Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline

Economic Regulation Authority
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TABLE OF CONTENTS

1. INTRODUCTION 3
2. [DELETED] 4
3. THE DBNGP (DESCRIPTION OF THE PIPELINE SYSTEM) 5
4. COMMENCEMENT 6
5. ACCESS REQUESTS AND QUEUING POLICY 7
6. SERVICES POLICY 13
7. REFERENCE TARIFF POLICY 18
8. REFERENCE TARIFF STRUCTURE AND CHARGES 25
9. TERMS AND CONDITIONS 26
10. TRADING POLICY 27
11. EXTENSIONS/EXPANSIONS POLICY 28
12. CAPACITY MANAGEMENT POLICY 30
13. REVIEW DATE 31
14. DEFINITIONS 32

Appendix 1 – Terms and Conditions for Reference Services

1. INTRODUCTION

1.1 This document comprises the revised Access Arrangement ("Access Arrangement") for the Dampier to Bunbury Natural Gas Pipeline ("DBNGP") pursuant to the requirements of the Gas Pipelines Access (Western Australia) Act 1998, which incorporates the National Third Party Access Code for Natural Gas Pipeline Systems ("Code").

1.2 It comprises:

(a) revisions to the access arrangement drafted and approved on 15 December 2005 by the Regulator ("First Revised Access Arrangement"); and

(b) revisions to the access arrangement submitted by the Service Provider and approved on 21 November 2006 by the Regulator which amend the Reference Tariff Policy to provide for a Speculative Investment Fund in accordance with section 8.19 of the Code.

1.3 The DBNGP is operated by DBNGP (WA) Transmission Pty Ltd ("Operator") and is owned by DBNGP (WA) Nominees Pty Ltd ("Nominees") as Trustee for the DBNGP WA Pipeline Trust.

1.4 This Access Arrangement sets out the policies and basic terms and conditions applying to third party access to services provided by Operator in relation to the DBNGP.

1.5 Operator will negotiate access to services on the pipeline. If, however, prospective shippers are unable to conclude negotiations for access, this Access Arrangement contains the terms and conditions for access to the Reference Services.

2. [DELETED]

3. THE DBNGP (DESCRIPTION OF THE PIPELINE SYSTEM)

3.1 The DBNGP is as described in the following pipeline licences:

(a) PL 40 (as amended or varied before the date the Access Arrangement for the DBNGP commences to have effect);

(b) PL 41 (as amended or varied before the date the Access Arrangement for the DBNGP commences to have effect); and

(c) PL 47 (as amended or varied before the date the Access Arrangement for the DBNGP commences to have effect).

3.2 A detailed description of the DBGNP and maps showing the pipeline system are annexed to the Access Arrangement Information.

4. COMMENCEMENT

4.1 The revisions referred to in clause 1.2(a) commence on 30 December 2005, and the revisions referred to in clause 1.2(b) commence on the date specified by the Regulator in accordance with section 2.48 of the Code.

5. ACCESS REQUESTS AND QUEUING POLICY

5.1 Informal Requests and Reports

(a) Prospective Shippers are encouraged to consult with Operator on available capacity and facilities prior to making an Access Request.

(b) [Deleted]

(c) [Deleted]

5.2 Submission of Access Requests

(a) Prospective Shippers may apply for access to a Service by submitting an Access Request in accordance with this clause 5.2.

(b) An Access Request must specify:

(i) whether the Service requested is a Reference Service or a Non-Reference Service;

(ii) a Commencement Date for the Service, which must be a date at least 30 days after the date the Access Request is submitted;

(iii) a Capacity End Date for the Service, which must, in the case of an Access Request for a Reference Service, be a date no earlier than the date 2 years after the Commencement Date;

(iv) in the case of a Reference Service and any other capacity related Non-Reference Service:

(A) each Receipt Point and Delivery Point for the Service; and

(B) the amount of the requested Service (in TJ/d) for each Receipt Point and Delivery Point;

(v) the terms and conditions on which the Service is requested, by:

(A) in the case of a Reference Service, stating that the Prospective Shipper accepts the Access Contract Terms and Conditions or identifying any variations the Prospective Shipper proposes to the Access Contract Terms and Conditions;

(B) in the case of a Non-Reference Service (other than a Spot Capacity Service), specifying the terms and conditions the Prospective Shipper proposes should apply to the Service or requesting Operator to propose the terms and conditions for provision of the Service; or

(C) in the case of a Spot Capacity Service, stating that the Prospective Shipper accepts the Spot Transaction Terms and Conditions and agrees to comply with the Spot Market Rules; and

(vi) any conditions that apply to the Access Request.

(c) An Access Request must:

(i) contain or be accompanied by any other information or documents identified in the Information Package;

(ii) be in the form for the particular Service requested specified from time to time by Operator on its nominated website. As at the date of this Access Arrangement, the Access Request forms comprise:

(A) the Reference Service Access Request Form, for use for an Access Request for a Reference Service;

(B) the Non-Reference Service (other than Spot Capacity Service) Access Request Form, for use for an Access Request for a Non-Reference Service (other than Spot Capacity Service) or an Access Request for a Reference Service in circumstances where the Prospective Shipper proposes variations to the Access Contract Terms and Conditions; and

(C) the Spot Capacity Service Access Request Form, for use for an Access Request for Spot Capacity Service;

(iii) be executed by or on behalf of the Prospective Shipper in accordance with sections 127(1), (2) or (3) of the Corporations Act 2001 or in such other manner as Operator, acting reasonably, may approve; and

(iv) be submitted in duplicate to the address from time to time specified by Operator for this purpose on its nominated website.

(d) [Deleted]

(e) A Prospective Shipper may withdraw an Access Request at any time before Operator accepts the Access Request by giving notice in writing of the withdrawal to Operator.

(f) A Prospective Shipper may amend an Access Request at any time prior to its acceptance by Operator by submitting a further Access Request which states expressly that it amends the previous Access Request ("Original Access Request") and is marked up to show the changes from the Original Access Request. The amended Access Request supersedes the Prospective Shipper's Original Access Request.

5.3 Assessment of Access Requests

(a) Operator will assess and respond to an Access Request in accordance with section 5.4 of the Code based on the information provided to it with the Access Request.

(b) The information specified in the Access Request Form and the Information Package does not necessarily contain all of the information Operator may need to assess an Access Request. Operator may:

(i) request further information from a Prospective Shipper (including any evidence reasonably required by Operator that the Access Contract that would be formed by Operator's acceptance of the Access Request would be a valid and binding obligation of the Prospective Shipper); or

(ii) advise the Prospective Shipper that investigations are required to be undertaken prior to responding to the Access Request, as contemplated by section 5.4(c) of the Code,

if it reasonably considers that such information or investigations are necessary to assess the Prospective Shipper's Access Request.

(c) If an Access Request requires the terms and conditions of the Access Contract to be negotiated between Operator and the Prospective Shipper because the Access Request is:

(i) for a Non-Reference Service; or

(ii) for a Reference Service but the Prospective Shipper has not indicated its acceptance of the Access Contract Terms and Conditions,

the Prospective Shipper must promptly on request by Operator proceed to negotiate in good faith with Operator the terms and conditions on which the Service is to be provided.

(d) Operator may accept an Access Request:

(i) where the Access Request is for a Reference Service and is made on the basis of the Access Contract Terms and Conditions or is for a Spot Capacity Service, by executing the 2 copies of the Access Request Form executed by the Prospective Shipper and returning one executed copy to the Prospective Shipper; or

(ii) where the Access Request is for a Non-Reference Service (other than a Spot Capacity Service), or is for a Reference Service otherwise than on the Access Contract Terms and Conditions, and Operator and the Prospective Shipper have agreed the terms and conditions for the Service, by submitting an Access Contract in the form agreed to the Prospective Shipper for execution. If the Access Contract is not executed by the Prospective Shipper and returned to Operator (together with any evidence reasonably required by Operator that the Access Contract is a valid and binding obligation of the Prospective Shipper) within 10 Business Days, the Access Request will be deemed to have been withdrawn by the Prospective Shipper.

(e) Operator may reject an Access Request at any time prior to its acceptance if:

(i) the Access Request is incomplete or otherwise does not comply with the requirements specified in clause 5.2;

(ii) the Prospective Shipper fails to comply with a reasonable request by Operator for further information within 20 Business Days (or such longer period as Operator may agree in a particular case) after receipt of such request or proposed plan and cost allocation;

(iii) Operator considers, acting as a reasonable and prudent pipeline operator, that the Prospective Shipper is not capable of meeting its obligations under the Access Contract;

(iv) acceptance of the Access Request would require an expansion of or extension to the DBNGP and the expansion or extension is inconsistent with the extensions and expansions policy set out in clause 11;

(v) the requested Service cannot be provided having regard to the load characteristics set out in the Access Request and the load characteristics of Other Shippers;

(vi) where the Access Request requires the terms and conditions of the Access Contract to be negotiated between Operator and the Prospective Shipper, the Prospective Shipper fails to negotiate in good faith when required to do so under clause 5.3(c);

(vii) the Access Request is for substantially the same Service as another current Access Request submitted by the Prospective Shipper; or

(viii) Operator considers, acting as a reasonable and prudent pipeline operator, that the Access Request is not a bona fide request for access.

5.4 Queuing Policy

(a) If Operator notifies a Prospective Shipper in accordance with section 5.4 of the Code that Spare Capacity does not exist to satisfy an Access Request, Operator will create a queue for determining the priority of access to Spare Capacity and Developable Capacity that will apply as between that Access Request and any other Access Request.

(b) Operator will maintain a single queue for access to Reference Services and Non-Reference Services.

(c) Access Requests are to have priority of access to Spare Capacity and Developable Capacity in the order in which they are entered in the queue by Operator in accordance with this clause 5.4. Subject to sub-clauses 5.4(d) to 5.4(k), Operator will enter Access Requests in the queue with a priority date being the date on which they are received (or, as appropriate, deemed to be received) by Operator. Access Requests entered in the queue with the same priority date will have equal priority in the queue as between each other.

(d) Subject to clauses 5.4(e) and (f), an Access Request will only be entered in the queue if it complies with the requirements specified in clause 5.2.

(e) If an Access Request is incomplete or otherwise does not comply with the requirements of clause 5.2 and, in Operator's reasonable opinion, the Prospective Shipper remedies the deficiencies within 10 Business Days after being given notice of the deficiencies by Operator (which notice must be given promptly), the Access Request may be entered in the queue with a priority date being the date on which the original Access Request was received by Operator. This clause only applies once. Otherwise, the Access Request will be entered in the queue with a priority date being the date on which, in Operator's reasonable opinion, the deficiencies are remedied.

(f) If an Access Request requires the terms and conditions of the Access Contract to be negotiated between Operator and the Prospective Shipper or is subject to conditions, the Access Request will be entered in the queue with a priority date being the date of receipt of the Access Request by Operator. However, unless:

(i) where Operator notifies Shipper in accordance with section 5.4 of the Code that there is Spare Capacity sufficient to satisfy the Access Request, within 40 Business Days after the date Operator responds to

the Prospective Shipper in accordance with section 5.4 of the Code in respect of the Access Request; or

(ii) where Operator notifies Shipper in accordance with section 5.4 of the Code that there is not Spare Capacity sufficient to satisfy the Access Request, within 60 Business Days after the date Shipper consents to a plan and allocation of costs for investigations proposed by Operator and referred to in section 5.4 of the Code in respect of the Access Request,

either:

(iii) the negotiations are completed and/or the conditions are satisfied; or

(iv) the Prospective Shipper has agreed to amend the Access Request such that it becomes an Access Request for a Reference Service made on the basis of the Access Contract Terms and Conditions,

the Access Request will be removed from the queue and will subsequently be re-entered in the queue with a priority date being the date that negotiations are completed and/or the conditions are, in Operator's opinion, satisfied. However, where a dispute between Operator and the Prospective Shipper arises in respect of the terms and conditions of access and that dispute is referred to arbitration under section 6 of the Code, the period of time remaining pursuant to paragraphs (i) and (ii) (as applicable) will be suspended from the date the dispute is referred to arbitration ("Referral Date") until 4 months after the Referral Date.

(g) Operator may deal with Access Requests out of order provided that:

(i) the Access Request that is being dealt with out of order is materially different to the Access Requests which have the same or earlier priority dates; and

(ii) Prospective Shippers with the Access Requests which have the same or earlier priority dates do not suffer any material prejudice as a result.

(h) Access Requests received by mail are deemed to be received on the day they are delivered to Operator. Access Requests delivered by hand are received on the date actually received.

(i) Any Access Request for a Service that was made prior to the revisions to this Access Arrangement coming into effect ("prior AA Access Requests") will have priority over Access Requests made after the revisions to this Access Arrangement come into effect. The priority amongst prior AA Access Requests is to be determined in accordance with the order in which they were received by Operator.

(j) If an Access Request is rejected, that Access Request's priority in the queue is lost.

(k) If a Prospective Shipper amends an Access Request in accordance with clause 5.2(f), the following shall apply:

(i) if the amendment is made in accordance with clause 5.4(f), is limited to a reduction in the amount of the Service requested or a change in the requested Commencement Date, or is not in Operator's reasonable opinion a material change to the Original Access Request, the amended Access Request will have the same priority date as the Original Access Request; and

(ii) in all other cases, the amended Access Request will be removed from the queue and will subsequently be re-entered in the queue with a priority date being the date the amended Access Request is received by Operator.

(l) This Queuing Policy is subject to any Capacity Expansion Options which may be granted by Operator from time to time under clause 11. Nothing in this Queuing Policy prevents Operator offering a Capacity Expansion Option in accordance with clause 11 at any time or complying with its obligation to provide Capacity to a Prospective Shipper in accordance with a Capacity Expansion Option.

(m) Where a Prospective Shipper has lodged an Access Request and Operator has agreed to undertake an expansion to satisfy the Access Request (including by the creation of a Capacity Expansion Option in accordance with clause 11), the Prospective Shipper's Access Request will remain in the queue until the expansion capacity has become available to satisfy it. If Spare Capacity becomes available to satisfy the Access Request prior to completion of the expansion and Operator and the Prospective Shipper agree, that Spare Capacity may be made available to satisfy the Access Request (in accordance with its priority in the queue at that time) in place of the proposed expansion capacity.

(n) This Queuing Policy does not apply to access to a service secured pursuant to a Spot Capacity Service.

(o) Within a reasonable time of Operator becoming aware of any material change (in the context a Prospective Shipper's Access Request) in the expected timing of when the Prospective Shipper's Access Request in the queue will be satisfied, Operator will notify the Prospective Shipper of the change.

6. SERVICES POLICY

6.1 Services

Operator offers the following Services on the DBNGP:

(a) Reference Services

The Reference Services offered by Operator are:

(i) Full Haul T1 Service (T1 Service)

(ii) Part Haul T1 Service (P1 Service)

(iii) Back Haul T1 Service (B1 Service)

(b) Non-Reference Services

(i) The Services referred to in this sub-clause are Non-Reference Services.

(ii) Operator will, subject to availability of Capacity (as determined by Operator as a reasonable and prudent pipeline operator), make available to a Prospective Shipper the following Service or Services:

(A) [Deleted];

(B) [Deleted];

(A) Spot Capacity Service;

(B) Park and Loan Service; and

(C) Seasonal Service;

(iii) Operator will, subject to Operational Availability (as determined by Operator as a reasonable and prudent pipeline operator), make available to a Prospective Shipper the following Service or Services:

(A) Peaking Service;

(B) metering information service;

(C) pressure and temperature control service;

(D) odorisation service; and

(E) co-mingling service.

(iv) Non-Reference Services also include services provided by Operator under contracts entered into prior to commencement of the Access Arrangement Period.

(v) Operator is prepared to negotiate to provide a Prospective Shipper with any other service that is not a Reference Service.

6.2 T1 Service

(a) T1 Service is a Full Haul Service in which Operator (subject to availability of Capacity):

(i) takes receipt, at one or more Receipt Points on a Day, of a quantity of the Shipper's gas not exceeding:

(A) the sum of the Shipper's MDQ;

(B) plus or minus the quantity of gas required to correct any Imbalance on the preceding Day; and

(ii) delivers to the Shipper at one or more Delivery Points on that Day a quantity of gas not exceeding the Shipper's MDQ, without interruption or curtailment except as permitted by the Access Contract.

(b) Prospective Shippers seeking access to Spare Capacity of the DBNGP as it is configured at the time of approval of this Access Arrangement must nominate a minimum term of 2 years when lodging an Access Request for T1 Service, unless Operator in its absolute discretion agrees otherwise.

(c) Prospective Shippers seeking access for Developable Capacity must nominate a minimum term of 15 years when lodging an Access Request for T1 Service, unless Operator in its absolute discretion agrees otherwise.

6.3 P1 Service

(a) P1 Service is a Part Haul Service in which Operator (subject to availability of Capacity):

(i) takes receipt, at one or more Receipt Points on a Day, of a quantity of the Shipper's gas not exceeding:

(A) the sum of the Shipper's MDQ;

(B) plus or minus the quantity of gas required to correct any Imbalance on the preceding Day; and

(ii) delivers to the Shipper at one or more Delivery Points on that Day a quantity of gas not exceeding the Shipper's MDQ, without interruption or curtailment except as permitted by the Access Contract.

(b) Prospective Shippers seeking access to Spare Capacity of the DBNGP as it is configured at the time of approval of this Access Arrangement must nominate a minimum term of 2 years when lodging an Access Request for P1 Service, unless Operator in its absolute discretion agrees otherwise.

(c) Prospective Shippers seeking access for Developable Capacity must nominate a minimum term of 15 years when lodging an Access Request for P1 Service, unless Operator in its absolute discretion agrees otherwise.

6.4 B1 Service

(a) B1 Service is a Back Haul Service in which Operator (subject to availability of Capacity):

(i) takes receipt, at one or more Receipt Points on a Day, of a quantity of the Shipper's gas not exceeding:

(A) the sum of the Shipper's MDQ;

(B) plus or minus the quantity of gas required to correct any Imbalance on the preceding Day; and

(ii) delivers to the Shipper at one or more Delivery Points on that Day a quantity of gas not exceeding the Shipper's MDQ, without interruption or curtailment except as permitted by the Access Contract.

(b) Prospective Shippers seeking access to Spare Capacity of the DBNGP as it is configured at the time of approval of this Access Arrangement must nominate a minimum term of 2 years when lodging an Access Request for B1 Service, unless Operator in its absolute discretion agrees otherwise.

(c) Prospective Shippers seeking access for Developable Capacity must nominate a minimum term of 15 years when lodging an Access Request for B1 Service, unless Operator in its absolute discretion agrees otherwise.

6.5 Non-Reference Services

(a) [Deleted]

(b) [Deleted]

(c) Spot Capacity Service

Spot Capacity Service means a Service for Spot Capacity by way of one or more Spot Transactions. Until otherwise agreed, the following principles shall apply to Spot Capacity and Spot Transactions (as the case may be) (which principles form the basis of the Spot Market Rules):

(i) If the Shipper seeks to bid for Spot Capacity for a Day it must, by notice to Operator at any time no later than 15:00 hours on the Day before that Day, notify Operator of the amount of Spot Capacity it requires for that Day ("Daily Bid") and the price it offers to pay for that Spot Capacity for that Day (the "Daily Spot Bid Price").

(ii) Operator must by no later than 16:00 hours on each Day before the relevant Day allocate Spot Capacity for a Day between Daily Bids on the basis (subject to clause 6.3(c)(iv)) of the Shipper bidding the highest Daily Spot Bid Price for that Day being allocated the Spot Capacity it bid for, the shipper bidding the second highest Daily Spot Bid Price for that Day being allocated the Spot Capacity it bid for, and so on until all Daily Bids are satisfied or until all available Spot Capacity is allocated to Daily Bids. If two or more shippers bid the same Daily Spot Bid Price and there is not sufficient available Capacity to allocate to each of them the amount of Spot Capacity bid for by each of them, the Spot Capacity available to be allocated between them shall be allocated in proportion to the amount of Spot Capacity bid for by each of them respectively at the said Daily Spot Bid Price for that Day.

(iii) Subject to clause 6.3(c)(v), if the Shipper is allocated Spot Capacity for a Day in response to a Daily Bid the Shipper must pay the Daily Spot Bid Price bid by it for that Spot Capacity for that Day whether or not it uses the Spot Capacity.

(iv) Operator may set a minimum bid price ("Minimum Bid Price") for Daily Bids and is not obliged to allocate Spot Capacity to any shipper

bidding a Daily Spot Bid Price which is less than the Minimum Bid Price. The Minimum Bid Price for Daily Bids may not be set by Operator at a price greater than 115% of the Base T1 Tariff as defined in the Standard Shipper Contract published by Operator on its nominated website from time to time applying on the relevant Day.

(v) The Shipper is relieved from paying the Daily Spot Bid Price in relation to Spot Capacity allocated to it for a Day only where:

(A) Operator interrupts or curtails the Spot Capacity which has been allocated to the Shipper, and then only to the extent of that interruption or curtailment; or

(B) The Shipper does not use the Spot Capacity which has been allocated to it in circumstances where there were no other shippers bidding for Spot Capacity for that Day to which the Spot Capacity allocated to the Shipper could otherwise have been allocated.

(vi) Operator must provide the following information to the Shipper in respect of each Day as soon as practicable after that Day:

(A) the quantities the subject of Daily Bids which relate to that Day;

(B) the quantities of Spot Capacity allocated for that Day; and

(C) the Daily Spot Bid Prices for all bids allocated Spot Capacity for that Day.

(vii) Operator will not bid for Spot Capacity and if an Operator Entity, Alcoa, Alinta Limited (ABN 40 087 857 001) or a Related Body Corporate of either Alcoa or Alinta Limited bids and is allocated Spot Capacity, Operator must indicate on its electronic customer reporting system that the relevant Spot Capacity has been allocated to an Operator Entity without disclosing the identity of the Operator Entity.

(viii) Operator may unilaterally determine (and, if applicable, vary) over time rules governing the market for Spot Capacity in addition to the principles in this clause 6.3(c), provided that those rules are designed with a view to achieving a market with the following objectives:

(A) non-discriminatory in respect of the terms and conditions upon which, and the circumstances in which, Spot Capacity is granted to shippers;

(B) hindering market manipulation and gaming by Operator or other shippers; and

(C) consistent with this clause 6.3.

(d) Park and Loan Service

Shippers or prospective Shippers serving end users with gas demands that are difficult to predict from day to day, or when faced with an outage from their gas supplier, may find the maintenance of their Imbalances within the tolerance specified in the Access Arrangement difficult. To assist these Shippers and prospective Shippers, Operator will offer a Park and Loan Service, permitting limited gas storage in the DBNGP, and/or taking of additional gas from the DBNGP when required. Operator's ability to offer a

Park and Loan Service is restricted by the operating characteristics of the DBNGP.

(e) Seasonal Service

Capacity in the DBNGP varies inversely with ambient temperature. A higher pipeline Capacity is available during winter months when ambient temperatures are low. A lower capacity is available during summer months, with the lowest Capacity usually available in January. Seasonal Service will only be made available subject to Operational Availability (as determined by Operator as a reasonable and prudent pipeline operator) and Operator meeting its obligations under gas transportation contracts entered into prior to the commencement of the Access Arrangement Period.

(f) Peaking Service

This Service will enable an increase in the MHQ at a Delivery Point for a specified period.

(g) Metering information service

This Service will entail the provision of metering and operational data directly to a Shipper in addition to the data the Operator agrees to provide under an Access Contract for the Reference Service.

(h) Pressure and temperature control service

This Service will entail the provision of a Service by the Operator to vary the temperature and/or pressure at which the Operator shall deliver gas at a Delivery Point.

(i) Odorisation service

This Service will entail the provision of a Service by the Operator to odorise the gas being delivered at a Delivery Point.

(j) Co-mingling service

This Service entails the agreement by the Operator with a Shipper to blend Out–of–Specification gas with the main gas stream such that the aggregate of the main gas stream is within specification.

7. REFERENCE TARIFF POLICY

7.1 General Principles

(a) Operator's Reference Tariff has been designed to recover from Shippers using the Reference Service, that portion of the Total Revenue that reflects:

(i) those costs (including capital costs) which are directly attributable to the provision of the Reference Service; and

(ii) a share of those costs (including capital costs) which are attributable to provision of the Reference Service jointly with Services provided to other shippers with contractual rights existing prior to 1 January 2005 and other Services which Operator considers are reasonably foreseeable to be offered during the period from 1 January 2005 until 31 December 2010.

(b) [Deleted]

7.2 Calculation of Total Revenue

(a) The Total Revenue has been calculated using the 'cost of service' ("COS") method described in section 8.4 of the Code. The application of this method for calculation of the Total Revenue is outlined in clauses 7.3 to 7.8 of the Access Arrangement.

(b) The Total Revenue has been calculated as the sum over the period from 1 January 2005 until 31 December 2010 of the costs in each year of that period that comprise the sum in each year of:

(i) return on the Capital Base;

(ii) depreciation; and

(iii) non capital costs.

(c) The COS method has been applied in accordance with section 8.5A(b) of the Code, in accordance with which a pre-tax real rate of return is applied to a real Capital Base.

7.3 Calculation of Capital Base

(a) The Initial Capital Base at 1 January 2000 was $1,550.00 million.

(b) For each year after 2000, and until 1 January 2005, the Capital Base for the DBNGP at the beginning of the year was:

(i) the Capital Base at the beginning of the immediately preceding year; plus

(ii) actual New Facilities Investment during the preceding year that meets the requirements of section 8.16 of the Code; less

(iii) the value of depreciation for the preceding year made for the purpose of determining the Reference Tariff for that year.

(c) The calculation of the Capital Base was undertaken in real terms with all values expressed at 31 December 2004 prices.

(d) Consistent with the Cost of Service methodology of section 8.4 of the Code, the Reference Tariff for the Access Arrangement Period is determined on the basis of New Facilities Investment that is forecast to occur during the period from 1 January 2005 until 31 December 2010, and which is expected to pass the requirements of section 8.16(a) when the investment is forecast to occur.

(e) The Capital Base at the commencement of the next Access Arrangement Period is to be determined as:

(i) the capital base at 1 January 2005; plus

(ii) subject to section 8.16(b) and sections 8.20 to 8.22 of the Code, the New Facilities Investment or Recoverable Portion (whichever is relevant) during the period from 1 January 2005 until 31 December 2010; plus

(iii) all or part of Speculative Investment that, in accordance with the provisions of the Access Arrangement, may be added to the Capital Base; less

(iv) the sum of the values of depreciation determined for the purpose of determining the Reference Tariffs for the period from 1 January 2005 until 31 December 2010,

subject to adjustment for inflation so that the Cost of Service methodology can be applied on a real basis (under which the Capital Base, Depreciation and all costs and revenues are expressed in constant prices and a real Rate of Return is allowed).

7.4 Forecast New Facilities Investment

(a) New Facilities Investment forecast to occur during the period from 1 January 2005 until 31 December 2010 is reasonably expected to pass the requirements of section 8.16 of the Code when that New Facilities Investment is forecast to occur.

(b) For the purposes of calculating the Capital Base at the commencement of the next Access Arrangement Period in accordance with section 8.9 of the Code, the New Facilities Investment will consist only of actual New Facilities Investment that has occurred during the period from 1 January 2005 until 31 December 2010.

(c) Operator may undertake New Facilities Investment that does not satisfy the requirements of the Code. If Operator does undertake such New Facilities Investment and the New Facilities are part of the Covered Pipeline pursuant to the Extensions/Expansions Policy, then the Capital Base may be increased by the Recoverable Portion.

(d) The difference between the New Facilities Investment and the Recoverable Portion, less any amount that Operator notifies the Regulator (at the time expenditure is incurred) is to be recovered through a Surcharge, is to be Speculative Investment.

(e) Subject to clauses 7.4(f) and (g), where clause 7.4(d) applies, the following amounts may be added to the Capital Base:

(i) all or part of an amount which is Speculative Investment; and

(ii) an amount that equals the annual increase in the Speculative Investment referred to in clause 7.4(e)(i) calculated on a compounded basis at a rate of return approved by the Regulator (which rate of return may, but need not, be different from the rate of return implied in the Reference Tariff).

(f) Clause 7.4(e) will only apply in relation to Speculative Investment where the type and volume of Services provided using the New Facilities change such that any part of the Speculative Investment, plus the annual increase as determined in accordance with clause 7.4(e)(ii), would then satisfy the requirements of the Code for addition to the Capital Base.

(g) Clause 7.4(e) will not apply if it relates to Speculative Investment which has been previously added to the Capital Base.

7.5 Return on the Capital Base

The return on the Capital Base has been determined by multiplying the Capital Base at 1 January 2005, and at the beginning of each subsequent year until 1 January 2010, by the Rate of Return.

7.6 Calculation of Rate of Return

(a) The Rate of Return has been set as a pre-tax real weighted average of the returns applicable to debt and equity.

(b) The return on equity referred to in sub-clause 7.6(a) has been determined using the capital asset pricing model.

(c) The return on debt referred to in sub-clause 7.6(a) has been determined as the sum of a risk free rate of return, an estimate of the corporate debt margin, and an estimate of the costs of raising debt.

(d) [Deleted]

7.7 Depreciation Schedule

(a) A separate depreciation schedule has been determined for each of the 4 groups of physical assets that form the DBNGP, these 4 groups are:

(i) pipeline assets;

(ii) compressor station assets;

(iii) metering assets; and

(iv) other assets.

(b) For the assets in each of the 4 groups, depreciation has been determined using the straight-line method.

(c) The Depreciation Schedule has been designed so that:

(i) each group of assets is depreciated over the economic life of that group; and

(ii) each group of assets is depreciated only once (that is, so that the sum of the Depreciation that is attributable to each group over the life of the assets is equivalent to the value of that group of assets at the time at

which that value was first included in the Capital Base, subject to such adjustment for inflation as is appropriate given the approach to inflation adopted pursuant to section 8.5A(c) of the Code).

7.8 Non-Capital Costs

The Reference Tariff provides for the recovery of all forecast non-capital costs to the extent permitted under section 8.37 of the Code.

7.9 Allocation of Costs Between Services

In determining the Reference Tariff for the T1 Service, the P1 Service and the BT1 Service, costs have been allocated to the Services provided to Shippers with Access Contracts entered into prior to the commencement of this Access Arrangement Period, as if those Shippers had been provided with the respective Reference Services.

7.10 Allocation of Costs Between Shippers

(a) The portion of Total Revenue attributable to provision of each of the Reference Services is recovered through the respective Reference Tariff.

(b) For the purpose of recovery of costs from Shippers, each of the Reference Tariffs is divided into:

(i) Capacity Reservation Tariff; and

(ii) Commodity Tariff.

(c) The Capacity Reservation Tariff for each Reference Service recovers from each Reference Service Shipper a proportion of the return and depreciation on, and a proportion of the non capital costs incurred in operating and maintaining the DBNGP.

(d) The Commodity Tariff for each Reference Service recovers from each Reference Service Shipper a proportion of the cost of the fuel gas used on the DBNGP.

7.11 Form of Regulation

(a) The Reference Tariffs will vary within the Access Arrangement Period in accordance with a 'price path' approach as described in section 8.3 of the Code.

(b) This variation of the Reference Tariff will be effected by adjustment on 1 January in each of the years 2006, 2007, 2008 and 2009 in accordance with CPI on the following basis:

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

where:

$Tariff_n$	=	Capacity Reservation Tariff or Commodity Tariff (as the case may be) in year n, where year n is each of the years 2006, 2007, 2008, 2009;
$Tariff_b$	=	Capacity Reservation Tariff or Commodity Tariff (as the case may be) set out in Schedule 2 to the Access Contract Terms and Conditions;
CPI_n	=	CPI for the quarter ending on 30 September of the year before the year for which the Reference Tariff is being adjusted; and
CPI_b	=	CPI for the quarter ending on 30 September 2004.

7.12 Use of Incentive Mechanism

(a) The adoption of the 'price path' approach is intended to provide an incentive to develop the market and reduce costs.

(b) For the Access Arrangement Period commencing on 1 January 2011, the Total Revenue from which the Reference Tariff is to be determined is to include, in addition to the costs listed in clause 7.2(b) of this Access Arrangement, a share of any returns to Operator from the sale of Full Haul, Part Haul and Back Haul Services in the previous Access Arrangement Period that exceeded the level of returns that were expected during that previous Access Arrangement Period from the sale of such Services.

(c) The share of returns to Operator referred to in clause 7.12(b) of this Access Arrangement is to be calculated, for each year, as shown below:

Year	Share of returns
2011	$S_{2011} = E_{2006} + E_{2007} + E_{2008} + E_{2009}$
2012	$S_{2012} = E_{2007} + E_{2008} + E_{2009}$
2013	$S_{2013} = E_{2008} + E_{2009}$
2014	$S_{2014} = E_{2009}$
2015	$S_{2015} = 0$

where:

E_t = 0, if $[D_t – D_{t-1} \times (CPI_t/CPI_{t-1}) \times R_t] \times I_s \leq 0$, and
$[D_t – D_{t-1} \times (CPI_t/CPI_{t-1}) \times R_t] \times I_s$, if
$[D_t – D_{t-1} \times (CPI_t/CPI_{t-1}) \times R_t] \times I_s > 0$,
for year t, where t = 2006, 2007, 2008, and 2009;

D_t = 0, if $(F_t – A_t) \leq 0$, and $(F_t – A_t)$ if $(F_t – A_t) > 0$;

R_t = adjustment required for real escalation applied to labour costs in year t, as shown in the following table:

t	2006	2007	2008	2009
R_t	1.0044	1.0039	1.0041	1.0042

I_s = inflation factor for year s, where s = 2011, 2012, 2013, 2014, 2015, which adjusts $[D_t – D_{t-1}) \times (CPI_t/CPI_{t-1}) \times R_t]$ for inflation from year t to year s;

F_t = the forecast of non-capital costs for year t made for the purpose of determining the Reference Tariff for the current period from 1 January 2005 until 31 December 2010;

A_t = actual non-capital costs for year t;

F_{t-1} = the forecast of non-capital costs for year t - 1 made for the purpose of determining the Reference Tariff for the current period from 1 January 2005 until 31 December 2010;

A_{t-1} = actual non-capital costs for year t - 1;

CPI_t = CPI for the quarter ending on 30 September of year t; and

CPI_{t-1} = CPI for the quarter ending on 30 September of year t – 1.

(d) A_t and A_{t-1} must be determined using the same cost categories and methods used to determine, respectively, F_t and F_{t-1}.

(e) For the purposes of this clause 7.12, non-capital costs for any year of the period from 1 January 2005 until 31 December 2010 do not include the costs associated with:

(i) Gas used as compressor fuel during the year;

(ii) Gas used as fuel in gas engine alternators and heaters;

(iii) Gas which is vented during maintenance activities;

(iv) Gas which is lost from the DBNGP; or

(v) Charges levied on Operator pursuant to the Economic Regulation Authority (Gas Pipelines Access Funding) Regulations 2003.

7.13 Reference Tariff Principles Not Subject to Review

(a) The following are Fixed Principles in accordance with section 8.47 of the Code:

(i) the method of determination of the Capital Base at the commencement of each year of the Access Arrangement Period as set out in clause 7.3 of the Access Arrangement;

(ii) the revenue earned by Operator during the period commencing on 1 July 2005 and ending on 31 December 2015 from the sale of any Services which is in excess of the amount (in net present value terms) equal to the sum of:

(A) the revenue that would have been earned had any of those Services which were Full Haul Services been sold at the Reference Tariff; and

(B) the revenue actually earned from the sale of those Services which were Services other than Full Haul Services,

must not:

(C) be taken into account directly or indirectly for the purposes of setting a Reference Tariff or determining or applying the Reference Tariff Policy which applies on or after 1 January 2011; or

(D) otherwise be taken into account directly or indirectly by the Relevant Regulator in performing any of its functions under the Code.

(iii) [Deleted]

(b) For the purposes of the Fixed Principles referred to in clause 7.13 of this Access Arrangement, the Fixed Period is until 31 December 2031.

7.14 Rebate of Charges

Operator will only rebate Charges in relation to the use of certain delivery points and then only in accordance with clause 3 of the Access Contract Terms and Conditions.

8. REFERENCE TARIFF STRUCTURE AND CHARGES

8.1 Structure

Each Shipper with an Access Contract for the T1 Service, P1 Service or B1 Service is to pay:

(a) a Capacity Charge;

(b) a Commodity Charge; and

(c) other Charges as required by the Access Contract.

8.2 The Capacity Charge is the aggregate of the Shipper's Delivery Point MDQs multiplied by the Capacity Reservation Tariff for the relevant Reference Service.

8.3 The Commodity Charge is the aggregate of the quantity of Gas delivered to the Shipper at a Delivery Point or Delivery Points multiplied by the Commodity Tariff for the relevant Reference Service.

8.4 Other Charges are set out in the Access Contract Terms and Conditions.

8.5 Goods and Services Tax ("GST")

(a) The Capacity Charge, the Commodity Charge and all Other Charges, as determined in accordance with this clause 8, are exclusive of GST.

(b) The manner in which GST is applicable and payable is set out in the Access Contract Terms and Conditions.

9. TERMS AND CONDITIONS

9.1 The terms and conditions upon which Operator will grant parties access to the T1 Service, P1 Service or B1 Service in the DBNGP are those terms and conditions contained in the Access Contract Terms and Conditions as amended or varied from time to time in accordance with clause 9.3 of the Access Arrangement.

9.2 At the date of this Access Arrangement, the Access Contract Terms and Conditions are set out in Appendix 1.

9.3 Operator may vary the Access Contract Terms and Conditions in accordance with section 2 of the Code.

10. TRADING POLICY

10.1 Application of Trading Policy

The application of this clause 10 is not limited to the Reference Services and extends to all Services provided by Operator on the DBNGP.

10.2 Bare Transfer

Operator will permit a Bare Transfer of all or any part of a Shipper's Contracted Capacity the subject of an Access Contract in accordance with section 3.10 of the Code and clause 27.1 of the Access Contract Terms and Conditions for the T1 Service.

10.3 Conditional Transfer

Operator will permit a conditional transfer of an Access Contract in accordance with clause 27 of the Access Contract Terms and Conditions for the T1 Service.

10.4 Trading Imbalances

A Shipper may exchange all or part of its accumulated Imbalances in accordance with clause 9.9 of the Access Contract Terms and Conditions for the T1 Service.

10.5 Relocation of Contracted Capacity

A Shipper may relocate all or any part of its Contracted Capacity from an existing Delivery Point to a new delivery point or from an existing Receipt Point to a new receipt point in accordance with clause 14 of the Access Contract Terms and Conditions for the T1 Service.

11. EXTENSIONS/EXPANSIONS POLICY

11.1 Operator will expand the Capacity of the DBNGP to meet the gas transportation needs of Prospective Shippers where Operator believes the tests in section 6.22 of the Code have been satisfied, and Operator may otherwise expand the Capacity of the DBNGP to meet the needs of Prospective Shippers.

11.2 Unless Operator states otherwise in a Capacity Expansion Option, an expansion of the DBNGP pursuant to the exercise of a Capacity Expansion Option by the holder is to be treated as part of the Covered Pipeline.

11.3 If Operator proposes to extend, expand or enhance the DBNGP for a purpose other than meeting its obligations to the holder of a Capacity Expansion Option, the extension, expansion or enhancement is to become part of the Covered Pipeline unless Operator elects otherwise. Operator will give the Regulator notice of an extension, expansion or enhancement which Operator elects will not become part of the Covered Pipeline.

11.4 In considering whether to treat an extension, expansion or enhancement as part of the Covered Pipeline, Operator may have regard to the following factors:

(a) the application of the matters set out in section 1.9 of the Code in respect of the facilities comprising the extension, expansion or enhancement;

(b) the extent to which the Capacity resulting from the extension, expansion or enhancement is Contracted Capacity;

(c) the legitimate business interests of Operator;

(d) the application of any voluntary right of access to the Capacity resulting from the extension, expansion or enhancement; and

(e) the extent to which any Access Contract under which the extension, expansion or enhancement capacity is contracted relies upon a determination of the Reference Tariff.

11.5 If an extension, expansion or enhancement of the DBNGP becomes part of the Covered Pipeline, the extension, expansion or enhancement will not affect the Reference Tariff before the next Revisions Commencement Date. Although, if an extension, expansion or enhancement of the DBNGP becomes part of the Covered Pipeline:

(a) Operator may seek a Capital Contribution from Prospective Users or levy a Surcharge on Incremental Users in accordance with sections 8.23 to 8.26 of the Code; and

(b) Operator may submit proposed revisions to this Access Arrangement under section 2.28 of the Code.

11.6 Operator may (as determined by Operator in its sole discretion) from time to time seek Surcharges or Capital Contributions from Prospective Shippers in respect of New Facilities Investment in accordance with sections 8.23 to 8.26 of the Code. If Operator intends to levy a Surcharge on Shippers, it will provide written notice, including to the Regulator, of its intention to do so.

11.7 Except where Operator imposes a Surcharge or seeks a Capital Contribution, Shipper's using Incremental Capacity will pay the Reference Tariff.

11.8 To assist Prospective Shippers with their future gas transportation needs, Operator may from time to time offer Capacity Expansion Options. Operator acknowledges that at the commencement of this Access Arrangement Period, Capacity Expansion Options have already been granted to certain Shippers on the DBNGP.

11.9 A Capacity Expansion Option gives a Prospective Shipper a right to a specified quantity of Capacity on the terms and conditions specified in the Capacity Expansion Option. A Capacity Expansion Option will have a purchase price to be determined by Operator and is able to be traded by the Prospective Shipper to another Prospective Shipper.

12. CAPACITY MANAGEMENT POLICY

The DBNGP is to be managed as a Contract Carriage Pipeline as defined in section 10.8 of the Code.

