered to or for the account of the Pipeline User through that User Delivery Point on that Pipeline Day;

MDQ is the Maximum Daily Quantity for that User Delivery Point on that Pipeline Day; and

OR is the Overrun Rate per TJ on that Pipeline Day.

4.3. Invoicing

Each invoice given by or on behalf of the Tubridgi Parties to the Pipeline User pursuant to the Agreement will (where practical) include, or be accompanied by, details of the daily overrun charges for which the Pipeline User is liable.

4.4. MDQ Increase

Whenever the Quantity of Gas delivered through any User Delivery Point to or for the account of the Pipeline User exceeds the MDQ for that User Delivery Point on any Pipeline Day, the MDQ for that User Delivery Point will be increased, with effect from the end of that Pipeline Day, so that it is equal to the Quantity of Gas delivered through that User Delivery Point to or for the account of the Pipeline User on that Pipeline Day.

5. RECEIPT POINT METERS

5.1. Metering Equipment

The Pipeline User must ensure that each User Receipt Point has Metering Equipment to continuously and instantaneously measure the Quantity of Gas delivered through that User Receipt Point.

5.2. Readings

The Pipeline User must ensure that the Tubridgi Parties may remotely access the measurements and readings taken by the Metering Equipment provided by the Pipeline User at each User Receipt Point.

5.3. Maintenance

The Pipeline User must ensure that the Metering Equipment provided by the Pipeline User at each User Receipt Point is maintained in reasonable condition throughout the Term.

6. DELIVERY POINT METERS

6.1. Metering Equipment

The Tubridgi Parties jointly will ensure each User Delivery Point has Metering Equipment to continuously and instantaneously measure the Quantity of Gas delivered to that User Delivery Point.

6.2. Readings

The Tubridgi Parties jointly must ensure that the Metering Equipment they provide at each User Delivery Point is read at least once on each Pipeline Day. The readings taken for the purposes of this sub-clause during any month will be provided to the Pipeline User with the invoice related to that month.

6.3. Maintenance

The Tubridgi Parties jointly will ensure that the Metering Equipment provided by the Tubridgi Parties at each User Delivery Point is maintained in reasonable condition throughout the Term.

7. METER ACCURACY

7.1. Party Responsible

For the purposes of the Agreement, the party responsible for Metering Equipment is the Pipeline User (in the case of the Metering Equipment at any User Receipt Point) and the Tubridgi Parties jointly (in the case of Metering Equipment at any User Delivery Point).

7.2. Scheduled Meter Testing

The party responsible for Metering Equipment must ensure that the accuracy of that Metering Equipment is tested in accordance with good industry practice and any applicable laws.

7.3. Unscheduled Meter Testing

The party responsible for Metering Equipment will also test the accuracy of that Metering Equipment whenever it is requested to do so by the other party in accordance with the Agreement.

7.4. Form of Request

Whenever the Pipeline User wishes to request the Tubridgi Parties to test the Metering Equipment at any User Delivery Point the Pipeline User must make a request to the Tubridgi Parties in whatever form the Tubridgi Parties (or the Tubridgi Operator on their behalf) requires from time to time.

7.5. Notice of Tests

Whenever the party responsible for Metering Equipment is required to conduct a test under the Agreement, that party will notify the other party of the time or times at which that party intends to conduct that test. The other party may witness the test.

7.6. Notice of Results

The party responsible for Metering Equipment will give the other party notice of the results of any test of that Metering Equipment conducted at the request of the other party pursuant to the Agreement as soon as practicable after that test has been conducted.

7.7. Inaccurate Meters

Subject to the Agreement, if any test of Metering Equipment pursuant to the Agreement shows that the measurements taken by that Metering Equipment are outside a margin of accuracy of plus 2% or minus 3% (the 'allowable margin of accuracy') of the Quantity of Gas delivered through that Metering Equipment then:

- (a) the party responsible for that Metering Equipment must ensure that Metering Equipment is repaired or adjusted as soon as is practicable so that the measurements it takes are within the allowable margin of accuracy or replace that Metering Equipment with Metering Equipment that takes measurements within the allowable margin of accuracy; and
- (b) the Tubridgi Parties jointly must correct previous readings taken from that Metering Equipment to reflect the actual Quantity Gas delivered (or a reasonable estimate of the Quantity of Gas delivered) since the date of the last reading taken from that Metering Equipment or, if later, the last date on which that Metering Equipment was tested and the measurements found to be within the allowable margin of accuracy.

7.8. Basis for Corrections

If the Tubridgi Parties are required by the Agreement to correct previous readings taken from any Metering Equipment, the Tubridgi Parties will make those corrections on whatever basis they consider (or the Tubridgi Operator on their behalf considers) reasonable in the circumstances. The corrections will bind the Pipeline User in the absence of manifest error.

7.9. Maximum Correction

The Tubridgi Parties will not have to correct the readings taken from any Metering Equipment more than one year prior to the date of the relevant test unless the Tubridgi Parties are required to do so by law.

7.10. Test Fees

If the Pipeline User requests a test pursuant to the Agreement, the Tubridgi Parties will not have to conduct that test if the Pipeline User has not paid (or, where permitted by the Tubridgi Parties, agreed to pay) the Tubridgi Parties a test fee of an amount equal to the cost of the test or the maximum amount permitted by law, whichever amount is lesser.

7.11. Refund of Fees

If the Pipeline User has paid the Tubridgi Parties a test fee for testing any Metering Equipment and the test shows that the measurements taken by that Metering Equipment are outside the allowable margin of accuracy, the Tubridgi Parties will refund that test fee to the Pipeline User or credit the Pipeline User with that test fee in the next invoice issued pursuant to the Agreement.

7.12. Adjust Accounts

If the Tubridgi Parties are required by the Agreement to correct readings taken from the Metering Equipment at any User Delivery Point, they will recalculate the Charges in respect of the relevant User Delivery Point and debit the Pipeline User with any underpayment, or credit the Pipeline User with any overpayment, in the next invoice issued pursuant to the Agreement.

8. GAS SPECIFICATIONS

8.1. Specifications

The Pipeline User will ensure that Gas delivered to the Tubridgi Parties by or for the account of the Pipeline User meets the specifications reasonably specified from time to time by the Tubridgi Parties by notice given to the User.

8.2. Failure to Comply

If Gas delivered or to be delivered into the Tubridgi Pipeline System (or any part of it) does not meet the specifications then applicable to the Tubridgi Pipeline System (or the relevant part of it), the Tubridgi Parties may curtail or interrupt deliveries through any Transmission Receipt Point or Transmission Delivery Point, flare or release Gas from the Tubridgi Pipeline System or take whatever other steps the Tubridgi Parties consider (or the Tubridgi Operator on their behalf considers) necessary or desirable to ensure that Gas within the Tubridgi Pipeline System meets the specifications and does not present a threat to any person or property.

9. RECEIPT PRESSURES

9.1. Receipt Pressure

The Pipeline User will ensure that Gas delivered at any User Receipt Point by or for the account of the Pipeline User is delivered at a pressure which is within the limits specified for that User Receipt Point from time to time by the Tubridgi Parties by notice given to the User.

9.2. Failure to Comply

If the pressure of Gas delivered or to be delivered at any Transmission Receipt Point is not within the limits specified for that Transmission Receipt Point by the Tubridgi Parties, the Tubridgi Parties may curtail or interrupt deliveries through any Transmission Receipt Point or any Transmission Delivery Point, or flare or release Gas in the Tubridgi Pipeline System or take whatever other steps the Tubridgi Parties consider (or the Tubridgi Operator on their behalf considers) necessary or desirable to increase or reduce the pressure of Gas within the Tubridgi Pipeline System or to avoid any threat to any person or property.

10. DELIVERY PRESSURES

10.1. Delivery Pressure

Subject to the Agreement, the Tubridgi Parties jointly will ensure that Gas delivered at each User Delivery Point during the Term is at a pressure of no less than the minimum operating pressure of the pipeline into which Gas is delivered through that User Delivery Point.

10.2. Exclusion of Liability

The Tubridgi Parties will not breach their obligations under the previous sub-clause where their failure to comply with that sub-clause is due to:

- (a) the technical, practical and physical limitations of the Tubridgi Pipeline System;
- (b) the fact that insufficient Gas is delivered into the Tubridgi Pipeline System;
or
- (c) the fact that Gas is delivered into the Tubridgi Pipeline System at pressures outside the limits specified from time to time by or on behalf of the Tubridgi Parties,

whether or not the Tubridgi Parties or any of them knew, or ought to have known, of those facts or matters at any time before, on or after the Start Date.

10.3. No Implied Obligation

Nothing in this clause imposes any obligation on any of the Tubridgi Parties to take any steps to modify the technical, practical or physical limitations of the Tubridgi Pipeline System or to cause or procure the delivery of Gas into the Tubridgi Pipeline System or to ensure that Gas is delivered into the Tubridgi Pipeline System at pressures within the limits specified from time to time by or on behalf of the Tubridgi Parties.

11. POSSESSION OF GAS AND RESPONSIBILITY

11.1. Control and Possession

As between the Tubridgi Parties and the Pipeline User:

- (a) the Pipeline User will be in control and possession of Gas prior to its delivery into the Tubridgi Pipeline System and after its delivery out of the Tubridgi Pipeline System; and
- (b) the Tubridgi Parties will be in control and possession of the Gas following its delivery into the Tubridgi Pipeline System and prior to its delivery out of the Tubridgi Pipeline System.

11.2. No Responsibility before Receipt

To the extent permitted by law, none of the Tubridgi Parties will have any responsibility or liability whatsoever with respect to any Gas before it is delivered into the Tubridgi Pipeline System. This sub-clause will survive the termination of the Agreement.

11.3. Limited Responsibility after Delivery

To the extent permitted by law, none of the Tubridgi Parties will have any responsibility or liability whatsoever with respect to any Gas, after it is delivered out of the Tubridgi Pipeline System, on account of anything which may be done, happen or arise with respect to that Gas prior to receipt at any Transmission Receipt Point or after delivery at any Transmission Delivery Point, provided that the Tubridgi Parties have complied with their obligations pursuant to sub-clause 10.1. This sub-clause will survive the termination of the Agreement.

11.4. Lost Gas

None of the Tubridgi Parties will have any responsibility or liability whatsoever for any Gas that is lost, or unaccounted for, for reasons beyond the control of those Tubridgi Parties. This sub-clause will survive the termination of this Agreement.

11.5. Apportionment

If any Gas is lost, or cannot be accounted for, the Tubridgi Parties will allocate that Gas amongst the Pipeline User and other persons for whose account Gas is delivered into the Tubridgi Pipeline System on whatever basis the Tubridgi Parties consider reasonable.

11.6. No Delivery Obligation

None of the Tubridgi Parties will have any obligation to deliver to or for the account of the Pipeline User any Quantity of Gas that is lost, or unaccounted for, for reasons beyond the control of those Tubridgi Parties.

12. WARRANTIES AND TITLE TO GAS

12.1. Warranty of Title to Gas

The Pipeline User warrants that the Pipeline User has good title to all Gas supplied to the Tubridgi Parties at each User Receipt Point by or for the account of the Pipeline User, free and clear of all mortgages, charges and other encumbrances and all other third party rights and claims.

12.2. Warranty of Right to Deliver

The Pipeline User also warrants that the Pipeline User has the right to supply Gas at each User Receipt Point for transportation by the Tubridgi Parties under the Agreement.

12.3. Repetition of Warranties

The warranties made by the Pipeline User under the Agreement will be deemed to be repeated on each day on which Gas is delivered to or for the account of the Pipeline User at any User Receipt Point or any User Delivery Point, by reference to the circumstances applicable on that day.

12.4. Indemnity

The Pipeline User will indemnify each of the Tubridgi Parties against any loss, cost, expense or damage arising from or out of any breach by the Pipeline User of any warranty made or deemed to be made by the Pipeline User under the Agreement.

12.5. Title

Title to the Gas received by the Tubridgi Parties at any User Receipt Point by or for the account of the Pipeline User will pass to the Tubridgi Parties in proportion to their respective Participating Interests. Title to Gas delivered by the Tubridgi Parties to or for the account of the Pipeline User at any User Receipt Point will pass to the Pipeline User.

12.6. Commingling of Gas

The Gas delivered to the Tubridgi Parties at any Transmission Receipt Point may be commingled with other Gas in the Tubridgi Pipeline System. The Tubridgi Parties will be entitled to deliver Gas in a commingled state to or for the account of the Pipeline User.