13. REVIEW DATE

13.1 The Revisions Submission Date is 1 April 2010.

13.2 The Revisions Commencement Date is 1 January 2011.

14. DEFINITIONS

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

Access Arrangement Period means the date the Regulator approves the Access Arrangement until the start of the Revisions Commencement Date;

Access Contract means a contract between Operator and a Shipper for Reference Services or Non-Reference Services;

Access Contract Period means the term of the Access Contract specified in the Access Request;

Access Contract Terms and Conditions means the terms and conditions for the Reference Service contained in Annexure A as may be altered or varied by Operator from time to time;

Access Request means a request for access to a service provided by means of the DBNGP as described in clause 5.2;

Access Request Form means the Access Request forms for lodging Access Requests for Reference Service and Non-Reference Service in accordance with the Access Arrangement as specified from time to time by Operator and made available on Operator's nominated website as part of the Information Package, or as the context requires, the Access Request Form forming part of an Access Contract;

Annexure means an annexure to this Access Arrangement;

B1 Service means the Service described in clause 6.2B;

Back Haul means a Gas transportation service in the DBNGP where the Receipt Point is downstream of the Delivery Point;

Capacity means the capacity in the DBNGP, as it is configured at the commencement of the Access Arrangement, to transport quantities of gas from a Receipt Point to a Delivery Point;

Capacity Expansion Option means an option for Capacity on the DBNGP which requires an expansion;

Code has the meaning given in clause 1;

Commencement Date means 08:00 hours on the date for commencement of the Service set out in the Access Request executed by Operator;

Compressor Station(s) means the compressor stations located at various intervals on the DBNGP;

Covered Pipeline means the Dampier to Bunbury Natural Gas Pipeline which is described in clause 3;

CS# means Compressor Station 1 to 10 as the case may be on the DBNGP;

DBNGP means the Covered Pipeline as it is configured at the commencement of this Access Arrangement and any extension or expansion of the DBNGP which becomes covered under the Access Arrangement pursuant to clause 11;

Depreciation Schedule means the schedule described in the Access Arrangement Information;

Developable Capacity means the difference between the Capacity and the Capacity which would be available if additions of plant and/or pipeline were made, but does not include any extension of the geographic range of the DBNGP;

Forward Haul means a Gas transportation service on the DBNGP where the inlet point is upstream of the outlet point.

Full Haul means a Gas transportation service on the DBNGP where the receipt point is upstream of main line valve 31 on the DBNGP and the delivery point is downstream of Compressor Station 9 on the DBNGP.;

Information Package means the package of information a Service Provider is required to establish and maintain under section 5.1 of the Code and any other information that Operator considers is required to enable a Prospective Shipper to apply for access to a service on the DBNGP;

Non-Reference Service means any of the Services referred to in sub-clause 6.1(b);

Operator means DBNGP (WA) Transmission Pty Ltd (ACN 081 609 190);

Operator Entity means Operator, all of Operator's Related Bodies Corporate and all entities controlled (as that word is defined in the Corporations Act as at the Commencement Date) by any of the foregoing;

P1 Service means the Service described in clause 6.2A;

Park and Loan Service is a service where Operator agrees that a Shipper may deliver a quantity of gas into the DBNGP at a Receipt Point on a Day, without the Shipper taking delivery of that gas at a Delivery Point on the same Day ("Park Service") OR where Operator agrees that a Shipper may take a quantity of gas at a Delivery Point without supplying an equivalent quantity of gas at a Receipt Point on the same Day and consequently that gas is delivered to Shipper out of Linepack ("Loan Service");

Part Haul means a Forward Haul Gas transportation service on the DBNGP which is not Full Haul.;

Prospective Shipper means a person who seeks or is reasonably likely to seek to enter into a contract for Services and includes a Shipper who seeks or may seek to enter into a contract for an additional Service;

Recoverable Portion means that part of New Facilities Investment that meets the requirements of the Code for addition to the Capital Base.

Reference Service means either T1 Service, P1 Service or B1 Service as relevant;

Reference Tariff means Operator's reference tariff for a Reference Service as set out in the Access Contract Terms and Conditions;

Regulator means the regulator appointed under the Gas Pipeline Access (Western Australia) Act 1998;

Seasonal Service means Capacity made available by Operator in relation to a particular Month out of incremental capacity (being Capacity over and above T1 Service Capacity) available due to seasonal factors;

Service means either a Reference Service or a Non-Reference Service;

Shipper means the Shipper specified in the Access Request;

Spare Capacity means:

(a) the difference between the Capacity and the Contracted Capacity; plus

(b) the difference between the Contracted Capacity and the Contracted Capacity which is being used;

Speculative Investment has the meaning given in clause 7.4(d).

Spot Market Rules means the rules published by Operator from time to time to apply to Spot Capacity Service and the market for Spot Capacity, which Operator will make available on its website;

Spot Capacity Service means a Service for Spot Capacity by way of one or more Spot Transactions;

Spot Transaction means a transaction for a Spot Capacity Service between Operator and Shipper in accordance with the Spot Transaction Terms and Conditions;

Spot Transaction Terms and Conditions means the terms and conditions for the Spot Capacity Service as determined by negotiation with Users and prospective Users, which terms and conditions are consistent with the principles and objectives in clause 6.3(c);

T1 Service means the Service described in clause 6.2;

Total Revenue means revenue calculated in the manner described in the Access Arrangement Information.

Unless the context otherwise requires, terms used in capitals in this Access Arrangement have:

(a) the meaning given above in this clause 14;

(b) if no meaning is given above in this clause 14, the meaning given in the Access Contract Terms and Conditions; and

(c) if no meaning is given above in this clause 14 or in the Access Contract Terms and Conditions, the meaning given in the Code.

Terms used in capitals in the Access Arrangement Information have the same meaning as if they were included in the Access Arrangement, unless the context otherwise requires.

Appendix 1
Terms and Conditions for Reference Services

Appendix 1 Part A, Part B and Part C

Terms and Conditions For Reference Services

T1 Service Terms and Conditions
(Appendix 1 Part A)

P1 Service Terms and Conditions
(Appendix 1 Part B)

B1 Service Terms and Conditions
(Appendix 1 Part C)

Revised Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline

Economic Regulation Authority
WESTERN AUSTRALIA

15 December 2005

Appendix 1 – Part A

ECONOMIC REGULATION AUTHORITY

T1 Service
Terms and Conditions

TABLE OF CONTENTS

1. INTERPRETATION 1

2. GENERAL 24

2.1 Construction generally 24
2.2 Headings 24
2.3 Rounding to a certain number 25
2.4 Other contracts 25
2.5 System Operator 25

3. CAPACITY SERVICE 26

3.1 Operator to provide T1 Service to Shipper 26
3.2 Capacity Service 26
3.3 Contracted Capacity 27
3.4 Operator must deliver Gas up to Contracted Capacity 27
3.5 Spot Capacity 27

4. DURATION OF THE CONTRACT 29

4.1 Term 29
4.2 Capacity Start Date 29
4.3 Option to renew Contract 29
4.4 Conditions to be satisfied before exercising an Option 29
4.5 Notice exercising an Option 29
4.6 First Option Period 29
4.7 Second Option Period 29

5. RECEIVING AND DELIVERING GAS 31

5.1 Receipt and Delivery of Gas 31
5.2 Operator must Receive and Deliver Gas 31
5.3 Operator may refuse to Receive Gas 31
5.4 Notification of refusal to Receive Gas 32
5.5 Refusal to Receive Gas is a Curtailment in limited circumstances 32
5.6 No liability for refusal to Receive Gas 32
5.7 Refusal to Deliver Gas 32
5.8 Notification of refusal to Deliver Gas 33
5.9 Refusal to Deliver Gas is a Curtailment in limited circumstances 33
5.10 No liability for refusal to Deliver Gas 33
5.11 System Use Gas 33
5.12 Additional Rights to Refuse to Receive or Deliver Gas 33

6. INLET POINTS AND OUTLET POINTS 35

6.1 Inlet Points and Outlet Points 35
6.2 Multi-shipper Agreement 35
6.3 Multi-shipper Inlet Point and Multi-shipper Outlet Point 35
6.4 Allocation of Gas at Inlet Points 36
6.5 Allocation of Gas at Outlet Points 37
6.6 Installation, operation and maintenance of inlet stations and outlet stations 38
6.7 Contribution Agreement 40
6.8 Shipper Specific Facility Agreement 41

6.9 Total Physical Capacity 41
6.10 Notional Gate Point 42

7. OPERATING SPECIFICATIONS 43
7.1 Gas must comply with Gas specifications 43
7.2 Gas to be free from certain substances 43
7.3 Gas to be free from objectionable odours 43
7.4 Gas temperature and pressure 43
7.5 Notice of Out-Of-Specification Gas 43
7.6 Operator and Shipper may refuse to Receive Out-Of-Specification Gas 44
7.7 Operator may Receive Out-Of-Specification Gas 44
7.8 Shipper's Liability for Out of Specification Gas 44
7.9 Shipper may Receive Out-Of-Specification Gas 44
7.10 Change of Law 44
7.11 Amendment Notice 45
7.12 Odorisation 45
7.13 Weighted average gas flows 45

8. NOMINATIONS 47
8.1 Shipper may delegate to a Producer 47
8.2 Requests for advance information 47
8.3 Shipper's Daily Nominations do not affect Contracted Capacities 47
8.4 Nominations and Renominations must be in good faith 47
8.5 Operator to make available bulletins of available Capacity 47
8.6 Shipper's Initial Nomination 48
8.7 Allocation of Daily Nominations 48
8.8 Default provision for Daily Nomination 49
8.9 Nominations priority 49
8.10 Shipper may give Renomination notice 49
8.11 Times for Renomination and allocation of revised Daily Nominations 50
8.12 Renominations reducing Daily Nomination 50
8.13 Renominations increasing Daily Nomination 50
8.14 Default provision for Renomination process 50
8.15 Aggregated T1 Service 51
8.16 Nominations at inlet points and outlet points where Shipper does not have sufficient Contracted Capacity 51
8.17 Shipper's Advance Nomination 51
8.18 Use of Full Haul capacity upstream of CS9 51

9. IMBALANCES 53
9.1 Operator to maintain balance 53
9.2 Shipper to maintain balance 53
9.3 Shipper's Accumulated Imbalance 53
9.4 Notice of Shipper's imbalances 53
9.5 Accumulated Imbalance Limit 53
9.6 Excess Imbalance Charge 54
9.7 Balancing in particular circumstances 55
9.8 Remedies for breach of imbalance limits 55
9.9 Trading in imbalances 56
9.10 Cashing out imbalances at end of Contract 56
9.11 Charges do not affect Daily Delivery 56

10. PEAKING 57

10.1 Hourly Peaking Limits ... 57
10.2 Shipper to stay within Hourly Peaking Limit ... 57
10.3 Consequences of exceeding Hourly Peaking Limit ... 57
10.4 Outer Hourly Peaking Limit ... 58
10.5 Charges do not affect Daily Delivery ... 59
10.6 Remedies for breach of peaking limits ... 59
10.7 Permissible Peaking Excursion ... 60

11. OVERRUN ... 61
11.1 Overrun Charge ... 61
11.2 Unavailability Notice ... 61
11.3 Content of an Unavailability Notice ... 61
11.4 Compliance with Unavailability Notice ... 62
11.5 Operator may refuse to Deliver Overrun Gas ... 62
11.6 Unavailable Overrun Charge ... 62
11.7 Saving and damages ... 62

12. ADDITIONAL RIGHTS AND OBLIGATIONS OF OPERATOR ... 63
12.1 Commingling of Gas ... 63
12.2 Processing ... 63
12.3 Operation of Pipeline System ... 63
12.4 Delivery of Gas ... 63

13. CONTROL, POSSESSION AND TITLE TO GAS ... 64
13.1 Warranty of Title ... 64
13.2 Control, Possession, Responsibility and Title of Shipper ... 64
13.3 Title, Custody, Control and Responsibility of Operator ... 64
13.4 Entitlements to Receive Gas ... 64
13.5 Title at outlet points ... 65

14. RELOCATION ... 66
14.1 Request for relocation of Contracted Capacity ... 66
14.2 Assessment of Requested Relocation ... 66
14.3 Operator to notify Shipper ... 67
14.4 Requested Relocation is an Authorised Relocation ... 67
14.5 Requested Relocation is not an Authorised Relocation ... 67
14.6 Relocated Contracted Capacity to be on same terms and conditions ... 67
14.7 Charges for relocation ... 67
14.8 Pressures at New Inlet Point and New Outlet Point ... 68
14.9 This Contract amended to reflect relocation ... 68

15. METERING ... 69
15.1 Shipper's responsibility ... 69
15.2 Operator's responsibility ... 69
15.3 Metering uncertainty ... 69
15.4 Primary Metering Equipment ... 69
15.5 Provision of information to Shipper ... 71
15.6 Changes to requirements for Metering Equipment ... 72
15.7 Approval of Inlet Metering Equipment ... 72
15.8 Check Metering Equipment ... 73
15.9 Preservation of accuracy ... 73
15.10 Presumptions of accuracy ... 73
15.11 Verification of Primary Metering Equipment ... 74

15.12 Adjustment or replacement of defective equipment 74
15.13 Inaccurate equipment 75
15.14 Correction of measurements 75
15.15 Metering records 76
15.16 Unused outlet points 76

16. NOT USED 77

17. CURTAILMENT 78
17.1 Operator's obligations and Curtailment principles 78
17.2 Curtailment Generally 78
17.3 Curtailment without liability 78
17.4 Refund of Capacity Reservation Charge 79
17.5 Operator's rights to refuse to Receive or Deliver Gas 79
17.6 Curtailment Notice 79
17.7 Content of a Curtailment Notice 80
17.8 Compliance with Curtailment Notice 81
17.9 Priority of Curtailment 82
17.10 Apportionment of Shipper's Curtailments 84

18. MAINTENANCE AND MAJOR WORKS 86

19. FORCE MAJEURE 87

20. CHARGES 88
20.1 Obligation to pay Charges 88
20.2 Capacity Reservation Charge 88
20.3 Commodity Charge 88
20.4 Other Charges 88
20.5 Adjustment to T1 Reference Tariff 88
20.6 Goods and Services Tax 89
20.7 Other Taxes 89

21. INVOICING AND PAYMENT 91
21.1 Monthly payment of Capacity Reservation Charge 91
21.2 Monthly invoicing 91
21.3 Payment within 10 Working Days 91
21.4 Default in payment 91
21.5 Disputed Tax Invoices 92
21.6 Correction of payment errors 92

22. DEFAULT AND TERMINATION 93
22.1 Default by Shipper 93
22.2 Notice of Shipper's default 93
22.3 When Operator may exercise remedy 93
22.4 Remedies for Shipper's default 94
22.5 Default by Operator 94
22.6 Notice of Operator's default 94
22.7 When Shipper may exercise remedy 94
22.8 Remedies for Operator's default 95
22.9 Saving of other remedies 95
22.10 Effect of termination 95

23. LIABILITY 96
23.1 Liability for negligence and default limited to Direct Damage 96

23.2 Liability for fraud ... 96
23.3 No liability for Indirect Damage ... 96
23.4 No liability arising out of any approval by Operator ... 96
23.5 Saving of contractual payments ... 96
23.6 Shipper is responsible for its and its contractors' personnel and property ... 96
23.7 Operator is responsible for its and its contractors' personnel and property ... 97
23.8 Each limitation separate ... 97

24. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS ... 98
24.1 Method of Resolution ... 98
24.2 Acknowledgment ... 98
24.3 Service of Notice ... 98
24.4 Meeting ... 98
24.5 Senior Officers ... 98
24.6 Failure to Resolve Dispute ... 98
24.7 Technical and Financial Matters ... 98
24.8 Appointment of Independent Expert ... 98
24.9 Expert not an Arbitrator ... 99
24.10 Representation, Evidence, Confidentiality, Powers and Costs ... 99
24.11 Urgent Relief Condition Precedent to litigation ... 101

25. ASSIGNMENT ... 102
25.1 No assignment except under this clause ... 102
25.2 Charges ... 102
25.3 Assignment ... 102
25.4 Assignment: deed of assumption ... 102
25.5 Pipeline Trustee's Acknowledgments and Undertakings ... 103
25.6 DBNGP Trustee Acknowledgments and Undertakings ... 104
25.7 Non complying assignment ... 105
25.8 Utilising other shippers' Daily Nominations ... 105

26. GENERAL RIGHT OF RELINQUISHMENT ... 106
26.1 Shipper may make Relinquishment Offer ... 106
26.2 Withdrawal of Relinquishment Offer ... 106
26.3 Operator may accept Relinquishment Offer ... 106
26.4 Effect of Relinquishment Acceptance ... 107
26.5 Notification of relinquishment of capacity by other Shippers ... 107
26.6 Administrative expenses ... 107

27. TRADING OR TRANSFERRING CONTRACTED CAPACITY ... 108
27.1 Bare Transfers ... 108
27.2 No transfer of Shipper's Contracted Capacity other than Bare Transfer than by this clause ... 108
27.3 Replacement Shipper must be a shipper or Approved Prospective Shipper ... 108
27.4 Transfer of Capacity by Shipper – Approval of transfer terms ... 108
27.5 Posting of Tradeable Capacity ... 109
27.6 Notification of traded capacity ... 109
27.7 Replacement Contract ... 109
27.8 Shipper's Contract ... 110
27.9 Resumption of Traded Capacity by Shipper ... 110
27.10 Administrative expenses ... 110
27.11 Further marketing service ... 110
27.12 Relinquishment ... 110

28. CONFIDENTIALITY 112
28.1 Confidential Information 112
28.2 Exceptions to Confidentiality 112
28.3 Permitted Disclosure 112
28.4 Disclosure by recipient of Confidential Information 114
28.5 Use of Confidential Information 114
28.6 Information received by Operator 114
28.7 Breach by Operator 115
28.8 Publicity 116
28.9 No disclosure of terms of this Contract 117
28.10 Audit 117
28.11 Remedies 117
28.12 Survival 117
29. NOTICES 118
29.1 Notices for nominations, Curtailment, unavailability, balancing, Out-Of-Specification Gas and capacity trading 118
29.2 The CRS 118
29.3 Notices generally 118
29.4 Receipt of notices 118
30. REPRESENTATIONS AND WARRANTIES 120
30.1 Operator's Representations and Warranties 120
30.2 Shipper's Representations and Warranties 121
30.3 Pipeline Trustee's Representations and Warranties 121
30.4 DBNGP Trustee's Representations and Warranties 121
30.5 Creditworthiness of Shipper 123
30.6 Failure to Satisfy Operator of Creditworthiness 123
31. RECORDS AND INFORMATION 124
32. INSURANCES 125
33. NO WAIVER 127
34. ENTIRE AGREEMENT 128
35. SEVERABILITY 129
36. ENTRY AND INSPECTION 130
37. OWNERSHIP, CONTROL, MAINTENANCE AND RISK 131
38. REVOCATION, SUBSTITUTION AND AMENDMENT 132
39. NO COMMON CARRIAGE 133
40. OPERATOR NOT A SUPPLIER OF GAS 134
41. STAMP DUTY 135
42. NO THIRD PARTY BENEFIT 136
43. GOVERNING LAW 137
44. GENERAL 138
44.1 Operator's discretion 138
44.2 Refusal to Receive or deliver Gas 138
45. NON-DISCRIMINATION CLAUSE 139
45.1 Access to DBNGP information 139
45.2 Arms' length dealings 139

46. PIPELINE TRUSTEE'S LIMITATION OF LIABILITY 140
47. DBNGP TRUSTEE'S LIMITATION OF LIABILITY 141
SCHEDULE 1 - ACCESS REQUEST FORM 142
SCHEDULE 2 - CHARGES 143
SCHEDULE 3 - OPERATING SPECIFICATIONS 144
SCHEDULE 4 - INTENTIONALLY DELETED 145
SCHEDULE 5 - INTENTIONALLY DELETED 146
SCHEDULE 6 - INTENTIONALLY DELETED 147
SCHEDULE 7 - TRIPARTITE DEED 148
SCHEDULE 8 - CURTAILMENT PLAN 149

1. INTERPRETATION

In this Contract, except where the context requires another meaning:

ACCC means the Australian Competition and Consumer Commission.

Access Arrangement means the access arrangement from time to time for the DBNGP under the Access Regime, as changed, varied or replaced from time to time.

Access Arrangement Information means the access arrangement information submitted by the Operator to the Regulator from time to time in accordance with the provisions of the Gas Pipelines Access Law.

Access Regime means any legislative, legislative and administrative or administrative regime from time to time governing the terms and conditions of third party access to Capacity Services or Spot Capacity on the DBNGP, and at the time of this Contract includes the *Gas Pipelines Access (Western Australia) Act 1998* (WA) and the Gas Pipelines Access Law applying under it and any access arrangement approved under the Gas Pipelines Access Law and in force for the DBNGP.

Access Request means a request for access as described in the Information Package.

Access Request Form means the Access Request form for lodging Access Requests for the T1 Service in accordance with the Access Arrangement or, as the context requires, the Access Request Form in Schedule 1 of this Contract.

Accumulated Imbalance means the accumulated imbalance calculated under clause 9.3 and (if applicable) adjusted under clause 9.9.

Accumulated Imbalance Limit has the meaning given in clause 9.5(a).

Accumulated Imbalance Notice is defined in clause 9.4.

Accurate means measuring the quantity of Gas with an inaccuracy of less than or equal to:

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

(b) plus or minus 3% for Metering Equipment with a design flow of less than 5 TJ/d.

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

Advance Nomination means a Nomination by Shipper under clause 8.17.

Affected Party has the meaning given in clause 19(a).

Aggregated Service Allocated Daily Nomination means, in relation to a particular shipper, the Daily Nomination for Aggregated T1 Service actually allocated to that shipper for the relevant Gas Day plus the material equivalent to such allocation for the relevant Gas Day in respect of Aggregated T1 Service under any other contract for Capacity Service with that shipper.

Aggregated T1 Service has the meaning given in clause 8.16.

Alcoa means Alcoa of Australia Limited (ABN 93 004 879 298).

Alcoa's Exempt Capacity means the Gas Transmission Capacity necessary to transport the quantity of Gas which Operator is required to Deliver from time to time to Alcoa under the Alcoa Exempt Contract (including Alcoa's Exempt Delivery Entitlement).

Alcoa Exempt Contract means the contract originally between the State Energy Commission of Western Australia and Alcoa and now between Operator and Alcoa dated 7 February 1983 as amended from time to time, and including any changes to the quantities of Alcoa's entitlements under that contract taking effect after the date of execution of the Deed of Amendment No 5 of that contract which result from an exercise of rights by Alcoa under that contract which existed upon the execution of Deed of Amendment No 5 of that contract, but excluding any amendments having effect after the date of execution of Deed of Amendment No 5 of that contract which in any way relate to the Capacity Operator must provide to Alcoa under that contract including for the purposes for which that Capacity may be used and the prices Alcoa pays for that Capacity if it uses that Capacity for other than a purpose specified in that contract.

Alcoa's Exempt Delivery Entitlement means the quantity of Gas (including Alcoa's Priority Quantity) of which Alcoa is entitled to take Delivery under the Alcoa Exempt Contract during a Curtailment, which may exceed Alcoa's Priority Quantity.

Alcoa's Priority Quantity means 40 TJ/d of Alcoa's Exempt Delivery Entitlement.

Approved Prospective Shipper means a person who is not a shipper but who has satisfied Operator of its creditworthiness such that, in Operator's reasonable opinion, that person would be capable of meeting the obligations imposed under any relevant contract for Gas Transmission Capacity on the DBNGP.

Approved Tradeable Capacity has the meaning given in clause 27.4(g).

AS followed by a designation, refers to the text from time to time amended and for the time being in force of the document so designated issued by Standards Australia.

ASX means the Australian Stock Exchange Limited (ABN 98 008 624 691).

Associate has the meaning given in section 11 of the Corporations Act.

Associated, when used to describe the relationship between:

(a) a Gate Station and a Sub-network, means that the Gate Station is associated with a Sub-network;

(b) an Inlet Station and an Inlet Point, means that the Inlet Station is used to measure Gas flows and other parameters at the Inlet Point; and

(c) an Outlet Station and an Outlet Point, means that the Outlet Station is used to measure Gas flows and other parameters at the Outlet Point.

Authorised Relocation means a Requested Relocation that has been authorised by Operator under clause 14.2.

Back Haul means a Gas transportation service on the DBNGP where the inlet point is downstream of the outlet point.

Bank Bill Rate means, for the day of calculation, the average mid rate for bills having a tenor closest to 90 days, as displayed on the "BBSY" page of the Reuters Monitor System on that day. However, if the average mid rate is not displayed by 10:30am (Sydney time) on that Day, or if it is displayed but there is an obvious error in that rate, Bank Bill Rate means the rate (expressed as a yield to maturity) set by Operator in good faith and acting reasonably at approximately 10:30am on that day, having regard, to the extent possible, to the mid rate of the rates otherwise bid and offered for bills of that tenor at or around that time (including any displayed on the "BBSW" page of the Reuters Monitor System). The rate set by Operator must be expressed as a percentage rate per annum and be rounded up to the nearest sixth decimal place.

Bare Transfer has the meaning given in section 3.10(a) of the Code.

Capacity means:

(a) at an inlet point or a proposed inlet point - the capacity of the DBNGP to take delivery at and to transport Gas from that point; and

(b) at an outlet point or a proposed outlet point - the capacity of the DBNGP to transport and deliver Gas to that point,

and is to be expressed in TJ/d. For the avoidance of doubt, a reference in this Contract to Capacity is a reference to Capacity averaged across a Gas Day.

Capacity End Date means 08:00 hours on the date determined in accordance with clause 4 of this Contract and is 08:00 hours on the date on which Shipper's access to the particular Contracted Capacity is to end.

Capacity Reservation Charge means a component of the price for Gas Transmission Capacity to which Shipper has access under this Contract calculated in accordance with clause 20.2.

Capacity Service means any capacity service offered by Operator on the DBNGP excluding capacity under a Spot Transaction, and including, without limitation, P1 Service, T1 Service and B1 Service.

Capacity Start Date has the meaning given to it in clause 4.2

Charges means the Capacity Reservation Charge, Commodity Charge and Other Charges.

Check Metering Equipment means any Metering Equipment or other equipment installed, maintained or operated by a Party under clause 15.8(a) for checking measurements of Gas quality and quantity.

Code means the National Third Party Access Code for Natural Gas Pipeline Systems as amended and in force for the time being (as defined by section 11 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA).

Commodity Charge means the charge set out in clause 20.3.

Confidential Information has the meaning given in clause 28.1.

Contract means this contract, as revoked, substituted or amended under clause 38, including the queuing policy and trading policy under the Access Arrangement, Access Request Form and these terms and conditions and the Schedules attached hereto.

Contracted Capacity has the meaning given in clause 3.3, and includes Capacity in any Type of Capacity Service so that for example Contracted T1 Capacity means Contracted Capacity in the T1 Service.

Contracted Firm Capacity means Alcoa's Exempt Capacity and Capacity under a T1 Service, B1 Service, P1 Service or a Firm Service.

Contract Year means the period from the Capacity Start Date until 31 December in the same calendar year and thereafter the period commencing 1 January in a calendar year and ending on 31 December in the same calendar year with the last Contract Year ending on the earlier of the Capacity End Date and the sooner termination of this Contract.

Contribution Agreement has the meaning given to it in clause 6.7(b).

Control has the meaning given in the Corporations Act as at the commencement of the Access Arrangement Period.

Controller has the meaning given in the Corporations Act as at the commencement of the Access Arrangement Period.

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

CPI means the Consumer Price Index (All Groups) for Perth, Western Australia, as published for each quarter by the Australian Bureau of Statistics or, if the Consumer Price Index (All Groups) for Perth ceases to be published, such alternative index as Operator as a Reasonable And Prudent Person may determine.

CRS means Operator's electronic customer reporting system.

CS7 means compressor station no.7 on the DBNGP.

Cubic Metre or m^3 means a cubic metre at MSC.

Current Verification means the Verification at which the Primary Metering Equipment is found to be Inaccurate.

Curtail means reduce, interrupt or stop or any combination of them completely or in part.

Curtailment Area means in relation to a particular Curtailment, the area affected by the relevant Curtailment and unless the Curtailment is a Point Specific Curtailment, includes all areas of the DBNGP downstream of that area.

Curtailment Notice has the meaning given in clause 17.6(a).

Curtailment Plan means the regime governing Curtailments of Capacity set out in Schedule 8 and clause 17.9.

Daily Bid has the meaning given to it in clause 3.5(b).

Daily Imbalance means for a particular Gas Day, Shipper's Total Inlet Quantity minus Shipper's Total Outlet Quantity for that Gas Day across all of its Capacity Services and its Spot Transactions.

Daily Nomination means:

(a) in respect of a Type of Capacity Service at an inlet point - the Capacity for the quantity of allocated Gas that Shipper is to Deliver to Operator at the inlet point on a Gas Day and the Type of Capacity Service; and

(b) in respect of a Type of Capacity Service at an outlet point - the Capacity for the quantity of allocated Gas that Shipper is to Receive from Operator at the outlet point on a Gas Day and the Type of Capacity Service,

and in each case as actually allocated under clause 8, and includes the Capacity for a revised quantity of Gas allocated under a Renomination process.

Daily Spot Bid Price has the meaning given to it in clause 3.5(b).

DBNGP means the Gas transmission pipeline system that runs between Dampier and Bunbury in Western Australia, described in Appendix 1 to the Access Arrangement Information.

DBNGP Operating Agreement means the document so titled dated 25 March 1998 between Operator and the Pipeline Trustee as amended and extended from time to time, under which the Pipeline Trustee grants to Operator a sublicense of the pipeline licence for the DBNGP and the right and obligation to operate the DBNGP.

DBNGP Trust has the meaning given in clause 25.6(a).

DBNGP Trustee means DBNGP Holdings Pty Ltd (ACN 110 721 081).

DBP Act means the *Dampier to Bunbury Pipeline Act 1997* (WA).

Deliver means to deliver or supply Gas and includes Gas deemed by this Contract to be delivered or supplied at an inlet point or outlet point (including a Multi-shipper Inlet Point or Multi-shipper Outlet Point).

Derived Variable means a value computed by electronic, analogue or digital means from primary measurements or other derived variables or a combination of both.

Direct Damage means loss or damage which is not Indirect Damage.

Dispute means any dispute or difference concerning:

(a) the construction of;

(b) anything contained in or arising out of; or

(c) the rights, obligations, duties or liabilities of a Party under,

this Contract and includes any issue which a provision of this Contract contemplates may be referred to dispute resolution under clause 24.

Distribution Network means any Gas distribution system which receives Gas from the DBNGP and includes any Gas distribution system owned or operated by Networks which receives Gas from the DBNGP.

Distribution Networks' IPQ means 40 TJ/d or such greater or lesser amount as may be agreed between the Parties.

Distribution Networks Shipper means any shipper delivering Gas into a Distribution Network (subject to any Law which excludes that shipper from participating in a share of the Distribution Networks' IPQ), from time to time, and may include Shipper.

Duty Equipment means the Metering Equipment in service at a particular time.

Electronic Data Collection System means the system and equipment for collecting, receiving and transferring electronic signals and data from Metering Equipment, used for the measurement of Gas delivered to shippers and for billing.

Environmental And Safety Law means a Law relating to environmental, building, construction, engineering, planning, health, safety or occupational health and safety matters.

ERA means the Economic Regulatory Authority established by the *Economic Regulation Authority Act 2003* (WA).

Excess Imbalance Charge means the charge payable by Shipper identified in clauses 9.5(e) and 9.6(b).

Excess Imbalance Rate means the rate set out in row 1 of Schedule 2.

Existing Gas Supply Contract means a contract between a shipper and a customer for the sale and or transport of Gas to a customer of a shipper under which the Gas is to be supplied to the customer at or immediately downstream of an outlet point, which was in existence as at the date of the relevant change in Law as contemplated in clause 7.10, and excluding any amendments to that contract having effect after such date.

Existing Inlet Point means an Inlet Point on the DBNGP from which Shipper proposes to relocate Contracted Capacity, being an Inlet Point specified in this Contract (including by a prior amendment under clause 14.9) at the time the Requested Relocation is made.

Existing Outlet Point means an Outlet Point on the DBNGP from which Shipper proposes to relocate Contracted Capacity, being an Outlet Point specified in this Contract (including by a prior amendment under clause 14.9) at the time the Requested Relocation is made.

Existing Producer Contract means a contract between a shipper and a Producer for the sale of Gas to the shipper under which the Gas is to be supplied to the shipper at or immediately upstream of an inlet point, which was in existence as at the date of the relevant change in Law as contemplated in clause 7.10, and excluding any amendments to that contract having effect after such date.

Existing Station means:

(d) an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point that was installed and commissioned on or before 1 January 1995; or

(e) an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point that is the subject of a Facility Agreement (which has the meaning given in clause 6.8) or similar agreement, as at the Capacity Start Date.

Financial Matter has the meaning given to it in clause 24.7.

Firm Service has the meaning given in the Access Arrangement in the form the Access Arrangement was in on 13 January 2004.

Force Majeure means any event or circumstance not within a Party's control and which the Party, by the exercise of the standards of a Reasonable And Prudent Person, is not able to prevent or overcome, including (provided the foregoing tests are satisfied):

(a) acts of God, including epidemics, land slides, lightning, earthquakes, fires, storms, floods, wash outs and cyclones;

(b) strikes, lock outs, stoppages, restraints of labour and other industrial disturbances;

(c) acts of the enemy including wars, blockades and insurrection;

(d) acts of terror, terrorism or terrorists;

(e) riots and civil disturbances;

(f) valid Laws of the Commonwealth or any Commonwealth statutory authority;

(g) valid Laws of the State or a local government or any State statutory authority;

(h) shortage of necessary equipment, materials or labour;

(i) refusal or delay in obtaining any necessary consent or approval from any Commonwealth, State or local government or a Commonwealth or State statutory authority;

(j) unavoidable accidents involving, or break down of or loss or damage to, any plant, equipment, materials or facilities necessary for the Party's operations;

(k) any DBNGP shutdown or interruption which is validly required or directed by any Commonwealth, State or local government agency or any Commonwealth or State statutory authority having authority to so require or direct;

(l) any DBNGP shutdown or interruption required to conform with design or regulatory limits on DBNGP facilities, whether arising due to environmental conditions or circumstances or otherwise;

(m) DBNGP ruptures;

(n) collisions or accidents; and

(o) any other matter reasonably beyond the control of the Party.

Forward Haul means a Gas transportation service on the DBNGP where the inlet point is upstream of the outlet point.

Full Haul means a Gas transportation service on the DBNGP where the inlet point is upstream of main line valve 31 on the DBNGP and the outlet point is downstream of Compressor Station 9 on the DBNGP.

Gas means any naturally occurring gas or mixture of gases, intended for use:

(a) as a fuel; or

(b) in any chemical process.

Gas Day means the 24 hour period starting at 08:00 hours on a day and ending at 08:00 hours on the following day and the date of the Gas Day is the date on which it commences.

Gas Hour means a period of 60 minutes, commencing and ending on the hour.

Gas Month means a month starting at 08:00 hours on the first day of the month and ending at 08:00 hours on the first day of the following month.

Gas Pipelines Access Law means:

(a) Schedule 1 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA); and

(b) The Code.

Gas Transmission Capacity means the capacity of the DBNGP to transport Gas.

Gas Year means the 12 month period starting at 08:00 hours on 1 January and ending at 08:00 hours on the following 1 January.

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

GJ means gigajoule.

Good Gas Industry Practice means the practices, methods and acts engaged in or approved by a firm or body corporate which, in the conduct of its undertaking, exercises that degree of due diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced persons engaged in providing services to the Australian gas industry under the same or similar circumstances and conditions, and includes complying with the terms of this Contract and taking reasonable steps to ensure that:

(a) manufacturers' instructions and operating manuals are complied with;

(b) adequate materials, resources and supplies are available at the necessary places under normal conditions associated with existing operations;

(c) sufficient experienced and trained operating personnel are available to undertake its responsibilities under this Contract;

(d) appropriate monitoring and testing is carried out to ensure that the equipment will function properly under normal and emergency conditions;

(e) equipment is operated and maintained in accordance with any Laws applicable to that equipment;

(f) in accordance with all applicable Laws:

  (i) it acts in a sound and workmanlike manner;

  (ii) it acts with due skill, care and applying standards required or accepted by a company experienced in the delivery of similar works and the provision of similar services;

  (iii) it acts with due expedition and without unnecessary or unreasonable delays; and

(iv) it acts in a manner which allows for the work to be efficiently and cost-effectively performed with due regard to safety.

GST means GST as that term is defined in the GST Law and as imposed by the GST Law.

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

Higher Heating Value is to be determined using ISO 6974 for the analysis of natural Gas and using ISO 6976 for the calculations from that analysis, and means the gross number of megajoules produced by the complete combustion of one Cubic Metre of dry Gas at MSC with air of the same temperature and pressure, when the products of combustion are cooled to the initial temperature of the Gas and air and when all water formed by combustion is condensed to the liquid state, corrected to a water - vapour free basis and expressed at MSC.

Hourly Peaking Charge means the charge payable under clause 10.3(d) or 10.4(b).

Hourly Peaking Limit has the meaning given in clause 10.1.

Hourly Peaking Rate means the rate specified in row 2 of Schedule 2.

Hourly Quantity for a Gas Hour in respect of a particular shipper is to be expressed in terajoules and means the total quantity (across all outlet points) of Gas Received by the relevant shipper from Operator during the Gas Hour.

Inaccurate means measuring the quantity of Gas with an inaccuracy of greater than the relevant limit prescribed by clauses 15.13(a)(i) or 15.13(a)(ii) (as the case may be).

Independent Expert is the expert chosen under clause 24.8.

Indirect Damage suffered by a person, means:

(a) any indirect loss or damage however caused, including any:

(i) consequential loss or damage;

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

(iii) business interruption,

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

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

Inert Gases means any one or any mixture of helium, neon, argon, krypton, xenon, radon, nitrogen and carbon dioxide.

Information Package has the meaning in section 5.1 of the Code.

Initial Nomination means a Nomination by Shipper under clause 8.6, unless no such Nomination has been made in which case shall mean an Advance Nomination (if Shipper has made an Advance Nomination).

Inlet Metering Equipment means the Metering Equipment which Shipper is required by clause 15.1(a) to supply, install, Operate and Maintain at an Inlet Station at its own expense.

Inlet Point means a flange, joint, or other point, specified in clause 3.3(a) at which Shipper has Contracted Capacity from time to time.

Inlet Point Operating Specifications means the Operating Specifications specified in column 2 of Item 1 of Schedule 3.

Inlet Station means the Metering Equipment site Associated with an Inlet Point and includes any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement, any telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services.

Insolvency Event means, in respect of a Party (the ***first person***) any one or more of:

(a) any execution or other process of any court or authority being issued against or levied upon any material part of the first person's property or assets being returned wholly or partly unsatisfied;

(b) an order being made or a resolution being passed for the winding up or dissolution without winding up of the first person otherwise than for the purpose of reconstruction or amalgamation under a scheme to which the other Party has given consent;

(c) a Controller being appointed in respect of the whole or a material part of the first person's property, undertaking or assets;

(d) the first person entering into any arrangement, reconstruction or composition with or for the benefit of its creditors;

(e) an administrator of the first person being appointed or the board of directors of the first person passing a resolution to the effect of that specified in section 436A(1) of the Corporations Act;

(f) the first person failing (as defined by section 459F of the Corporations Act) to comply with a statutory demand for an amount in excess of $1 million; or

(g) an event having a substantially similar effect to an event described in any of paragraphs (a) to (f) (inclusive) which happens in connection with the first person under the Law of any jurisdiction.

Interruptible Service means any capacity contracted with a shipper having a priority for curtailment less than for Firm Service and includes Capacity under a Spot Transaction.

ISO means an International Standards Organisation standard.

Kwinana Junction means the location on the DBNGP identified as “Branching Point Kwinana Junction” in the Appendix 1 to the Access Arrangement Information.

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

(a) excludes any provision of the Access Regime (except for provisions which apply by force of law to prevail over any inconsistent clause of this Contract); and

(b) excludes any requirements of the Regulator (except for requirements which apply by force of law to prevail over any inconsistent clause of this Contract).

To avoid doubt, provisions of the Access Regime and requirements of the Regulator which apply by force of law to prevail over an inconsistent clause of this Contract are **Laws** for the purposes of this definition.

Load Characteristics means the relationships between Gas flow and time.

LPG means the sum of propane and butane components of Gas.

Maintain includes, where necessary, renew or replace.

Maintenance Charge has the meaning given in clause 6.6(i).

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

(a) cannot reasonably be scheduled at a time when it will not affect Gas Transmission Capacity; and

(b) by its nature or magnitude would require a Reasonable And Prudent Person to wholly or partially reduce Gas Transmission Capacity.

Metering Equipment means all equipment used to measure either or both the physical quantity or quality of Gas entering the DBNGP at an Inlet Point or exiting the DBNGP at an Outlet Point and all ancillary equipment required to compute Derived Variables and to produce printed reports at the Inlet Station or Outlet Station and to test and Maintain the reliability and calibration accuracy of that equipment (including any metering facilities or equipment that are or could be used for proving, testing and calibration of the equipment).

Metering Information means the information specified in clause 15.5(d).

MHQ for an outlet point on a particular Gas Day in respect of a shipper, means (subject to clause 17.7(b)(vi)) one twenty fourth of the sum of the quantities referred to as Contracted Capacity for that outlet point across all of the shipper's Capacity Services (including T1 Services and any Capacity under Spot Transactions) for that Gas Day in respect of that shipper.

Minimum Bid Price has the meaning given in clause 3.5(e).

MSC means metric standard conditions, being a pressure of 101.325 kPa and a temperature of 15 °C.

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

Multi-shipper Inlet Point means an inlet point at which more than one shipper Delivers Gas to Operator.

Multi-shipper Outlet Point means an outlet point at which more than one shipper Receives Gas from Operator.

Networks means AlintaGas Networks Pty Ltd ABN 90 089 531 975.

New Inlet Point means an inlet point on the DBNGP, whether existing or planned, to which Shipper proposes to relocate Contracted Capacity.

New Outlet Point means an outlet point on the DBNGP, whether existing or planned, to which Shipper proposes to relocate Contracted Capacity.

Nominated Day means a Gas Day in respect of which an Advance Nomination or Initial Nomination is made.

Nominated Inlet Point means an inlet point specified in an Initial Nomination as one at which Shipper proposes to Deliver Gas to Operator during the Nominated Day.

Nominated Outlet Point means an outlet point specified in an Initial Nomination as one at which Shipper proposes to Receive Gas from Operator during the Nominated Day.

Nominations shall mean Initial Nominations or Advance Nominations, and where other contracts for Capacity are being referred to, includes the material equivalent of Initial Nominations or Advance Nominations (as the case may be) under those other contracts.

Nominations Plan means the process for allocating Nominations set out in clause 8.9 which is based upon the priorities set out in the Curtailment Plan.

Notice includes a Tax Invoice, statement, demand, consent, request, application, notification and any other written communication, and includes such a notice communicated by means of facsimile or (if the Parties so agree) by the CRS.

Notional Gate Point has the meaning given in clause 6.10(a).

Operate includes to Maintain, test, or repair.

Operating Arrangement means the instrument titled Operating Arrangement between Transmission Division and Distribution Division of the Gas Corporation under Regulation 199C and dated 9 January 1998 originally annexed to a memorandum of understanding between the Gas Corporation (in its capacity as the corporation's DBNGP business) and the Gas Corporation (in its capacity as the corporation's distribution business), now as a result of transfers under the DBP Act and the *Gas Corporation (Business Disposal) Act 1999* (WA) having effect as a contract between Operator and Networks.

Operating Specification means the Gas quality specification specified in Item 1 of Schedule 3, and includes each component of the specification.

Operationally Feasible means operationally feasible in Operator's opinion (acting as a Reasonable And Prudent Person) in the circumstances prevailing at the relevant time including:

(a) the configuration and status of the DBNGP at the relevant time;

(b) the individual and collective Reserved Capacities and Load Characteristics of all shippers;

(c) Gas Transmission Capacity generally; and

(d) Operator's relevant entitlements and obligations under any contract or written Law.

Operator means the party named as such on the Access Request Form and includes its successors and permitted assigns.

Operator Default Notice has the meaning given in clause 22.6.

Operator Entity means Operator, all of Operator's Related Bodies Corporate and all entities Controlled by any of the foregoing.

Operator Owned Point means an inlet point or an outlet point described in clauses 6.7(a)(ii)(A) or (B).

Other Charges has the meaning given in clause 20.4.

Other Reserved Service means a Capacity Service offered under a contract which in Operator's opinion acting reasonably, has a capacity reservation charge or an allocation reservation deposit or any material equivalent to such charge or deposit which is payable up front or from time to time in respect to the reservation of capacity under that contract for at least a reasonable time into the future (but at all times excluding a T1 Service, P1 Service, B1 Service, a Firm Service and Capacity under a Spot Transaction).

Other shipper means any shipper other than:

(a) Alcoa as a shipper under the Alcoa Exempt Contract (but not otherwise); and

(b) Shipper.

Outer Accumulated Imbalance Limit has the meaning given in clause 9.6(a).

Outer Hourly Peaking Limit has the meaning given to it in clause 10.4.

Outlet Metering Equipment means Metering Equipment which Operator is required by clause 15.2(a) to supply, install, Operate and Maintain at an Outlet Station at Shipper's expense.

Outlet Point means a flange, joint or other point, referred to in clause 3.3(b) at which Shipper has Contracted Capacity from time to time.

Outlet Point Operating Specifications means the Operating Specifications specified in columns 3 or 4 of Item 1 of Schedule 3 (as the case may be).

Outlet Station means either a Gate Station or the Metering Equipment site associated with a Transmission Outlet Point, and includes any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement, and telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services.

Out-Of-Specification Gas means Gas which does not comply with one or more of the temperature or pressure specifications in this Contract or with one or more components of the Operating Specification, or where relevant with clause 7.2 or clause 7.3 (as the case may be).

Overrun Charge has the meaning given in clause 11.1(a).

Overrun Gas for a particular Gas Day and for a particular shipper, means Gas Received by the shipper (across all outlet points) less the aggregate of the quantities referred to as Contracted Capacity across all the shipper's Capacity Services (including T1 Services and any Capacity under Spot Transactions) (across all outlet points) on that Gas Day, and, if the preceding calculation produces a negative result, Overrun Gas for that Gas Day equals zero.

Overrun Rate has the meaning given in clause 11.1(b).

Part Haul means a Forward Haul Gas transportation service on the DBNGP which is not Full Haul.

Party means Operator or Shipper or, where the context requires, the Pipeline Trustee or the DBNGP Trustee (as the case may be) and if Shipper comprises more than one person, includes each such person.

Period means in respect of a shipper's Capacity, a Season or a Gas Month as the case may be for which the shipper's Capacity is quantified.

Period of Supply means in respect of particular Contracted Capacity the time period between:

(a) the relevant Capacity Start Date; and

(b) the relevant Capacity End Date.

Physical Gate Point means a flange, joint or other point marked in the description of the DBNGP system in the Access Arrangement Information as a point that marks the boundary between the DBNGP and a Distribution Network. A Physical Gate Point is not an outlet point.

Pipeline Trust has the meaning given in clause 25.5(a).

Pipeline Trustee means DBNGP (WA) Nominees Pty Ltd (ACN 081 609 289).

Pipeline Zone 10 means the area of the DBNGP which is downstream of:

(a) the upstream flange of Kwinana Junction valve V4; and

(b) the upstream flange of Kwinana Junction valve HV401A.

Pipeline Zone 10B means the area of the DBNGP on mainline South, being downstream of the outlet flange of compressor station 10.

Planned Maintenance means maintenance of the DBNGP which is scheduled in advance and of which Shipper is given reasonable, and in any event not less than 3 Gas Days, written notice.

Point Specific Curtailment means a Curtailment as it affects or applies to a particular inlet point or outlet point.

Possession includes custody, control, and an immediate right to possession, custody, or control.

Prescribed Interest Rate means the Bank Bill Rate plus an annual interest rate of 3 percent per annum.

Prescribed Limits of Uncertainty means the limits of metering uncertainty prescribed by clause 15.3.

Previous Verification means the Verification at which the Primary Metering Equipment was last found to be measuring the quantity of Gas accurately.

Primary Metering Equipment means the Inlet Metering Equipment or the Outlet Metering Equipment, as the case may be.

Producer means a producer or supplier of Gas with whom Shipper has entered into a Gas supply contract or contracts under which Gas is to be Delivered at an Inlet Point.

Reasonable And Prudent Person means a person acting in good faith with the intention of performing his or her contractual obligations and who in so doing and in the general conduct of his or her undertaking exercises that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced person complying with recognised standards and applicable Laws engaged in the same type of undertaking under the same or similar circumstances and conditions.

Receive means to accept or receive Gas and includes Gas deemed by this Contract to be received at an inlet point or outlet point (including a Multi-shipper Inlet Point or Multi-shipper Outlet Point).

Regulator means ***local Regulator*** as this term is defined in section 11 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA), being the ERA.

Related Body Corporate has the meaning given to that expression in the Corporations Act.

Relative Density is expressed at MSC and means the molar mass of a Gas in g/mol divided by 28.9641 g/mol (being the molar mass of dry air as defined in ISO 6976) and corrected for the effect of deviation from ideal Gas behaviour upon both air and Gas.

Relevant Company means the direct and indirect shareholders of Operator, service providers to Operator (including System Operator) and all Related Bodies Corporate of those entities.

REMCo means the company established to administer and operate the approved retail market scheme for the retail gas market in Western Australia and includes any company, person or authority from time to time undertaking that role, being Retail Energy Market Company Limited (ACN 103 318 556) of Level 40, 140 William Street, Melbourne, Victoria 3000.

Remote Data is defined in clause 15.4(d).

Renomination has the meaning given in clause 8.10.

Replacement Contract means the contract which is deemed to arise between Operator and a Replacement Shipper by clause 27.7 following the Transfer of Tradeable Capacity to the Replacement Shipper.

Replacement Shipper has the meaning given in clause 27.3.

Request For Approval has the meaning given in clause 27.4(a).

Requested Relocation has the meaning given in clause 14.1.

Reserved Capacity means, subject to any changes from time to time made pursuant to the Curtailment Plan:

(a) the Distribution Networks IPQ, Alcoa's Priority Quantity, Alcoa's Exempt Delivery Entitlement; and

(b) Capacity referred to in any contract for a Type of Capacity Service as "Contracted Capacity" where such "Contracted Capacity" may, at the relevant time, be nominated for delivery to the relevant inlet point or outlet point (if any) pursuant to that Capacity Service (regardless of the level of interruptibility of the service at an inlet point or an outlet point (as the case may be)).

Resumption means a resumption by Shipper of all or part of Traded Capacity in accordance with the Transfer Terms.

Resumption Notice means a notice issued by Shipper that Shipper intends to Resume all or part of Traded Capacity.

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

Season means either Summer or Winter.

Share of the Distribution Networks' IPQ means a shipper's pro-rata share of the Distribution Networks' IPQ, based on its Nominations into the Distribution Networks, unless the Distribution Networks Shippers all agree to a different allocation policy and advise Operator thereof.

shipper means a person who, from time to time, has a contract with Operator for access to Gas Transmission Capacity, which includes Shipper.

Shipper means the party specified in the Access Request.

Shipper Default Notice has the meaning given in clause 22.2.

SI means the International System of Units set out in AS1000-1979.

Spot Capacity means any capacity on the DBNGP on a Gas Day (being the capacity available after all Nominations for Reserved Capacity for that Gas Day has been allocated by Operator for that Gas Day), which capacity, is, according to Operator (acting in good faith) available for purchase.

Spot Transaction means a transaction for the sale and purchase of Spot Capacity between Operator and a shipper on terms and conditions which are consistent with those contemplated in clause 3.5.

Standard Shipper Contract means the Operator’s Standard Shipper Contract as at 27 October 2004.

State means the State of Western Australia.

Sub-network means that part of a Distribution Network which operates at a nominal pressure in excess of 300 kPa, which for the purposes of Gas flow is not directly connected

with any other part of the Distribution Network which operates at a nominal pressure in excess of 300 kPa.

Summer means the period from 08:00 hours on 1 November of a year to 08:00 hours on 1 May of the following year.

Surcharges means the charges referred to in clauses 20.4(a)(i) to (iv) inclusive.

System Curtailment means a Curtailment which affects more than one inlet point or outlet point.

System Operator has the meaning given in clause 2.5(a).

System Use Gas means Gas used by Operator for the following purposes:

(a) replacing Gas consumed in the operation of the DBNGP (including, but not limited to:

(i) compressor fuel;

(ii) gas engine alternator fuel;

(iii) heater fuel; and

(iv) increases to linepack, other than:

(A) when caused by or for the purposes of a supply of linepack gas to a third party under a balancing or back up service arrangement; or

(B) repacking the linepack of the DBNGP after an Expansion which involves looping of the pipeline);~~ and~~

(b) replacing gas which leaks or otherwise escapes from the DBNGP (whether in normal operational circumstances or due to any rupture or other abnormal leakage) and Gas vented as part of the normal operation of the DBNGP.

T1 Capacity or ***Tranche 1 Capacity*** has the meaning given in clause 3.2(b).

T1 Capacity Reservation Tariff means the T1 Capacity Reservation Tariff set out in Schedule 2 as amended from time to time in accordance with clause 20.5.

T1 Commodity Tariff means the T1 Commodity Tariff set out in Schedule 2 as amended from time to time in accordance with clause 20.5.

T1 Contract means any contract between Operator and a shipper for a T1 Service, and to avoid doubt includes this Contract.

T1 Cut-off has the meaning given in clause 3.2(b)(ii).

T1 Permissible Curtailment Limit has the meaning given in clause 17.3(c).

T1 Reference Tariff means the T1 Capacity Reservation Tariff and the T1 Commodity Reservation Tariff.

T1 Service has the meaning given in clause 3.2(a) and clause 6.2 of the Access Arrangement.

Tax means a tax, levy, charge, impost, fee, deduction, withholding or duty of any nature (other than income tax, capital gains tax, fines or penalties).

Tax Invoice has the meaning given to it in the GST Law.

Technical Matter has the meaning given to it in clause 24.7.

Technically Practicable means technically feasible and practicable consistent with the safe and reliable operation of the DBNGP, in the view of a Reasonable And Prudent Person.

Terminated Capacity has the meaning given in clause 22.10(d).

TJ means terajoule.

TJ/d means a TJ per Gas Day.

Total Contracted Capacity means in respect of a particular shipper in respect of the T1 Service at a particular time:

(a) in relation to inlet points, the sum of the shipper's Contracted Capacity for all inlet points; and

(b) in relation to outlet points, the sum of the shipper's Contracted Capacity for all outlet points.

Total Current Physical Capacity means the total physical Gas throughput Capacity at the relevant time (having regard to all associated facilities) of an inlet point or an outlet point and operating within its technical design parameters, as the case may be, in Operator's opinion as a Reasonable And Prudent Person.

Total Inlet Quantity means the total quantity (across all inlet points) of Gas Delivered to Operator by Shipper on a Gas Day across all contracts (including Spot Transactions).

Total Outlet Quantity means the total quantity (across all outlet points) of Gas Received by Shipper from Operator on a Gas Day across all contracts (including Spot Transactions).

Total Physical Capacity means the Total Current Physical Capacity as at the commencement of the Access Arrangement Period.

Tradeable Capacity has the meaning given in clause 27.4(a).

Traded Capacity is any Tradeable Capacity which has been Transferred to a Replacement Shipper following the approval or deemed approval of the Transfer Terms of that Tradeable Capacity.

Transfer includes transfer, assign to or otherwise grant an interest in or entitlement to Tradeable Capacity.

Transfer Terms means the terms and conditions, set out in a Request For Approval, on which a shipper is prepared to Transfer Tradeable Capacity to a Replacement Shipper.

Transmission Outlet Point means an outlet point which is not a Notional Gate Point.

Type of Capacity Service has the meaning given in clause 8.9(b).

Unavailable Overrun Charge means the charge payable under clause 11.6 and clause 17.8(e).

Unavailable Overrun Rate means the rate specified in row 4 of Schedule 2.

Unavailability Notice has the meaning given in clause 11.2(a).

Verification means the process of testing all Metering Equipment and all components of Metering Equipment to establish its calibration accuracy.

Winter means the period from 08:00 hours on 1 May in a year to 08:00 hours on 1 November of the same year.

WLPG Plant means the LPG extraction plant fronting Leath and Mason Roads, Kwinana, that is operated by Wesfarmers LPG Pty Ltd.

Wobbe Index means the number obtained by the formula:

$$\text{Wobbe Index} = \frac{\text{Higher Heating Value}}{\sqrt{\text{Relative Density}}}$$

Working Day means any Monday, Tuesday, Wednesday, Thursday or Friday which is not gazetted as a public holiday in the Perth metropolitan area.

2. GENERAL

2.1 Construction generally

In the construction of this Contract, unless the context requires otherwise:

(a) a reference to a clause number or Schedule is a reference to a clause or Schedule of this Contract;

(b) words indicating the singular number include the plural number and vice versa;

(c) words indicating one gender include any other gender;

(d) words indicating persons include natural persons, bodies corporate and unincorporated associations;

(e) a reference to any statutory law extends to and includes any amendment of, modification of, or substitution for, that law;

(f) a reference to any contract or agreement is a reference to that contract or agreement as amended, varied, novated or substituted from time to time;

(g) references to dollars or $ are references to Australian dollars;

(h) a reference to a time and date in connection with the performance of an obligation by a Party is a reference to the time and date in Perth, Western Australia, even if the obligation is to be performed elsewhere;

(i) all time is expressed in a 24-hour format, with each day (but not a Gas Day) commencing at 00:00 hours and ending at 24:00 hours; and

(j) unless specified otherwise, reference to a quantity of Gas is a reference to that quantity of Gas measured in GJ;

(k) unless otherwise indicated, all units in this Contract are SI units;

(l) unless the contrary intention appears, the interpretation provisions of the *Interpretation Act 1984* (WA) apply to the interpretation of this Contract;

(m) any grammatical or linguistic variation of a defined word or expression has a corresponding meaning;

(n) any specific reference to or listing of items following the words **including, for example** or **such as** is without limitation and does not exclude application to other items, whether or not in the same class, category or genus as any specified or listed items;

(o) **under** includes **by**, **by virtue of**, **pursuant to** and **in accordance with**; and

(p) a reference to rights, entitlements, obligations or terms “materially equivalent” or the “same” (in comparison to rights, entitlements, obligations or terms in this Contract or in comparison to other rights, entitlements, obligations or terms (as the case may be)) or any similar expressions shall be deemed to mean rights, entitlements, obligations or terms that are, in the opinion of a Reasonable And Prudent Person, materially equivalent to the relevant rights, entitlements, obligations or terms in this Contract or those other rights, entitlements, obligations or terms (as the case may be).

2.2 Headings

Headings are inserted for convenience and do not affect the interpretation of this Contract.

2.3 Rounding to a certain number

Any number calculated under this Contract which exceeds six decimal places is to be rounded to six decimal places. For the purposes of such rounding, if the digit at the seventh decimal place is:

(a) between zero and four (inclusive), the number is to be rounded down to the nearest sixth decimal place; and

(b) between five and nine (inclusive), the number is to be rounded up to the nearest sixth decimal place.

2.4 Other contracts

Where the context requires, a term which is defined in this Contract (including T1 Service, P1 Service, B1 Service, Aggregated T1 Service, Other Reserved Service, Contracted Capacity and Total Contracted Capacity) includes the same concept in another contract in relation to Shipper or in relation to another shipper.

2.5 System Operator

(a) Operator's rights and powers under this Contract may be delegated to a contractor (System Operator) who is entitled to exercise, on behalf of Operator, all such rights and powers conferred on Operator.

(b) System Operator will be the person (if any) identified as such in the Access Request Form until such time as Operator gives notice in writing to Shipper that that person no longer acts as System Operator, in which case it must give notice of the person (if any) that is to act as System Operator in that person's place.

(c) Any act, matter or thing done by System Operator in respect of this Contract or in the performance of obligations related to this Contract in either its own name or in the name of Operator is deemed to have been done by Operator and Operator agrees to ratify and confirm whatsoever System Operator does or causes to be done by virtue of, or purportedly by virtue of, the powers contained in this Contract.

(d) Without limiting clause 2.5(c), any communication or notice given, or document signed, by System Operator in respect of this Contract is deemed to have been given or signed by Operator and will bind Operator. Similarly, any communication, notice or document given to System Operator in respect of this Contract is deemed to have been given to Operator and will bind Operator.

(e) Operator must procure that System Operator complies with the requirements of section 4 (Ring Fencing Arrangements) of the Code as if it were a 'Service Provider' for the purposes of that section.

3. CAPACITY SERVICE

3.1 Operator to provide T1 Service to Shipper

During the Period of Supply, Operator will provide the T1 Service to Shipper and Shipper agrees to accept the T1 Service from Operator on the terms and conditions of this Contract.

3.2 Capacity Service

(a) The T1 Service is the Full Haul Gas transportation service provided under this Contract which gives Shipper a right, subject to the terms and conditions of this Contract, to access capacity of the DBNGP and which (subject, in all cases, to clauses 8.15 and 17.9):

(i) can only be Curtailed in the circumstances specified in clause 17.2;

(ii) is treated the same in the Curtailment Plan as all other shippers with a T1 Service, including the T1 Service under the Standard Shipper Contract, and in the order of priority with respect to other Types of Capacity Service set out in clause 17.9; and

(iii) is treated the same in the Nominations Plan as all other shippers with a T1 Service, including the T1 Service under the Standard Shipper Contract, and in the order of priority with respect to other Types of Capacity Service referred to in clause 8.9.

(b) Operator acknowledges and agrees:

(i) Tranche 1 Capacity in the DBNGP comprises the amount of Gas Transmission Capacity which lies between zero and the T1 Cut-off;

(ii) the T1 Cut-off is the amount of Gas Transmission Capacity at which the probability of supply for the next GJ of Gas to be transported in the DBNGP is 98% for each Period of a Gas Year;

(iii) whenever there is a material change (other than a short term change) in the configuration of the DBNGP which will or might change the probability of supply at the T1 Cut-off for any or all Periods in a Gas Year, Operator, acting as a Reasonable And Prudent Person, shall undertake a re-determination in accordance with clause 3.2(b)(ii) of the T1 Cut-off for each Period in which the T1 Cut-off has changed; and

(iv) acting as a Reasonable And Prudent Person, Operator shall ensure that the sum of:

(A) T1 Service (including under this Contract) which it has contracted to provide to Shipper and all other shippers; and

(B) Alcoa's Exempt Capacity,

does not materially exceed the amount of T1 Capacity in the DBNGP.

(c) Shipper acknowledges and agrees that, subject to clause 14, the T1 Service is a Full Haul Service and cannot be:

(i) Back Haul; or

(ii) Part Haul.

(d) In this clause 3.2 **probability of supply** means the probability that Gas Transmission Capacity in the DBNGP will not, for any reason other than Major Works, fall below a particular cut-off level.

(e) For the avoidance of doubt, Alcoa's Exempt Capacity is provided by Operator out of Tranche 1 Capacity in the DBNGP.

3.3 Contracted Capacity

Subject to this Contract, Shipper's Contracted Capacity for each Gas Day within a Period under this Contract:

(a) at an Inlet Point specified in item 1 of clause 5 of the Access Request Form - is the amount for T1 Service set out in item 1 of clause 5 of the Access Request Form for that Period; and

(b) at an Outlet Point specified in item 2 of clause 5 of the Access Request Form - is the amount for T1 Service set out in item 2 of clause 5 of the Access Request Form for that Period.

3.4 Operator must deliver Gas up to Contracted Capacity

During the Period of Supply, subject to the terms and conditions of this Contract (including clauses 5 and 17), Operator will deliver on each Gas Day (aggregated across all Outlet Points) the quantity of Gas required by Shipper up to Shipper's Total Contracted Capacity plus any Spot Capacity allocated to Shipper for the Gas Day.

3.5 Spot Capacity

(a) The Parties agree that, until otherwise agreed, the following principles shall apply to Spot Capacity and Spot Transactions (as the case may be).

(b) If Shipper seeks to bid for Spot Capacity for a Gas Day it must by notice to Operator at any time no later than 15:00 hours on the Gas Day before that Gas Day notify Operator of the amount of Spot Capacity it requires for that Gas Day (***Daily Bid***) and the price it offers to pay for that Spot Capacity for that Gas Day (the ***Daily Spot Bid Price***).

(c) Operator must by no later than 16:00 hours on each Gas Day before the relevant Gas Day allocate Spot Capacity for a Gas Day between Daily Bids on the basis (subject to clause 3.5(e)) of the Shipper bidding the highest Daily Spot Bid Price for that Gas Day being allocated the Spot Capacity it bid for, the shipper bidding the second highest Daily Spot Bid Price for that Gas Day being allocated the Spot Capacity it bid for, and so on until all Daily Bids are satisfied or until all available Spot Capacity is allocated to Daily Bids. If two or more shippers bid the same Daily Spot Bid Price and there is not sufficient available Capacity to allocate to each of them the amount of Spot Capacity bid for by each of them, the Spot Capacity available to be allocated between them shall be allocated in proportion to the amount of Spot Capacity bid for by each of them respectively at the said Daily Spot Bid Price for that Gas Day.

(d) Subject to clause 3.5(f), if Shipper is allocated Spot Capacity for a Gas Day in response to a Daily Bid Shipper must pay the Daily Spot Bid Price bid by it for that Spot Capacity for that Gas Day whether or not it uses the Spot Capacity.

(e) Operator may set a minimum bid price (***Minimum Bid Price***) for Daily Bids and is not obliged to allocate Spot Capacity to any shipper bidding a Daily Spot Bid Price which is less than the Minimum Bid Price. The Minimum Bid Price for Daily Bids may not be set by Operator at a price greater than 115% of the T1 Reference Tariff applying on the relevant Gas Day.

(f) Shipper is relieved from paying the Daily Spot Bid Price in relation to Spot Capacity allocated to it for a Gas Day only where:

(i) Operator interrupts or Curtails the Spot Capacity which has been allocated to Shipper, and then only to the extent of that interruption or Curtailment; or

(ii) Shipper does not use the Spot Capacity which has been allocated to it in circumstances where there were no other shippers bidding for Spot Capacity for that Gas Day to which the Spot Capacity allocated to Shipper could otherwise have been allocated.

(g) Operator must provide the following information to Shipper in respect of each Gas Day as soon as practicable after that Gas Day:

(i) the quantities the subject of Daily Bids which relate to that Gas Day;

(ii) the quantities of Spot Capacity allocated for that Gas Day; and

(iii) the Daily Spot Bid Prices for all bids allocated Spot Capacity for that Gas Day.

(h) Operator will not bid for Spot Capacity and if an Operator Entity, Alcoa, Alinta Limited (ABN 40 087 857 001) or a Related Body Corporate of either Alcoa or Alinta Limited bids and is allocated Spot Capacity, Operator must indicate on the CRS that the relevant Spot Capacity has been allocated to an Operator Entity without disclosing the identity of the entity.

(i) Operator must ensure that the rules governing the market for Spot Capacity are designed with a view to achieving a market with the following objectives:

(i) non-discriminatory in respect of the terms and conditions upon which, and the circumstances in which, Spot Capacity is granted to shippers;

(ii) hindering market manipulation and gaming by Operator or other shippers; and

(iii) consistent with this clause 3.5.

4. DURATION OF THE CONTRACT

4.1 Term

(a) Subject to the terms and conditions of this Contract, including clause 4.3, the Capacity End Date is 08:00 hours on the date specified in the Access Request Form as the Capacity End Date.

(b) Subject to the terms and conditions of this Contract, this Contract ends on the last of the Capacity End Dates.

4.2 Capacity Start Date

The Capacity Start Date is 08:00 hours on the date for commencement of access to the T1 Service as specified in the Access Request Form**.**

4.3 Option to renew Contract

Subject to clauses 4.4, 4.5, 4.6 and 4.7, Shipper has two options to extend the Capacity End Date in respect of Contracted Capacity the subject of this Contract as at the Capacity Start Date (***Original Capacity***) each for a period of 1 year (***Option***).

4.4 Conditions to be satisfied before exercising an Option

Shipper may only validly give notice exercising an Option if Shipper:

(a) is not in default (within the meaning of clause 22.1) under this Contract in a way which is material in the context of this Contract as a whole at the time Shipper gives notice; and

(b) complies with the requirements of clause 4.5 of this Contract.

4.5 Notice exercising an Option

Not later than 3 months before the Capacity End Date, Shipper may give written notice to Operator that it wishes to exercise an Option. If such notice is not given before such time, the Option lapses, is of no force and effect whatsoever, and cannot be exercised.

4.6 First Option Period

If Shipper gives a notice in accordance with clause 4.5 exercising the first option given to it under clause 4.3, then the Period of Supply for the Original Capacity under this Contract will be extended for a period of 1 year and:

(a) the Capacity End Date for the Original Capacity (as defined in clause 4.1) is amended to 08:00 hours on that date; and

(b) this clause 4.6 (relating to the exercise of the Option) will have no effect after 08:00 hours on the date originally specified in the Access Request Form as the Capacity End Date.

4.7 Second Option Period

If Shipper has exercised the first option under clause 4.3 and gives a notice in accordance with clause 4.5 exercising the second option given to it under clause 4.3 then the Period of Supply for the Original Capacity under this Contract will be extended for a period of another year and:

(a) the Capacity End Date for the Original Capacity (as amended by the previous operation of clause 4.6(a)) is amended to 08:00 hours on that date; and

(b) clauses 4.3, 4.4, 4.5 and this clause 4.7 (all relating to the exercise of the Option) will have no effect after 8:00 hours on the date that is one year after the date that was originally specified in the Access Request Form as the Capacity End Date.

5. RECEIVING AND DELIVERING GAS

5.1 Receipt and Delivery of Gas

Subject to this Contract, during the Period of Supply, Shipper may on each Gas Day Deliver at the Inlet Points on the DBNGP Gas up to its Contracted Capacity aggregated across all inlet points on the DBNGP (plus any Capacity under a Spot Transaction) and may Receive the Gas Delivered by Operator to it at the Outlet Points on the DBNGP on that Gas Day up to its Contracted Capacity aggregated across all outlet points on the DBNGP (plus any Capacity under a Spot Transaction).

5.2 Operator must Receive and Deliver Gas

Subject to this Contract, if Shipper offers Gas for Delivery to Operator at inlet points on the DBNGP, Operator must Receive that Gas from Shipper up to Shipper's Contracted Capacity aggregated across all inlet points on the DBNGP (plus any Capacity under a Spot Transaction) and Operator must deliver Gas to Shipper at nominated outlet points up to its Contracted Capacity aggregated across all outlet points on the DBNGP (plus any Capacity under a Spot Transaction).

5.3 Operator may refuse to Receive Gas

In addition to any other rights and remedies that may be available to it under this Contract or under Law or in equity, Operator may (subject to clause 5.4(a)) without prior notice to Shipper, refuse to Receive Gas from Shipper at an Inlet point:

(a) to the extent that Operator is entitled to refuse to Receive Gas under:

(i) clause 7.6 (Operator and Shipper may refuse to Receive Out-Of-Specification Gas);

(ii) clause 9.5(b)(iv) (Accumulated Imbalance Limit);

(iii) clause 9.8(c) (Remedies for breach of imbalance limits);

(iv) clause 17.8(c) (Compliance with a Curtailment Notice); or

(v) clause 22.4(a) (Remedies for Shipper's default);

(b) to the extent that Operator is relieved from so doing under clause 19 (Force Majeure);

(c) to the extent that Operator considers as a Reasonable And Prudent Person that it would be unsafe to Receive that Gas;

(d) to the extent that Receipt by Operator of that Gas would cause the DBNGP to exceed its maximum allowable operating pressure;

(e) to the extent that Shipper has not entered into any agreement in relation to that inlet point required by clause 6.7; or

(f) to the extent that the Receipt of that Gas for a Gas Day at an inlet point is in excess of the aggregate of the following (in respect of that inlet point for that Gas Day):

(i) the sum of Shipper's Contracted Capacity for that inlet point;

(ii) Shipper's Aggregated Service Allocated Daily Nomination in respect of that inlet point for that Gas Day; and

(iii) any Spot Capacity allocated to Shipper for that Gas Day;

if Operator considers as a Reasonable And Prudent Person that to Receive such Gas would interfere with other shippers' rights to their Contracted Firm Capacity.

5.4 Notification of refusal to Receive Gas

Without affecting Operator's rights under clause 5.3, Operator must:

(a) use its reasonable endeavours to give Shipper advance notice which is reasonable in the circumstances of any impending refusal to Receive Gas;

(b) if it does not give Shipper advance notice under clause 5.4(a) of a refusal to Receive Gas, Operator must notify Shipper of that refusal as soon as practicable after that refusal; and

(c) notify Shipper (in reasonable detail) of the reasons for a refusal to Receive Gas as soon as practicable.

5.5 Refusal to Receive Gas is a Curtailment in limited circumstances

To the extent that a refusal to Receive such Gas under clauses 5.3(c) and 5.3(d) would not have occurred if Operator had taken the steps which would be expected of a Reasonable And Prudent Person to avoid the need for, or failing such avoidance, to minimise the magnitude and duration of, the refusal to Receive Gas, a refusal to Receive Gas under clauses 5.3(c) and 5.3(d):

(a) is a Curtailment for the purposes of this Contract; and

(b) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the T1 Permissible Curtailment Limit to be exceeded.

5.6 No liability for refusal to Receive Gas

Subject to clause 23.2 and subject to any liability under clause 17 arising from a refusal of a type referred to in clause 5.5, Operator is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Receive Gas under clause 5.3.

5.7 Refusal to Deliver Gas

In addition to any other rights and remedies that may be available to it under this Contract or under Law or in equity, Operator may refuse to Deliver Gas to Shipper at an Outlet point:

(a) to the extent that Operator is entitled to refuse to Deliver Gas under:

  (i) clause 7.6 (Operator and Shipper may refuse to Receive Out-of-Specification Gas);

  (ii) clause 9.5(b)(iv) (Accumulated Imbalance Limit);

  (iii) clause 9.8(c) (Remedies for breach of Imbalance Limit);

  (iv) clause 10.3(a)(iv) (Consequence of exceeding Hourly Peaking Limit);

  (v) clause 10.6(c) (Remedies for breach of Peaking Limits);

  (vi) clause 11.5 (Operator may refuse to Deliver Overrun Gas);

  (vii) clause 17.8(c) (Compliance with a Curtailment Notice); or

  (viii) clause 22.4(a) (Remedies for Shipper's default);

(b) to the extent that Operator is relieved from so doing under clause 19 (Force Majeure);

(c) to the extent that Operator considers as a Reasonable And Prudent Person that it would be unsafe to Deliver that Gas or that such Delivery may exceed the Total Current Physical Capacity of the relevant outlet point; or

(d) to the extent that Shipper has not entered into any agreement in relation to that outlet point required by clause 6.7.

5.8 Notification of refusal to Deliver Gas

When Operator refuses to Deliver Gas to Shipper under clause 5.7, Operator must:

(a) use its reasonable endeavours to give Shipper advance notice which is reasonable in the circumstances of any impending refusal to Deliver Gas;

(b) if it does not give Shipper advance notice under clause 5.8(a) of a refusal to Deliver Gas, Operator must notify Shipper of that refusal as soon as practicable after that refusal; and

(c) notify Shipper of the reasons for a refusal to Deliver Gas in sufficient detail to explain the refusal as soon as practicable.

5.9 Refusal to Deliver Gas is a Curtailment in limited circumstances

To the extent that a refusal to Deliver such Gas under clause 5.7(c) would not have occurred if Operator had taken the steps which would be expected of a Reasonable And Prudent Person to avoid the need for, or failing such avoidance, to minimise the magnitude and duration of, the refusal to Deliver Gas, a refusal to Deliver Gas under clause 5.7(c):

(a) is a Curtailment for the purposes of this Contract; and

(b) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the T1 Permissible Curtailment Limit to be exceeded.

5.10 No liability for refusal to Deliver Gas

Subject to clause 23.2 and subject to any liability under clause 17 arising from a refusal of a type referred to in clause 5.9, Operator is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Deliver Gas under clause 5.7.

5.11 System Use Gas

Operator must supply Shipper's share of System Use Gas.

5.12 Additional Rights to Refuse to Receive or Deliver Gas

(a) In addition to any other rights and remedies that may be available to it under any Law or under this Contract or in equity, if:

(i) the Governor or any other person, regulatory authority or body declares a state of emergency under the *Fuel, Energy and Power Resources Act 1972* (WA) or any successor, supplementary or similar Law and the Governor or such other person, regulatory authority or body makes emergency regulations or similar which, in the opinion of Operator or the Pipeline Trustee acting reasonably in the context of the declaration, will affect or is likely to affect the operation of the DBNGP; or

(ii) the Coordinator of Energy or any other person, regulatory authority or body declares a state of emergency under the *Energy Coordination Act 1994* (WA) or any successor, supplementary or similar Law and makes emergency orders or similar which, in the opinion of Operator or the Pipeline Trustee acting reasonably in the context of the declaration, will affect or is likely to affect the operation of the DBNGP,

(any and all of these being a ***Declaration***),

then Operator may (with prior notice to Shipper wherever practicable) refuse to Receive Gas at an Inlet Point or refuse to Deliver Gas at an Outlet Point (or both) to the extent that Operator in good faith believes it is necessary or desirable to comply with or deal with the Declaration and any associated emergency regulations, emergency orders, directions or advice received from any governmental or regulatory authority, person or body.

(b) To the extent that the exercise of rights and remedies under clause 5.12(a) would not have occurred if Operator had taken the steps which would have been expected of a Reasonable And Prudent Person to prevent the relevant event occurring, or failing such prevention, to minimise the magnitude and duration of the need to refuse to Receive or Deliver Gas, the exercise of rights and remedies under clause 5.12(a):

(i) is a Curtailment for the purposes of this Contract; and

(ii) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the T1 Permissible Curtailment Limit to be exceeded.

(c) If Operator exercises any rights under clause 5.12(a), it must:

(i) promptly give notice to Shipper of the occurrence giving rise to the right of Operator to exercise such rights, and the steps that Operator intends to take under clause 5.12(a); and

(ii) resume full performance of its obligations under this Contract as soon as reasonably practicable.

6. INLET POINTS AND OUTLET POINTS

6.1 Inlet Points and Outlet Points

(a) The Inlet Points for this Contract are set out in Item 1 of clause 5 of the Access Request Form; and

(b) The Outlet Points for this Contract are set out in Item 2 of clause 5 of the Access Request Form.

6.2 Multi-shipper Agreement

Shipper is taken to be a party to a current Multi-shipper Agreement in respect of an Inlet Point or Outlet Point if at the Capacity Start Date there is an agreement, arrangement or understanding whether or not in writing, between all shippers which use that Inlet Point or Outlet Point, (which agreement, arrangement or understanding may include other parties, such as a Producer or REMCo) under which Operator is notified of how the Gas Delivered to or Received from that Inlet Point or Outlet Point is allocated between those shippers, for as long as that agreement, arrangement or understanding continues in force.

6.3 Multi-shipper Inlet Point and Multi-shipper Outlet Point

(a) The Gas streams delivered to a Multi-shipper Inlet Point by or on behalf of Shipper are to be commingled at a point or points upstream of the Inlet Point with the Gas streams delivered to that Multi-shipper Inlet Point by other shippers.

(b) For any purpose under this Contract, Shipper's proportional share of the commingled inlet stream at a Multi-shipper Inlet Point is to be determined immediately upstream of the Inlet Point after all Gas streams have been commingled, and Shipper's proportional share of the commingled outlet stream at a Multi-shipper Outlet Point is to be determined immediately downstream of the Outlet Point.

(c) Subject to any contrary provisions in a Multi-shipper Agreement, Shipper's nominations, obligations and liabilities under this Contract in respect of any quantity, quality, temperature or pressure of Gas at a Multi-shipper Inlet Point are to be determined solely in respect of Shipper's proportional share of the commingled inlet stream determined under clause 6.4, and not by reference to any quantity, quality, temperature or pressure of any Gas delivered by or on behalf of Shipper into the commingled inlet stream.

(d) All shippers using an Inlet Point or an Outlet Point (as the case may be) may enter into (with or without other parties which are not shippers) a written agreement (***Multi-shipper Agreement***) with Operator dealing with, amongst other things, the way in which Gas Delivered by them to an Inlet Point or Received by them from an Outlet Point is to be allocated between them.

(e) Operator must promptly enter into a Multi-shipper Agreement in respect of an Inlet Point or Outlet Point if:

(i) (A) the agreement contains a formula or mechanism for allocating Gas deliveries to the Inlet Point or Outlet Point (as the case may be) for each Gas Hour between the shippers in a manner which enables Operator to determine the allocation by applying the formula or mechanism once it knows the total quantity of Gas delivered at that Inlet Point or Outlet Point (as the case may be) during the relevant Gas Hour; or

(B) where the agreement relates to an Inlet Point, it provides that Gas deliveries at the Inlet Point are allocated by a notice to Operator from the Producer that delivers Gas into the Inlet Point on behalf of all shippers using that Inlet Point; or

(C) where the agreement relates to an Outlet Point, it provides that Gas deliveries at that Outlet Point are allocated by a notice provided to Operator from one of the shippers at that Outlet Point or from a third party nominated by one of the shippers at that Outlet Point;

(ii) the agreement allocates deliveries to the Inlet Point or Outlet Point (as the case may be) between the shippers on a daily basis;

(iii) the agreement is between all shippers who use the Inlet Point or Outlet Point (as the case may be) and Operator;

(iv) the agreement provides that, as between each shipper and Operator for the purposes of each shipper's Gas transportation contract, Operator may rely upon the allocation of Gas delivered by the shippers at an Inlet Point, or received by the shippers at an Outlet Point, determined in accordance with the agreement, as being the quantity of Gas delivered by each of those shippers at the Inlet Point and the quantity of Gas received by each of those shippers at the Outlet Point;

(v) the agreement provides that Operator may, in order to give effect to a Curtailment of the Capacity of one or more of the shippers using the Outlet Point, physically reduce the Capacity of the Outlet Point by an amount up to the Contracted Capacity (or the equivalent under that shipper's contract) at that Outlet Point for the shipper to be Curtailed;

(vi) Operator is reasonably satisfied with the metering arrangements for any meters being used for the purpose of allocating Gas deliveries at the Inlet Point or Outlet Point (as the case may be);

(vii) the agreement provides that Operator is not liable to shippers where it acts in accordance with the provisions of the agreement; and

(viii) the agreement does not impose any other obligations or liabilities upon Operator (other than in relation to the provision of metering information of the type contemplated in clause 15.5) and does not directly or indirectly vary or amend this Contract or any other contract between a shipper and Operator other than as specifically contemplated above.

(f) A Multi-shipper Agreement (including a deemed Multi-shipper Agreement under the Retail Market Rules) in relation to a Notional Gate Point, may provide that:

(i) whilst the Retail Market Rules are in force, Gas deliveries at that point are allocated by REMCo, on behalf of all shippers using that Notional Gate Point, by:

(A) REMCo providing Operator with an algorithm for doing so which can be applied by Operator; or

(B) REMCo providing Operator a notice by electronic means within a reasonable period after each Gas Hour and after the end of each Gas Day; and

(ii) at any time during which the Retail Market Rules are inoperative, Gas deliveries at that point are allocated by Networks, on behalf of all shippers using that Notional Gate Point pursuant to the terms of the Operating Arrangement.

(g) A Dispute under clause 6.3(e) is to be referred to an Independent Expert under clause 24 as a Technical Matter.