13. SUPPLY CURTAILMENT

13.1. Right to Curtail

Subject to clause 13.2, the Tubridgi Parties may interrupt or curtail deliveries of Gas into, through or out of the Tubridgi Pipeline System (whether to or for the account of the Pipeline User or to or for the account of any other person):

- (a) where necessary to permit maintenance, repairs, improvements or alterations to the Tubridgi Pipeline System or any part of it;
- (b) where necessary to protect the operational integrity of the Tubridgi Pipeline System or any part of it or to ensure the safe and efficient operation of the Tubridgi Pipeline System or any part of it;
- (c) in the event of an emergency or where necessary to avert danger to persons or property or to comply with any law;
- (d) where the Quantity of Gas delivered into the Tubridgi Pipeline System or any part of it is insufficient to meet demand;
- (e) where the Quantity of Gas delivered into the Tubridgi Pipeline System by or for the account of the Pipeline User is not equal to the Quantity of Gas delivered out of the Tubridgi Pipeline System to or for the account of the Pipeline User (or will or may not be equal unless deliveries of Gas are curtailed or interrupted);
- (f) where the Tubridgi Parties consider that the delivery of that Gas into, through or out of the Pipeline will or may constitute or result in a breach by the Pipeline User of its obligations under the Agreement; or
- (g) where the Tubridgi Parties consider that the delivery of that Gas into, through or out of the Pipeline will or may constitute or result in a breach by any of the Tubridgi Parties of any of their obligations pursuant to the Griffin Pipeline Agreement or the Thevenard Gas Transport Agreement.

13.2. Planned Maintenance

The Tubridgi Parties will give the Pipeline User at least 14 days notice whenever the Tubridgi Parties propose to interrupt or curtail deliveries of Gas to or for the account of the Pipeline User in order that the Tubridgi Parties may undertake planned maintenance or augment the Tubridgi Pipeline System.

14. CHARGES AND INVOICES

14.1. Obligation to Pay Charges

In consideration for the Pipeline Services provided or to be provided under the Agreement, the Pipeline User must pay the Tubridgi Parties the Charges calculated from time to time in accordance with the Agreement and the Tariff Schedule.

14.2. Obligation to Invoice

On or before the 15th day of each calendar month that ends during the Term (commencing in the second calendar month that ends during the Term) and at or after the end of the Term, the Tubridgi Parties will send the Pipeline User an invoice for the previous calendar month.

14.3. Content of Invoice

The Tubridgi Parties will ensure that the invoice sets out, or is accompanied by, the following information where applicable:

- (a) the aggregate Quantity of Gas delivered, or estimated to have been delivered, at each User Delivery Point (or at all the User Delivery Points) to or for the account of the Pipeline User during the previous month, determined in accordance with the Agreement;
- (b) the Charges payable by the Pipeline User in respect of the previous month, determined in accordance with the Agreement and the Tariff Schedule applicable during that month; and
- (c) any other information which the Tubridgi Parties are required under the Agreement to include in the invoice.

The Tubridgi Parties may give any or all of the information mentioned in this sub-clause to the Pipeline User in electronic form.

14.4. Definition of Month

For the purposes of clause 14.2 and 14.3, a reference to a “month” is a reference to a period which commences at 8:00am on the first day of a calendar month and ends at 8:00am on the first day of the next calendar month.

14.5. Payment of Invoices

The Pipeline User must pay the amount shown in the invoice to the Tubridgi Parties within 7 days of the date of the invoice.

14.6. Correction of Billing Errors

Subject to the Agreement, if the Pipeline User notifies the Tubridgi Parties of an error in an invoice issued by the Tubridgi Parties pursuant to the Agreement and the Tubridgi Parties agree that an error has occurred, then the error will be corrected within thirty days of the determination of the error. No claim for an adjustment will be made by the Pipeline User after the expiration of the period mentioned in sub-clause 23.2 or, in any event, more than twelve months after the date of the invoice.

15. DELIVERED QUANTITIES

15.1. Basis for Determination

Whenever the Tubridgi Parties prepare an invoice for a given month, the Quantity of Gas shown in that invoice to have been delivered (or estimated to have been delivered) will be determined by the Tubridgi Parties in accordance with the Agreement.

15.2. No Meter Reading

If the Metering Equipment at a User Receipt Point or a User Delivery Point did not record the Quantity of Gas delivered through that User Receipt Point or that User Delivery Point (as the case may be) during any period, the Tubridgi Parties may estimate the Quantity of Gas delivered through that User Receipt Point or that User Delivery Point (as the case may be) for the account of the Pipeline User during that period on whatever basis the Tubridgi Parties consider reasonable.

15.3. Gas Allocation

If the Tubridgi Parties receive Gas at any User Receipt Point, or deliver Gas to any User Delivery Point, during any period for the account of the Pipeline User and for the account of someone other than the Pipeline User, then the Tubridgi Parties may determine at which times they received or delivered Gas for the account of the Pipeline User and at which times they received or delivered Gas for the account of the other person, on whatever basis the Tubridgi Parties consider reasonable.

15.4. Determinations Conclusive

A determination by the Tubridgi Parties of the Quantities of Gas received through any User Receipt Point, or delivered to any User Delivery Point, for the account of the Pipeline User during any period will be conclusive and binding on the Pipeline User.

16. GOODS AND SERVICES TAX

16.1. GST included in price

Notwithstanding anything to the contrary, any amount payable to the Tubridgi Parties by the Pipeline User in accordance with this clause shall form part of the *price* payable by the Pipeline User in respect of a *taxable supply* made to the Pipeline User.

16.2. GST in respect of Taxable Supply

- (a) The Pipeline User must pay each of the Tubridgi Parties in respect of any *taxable supply* made to the Pipeline User pursuant to or in connection with the Agreement any *GST* which is payable by the Tubridgi Party or, if that Tubridgi Party is a member of a *GST group*, by the *representative member* of that *GST group* on the *taxable supply*.
- (b) The *GST* on a *taxable supply* is the amount ascertained by multiplying (i) the amount that would otherwise be payable under this Agreement in respect of the *taxable supply* if the *GST* payable were nil by (ii) the prevailing rate of *GST* for that taxable supply.
- (c) The Pipeline User must pay each of the Tubridgi Parties the *GST* on a *taxable supply* at the same time and in the same manner as it is required to pay any other amount to that Tubridgi Party in respect of that *taxable supply*. If no other amount is payable by the Pipeline User to that Tubridgi Party in respect of that *taxable supply*, the Pipeline User must pay to that Tubridgi Party the *GST* on that *taxable supply* within 7 days of the receipt by the Pipeline User of a written demand from that Tubridgi Party or, if that Tubridgi Party is a member of a *GST group*, from either that Tubridgi Party or the *representative member* of that *GST group* or, in either case, from the Tubridgi Operator.
- (d) The Pipeline User must pay the *GST* on a *taxable supply* in full.
- (e) If required by law, a Tubridgi Party will issue to the Pipeline User a *tax invoice* in respect of a *taxable supply*. A *tax invoice* required by this sub-clause will be issued no later than 30 days after the date that the Tubridgi Party receives payment for the *GST* on that *taxable supply*. Any *tax invoice* issued may be issued in addition to any other invoice that relates to the *taxable supply*.

16.3. Adjustments

If an *adjustment event* has occurred in respect of a *supply* made pursuant to or in connection with the Agreement, the party that becomes aware of the *adjustment event* agrees to notify the other parties on becoming aware of the *adjustment event*, and the parties agree to take whatever steps are necessary and to make whatever adjustments are required to ensure that any *GST* or additional *GST* on

that *supply* or any refund of any *GST* (or part thereof) is paid as soon as is practicable but no later than 14 days after the Tubridgi Parties are satisfied that the *adjustment event* has occurred.

If required by law, a Tubridgi Party will issue to the Pipeline User an *adjustment note* in respect of a *supply* that is subject to an *adjustment event* covered by paragraph (a) of this sub-clause. An *adjustment note* required by that paragraph will be issued no later than 30 days after the date that the Tubridgi Party receives payment for the *GST* or the additional *GST* in respect of that *supply* or refunds any *GST* (or part thereof) in respect of that *supply*.

16.4. Definitions

In this clause, all italicised terms except for *adjustment event* shall have the same meaning as they have from time to time in the *GST Act*.

In this clause, “adjustment event” means an *adjustment event* for the purposes of the *GST Act* and includes any matter or thing that arises out of any error, any decision of any court in relation to the *GST Act* or a related Act, any ruling issued by the Commissioner of Taxation, any audit of the tax affairs of any Tubridgi Party or any related entity or of the Pipeline User or any related entity or the settlement of any dispute (including a dispute with the Commissioner of Taxation).

In this clause, a reference to the *GST Act* is a reference to the A New Tax System (Goods and Services Tax) Act 1999 as that Act is varied in its effect on an event, matter, thing, agreement, transaction or the like by A New Tax System (Goods and Services Tax Transition) Act 1999.

A reference in this clause to an Act is a reference to that Act as amended or substituted from time to time.

16.5. Reimbursements

If a party reimburses the other party for or in respect of any *creditable acquisition* or *creditable importation* made by that other party, the amount reimbursed shall be net of any *input tax credit* that relates to that *creditable acquisition* or *creditable importation* (as the case may be).

If a party reimburses the other party for or in respect of any *acquisition* that is not a *creditable acquisition* or for an *importation* that is a *taxable importation* but is not a *creditable importation* made by the other party, the amount to be reimbursed shall include any amount that relates to that *acquisition* or *importation* (as the case may be) which that other party (or, if that other party is a member of a *GST group*, the *representative member* of that *GST group*) is not entitled to claim as an *input tax credit*.

16.6. Insurance

If an insurer settles a claim under an *insurance policy* taken out by any Tubridgi Party by making a payment or a *supply* or both to the Pipeline User (or a related entity of the Pipeline User) and, as a consequence, that Tubridgi Party makes a *taxable supply* to the insurer and the insurer does not pay to that Tubridgi Party (or, if that Tubridgi Party is a member of a *GST group*, the *representative member* of that *GST group*) any *GST* payable in respect of that *taxable supply*, then the Pipeline User must reimburse that Tubridgi Party the *GST* payable in respect of that *taxable supply*. A reference in this sub-clause to an insurer is a reference to a person or entity regarded as an insurer for the purposes of Subdivision 78-B of the *GST Act*.

16.7. Damages

For the purposes of the Agreement, in determining the amount of any damages payable, it is necessary to take account of and include any *GST* that will become payable in respect of any *supply* to be made to the recipient of the damages to replace or repair any loss or damage suffered to the extent to which, in the reasonable opinion of the Tubridgi Parties, it is likely that such *GST* or some part thereof will not give rise to an *input tax credit* to the recipient of the damages.

17. OTHER TAXES AND IMPOSTS

17.1. Direct Imposts

The Pipeline User must bear and pay all Imposts, imposed on or paid or payable by any of the Tubridgi Parties, that are calculated on a basis that is directly related to the Pipeline Services provided to the Pipeline User under the Agreement.

17.2. Indirect Impost

If an Impost imposed on, or paid or payable by, any of the Tubridgi Parties, is not calculated on a basis that is directly related to the Pipeline Services provided to the Pipeline User under the Agreement, the Pipeline User must bear and pay whatever portion of that Impost the Tubridgi Parties determine is fair and reasonable having regard to all relevant circumstances (including, but without limitation, the nature of the Impost, the basis on which it is calculated and the type or level of Pipeline Services provided to the Pipeline User and the type or level of Pipeline Services provided to other persons).

17.3. Invoice

The Tubridgi Parties may include in any invoice a statement of the amount of any Impost imposed on, or paid or payable by the Tubridgi Parties which the Pipeline User is required to bear and pay. A statement included in an invoice pursuant to this sub-clause will constitute conclusive evidence of the amount the Pipeline User is required to bear and pay.

18. METHOD OF PAYMENT

18.1. Method of Payment

Payments by the Pipeline User under the Agreement will be made in immediately available funds on or before the due date by telegraphic transfer to a bank account or bank accounts designated by the Tubridgi Parties by notice in writing to the Pipeline User, or by other method of payment specified by the Tubridgi Parties by notice in writing to the Pipeline User.

18.2. Participating Interests

The Tubridgi Parties will be entitled severally to share in each payment made by the Pipeline User to the Tubridgi Parties under or in relation to the Agreement in proportion to their respective Participating Interests.

18.3. No Set-Off

Payments by the Pipeline User under the Agreement will be made in full without set-off, counterclaim or deduction, or withholding on any account whatsoever.

18.4. Business Days

If, but for this sub-clause, any payment to be made by the Pipeline User under the Agreement would fall due on a day that is not a Business Day, then the payment will be made before the due date for payment.

19. FAILURE TO PAY

19.1. Overdue Interest

If the Pipeline User fails to pay any amount by the date on which that amount is due, then the Pipeline User will pay the Tubridgi Parties interest on the unpaid amount to the extent that it remains unpaid from time to time. Interest will be calculated on a daily basis and will accrue at a rate which is two per cent higher than the Interest Rate. Accrued interest is payable to the Tubridgi Parties on demand. Interest not paid in the month in which it accrues will be capitalised at the end of that month and will itself bear interest in accordance with this sub-clause. This sub-clause will survive the termination of the Agreement.

19.2. Right to Set Off Unpaid Amounts

If the Pipeline User does not pay any amount due to any of the Tubridgi Parties under the Agreement, then any of the Tubridgi Parties may withhold and set off payment of any amounts due or owing by any of the Tubridgi Parties to the Pipeline User against any and all amounts due or owing by the Pipeline User to the Tubridgi Parties. This sub-clause will survive the termination of the Agreement.

19.3. Right to Suspend Services

If the Pipeline User does not pay any amount due to any of the Tubridgi Parties under the Agreement, or under any Related Haulage Agreement, then the Tubridgi Parties may cease delivering Gas through any User Delivery Point to or for the account of the Pipeline User, and may cease performing any of their other obligations under the Agreement, until such time as the Pipeline User has paid in full all unpaid amounts due to the Tubridgi Parties together with any interest accrued on those amounts.