6.4 Allocation of Gas at Inlet Points

(a) On any Gas Day when Shipper is the only shipper Delivering Gas to Operator at an Inlet Point, Shipper shall be deemed to have Delivered all Gas Received by Operator at the Inlet Point for that Gas Day and clauses 6.4(b) and 6.4(c) shall not apply.

(b) If Shipper and any other shipper Delivers Gas to Operator at an Inlet Point on a Gas Day, and:

(i) there is a relevant Multi-shipper Agreement then Shipper's proportional share of Gas at the Inlet Point will be determined by that Multi-shipper Agreement; or

(ii) Shipper procures the delivery of written confirmation to Operator from, or on behalf of, every shipper which delivers Gas to that Inlet Point on that Gas Day by not later than 08:30 hours on the following Gas Day, of the quantity of Gas supplied by those shippers at that Inlet Point, then (in the absence of evidence to the contrary) that confirmation shall be deemed to show the quantity of Gas Delivered by Shipper to Operator at that Inlet Point.

(c) If there is no Multi-shipper Agreement in relation to an Inlet Point and Shipper or any other shipper Delivering Gas at such Inlet Point fails to provide such written confirmation by the time specified in clause 6.4(b), then Shipper's proportionate share of Gas Received at that Inlet Point may be determined by Operator (acting as a Reasonable And Prudent Person) by (inter alia) reference to Daily Nominations at the Inlet Point for that Gas Day across all Capacity Services and Spot Transactions across all shippers and Shipper shall be deemed to have Delivered that proportionate share so determined of the Gas Received at that Inlet Point on that Gas Day.

(d) Gas Delivered by Shipper to an Inlet Point will be deemed to be Received by Operator in the order specified generally or for a particular Gas Day by Shipper and if Shipper fails to specify for any Gas Day, in the following order:

(i) first, Gas for any available T1 Service which includes Gas for any available Aggregated T1 Service;

(ii) second, Gas for any available Capacity Services (other than T1 Service) in the order set out in clause 8.9(a);

(iii) third, Gas for any available Capacity under any Spot Transaction; and

(iv) fourth, other Gas.

6.5 Allocation of Gas at Outlet Points

(a) On any Gas Day when Shipper is the only person taking Delivery of Gas from Operator at an Outlet Point, Shipper shall be deemed to have taken Delivery of all Gas Delivered by Operator at the Outlet Point for that Gas Day and clauses 6.5(b) and 6.5(c) shall not apply.

(b) If Shipper and any other shipper take Delivery of Gas from Operator at the Outlet Point on a Gas Day then, if there is a Multi-shipper Agreement in relation to the Outlet Point, Shipper's proportional share of Gas at the Outlet Point must be determined under the Multi-shipper Agreement.

(c) If there is no Multi-shipper Agreement in relation to an Outlet Point or if Shipper fails to otherwise reach agreement with other shippers at the Outlet Point in respect of the allocation of Gas Receipts or fails to provide Operator with a copy of a Multi-shipper Agreement referred to in clause 6.5(b) prior to the commencement of the relevant Gas Day, then Shipper's proportional share of Gas at the Outlet Point is to be determined by Operator (acting as a Reasonable And Prudent Person) by (inter alia) reference to Daily Nominations at the Outlet Point for that Gas Day across all Capacity Services and Spot Transactions across all shippers and Shipper will be deemed to have Received that proportionate share so determined of the Gas Delivered to that Outlet Point on that Gas Day.

(d) Gas Delivered by Operator to an Outlet Point will be deemed by this clause to be Received by Shipper in the order specified generally or for a particular Gas Day by Shipper, and if Shipper fails to specify for any Gas Day in the following order:

(i) first, Gas for any available T1 Service (which shall include any available Aggregated T1 Service);

(ii) second, Gas for any available Capacity Services (other than T1 Service) in the order set out in clause 8.9(a);

(iii) third, Gas for any available Capacity under any Spot Transaction; and

(iv) fourth, other Gas.

6.6 Installation, operation and maintenance of inlet stations and outlet stations

(a) (i) Shipper shall install, operate and maintain or procure the design, installation, operation and maintenance of, Inlet Stations at its own expense and when (if ever) Shipper and other shippers deliver Gas to Operator at an inlet point on the DBNGP, Shipper and those other shippers shall, at their joint expense, collectively install, operate and maintain the Associated Inlet Station.

(ii) Other than in respect of an Existing Station, and unless agreed otherwise, Operator shall install, operate and maintain Outlet Stations that are not Gate Stations, at Shipper's request, and at Shipper's expense to be determined in accordance with clause 6.6(i).

(iii) Other than in respect of an Existing Station, Shipper shall pay a proportion of the Maintenance Charge relating to an Outlet Station associated with an Operator Owned Point (but not otherwise) that:

(A) in the case of an Outlet Station related to an Outlet Point, is equal to the proportion that Shipper's Contracted Capacity (across all Capacity Services) at that Outlet Point bears to the aggregate Contracted Capacity (across all Capacity Services) for all shippers at that Outlet Point, less any amount recovered under clause 6.6(a)(iii)(B); and

(B) in the case of an Outlet Station related to an outlet point at which Shipper does not have Contracted Capacity, is equal to the proportion that the sum of Shipper's deliveries of Gas (across all Capacity Services) at the outlet point, during the previous calendar month to which that Outlet Station relates, bears to the sum of all shippers' delivery of Gas (across all Capacity Services) at such outlet point, during the previous calendar month.

(iv) For the purposes of this clause 6.6, an obligation to install, operate and maintain shall include (but not be limited to) an obligation to ensure that an Inlet Station or Outlet Station (as the case may be) meets the requirements set out in clauses 6.6(b) to (f).

(v) Shipper must use its reasonable endeavours to assist Operator in gaining access to an Outlet Station which is not a Gate Station, to which Operator has no rights of access, for the purpose of maintaining and operating that Outlet Station.

(vi) Other than in respect of an Existing Station, all Gate Stations associated with a Sub-network are to be installed, operated and maintained by Operator at the collective expense of all shippers who receive Gas from Operator at the Notional Gate Point for the Sub-network, and Shipper shall pay a proportion of the Maintenance Charge that is equal to the proportion that the sum of Shipper's Contracted Capacity (across all Capacity Services but prior to any reduction under the Curtailment Plan) at the Notional Gate Point, for the time being bears to the sum of all Shipper's and other shippers' Contracted Capacity (across all Capacity Services but prior to any reduction under the Curtailment Plan) at such Notional Gate Point, for the time being.

(vii) Without limiting the generality of clause 6.6(a)(vi), whenever a new Gate Station is installed, or a Gate Station is enhanced, the amounts referred to in clause 6.6(a)(vi) are to be included in the apportionments between all shippers who receive Gas from Operator at the Notional Gate Point, including shippers with grants of capacity made before the date of installation or enhancement.

(viii) For the purposes of assessing, reporting or otherwise dealing with the commercial viability of any capacity, service or thing related to a Physical Gate Point, a Notional Gate Point or a Gate Station, Operator may have regard to the likely impact of clause 6.6(a)(vi).

(b) (i) The site for an Inlet Station or Outlet Station must:

(A) be within a security-fenced enclosure;

(B) provide suitable vehicular access and an alternative means of personnel access;

(C) provide adequate space for the installation of all equipment; and

(D) have a concrete, sealed, or gravel surface to enable access in all weather conditions.

(ii) Telemetry, power supply and other sensitive equipment at an Inlet Station or Outlet Station must be located in a weatherproof, secure and ventilated enclosure, with provision to allow for maintenance of equipment in all weather conditions.

(c) (i) Every Inlet Station or Outlet Station must provide a means, to a standard acceptable to a Reasonable And Prudent Person, of automatically:

(A) preventing the reverse flow of Gas through the Inlet Station or Outlet Station; and

(B) stopping or restricting Gas flow in the event of any excessive pressure upstream of, or any failure, leak or rupture within or downstream of, the Inlet Station or Outlet Station.

(ii) Operator, whenever it is permitted by any written Law or a contract to stop or reduce Gas flow (and whether or not there has been a failure, leak or rupture), may utilize for that purpose any mechanism installed under clause 6.6(c)(i).

(iii) Operator may at any time, for, or in anticipation of, the purposes of clause 6.6(c)(i), make any necessary connections, modifications or additions to any mechanism installed under clause 6.6(c)(i), to enable it to be utilized for the purposes of clause 6.6(c)(ii).

(iv) Operator cannot charge Shipper for any mechanism installed under clause 6.6(c)(i) or clause 6.6(c)(iii).

(d) (i) Every Inlet Station must include filters or separators, or both, to a standard acceptable to a Reasonable And Prudent Person.

(ii) An Outlet Station must, whenever Operator as a Reasonable And Prudent Person determines it to be necessary, include filters or separators, or both, to a standard acceptable to a Reasonable And Prudent Person.

(iii) Operator may make a determination under clause 6.6(d)(ii) at any time, including after an Outlet Station is commissioned.

(iv) For the purposes of clause 15.4, neither filters nor separators are to be regarded as Metering Equipment.

(e) All facilities upstream of an Inlet Point or downstream from an Outlet Point must be electrically isolated from the DBNGP by an isolating joint or flange located either:

(i) at the Inlet Point or Outlet Point; or

(ii) sufficiently close to the Inlet Point or Outlet Point so as to achieve the same operational effect as if the joint or flange were located in accordance with clause 6.6(e)(i),

which joint or flange must be fitted with a surge diverter or other approved means of discharging excessive potentials.

(f) All facilities at an Inlet Station or Outlet Station must be connected to an effective earthing system of a type acceptable to a Reasonable And Prudent Person.

(g) Any new equipment installed at an Inlet Station or Outlet Station must be compatible with existing equipment and systems.

(h) (i) The quantity of Gas passing through a Notional Gate Point in any period of time is to be taken to be the sum of the quantities metered as passing through all associated Physical Gate Points in that period of time.

(ii) Nothing in clause 6.6(h)(i) is to prevail over the deeming in clause 6.5 of the quantity of Gas taken by a shipper or shippers at a Notional Gate Point.

(i) For the purposes of this clause 6.6, ***Maintenance Charge*** means, with respect to a particular Inlet Station, Outlet Station or Gate Station Associated with a Sub-network, the charge determined by Operator (acting as a Reasonable And Prudent Person) for designing, installing (which is to be taken as including the capital cost of acquiring and installing all relevant components of an Inlet Station, Outlet Station or Gate Station), maintaining, operating and decommissioning such Inlet Station, Outlet Station or Gate Station (as the case may be) and which shall, in all cases, exceed the actual cost of such design, installation, maintenance, operation and decommissioning by a reasonable premium calculated to recognise Operator's management time and to allow Operator to realise a reasonable rate of return on the cost of such design, installation, maintenance, operation and decommissioning (as the case may be), allowing for the charge to amortise the cost of such design, installation, maintenance, operation and decommissioning over the life of the Inlet Station, Outlet Station or Gate Station. At the request of Shipper, Operator shall provide a statement of the calculations used to determine the Maintenance Charge in the form in which Operator normally calculates the Maintenance Charge as at the Capacity Start Date. Any disagreement as to the level of Maintenance Charge shall be a Dispute for the purposes of clause 24 of this Contract.

(j) Nothing in this clause 6.6 shall affect or derogate from charges payable under any other agreement between Operator and Shipper in respect to the installation, operation and maintenance of Inlet Stations, Outlet Stations and Gate Stations and any upgrades, modifications and expansions to inlet points or outlet points.

(k) Operator agrees that it shall not be entitled to impose any charges under this clause 6.6 or otherwise under this Contract in respect of Existing Stations, except in relation to the incremental costs of the design, installation, maintenance and operation of a modification of an Existing Station which occurred, or occurs, after 1 January 1995 and which increased or increases the capacity of that Existing Station to receive or deliver Gas into or from the DBNGP, and Operator is entitled to impose charges on Shipper and other shippers who use that Existing Station in relation to their respective proportions of those incremental costs as determined in accordance with the provisions in clause 6.6(a)(iii).

(l) Despite any other provisions of this Contract, each Existing Station and all facilities, ancillary equipment and services at each Existing Station and the metering arrangements entered into with the State Energy Commission of Western Australia prior to 1 January 1995 in respect of each Existing Station are to be taken to comply in all respects with the provisions of this Contract including this clause 6.6.

6.7 Contribution Agreement

(a) Shipper may only Deliver Gas to an inlet point, or Receive Gas from an outlet point, to which it did not Deliver Gas or from which it did not Receive Gas, at the Capacity Start Date if:

(i) the inlet point or outlet point is Associated with an Existing Station;

(ii) the inlet point or outlet point is:

(A) owned by Operator or an Operator Entity; or

(B) leased by Operator or an Operator Entity under an equipment lease,

and Shipper has entered into a Contribution Agreement in respect of the inlet point or outlet point; or

(iii) the inlet point or outlet point is not of a type referred to in clauses 6.7(a)(i) or 6.7(a)(ii)(A) or (B) and Shipper has reached an agreement, arrangement or understanding, whether or not in writing to use that inlet point or outlet point with the owner of the inlet point or outlet point.

For the purposes of clause 6.7(a)(ii) an Operator Entity excludes any Related Bodies Corporate of Alcoa or Alinta Limited.

(b) A Contribution Agreement in respect of an inlet point or an outlet point is an agreement between Operator and Shipper:

(i) under which Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the inlet point or the outlet point, determined in accordance with clause 6.6(i);

(ii) under which Shipper's proportion of the Maintenance Charge is determined under clause 6.6(a)(iii) or is otherwise agreed in the Contribution Agreement; and

(iii) Shipper agrees that another shipper (***New Shipper***) may deliver Gas to the relevant inlet point or receive Gas from the relevant outlet point, if:

(A) New Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the inlet point or the outlet point determined in a manner consistent with the principles in clause 6.6(a)(iii); and

(B) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 6.7(b)(iii)(A).

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

(d) Nothing in this clause 6.7 requires Shipper to enter into an agreement with any person other than Operator.

6.8 Shipper Specific Facility Agreement

Operator must not grant to any shipper (***New Shipper***) access to or use of (or enter into any agreement or arrangement to do so) any Inlet Point, Outlet Point, Associated inlet station or Associated outlet station, or related equipment (***Facility***) which is or has been the subject of an agreement or arrangement (***Facility Agreement***) under which Shipper has contributed, or is contributing, to the capital costs or operating and maintenance costs (or both) of the Facility without ensuring that:

(a) subject to clause 6.8(b), New Shipper is obliged to contribute to the capital costs or operating and maintenance costs (or both) of the Facility in a manner consistent with clause 6.7(b)(iii); and

(b) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 6.8(a).

6.9 Total Physical Capacity

(a) Operator must not reduce or allow the reduction of the Total Physical Capacity of an Inlet Point or an Outlet Point, or a New Inlet Point or a New Outlet Point or any inlet point or outlet point to which or from which Shipper is regularly Receiving Gas.

(b) Subject to the terms of any Multi-shipper Agreement and subject to the rights of other shippers with a contracted Capacity Service at an inlet point or outlet point, Shipper may use all the Total Current Physical Capacity of an inlet point or outlet point.

6.10 Notional Gate Point

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

(b) All Curtailments of Capacity utilised to Deliver Gas into the Sub-network are to be taken to occur at the Notional Gate Point.

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

7. OPERATING SPECIFICATIONS

7.1 Gas must comply with Gas specifications

Gas Delivered by Shipper to Operator at an inlet point or Delivered to Shipper by Operator at an outlet point must comply with the relevant column in the Gas specifications set out in Item 1 of Schedule 3.

7.2 Gas to be free from certain substances

Gas Delivered by Shipper to Operator at an inlet point or Delivered to Shipper by Operator at an outlet point must be free, by normal commercial standards, from dust and other solid or liquid matters, waxes, gums and gum-forming constituents, aromatic hydrocarbons, hydrogen, mercury and any other substance or thing which might cause injury to or interfere with the proper operation of any equipment through which it flows.

7.3 Gas to be free from objectionable odours

Gas Delivered by Shipper to Operator at an inlet point must be free, by normal commercial standards, from objectionable odours.

7.4 Gas temperature and pressure

(a) The minimum and maximum temperatures and the minimum and maximum pressures at which Shipper may Deliver Gas to Operator at the Inlet Points, and Operator may Deliver Gas to Shipper at the Outlet Points, are those set out in the Access Request Form.

(b) The Parties may at any time agree in writing to vary any one or more of the pressures and temperatures set out in the Access Request Form.

(c) Subject to clause 7.4(d), if Shipper Delivers Gas to Operator at an Inlet Point or Shipper Receives Gas from Operator at an Outlet Point at which the minimum and the maximum temperature and the minimum and maximum pressure are not as set out in the Access Request Form, Shipper is entitled to Deliver Gas to the Inlet Point or Receive Gas at the Outlet Point (as the case may be) under this Contract at the temperature and pressure at which Operator at the relevant Inlet Point or Outlet Point is otherwise Receiving Gas into the DBNGP or Delivering Gas out of the DBNGP at the time the Gas is Delivered or Received by Shipper at that Outlet Point, or if Operator is otherwise not Receiving Gas into the DBNGP or Delivering Gas out of the DBNGP at that time, then at the temperature and pressure at which Operator was last entitled or obliged to Receive Gas into the DBNGP or Deliver Gas out of the DBNGP at that Inlet Point or Outlet Point under the terms of a contract with the relevant shipper.

(d) If the outlet point is a Notional Gate Point, Shipper is entitled to Receive Gas at the Outlet Point under this Contract at the temperature and pressure prescribed in or determined under clauses 6 and 7 of the Operating Arrangement for the Physical Gate Points associated with the Sub-network with which those Physical Gate Points are associated.

7.5 Notice of Out-Of-Specification Gas

If either Party becomes aware that any Out-Of-Specification Gas is to enter or has entered the DBNGP at an inlet point or is to leave or has left the DBNGP at an outlet point, it will as soon as reasonably practicable notify the other Party in accordance with clause 29.1(a).

7.6 Operator and Shipper may refuse to Receive Out-Of-Specification Gas

(a) Subject to any agreement under clauses 7.7 and 7.9, Operator may at any time without penalty refuse to Receive from Shipper at an inlet point, and Shipper may at any time without penalty refuse to Receive from Operator at an outlet point, any Out-Of-Specification Gas.

(b) Shipper is entitled to a refund of Capacity Reservation Charges for any Capacity it is unable to use on a Gas Day as a result of Shipper refusing any Out-Of-Specification Gas under clause 7.6(a) to the extent that Operator caused the Gas in the DBNGP to be Out-Of-Specification Gas.

7.7 Operator may Receive Out-Of-Specification Gas

Operator may, at its own risk, agree to Receive Out-Of-Specification Gas from Shipper at an inlet point on whatever terms and conditions (including as to pricing) that Shipper and Operator may agree.

7.8 Shipper's Liability for Out of Specification Gas

If any Out-Of-Specification Gas Delivered by or on behalf of Shipper enters the DBNGP without Operator's agreement under clause 7.7:

(a) Shipper is to be liable to Operator for any loss or damage arising in respect of the Out-Of-Specification Gas; and

(b) Without limitation on any of its other rights at Law, Operator is, to the extent necessary to allow it to deal with that entry of Out-Of-Specification Gas:

(i) entitled to vent the Out-Of-Specification Gas, and Shipper shall be deemed not to have Delivered a quantity of Gas at the inlet point equivalent to the quantity of all Gas necessarily vented by Operator; and

(ii) relieved of any obligation to Deliver Gas to Shipper by an amount no greater than the quantity of Gas vented by Operator under clause 7.8(b)(i) on the basis that Shipper is deemed not to have Delivered that quantity of Gas at the inlet point.

(c) The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Shipper's liability under clause 7.8(a).

7.9 Shipper may Receive Out-Of-Specification Gas

(a) Shipper may, at its own risk, agree to Receive Out-Of-Specification Gas from Operator at an outlet point, on whatever terms and conditions (including as to pricing) that Shipper and Operator may agree.

(b) If any Out-Of-Specification Gas is delivered to Shipper at an outlet point without Shipper's agreement under clause 7.9(a), then except to the extent that Shipper caused the Gas in the DBNGP to be Out-Of-Specification Gas Operator is to be liable to Shipper for Direct Damage arising in respect of the Out-Of-Specification Gas.

7.10 Change of Law

If:

(a) at any time during the term of this Contract there is a change in Law which requires Operator to Receive Gas into the DBNGP with an operating specification for one or more components outside the Operating Specifications applying to the component or those components of the Operating Specifications (as may be amended from time to time pursuant to this clause 7.10) (***Permissible Specifications***); and

(b) there is no shipper with an Inconsistent Existing Contractual Specification; and

(c) Operator actually Receives into the DBNGP Gas outside the Operating Specifications but within the Permissible Specifications to such an extent that it is unable to comply with the Operating Specifications for an outlet point set out in Schedule 3,

then Operator may notify Shipper that:

(d) the Inlet Point Operating Specifications (and Item 1 of Schedule 3) are amended so as to substitute each operating specification of the Permissible Specification which is broader than that component of the Inlet Point Operating Specification, for the operating specification of that component of the Inlet Point Operating Specification; and

(e) the Outlet Point Operating Specifications (and Item 1 of Schedule 3) is amended so as to broaden the specification for each component which has been amended in respect of the Inlet Point Operating Specification, by the same amount as the Inlet Point Operating Specification has been broadened by the operation of this clause.

In this clause 7.10 ***Inconsistent Existing Contractual Specification*** means:

(i) in relation to an inlet point, if the amendments to the Inlet Point Operating Specification were made to accommodate the Permissible Specifications, the shipper would be in material breach of an Existing Producer Contract; or

(ii) in relation to an outlet point, if the amendments to the Outlet Point Operating Specifications were made to accommodate the Permissible Specifications, the shipper would be in material breach of an Existing Gas Supply Contract.

7.11 Amendment Notice

The notice under clause 7.10 must:

(a) contain details of the change in Law;

(b) specify the amended operating specification for each component of the Inlet Point Operating Specification;

(c) specify the amended operating specification for each component of the Outlet Point Operating Specification; and

(d) specify the amendments to Item 1 of Schedule 3 which are made to give effect to the amended operating specifications for each component of the Inlet Point Operating Specification and the Outlet Point Operating Specification.

7.12 Odorisation

Operator will Deliver Gas to Shipper, odorised to the specification set out in the *Gas Standards Regulations 1983* (WA), at each Outlet Point:

(a) at which odorising occurred as at the beginning of the Access Arrangement Period; and

(b) as required by the Law.

7.13 Weighted average gas flows

(a) If on a Gas Day at a Multi-shipper Inlet Point the Gas Delivered by Shipper to the inlet point is Out-Of-Specification Gas but the Blended Gas Delivered by all shippers to the inlet point meets the Blended Specifications then (despite clause 7.6) Operator must Receive the Gas from Shipper.

(b) For the purpose of this clause:

(i) ***Blended Gas*** means all Gas Delivered to the relevant inlet point comprising the commingled inlet stream;

(ii) ***Blended Specifications*** means the notional operating specifications applying to the Blended Gas determined as a weighted average of the operating specifications for the relevant inlet point applying under all Relevant Contracts calculated by weighting:

(A) the value of each component comprising the Operating Specifications for the inlet point under each Relevant Contract; by

(B) the scheduled Nominations at the inlet point for the Gas Day across all Capacity Services under each Relevant Contract;

(iii) ***Relevant Contracts*** means the contracts for each shipper who is delivering Gas to the inlet point on that day.

8. NOMINATIONS

8.1 Shipper may delegate to a Producer

To the extent that this Contract prescribes certain things to be done by Shipper which relate to Gas being Received by Operator at an inlet point, Shipper may by agreement with a Producer, appoint the Producer to do those things, but nothing in any such agreement relieves Shipper of its obligations to Operator under this Contract.

8.2 Requests for advance information

(a) To assist in its planning and forecasting, Operator may from time to time, acting as a Reasonable And Prudent Person, request Shipper to provide it with advance estimates (covering such periods and in such detail as Operator may determine) in good faith of Shipper's likely Nominations, which information will be governed by the provisions of clause 28.

(b) Shipper must in good faith make reasonable endeavours to comply with any request made by Operator under clause 8.2(a).

(c) Except as provided in clause 8.2(d) below, Shipper may, without penalty, make (or not make) Nominations which differ materially from any estimates provided by it under clause 8.2(a).

(d) Nothing in clause 8.2(c) limits any action against Shipper if Shipper fraudulently or negligently provides to Operator under clause 8.2(a) materially false information.

8.3 Shipper's Daily Nominations do not affect Contracted Capacities

An allocation of a Daily Nomination under this clause 8 does not affect or otherwise change Shipper's Contracted Capacity.

8.4 Nominations and Renominations must be in good faith

(a) If Shipper makes an Advance Nomination, an Initial Nomination, or a Renomination, it must do so in good faith, and must nominate for an amount of the Capacity Service which is Shipper's best estimate as a Reasonable And Prudent Person of the amount of the Capacity Service it proposes to utilize.

(b) Operator and Shipper acknowledge that the purpose of Shipper making an Advance Nomination, an Initial Nomination or a Renomination is to:

(i) assist Operator schedule compressor use on the DBNGP; and

(ii) provide a basis for Operator to manage any Point Specific Curtailments.

8.5 Operator to make available bulletins of available Capacity

(a) Operator must, on regular occasions during each Gas Day (sufficient to assist Shipper in making its Initial Nomination, and any Renomination), make available on the CRS a bulletin specifying:

(i) for at least that Gas Day and the following Gas Day, the amount of Capacity available or anticipated to be available for Nomination or Renomination; and

(ii) subject to obtaining relevant shipper’s consent, details of any Tradeable Capacity to be made available under clause 27.5,

(b) No obligation to allocate Capacity under clauses 8.7 and 8.13 or otherwise arises merely by reason of Operator specifying under clause 8.5(a) that Capacity is available for Nomination or Renomination, and nothing in such a bulletin limits Operator's rights, under this Contract or at Law, to wholly or partly Curtail Shipper's

T1 Service or to wholly or partly refuse to Receive Gas from, or Deliver Gas, to Shipper.

8.6 Shipper's Initial Nomination

(a) Shipper may, by notice to Operator no later than 14:00 hours on any Gas Day, nominate for the following Gas Day the quantity of Gas that Shipper requires to Deliver to Operator at each Nominated Inlet Point and the quantity of Gas that Shipper requires to Receive from Operator at each Nominated Outlet Point in the T1 Service (***Initial Nomination***).

(b) In addition to the information required by clause 8.6(a), Shipper's Initial Nomination must:

(i) set out the sum of those Nominations:

(A) across all Inlet Points; and

(B) across all Outlet Points; and

(ii) for each Nominated Inlet Point, identify the Producer or Producers which is or are to supply Gas to Shipper for Delivery to Operator and (if there is more than one) the quantity to be provided by each.

8.7 Allocation of Daily Nominations

(a) Operator must, by no later than 16:00 hours on each Gas Day (that is, within two hours of the last time for Nomination under clause 8.6), by notice to Shipper allocate to Shipper for the Nominated Day, a Daily Nomination for T1 Service and (if applicable under the rules governing the market for Spot Capacity) Spot Capacity determined in accordance with this clause for each Nominated Inlet Point and for each Nominated Outlet Point.

(b) Subject to the terms of any Multi-shipper Agreement, for each Nominated Inlet Point, the Daily Nomination for T1 Service:

(i) may not exceed Shipper's Initial Nomination for T1 Service at the inlet point;

(ii) subject to clauses 8.7(b)(i) and 8.7(c), may not be less than Shipper's Contracted Capacity at the inlet point across all of Shipper's T1 Contracts; and

(iii) subject to clauses 8.7(c) and 8.7(g), may exceed Shipper’s Contracted Capacity for that inlet point.

(c) Subject to clause 8.7(h), in no case may the sum (across all inlet points) of Shipper's Daily Nominations for T1 Service exceed Shipper’s Total Contracted Capacity across all inlet points.

(d) Subject to the terms of any Multi-shipper Agreement, for each Nominated Outlet Point, the aggregate of the Daily Nominations for T1 Service:

(i) may not exceed Shipper's Initial Nomination for T1 Service at the outlet point;

(ii) subject to clauses 8.7(d)(i) and 8.7(e), may be less than Shipper's contracted Capacity at the outlet point; and

(iii) subject to clauses 8.7(e) and 8.7(g), may exceed Shipper’s Contracted Capacity for that outlet point.

(e) In no case may the sum (across all outlet points) of Shipper's Daily Nominations for T1 Service exceed Shipper’s Total Contracted Capacity across all outlet points.

(f) Subject to the terms of any Multi-shipper Agreement, unless the Parties otherwise agree, in allocating a Daily Nomination in respect of Aggregated T1 Services at an inlet point or at an outlet point, Operator must, to the extent that:

(i) it is Operationally Feasible (including it does not, when aggregated with other shippers' Nominations, exceed the Total Current Physical Capacity

of the inlet point or outlet point (as the case may be) at the relevant time); and

(ii) it is consistent with clauses 8.7(c), 8.7(e) and 8.7(g),

endeavour as a Reasonable And Prudent Person to ensure that the Daily Nominations for T1 Service either is equal to Shipper's Initial Nomination (calculated across all of Shipper's T1 Contracts) at that inlet point or that outlet point (as the case may be), or (if that is not possible) is less than that Initial Nomination (calculated across all of Shipper's T1 Contracts) by the smallest amount possible.

(g) In all cases subject to it being Operationally Feasible and unless this Contract provides otherwise (for example without limitation in clauses 8.7(b)(i) and (ii) and 8.7(d)(i) and (ii)), if for any Gas Day more than one shipper has made Nominations under different Types of Capacity Service or under the same Type of Capacity Service for delivery or receipt of Gas at an inlet point or an outlet point and Operator determines that it is not Operationally Feasible to meet all those Nominations, Operator must Curtail the shippers' Contracted Capacities and the available Capacity (if any, as determined by Operator, acting as a Reasonable And Prudent Person) must be allocated to those Nominations for that inlet point or outlet point (as the case may be) in accordance with the provisions of clause 17.9.

(h) The Daily Nomination for T1 Service at a Nominated Inlet Point may exceed Shipper's Contracted Capacity in that Capacity Service for that Nominated Inlet Point by a quantity of Gas which is Delivered for the purpose, or which would have the effect, of bringing Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit unless Operator considers as a Reasonable And Prudent Person that to Deliver such Gas would interfere with other shippers' rights to their Contracted Firm Capacity.

(i) If Operator allocates a Daily Nomination for T1 Service to Shipper which is less than Shipper's Initial Nomination for T1 Service at an Inlet Point or an Outlet Point, Operator is to be taken to have issued a Curtailment Notice at the time it makes the allocation of the Daily Nomination in respect of the difference between the Shipper's Contracted T1 Capacity and the Shipper's Daily Nomination for T1 Service for that Gas Day.

8.8 Default provision for Daily Nomination

If Shipper does not make an Initial Nomination complying with clause 8.6 or an Advance Nomination complying with clause 8.17 for a Gas Day for Capacity at an inlet point or at an outlet point, then Shipper's Daily Nomination for that Gas Day for the inlet point or for the Capacity Service at the outlet point (as the case may be) shall be taken to be Shipper's Contracted Capacity at that inlet point or for the Capacity Service at that outlet point (as the case may be).

8.9 Nominations priority

(a) The priority of allocations of Nominations for Capacity Services and Spot Transactions (from superior to inferior) is so far as is relevant to the inlet point or outlet point, set out in the column of Schedule 8 headed "Point Specific Curtailment" as supplemented by this clause 8 and clause 17.9.

(b) Each category of Capacity Service described in a row of the Curtailment Plan (as relevant to the particular circumstance) refers separately to a ***Type of Capacity Service*** such that, for example, Alcoa's Priority Quantity is a ***Type of Capacity Service***.

8.10 Shipper may give Renomination notice

Shipper may once in respect of each Renomination time (as set out in clause 8.11) for a Gas Day request a variation of its Daily Nomination for the Gas Day (***Renomination***) for

one or more inlet points or for one or more outlet points, by giving notice to Operator specifying the amount and duration (which may be any duration up to and including the balance of the Gas Day in respect of which the Renomination is made) of the requested variation.

8.11 Times for Renomination and allocation of revised Daily Nominations

(a) Subject to clause 8.11(c), the Renomination times for each Gas Day are 07:00 hours (at which time Renominations may be given for the Gas Day just about to begin, not the Gas Day just about to end), and 12:00 hours and 20:00 hours in the Gas Day.

(b) Subject to clause 8.11(c), if under clause 8.13 Operator is required to allocate a revised Daily Nomination in response to Shipper's Renomination received prior to a Renomination time, Operator must use reasonable endeavours to make that allocation within 1 hour after the Renomination time.

(c) Operator may, acting as a Reasonable And Prudent Person, from time to time by notice to Shipper (which same notice must be given to all shippers) supplement or vary any one or more of the times prescribed in clause 8.11(a) or the period prescribed in clause 8.11(b).

(d) A notice under clause 8.11(c) may be expressed to continue indefinitely or for a specified time, and may revoke, substitute or amend a previous notice.

8.12 Renominations reducing Daily Nomination

If a Renomination seeks to reduce Shipper's Daily Nomination, Operator must by notice to Shipper allocate a revised Daily Nomination in accordance with the Renomination.

8.13 Renominations increasing Daily Nomination

(a) Operator may only refuse to increase Shipper's Daily Nomination in response to a Renomination:

(i) if accommodating that increase is not Technically Practicable; or

(ii) to the extent that, after applying clauses 8.13(d) and 8.13(e) there is insufficient unallocated Capacity to satisfy the Renomination for that inlet point or outlet point.

(b) Subject to clause 8.13(a), if Shipper's Renomination seeks to increase its Daily Nomination, Operator must within the period prescribed in clause 8.11(b) (as varied, if applicable, by notice under clause 8.11(c)) by notice to Shipper allocate revised Daily Nominations.

(c) A notice under clause 8.13(b) must specify the period in respect of which the revised Daily Nominations are to apply.

(d) Clause 8.7 applies (with appropriate modifications) to Operator's allocation under clause 8.13(b) of revised Daily Nominations.

(e) Without otherwise limiting Operator's discretion in relation to Curtailment, Operator must to the extent practicable and Operationally Feasible in the circumstances, Curtail any Capacity in a Type of Capacity Service (the first Type of Capacity Service), whenever it is necessary to do so in order to satisfy any shipper's Renomination for Reserved Capacity in relation to a Type of Capacity Service which has priority over the first Type of Capacity Service according to the order of priority set out in the column of the Curtailment Plan headed "Point Specific Curtailment".

8.14 Default provision for Renomination process

If any element of the Renomination procedure prescribed in this clause 8 is not completed within the time limit specified, unless the delay is caused or contributed to by Operator not

providing information in a timely manner under clause 8.5 or clause 15.5(d) or if for any other reason the Renomination procedure is not complied with, then Shipper's Daily Nominations are to remain unchanged (but if Operator can reasonably continue and complete processing a Renomination after the expiry of the time limit in clause 8.11(b) it must do so).

8.15 Aggregated T1 Service

Subject to the terms of any Multi-shipper Agreement, the Parties agree that, for the purpose of the Nominations Plan, any Nomination for T1 Service which is, according to clause 8.16, deemed to be Aggregated T1 Service, shall be deemed to be a Nomination for a separate Type of Capacity Service which service ranks equally in priority with all other Aggregated T1 Service. For the purposes of applying the Curtailment Plan in a Point Specific Curtailment, the Aggregated T1 Service shall be excluded from the T1 Service.

8.16 Nominations at inlet points and outlet points where Shipper does not have sufficient Contracted Capacity

Subject to this clause 8, Shipper is entitled to nominate that Gas be Delivered under Shipper's T1 Service:

(a) at an inlet point or an outlet point at which Shipper does not have Contracted Capacity for T1 Services; and

(b) in excess of Shipper's Contracted Capacity for T1 Services at an Inlet Point or Outlet Point,

(being ***Aggregated T1 Service***).

8.17 Shipper's Advance Nomination

(a) Shipper may nominate in advance for each Gas Day in any week or any month by giving notice complying with the requirements of clause 8.6 (with appropriate changes) for each of those Gas Days (***Advance Nomination***).

(b) The Advance Nomination must be given:

(i) no later than 17:00 hours on the Wednesday in the week before the nominated week (in the case of a Nomination a week in advance); or

(ii) at least 6 Working Days before the start of the nominated month (in the case of a Nomination a month in advance).

(c) Operator must in response to an Advance Nomination allocate a Daily Nomination for each nominated day determined in accordance with the provisions of clauses 8.7, 8.9, 8.15 and 8.16:

(i) no later than Friday in the week before the nominated week (in the case of a Nomination a week in advance); or

(ii) within 5 Working days of receipt of the Advance Nomination (in the case of a Nomination a month in advance).

(d) Shipper may submit an Initial Nomination for a Gas Day in respect of which it has made an Advance Nomination and been allocated a Daily Nomination, in which case:

(i) the Initial Nomination is not a Renomination; and

(ii) Shipper's Advance Nomination for the Gas Day is of no effect.

8.18 Use of Full Haul capacity upstream of CS9

Where Shipper nominates for and is allocated Aggregated T1 Service at an outlet point which is upstream from Compressor Station 9 on the DBNGP and the Contracted Capacity

for T1 Service from which that Aggregated T1 Service derives is at an outlet point located downstream of Compressor Station 9 on the DBNGP:

(a) the Aggregated T1 Service is to be regarded as a Full Haul T1 Service for the purposes of this Contract; and

(b) the Charges for the Aggregated T1 Service are to be calculated and paid on the basis that the Aggregated T1 Service is Full Haul and not Part Haul.

9. IMBALANCES

9.1 Operator to maintain balance

Operator may do all things expected of a Reasonable And Prudent Person to maintain a balance between total Gas inputs to, and total Gas outputs from, the DBNGP, including (subject to the provisions of this clause and this Contract) restricting the quantity of Gas it Delivers to Shipper at an outlet point, and restricting the quantity of Gas it Receives from Shipper at an inlet point in accordance with this Contract.

9.2 Shipper to maintain balance

On each Gas Day, Shipper must endeavour to maintain an Accumulated Imbalance of zero, including restricting the quantity of Gas it Delivers to Operator at an inlet point, and restricting the quantity of Gas it Receives from Operator at an outlet point.

9.3 Shipper's Accumulated Imbalance

At the end of any Gas Day, the Accumulated Imbalance is the Accumulated Imbalance at the end of the previous Gas Day plus Shipper's Daily Imbalance on the Gas Day.

9.4 Notice of Shipper's imbalances

Before 11:00 hours on each Gas Day except the Capacity Start Date, Operator must notify Shipper of its Accumulated Imbalance and Daily Imbalance at the end of the preceding Gas Day (***Accumulated Imbalance Notice***).

9.5 Accumulated Imbalance Limit

(a) Shipper's Accumulated Imbalance Limit for a Gas Day is 8% of the sum of Shipper's Capacity under Spot Transactions and quantities referred to as Contracted Capacity across all of Shipper's Capacity Services (including T1 Service and any Capacity under Spot Transactions) for that Gas Day.

(b) If at any time the absolute value of Shipper's Accumulated Imbalance exceeds the Accumulated Imbalance Limit for the Gas Day just finished and Operator, acting as a Reasonable And Prudent Person, considers that a continuation of that condition:

(i) will have a material adverse impact on the integrity or operation of the DBNGP; or

(ii) will adversely impact, or is likely to adversely impact, on any other shipper's entitlement to its Daily Nomination for T1 Capacity, B1 Capacity, P1 Capacity, Contracted Firm Capacity, or any Other Reserved Service,

then, Operator (acting as a Reasonable And Prudent Person) may, subject to clause 9.5(f):

(iii) issue a notice requiring Shipper to reduce its imbalance to the Accumulated Imbalance Limit (to the extent reasonably required to ameliorate the condition in clause 9.5(b)(i) or (ii)) and Shipper must use best endeavours in accordance with clause 9.5(d) to immediately comply, or procure compliance, with the notice, so as to bring Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit; and/or

(iv) refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point so as to bring the absolute value of Shipper's Accumulated Imbalance within, or closer to, the Accumulated Imbalance Limit.

(c) If Operator issues a notice under this clause 9.5 and Shipper's Accumulated Imbalance is:

(i) positive, Operator must issue a similar notice to all other shippers with a positive Accumulated Imbalance in excess of its Accumulated Imbalance Limit; or

(ii) negative, Operator must issue a similar notice to all other shippers with a negative Accumulated Imbalance the absolute value of which is in excess of its Accumulated Imbalance Limit.

(d) If, after Operator issues a notice under clause 9.5(b)(iii):

(i) subject to clause 9.5(d)(ii), the absolute value of Shipper's Accumulated Imbalance is reducing each Gas Day, then Shipper is taken to be using best endeavours to comply, or procure compliance, with the notice for the purposes of clause 9.5(b)(iii); and

(ii) where the absolute value of Shipper's Accumulated Imbalance exceeds Shipper's Outer Accumulated Imbalance Limit and the absolute value of Shipper's Accumulated Imbalance is not less than the Accumulated Imbalance Limit by the end of the following Gas Day, Shipper is taken not to have used best endeavours to comply, or procure compliance, with the notice for the purposes of clause 9.5(b)(iii).

(e) If Shipper does not comply and is not deemed pursuant to clause 9.5(d) to have used best endeavours to have complied with the notice issued for the purposes of clause 9.5(b)(iii) and as a result of such failure the absolute value of Shipper's Accumulated Imbalance remains greater than the Accumulated Imbalance Limit by the end of the following Gas Day, Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of Shipper's Accumulated Imbalance Limit up to the Outer Accumulated Imbalance Limit in accordance with clause 20 in respect of the Gas Day on which the notice is issued and each subsequent Gas Day the absolute value of Shipper's Accumulated Imbalance exceeds Shipper's Accumulated Imbalance Limit until the absolute value of Shipper's Accumulated Imbalance is less than, or closer to the Accumulated Imbalance Limit (as Operator sees fit).