20. BANK GUARANTEE

20.1. Pipeline User to Provide

The Pipeline User must cause or procure a bank acceptable to the Tubridgi Parties to issue an unconditional and irrevocable bank guarantee or undertaking in favour of the Tubridgi Parties in form and substance acceptable to the Tubridgi Parties.

20.2. Amount of Guarantee

The bank guarantee or undertaking issued in favour of the Tubridgi Parties must be for an amount not less than the Charges for which the Pipeline User would become liable over a period of two months (assuming that the Quantity of Gas delivered to or for the account of the Pipeline User on each Pipeline Day during that period will be equal to the MDQ).

20.3. Pipeline User to Refresh

Whenever the amount that the Tubridgi Parties may claim under the bank guarantee or undertaking is less than the Charges for which the Pipeline User would then become liable over a period of two months (based on the assumption mentioned in the previous sub-clause), the Pipeline User must cause or procure the issuing bank to increase the amount available under that bank guarantee or undertaking so that it is not less than the Charges for which the Pipeline User would then become liable over a period of two months (based on that assumption).

20.4. Purpose of Guarantee

The purpose of a bank guarantee or undertaking issued in favour of the Tubridgi Parties under the Agreement is to secure the performance by the Pipeline User of its obligations under and in relation to the Agreement or any Related Haulage Agreement. The Tubridgi Parties may call on that bank guarantee or undertaking at any time, and without notice to the Pipeline User, if the Pipeline User fails to perform any of those obligations.

20.5. No Injunctive Relief

The Pipeline User will not, and will not seek by any means to, restrain or prevent:

- (a) the Tubridgi Parties from calling on any bank guarantee of undertaking issued to them under the Agreement;
- (b) the issuer of that bank guarantee or undertaking from paying any amount to the Tubridgi Parties pursuant to that bank guarantee or undertaking; or
- (c) the Tubridgi Parties from using or applying any amount paid to them pursuant to that bank guarantee or undertaking.

20.6. Withholding Services

None of the Tubridgi Parties will have any obligation to comply with the terms of the Agreement at any time during which they do not hold a bank guarantee or undertaking issued in accordance with this clause for an amount at least equal to the amount required by the Agreement.

21. TERMINATION

21.1. Automatic Termination

Subject to this clause, unless the Parties otherwise agree, the Agreement will terminate on the date set out in, or determined in accordance with, the Specific Terms and Conditions.

21.2. Termination by the Tubridgi Parties

The Tubridgi Parties may terminate the Agreement by seven days' notice given to the Pipeline User at any time, in the event that:

- (a) the Pipeline User fails to pay any amount due to the Tubridgi Parties on time in the manner required by the Agreement or any Related Haulage Agreement;
- (b) the Pipeline User breaches any other obligation under or in relation to the Agreement or any Related Haulage Agreement and, where that breach can be remedied, fails to remedy that breach to the satisfaction of the Tubridgi Parties within 14 days after the Pipeline User receives notice of that breach;
- (c) the Pipeline User becomes an externally-administered body corporate or insolvent under administration (as defined in the Corporations Law);
- (d) the Pipeline User ceases to meet the requirements of the Credit Policy; or

- (e) there is any material adverse change, in the opinion of the Tubridgi Parties, in the ability of the Pipeline User to comply with its obligations under the Agreement or any Related Haulage Agreement.

21.3. Termination by the Pipeline User

The Pipeline User may terminate the Agreement by seven days' notice given to the Tubridgi Parties at any time in the event that the Tubridgi Parties breach any obligation under or in relation to the Agreement and, where that breach can be remedied, fail to remedy that breach to the satisfaction of the Pipeline User within 14 days after the Tubridgi Operator receives notice of that breach from the Pipeline User.

21.4. Decommissioning

The Tubridgi Parties may terminate the Agreement by notice given to the Pipeline User at any time in the event that the Tubridgi Parties wish to decommission the Tubridgi Pipeline System or any part of it which the Tubridgi Parties consider necessary to enable them to perform any of their obligations under the Agreement. The Tubridgi Parties must notify the Pipeline User at least three months before they give a notice to terminate pursuant to this sub-clause.

21.5. Effect of Termination

The termination of the Agreement will terminate the rights and obligations of the Pipeline User and the Tubridgi Parties under the Agreement (to the extent that those rights and obligations have not then accrued), other than rights and obligations which are expressed or intended to survive termination.

22. RECEIPT AND DELIVERY POINTS

22.1. Decommissioning Receipt Points

The Tubridgi Parties may decide at any time to decommission any Transmission Receipt Point. They may notify the Pipeline User of that decision. They will have no obligation to receive Gas at that Transmission Receipt Point from the time it is closed for decommissioning so long as it is closed at least three months after notice was given to the Pipeline User pursuant to this sub-clause.

22.2. Decommissioning Delivery Point

The Tubridgi Parties may decide at any time to decommission any Transmission Delivery Point. They may notify the Pipeline User of that decision. They will have no obligation to deliver Gas through that Transmission Delivery Point from the time it is closed for decommissioning so long as it is closed at least three months after notice was given to the Pipeline User pursuant to this sub-clause.

23. SERVICE PROVIDER'S LIABILITY

23.1. Notice of Claims

The Pipeline User will promptly notify each of the Tubridgi Parties of any claim which the Pipeline User has, or believes it has, against them as a result of any breach of their obligations under or in relation to the Agreement (each, 'a Claim'). The Pipeline User's obligations under this sub-clause will survive the termination of the Agreement.

23.2. Limitation Period

To the extent permitted by law, none of the Tubridgi Parties will have any liability to the Pipeline User, for or in respect of any Claim, unless full particulars of that Claim are given by the Pipeline User to them within one month after that Claim becomes known to the Pipeline User or its servants or agents or should have become known to the Pipeline User or its servants or agents (whichever is earlier). This sub-clause will survive the termination of the Agreement.

23.3. Limits on Liability

Subject to the Agreement, the liability of each of the Tubridgi Parties to the Pipeline User, for and in respect of each Claim, will at all times be limited to the extent permitted by law to an amount equal to that Tubridgi Parties' share of the Charges paid by the Pipeline User to the Tubridgi Parties for the calendar month in which the Claim arose (as determined in accordance with sub-clause 18.2). This sub-clause will survive the termination of the Agreement.

23.4. Exclusion of Consequential Loss

To the extent permitted by law, none of the Tubridgi Parties will have any liability to the Pipeline User (whether in tort, in contract or otherwise) for any loss of profit, revenue or opportunity, or for any other indirect, special or consequential loss, cost, expense or damage.