(f) The Operator may not:

(i) issue a notice pursuant to clause 9.5(b)(iii) or refuse to Receive or Deliver Gas pursuant to clause 9.5(b)(iv) unless it has, to the extent reasonable in the circumstances, first endeavoured to co-operate with Shipper to ameliorate the impact of the Shipper exceeding its Accumulated Imbalance Limit; or

(ii) other than when due to Force Majeure or by reason of an emergency, refuse to Receive Gas or Deliver Gas pursuant to clause 9.5(b)(iv) without having issued a notice in accordance with clause 9.5(b)(iii).

9.6 Excess Imbalance Charge

(a) Shipper's Outer Accumulated Imbalance Limit for a Gas Day is 20% of the sum of Shipper's Capacity under Spot Transactions and quantities referred to as Contracted Capacity across all of Shipper's Capacity Services (including T1 Service and any Capacity under Spot Transactions) for that Gas Day.

(b) If the absolute value of Shipper's Accumulated Imbalance at the end of a Gas Day exceeds the Outer Accumulated Imbalance Limit for the Gas Day just finished, then subject to clause 9.6(c), Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of Shipper's Outer Accumulated Imbalance Limit in accordance with clause 20.

(c) No Excess Imbalance Charge under clauses 9.5(b) or 9.6(b) is to be payable to the extent that the imbalance arose because:

(i) Shipper's Capacity Service was Curtailed under clause 17;

(ii) Operator, for any reason not caused by Shipper, does not Receive from Shipper at any Inlet Point a quantity of Gas equal to Shipper's Daily Nomination for that Inlet Point;

(iii) Operator fails to provide Shipper with a materially accurate Accumulated Imbalance Notice within the period set out in clause 9.4; or

(iv) Shipper is unable, for reasons beyond Shipper's control, to remedy an imbalance arising on a prior Gas Day but then only to the extent that such imbalance was caused by an event referred to in one of clauses 9.6(c)(i), 9.6(c)(ii) or 9.6(c)(iii),

but in each case Shipper's Daily Imbalance and Accumulated Imbalance are still to be calculated for the Gas Day.

9.7 Balancing in particular circumstances

(a) If the Parties anticipate a failure of Shipper's Gas supply (including a failure due to an impending cyclone), the Parties may, if they consider it Technically Practicable and appropriate to do so, agree to increase for a short period the Accumulated Imbalance Limit or the Outer Accumulated Imbalance Limit (or both), in order to enable Shipper to deposit additional Gas in the DBNGP in advance of that failure.

(b) The Parties may, during a period in which Shipper's Gas supply has wholly or partially failed, if they consider it Technically Practicable and appropriate to do so, agree to allow Shipper to exceed the Accumulated Imbalance Limit, whether or not Shipper has deposited additional Gas under clause 9.7(a) in anticipation of the failure of Shipper's Gas supply.

(c) Subject to clause 9.7(d), an agreement under clauses 9.7(a) or 9.7(b) may be on any terms and conditions the Parties consider Technically Practicable and appropriate.

(d) Operator may require an agreement under clause 9.7(b) to contain any reasonable provisions it sees fit, including any or all of the following provisions:

(i) that Operator may from time to time during the duration of that agreement by notice to Shipper specify a limit for Shipper's Accumulated Imbalance, beyond which limit Operator may refuse to Receive Gas from Shipper at an inlet point or Deliver Gas to Shipper at an outlet point, or both; and

(ii) that upon resumption of Shipper's Gas supply, Operator may require Shipper to restore the absolute value of its Accumulated Imbalance to below the Accumulated Imbalance Limit as soon as reasonably practicable.

(e) Nothing in this clause compels a Party to enter into an agreement under clauses 9.7(a) or 9.7(b).

9.8 Remedies for breach of imbalance limits

Except as provided in clause 9.10 below, Operator may not exercise any rights or remedies against Shipper for exceeding the Accumulated Imbalance Limit, other than:

(a) an action for breach of clause 9.5(b)(iii), limited to the recovery of Direct Damages in accordance with clause 23 and Shipper's liability to Operator for Direct Damages suffered by Operator which is caused by or arises out of Shipper's failure to comply with clause 9.5(b)(iii) shall be reduced by any Excess Imbalance Charge or Excess Imbalance Charges paid by Shipper in respect of that failure;

(b) to recover the Excess Imbalance Charge or Excess Imbalance Charges where permitted by and in accordance with this clause 9;

(c) to refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point so as to bring Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit; or

(d) any combination of clauses 9.8(a), 9.8(b) and 9.8(c).

The Parties agree that, because the rights and remedies set out in this clause 9.8 apply across all of Shipper's Capacity Services, when in a particular circumstance, Operator exercises a right or pursues a remedy under this clause 9.8, Operator shall not exercise the equivalent right, or pursue the equivalent remedy, under another contract for Capacity Service or in relation to another Capacity Service in relation to the same circumstance.

9.9 Trading in imbalances

(a) Shipper may exchange all or part of its Accumulated Imbalances with another shipper, on any terms they may agree, or may exchange all or part of its Accumulated Imbalances for accumulated imbalances under any other contract or contracts Shipper has with Operator for Capacity Services, in accordance with this clause 9.9.

(b) Shipper must give notice in writing of any such exchange in respect of a Gas Day to Operator by 12:00 hours on the next Working Day following receipt from Operator of Shipper's Accumulated Imbalance Notice in accordance with clause 9.4 for that Gas Day. If Shipper does not give notice of an exchange by the applicable time, then the exchange is of no effect.

(c) On receipt of a notice under clause 9.9(b), Operator must calculate adjustments in Shipper's Accumulated Imbalance to reflect the exchange and notify both shippers of the adjustments by the beginning of the next Gas Day.

9.10 Cashing out imbalances at end of Contract

(a) The balancing process prescribed in this clause 9.10 is only to be undertaken at the Capacity End Date.

(b) If at the Capacity End Date, Shipper's Accumulated Imbalance is a positive number, Operator is to pay a fair market price to Shipper for that Gas.

(c) If at the Capacity End Date, Shipper's Accumulated Imbalance is a negative number, Shipper is to pay a fair market price to Operator for that Gas.

9.11 Charges do not affect Daily Delivery

Nothing in this clause 9 entitles Shipper to Receive in any Gas Day a total quantity of Gas (across all outlet points) which exceeds the sum (across all outlet points) of Shipper's Total Contracted Capacity.

10. PEAKING

10.1 Hourly Peaking Limits

The Hourly Peaking Limits are:

(a) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points on the DBNGP;

(b) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10; and

(c) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10B,

(each of the limits in (a), (b) and (c) being an ***Hourly Peaking Limit***).

10.2 Shipper to stay within Hourly Peaking Limit

On each Gas Day, Shipper must do all things expected of a Reasonable And Prudent Person to ensure that:

(a) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points on the DBNGP does not exceed the relevant Hourly Peaking Limit described in clause 10.1(a);

(b) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points in Pipeline Zone 10 does not exceed the relevant Hourly Peaking Limit described in clause 10.1(b); and

(c) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points in Pipeline Zone 10B does not exceed the relevant Hourly Peaking Limit described in clause 10.1(c).

10.3 Consequences of exceeding Hourly Peaking Limit

(a) If at any time Shipper exceeds an Hourly Peaking Limit and Operator, acting as a Reasonable And Prudent Person, considers that a continuation of that condition:

(i) will have a material adverse impact on the integrity or operation of the DBNGP; or

(ii) will adversely impact, or is likely to adversely impact, on any other shipper's entitlement to its Daily Nomination for T1 Capacity, Contracted Firm Capacity, or any Other Reserved Service,

Operator (acting as a Reasonable And Prudent Person) may, subject to clause 10.6 and to clause 10.3(h):

(iii) issue a notice requiring Shipper to reduce its take of Gas, in that or future periods (to the extent reasonably required to ameliorate the condition in clauses 10.3(a)(i) or (ii)) and Shipper must use best endeavours in accordance with clause 10.3(c) to immediately comply, or procure compliance, with the notice so as to cease exceeding the Hourly Peaking Limit; and/or

(iv) refuse to Deliver Gas to Shipper at any outlet point within the relevant pipeline zone until the Shipper's Hourly Quantity is within the Hourly Peaking Limit.

(b) If Operator issues a notice to Shipper under this clause and the Hourly Peaking Limit being exceeded relates to outlet points:

(i) on the DBNGP generally, Operator must issue a similar notice to all shippers;

(ii) in Pipeline Zone 10, Operator must issue a similar notice to all shippers with a contractual entitlement to capacity in Pipeline Zone 10; or

(iii) in Pipeline Zone 10B, Operator must issue a similar notice to all shippers with a contractual entitlement to capacity in Pipeline Zone 10B,

which are exceeding their Hourly Peaking Limit or the equivalent under their relevant contracts.

(c) If, after Operator issues a notice under clause 10.3(a)(iii):

(i) subject to clause 10.3(b), Shipper's Hourly Quantity calculated across the relevant outlet points is reducing, then Shipper is taken to be using best endeavours to comply, or procure compliance, with the notice for the purposes of clause 10.3(a)(iii); and

(ii) Shipper's Hourly Quantity calculated across the relevant outlet points is not within the Hourly Peaking Limit by the end of the following Gas Hour, Shipper is taken not to have used best endeavours to comply, or procure compliance, with the notice for the purposes of clause 10.3(a)(iii).

(d) If Shipper does not comply and is not deemed pursuant to clause 10.3(c) to have used best endeavours to have complied with the notices issued for the purposes of clause 10.3(a)(iii) so that Shipper is still exceeding at least one of the Hourly Peaking Limits by the end of the following Gas Hour, Shipper must pay an Hourly Peaking Charge at the Hourly Peaking Rate for each GJ of Gas Received~~:~~

(i) in excess of the Hourly Peaking Limit (if a notice has not been issued pursuant to clause 10.4(e)); or

(ii) in excess of the Hourly Peaking Limit up to the Outer Hourly Peaking Limit (if a notice has been issued pursuant to clause 10.4(e)), in accordance with clause 20.

(e) If the Hourly Peaking Charge is payable under clause 10.3(d), that charge is payable in respect of the Gas Hour in which the relevant Hourly Peaking Limit was first exceeded, and each subsequent Gas Hour until the first occasion on which Shipper is no longer exceeding any of the Hourly Peaking Limits (after which Shipper shall not pay any Hourly Peaking Charge until a new notice is issued under clause 10.3(a)(iii)).

(f) If Shipper exceeds more than one Hourly Peaking Limit in respect of the same Gas Hour, then the Hourly Peaking Charge under clause 10.3(d) is calculated using only the amount of the largest excess.

(g) No Hourly Peaking Charge whether under clause 10.3(d) or 10.4(b) is payable in respect to any Gas Hour in respect of which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate.

(h) Operator may not:

(i) issue a notice pursuant to clause 10.3(a)(iii) or refuse to Deliver Gas pursuant to clause 10.3(a)(iv) unless it has, to the extent reasonable in the circumstances, first endeavoured to co-operate with Shipper to ameliorate the impact of the Shipper exceeding its Hourly Peaking Limit; or

(ii) other than when due to Force Majeure or by reason of an emergency, refuse to Deliver Gas pursuant to clause 10.3(a)(iv) without having issued a notice in accordance with clause 10.3(a)(iii).

~~10.4~~ Outer Hourly Peaking Limit

(a) Shipper's Outer Hourly Peaking Limits are:

(i) 140% of the aggregate MHQ calculated across all outlet points on the DBNGP;

(ii) 140% of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10; and

(iii) 140% of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10B,

(each of the limits in (i), (ii) and (iii) being an ***Outer Hourly Peaking Limit***).

(b) For each Gas Hour following the issue of a notice pursuant to clause 10.4(e) that Shipper exceeds an Outer Hourly Peaking Limit, Shipper must pay at the Hourly Peaking Rate an Hourly Peaking Charge for each GJ of Gas Received in excess of the relevant Outer Hourly Peaking Limit during that Gas Hour in accordance with clause 20.

(c) If Shipper exceeds more than one Outer Hourly Peaking Limit in respect of the same Gas Hour, then the Hourly Peaking Charge under clause 10.4(b) is calculated using only the amount of the largest excess.

(d) If an Hourly Peaking Charge is payable under clause 10.3(d) and also 10.4(b) in respect of a Gas Hour, then Shipper is required to pay both the charge under clause 10.3(d) and the charge under clause 10.4(b).

(e) If at any time Shipper's take of Gas is such that Operator, acting as a Reasonable And Prudent Person, believes that Shipper has exceeded or is likely to exceed an Outer Hourly Peaking Limit, Operator may issue a notice to Shipper of that fact. A notice given under this clause 10.4(e) is only valid for the purposes of clause 10.4(b) and clause 10.3(d)(ii) until Shipper has ceased to exceed the Hourly Peaking Limit.

10.5 Charges do not affect Daily Delivery

Nothing in this clause 10 entitles Shipper to Receive in any Gas Day a total quantity of Gas (across all outlet points) which exceeds the sum (across all outlet points) of Shipper's Total Contracted Capacity.

10.6 Remedies for breach of peaking limits

Operator may not exercise any rights or remedies against Shipper for exceeding an Hourly Peaking Limit, other than:

(a) for breach of clause 10.3(a)(iii) limited to the recovery of Direct Damages in accordance with clause 23 and Shipper's liability to Operator for Direct Damages suffered by Operator which is caused by or arises out of Shipper's failure to comply with clause 10.3(a)(iii) shall be reduced by any Hourly Peaking Charge or Hourly Peaking Charges paid by Shipper in respect of that failure;

(b) to recover the Hourly Peaking Charge or Hourly Peaking Charges where permissible by and in accordance with this clause 10;

(c) to refuse to Deliver Gas to Shipper at an outlet point (in accordance with clause 10.3(a)(iv)); or

(d) any combination of clauses 10.6(a), 10.6(b) and 10.6(c).

The Parties agree that, because the rights and remedies set out in this clause 10.6 apply across all of Shipper's Capacity Services, when in a particular circumstance, Operator exercises a right or pursues a remedy under this clause 10.6, Operator shall not exercise the equivalent right or remedy under another contract for Capacity Service or in relation to another Capacity Service in relation to the same circumstance.

10.7 Permissible Peaking Excursion

Operator must not refuse to Deliver Gas under clause 10.3(a)(iv) if Shipper is not exceeding its Outer Hourly Peaking Limit and:

(a) is a Distribution Networks Shipper and the cause of Shipper exceeding its Hourly Peaking Limit is the quantity of Gas Received by Shipper at a Notional Gate Point for a Distribution Network; or

(b) another shipper has recently had or has an absolute peak significantly greater than its Outer Hourly Peaking Limit or a Distribution Networks Shipper has exceeded its Hourly Peaking Limit in the manner permitted by clause 10.7(a), and this causes or contributes to the need for Operator to propose to refuse to Deliver Gas to Shipper at outlet points.

11. OVERRUN

11.1 Overrun Charge

(a) In respect of each GJ of Overrun Gas Received by Shipper on a Gas Day, Shipper must pay an Overrun Charge calculated by applying the Overrun Rate to the total Overrun Gas Received by Shipper on that Gas Day in accordance with clause 20.

(b) The Overrun Rate is the greater of:

(i) 115% of the T1 Reference Tariff; and

(ii) the highest price bid for Spot Capacity which was accepted for that Gas Day other than when the highest price bid was not a bona fide bid, in which case the highest bona fide bid,

(***Overrun Rate***).

(c) All Overrun Gas Delivered on a Gas Day is to be included in the calculation of Shipper's Hourly Quantities, Total Inlet Quantity and Total Outlet Quantity for that Gas Day.

11.2 Unavailability Notice

(a) Operator may at any time, acting as a Reasonable And Prudent Person, and (subject to clause 11.2(b)) without advance notice to Shipper, give notice (an ***Unavailability Notice***) to Shipper that Overrun Gas is unavailable to Shipper, or is only available to Shipper to a limited extent, for one or more Gas Days, but only to the extent that Shipper overrun will impact or is likely to impact on any other shipper's entitlement to its Daily Nomination for T1 Capacity, any Other Reserved Service or allocated Spot Capacity. Operator shall at the same time give an Unavailability Notice to all other shippers that are taking Overrun Gas, the taking of which, due to the location on the DBNGP at which the Overrun Gas is being taken, impacts upon the ability of Operator to Deliver Gas to meet its obligations to shippers.

(b) Operator must use reasonable endeavours to give Shipper advance notice (which may be by written notice or otherwise) which is reasonable in the circumstances of any unavailability or limited availability of Overrun Gas.

(c) Any Curtailment Notice issued under clause 17 for any period is to be taken to constitute an Unavailability Notice indicating that Overrun Gas is wholly unavailable for the same period unless the Curtailment:

(i) is a Point Specific Curtailment;

(ii) does not affect Gas Transmission Capacity generally; and

(iii) does not affect the inlet point or outlet point at which the Overrun Gas is being received by Shipper.

11.3 Content of an Unavailability Notice

An Unavailability Notice:

(a) may apply to the Gas Day on which the Unavailability Notice is issued even though, in order to comply with such an Unavailability Notice, Shipper must cease taking Delivery of Overrun Gas upon receipt of the notice in accordance with clause 11.4;

(b) is to identify the Gas Day or Gas Days to which the notice applies;

(c) may be expressed to continue indefinitely or for a specified period;

(d) may revoke, substitute or amend a previous Unavailability Notice; and

(e) must state the quantity of Overrun Gas which is available to Shipper.

11.4 Compliance with Unavailability Notice

Shipper must use its best endeavours to immediately, and must as soon as practicable and in any event no later than one hour after receipt of the notice, comply, or procure compliance, with an Unavailability Notice, by ensuring that the total of its Overrun Gas for each Gas Day to which the Unavailability Notice applies does not exceed the quantity of Overrun Gas (if any) indicated by the Unavailability Notice to be available to Shipper.

11.5 Operator may refuse to Deliver Overrun Gas

In addition to any other rights Operator has to refuse to Deliver Gas under clause 5.7, Operator may refuse to Deliver Overrun Gas to Shipper at an outlet point if Shipper does not comply with an Unavailability Notice.

11.6 Unavailable Overrun Charge

In addition to any charge payable under clause 11.1, if Shipper does not comply, or procure compliance, with an Unavailability Notice in accordance with clause 11.4, Shipper must pay, in accordance with clause 20, an Unavailable Overrun Charge at the Unavailable Overrun Rate for each GJ of Gas taken by Shipper in excess of the quantity of Overrun Gas specified in the Unavailability Notice as being available to Shipper.

11.7 Saving and damages

(a) Nothing in this clause 11 limits, affects or prejudices Operator's right to refuse to Receive Gas under clause 5.3 or to refuse to Deliver Gas under clause 5.7.

(b) Shipper's liability to Operator for any Direct Damage suffered by Operator which is caused by or arises out of Shipper's failure to comply with an Unavailability Notice shall be reduced by any Unavailable Overrun Charge paid by Shipper under clause 11.6 in respect of that failure.

(c) Shipper is not liable to pay the Overrun Charge under clause 11.1 and the Unavailable Overrun Charge under clause 11.6 in respect of the same quantity of Overrun Gas.

(d) Shipper is not liable to pay the Unavailable Overrun Charge with respect to any Gas Day in which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate,

but shall be liable to pay the Overrun Charge in respect to the relevant quantity of Overrun Gas as if an Unavailability Notice had not been issued.

(e) The Parties agree that, because the rights and remedies set out in this clause 11 apply across all of the Shipper's Capacity Services, when in particular circumstances Operator exercises a right or issues a remedy under this clause 11 Operator shall not exercise the equivalent right or remedy under another contract for Capacity Services or in relation to another Capacity Service in relation to the same circumstances.

12. ADDITIONAL RIGHTS AND OBLIGATIONS OF OPERATOR

12.1 Commingling of Gas

Operator will have the right to commingle the Gas supplied by Shipper at the inlet point with other Gas in the DBNGP during transportation and is entitled to Deliver different molecules to Shipper at the outlet points.

12.2 Processing

Subject to its obligations under this Contract, Operator may (but is not obliged to) compress, cool, heat, clean and apply other processes to Gas during transportation acting as a Reasonable And Prudent Person consistent with its operation of the DBNGP.

12.3 Operation of Pipeline System

(a) In operating, maintaining or expanding the DBNGP, Operator must:

(i) comply with all its obligations under this Contract; and

(ii) use Good Gas Industry Practice.

(b) Except as provided in clause 12.3(a), Operator may decide the manner in which it will operate the DBNGP.

(c) In acting under this Contract, Shipper must use Good Gas Industry Practice.

12.4 Delivery of Gas

Operator may (but only if Operator chooses to do so) satisfy its obligation to Deliver Gas to Shipper by using a Gas pipeline other than the DBNGP, provided;

(a) that Operator meets its obligations under this Contract; and

(b) there is no extra cost or risk to Shipper in doing so.

13. CONTROL, POSSESSION AND TITLE TO GAS

13.1 Warranty of Title

(a) Shipper warrants that at the time it Delivers Gas to Operator at an inlet point, Shipper has good title to the Gas free and clear of all liens, encumbrances and claims of any nature inconsistent with Operator's operation of the DBNGP.

(b) Subject to clause 13.1(a) being true and accurate at all times, Operator warrants that at the time it supplies Gas to Shipper at an outlet point, Operator has good title to the Gas free and clear of all liens, encumbrances and claims of any nature whatsoever.

13.2 Control, Possession, Responsibility and Title of Shipper

Shipper warrants to Operator at each relevant time that Shipper:

(a) is in Possession of the Gas immediately prior to its supply at an inlet point and immediately after its Delivery to Shipper at an outlet point; and

(b) has legal responsibility and liability for Gas while it is within the Possession of Shipper.

13.3 Title, Custody, Control and Responsibility of Operator

(a) Operator will:

(i) take title to and have Possession of Gas from the receipt of Gas from Shipper at an inlet point until Delivery of Gas to Shipper at an outlet point; and

(ii) have legal responsibility and liability for Gas while it is within Operator's Possession.

(b) (i) Operator shall deliver good title to Gas Delivered to Shipper at an outlet point; and

(ii) Shipper will take title to Gas immediately after its Delivery to Shipper at an outlet point,

free and clear of all liens, encumbrances and claims of any nature whatsoever.

13.4 Entitlements to Receive Gas

(a) Subject to clause 13.4(c), upon the transfer from Shipper to Operator of title to and possession of a quantity (in terajoules) of Gas Delivered at an inlet point, Shipper becomes entitled to:

(i) Receive Gas from Operator at an outlet point other than a Notional Gate Point; or

(ii) subject to clause 13.5(b), Receive Gas from Operator at an outlet point that is a Notional Gate Point.

(b) The quantity of Gas that Shipper becomes entitled to Receive in aggregate under clause 13.4(a) is a quantity equivalent (in terajoules) to the quantity of Gas delivered at the inlet point.

(c) Clauses 13.4(a) and 13.4(b) do not affect a provision of this Contract entitling Operator to wholly or partially Curtail or interrupt Shipper's use of Capacity or to wholly or partially refuse to Deliver Gas to Shipper and do not affect the obligations of Shipper to Deliver Gas and Receive Gas in such a manner as complies with this Contract including so as to ensure Shipper remains within the limits prescribed by this Contract in clauses 9 and 10.

13.5 Title at outlet points

(a) Unless the Delivery is at an outlet point that is a Notional Gate Point, the Delivery of the Gas by Operator to Shipper at an outlet point is a transfer of title to and possession of the Gas from Operator to Shipper, effective at the outlet point and at the time of Delivery, and free and clear of all encumbrances, liens and claims of any nature.

(b) If the Delivery is at an outlet point that is a Notional Gate Point, then:

(i) the Delivery of the Gas by Operator is followed immediately by a Delivery of the Gas from Shipper back to Operator at the outlet point (for transport to a Physical Gate Point associated with the Notional Gate Point) and no transfer of title to and possession of the Gas is involved;

(ii) Operator may in its discretion as a Reasonable And Prudent Person manage the times, extent and manner that Gas deemed to be delivered at a Notional Gate Point is physically transported into the Associated sub-network; and

(iii) subject to any Law or any other agreement to which both Operator and Shipper are parties, the Delivery of Gas by Operator at a Physical Gate Point is by force of this clause a transfer of title to and possession of the Gas from Operator to Shipper, effective at the Physical Gate Point and at the time of Delivery, and free and clear of all encumbrances, liens and claims of any nature.

14. RELOCATION

14.1 Request for relocation of Contracted Capacity

Shipper may by notice in writing to Operator request a relocation of all or any part of its Contracted Capacity from an Existing Inlet Point to a New Inlet Point or from an Existing Outlet Point to a New Outlet Point (***Requested Relocation***).

14.2 Assessment of Requested Relocation

(a) Operator must, as soon as reasonably practicable and in any event not later than 40 Working Days after receiving a notice under clause 14.1, assess as a Reasonable And Prudent Person whether the Requested Relocation is an Authorised Relocation having regard to, among other things, the order, relative to its receipt of equivalent notices received from other shippers, in which Shipper's Requested Relocation was received, (but for the avoidance of doubt the Parties intend this priority to apply only to the extent that requested relocations compete or conflict with each other for utilization of capacity).

(b) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity will not be an Authorised Relocation if:

(i) the Requested Relocation would cause the sum (after the relocation) of all shippers':

(A) quantities referred to as Contracted Capacity for that inlet point across all of shippers' Capacity Services (including T1 Services and all Other Reserved Services) at the New Inlet Point to exceed the New Inlet Point's Total Current Physical Capacity; or

(B) quantities referred to as Contracted Capacity for that outlet point across all shippers' Capacity Services (including T1 Services and all Other Reserved Services) at the New Outlet Point to exceed the New Outlet Point's Total Current Physical Capacity or to exceed the safe operating capability of the part of the DBNGP at which the New Outlet Point is located;

(ii) in the opinion of Operator, as a Reasonable And Prudent Person, the Requested Relocation would not be Operationally Feasible, and for the avoidance of doubt an increase in compressor fuel costs does not mean the Requested Relocation is not Operationally Feasible; or

(iii) the Requested Relocation is such that the New Inlet Point would be downstream of the New Outlet Point and it would change the normal direction of Gas flow in the DBNGP.

(c) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity to a New Inlet Point will be an Authorised Relocation under the Contract if:

(i) the Requested Relocation would result in the New Inlet Point being downstream of the Existing Inlet Point;

(ii) the Requested Relocation would not cause the sum (after the relocation) of all shippers' quantities referred to as Contracted Capacity for that inlet point across all of shippers' Capacity Services (including T1 Service and all Other Reserved Services) at the New Inlet Point to exceed the New Inlet Point's Total Current Physical Capacity; and

(iii) Shipper has entered into a Contribution Agreement, or any other agreement, arrangement or understanding required by clause 6.7(a)(iii), in relation to that New Inlet Point.

(d) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity to a New Outlet Point will be an Authorised Relocation under this Contract if:

(i) the Requested Relocation would result in the New Outlet Point being upstream, or within a proximity of 2 kilometres, whether upstream or downstream of the Existing Outlet Point;

(ii) the Requested Relocation would not cause the sum (after the relocation) of all shippers' quantities referred to as Contracted Capacity for that outlet point across all shippers' Capacity Services (including T1 Service and all Other Reserved Services) at the New Outlet Point to exceed the New Outlet Point's Total Current Physical Capacity or to exceed the safe operating capability of the part of the DBNGP at which the New Outlet Point is located; and

(iii) Shipper has entered into a Contribution Agreement, or any other agreement, arrangement or understanding required by clause 6.7(a)(iii), in relation to that outlet point .

14.3 Operator to notify Shipper

As soon as practicable after completing its assessment under clause 14.2(a), Operator must give notice in writing to Shipper advising either that the Requested Relocation is:

(a) not an Authorised Relocation; or

(b) an Authorised Relocation.

14.4 Requested Relocation is an Authorised Relocation

If Operator gives notice that the Requested Relocation is an Authorised Relocation under clause 14.3(b):

(a) Operator and Shipper must negotiate in good faith regarding the cost to Shipper (which in no case shall be less than Operator's out-of-pocket costs and shall include a reasonable charge for Operator's management time) in respect of any new facilities (including the New Inlet Point or New Outlet Point) which Shipper will be wholly or partially utilizing.

(b) If such agreement is not reached, the matter shall be regarded as a Dispute to be resolved as a Technical Matter and will be dealt with in accordance with clause 24.

(c) Shipper must pay the charges specified in clause 14.7 in accordance with clause 20.

14.5 Requested Relocation is not an Authorised Relocation

If Operator gives notice that the Requested Relocation is not an Authorised Relocation under clause 14.3(a), Operator and Shipper (acting reasonably) may agree (on any fair and reasonable terms and conditions, including terms and conditions as to price) the operational restrictions which will apply to the use by Shipper of the New Inlet Point or New Outlet Point which will enable the Parties to implement the Requested Relocation of Contracted Capacity.

14.6 Relocated Contracted Capacity to be on same terms and conditions

Subject to clauses 14.7 and 14.8 and unless the Parties agree in writing to the contrary, any Contracted Capacity relocated under this clause 14 is to be on the same terms and conditions as the Contracted Capacity at the Existing Inlet Point or the Existing Outlet Point (as the case may be).

14.7 Charges for relocation

(a) Unless the Parties agree in writing to the contrary, no Charges payable under this Contract are to be reduced as a result of a relocation of Contracted Capacity under this clause 14, even if the relocation causes some or all Gas to be transported over

a shorter distance, or the relocation causes a notional reversal of flow of Gas transported under this Contract for Shipper from Forward Haul to Back Haul.

(b) If a relocation of Capacity under this clause results in Gas being transported to Shipper to a point downstream of the southern most point of the DBNGP as at 30 December 2003 (being Clifton Road), Shipper must pay the additional tariff required by Operator in respect to the increased distance beyond Clifton Road over which the Gas is transported, in accordance with clause 20. Nothing in this clause obliges Operator to accept a Requested Relocation of Capacity to an inlet point or outlet point which is not located on the DBNGP.

(c) If a relocation of Capacity under this clause results in Gas being transported to an Outlet Point up-stream of Compressor Station 9 on the DBNGP so that a Full Haul service becomes a Part Haul service, any Capacity so relocated is to:

(i) remain on the same terms and conditions as Full Haul Capacity, including as to the calculation of the Capacity Reservation Charges and the Commodity Charges; and

(ii) be treated under this Contract as though it was Full Haul Capacity.

14.8 Pressures at New Inlet Point and New Outlet Point

Operator may in its discretion as a Reasonable And Prudent Person specify the range of pressures within which Shipper may Deliver Gas to Operator at a New Inlet Point, and within which Operator may Deliver Gas to Shipper at a New Outlet Point but in no case may the specified range of pressures be substantially different from the DBNGP operating pressure range at that point.

14.9 This Contract amended to reflect relocation

If the Parties reach agreement under clause 14.4 or 14.5, the Requested Relocation and the terms and conditions so agreed are to be given effect to by an amendment of the Access Request Form in accordance with clause 38.

15. METERING

15.1 Shipper's responsibility

Shipper must, or, must procure another party to:

(a) supply, install, Operate and Maintain Inlet Metering Equipment at each Inlet Station in good working order and condition and in accordance with the standard of a Reasonable And Prudent Person; and

(b) ensure that at all times all data required by Operator from Inlet Metering Equipment is electronically accessible by Operator.

15.2 Operator's responsibility

Operator must:

(a) at Shipper's expense supply, install, Operate and Maintain Outlet Metering Equipment at each Outlet Station in good working order and condition and in accordance with the standard of a Reasonable And Prudent Person; and

(b) calculate and record:

(i) the quantity of Gas Delivered to Operator by Shipper; and

(ii) the quantity of Gas Delivered to Shipper by Operator.

15.3 Metering uncertainty

(a) Primary Metering Equipment must be designed, adjusted and Operated so as to achieve:

(i) measurement to within a maximum uncertainty of:

(A) subject to clause 15.3(b), plus or minus 1% of Actual Mass Flow Rate at a minimum of the 95% confidence level for Metering Equipment with a design maximum flow rate of 5 TJ/d or greater; and

(B) plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level for Metering Equipment with a design maximum flow rate of less than 5 TJ/d; and

(ii) measurement to within a maximum uncertainty of plus or minus one quarter of one percent of Higher Heating Value at a minimum of the 95% confidence level.

(b) Alternative Metering Equipment referred to in clause 15.4(b) need not comply with clause 15.3(a)(i)(A) if:

(i) it is designed, adjusted and Operated so as to achieve measurement to within a maximum uncertainty of plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level; and

(ii) it is not used or likely to be used for more than 72 hours in any Gas Year.

(c) Subject to clauses 15.3(a) and 15.3(b), each component of Primary Metering Equipment may be designed, adjusted and Operated within limits of uncertainty agreed between the Parties.

(d) In this clause 15, **95% confidence level** has the meaning given to that expression by ISO 5168.

15.4 Primary Metering Equipment

(a) Primary Metering Equipment must:

(i) continuously compute and record:

(A) (in the case of Inlet Metering Equipment) the quantity and quality of Gas Delivered by Shipper to Operator under this Contract; and

(B) (in the case of Outlet Metering Equipment) the quantity of Gas Delivered by Operator to Shipper under this Contract;

(ii) be of a standard of manufacture acceptable to Operator acting as a Reasonable And Prudent Person;

(iii) comply with AS 2885 and any Australian or international standards required from time to time by Operator;

(iv) subject to clauses 15.4(b) and 15.4(c), encompass newest proven technology;

(v) be able in all streams to withstand Gas flows of up to 120% of the design flow;

(vi) provide data signals in the form of galvanically isolated 4-20 milliamp current loops or potential free contacts, as appropriate, or in such other form as the Parties as Reasonable And Prudent Persons may agree; and

(vii) include facilities to enable electronic data collection by Operator's Electronic Data Collection System.

(b) Primary Metering Equipment with a design maximum flow rate of 5 TJ/d or more must include:

(i) alternative Metering Equipment capable of measuring Gas quantity and (for Inlet Metering Equipment) Gas quality;

(ii) a means for detecting a fault in Duty Equipment which is likely to materially affect the accuracy of any measurements produced by the Duty Equipment, and a means in the event of such a fault for automatically switching metering from the faulty Duty Equipment to the alternative Metering Equipment referred to in clause 15.4(b)(i); and

(iii) a means for manually switching metering from Duty Equipment to the alternative Metering Equipment referred to in clause 15.4(b)(i).

(c) Inlet Metering Equipment must provide digital signals associated with valve or other equipment status, and must include components for signalling the following primary measurements and Derived Variables associated with Gas quality and quantity:

(i) delivery temperature;

(ii) delivery pressure;

(iii) instantaneous energy flow rate in TJ/d;

(iv) totalised energy flow in GJ;

(v) Relative Density;

(vi) Higher Heating Value in megajoules per cubic metre;

(vii) nitrogen content in mole percent;

(viii) carbon dioxide content in mole percent;

(ix) LPG content in tonnes per TJ of Gas;

(x) moisture level in milligrams per Cubic Metre;

(xi) instantaneous hydrocarbon dew point in degrees Celsius; and

(xii) all primary measurements and Derived Variables used in any computation required by clauses 15.4(c)(i) to 15.4(c)(xi).

(d) Unless Operator and Shipper as Reasonable And Prudent Persons agree to the contrary, Outlet Metering Equipment may utilize Gas quality data from equipment

which is not located at the Outlet Station in question (the ***Remote Data***), in which case:

(i) Operator may as a Reasonable And Prudent Person adopt procedures relating to that utilization, including relating to the use of preset Gas quality values when the Remote Data is unavailable for any reason; and

(ii) clauses 15.9 and 15.12 apply, with appropriate modifications, to any procedures adopted under clause 15.4(d)(i).

(e) Outlet Metering Equipment must provide digital signals Associated with valve or other equipment status, and must include components for signalling the following primary measurements and Derived Variables Associated with Gas quantity:

(i) delivery temperature;

(ii) delivery pressure;

(iii) instantaneous energy flow rate in terajoules per day derived using the Higher Heating Value;

(iv) totalised energy flow in GJ;

(v) all primary measures and Derived Variables used in any computation required by clauses 15.4(e)(i) to 15.4(e)(iv); and

(vi) Higher Heating Value in megajoules per cubic metre.

(f) The Inlet Metering Equipment, and any building erected for such equipment, is the property of Shipper (or its nominee), and the Outlet Metering Equipment, and any building erected for such equipment, is (subject to clause 15.4(g)) the property of Operator.

(g) To the extent that:

(i) Shipper has paid for the Outlet Metering Equipment and any building erected for such equipment;

(ii) the Outlet Metering Equipment is detachable from the DBNGP without any damage to or effect on the DBNGP;

(iii) no third party has any interest in or title to the Outlet Metering Equipment or the building; and

(iv) no third party (including a shipper) is deriving any benefit from the Outlet Metering Equipment,

the Outlet Metering Equipment and any building erected for such equipment is, at the end of this Contract, to become the property of Shipper, and may be detached and removed at the expense and risk of Shipper.

15.5 Provision of information to Shipper

(a) Operator must, on request by and at the expense and risk of Shipper, make available to Shipper access to:

(i) the galvanically isolated analogue or digital data signals in a form agreed by the Parties from any Outlet Metering Equipment at the Outlet Station Associated with the Outlet Point at which Shipper has Contracted Capacity; and

(ii) any other form of metering data requested by Shipper from time to time and consented to by Operator acting reasonably and taking into account, inter alia, the commercial sensitivity of the data, whether the data relates solely to Shipper, any requirements of confidentiality, any Law, and provided that such disclosure does not materially or directly detrimentally affect other shippers in the context of their dealings with Operator,

but only insofar as that data relates solely to Shipper.

(b) Operator takes no responsibility for the accuracy of any data obtained by Shipper under clause 15.5(d)(i) and is not liable for any Direct Damage or Indirect Damage suffered by Shipper as a result of any reliance placed by Shipper on any data obtained by Shipper under clause 15.5(d)(i).

(c) In complying with clause 15.5(a), Operator must allow Shipper access to unverified delivery data signals insofar as is relevant to the information referred to in clause 15.5(a).

(d) Operator must make available to Shipper via the CRS or a similar communications system:

(i) within one hour after each Gas Hour, the unverified hourly quantities of Gas Received by Shipper at each outlet point during that Gas Hour;

(ii) within 3 hours after the end of each Gas Day, the unverified quantities of Gas in that Gas Day Delivered by Shipper to each inlet point and Delivered by Operator to Shipper at each outlet point excluding all Physical Gate Points; and

(iii) within three Working Days after the end of the Gas Month, the verified quantities of Gas Delivered by Shipper at each inlet point and each outlet point for each Gas Day during the previous Gas Month.

(e) Operator must make available to Shipper via the CRS or a similar communications system as soon as practicable after receiving from Networks the information referred to in clause 33(1) of the Operating Arrangement, but in any event no later than 72 hours after the end of the Gas Day to which the information relates, the verified quantity of Gas:

(i) Received by Shipper in a Gas Day at each Physical Gate Point; and

(ii) Received by Shipper in a Gas Day aggregated across all outlet points including all Physical Gate Points.

(f) Operator must make available to Shipper via the CRS or a similar communications system within 5 hours after the end of a Gas Day the verified quantity of Gas:

(i) Received by Shipper in that Gas Day at each Physical Gate Point; and

(ii) Received by Shipper aggregated across all outlet points including all Physical Gate Points.

(g) Clauses 15.5(e) and (f) only apply for as long as Shipper is a Distribution Networks Shipper.

15.6 Changes to requirements for Metering Equipment

Operator may by notice in writing require Shipper to modify, or to allow and arrange for Operator to modify, existing Metering Equipment to comply with requirements or standards specified by Operator after that equipment was installed, and if the modification is necessary to comply with safety Laws of general application, or to comply with the standard required by an amendment to this Contract implementing such Laws, the modification is to be made at Shipper's expense, and otherwise the modification is to be made at Operator's expense.

15.7 Approval of Inlet Metering Equipment

(a) Shipper must obtain, or must procure that a third party obtains:

(i) prior to commencing the construction, installation or modification of any Inlet Metering Equipment or any component thereof; and also

(ii) prior to the commissioning of any newly constructed, installed or modified Inlet Metering Equipment or any component thereof,

Operator's written approval (which may not be unreasonably withheld) of, or of any amendment to, the design, location and construction of, and the proposed

Operating and Maintenance procedures in relation to, that equipment or component.

(b) For the purposes of clause 15.7(a), Shipper must give to Operator not less than one month's notice of the anticipated date of commencement of the relevant construction, installation or modification.

(c) Operator must, after receipt of a valid notice of the anticipated date of commencement, use all reasonable endeavours, before that anticipated date, to consider and to give notice to Shipper of Operator's approval of or refusal to approve the Inlet Metering Equipment.

(d) Without limiting the generality of clause 37, Shipper must, for the purposes of clause 15.7(a), prior to and during the construction, installation, modification or commissioning of any Inlet Metering Equipment or any component thereof, afford all reasonable rights of entry and inspection (including all relevant data, drawings and components) to Operator and its agents at Operator's expense and risk.

15.8 Check Metering Equipment

(a) Shipper may at its own expense at an Outlet Station, and Operator may at its own expense at an Inlet Station, supply, install, Maintain and Operate Check Metering Equipment for the purpose of monitoring the accuracy of the Primary Metering Equipment.

(b) Check Metering Equipment (and any associated pressure or quantity control regulators or other equipment) must be located downstream of, and must not interfere with the operation of, the Primary Metering Equipment.

(c) Check Metering Equipment at the Outlet Station is Shipper's property, and Check Metering Equipment at the Inlet Station is Operator's property.

(d) Any Verification of the accuracy of Check Metering Equipment is to be at the expense of the Party owning that equipment.

(e) Subject to clause 15.14(d)(i), data from Check Metering Equipment may not be used for billing purposes.

15.9 Preservation of accuracy

(a) All Primary Metering Equipment is to be installed in a manner which permits an Accurate measurement of the quantity, and (for Inlet Metering Equipment) the quality, of Gas Delivered, and a ready Verification of the Accuracy of measurement.

(b) Each Party must, in the installation, Maintenance and Operation of any Metering Equipment, exercise the care of a Reasonable And Prudent Person to prevent any inaccuracy in the measurement of the quantity of Gas Delivered under this Contract.

15.10 Presumptions of accuracy

(a) Subject to clause 15.13, a measurement of the quantity or quality of Gas from any Primary Metering Equipment is to be presumed to be correct.

(b) If any 2 consecutive Verifications show any Metering Equipment to be operating within the Prescribed Limits of Uncertainty, the Metering Equipment is to be presumed to have been operating within the Prescribed Limits of Uncertainty throughout the intervening period.

(c) The presumptions in clauses 15.10(a) and 15.10(b) are to apply until the contrary is shown.

(d) If either or both of the presumptions in clauses 15.10(a) and 15.10(b) is, or are, shown to be incorrect in respect of any period or periods, clauses 15.13 and 15.14 apply, with appropriate modifications, to measurements taken by the Metering Equipment during the period or periods.

15.11 Verification of Primary Metering Equipment

(a) Operator:

(i) must at least once each month (or other period agreed between the parties) during the duration of this Contract; and

(ii) may at such greater frequency or on any occasion that either Party may request,

verify the accuracy of any Primary Metering Equipment in accordance with a procedure described in clause 15.11(b).

(b) The Verification procedure is to consist of:

(i) a comparison between simultaneous independent measurements of Gas flows;

(ii) the physical substitution of the Primary Metering Equipment to be Verified with similar Metering Equipment having a demonstrated accuracy within the Prescribed Limits of Uncertainty; or

(iii) any Metering Equipment testing procedure complying with applicable Australian or International standards that the Parties agree in writing to use.

(c) Each Party may have representatives present at the time of any Verification of the Accuracy of any Primary Metering Equipment (unless the number of persons present must be restricted for safety or logistical reasons, in which case the Parties are to agree on which representatives are to be present), and Operator must give Shipper sufficient notice of an intended Verification to enable Shipper's representative to be present.

(d) The results of any Verification are binding on both Parties unless within 7 Working Days after a Verification either Party gives notice to the other Party that it disputes the conduct of the Verification, in which case:

(i) the provisions of clause 24 apply; and

(ii) any reference in this clause 15.11 to accuracy figures produced by a Verification means the accuracy figures finally determined for that Verification under a dispute resolution process adopted in accordance with clause 24.

(e) Subject to clause 15.11(f), any Verification under clause 15.11(a) is to be made at Shipper's expense, provided that Operator is to bear the cost of attendance of Operator's representatives.

(f) If a Verification requested by Operator under clause 15.11(a)(ii) reveals that the accuracy of the Primary Metering Equipment is within the Prescribed Limits of Uncertainty, the Verification is to be at Operator's expense and Operator must pay to Shipper Shipper's reasonable expenses of that Verification, in accordance with clause 20.

15.12 Adjustment or replacement of defective equipment

(a) Subject to clause 15.12(b), if any component of Primary Metering Equipment is at any time found to be defective or otherwise out of service or operating outside the Prescribed Limits of Uncertainty, Operator must at an Outlet Station and Shipper must at an Inlet Station (in either case at Shipper's expense) forthwith either:

(i) adjust it to read accurately within the Prescribed Limits of Uncertainty; or

(ii) if such adjustment is not possible, replace it with a serviceable component.

(b) If Primary Metering Equipment with a design maximum flow rate of less than 5 TJ/d is at any time found to be for any reason operating outside the Prescribed Limits of Uncertainty, Operator must at an Outlet Station and Shipper must at an Inlet Station (in either case at Shipper's expense) within 48 hours cause the Primary Metering Equipment to Operate within the Prescribed Limits of Uncertainty.

15.13 Inaccurate equipment

(a) If any Verification reveals that any Primary Metering Equipment is operating outside the Prescribed Limits of Uncertainty but is measuring the quantity of Gas with an inaccuracy of less than or equal to:

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

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

then the measurements from that Primary Metering Equipment shall be taken to be correct.

(b) If any Verification reveals that any Primary Metering Equipment is measuring the quantity of Gas with an inaccuracy of greater than the relevant limit prescribed by clause 15.13(a)(i) or 15.13(a)(ii) or agreed under clause 15.3(c), then (unless the Parties agree otherwise) all measurements affected or potentially affected by that inaccuracy are to be determined in accordance with clause 15.14.

(c) If the Parties have agreed under clause 15.3(c) to limits of uncertainty for a component or components of Primary Metering Equipment, then the Parties may agree to limits which are to apply in substitution for the limits prescribed in clauses 15.13(a)(i) or 15.13(a)(ii) for that Primary Metering Equipment, and clause 15.13(a) has effect accordingly.

15.14 Correction of measurements

(a) All measurements made prior to the Previous Verification shall be taken to be correct.

(b) The period between the Previous Verification and the Current Verification is to be divided into an earlier period and a later period, being:

(i) if the time at which the Primary Metering Equipment became Inaccurate can be established, respectively the period before and the period after that time; or

(ii) if the time at which the Primary Metering Equipment became Inaccurate cannot be established, 2 equal periods.

(c) The measurements produced by the Primary Metering Equipment for the earlier period shall be taken to be correct.

(d) The measurements for the later period are to be estimated:

(i) if Check Metering Equipment is installed and is established to the reasonable satisfaction of both Parties to have been operating during the later period within the Prescribed Limits of Uncertainty, by using the measurements recorded by that Check Metering Equipment;

(ii) if clause 15.14(d)(i) does not apply and if the percentage of error in the measurements is ascertainable to the reasonable satisfaction of both Parties by calibration test or mathematical calculation, by calculating a correction for that percentage error; or

(iii) in any other circumstance, by reference to measurements made under similar conditions when the Primary Metering Equipment was registering accurately.

(e) Following the correction of any measurements in accordance with this clause 15.14, the Parties will determine the relevant overpayment or underpayment that has resulted under this Contract from the measurement error and the appropriate Party shall make an adjusting payment to the other in accordance with clause 21.6.

15.15 Metering records

(a) Any record produced by Primary Metering Equipment:

(i) in paper form is to be retained for 2 years after the date of production; and

(ii) in electronic form is to be retained for 5 years after the date of production,

by and at the expense of the Party owning the equipment which produces the record.

(b) The records and other information produced by, and any calculations and other information derived from, any Primary Metering Equipment or Check Metering Equipment remain the property of the Party owning that equipment.

(c) Each Party must use reasonable endeavours to, within 20 Working Days after receipt of a request from the other Party, submit to the other Party its records and other information produced by its Primary Metering Equipment which solely relate to the other Party, for inspection and verification by that other Party and the other Party may make and return any copies of those records and other information and must return the originals within 10 Working Days of their receipt.

15.16 Unused outlet points

(a) If:

(i) Shipper has no Contracted Capacity at an outlet point; and

(ii) such point has not been used, or is, in Operator's opinion (acting reasonably and after consulting with Shipper), unlikely to be used, to Deliver Gas to Shipper for a period, in aggregate, greater than 12 continuous months,

then Operator may, at the cost of Operator, decommission, remove and deal with or dispose of as it sees fit (including selling for its own benefit) any part or the whole of that outlet point and any Associated Outlet Station. Upon the commencement of such decommissioning, such outlet point shall, subject to clause 15.16(b), cease to be an outlet point for the purpose of this Contract.

(b) If requested by Shipper, Shipper and Operator will discuss in good faith deferring the decommissioning of the outlet point and any Associated Outlet Station on the basis that Shipper will pay ongoing maintenance charges incurred by Operator in maintaining the outlet point and any Associated Outlet Station.

(c) If subsequent to the commencement of such decommissioning, Shipper wishes to use such point as an outlet point under this Contract, Shipper must give at least 10 months written notice to Operator and must fully indemnify Operator for all costs, losses, liabilities and expenses incurred by Operator in respect of such recommissioning of the point as an outlet point for the purposes of this Contract and in respect of recommissioning any Associated Outlet Station.

16. NOT USED

17. CURTAILMENT

17.1 Operator's obligations and Curtailment principles

(a) Operator must use its best endeavours to minimise the magnitude and expected duration of any Curtailment of the T1 Service.

(b) A Curtailment may affect one or more inlet points or outlet points on the DBNGP. Unless the Curtailment affects only one inlet point or outlet point, it is a System Curtailment.

(c) Curtailment occurs in two stages, although in some instances Operator will not need to move to the second stage:

(i) **Stage 1:** Operator identifies that a Curtailment is necessary and, acting as a Reasonable And Prudent Person, determines how much Capacity needs to be Curtailed. In most circumstances this will be a System Curtailment.

(ii) **Stage 2:** If it is necessary (at the same time or subsequently) for Operator to resolve incompatible demands by shippers for the use of a single inlet point or outlet point, Operator undertakes a Point Specific Curtailment at each such point.

(d) In a Curtailment, whether System Curtailment or in any Point Specific Curtailments, Contracted Capacity at a particular point (incumbent capacity) has priority for the use of that point above capacity relocated from another point for that Gas Day, unless the incumbent capacity has been fully curtailed by virtue of the application of the Curtailment Plan in a System Curtailment which affects a Curtailment Area greater than a Point Specific Curtailment.

17.2 Curtailment Generally

Operator may Curtail the provision of the Capacity Services to Shipper from time to time to the extent Operator as a Reasonable And Prudent Person believes it is necessary to Curtail:

(a) if there is an event of Force Majeure where Operator is the Affected Party;

(b) whenever it needs to undertake any Major Works;

(c) by reason of, or in response to a reduction in Gas Transmission Capacity caused by the default, negligence, breach of contractual term or other misconduct of Shipper;

(d) for any Planned Maintenance; and

(e) in circumstances where Operator, acting as a Reasonable And Prudent Person, determines for any other reason (including to avoid or lessen a threat of danger to the life, health or property of any person or to preserve the operational integrity of the DBNGP) that a Curtailment is desirable.

17.3 Curtailment without liability

(a) Subject to clause 17.3(b), Operator is to be liable to Shipper for Direct Damage caused by or arising out of a Curtailment or interruption of Shipper's T1 Service. For the avoidance of doubt the giving of a Curtailment Notice constitutes a Curtailment and the provision by Operator of Capacity equal to Shipper's reduced Contracted Capacity under clause 17.7(d) during the currency of the Curtailment Notice which gave effect to that reduced Contracted Capacity is a Curtailment for the purposes of this clause 17.3(a).

(b) Operator has no liability to Shipper whatsoever for a Curtailment under clause 17.2 in any of the following circumstances:

(i) where the duration of the Curtailment together with the aggregate duration of all other Curtailments of the T1 Service during the Gas Year does not cause the T1 Permissible Curtailment Limit to be exceeded;

(ii) where the Curtailment is in accordance with any of clauses 17.2(a), (b) or (c); or

(iii) where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment.

This clause 17.3(b) does not derogate from or limit in any way Operator's obligation under clause 17.1(a).

(c) The T1 Permissible Curtailment Limit means 2% of the time in the relevant Gas Year during the Period of Supply (regardless of the amount of Capacity Curtailed during the period of the Curtailment) except that:

(i) a Curtailment in circumstances set out in clauses 17.2(a), (b) or (c);

(ii) a circumstance where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment; and

(iii) a Curtailment pursuant to a Multi-shipper Agreement to the extent that such capacity would not have been Curtailed if the Curtailment Plan had been applied,

is not to be aggregated with other Curtailments in determining whether the accumulated duration of Curtailments in a Gas Year cause the T1 Permissible Curtailment Limit to be exceeded.

17.4 Refund of Capacity Reservation Charge

To the extent that Shipper's T1 Service is Curtailed for any reason other than:

(a) an event of Force Majeure where Shipper is the Affected Party; or

(b) a reason described in clause 17.2(c); or

(c) a circumstance where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment,

Shipper is entitled to a refund of the Capacity Reservation Charge in respect of the Capacity Curtailed for the relevant period.

17.5 Operator's rights to refuse to Receive or Deliver Gas

Subject to clauses 5.5 and 5.9, where Operator exercises its rights to refuse to Receive Gas or Deliver Gas under or in accordance with:

(a) clause 5.3 (Operator may refuse to Receive Gas);

(b) clause 5.7 (Operator may refuse to Deliver Gas),

such act is not to be regarded as a Curtailment for the purposes of clauses 17.3(b)(iii), 17.3(c)(ii) and 17.4(c).

17.6 Curtailment Notice

(a) Operator must give Shipper a notice (***Curtailment Notice***) setting out the matters referred to in clause 17.7(a) and the expected duration of an impending Curtailment and otherwise complying with this clause 17.

(b) Operator must use reasonable endeavours to give Shipper a Curtailment Notice a reasonable period in advance of the starting time of the Curtailment, and in any event (other than when due to Force Majeure or by reason of an emergency it is unable to do so) must give the Curtailment Notice at least one hour before the

starting time of the Curtailment. In the case of Major Works, reasonable notice is 90 days notice.

(c) Operator will send a copy of the Curtailment Notice in accordance with clause 29.1(a) and will also endeavour to telephone Shipper to advise that the Curtailment Notice has been or will be provided.

(d) Operator is not responsible for informing all affected Producers and downstream entities that relate to Shipper of the notification of the Curtailment or the Curtailment Notice.

(e) A Curtailment Notice under clause 17.6(a) must give the reasons for the Curtailment.

(f) Operator will, on a reasonable request by Shipper and within a reasonable time after the request is made, provide such information as is reasonably required to explain the issue of a Curtailment Notice.

17.7 Content of a Curtailment Notice

(a) A Curtailment Notice must specify the following details:

(i) the starting time of the Curtailment (which must not be any time before the Gas Day on which the Curtailment Notice is given), including the Gas Day or Gas Days to which the Curtailment Notice applies; and

(ii) the portion of Shipper's Contracted Capacity that is to be Curtailed.

(b) A Curtailment Notice:

(i) takes effect from the time specified in the Curtailment Notice;

(ii) may apply to the Gas Day on which the Curtailment Notice is issued even if, in order to comply with a Curtailment Notice, Shipper must use best endeavours to, and to procure persons to whom Shipper supplies Gas to, cease taking delivery of any Gas upon receipt of the Curtailment Notice in accordance with clause 17.8(a);

(iii) may be expressed to continue indefinitely or for a specified time;

(iv) may revoke, substitute or amend a previous Curtailment Notice;

(v) must not require Shipper to reduce its Receipt of Gas for the Gas Day as a whole to a level less than Shipper has already actually Received for the Gas Day before the Curtailment Notice takes effect (that is, the Curtailment Notice must not be impossible to comply with); and

(vi) does not retrospectively affect Shipper's compliance with Hourly Peaking Limits or Outer Hourly Peaking Limits prior to the time the Curtailment Notice is issued on the Gas Day (for which purposes Shipper's compliance with those limits for an hour is to be determined having regard to Shipper's Contracted Capacity at the commencement of the hour).

(c) Operator may at any time, whether or not it has specified in a Curtailment Notice an end time for a Curtailment, give notice to Shipper (in accordance with clause 29) wholly or partly terminating a Curtailment either immediately or from any time in the future.

(d) A Curtailment Notice constitutes a variation of this Contract while the Curtailment Notice is in force reducing Shipper's Contracted Capacity to the extent, and in accordance with the apportionment (if any), specified in the notice, except for the purposes of calculating the Charges payable by Shipper under clause 20 and for ascertaining whether Shipper has been Curtailed under this clause 17, for which purposes Shipper's Contracted Capacity remains as specified in the Access Request Form. Further, in respect of a particular shipper when calculating the amount of Total Contracted Capacity (either generally or in respect of a specific Capacity Service, inlet point or outlet point) the amount shall not include any Capacity Curtailed under clause 17.8 either generally or in respect of a specific

Capacity Service, inlet point or outlet point, and the material equivalent to such clause in any of the shipper's contracts for Capacity Service.

(e) If a Curtailment Notice takes effect before Shipper's next Nomination or Renomination under clause 8, Shipper's Daily Nominations are to be taken to be reduced (if a reduction is required) to the same amount of Capacity Service as Shipper is to have available under the Curtailment Notice given in respect of Shipper's Contracted Capacity.

(f) Shipper may not:

(i) Nominate or Renominate under clause 8 for Contracted Capacity; or

(ii) Deliver Gas to or Receive Gas from Operator,

in excess of whichever is the lower of:

(iii) its reduced Contracted Capacity because of clause 17.7(e); or

(iv) the quantity specified in a Curtailment Notice as the maximum quantity which Operator will Receive from, or Deliver to, Shipper.

17.8 Compliance with Curtailment Notice

(a) Where the Curtailment is a Point Specific Curtailment, Shipper must use its best endeavours to immediately, and must as soon as practicable and in any event must no later than one hour after receipt of the notice, comply, or procure compliance, with the requirements of a Curtailment Notice by:

(i) not Delivering any Gas at the inlet points; or

(ii) not Receiving any Gas delivered to Shipper at the outlet points,

in excess of the quantity specified for that inlet point or outlet point, as the case may be, in the Curtailment Notice.

(b) Where the Curtailment is not a Point Specific Curtailment, Shipper must comply, or procure compliance, with the requirements of the Curtailment Notice.

(c) If Shipper does not comply with the requirements of the Curtailment Notice in accordance with clause 17.8(a), Operator may take action to the extent necessary to give effect to the requirements set out in the Curtailment Notice, including refusing to Receive Gas from Shipper at an inlet point or refusing to Deliver Gas to Shipper at an outlet point.

(d) If Operator refuses to Receive or Deliver Gas under clause 17.8(c) in order to give effect to the requirements set out in a Curtailment Notice and Operator incidentally refuses to Receive or Deliver Gas in excess of the requirements of the Curtailment Notice (***Excess Curtailment***), to the extent that such Excess Curtailment occurred despite Operator acting as a Reasonable And Prudent Person in attempting to avoid or minimise (as the case may be) such Excess Curtailment is not to be regarded as a Curtailment under this Contract.

(e) If the Curtailment is a Point Specific Curtailment and Shipper Delivers Gas to Operator at an inlet point or Receives Gas from Operator at an outlet point in excess of the quantity specified in the Curtailment Notice for that inlet point or outlet point (as the case may be), then Shipper shall pay Operator an Unavailable Overrun Charge under clause 11 at the Unavailable Overrun Rate in respect of each GJ of Gas which Shipper's actual receipts or deliveries (or both) vary from those specified in the Curtailment Notice.

(f) Other than when due to Force Majeure or by reason of an emergency it is unable to do so, Operator is to give effect to a Curtailment by a Curtailment Notice instead of, or prior to, doing so physically under clause 17.8(c).

(g) Shipper is not liable to pay the Unavailable Overrun Charge under clause 17.8(e) in respect of a Gas Day in respect of which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate.

17.9 Priority of Curtailment

(a) Any Curtailment of Shipper's Total Contracted Capacity or Capacity under a Spot Transaction is to be conducted in accordance with the Curtailment Plan. In applying the Curtailment Plan in a Point Specific Curtailment or System Curtailment, a Type of Capacity Service will only be Curtailed once all Types of Capacity Services listed below it in that column in the Curtailment Plan have been reduced to zero.

(b) The general principle in clause 17.9(a) is subject to the following:

(i) Any Laws regulating the priority of Capacity Services (which for the purposes of this clause shall include capacity under a Spot Transaction) on the DBNGP.

(ii) Where the Curtailment is a Point Specific Curtailment, the Curtailment Plan will be subject to any Multi-shipper Agreement relating to that inlet point or outlet point.

(iii) Any Point Specific Curtailment of the Aggregated T1 Service is not a Curtailment for the purposes of this Contract and is not to be taken into account in determining whether Curtailments aggregated for a Gas Year cause the T1 Permissible Curtailment Limit to be exceeded to the extent that Shipper is entitled to give a Renomination Notice in respect of either of the following:

(A) (subject to clause 17.9(b)(iii)(B)) one or more inlet points or outlet points (as the case may be) where Shipper has unutilised Contracted Capacity for the T1 Service at that point , in which case the Curtailment will not be taken into account in respect of an amount of capacity up to Shipper's unutilised Contracted Capacity for the T1 Service at that or those inlet points or outlet points (as the case may be);

(B) one or more inlet points or outlet points (which may be points referred to in clause 17.9(b)(iii)(A) above) where Shipper can otherwise utilise Capacity.

(iv) If and to the extent that, because of the default, negligence, breach of contractual term, or other conduct of a shipper (in this clause 17.9(b)(iv) called the ***defaulting shipper***):

(A) a reduction in Gas Transmission Capacity is caused that makes necessary any Curtailment of the use of Gas Transmission Capacity by any shipper; or

(B) Operator is entitled to refuse to Receive Gas from or Deliver Gas to any shipper (or, if applicable, to Curtail the use of Gas Transmission Capacity by any shipper),

Operator must, to the extent that it is entitled to do so, wholly refuse to Receive Gas from or Deliver Gas to the defaulting shipper and must reduce the defaulting shipper's use of Gas Transmission Capacity of any kind (but only to the extent necessary to correct the default of the shipper) before it reduces any shippers' (other than the defaulting shipper's) use of Gas Transmission Capacity of any kind, and Operator is not liable to the defaulting shipper for any Direct Damage or Indirect Damage (whatsoever) arising from that Curtailment or refusal.

(v) To the extent that:

(A) the use of Gas Transmission Capacity by a particular shipper would, but for this clause 17.9(b)(v), be included in an apportionment of a Curtailment; and

(B) in the view of Operator (acting fairly and reasonably) the inclusion of that Gas Transmission Capacity would because of the location of the particular shipper's inlet point or inlet points or outlet point or outlet points in relation to the circumstances which gave rise to the need to Curtail be unlikely to wholly or partially reduce the need to Curtail any other shipper's use of Gas Transmission Capacity,

Operator may exclude that Gas Transmission Capacity from the apportionment of Curtailments (despite what would otherwise be Operator's obligation to include that Gas in the apportionment).

(vi) In a System Curtailment, where the Curtailment Plan is being applied to a Curtailment Area greater than a Point Specific Curtailment, Shipper's:

(A) Aggregated T1 Service which derives from Contracted Capacity for T1 Services at the Outlet Points located within the Curtailment Area shall, when the Curtailment Plan is applied to that Curtailment Area:

(1) not be included in the Aggregated T1 Service; and

(2) be included in the T1 Service,

available to Shipper in the Curtailment Area; and

(B) Aggregated T1 Service which derives from Contracted Capacity for T1 Services at any Outlet Point located outside the Curtailment Area shall, when the Curtailment Plan is applied to that Curtailment Area:

(1) be included in the Aggregated T1 Service;

(2) not be included in the T1 Service,

available to Shipper in the Curtailment Area.

However, nothing in this clause 17.9(b)(vi) affects a Stage 2 Curtailment of any incumbent Contracted Capacity remaining after a Stage 1 Curtailment.

(vii) Despite any provision of the Curtailment Plan or any contract, the Delivery of Gas to Shipper is at all times subject to Operator's absolute right to utilise part of the DBNGP's capability to transport Gas which is required by Operator for operational purposes in relation to the DBNGP.

(viii) Operator must enforce its rights under the Alcoa Exempt Contract in relation to allocating to, and Delivering to, Alcoa no more than Alcoa's Exempt Delivery Entitlement during a Curtailment, including taking the full benefit of any force majeure provisions of the Alcoa Exempt Contract when and to the extent that it is entitled to do so.

(ix) Nothing in this clause 17 limits or affects Operator's right to refuse to Receive or Deliver Gas under clauses 5.3 or 5.7.

(x) This clause 17 is subject to any contrary agreement reached between Shipper and other shippers as to the manner of treating Curtailments between them.

(c) (i) Subject to clauses (ii) and (iii) below, if when applying the Curtailment Plan there is insufficient relevant available capacity to allow all shippers their full Contracted Capacity in respect of a Type of Capacity Service for that Gas Day, then the capacity available for the Type of Capacity Service to each such shipper during a particular Gas Day during a Curtailment will (unless relevant shippers agree to the contrary) be calculated, from time to time by Operator acting in good faith, on the basis of the following:

Available Capacity x $\frac{A}{B}$

where:

Available Capacity = the total amount of relevant capacity which Operator (acting in good faith) deems to be available during the particular Gas Day during the Curtailment for the particular Type of Capacity Service;

A = the particular shipper's relevant Total Contracted Capacity (prior to any Curtailment) in respect of the particular Type of Capacity Service on that Gas Day (in the case of T1 Service only, less any of the shipper's relevant share of the Distribution Networks' IPQ which is to be transported using that T1 Service on that Gas Day); and

B = the aggregate of relevant Total Contracted Capacity (prior to any Curtailment) in respect of the particular Type of Capacity Service across all shippers on that Gas Day (in the case of T1 Service only, less the aggregate of the shippers' relevant shares of the Distribution Networks' IPQ which is to be transported using that T1 Service on that Gas Day)

(ii) If when applying the Curtailment Plan there is insufficient relevant available capacity to allow all shippers their relevant entitlement to a Type of Capacity Service being an Other Reserved Service or an Interruptible Service (other than capacity under a Spot Transaction), then the capacity available for the shipper for that Type of Capacity Service during the Curtailment will be determined by Operator acting as a Reasonable And Prudent Person.

(iii) Capacity under Spot Transactions which resulted from Daily Bids must be Curtailed with the lower priced Daily Spot Bid Price being Curtailed before the higher priced Daily Spot Bid Price.

17.10 Apportionment of Shipper's Curtailments

(a) Subject to clause 17.10(b), if Shipper has:

(i) Daily Nominations for a Capacity Service or otherwise has a right to Deliver Gas at more than one inlet point; Operator must apportion any refusals to Deliver Gas across those inlet points in the manner required by Shipper;

(ii) Daily Nominations for a Capacity Service or otherwise has a right to Receive Gas at more than one outlet point; Operator must apportion any refusals to Receive Gas across those outlet points in the manner required by Shipper; or

(iii) Contracted Capacity or Daily Nominations (or both) at more than one inlet point or outlet point; Operator must apportion any Curtailment of Shipper's Capacity Service at the inlet points or outlet points across those inlet points or outlet points in the manner required by Shipper, except in the case of Point Specific Curtailments.

(b) Operator is not required to make the apportionment referred to in clause 17.10(a) if:

(i) acting as a Reasonable And Prudent Person, Operator considers it is not Technically Practicable to do so;

(ii) acting as a Reasonable And Prudent Person, Operator considers the circumstances do not reasonably allow Operator to consult with Shipper as to the apportionment or wait for Shipper's response following such consultation; or

(iii) Operator has requested Shipper notify Operator of its apportionment, and Shipper has not done so by the end of the relevant Gas Day,

in which case Operator may apportion the refusal across the relevant inlet points or outlet points (as the case may be) in the manner it considers appropriate.

(c) Shipper may at any time and from time to time propose to Operator an apportionment mechanism which will operate as a standing requirement as to how Operator is to apportion any:

(i) refusals to Receive Gas across inlet points;

(ii) refusals to Deliver Gas across outlet points; or

(iii) Curtailments across inlet points and outlet points.

(d) Operator and Shipper must, in good faith, attempt to agree any apportionment mechanism for the purposes of this clause 17.10. If Operator and Shipper have not agreed an apportionment mechanism for the purposes of this clause 17.10 within 1 month from the date of Shipper's proposal, either Party may refer this Dispute to an Independent Expert under clause 24 as a Technical Matter.

(e) If Operator and Shipper have agreed an apportionment mechanism or an apportionment mechanism has been determined by an Independent Expert for the purposes of this clause 17.10, then Operator must apportion any:

(i) refusals to Receive Gas;

(ii) refusals to Deliver Gas; or

(iii) Curtailments,

in accordance with that mechanism.

18. MAINTENANCE AND MAJOR WORKS

(a) By 31 August of each Contract Year, Shipper may provide Operator with a schedule of events which Shipper, acting as a Reasonable And Prudent Person, believes may increase or reduce the Capacity it requires for certain periods during the 12 months starting the following 1 October (***Maintenance Year***) which sets out Shipper's best estimates of the amount and the expected duration of such increase or reduction.

(b) Within 30 days of receiving the schedule referred to in clause 18(a), Operator (acting as a Reasonable And Prudent Person) must in consultation with Shipper and other shippers schedule Major Works and Planned Maintenance for the DBNGP for the Maintenance Year (***Annual DBNGP Maintenance Schedule***), having reasonable regard to the periods during which Shipper's requirements for Capacity are reduced and Shipper's and other shippers' requirements generally.

(c) Operator will issue to all shippers who provided Operator with a schedule pursuant to clause 18(a) a copy of the Annual DBNGP Maintenance Schedule.

(d) At Shipper's request, Operator shall provide Shipper with its estimate of the Curtailment to Capacity available to Shipper on each day of the planned outages specified in the Annual DBNGP Maintenance Schedule.

(e) Operator to the extent practical will notify Shipper of changes to its schedule of Major Works and Planned Maintenance issued to shippers under clause 18(c).

(f) Operator must as a Reasonable And Prudent Person endeavour to:

(i) comply with the Annual DBNGP Maintenance Schedule; and

(ii) give Shipper as much advance notice as is reasonably practicable of any material departure from the Annual DBNGP Maintenance Schedule that is likely to affect Shipper.

(g) If Shipper is affected by any planned Curtailment arising out of any Planned Maintenance, or any Major Works, Operator must use endeavours which are reasonable in the circumstances to:

(i) consult with Shipper concerning the scheduling and duration of;

(ii) accommodate the needs of Shipper in scheduling; and

(iii) minimise the duration and impact of,

the Curtailment.

(h) Despite clause 18(b), but subject to clauses 18(f) and (g), Operator may determine the timing and extent of any Curtailment necessitated by Planned Maintenance or Major Works in its discretion.

19. FORCE MAJEURE

(a) A Party (the ***Affected Party***) is excused from performance of, and is not liable for any failure in carrying out any of its obligations under this Contract, to the extent that it is prevented from doing so by Force Majeure.

(b) Subject to clause 19(f), an obligation to pay money is not excused by Force Majeure.

(c) Without prejudice to Shipper's entitlement to a refund under clause 17.4 in circumstances where a Curtailment is other than as a result of an event of Force Majeure where Shipper is the Affected Party, Shipper is not relieved of its obligation to pay the Capacity Reservation Charge by the occurrence of an event of Force Majeure in respect of it however caused.

(d) If a Party claims the benefit of Force Majeure, it must:

(i) promptly give notice to the other Party of the occurrence and circumstances in which the claim arises;

(ii) use its best endeavours to remedy the consequences without delay; and

(iii) resume full performance of its obligations under this Contract as soon as reasonably practicable.

(e) Settlement of strikes, lock outs, stoppages and restraints of labour or other industrial disturbances are entirely within the discretion of the Party claiming the benefit of this clause and the Party may refrain from settling industrial disturbances or may settle them on any terms it considers to be in its best interests.

(f) Shipper is relieved from paying the Surcharges to the extent that it was unable to prevent such Surcharges accruing due to some event of Force Majeure affecting it.

(g) For the avoidance of doubt, the Parties acknowledge that lack of finances, lack of funds or access to funds, or inability to borrow funds shall not in any circumstances be an event of Force Majeure under this Contract.

20. CHARGES

20.1 Obligation to pay Charges

Shipper must pay the Charges and any other amounts payable under this Contract to Operator in the manner and at the times set out in this Contract, including the charges set out in clauses 20.2, 20.3 and 20.4 (inclusive). The Charges are to be invoiced and payable in accordance with clause 21.

20.2 Capacity Reservation Charge

(a) The Capacity Reservation Charge will be calculated for each Gas Day during the Period of Supply by multiplying the sum of Contracted Capacity for T1 Services at each Outlet Point by the T1 Capacity Reservation Tariff.

(b) Subject to clause 17.4, the Capacity Reservation Charge is payable for each Gas Day during the Period of Supply regardless of whether Shipper provides Gas at any inlet point and regardless of whether Shipper takes Gas at any outlet point.

20.3 Commodity Charge

The Commodity Charge will be calculated for each Gas Day during the Period of Supply by multiplying the T1 Commodity Tariff by each GJ of Gas Delivered to Shipper up to Contracted Capacity for T1 Services at all outlet points by Operator on that Gas Day.

20.4 Other Charges

(a) The following charges apply to this Contract:

(i) Excess Imbalance Charge (clause 9.5(e) and 9.6(b));

(ii) Hourly Peaking Charge (clauses 10.3(d) and 10.4(b));

(iii) Overrun Charge (clause 11.1(a));

(iv) Unavailable Overrun Charge (clauses 11.6 and 17.8(e)); and

(v) any charges or other sums payable under clauses 6.6,14.7, 15.11 or elsewhere in this Contract,

(together ***Other Charges***).

(b) The Parties agree that the Other Charges are genuine pre-estimates of the unavoidable additional costs, losses and damages that Operator will incur as a result of the conduct entitling such charges to be levied. Shipper will not be entitled to claim or argue (in any proceeding or otherwise), that any Other Charge is not a genuine pre-estimate of loss or damage that may be incurred by Operator or is otherwise a penalty or constitutes penal damages.

20.5 Adjustment to T1 Reference Tariff

(a) The T1 Reference Tariff at the commencement of the Access Arrangement Period is set out in Schedule 2.

(b) The T1 Reference Tariff shall be adjusted each year in accordance with the Access Arrangement until the Revisions Commencement Date, in accordance with CPI on the following basis:

$$\text{Tariff}_n = \text{Tariff}_b \times (\text{CPI}_n/\text{CPI}_b)$$

where:

Tariff_n= the adjusted T1 Reference Tariff;

$Tariff_b$= the T1 Reference Tariff as set out in Schedule 2 (unadjusted);

CPI_b means the CPI for the quarter ending on 30 September 2004; and

CPI_n means the CPI for the quarter ending on 30 September of the year before the year for which the T1 Reference Tariff is being adjusted.

(c) In the event that the Access Arrangement does not contain a Reference Service which is materially the same as the T1 Service then for the remaining duration of this Contract the T1 Reference Tariff shall be adjusted each year in accordance with clause 20.5(b) as if the words "until the Revisions Commencement Date" did not exist.

20.6 Goods and Services Tax

(a) Unless otherwise stated, all amounts payable or the value of other consideration provided in respect of the supplies made under this Contract are exclusive of GST.

(b) If a supply under this Contract is subject to GST then the recipient of the supply must pay, in addition to the other consideration payable or to be provided for the supply, an additional amount equal to the GST.

(c) Where any amount is payable to a Party as a reimbursement, indemnification or similar payment calculated by reference to a loss, cost, expense or any other amount incurred by that Party, then such amount shall be reduced by any part of that loss, cost expense or other amount which is attributable to GST for which that Party, or the representative member of any GST group of which that Party is a member, is entitled to an input tax credit.

(d) The additional amount payable under clause 20.6(b) shall be payable at the same time as the payment to which it relates is payable. Where any GST payable is not referable to an actual payment then it shall be payable within 10 days of a Tax Invoice being issued by the Party making the supply.

(e) Where in relation to this Contract a Party makes a taxable supply, that Party shall provide a Tax Invoice in respect of that supply at or before the time the payment to which the supply relates is payable.

(f) If a Party becomes aware of an adjustment event, that party agrees to notify the other Party as soon as practicable after becoming so aware, and the Parties agree to take whatever steps are necessary, including the issue of an adjustment note, 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 Supplier has satisfied itself that the adjustment event has occurred.

(g) If an amount is paid by a Party to the Contract as an additional amount under clause 20.6(b) and the amount of GST in not payable or the amount of GST is less than the additional amount paid, the payer shall be entitled to recover the amount paid from the Supplier by serving notice on the Supplier.

(h) This clause 20.6 will continue to apply after the expiration or termination of this Contract.

(i) For the purposes of this clause:

(i) ***GST*** means GST as that term is defined in the GST Law; and

(ii) the terms GST group, member, recipient, representative member, supply, consideration, input tax credit, taxable supply, adjustment, adjustment event and adjustment note have the same meaning as in the GST Law.

20.7 Other Taxes

If at any time during the Term:

(a) any Tax which was not in force as at the commencement of the Access Arrangement Period is validly imposed;

(b) the rate at which a Tax is levied is validly varied from the rate prevailing as at the commencement of the Access Arrangement Period; or

(c) the basis on which a Tax is levied or calculated is validly varied from the basis on which it is levied or calculated as at the commencement of the Access Arrangement Period,

(called the ***Tax Change***) then, to the extent that the Tax Change changes any costs incurred by Operator in performing its obligations under this Contract or otherwise affects the amounts payable under this Contract, Shipper must pay to Operator an amount equal to the increase in costs attributable to the Tax Change, or Operator must pay to Shipper an amount equal to the decrease in costs attributed to the Tax Change (as the case may be), which amount shall be added to amounts, or deducted from (as the case may be) otherwise due under this Contract.

21. INVOICING AND PAYMENT

21.1 Monthly payment of Capacity Reservation Charge

(a) Operator must, no later than 20 days before the start of a month, provide Shipper a Tax Invoice in respect of the Capacity Reservation Charges payable by Shipper for the following Gas Month under this Contract.

(b) Shipper must, no later than 3 days before the start of a month, pay to Operator in advance all Capacity Reservation Charges payable by it for the following Gas Month as specified in the Tax Invoice referred to in clause 21.1(a).

21.2 Monthly invoicing

Operator must, within 5 Working Days after the end of a month, provide Shipper a Tax Invoice or Tax Invoices for the Gas Month just ended showing:

(a) the quantity of Gas Delivered by Shipper at each inlet point and the quantity of Gas Delivered by Operator at each outlet point on each Gas Day in the month;

(b) the Commodity Charges for the month;

(c) all Other Charges payable for that month;

(d) any other amounts which under this Contract are payable in arrears or refundable for the month;

(e) any outstanding amounts (whether those amounts were originally payable in arrears or advance) from previous months and the interest payable thereon;

(f) in the case of the Tax Invoice for the final Gas Month in a Gas Year, any funds payable to Shipper for that Gas Year by reason of any Curtailment of Shipper's T1 Service; and

(g) such other information as may be agreed between the Parties.

21.3 Payment within 10 Working Days

Subject to clause 21.1(b), Shipper must, within 10 Working Days of receipt of a Tax Invoice, pay to Operator in the manner shown on the Tax Invoice all amounts shown on the Tax Invoice as payable under this Contract.

21.4 Default in payment

(a) If Shipper fails by the relevant due date to make full payment of any:

(i) Capacity Reservation Charge;

(ii) Commodity Charge;

(iii) Other Charges; or

(iv) any other amount or amounts payable by it under this Contract and shown on a Tax Invoice,

then, without prejudice to Operator's other rights and remedies under this Contract or in equity, Shipper must (unless Operator in its absolute discretion waives this requirement) pay interest on the unpaid amount (after as well as before judgment), calculated daily at the Prescribed Interest Rate from the due date until payment.

(b) The Prescribed Interest Rate calculated for a day from which interest is to be payable on an amount referred in clause 21.4(a) or clause 21.5 is to apply until payment of that amount, and is not to be recalculated despite any change in the Bank Bill Rate during that period.

(c) This clause 21.4 applies with appropriate changes to a default by Operator in paying or allowing any credit, rebate or other sum under this Contract.

21.5 Disputed Tax Invoices

(a) If Shipper disputes any amount or amounts set out in a Tax Invoice to be due or payable, then Shipper must pay the undisputed portion (if any) of the amount shown on the Tax Invoice in accordance with clause 21.3, and must, within 10 Working Days of the date of the Tax Invoice, give notice in writing to Operator that it disputes the amount or amounts and full details of the dispute.

(b) Any amount withheld by Shipper under this clause but subsequently found to have been payable is, without prejudice to Operator's other rights, to attract interest calculated daily at the Prescribed Interest Rate from 10 Working Days after the date of the Tax Invoice until payment. Shipper must pay any interest payable under this clause at the same time as it pays the amount withheld.

21.6 Correction of payment errors

(a) If a Party detects any underpayment or overpayment by a Party of any amount and clause 20.5(f) does not apply (including under clause 21.5), then the detecting Party must within a reasonable time give notice to the other Party of the underpayment or overpayment, and an adjusting payment is to be made by the appropriate Party within 10 Working Days of that notice, which adjusting payment is, without prejudice to the Parties' other rights, to attract interest calculated daily at the Prescribed Interest Rate from the date of underpayment or overpayment until payment.

(b) Subject to clauses 21.4 and 21.5, in circumstances where there has been an underpayment or overpayment to which clause 21.6(a) applies and the underpayment or overpayment did not result from a failure of the Party which is obliged to pay interest under clause 21.6(a) to perform its obligation under this Contract, the Prescribed Interest Rate for the purposes of clause 21.6(a) is to be the Bank Bill Rate plus an annual interest rate of 1 percent per annum.

22. DEFAULT AND TERMINATION

22.1 Default by Shipper

Shipper is in default under this Contract only if:

(a) Shipper defaults in the due and punctual payment, at the time and in the manner prescribed for payment by this Contract, of any amount payable under this Contract;

(b) Shipper defaults in the due and punctual performance or observance of any of the other covenants, agreements, conditions or other obligations contained in this Contract and such default is material in the context of the Contract as a whole;

(c) without Operator's prior consent, Shipper sells, parts with Possession of or attempts to sell or part with Possession of, the whole or a substantial part of its undertaking;

(d) Shipper suffers an Insolvency Event;

(e) there is any adverse change in the business or financial condition of Shipper or any event occurs which could, in the reasonable opinion of Operator, in any way jeopardise the ability of Shipper to meet its obligations to Operator under this Contract; or

(f) Shipper is found to be materially in breach of any warranty given to Operator in this Contract, or if any statement or representation made by any means or in any document by Shipper to Operator, is found to be false or misleading in any material particular,

and Shipper fails to remedy that event within the relevant period determined in accordance with clause 22.3(b) following the giving of a Shipper Default Notice by Operator.