23.5. Exclusion of Liability for Negligence

To the extent permitted by law, none of the Tubridgi Parties will have any liability to the Pipeline User (either before or after termination of the Agreement) for any loss, cost, liability, expense or damage which the Pipeline User may suffer or incur as a result of any negligence (or any breach of any statutory duty or any duty of care, in tort or otherwise) on the part of the Tubridgi Parties or their servants, agents or contractors in or in connection with:

- (a) the provision to the Pipeline User of Pipeline Services pursuant to the Agreement; or
- (b) the operation, maintenance, repair, administration or management of the Tubridgi Pipeline System or any part of it.

23.6. Liability for Gross Negligence

The previous sub-clause will not apply to the extent that the Tubridgi Parties, or their servants, agents or contractors, are guilty of Gross Negligence, provided that the liability of the Tubridgi Parties to the Pipeline User in respect of a claim based on Gross Negligence will be limited by the other sub-clauses of the Agreement.

23.7. Trade Practices Act and Fair Trading Act

No clause of the Agreement will apply to the extent that it purports to exclude, restrict or modify, or has the effect of excluding, restricting or modifying:

- (a) the application of all or any of the provisions of Division 2 of Part V of the *Trade Practices Act 1974* or Part III of the *Fair Trading Act 1987* (WA);
- (b) the exercise of a right conferred by such a provision;
- (c) any liability of a corporation for breach of a condition or warranty implied by such a provision; or
- (d) the application of section 75A of the *Trade Practices Act 1974* or section 41 of the *Fair Trading Act 1987* (WA).

23.8. Interpretation

For the purposes of the previous sub-clause, a clause of the Agreement will not be taken to exclude, restrict or modify the application of a provision or section unless the term does so expressly or is inconsistent with that provision or section.

23.9. Statutory Immunity

No clause of the Agreement is intended to vary or exclude, or to waive the benefit of, any immunity conferred on the Tubridgi Parties by any law.

24. CONSUMER CONTRACT LIMITATION

24.1. Application of Clause

The next sub-clause only applies if the Agreement is a contract for the supply by a corporation of goods or services to a consumer (other than goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption).

24.2. Limitation of Liability

Subject to the next sub-clause, if this sub-clause applies, the liability of the Tubridgi Parties for breach of a condition or warranty implied by Division 2 of Part V of the *Trade Practices Act 1974* (other than a condition or warranty implied by section 69 of that Act) or Part III of the *Fair Trading Act 1987* (WA) (other than a condition or warranty implied by section 36 of that Act) is limited:

- (a) in the case of goods, to any one or more of the following (at the option of the Tubridgi Parties):
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; and
- (b) in the case of services, to one of the following (at the option of the Tubridgi Parties):
 - (i) the supply of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

24.3. Section 68A(2) TPA and Section 35(2) FTA Exclusion

The previous sub-clause will not apply in the circumstances specified in section 68A(2) of the *Trade Practices Act 1974* or section 35(2) of the *Fair Trading Act 1987 (WA)*.

24.4. Interpretation

Terms used in the three preceding sub-clauses have the same meanings for the purposes of those sub-clauses as they have for the purposes of Division 2 of Part V of the *Trade Practices Act 1974* and Part III of the *Fair Trading Act 1987 (WA)* as the case may be.

25. FORCE MAJEURE

25.1. Definition

For purposes of the Agreement, Force Majeure means any event or circumstance not within the control of the Tubridgi Parties. It includes (but is not limited to) each of the following to the extent that it is not within the control of the Tubridgi Parties:

- (a) acts of God, including, without limitation, earthquakes, floods, washouts, landslides, lightning, storms and the elements;
- (b) strikes, lockouts, bans, slowdowns or other industrial disturbances;
- (c) acts of enemy, wars, blockades or insurrections, riots and civil disturbances, arrest and restraint of rulers and peoples;
- (d) fire or explosion;

- (e) epidemic or quarantine;
- (f) order of any court or the order, act, or omission or failure to act of any government authority having jurisdiction, failure to obtain any necessary governmental consent or approval;
- (g) pipeline ruptures; or
- (h) equipment breakdown, accident, breakages or accident to machinery or pipelines, the necessity for making repairs and/or alterations in machinery or pipelines (other than routine maintenance or where the cause of such breakdown or breakage is a lack of proper maintenance).

25.2. Consequences of Force Majeure

Non-performance as a result of Force Majeure by any of the Tubridgi Parties of any obligation or condition required by the Agreement to be performed by it:

- (a) will be excused during the time and to the extent that such performance is prevented, wholly or in part, by Force Majeure; and
- (b) will not to that extent give rise to any liability to the Pipeline User for any direct, indirect, consequential or special losses or damages of any kind arising out of, or in any way connected with, that non-performance.

26. PIPELINE USER TO ASSIST

26.1. Information

The Pipeline User will provide the Tubridgi Parties (and will cause or procure each Transmission Operator to provide the Tubridgi Parties) with whatever information any of the Tubridgi Parties or the Tubridgi Operator might reasonably require from time to time in connection with the Agreement or the Pipeline Services provided or to be provided under the Agreement.

26.2. Assistance

The Pipeline User will provide the Tubridgi Parties (and will cause or procure each Transmission Operator to provide the Tubridgi Parties) with whatever assistance or co-operation the Tubridgi Parties might reasonably require from time to time in connection with the Agreement or the Pipeline Services provided or to be provided under the Agreement.

26.3. Consultation

Each of the Tubridgi Parties may provide each Transmission Operator with whatever information that Transmission Operator may require to

- (a) operate any transmission pipelines through which Gas is delivered into the Tubridgi Pipeline System to or for the account of the Pipeline User; or
- (b) operate any transmission pipelines to which Gas is delivered through the Tubridgi Pipeline System to or for the account of the Pipeline User.

This information may include (but is not limited to) information to enable gas balancing to occur on any transmission pipeline.

26.4. Survival

This clause will survive the termination of the Agreement.

27. USER'S INDEMNITIES

27.1. Pipeline User's Breach

The Pipeline User will indemnify each of the Tubridgi Parties against all loss, cost, expense or damage which any of the Tubridgi Parties might suffer or incur as a result of the Pipeline User's breach of the Agreement. This indemnity extends to (but is not limited to) any loss, cost, expense or damage which any of the Tubridgi Parties suffers or incurs in rectifying or remedying the Pipeline User's breach of the Agreement.

27.2. Damage to the Tubridgi Pipeline System

The Pipeline User will indemnify each of the Tubridgi Parties against all loss, cost, expense or damage which any of the Tubridgi Parties might suffer or incur as a result of damage to any Transmission Receipt Point, any Transmission Delivery Point, any Metering Equipment or any other part of the Tubridgi Pipeline System that is caused by the Pipeline User or any of the Pipeline User's servants, agents, contractors or invitees.