22.2 Notice of Shipper's default

If an event referred to in any one or more of clauses 22.1(a) to 22.1(f) (inclusive) occurs, then Operator may give notice in writing by certified mail to Shipper specifying the nature of the default and requiring Shipper to rectify the default (***Shipper Default Notice***).

22.3 When Operator may exercise remedy

(a) Subject to clause 22.3(b), Operator may exercise a remedy under clause 22.4 at any time during which Shipper remains in default under this Contract.

(b) Shipper is not in default under this Contract and Operator may not terminate this Contract under clause 22.4(b) or commence the exercise of any remedy under clause 22.4(a):

(i) in respect of an event described in clauses 22.1(a), 22.1(d) or 22.1(e), unless it has given a Shipper Default Notice, and until 5 Working Days have elapsed after Shipper receives that Shipper Default Notice; and

(ii) in respect of an event described in clauses 22.1(b), 22.1(c) or 22.1(f), unless it has given a Shipper Default Notice and until 40 Working Days have elapsed after Shipper receives that Shipper Default Notice,

and the event has not been remedied within the relevant period specified in (i) or (ii) above.

(c) A default of the kind referred to in clause 22.1(d) will be deemed to be remedied when the relevant Insolvency Event is no longer continuing.

22.4 Remedies for Shipper's default

Subject to clause 22.3, if Shipper is in default under this Contract, then Operator may in its sole discretion:

(a) refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point until such time as:

(i) all amounts the failure to pay which constitutes the event described in clause 22.1(a), plus interest on those amounts at the Prescribed Interest Rate, have been paid in full; and

(ii) all other events described in clause 22.1 have been remedied, ceased or removed; or

(b) by notice in writing to Shipper terminate this Contract which termination takes effect immediately upon receipt of such notice.

22.5 Default by Operator

Operator is in default under this Contract only if:

(a) Operator repudiates, disclaims or defaults in the performance of, any obligation under this Contract and such repudiation, disclaimer or default is material in the context of the Contract as a whole; or

(b) an Insolvency Event occurs in respect of Operator,

and Operator fails to remedy that event within the relevant period determined in accordance with clause 22.7 following the giving of a Operator Default Notice by Shipper.

22.6 Notice of Operator's default

If an event referred to in clause 22.5 occurs, then Shipper may give notice in writing by certified mail to Operator specifying the nature of the default and requiring Operator to rectify the default (***Operator Default Notice***).

22.7 When Shipper may exercise remedy

(a) Subject to clauses 22.7(b) and 22.7(c), Shipper may exercise a remedy under clause 22.8 at any time during which Operator remains in default under this Contract.

(b) Operator is not in default under this Contract and Shipper may not terminate this Contract under clause 22.8:

(i) in respect of an event described in clause 22.5(a), unless it has given an Operator Default Notice, and until 40 Working Days have elapsed after Operator receives that Operator Default Notice; and

(ii) in respect of an event described in clause 22.5(b), unless it has given an Operator Default Notice, and until 5 Working Days have elapsed after Operator receives that Operator Default Notice,

and the event has not been remedied within the relevant period specified in (i) or (ii) above.

(c) A default of the kind referred to in clause 22.5(b) above will be deemed to be remedied when the relevant Insolvency Event is no longer continuing. A default of the kind referred to in clause 22.5(a) above that relates to the repudiation or disclaimer of a contract, agreement or deed will be deemed to be remedied when the relevant repudiation or disclaimer is no longer continuing.

22.8 Remedies for Operator's default

Subject in all cases to clause 22.7, if Operator is in default under this Contract and:

(a) Shipper elects to terminate this Contract in respect of a default described in clause 22.5(b), then Shipper may in its sole discretion by notice in writing to Operator terminate this Contract, which termination shall take effect at the start of the Gas Day immediately following Operator's receipt of the notice of termination; or

(b) Shipper elects to terminate this Contract in respect of a default described in clause 22.5(a), then Shipper may, in its sole discretion, by notice in writing to Operator terminate this Contract, which termination shall take effect at the time Shipper specifies in the notice of termination not exceeding 3 years after Operator receives the notice of termination.

22.9 Saving of other remedies

Except where expressly excluded or limited by this Contract, the right to terminate this Contract under this clause 22 is in addition to and is not in substitution for any other rights and remedies available to a Party, whether under any Law, or this Contract or in equity.

22.10 Effect of termination

(a) Termination of this Contract by Operator under clause 22.4(b) or Shipper under clause 22.8:

(i) does not prejudice the rights or remedies accrued to either Party at the date of termination or any of the provisions of clauses 17.2 or 17.3, clauses 23.1 to 23.7 (inclusive), and clause 29; and

(ii) subject to clause 22.10(b), relieves each Party of all further obligations under this Contract to the other Party.

(b) Termination of this Contract by Operator under clause 22.4(b) does not relieve Shipper of its obligations under this Contract to (subject to clause 22.10(c)) pay the Capacity Reservation Charges for the balance of the Period of Supply (but for the termination of this Contract) and to pay all amounts outstanding (and then due and payable) at the time of termination, and termination of this Contract by Shipper under clause 22.8 does not relieve Operator of its obligations to pay all amounts outstanding (and then due and payable) at the time of termination.

(c) Shipper is relieved of its obligation under clause 22.10(b) to continue to pay an amount if and to the extent that Operator subsequently enters into a contract for Capacity Services, and receives payment from Shipper or any other shipper for, some or all of the Contracted Capacity (***Terminated Capacity***) made spare by the termination of this Contract.

(d) For the purposes of clause 22.10(c), Terminated Capacity in any Capacity Service is to be assumed to be the last Capacity available to be committed under a contract for Gas Transmission Capacity, and any amounts received by Operator under such contract are to be assumed to be applied last to any Terminated Capacity committed under that contract.

23. LIABILITY

23.1 Liability for negligence and default limited to Direct Damage

Subject to the terms and conditions of this Contract, a Party who:

(a) is negligent; or

(b) defaults in respect of its obligations to the other Party under this Contract,

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

23.2 Liability for fraud

A Party who is fraudulent in respect of its obligations to the other Party under this Contract is to be liable to the other Party for, and is to indemnify the other Party against, any loss or damage caused by, consequential upon or arising out of the fraud and the exclusion of Indirect Damage in clause 23.3 shall not apply.

23.3 No liability for Indirect Damage

(a) Subject to clause 23.3(c), neither Party is in any circumstances to be liable to the other Party for any Indirect Damage, however arising.

(b) Subject to clause 23.3(c), Operator hereby releases Shipper from, and agrees to indemnify Shipper against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by Operator and Shipper hereby releases Operator from, and agrees to indemnify Operator against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by Shipper.

(c) Where this Contract states that "the exclusion of Indirect Damage in clause 23.3(a) does not apply", or words to the same effect, in relation to a matter, then:

(i) the exclusion of Indirect Damage in clause 23.3(a) and the release and indemnity in clause 23.3(b) do not apply in relation to that matter; and

(ii) the Parties' respective liability in relation to the matter is to be determined by Law, and to avoid doubt the definition of "Indirect Damage" in this Contract is to be disregarded for the purposes of that determination.

23.4 No liability arising out of any approval by Operator

Without limiting the generality of clause 23.3, Operator is not, except as provided in clauses 23.1 and 23.2, in any circumstances to be liable to Shipper for any Direct Damage or Indirect Damage arising out of any approval by Operator of any design, location or construction of, or proposed Operating or Maintenance procedures in relation to, any equipment, apparatus, machine, component, installation, cable, pipe or facility connected to, or adjacent to and associated with, the DBNGP.

23.5 Saving of contractual payments

Nothing in this clause 23 limits the liability of either Party to make all payments due under this Contract.

23.6 Shipper is responsible for its and its contractors' personnel and property

(a) Subject to clause 23.1, Shipper alone is liable for any:

(i) injury to or death of any person employed by Shipper or by any person (except Operator) contracting with Shipper; and

(ii) loss of or damage to any property of Shipper or of any person (except Operator) contracting with or employed by Shipper,

however caused, except to the extent this liability was contributed to by an act or omission of Operator or any person (except Shipper) contracting with Operator, or Operator's directors, servants and agents, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the DBNGP, or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to Shipper or where Operator's property or directors, servants, consultants, independent contractors or agents and Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.

(b) Shipper must indemnify Operator and any person (except Shipper) contracting with Operator, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 23.6(a).

23.7 Operator is responsible for its and its contractors' personnel and property

(a) Subject to clause 23.1, Operator alone is liable for any:

(i) injury to or death of any person employed by Operator or by any person (except Shipper) contracting with Operator; and

(ii) loss of or damage to any property of Operator or of any person (except Shipper) contracting with or employed by Operator,

however caused, except to the extent this liability was contributed to by an act or omission of Shipper or any person (except Operator) contracting with Shipper, or Shipper's directors, servants and agents, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the DBNGP or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to Shipper or where Operator's property or directors, servants, consultants, independent contractors or agents and Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.

(b) Operator must indemnify Shipper and any person (except Operator) contracting with Shipper, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 23.7(a).

23.8 Each limitation separate

Each limitation or exclusion created by this clause 23 and each protection given to Operator or Shipper or to their respective directors, servants, consultants, independent contractors and agents by this clause 23 is a separate limitation, exclusion or protection applying and surviving even if for any reason any provision of this clause 23 is held inapplicable in any circumstances.

24. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS

24.1 Method of Resolution

Any Dispute between the Parties must be resolved in accordance with the provisions of this clause.

24.2 Acknowledgment

The Parties acknowledge that, while Disputes may arise from time to time, their common intent is to ensure that any Dispute is resolved in a timely and cost effective manner.

24.3 Service of Notice

If a Dispute arises at any time which is between the Parties, then either Party may give the other Party a notice in writing which is dated, signed, and must specify the precise nature of the Dispute (***Dispute Notice***).

24.4 Meeting

Within 5 Working Days of service of a Dispute Notice, the Parties must meet and use all reasonable efforts to resolve the Dispute (by negotiation or otherwise).

24.5 Senior Officers

If the Dispute is not resolved within 10 Working Days after the meeting between the Parties under clause 24.4, the Parties must immediately refer the Dispute to their respective senior executive officers who must meet within 5 Working Days and use all reasonable efforts to resolve the Dispute.

24.6 Failure to Resolve Dispute

If the Parties are unable to resolve the Dispute in accordance with clause 24.5, and the Dispute is a Technical Matter or a Financial Matter (as those expressions are defined in clause 24.7), then either Party may require that the Dispute be determined by an independent expert (***Independent Expert***) under clauses 24.8, 24.9 and 24.10 and if the Dispute is not a Technical Matter or a Financial Matter then either Party may commence proceedings in a court of competent jurisdiction in Western Australia.

24.7 Technical and Financial Matters

In this clause 24:

(a) a ***Technical Matter*** means a matter involving issues relating to the receipt, transportation and delivery of Gas under this Contract which is capable of determination by reference to engineering or scientific knowledge and practice (including the grounds on which Operator has issued an Unavailability Notice); and

(b) a ***Financial Matter*** means a matter involving financial calculations which is capable of determination by audit or reference to financial or accounting records, knowledge or practice.

24.8 Appointment of Independent Expert

(a) The Party wishing to have the Dispute determined by an Independent Expert will give written notice to that effect to the other Party.

(b) The Parties will meet and use all reasonable endeavours to agree upon the identity of the Independent Expert, but if they are unable to agree within 10 Working Days of the notice, then either Party may refer the matter:

(i) if it is a Technical Matter, to the President for the time being of the Institute of Engineers, Australia;

(ii) if it is a Financial Matter, to the President for the time being of the Institute of Chartered Accountants in Australia; or

(iii) in either case, if the relevant body referred to in clause 24.8(b)(i) or 24.8(b)(ii) no longer exists, then to the President for the time being of such successor body or association as is then performing the function formerly carried out by the relevant body, or, if there is no successor body or association:

(A) in the case of a Technical Matter, to the President or Chairman for the time being or his/her nominee of a body representing engineers in the State; and

(B) in the case of a Financial Matter, to the President or Chairman for the time being or his/her nominee of a body representing chartered accountants in the State,

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

24.9 Expert not an Arbitrator

The Independent Expert appointed under clause 24.8:

(a) will act as an expert and not as an arbitrator;

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

(c) will not be a current or former employee or representative of, or a person who provides consultancy services on a regular basis to, a Party or to a Related Body Corporate of a Party; and

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

24.10 Representation, Evidence, Confidentiality, Powers and Costs

(a) Each Party may be legally represented at any hearing before the Independent Expert.

(b) Each Party will be entitled to produce to the Independent Expert any materials or evidence which that Party believes is relevant to the Dispute.

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

(d) The Independent Expert will not be bound by the rules of evidence and, subject to abiding by the rules of natural justice, the Independent Expert will have the power to inform himself or herself independently as to the facts to which the Dispute relates and to take such measures as he or she thinks fit to expedite the determination of the Dispute.

(e) Subject to the Independent Expert abiding by the rules of natural justice, the Independent Expert is to determine the procedures to be followed in resolving the Dispute (including whether or not any hearing will take place) and the Parties must co-operate promptly with those procedures, but the Independent Expert shall in any event:

(i) provide the Parties with a fair opportunity to make written submissions;

(ii) provide written reasons for the Independent Expert's determination; and

(iii) prior to handing down the determination, issue the determination in draft form to the Parties and allow the Parties an equal and fair opportunity to lodge written submissions concerning the proposed determination which the Independent Expert must consider before settling and handing down the Independent Expert's determination.

(f) (i) Subject to clause 24.10(f)(ii), all information, material and evidence obtained or made available in the course of or for the purpose of the determination will be kept confidential by the Independent Expert and all the Parties.

(ii) Clause 24.10(f)(i) does not apply if:

(A) all the Parties otherwise agree; or

(B) the disclosure is authorised by Law or the disclosure is required by or under a law of the State or the Commonwealth.

(iii) If either Party becomes legally compelled to disclose information, material or evidence obtained in the course of or for the purpose of the determination, that person must immediately provide the other Party with written notice so that the other Party may seek appropriate relief and may only disclose information, material or evidence which is legally required to be disclosed.

(iv) This clause does not make confidential, information, material or evidence which is in the public domain at the time it is obtained in the course of or for the purpose of the determination.

(v) The Parties acknowledge that damages are not a sufficient remedy for any breach of the obligations of this clause and both Parties are entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies available at Law or in equity.

(g) Subject to any time prescribed anywhere else in this Contract, the Independent Expert will make a determination on the Dispute within a reasonable period of his/her appointment.

(h) The determination of the Independent Expert:

(i) will be final and binding upon the Parties so far as the Law allows, except where a Party has been denied natural justice; and

(ii) will determine what, if any, adjustments may be necessary between the Parties.

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

(i) unless the Parties otherwise agree before the reference of the Dispute, the remuneration of the Independent Expert will be finally determined by the President for the time being of the appropriate body referred to in clause 24.8(b) who will have the power to fix the remuneration of the Independent Expert at the conclusion of the determination or, if requested by the Independent Expert, to determine a fair rate at which the Independent Expert will be remunerated at any time during the conduct of the determination process; and

(ii) unless the Parties otherwise agree, the Independent Expert will determine which Party will bear the costs of:

(A) the determination; and

(B) each Parties' own costs (including out of pocket costs) incurred in the preparation and presentation of any submissions or evidence to the Independent Expert,

and in what proportion, having regard to the degree to which he or she considers that Party was at fault or unreasonable in failing to agree to the matter under reference, and that Party will bear those costs accordingly.

24.11 Urgent Relief Condition Precedent to litigation

(a) A Party must not commence any proceedings before any court in respect of a Dispute which a Party requires to be determined by an Independent Expert under clause 24.6 unless the Dispute has first been referred to an Independent Expert and the Independent Expert does not determine the Dispute within 6 months of the date of the dispute being referred to the Independent Expert.

(b) Nothing in this clause 24.11 will preclude either Party from seeking any urgent interlocutory, injunctive or declaratory relief, or from commencing proceedings before any court to prevent its claim from being statute barred under the *Limitation Act 1935* (WA) or any other relevant statute of limitation.

25. ASSIGNMENT

25.1 No assignment except under this clause

Subject to this clause 25 and clause 27.1, neither Party may assign any right, interest or obligation under this Contract other than by way of a Bare Transfer in accordance with clause 27.1.

25.2 Charges

(a) A Party may without the consent of the other Party (but subject to all other necessary consents and approvals) charge in favour of any recognised bank or financial institution or a Related Body Corporate of the Party the whole or any part of its rights or interests under this Contract (including any right to receive money), provided that the chargee enters into a tripartite agreement with the other Party substantially in the form of Schedule 7. If Shipper is the Party charging its rights and interests under this Contract under this clause 25.2, the tripartite agreement in the form of Schedule 7 is to be modified in the manner necessary to change the charging Party from Operator to Shipper.

(b) The granting of a charge under this clause 25.2 does not constitute the assignment of a right, interest or obligation referred to in this clause 25.

25.3 Assignment

(a) A Party may assign all or part of its rights and interests under this Contract without obtaining the consent of the other Party where that assignment is to a Related Body Corporate provided that:

(i) such assignment does not release the assignor from liability; and

(ii) upon the assignee ceasing to be a Related Body Corporate of the assignor, the assignee must immediately transfer all of its rights and interests, under this Contract to the assignor.

(b) Subject to clauses 25.3(c), 25.3(d), and 25.4, either Party may, with the prior written consent of the other Party, which may not be unreasonably withheld or delayed, assign all or part of its rights, interests and obligations under this Contract to any person.

(c) Without limitation, Operator may withhold its consent to an assignment by Shipper if Operator reasonably considers that the proposed assignee is not in a position to meet Shipper's obligations under this Contract and will not provide, or undertake to provide, security for those obligations on terms and conditions acceptable to Operator, acting reasonably.

(d) Without limitation, Shipper may withhold its consent to an assignment of Operator's obligations under this Contract if Shipper reasonably considers that the proposed assignee does not have:

(i) contractual or ownership rights to access the DBNGP for the purposes of performing all of Operator's obligations under this Contract; or

(ii) financial capability and technical expertise to enable the assignee to effectively operate the DBNGP and to perform all of Operator's obligations under this Contract.

25.4 Assignment: deed of assumption

(a) A Party (in this clause 25.4 called the ***Assignor***) shall not assign all or part of its rights and interests under this Contract (other than by way of Bare Transfer in accordance with clause 27.1) without requiring the assignee to enter into a deed of assumption to the reasonable satisfaction of the other Party under which the

assignee assumes all, or the relevant portion, of the Assignor's obligations under this Contract.

(b) Upon the fulfilment of the relevant conditions specified in clause 25.3 and the entry into of a deed of assumption contemplated by clause 25.4(a), the Assignor shall be released from all future liability and obligations under this Contract to the extent that the assignee has agreed to perform them under the deed of assumption, but this release shall not apply to an assignment to a Related Body Corporate under clause 25.3(a) without the written consent of the other Party.

25.5 Pipeline Trustee's Acknowledgments and Undertakings

(a) The Pipeline Trustee in its capacity as trustee of the DBNGP Pipeline Trust (***Pipeline Trust***) undertakes to Shipper that the Pipeline Trustee assumes and shall duly and punctually observe, perform and discharge all of the obligations of Operator under:

(i) this Contract; and

(ii) any other contract with Shipper entered into by, or undertaking given in favour of Shipper by, Operator which requires the use or application of any asset owned by the Pipeline Trust, including the DBNGP, in order to be able to perform the contract or comply with the undertaking,

except to the extent that such obligations are observed, performed or discharged by Operator.

(b) The Pipeline Trustee, in its capacity as trustee of the Pipeline Trust, undertakes to Shipper, that if for any reason the DBNGP Operating Agreement is terminated, the Pipeline Trustee will assume and will duly and punctually observe, perform and discharge all obligations relating to the DBNGP (whether imposed on Operator or any other person) that would have been able, required or fallen to be observed, performed or discharged by Operator had the DBNGP Operating Agreement not been terminated.

(c) Shipper acknowledges and agrees that:

(i) the Pipeline Trustee's obligation is to comply with obligations under the contracts and undertakings referred to in clauses 25.5(a) and 25.5(b) (***Relevant Agreements***) to the same extent that Operator would have had to comply with those obligations under the Relevant Agreements;

(ii) any limitation on liability, exclusion of liability, excuse from performance (for example, force majeure), qualification on performance or protection contained in a Relevant Agreement for the benefit of Operator will also apply to the same extent for the benefit of the Pipeline Trustee in respect of its obligations under clauses 25.5(a) and 25.5(b); and

(iii) nothing in clauses 25.5(a) and 25.5(b) gives Shipper any greater right or remedy against the Pipeline Trustee arising from a failure to perform an obligation under a Relevant Agreement by the Pipeline Trustee than the right or remedy that Shipper would have been entitled to against Operator for that failure.

(d) The Pipeline Trustee represents and warrants that it is the legal owner of the DBNGP and owns the DBNGP in its capacity as trustee of the DBNGP Pipeline Trust.

(e) Other than to the extent relating to the transaction documentation entered into on or about the Capacity Start Date, the Pipeline Trustee shall not dispose of the whole or any part of its right, title or interest in the DBNGP without requiring the disponee to enter into a deed of assumption with Shipper to the reasonable satisfaction of Shipper pursuant to which it:

(i) assumes all, or the relevant portion, of the Pipeline Trustee's obligations under this Contract in respect of Shipper (and Shipper agrees that the

Pipeline Trustee will be released to the extent that the Pipeline Trustee's obligations are assumed); and

(ii) acknowledges that its obligations under such assumption of obligations extend to Operator's obligations under the Relevant Agreements,

consistent with this clause 25.5.

(f) Subject to clause 25.5(g), if the disponee is a subsidiary of or controlled by another company or another entity, its ultimate holding company (or if it is not a company, its ultimate controlling entity) must, in addition to the disponee, execute the deed of assumption in terms of clause 25.5(e).

In this clause 25.5, ***dispose*** means, in relation to the DBNGP, to sell, transfer, assign, grant an option over, create an encumbrance over, declare oneself a trustee of or part with the benefit or otherwise dispose of the DBNGP (or any interest therein) and includes a transaction which results in a person other than the Pipeline Trustee:

(i) acquiring any equitable interest in the DBNGP, including an equitable interest arising pursuant to a declaration of trust, an agreement for sale and purchase or an option agreement or an agreement creating a charge or other security in respect of the DBNGP; or

(ii) otherwise acquiring legal or equitable rights against the DBNGP which have the effect of placing the person in the same position as would exist if the person had acquired a legal or equitable interest in the DBNGP itself.

(g) If the disponee is a special purpose project vehicle or otherwise part of a project financed structure, the reference in clause 25.5(f) to an ultimate holding company or entity will be construed to be the company, or entity, (if any) within the relevant project structure most appropriate for providing support of the disponee. Nothing in clause 25.5(f) or this clause 25.5(g) requires a company or entity to enter into a deed of assumption which might create recourse beyond the project structure.

25.6 DBNGP Trustee Acknowledgments and Undertakings

(a) The DBNGP Trustee in its capacity as trustee of the DBNGP Trust (***DBNGP Trust***) undertakes to Shipper that the DBNGP Trustee assumes and shall duly and punctually observe, perform and discharge all of the obligations of Operator under:

(i) this Contract; and

(ii) any other contract with Shipper entered into by, or undertaking given in favour of Shipper by, Operator which requires the use or application of any asset owned by the DBNGP Trust in order to be able to perform the contract or comply with the undertaking,

except to the extent that such obligations are observed, performed or discharged by Operator.

(b) Shipper acknowledges and agrees that:

(i) the DBNGP Trustee's obligation is to comply with obligations under the contracts and undertakings referred to in clause 25.6(a) (***Relevant Agreements***) to the same extent that Operator would have had to comply with those obligations under the Relevant Agreements;

(ii) any limitation on liability, exclusion of liability, excuse from performance (for example, force majeure), qualification on performance or protection contained in a Relevant Agreement for the benefit of Operator will also apply to the same extent for the benefit of the DBNGP Trustee in respect of its obligations under clause 25.6(a); and

(iii) nothing in clause 25.6(a) gives Shipper any greater right or remedy against the DBNGP Trustee arising from a failure to perform an obligation under a Relevant Agreement by the DBNGP Trustee than the right or remedy that Shipper would have been entitled to against Operator for that failure.

(c) Other than to the extent relating to the transaction documentation entered into on or about the Capacity Start Date, the DBNGP Trustee shall not dispose of the whole or any part of its right, title or interest in the Pipeline Trust without requiring the disponee to enter into a deed of assumption with Shipper to the reasonable satisfaction of Shipper pursuant to which it:

(i) assumes all, or the relevant portion, of the DBNGP Trustee's obligations under this Contract in respect of Shipper (and Shipper agrees that the DBNGP Trustee will be released to the extent that the DBNGP Trustee's obligations are assumed); and

(ii) acknowledges that its obligations under such assumption of obligations extend to Operator's obligations under the Relevant Agreements,

consistent with this clause 25.6.

(d) Subject to clause 25.6(e), if the disponee is a subsidiary of or controlled by another company or another entity, its ultimate holding company (or if it is not a company, its ultimate controlling entity) must, in addition to the disponee, execute the deed of assumption in terms of clause 25.6(c).

In this clause 25.6, ***dispose*** means to sell, transfer, assign, grant an option over, create an encumbrance over, declare oneself a trustee of or part with the benefit or otherwise dispose of the Pipeline Trust (or any interest therein) and includes a transaction which results in a person other than the DBNGP Trustee:

(i) acquiring any equitable interest in the Pipeline Trust, including an equitable interest arising pursuant to a declaration of trust, an agreement for sale and purchase or an option agreement or an agreement creating a charge or other security in respect of the Pipeline Trust; or

(ii) otherwise acquiring legal or equitable rights against the Pipeline Trust which have the effect of placing the person in the same position as would exist if the person had acquired a legal or equitable interest in the Pipeline Trust itself.

(e) If the disponee is a special purpose project vehicle or otherwise part of a project financed structure, the reference in clause 25.6(d) to an ultimate holding company or entity will be construed to be the company, or entity, (if any) within the relevant project structure most appropriate for providing support of the disponee. Nothing in clause 25.6(d) or this clause 25.6(e) requires a company or entity to enter into a deed of assumption which might create recourse beyond the project structure.

25.7 Non complying assignment

Any purported sale, transfer or assignment (other than by way of a bare transfer in clause 27.1) in breach of the requirements of any of the provisions of this clause 25 is void ab initio.

25.8 Utilising other shippers' Daily Nominations

Neither clause 25.1 nor clause 27.2 prevent Shipper agreeing to utilize its Daily Nominations on behalf of an Other shipper or an Other shipper agreeing to utilize its Daily Nominations on behalf of Shipper.

~~26.~~ GENERAL RIGHT OF RELINQUISHMENT

26.1 Shipper may make Relinquishment Offer

(a) In addition to its rights under this Contract to relinquish Contracted Capacity in certain circumstances, Shipper may at any time offer to relinquish all or part of its Contracted Capacity by giving notice in writing to Operator (***Relinquishment Offer***).

(b) The Relinquishment Offer must specify the amount of Contracted Capacity under this Contract to be relinquished (***Relinquishable Capacity***) at an Inlet Point, and at an Outlet Point.

(c) The Relinquishment Offer may specify how a Relinquishment Acceptance is to apportion any Relinquished Capacity between Shipper's Contracted Capacities for each Period.

(d) A Relinquishment Offer, unless accepted under clause 26.3(a), has no effect on this Contract.

26.2 Withdrawal of Relinquishment Offer

Shipper may at any time before Shipper is given a Relinquishment Acceptance in relation to a Relinquishment Offer give notice in writing to Operator that it wishes:

(a) to withdraw that Relinquishment Offer; or

(b) to amend that Relinquishment Offer,

and that Relinquishment Offer is by force of this clause 26.2 withdrawn or amended, as the case requires, from the time when that notice is received by Operator.

26.3 Operator may accept Relinquishment Offer

(a) (i) Operator may at any time give notice in writing to Shipper accepting a Relinquishment Offer (***Relinquishment Acceptance***).

(ii) A Relinquishment Acceptance may be given in respect of all or part of the Relinquishable Capacity.

(iii) A Relinquishment Acceptance must not apportion Relinquished Capacity between Shipper's Contracted Capacity for each Period in a manner inconsistent with any specification under clause 26.1(d).

(b) A Relinquishment Acceptance must specify:

(i) the amount of Relinquishable Capacity that Operator has agreed to relinquish (***Relinquished Capacity***);

(ii) the changes to the Access Request Form which are required to give effect to the relinquishment of the Relinquished Capacity; and

(iii) the date the relinquishment is to take effect.

(c) Subject to clause 26.3(b), Operator's discretion in determining:

(i) whether or not to give a Relinquishment Acceptance;

(ii) in respect of how much of the Relinquishable Capacity to give a Relinquishment Acceptance; and

(iii) the order in which it accepts offers of relinquishment from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of T1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26,

is to be absolute and unfettered.

(d) Operator's discretion is not to be limited by:

(i) any circumstances of Shipper;

(ii) the current or projected level of utilization of capacity of the DBNGP;

(iii) the number or magnitude of current or anticipated offers of relinquishment from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of T1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26; or

(iv) the order in which offers of relinquishment are received by Operator from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of T1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26.

26.4 Effect of Relinquishment Acceptance

(a) Upon receipt by Shipper of a Relinquishment Acceptance, or a later date otherwise agreed by the Parties:

(i) Shipper's Contracted Capacity is amended in accordance with the Relinquishment Acceptance;

(ii) if, as a result of a reduction under clause 26.4(a)(i), Shipper's Contracted Capacity is reduced to zero, then this Contract is terminated; and

(iii) if the Relinquishment Acceptance is given in respect of:

(A) part only of the Relinquishable Capacity, the Relinquishment Offer remains in effect, subject to clause 26.2, in respect of the Relinquishable Capacity which has not become Relinquished Capacity; or

(B) all of the Relinquishable Capacity, the Relinquishment Offer ceases to have effect.

(b) Subject to clause 26.4(a)(ii), this Contract, as amended under clause 26.4(a)(i), remains in effect after receipt by Shipper of the Relinquishment Acceptance, and Operator is not obliged to release all or any part of any bond, deposit, security or other form of assurance provided by Shipper.

26.5 Notification of relinquishment of capacity by other shippers

If another shipper or shippers have rights of relinquishment of T1 Service under clauses materially equivalent to this clause 26, Operator must, whenever requested by Shipper to do so, provide Shipper, at Shipper's expense, with a statement of the current amount of capacity another shipper or shippers have offered to relinquish under clauses materially equivalent to this clause 26.

26.6 Administrative expenses

Shipper must, when requested by Operator to do so, reimburse Operator for all reasonable expenses incurred by Operator by reason of any:

(a) Relinquishment Offer;

(b) notice given under clause 26.2(a); or

(c) Relinquishment Acceptance.

27. TRADING OR TRANSFERRING CONTRACTED CAPACITY

27.1 Bare Transfers

Operator will permit a Bare Transfer of all or any part of a Shipper's Contacted Capacity in accordance with section 3.10 of the Code. For the avoidance of doubt, clause 25 and the remaining provisions in clause 27 will not apply to a Bare Transfer.

27.2 No transfer of Shipper's Contracted Capacity other than Bare Transfer than by this clause

(a) Subject to clause 27.1, Shipper may not Transfer any of its Contracted Capacity other than in accordance with this clause 27 (or clause 25 as the case may be).

(b) Neither clause 27.2(a) nor clause 25.1 prevent Shipper agreeing to utilize its Daily Nominations on behalf of an Other shipper or an Other shipper agreeing to utilize its Daily Nominations on behalf of Shipper.

27.3 Replacement Shipper must be a shipper or Approved Prospective Shipper

Shipper may Transfer Contracted Capacity only to a person who is, prior to the Transfer, an Other shipper or an Approved Prospective Shipper (***Replacement Shipper***).

27.4 Transfer of Capacity by Shipper - Approval of transfer terms

(a) If Shipper desires to transfer all or part of its Contracted Capacity to a Replacement Shipper for a duration less than or equal to the remaining duration of the Period of Supply, Shipper must, prior to transferring or agreeing to transfer that Contracted Capacity (***Tradeable Capacity***), make a written request to Operator for the approval of the Transfer of that Tradeable Capacity (***Request For Approval***).

(b) A Request For Approval must set out in detail the terms and conditions on which Shipper is prepared to Transfer the Tradeable Capacity to a Replacement Shipper, including:

(i) the duration of the Transfer;

(ii) the Inlet Point or Inlet Points and the Outlet Point or Outlet Points at which the Tradeable Capacity is to be Transferred;

(iii) the circumstances in which, and the terms on which, Shipper may interrupt a Replacement Shipper;

(iv) the quantity of Tradeable Capacity; and

(v) whether there are any rights reserved in respect of the Tradeable Capacity by Shipper.

(c) Shipper may retain a right in specified circumstances to Resume the Traded Capacity, either permanently or temporarily.

(d) Operator must, within 5 Working Days of receipt of the Request For Approval, notify Shipper that it either approves, or rejects, the Transfer Terms. Operator may reject the Transfer Terms if Operator as a Reasonable And Prudent Person considers for any reason that its operation of the DBNGP cannot accommodate:

(i) the Transfer of the Tradeable Capacity on the Transfer Terms; or

(ii) the performance of either or both of this Contract and the Replacement Contract following the Transfer of the Tradeable Capacity.

(e) Operator must not unreasonably withhold its approval of Transfer Terms if the Transfer is to an existing shipper who is not in default of any of its contracts for

Capacity Services and Spot Transactions and, Operator (acting as a Reasonable And Prudent Person) believes the DBNGP can accommodate:

(i) the Transfer of the Tradeable Capacity on the Transfer Terms; and

(ii) the performance of either or both of this Contract and the Replacement Contract following the Transfer of the Tradeable Capacity.

(f) If Operator does not notify Shipper that it rejects the Transfer Terms in the terms and within the time stipulated in clause 27.4(d), then the Transfer of the Tradeable Capacity on the Transfer Terms shall be taken to have been approved by Operator.

(g) If:

(i) Operator notifies Shipper that it approves the Transfer of the Tradeable Capacity; or

(ii) Operator is taken to have approved the Transfer of the Tradeable Capacity,

(in either case ***Approved Tradeable Capacity***) on the Transfer Terms, then (subject to clause 27.6) Shipper may Transfer the Tradeable Capacity to a Replacement Shipper on those terms.

27.5 Posting of Tradeable Capacity

(a) Operator must, if requested by Shipper, use reasonable endeavours to ensure that all other shippers of which Operator is aware who are or may be interested in taking a Transfer of Tradeable Capacity are notified of details of Approved Tradeable Capacity in such a way that they all receive notice (by the CRS or otherwise) at approximately the same time as Operator makes available to the shippers any bulletin dealing with the amount of Capacity available for Nomination or Renomination on a Gas Day.

(b) Operator must provide a statement of the current details of all other shippers' Approved Tradeable Capacity at Shipper's request.

27.6 Notification of traded capacity

Shipper is to notify Operator of a Transfer of Approved Tradeable Capacity to a Replacement Shipper at least 2 Working Days before the Transfer of Approved Tradeable Capacity is to take effect.

27.7 Replacement Contract

(a) A Transfer of Approved Tradeable Capacity to a Replacement Shipper shall be taken to be a contract between Operator and the Replacement Shipper in respect of the Approved Tradeable Capacity.

(b) A Replacement Contract is governed by the terms and conditions of this Contract only so far as is necessary to accommodate the Transfer Terms.

(c) A Replacement Contract shall include a provision that the Traded Capacity is subject to all Operator’s rights over that Traded Capacity under this Contract.

(d) Prior to Operator exercising any rights to terminate the Replacement Contract as a result of the Replacement Shipper's default, Operator must give at least 5 Working Days notice to Shipper specifying the nature of the default, and Operator must not terminate the Replacement Contract if within that period Shipper:

(i) cures the default; or

(ii) resumes the Tradeable Capacity (having cured the default).

27.8 Shipper's Contract

(a) Subject to this clause, this Contract remains in full force and effect following any Transfer of Traded Capacity and Operator is not obliged to release any deposit, bond, security or other form of assurance provided by Shipper.

(b) For the duration of the Replacement Contract, this Contract shall be taken to be amended so that Shipper's Contracted Capacity in respect of the relevant inlet point or inlet points or outlet point or outlet points is reduced by the amount of the Traded Capacity.

27.9 Resumption of Traded Capacity by Shipper

(a) If Shipper wishes to exercise a right under the Transfer Terms to resume the Traded Capacity, Shipper must give a Resumption Notice to Operator and the Replacement Shipper, specifying the amount of Capacity Resumed and the duration of the Resumption.

(b) Operator, on receipt of a Resumption Notice, must as soon as practicable confirm to Shipper and the Replacement Shipper that the Capacity has been Resumed.

(c) In any proceedings brought against Operator in relation to a Resumption, a Resumption Notice is conclusive proof of the validity of its issue and of its contents.

(d) To the extent that a Resumption Notice is invalidly issued or a purported Resumption is not authorised by the Transfer Terms, a Replacement Shipper's remedy lies against Shipper.

(e) For the duration of a Resumption, this Contract and the Replacement Contract shall be taken to be amended to the extent necessary to reflect the Resumption of Traded Capacity and the duration and terms of that Resumption.

(f) Traded Capacity which is resumed by Shipper, or Capacity which is otherwise transferred or reverts to Shipper, is to be subject to the terms of this Contract and treated as the same Capacity Service that applied prior to its Transfer, regardless of the terms applying to it prior to the resumption.

27.10 Administrative expenses

Shipper must, when requested by Operator, reimburse Operator for all reasonable expenses incurred or suffered by Operator by reason of the Request For Approval and any Resumption.

27.11 Further marketing service

(a) Operator may, if requested by Shipper, to the extent that it considers it practicable and prudent to do so, take steps to market (as a broker, but not as a buyer and reseller) Tradeable Capacity in ways other than the posting contemplated by clause 27.5.

(b) Operator and Shipper may agree on the remuneration of Operator in respect of any additional marketing service Operator agrees to provide, and Operator may refrain from providing that additional marketing service until such agreement is reached.

27.12 Relinquishment

(a) Where under this Contract Shipper has given a Relinquishment Notice or a notice indicating that it wishes to relinquish capacity, Operator may request that Shipper instead Transfer the relevant capacity to a third party specified by Operator in the request in accordance with this clause 27.

(b) Operator must procure that the specified third party releases and indemnifies Shipper from any liability which Shipper may incur arising out of the Transfer.

(c) If Operator makes a request under clause 27.12(a), and the third party releases Shipper from liability in accordance with clause 27.12(b), then:

(i) Shipper must comply with that request; and

(ii) Shipper is not required to make a Request For Approval under clause 27.4(a) in connection with the Transfer of the relevant capacity to the specified third party and Operator will be deemed to have approved the Transfer; and

(iii) Shipper will (and Operator will procure the third party to) execute all documents and do all other things reasonably requested of it to give effect to the Transfer contemplated by the request; and

(iv) Shipper will not retain the right to Resume the relevant capacity; and

(d) Operator must reimburse Shipper for all reasonable expenses incurred or suffered by Shipper by reason of the request.

28. CONFIDENTIALITY

28.1 Confidential Information

(a) Subject to clauses 28.2 and 28.3, each Party shall keep the terms and conditions of this Contract, and all information specifically relating to or provided pursuant to or in accordance with this Contract or in the negotiations leading to the execution of this Contract (***Confidential Information***), confidential.

(b) To avoid doubt Confidential Information includes all information received by Operator in the Operation of the DBNGP which relates to Shipper, the disclosure or misuse of which might reasonably be expected to materially affect Shipper's commercial interests, including information relating to Shipper's gas flows and flow rates, billing, and Shipper's maintenance schedules and plant availability.

(c) A reference in this clause 28 to information being **disclosed** to or **received** by a Party, includes information being communicated to or created, ascertained, discovered or derived by it or on its behalf.

28.2 Exceptions to Confidentiality

Either Party may disclose Confidential Information which:

(a) at the time when it is disclosed to the Party, is publicly known;

(b) subject to clauses 28.4 and 28.5, at the time when it is disclosed to the Party, is already known to the Party through some independent means not involving breach of any confidentiality undertaking owed pursuant to clause 28.1, and which the Party can prove by prior or contemporaneous written documentation was already known to it at the time of disclosure (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality);

(c) after the time when it is disclosed to the Party, comes into the public domain otherwise than as a result of any breach of the confidentiality undertaking owed pursuant to clause 28.1;

(d) subject to clauses 28.4 and 28.5, the other Party acquires from a source other than that Party or any Related Body Corporate or representative of that Party where such source is entitled to disclose it and such disclosure is not subject to confidentiality restrictions under this Contract;

(e) that Party is required by the ASX, court order, Law, the Regulator, or requested by the ACCC to disclose, and in such cases, the disclosing Party shall promptly notify the other Party of that requirement or request (as the case may be);

(f) is necessary in relation to any discovery of documents, or any proceedings before a court, tribunal, ACCC, other governmental agency or stock exchange, and in such cases, the disclosing Party shall promptly notify the other Party of that requirement;

(g) with the consent of the other Party and subject to any conditions of that consent;

(h) it is necessary or convenient in relation to any notification by the Shipper to ACCC or ERA under clause 28.7;

(i) is required by Law or any governmental agency or stock exchange to be disclosed in connection with the issue of securities or financial products by a Party, a Related Body Corporate of a Party, the Diversified Utility and Energy Trust No 1 and No 2 or the POWERS Trust, or any funding vehicle of any of those parties; or

(j) comprises the terms of Operator's Standard Shipper Contract.