27.3. Death and Personal Injury

The Pipeline User will indemnify each of the Tubridgi Parties against all loss, cost, expense or damage which any of the Tubridgi Parties might suffer or incur as a result of the death or injury of any servant, agent, contractor or invitee of any of the Tubridgi Parties that is caused by the Pipeline User or any of the Pipeline User's servants, agents, contractors or invitees.

27.4. Survival

This clause will survive the termination of the Agreement.

28. CONFIDENTIALITY

28.1. Pipeline User's Obligations

The Pipeline User must keep confidential any information which any of the Tubridgi Parties requires the Pipeline User to keep confidential.

28.2. No Disclosure

The Pipeline User must not disclose to any third person any of the information it is required to keep confidential ('Confidential Information') except where disclosure is permitted pursuant to the Agreement.

28.3. Disclosure to Employees

The Pipeline User may disclose Confidential Information to those of its servants and agents to whom it is necessary to make disclosure. However, the Pipeline User must ensure that any servant or agent to whom Confidential Information is disclosed does not disclose that Confidential Information to any third person to whom the Pipeline User could not make disclosure pursuant to the Agreement.

28.4. Disclosure By Law

The Pipeline User may disclose Confidential Information to the extent that disclosure is required by law.

28.5. The Tubridgi Parties Obligations

The Tubridgi Parties must comply with any confidentiality obligations imposed on them pursuant to section 4.1 of the Code.

28.6. Survival

This clause will survive the termination of the Agreement.

29. NOTICES

29.1. Notices

Unless otherwise specified or agreed, notice given by any party under the Agreement will be given in writing and will be considered as having been given if delivered:

- a) personally by being left at the address of the party to whom the notice is given between the hours of 9:00am and 5:00pm on any Business Day;
- b) by facsimile; or

- c) by mail with all postage and charges prepaid to either the Pipeline User or the Tubridgi Parties (as the case may be) at the address for notices specified in the Agreement.

Any communications sent by facsimile will be deemed to have been received on the date of dispatch if a transmission report from the sending facsimile machine indicates that the facsimile was sent in its entirety to the facsimile number of the addressee. If a notice is sent by facsimile after 5pm in the place to which the notice is sent, then the notice will be deemed to be received on the next Business Day.

Any communications by mail will be deemed to have been received on the third Business Day following the date of mailing.

Normal operating instructions may be made by telephone, electronic media or facsimile.

29.2 Address for Notices

Unless notified otherwise, the address for notices under the Agreement for the Pipeline User is as specified in the Specific Terms and Conditions and for the Tubridgi Parties is:

Tim Scholefield
Manager, Oil & Gas Production (WA)
Boral Energy Resources Limited
34 Colin Street
WEST PERTH WA 6005

Telephone: 08 9324 6111
Facsimile: 08 9321 5457
Email: ts@sagres.com.au

30. ASSIGNMENT

30.1. Assignment by the Pipeline User

The Pipeline User may not transfer, assign or otherwise deal with any of its rights or obligations under the Agreement except in accordance with the Access Arrangement (to which these terms and conditions are annexed).

30.2. Assignment by the Tubridgi Parties

Each of the Tubridgi Parties may assign or transfer its rights or obligations under the Agreement to any person who purchases or acquires the interest of any of the Tubridgi Parties in the Tubridgi Pipeline System or to any person who becomes entitled to possession and control of the Tubridgi Pipeline System.

30.3. Release from Obligations

If any of the Tubridgi Parties assigns or transfers its rights and obligations under the Agreement, it will be automatically released and discharged from its obligations and liabilities under and in relation to the Agreement to the extent that those obligations and liabilities are assumed by the person who purchases or acquires the Tubridgi Pipeline System (or an interest in the Tubridgi Pipeline System) or possession and control of the Tubridgi Pipeline System.

30.4. Deed of Assumption

For the purposes of the previous sub-clause, a person will be taken to have assumed obligations and liabilities of one or more of the Tubridgi Parties if that person executes a deed poll in favour of the Pipeline User (whether alone or with any other person or persons) under which that person undertakes to perform and discharge those obligations (whether alone or with any other obligations).

30.5. Encumbrances

Each of the Tubridgi Parties may mortgage, charge or otherwise encumber any of its rights or obligations under the Agreement in favour of any person.

31. AMENDMENT OF AGREEMENT

31.1. Written Amendments

Subject to the next sub-clause, the Agreement may only be amended in writing executed by or on behalf of the Pipeline User and the Tubridgi Parties.

31.2. Automatic Amendments

Whenever the terms and conditions set out in Annexure B to the Access Arrangement are amended in accordance with the Code, then (unless the Tubridgi Parties and the Pipeline User otherwise agree) the Agreement will be amended in the same manner and to the same extent, with effect from the date on which those terms and conditions are amended.

32. RIGHTS AND OBLIGATIONS

32.1. Pipeline User

If the Pipeline User comprises more than one person, the rights and obligations of those persons are joint and several rights and obligations.

32.2. Tubridgi Parties

The obligations of the Tubridgi Parties are joint obligations or several obligations, depending on what the context requires in any given case. None of the obligations of the Tubridgi Parties are joint and several rights or obligations.

32.3. Joint Obligations

If the Tubridgi Parties breach their joint obligations, the Tubridgi Parties will be liable to the Pipeline User in proportion to their respective Participating Interests as at the time of the breach. None of the Tubridgi Parties will be liable for a proportionate share of any damages or compensation that is greater than the proportion which its Participating Interest bore to 100 as at the time of the breach. None of the Tubridgi Parties will be responsible or liable to the Pipeline User if any of the other Tubridgi Parties does not bear or pay its proportionate share of any damages or compensation.

32.4. Several Obligations

None of the Tubridgi Parties will be responsible or liable to the Pipeline User for any breach by any of the other Tubridgi Parties of any of its several obligations under the Agreement. The failure of any of the Tubridgi Parties to perform its

several obligations will not in any way affect the relationship between the Pipeline User and any of the other Tubridgi Parties or any rights and obligations between the Pipeline User and any of the other Tubridgi Parties.

32.5. Several Rights

The rights of the Tubridgi Parties are several rights of each of Tubridgi Parties. Each of the Tubridgi Parties may enforce its rights against the Pipeline User separately from any of the other Tubridgi Parties. A defence available to the Pipeline User against one of the Tubridgi Parties will not of itself bar an action by any of the other Tubridgi Parties unless that defence is also available against those other Tubridgi Parties. No release granted by any of the Tubridgi Parties will bind any other Tubridgi Parties who have not also granted that release.

33. DELEGATION

33.1. Obligations

The Tubridgi Parties may from time to time authorise the Tubridgi Operator as their agent to perform some or all of the obligations of the Tubridgi Parties, or any of them, under the Agreement.

33.2. Rights

The Tubridgi Parties may from time to time authorise the Tubridgi Operator as their agent to exercise some or all of the rights of the Tubridgi Parties, or any of them, under the Agreement.

33.3. Opinions

A reference in the Agreement to a determination made by the Tubridgi Parties, an opinion formed by the Tubridgi Parties or something specified by the Tubridgi

Parties includes a determination made by the Tubridgi Operator on behalf of the Tubridgi Parties, an opinion formed by the Tubridgi Operator on behalf of the Tubridgi Parties or that thing as specified by the Tubridgi Operator on behalf of the Tubridgi Parties.

33.4. Sub-Delegation

The Tubridgi Operator may appoint agents or contractors to perform any obligations, or exercise any rights, which the Tubridgi Operator is authorised to perform or exercise on behalf of the Tubridgi Parties.

34. COSTS AND STAMP DUTY

34.1. Pipeline User's Costs

The Pipeline User must bear its own costs in connection with the preparation, negotiation execution and delivery of the Agreement.

34.2. Tubridgi Parties Costs

The Pipeline User must reimburse the Tubridgi Parties on demand for their costs in connection with the preparation, negotiation, execution and delivery of the Agreement. These costs will include legal costs on a solicitor and own client basis.

34.3. Stamp Duty

The Pipeline User will pay all stamp duty payable in any jurisdiction on or in respect of the Agreement or any document prepared or executed pursuant to the Agreement.

34.4. Survival

This clause will survive the termination of the Agreement.

35. RIGHTS, POWERS AND REMEDIES

35.1. Rights, Powers and Remedies

Each right, power and remedy of any of the Tubridgi Parties under the Agreement is in addition to any other right, power and remedy under the Agreement or at law. The exercise by any one or more of the Tubridgi Parties of any right, power or remedy will not preclude the simultaneous or subsequent exercise of that or any other right, power or remedy.

35.2. Modification, Waivers and Forbearance

No failure or delay by any of the Tubridgi Parties in exercising any right, power or privilege under the Agreement will operate as a waiver thereof.

No waiver by any of the Tubridgi Parties of any one or more defaults by the Pipeline User in the performance of the Agreement will operate or be construed as a waiver by that Tubridgi Party of any future default or defaults, whether of a like or of a different character.

No granting of time or other forbearance or indulgence by any of the Tubridgi Parties will in any way release, discharge or otherwise affect the liability of the Pipeline User under the Agreement.

36. GOVERNING LAW

The Agreement is governed by the laws of Western Australia. The Pipeline User submits to the jurisdiction of the courts of Western Australia.

37. SEVERANCE

If any term of the Agreement is invalid, illegal or unenforceable, the Tubridgi Parties may decide whether to sever that term. If all of the Tubridgi Parties decide to sever that term, it will not form part of the Agreement. If not all of the Tubridgi Parties decide to sever that term, the Agreement will terminate.

38. MISCELLANEOUS PROVISIONS

38.1. Indemnities

Each indemnity in the Agreement is a continuing indemnity which will survive the termination of the Agreement. It is not necessary to incur a loss, cost, expense or damage before enforcing any indemnity.

38.2. Consents

Where any consent or approval is required from any of the Tubridgi Parties under the Agreement, none of the Tubridgi Parties will have any obligation to give that consent or approval except where an obligation to consent or approve is imposed by law. Each of the Tubridgi Parties may make any consent or approval subject to whatever conditions it considers necessary or desirable.

38.3. No Benefit to Other Persons

Neither the Tubridgi Parties nor the Pipeline User intends that the provisions of the Agreement are to benefit, or affect contractually, in any way any other person. No person, other than valid assignees, will have any right to enforce the terms of the Agreement against the Pipeline User or any of the Tubridgi Parties.

38.4. Enforceability

The Pipeline User represents that it has all necessary power and authority to enter into and perform its obligations under the Agreement and that the Agreement is binding and enforceable against it in accordance with its terms.

38.5. No Partnership

Nothing in or arising out of the Agreement will constitute a partnership between the Pipeline User and the Tubridgi Parties or any of them for any purpose.

38.6. Further Assurances

The Pipeline User will sign all such documents and do and procure to be done all such acts and things which the Tubridgi Parties considers necessary or desirable from time to time to give full effect to the Agreement.

39. INTERPRETATION

39.1. Interpretation

In interpreting these terms and conditions or the Agreement, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to an individual or to a person includes a corporation, firm, association, authority, trust, state or government and vice versa;
- (c) a reference to any gender includes a reference to each other gender;
- (d) where any expression is defined in the Agreement, another part of speech or grammatical form of that expression has a corresponding meaning;
- (e) clause headings are inserted for convenience only and do not affect the interpretation of the Agreement;
- (f) references to 'dollars' and '\$' are references to Australian dollars;
- (g) a reference to any legislation or to any section or provision of any legislation includes any statutory modification or re-enactment of that legislation or any statutory provision substituted for it; and includes any subordinate legislation or statutory instruments issued pursuant to that legislation or as it may be modified, re-enacted or substituted;
- (h) a reference to paragraphs, sub-clauses, clauses and schedules is a reference to paragraphs, sub-clauses, clauses and schedules of and to the Agreement;
- (i) a reference to a clause is a reference to a discrete part of the Agreement that appears under its own heading in block capitals;
- (j) a reference to a sub-clause is a reference to a discrete part of the Agreement that appears under its own heading within a clause;

- (k) a reference to any agreement (including the Agreement) or instrument includes that agreement or instrument as amended, novated, supplemented, varied or replaced from time to time; and
- (l) a reference to a party to the Agreement or any other document or arrangement includes that party's executors, administrators, successors and permitted assigns.

39.2. Contra Proferens

In the interpretation and construction of the Agreement, no presumption will be made against any party on the grounds that the Agreement or any provision of the Agreement was drafted by that party or its counsel.

39.3. Terminology

Terminology used to describe units will, unless otherwise agreed, be in accordance with Australian Standard AS1000 'The International System of Units (SI System) and Its Application', the Commonwealth 'National Measurement Act 1960' and regulations thereunder, Australian Standard AS1376-1973 'Conversion Factors' and the Australian Gas Association publication 'Metric Units and Conversion Factors for Use in the Australian Gas Industry'.

39.4. Entire Agreement

The Agreement constitutes the entire agreement between the Pipeline User and the Tubridgi Parties in relation to its subject matter. It supersedes all prior agreements, representations and understandings. All implied warranties, terms and conditions are excluded to the extent permitted by law.