28.3 Permitted Disclosure

(a) Either Party may disclose Confidential Information to:

(i) subject to clauses 28.4 and 28.5, its, and its Related Bodies Corporate's, employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers (and for the purpose of this clause 28.3(a) Alcoa, Alinta Limited and System Operator are to be considered Related Bodies Corporate of Operator); and

(ii) subject to clauses 28.4 and 28.5, a bona fide proposed or prospective transferee (and their employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial advisers, Related Entities, co-bidders or bid consortium members and actual or proposed joint venturers) of:

(A) a 20% or more legal or equitable interest in a relevant part or the whole of a Party's business;

(B) a 20% or more legal or equitable interest in any property to which the information relates;

(C) 20% or more of the shares in a Party; or

(D) 20% or more (by value) of the shares or units (or both) in a company or trust (or both) which, directly or indirectly, controls (as that term is defined in the Corporations Act) a Party,

to the extent those persons have a need to know the Confidential Information.

(b) Nothing in this clause 28.3 permits disclosure by Operator or System Operator, or by a person or persons to whom Confidential Information from Operator or System Operator has been disclosed under this clause 28, to:

(i) any person who is directly involved in:

(A) the distribution of Gas to customers through the Western Australia – Natural Gas Distribution System as that term is used in the National Third Party Access Code for Natural Gas Pipeline Systems (as amended from time to time);

(B) the retailing of Gas within Western Australia;

(C) the generation or sale of electricity in Western Australia;

(D) contracting for Capacity on the DBNGP; or

(E) the management of the activities referred to in the preceding paragraphs (A) to (D); or

(ii) such person's employees, officers, agents, contractors, consultants and technical advisers who are themselves directly involved in any of the activities described in clause 28.3(b)(i),

except to the extent that such person is:

(iii) the System Operator and requires the disclosure of information to it by Operator or by it to enable it to perform its obligations to Operator under the relevant operating and maintenance services contract (provided that at no time may the System Operator or its employees, officers, agents, contractors, consultants and technical advisers (which, without limiting clauses 28.4 and 28.5, does not include Alinta Limited to the extent it provides corporate and other head office services to the System Operator) be directly or indirectly involved in anything listed in clauses 28.3(b)(i)(B), (C) or (D) or clause 28.3(b)(i)(E) to the extent it relates to clauses 28.3(b)(i)(B), (C) or (D));

(iv) a director or senior manager of Alcoa or Alinta Limited, or any of their Related Bodies Corporate through which they have a direct or indirect equity interest in the DBNGP, and requires the disclosure of information in connection with the management of their respective equity interests in the DBNGP; or

(v) a senior manager of Alcoa or Alinta Limited, or any of their Related Bodies Corporate, who:

(A) is a director of Operator or its Related Bodies Corporate, or of System Operator; or

(B) by virtue of his or her duties as a senior manager is required to assist a director under clause 28.3(b)(iv),

which disclosure under clauses 28.3(b)(iii), (iv) and (v) is, subject to clauses 28.4 and 28.5, permitted in accordance with the provisions of this clause 28.3.

(c) Any Party seeking to disclose information under clause 28.3(a)(ii) must:

(i) seek the consent of the other Party as to the protocols, arrangements and agreements which will govern the disclosure of the information and the prevention of further disclosure of the information, which consent is not to be unreasonably withheld or unreasonably delayed; and

(ii) consult with the other Party to ascertain whether there is any commercially sensitive information which may not be disclosed at all or may only be disclosed on terms and conditions agreed between the Parties, and must give effect to the reasonable requirements of the other Party in these respects.

28.4 Disclosure by recipient of Confidential Information

(a) Any Party disclosing information under clauses 28.2 or 28.3 must ensure that persons receiving Confidential Information from it, or from any person or persons to whom the Confidential Information has been disclosed, do not:

(i) disclose the information except in circumstances permitted in clauses 28.2 or 28.3 (as the case may be); and

(ii) use the information except in the circumstances permitted by clause 28.5.

(b) If Operator and System Operator disclose information to a person under clauses 28.3(b)(iii), (iv) or (v), then Operator must ensure that (unless in the circumstances of a particular case it is not possible to do so) the information is disclosed in a manner which minimises the disclosure of the Confidential Information referred to in clause 28.1(b), including by one or more of aggregating the information with like information from other shippers, presenting it in summary form, or presenting it (so far as is practicable) in a form which does not identify it as relating to Shipper.

28.5 Use of Confidential Information

A Party who has received Confidential Information from another under this Contract must not use it, and a Party who has disclosed Confidential Information to a person under clause 28.3 must procure that that person, and any person or persons to whom the Confidential Information is subsequently disclosed, does not use it, except for the purpose of exercising the Party's rights or performing the Party's obligations under this Contract or as otherwise contemplated under this Contract, with the exception of those persons set out in clause 28.3(a)(ii), who must not use the Confidential Information received from another under this Contract except for and in relation to assessing the value of, and preparing a bid for, the relevant interest under clause 28.3(a)(ii) that is proposed to be acquired and who must comply with the protocols, arrangements and agreements agreed under clause 28.3(c)(i).

28.6 Information received by Operator

(a) Operator must develop, prior to March 2006, and thereafter implement and enforce, policies and procedures to:

(i) give effect to its obligations under:

(A) clauses 28.3(a)(i), 28.3(b), 28.6(a), 28.6(b) or 28.6(c); and

(B) clauses 28.4 and 28.5 to the extent related to disclosure under clauses 28.3(a)(i), 28.3(b) or 28.6(b); and

(ii) subject to clause 45, ensure that all shippers are treated equally and fairly,

and must procure that its direct and indirect shareholders, service providers (including the System Operator) and all Related Bodies Corporate of these entities comply with those policies and procedures and with the Law.

(b) Operator recognises that information received by its personnel or by System Operator's personnel (which expression includes Operator's and System Operator's employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers), including general operational and gas flow information, is commercially sensitive and Operator undertakes that, in addition to the obligations under clauses 28.1 and 28.5, such Confidential Information will only be distributed by the control room personnel of Operator or System Operator, as the case may be, to other individuals within Operator, or System Operator, to the extent that those other individuals have a bona fide need to receive that Confidential Information for the purposes of Operating the DBNGP. Operator must procure that any Confidential Information distributed under this clause 28.6 is only used for the purpose for which it was distributed.

(c) Operator must make available to Shipper upon request a copy of the policies and procedures developed and implemented under clause 28.6(a). Despite this clause 28, Shipper may in any submissions to the ERA or the ACCC disclose this clause 28 and the policies and procedures developed and implemented under clause 28.6(a).

(d) Nothing in clause 28.6(c) requires Operator to consult with Shipper regarding, or to seek Shipper's agreement with, any policies and procedures developed and implemented under clause 28.6(a).

28.7 Breach by Operator

(a) Shipper will notify Operator immediately if it has evidence able to be substantiated of a breach by Operator, or any party for whom Operator is responsible under this clause 28, of any of:

(i) clauses 28.3(a)(i), 28.3(b), 28.6(a), 28.6(b) or 28.6(c);

(ii) clauses 28.4 or 28.5 to the extent related to disclosure under clause 28.3(a)(i), 28.3(b) or 28.6(b); or

(iii) the policies or procedures referred to in clause 28.6(a),

(each a ***Relevant Breach***).

(b) Within 30 days after receipt of a notice under clause 28.7(a), Operator must:

(i) notify Shipper as to whether or not it agrees that a Relevant Breach has occurred; and

(ii) if it agrees that a Relevant Breach has occurred, specify the manner in which Operator proposes to address the breach and ensure that it is not repeated and if applicable make a proposal of compensation for Shipper's loss (which proposal must take into account the fact that the exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under clauses 28.7(c) and 28.7(e)).

(c) If Operator does not agree that a Relevant Breach has occurred, or if Operator's response under clause 28.7(b) does not resolve the matter to Shipper's reasonable satisfaction or include a proposal of compensation acceptable to Shipper acting reasonably, or if Operator does not respond within the time required by clause 28.7(b), Shipper may notify the ACCC. If the ACCC confirms that there was a Relevant Breach of this clause 28, Shipper may then pursue any other remedies under this Contract or at Law against Operator, including seeking any loss or damage arising in respect of the Relevant Breach. The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under this clause 28.7(c).

(d) If, following notification from Shipper to ACCC under clause 28.7(c), the ACCC does not resolve the matter to Shipper's reasonable satisfaction within 30 days after Shipper notified the ACCC, Shipper may notify the ERA.

(e) If, following notification from Shipper to ERA under clause 28.7(d), the ERA confirms that there was a Relevant Breach of this clause 28 or does not resolve the matter to Shipper's reasonable satisfaction within 30 days after Shipper notified the ERA, Shipper may then pursue any other remedies under this Contract or at Law against Operator, including seeking any loss or damage arising in respect of the Relevant Breach. The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under this clause 28.7(e).

(f) If Shipper considers that a breach of this clause 28 has occurred by Operator or any party for whom Operator is responsible under this clause 28 but Shipper does not have evidence of such breach, then Shipper may notify Operator.

(g) Within 30 days after receipt of a notice under clause 28.7(f), Operator must:

(i) notify Shipper as to whether or not it agrees that a breach has occurred; and

(ii) if it agrees that a breach has occurred, confirm the manner in which Operator proposes to address the breach and ensure that it is not repeated.

(h) If Operator's response under clause 28.7(g) does not address Shipper's concern to Shipper's reasonable satisfaction, Shipper may notify the ERA.

(i) Following notification under clause 28.7(h), if the ERA determines that there was a breach of this clause 28 it may suggest an appropriate remedy, however the Parties agree that Operator is not liable to Shipper for any damages in these circumstances.

(j) The procedures outlined above represent the sole and exclusive means by which Shipper may obtain damages in relation to such breaches or alleged breaches by Operator. No right of termination arises for a Relevant Breach. This clause 28.7(j) does not limit clause 28.11.

(k) If, and for so long as, either or both of the ERA and the ACCC are unable to accept the role intended for them under this clause 28.7, the Parties agree that the references to the ERA or ACCC, as applicable, will be deemed to be to an Independent Expert under clause 24 and the provisions of clause 24 will apply subject only to the following modifications:

(i) the matter will be considered a Technical Matter;

(ii) the appointing authority in clause 24.8(b)(i) will be the Chairman for the time being of the ERA or, if he or she fails or declines to make the appointment within 10 days of being asked to do so, the President for the time being of the Institute of Chartered Accountants Australia; and

(iii) the following will be added to clause 24.10(g): "and the Independent Expert must, and the Parties must assist as applicable to, make a determination within 30 days of his appointment.".

(l) The Parties agree to cooperate to make submissions to the applicable person or body to seek the conferral of the relevant power on the ERA or ACCC, as applicable, in order that they may accept the role intended for them under this clause 28.7.

28.8 Publicity

A Party may not make press or other announcements or releases relating to this Contract and the transactions the subject of this Contract without the approval of the other Party as to the form and manner of the announcement or release (which approval shall not be unreasonably withheld or delayed) unless and to the extent that the announcement or release is required to be made by the Party by Law or by a stock exchange. This clause 28.8 does not apply:

(a) if the second Party unreasonably delays or withholds approval; or

(b) to the extent that the proposed announcement or release relates to a matter regarding which the Parties are in a bona fide dispute or disagreement.

Nothing in this clause 28.8 authorises the disclosure of Confidential Information.

28.9 No disclosure of terms of this Contract

Except as otherwise agreed or duly required by Law or any regulatory authority, no Party will disclose the terms of this Contract to any person other than pursuant to clauses 28.2(d) to 28.2(f) and 28.3.

28.10 Audit

Operator will procure that, in accordance with the undertakings to the ACCC under section 87B of the *Trade Practices Act 1974* (***Undertakings***) by Alcoa, Alinta Limited, Alinta Network Services Pty Ltd, AMPCI Macquarie Infrastructure Management No 1, AMPCI Macquarie Infrastructure Management No 2 and DBNGP Holdings Pty Limited on 22 October 2004, an independent audit is undertaken in relation to compliance with the Undertakings.

28.11 Remedies

The Parties acknowledge that damages are not a sufficient remedy for any breach of the obligations of this clause 28 and both Parties are entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies available at Law or in equity.

28.12 Survival

This clause 28 survives termination (for whatever reason) of this Contract.

29. NOTICES

29.1 Notices for nominations, Curtailment, unavailability, balancing, Out-Of-Specification Gas and capacity trading

(a) Subject to clause 29.1(b), all Curtailment Notices and Unavailability Notices and notices under clauses 7.5 and 17.6(a) must be communicated by facsimile to the facsimile number, until further notice is given under clause 29.3(c), set out in the Access Request Form.

(b) Operator and Shipper may agree on an alternative means for communication of the notices specified in clause 29.1(a), in which case the notices must be communicated using that alternative method.

(c) Until Operator and Shipper agree an alternative method of communication under clause 29.1(b), Operator and Shipper must each install and maintain a dedicated facsimile machine on a separate facsimile number for the purposes of clause 29.1(a), and from time to time either Party may advise the other Party in writing of a new facsimile number which is to take effect in substitution for the number set out in this clause 29.1.

29.2 The CRS

(a) Subject to clauses 29.2(b) and 29.2(c), Accumulated Imbalance Notices, Resumption Notices and all notices under clause 8 (Nominations) may be provided through the CRS.

(b) If at any time and for any reason the CRS fails to function properly, then each of the notices specified in clause 29.2(a) that are required to be given during the period of failure, must be communicated by the method set out in clause 29.1.

(c) The terms and conditions of access to the CRS will be as published by Operator from time to time, provided that the CRS may not be used for giving notices which have contractual effect unless Shipper has agreed to the terms and conditions (such agreement not to be unreasonably withheld).

29.3 Notices generally

(a) Where under this Contract a notice is required or permitted to be communicated to a Party (other than the notices specified in clauses 29.1(a) and 29.2(a)), the notice shall be taken to have been communicated if it is in writing and it is delivered personally to, or sent by certified mail addressed to, the Party at the address, or is sent by facsimile transmission to the facsimile number, last notified under this clause.

(b) For the purposes of this clause, and until further notice is given under clause 29.3(c), the addresses and facsimile numbers of the Parties are as set out in the Access Request Form.

(c) From time to time, for the purposes of this clause, either Party may advise the other Party in writing of an address located within the State and a facsimile number which are to take effect in substitution for the details set out in this clause.

(d) Nothing in this clause prevents the Parties from agreeing in writing to utilize an alternative means of communication of notices, including via electronic mail or through the CRS.

29.4 Receipt of notices

(a) A reference in this Contract to notice before a certain time means that the notice must be received at the intended address or facsimile machine, or posted to the CRS, by no later than that time.

(b) For the purposes of this Contract, any notice sent by facsimile machine is, subject to clause 29.4(c), to be taken to have been sent and received on the date and at the time printed on a transmission report produced by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the appropriate facsimile number, unless the recipient notifies the sender within one hour (in the case of a notice to which clause 29.1(a) applies) or 12 hours (in any other case) of the time printed on the transmission report that the facsimile was not received in its entirety in legible form.

(c) When the time printed on the transmission report referred to in clause 29.4(b) is between:

(i) 00:00 hours and 09:00 hours; or

(ii) 17:00 hours and 24:00 hours,

on a Working Day, clause 29.4(b) shall apply as if, in respect to 29.4(c)(i), the time on the transmission report was 09:00 hours on the Working Day and, in respect to clause 29.4(c)(ii), the time on the transmission report was 09:00 hours on the next Working Day.

(d) For the purposes of this Contract, any notice sent by email must be sent by and to the email addresses set out in the Access Request Form (***Dedicated Email Address***). Each Party agrees to configure the information systems on which emails are sent from and to the Dedicated Email Addresses so as to generate an automatic response message for each email received by the Dedicated Email Address. Any notice sent from a Dedicated Email Address is, subject to this clause 29.4, taken to be given and received at the time the sender receives an automatic response message to the email.

(e) For the purposes of this Contract, a notice sent by certified mail shall be taken to be received on the earlier of the date of receipt or on the second Working Day after the notice was committed to post.

(f) For the purposes of this Contract:

(i) a notice sent by the CRS between 09:00 hours and 17:00 hours on a Working Day will be taken to have been received on that Working Day; and

(ii) the other notices sent by the CRS will be taken to have been received at the commencement of the next Working Day.

30. REPRESENTATIONS AND WARRANTIES

30.1 Operator's Representations and Warranties

(a) Operator represents and warrants to Shipper that:

(i) it has duly complied, and will up to the termination of this Contract continuously comply, with all Environmental And Safety Laws with respect to any of its obligations connected with, arising out of or in relation to this Contract;

(ii) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Environmental And Safety Laws and all other Laws to enter into this Contract, to observe its obligations under this Contract and to allow those obligations to be enforced;

(iii) it has in full force and effect all materially necessary leases, licences or easements to construct, Operate and Maintain the Outlet Point Station at each Outlet Point specified in the Access Request Form and all metering and other facilities for which it is responsible under this Contract;

(iv) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

(v) Operator does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);

(vi) this Contract and any transaction under it does not contravene Operator's constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;

(vii) it is the operator of the DBNGP;

(viii) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness of the person except debts mandatorily preferred by Law;

(ix) Operator is not in default under a Law affecting it or its assets, or any obligation or undertaking by which it or any of its assets are bound which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Contract;

(x) the Nominations Plan will be applied to the allocation of Gas Transmission Capacity to all shippers on the DBNGP and the Curtailment Plan will be applied to the Curtailment of the Delivery of Gas to all shippers on the DBNGP; and

(xi) subject to a contrary provision in the Access Arrangement, it will not enter into a contract arrangement or understanding for a Capacity Service that has a priority of allocations of Nominations for the purposes of clause 8.9, and for the purposes of Curtailments under clause 17.7(a), that is inconsistent with clause 8.9 and in particular, but without limitation, it will not allow a Capacity Service to have a priority of allocation of Nominations which sits between Alcoa's Exempt Delivery Entitlement and the T1 Service, or between any of the Types of Capacity Services listed in the Curtailment Plan.

(b) The representations and warranties in clause 30.1(a) are made on and from the Capacity Start Date, and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.2 Shipper's Representations and Warranties

(a) Subject to clause 30.2(b), Shipper represents and warrants to Operator that:

(i) it has duly complied, and will up to the termination of this Contract continuously comply, with all Environmental And Safety Laws with respect to any of its obligations connected with, arising out of or in relation to this Contract;

(ii) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Environmental And Safety Laws and all other Laws to enter into this Contract, to observe its obligations under this Contract, and to allow those obligations to be enforced;

(iii) it has, or its Producers have, in full force and effect all necessary leases, licences or easements to construct, Operate and Maintain all facilities for which it is responsible under this Contract;

(iv) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

(v) this Contract and any transaction under it does not contravene Shipper's constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;

(vi) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness of Shipper except debts mandatorily preferred by Law;

(vii) neither Shipper nor any of its Related Bodies Corporate is in default under a Law affecting any of them or their respective assets, or any obligation or undertaking by which it or any of its assets are bound which will or might reasonably be expected to, materially affect its ability to perform the obligations under this Contract;

(viii) there is no pending or threatened action or proceeding affecting Shipper or any of its Related Bodies Corporate or any of their respective assets before a court, governmental agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Contract;

(ix) neither Shipper nor any of its Related Bodies Corporate have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise); and

(x) Shipper is not an agent or trustee in relation to this Contract or in relation to the Gas to be Received or Delivered under this Contract.

(b) The representations and warranties in clause 30.2(a) are made on and from the Capacity Start Date, and shall be taken to be made anew on each day thereafter for the duration of this Contract.

30.3 Pipeline Trustee's Representations and Warranties

(a) The Pipeline Trustee represents and warrants to Shipper that:

(i) it is empowered by the constitution of its Trust to enter into and perform this Contract, to carry on its business as now conducted or contemplated and to own its assets in its capacity as trustee of the Pipeline Trust, and there is no restriction on or condition of its doing so;

(ii) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to

as required by the constitution of its Trust for it to enter into and perform this Contract;

(iii) it is the sole trustee and responsible entity of the Pipeline Trust;

(iv) no property of the Pipeline Trust has been re-settled or set aside or transferred to any other trust;

(v) the Pipeline Trust has not been terminated, nor has any event for the vesting of the assets of the Pipeline Trust occurred;

(vi) its right of indemnity out of, and lien over, the assets of the Pipeline Trust has not been limited in any way (other than as required by s601GA(2) of the Corporations Act) including, without limitation, it has no liability which may be set off against that right of indemnity;

(vii) the Pipeline Trust is registered under s601EB of the Corporations Act;

(viii) the Pipeline Trustee holds a dealers licence authorising it to operate the Pipeline Trust;

(ix) the constitution of its Trust complies with all applicable Laws;

(x) it has complied in all material respects with its obligations and duties under the constitution of its Trust and the Corporations Act.

(b) The representations and warranties in clause 30.3(a) are made on and from the Capacity Start Date and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.4 DBNGP Trustee's Representations and Warranties

(a) The DBNGP Trustee represents and warrants to Shipper that:

(i) it is empowered by the constitution of its Trust to enter into and perform this Contract, to carry on its business as now conducted or contemplated and to own its assets in its capacity as trustee of the DBNGP Trust, and there is no restriction or condition of its doing so;

(ii) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the constitution of its Trust for it to enter into and perform this Contract;

(iii) it is the sole trustee and responsible entity of the DBNGP Trust;

(iv) no property of the DBNGP Trust has been re-settled or set aside or transferred to any other trust;

(v) the DBNGP Trust has not been terminated, nor has any event for the vesting of the assets of the DBNGP Trust occurred;

(vi) its right of indemnity out of, and lien over, the assets of the DBNGP Trust has not been limited in any way (other than as required by s601GA(2) of the Corporations Act) including, without limitation, it has no liability which may be set off against that right of indemnity;

(vii) the DBNGP Trust is registered under section 601EB of the Corporations Act;

(viii) the DBNGP Trustee holds a dealers licence authorising it to operate the DBNGP Trust;

(ix) the constitution of its Trust complies with all applicable Laws;

(x) it has complied in all material respects with its obligations and duties under the constitution of its Trust and the Corporations Act.

(b) The representations and warranties in clause 30.4(a) are made on and from the Capacity Start Date and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.5 Creditworthiness of Shipper

Operator may from time to time seek confirmation from Shipper (including provision of the most recent audited financial accounts of Shipper) that Shipper is in a position to meet its obligations under this Contract.

30.6 Failure to Satisfy Operator of Creditworthiness

If Operator is (acting reasonably) not sufficiently certain that Shipper is in a position to meet or continue to meet its obligations under this Contract, Operator may require, and Shipper must provide, security for those obligations to Operator's reasonable satisfaction.

31. RECORDS AND INFORMATION

(a) Except where otherwise provided in this Contract, both Operator and Shipper must prepare and maintain proper books, accounts, records and inventories of all matters connected with or relating to this Contract, and shall retain those books, accounts, records and inventories for at least seven years.

(b) If Shipper requests (which it may not do more frequently than every 12 months) and without limiting any other obligation on Operator to provide information under this Contract, another contract or at Law, Operator shall provide Shipper with a non-binding indicative summary of its material planned expansions (if any) of the Gas Transmission Capacity for the following 5 years. Shipper agrees that these plans will be prepared and provided to Shipper without any warranty or undertaking that such planned expansions will be undertaken, or if undertaken will be effective and available to Shipper.

32. INSURANCES

(a) Subject to clause 32(d), Shipper must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable And Prudent Person:

(i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981*, and for Shipper's common law liability to workers;

(ii) property damage insurance against damage, loss or destruction of Shipper's plant and equipment (if any) at the Inlet Point Station or Outlet Point Station; and

(iii) liability insurance for such amount as Operator may reasonably require (not exceeding $100 million adjusted for changes in CPI compared to the CPI for the quarter ending immediately prior to 27 October 2004) against risk of loss, damage, death or injury to property or personnel of Operator, Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.

(b) Subject to clause 32(d), Shipper must:

(i) arrange for Operator's interest to be noted on the policies referred to in clauses 32(a)(ii) and 32(a)(iii) to the reasonable satisfaction of Operator so that Operator is covered under those policies; and

(ii) use all reasonable endeavours to arrange for the insurers to waive rights of subrogation against Operator.

(c) Subject to clause 32(d), Shipper must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide Operator with certificates of currency of the insurances and endorsements required by this clause.

(d) Operator may waive compliance by Shipper with any or all of the requirements of clauses 32(a), 32(b)and 32(c), if Operator:

(i) is satisfied that Shipper has adequate alternative arrangements; or

(ii) accepts Shipper as a self-insurer; or

(iii) determines that there is other sufficient reason to do so.

(e) Subject to clause 32(h), Operator must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable And Prudent Person:

(i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981*, and for Operator's common law liability to workers;

(ii) property damage insurance against damage, loss or destruction of the DBNGP and all associated equipment; and

(iii) liability insurance for such amount as Shipper may reasonably require (not exceeding $100 million adjusted for changes in CPI compared to the CPI for the quarter ending immediately prior to 27 October 2004) against risk of loss, damage, death or injury to property or personnel of Operator, Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.

(f) Subject to clause 32(h), Operator must use all reasonable endeavours to arrange for:

(i) (A) endorsement on the policies referred to in clauses 32(e)(ii) and 32(e)(iii) of Shipper as an insured or co-insured; or

(B) Shipper's interest to be noted on those policies to the satisfaction of Shipper so that Shipper is covered under those policies; and

(ii) the insurers to waive rights of subrogation against Shipper.

(g) Subject to clause 32(h), Operator must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide Shipper with certificates of currency of the insurances and endorsements required by this clause.

(h) Shipper may waive compliance by Operator with any or all of the requirements of clauses 32(e), 32(f) and 32(g), if Shipper:

(i) is satisfied that Operator has adequate alternative arrangements;

(ii) accepts Operator as a self-insurer; or

(iii) determines that there is other sufficient reason to do so.

33. NO WAIVER

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

34. ENTIRE AGREEMENT

This Contract and the Access Arrangement constitutes the entire agreement between the Parties on the subject matter of this Contract and supersedes all prior negotiations, representations and agreements between the Parties.

35. SEVERABILITY

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

36. ENTRY AND INSPECTION

(a) Each Party shall grant to, or use its reasonable endeavours to procure for, the other Party all reasonable rights of entry:

(i) for the purposes of constructing, installing, operating, maintaining and verifying the accuracy of any Metering Equipment, other equipment or thing (and if the Party is Operator, the DBNGP);

(ii) to inspect for safety or other reasons the construction, installation, Operation, Maintenance and repair of any Metering Equipment, other equipment or thing (and if the Party is Operator, the DBNGP); and

(iii) for any other purpose connected with or arising out of this Contract.

(b) Any entry under clause 36(a) is made in all respects at the expense and risk of the entering Party, who must, subject to clause 23 make good any damage occasioned by or resulting from the entry.

(c) Except in the case of emergency, a Party shall:

(i) when it seeks to exercise a right of entry under this clause 36, give reasonable notice to the other Party specifying the proposed time and duration of entry; and

(ii) take all reasonable steps to ensure that during the entry its employees, servants, consultants, independent contractors and agents cause as little inconvenience to the other Party as possible and at all times comply with all reasonable safety standards and other requirements of that Party.

(d) To the extent that any equipment or thing is located on the premises of a third person, the Parties shall use their reasonable endeavours to secure for either or both of the Parties a right of entry to that third person's premises.

37. OWNERSHIP, CONTROL, MAINTENANCE AND RISK

(a) In the absence of any agreement between the Parties to the contrary, the inlet point and the outlet point on the DBNGP mark the boundaries of ownership of all plant, equipment, pipelines and facilities, and, as between the Parties and in the absence of evidence to the contrary, Shipper is to be presumed to own any relevant thing upstream of the inlet point and downstream of an outlet point, and Operator is to be presumed to own any relevant thing between the inlet point and the outlet point.

(b) In the absence of any agreement between the Parties to the contrary, the responsibility to install, commission, Operate and Maintain, and the risk in relation to, all plant, equipment, pipelines and facilities follows ownership.

38. REVOCATION, SUBSTITUTION AND AMENDMENT

(a) Operator and Shipper may at any time agree in writing to revoke, substitute or amend any provision of this Contract (including the Access Request Form).

(b) Nothing in this clause 38 prevents Shipper from:

(i) relocating Contracted Capacity under this Contract;

(ii) nominating or Renominating for and being allocated Capacity under this Contract which exceeds Shipper's Contracted Capacity;

(iii) contracting for and having Capacity transferred to it by an Other shipper; or

(iv) varying this Contract in accordance with clauses 14.9 or 17.7(e).

(c) If the Parties agree to an increase in Contracted Capacity, this Contract (including the Access Request Form) is to be amended to reflect this.

39. NO COMMON CARRIAGE

Neither Operator nor Shipper is a common carrier of Gas transported through the DBNGP.

40. OPERATOR NOT A SUPPLIER OF GAS

Nothing in this Contract requires Operator to supply Gas to Shipper but Operator is required to Deliver Gas from time to time in accordance with this Contract.

41. STAMP DUTY

Shipper must pay all stamp duty which may be payable in respect of this Contract.

42. NO THIRD PARTY BENEFIT

Subject to clause 23, no person other than Operator or Shipper is to obtain any right, benefit or entitlement under this Contract, despite that person being referred to in this Contract or belonging to a class of persons which is referred to in this Contract.

43. GOVERNING LAW

This Contract is to be construed and interpreted in accordance with the Law of Western Australia and the Parties entering into this Contract submit to the non-exclusive jurisdiction of the courts of Western Australia.

44. GENERAL

44.1 Operator's discretion

Operator acknowledges and agrees that in circumstances in which it has a discretion to take action under this Contract, including any of clauses 9.5(b)(ii), 9.8, 10.3(a)(iii) or 10.4 that may limit the amount of Capacity available to Shipper, or that may affect the way in which Shipper may use Capacity, during a certain period, which action is not governed by the provisions of clauses 8.7, 8.9, 8.15 or 8.16 relating to Nominations or clauses 17.9 or 17.10 relating to Curtailment, Operator must treat Shipper fairly and reasonably in the circumstances with all other shippers who should or may be subject to similar action.

44.2 Refusal to Receive or deliver Gas

Where Operator is entitled under this Contract to refuse to Receive Gas at an inlet point or refuse to Deliver Gas at an outlet point, then Operator may take whatever action it believes, acting as a Reasonable And Prudent Person, is necessary to refuse to Receive Gas at an inlet point or refuse to Deliver Gas at an outlet point, including by physically reducing, interrupting or stopping completely or in part the flow of Gas at the inlet point or outlet point.

45. NON-DISCRIMINATION CLAUSE

45.1 Access to DBNGP information

If Operator, System Operator or any of their contractors or agents, or any person or persons to whom information from Operator or System Operator has been disclosed, provides any information to any shipper or a Related Body Corporate or officer of a shipper (acting in their respective capacity as shippers) about availability of Capacity, including:

(a) information relating to planned and unplanned maintenance;

(b) policies and procedures under which the market for Spot Capacity and Curtailment is administered; or

(c) DBNGP flow data between each compressor station and each other significant point,

then, other than to the extent that such information relates to an inlet point, outlet point or gate station which is specific to an individual shipper, Operator must ensure that Shipper receives that information at substantially the same time and in the same format.

Nothing in this clause 45.1 limits Operator's obligations under clause 28.

45.2 Arms' length dealings

Operator must, and must procure that System Operator does, in Operating and Expanding the DBNGP and exercising the discretions afforded to Operator under this and other contracts:

(a) treat all shippers (including shippers which are Associates of a Relevant Company) on an arms' length basis; and

(b) ensure that no shipper which is an Associate of a Relevant Company receives a benefit, compared with an other shipper which is not, unless the benefit is attributable to an arms' length application of the two shippers' respective contractual entitlements entered into on terms and conditions that are comparable with the Standard Shipper Contract.

46. PIPELINE TRUSTEE'S LIMITATION OF LIABILITY

(a) The Pipeline Trustee enters into this Contract only in its capacity as trustee of the Pipeline Trust and in no other capacity. A liability arising under or in connection with this Contract can be enforced against the Pipeline Trustee only to the extent to which it can be satisfied out of property of the Pipeline Trust out of which the Pipeline Trustee is actually indemnified for the liability. Except as provided in clause 46(b), this limitation of the Pipeline Trustee's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the Pipeline Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

(b) Clause 46(a) does not act to limit:

(i) Shipper's entitlements to seek orders against the Pipeline Trustee (in its capacity as trustee of the Pipeline Trust) for specific performance or injunctive relief, in addition to any other remedies available to Shipper at Law or in equity; or

(ii) Pipeline Trustee's liability arising as a result of its fraud, gross negligence or gross misconduct.

47. DBNGP TRUSTEE'S LIMITATION OF LIABILITY

(a) The DBNGP Trustee enters into this Contract only in its capacity as trustee of the DBNGP Trust and in no other capacity. A liability arising under or in connection with this Contract can be enforced against the DBNGP Trustee only to the extent to which it can be satisfied out of property of the DBNGP Trust out of which the DBNGP Trustee is actually indemnified for the liability. Except as provided in clause 47(b), this limitation of the DBNGP Trustee's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the DBNGP Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

(b) Clause 47(a) does not act to limit:

(i) Shipper's entitlements to seek orders against the DBNGP Trustee (in its capacity as trustee of the DBNGP Trust) for specific performance or injunctive relief, in addition to any other remedies available to Shipper at Law or in equity; or

(ii) DBNGP Trustee's liability arising as a result of its fraud, gross negligence or gross misconduct.

Schedule 1 - Access Request Form

Schedule 2 - Charges

All amounts in this Schedule 2 are exclusive of GST.

T1 Reference Tariff

Tariff	Amount
T1 Capacity Reservation Tariff	$0.899899/GJ MDQ
T1 Commodity Tariff	$0.103122/GJ

Other Charges (clause 20.4)

Row	Description of Charge	Rate at which Charge is determined
1	Excess Imbalance Charge (clause 9.6(b), clause 9.5(e))	200% of the T1 Reference Tariff from time to time
2	Hourly Peaking Charge (clause 10.3(d) and 10.4(b))	200% of the T1 Reference Tariff from time to time
3	Overrun Charge (clause 11.1(a))	At the rate specified in clause 11.1(b)
4	Unavailable Overrun Charge (clause 11.6 and clause 17.8(e))	The greater of: (a) 250% of the T1 Reference Tariff from time to time; and (b) the highest price bid for Spot Capacity which was accepted for that Gas Day, other than when the highest price bid was not a bona fide bid, in which case the highest bona fide bid.

Schedule 3 - Operating Specifications

Item 1 Gas Specifications

Component		Inlet Points and Outlet Points
Maximum carbon dioxide (mol %)		4.0
Maximum inert gases (mol %)		7.0
Minimum higher heating value (MJ/m3)		37.0
Maximum higher heating value (MJ/m3)		42.3
Minimum Wobbe Index		46.5
Maximum Wobbe Index		51.0
Maximum total sulphur (mg/m3)	Unodorised Gas	10
	Odorised Gas	20
Maximum Hydrogen Sulphide (mg/m3)		2
Maximum Oxygen (mol %)		0.2
Maximum Water (mg/m3)		48
Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute		Below 0^0C
Maximum radioactive components (Bq/m3)		600
Minimum Extractable LPGs (t/TJ)		0

Schedule 4 - Intentionally Deleted

Schedule 5 - Intentionally Deleted

Schedule 6 - Intentionally Deleted

Schedule 7 - Tripartite Deed

Schedule 8 - Curtailment Plan

PART A

Order of Priority	System Curtailment
1	Any Capacity Service insofar as it is for Shipper's relevant share of the Distribution Networks' IPQ
2	Alcoa's Priority Quantity
3	Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (including Aggregated T1 Service) apportioned in accordance with the provisions of Part B of this Schedule 8
4	The balance of Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (including Aggregated T1 Service) which is not dealt with under item 3 above, apportioned in accordance with the provisions of Part B of this Schedule 8
5	Firm Service
6	Other Reserved Service
7	Spot Capacity, in the manner described in clause 17.9(c)(iii)

Order of Priority	Point Specific Curtailment
1	Any Capacity Service insofar as it is for the shipper's relevant share of the Distribution Networks' IPQ
2	Alcoa's Priority Quantity
3	Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (excluding Aggregated T1 Service) at the relevant point apportioned in accordance with the provisions of Part B of this Schedule 8
4	The balance of Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (excluding Aggregated T1 Service) at the relevant point which is not dealt with under item 3 above, apportioned in accordance with the provisions of Part B of this Schedule 8
5	Firm Service that is Contracted Capacity at the relevant point
6	Other Reserved Service that is Contracted Capacity at the relevant point
7	Aggregated T1 Service at the relevant point
8	Other Reserved Service (if any) nominated by and allocated to the shipper at the relevant point at which the shipper does not have Contracted Capacity in that Other Reserved Service in accordance with the provision of the shipper's contract for the Other Reserved Service
9	Spot Capacity, in the manner described in clause 17.9(c)(iii)

Schedule 8 – Curtailment Plan

PART B

(c) The amount of Capacity available after allowing for items 1 and 2 in Part A of this Schedule 8, up to the next 253.5TJ/d of Capacity, is to be apportioned as follows:

(i) ½ of the available Capacity is to be apportioned to Alcoa; and

(ii) ½ of the available Capacity is to be apportioned to T1 Service, which among shippers with Contracted Capacity for T1 Service is to be apportioned in accordance with clause 17.9(c)(i).

(d) The amount of Capacity available after allowing for items 1, 2 and 3 in Part A of this Schedule 8 is to be apportioned as follows:

(i) the Alcoa Proportion of the available Capacity is to be apportioned to Alcoa; and

(ii) the balance of the available Capacity is to be apportioned to T1 Service, which among shippers with Contracted Capacity for T1 Service is to be apportioned in accordance with clause 17.9(c)(i), or if there is available Capacity after all T1 Service has been provided for then to items below T1 Service in the applicable column of the table in Part A of this Schedule 8, which among shippers with the relevant Type of Capacity Service is to be apportioned in accordance with clause 17.9(c)(i).

(e) The Alcoa Proportion is to be determined in accordance with the following:

$$AP = AE / PE$$

Where:

AP = the Alcoa Proportion;

AE = the aggregate of all Alcoa's additional entitlements to Capacity under the Alcoa Exempt Contract which have arisen as a result of Alcoa giving notices requiring additional Capacity under the provisions of the Alcoa Exempt Contract since the date of the Alcoa Exempt Contract which entitlements have not been discontinued or relinquished by Alcoa; and

PE = the aggregate of all increases in Full Haul Capacity on the DBNGP which have resulted from Capacity expansion programmes as contemplated in the Alcoa Exempt Contract since the date of the Alcoa Exempt Contract, less the lesser of $^{1}/_{3}$ of the capacity of the last such Capacity expansion programme or 30TJ/d.

Appendix 1 – Part B

ECONOMIC REGULATION AUTHORITY

P1 Service
Terms and Conditions

TABLE OF CONTENTS

TABLE OF CONTENTS i

1. INTERPRETATION 7

2. GENERAL 25

2.1 Construction generally 25
2.2 Headings 26
2.3 Rounding to a certain number 26
2.4 Other contracts 26
2.5 System Operator 26

3. CAPACITY SERVICE 27

3.1 Operator to provide P1 Service to Shipper 27
3.2 Capacity Service 27
3.3 Contracted Capacity 28
3.4 Operator must deliver Gas up to Contracted Capacity 28
3.5 Spot Capacity 28

4. DURATION OF THE CONTRACT 30

4.1 Term 30
4.2 Capacity Start Date 30
4.3 Option to renew Contract 30
4.4 Conditions to be satisfied before exercising an Option 30
4.5 Notice exercising an Option 30
4.6 First Option Period 30
4.7 Second Option Period 31

5. RECEIVING AND DELIVERING GAS 32

5.1 Receipt and Delivery of Gas 32
5.2 Operator must Receive and Deliver Gas 32
5.3 Operator may refuse to Receive Gas 32
5.4 Notification of refusal to Receive Gas 33
5.5 Refusal to Receive Gas is a Curtailment in limited circumstances 33
5.6 No liability for refusal to Receive Gas 33
5.7 Refusal to Deliver Gas 33
5.8 Notification of refusal to Deliver Gas 34
5.9 Refusal to Deliver Gas is a Curtailment in limited circumstances 34
5.10 No liability for refusal to Deliver Gas 34
5.11 System Use Gas 34
5.12 Additional Rights to Refuse to Receive or Deliver Gas 34

6. INLET POINTS AND OUTLET POINTS 36

6.1 Inlet Points and Outlet Points 36
6.2 Multi-shipper Agreement 36
6.3 Multi-shipper Inlet Point and Multi-shipper Outlet Point 36
6.4 Allocation of Gas at Inlet Points 38
6.5 Allocation of Gas at Outlet Points 39
6.6 Installation, operation and maintenance of inlet stations and outlet stations 39
6.7 Contribution Agreement 43
6.8 Shipper Specific Facility Agreement 44
6.9 Total Physical Capacity 44

6.10 Notional Gate Point 44

7. OPERATING SPECIFICATIONS 45

7.1 Gas must comply with Gas specifications 45
7.2 Gas to be free from certain substances 45
7.3 Gas to be free from objectionable odours 45
7.4 Gas temperature and pressure 45
7.5 Notice of Out-Of-Specification Gas 46
7.6 Operator and Shipper may refuse to Receive Out-Of-Specification Gas 46
7.7 Operator may Receive Out-Of-Specification Gas 46
7.8 Shipper's Liability for Out of Specification Gas 46
7.9 Shipper may Receive Out-Of-Specification Gas 46
7.10 Change of Law 47
7.11 Amendment Notice 47
7.12 Odorisation 48
7.13 Weighted average gas flows 48

8. NOMINATIONS 49

8.1 Shipper may delegate to a Producer 49
8.2 Requests for advance information 49
8.3 Shipper's Daily Nominations do not affect Contracted Capacities 49
8.4 Nominations and Renominations must be in good faith 49
8.5 Operator to make available bulletins of available Capacity 49
8.6 Shipper's Initial Nomination 50
8.7 Allocation of Daily Nominations 50
8.8 Default provision for Daily Nomination 52
8.9 Nominations priority 52
8.10 Shipper may give Renomination notice 52
8.11 Times for Renomination and allocation of revised Daily Nominations 52
8.12 Renominations reducing Daily Nomination 52
8.13 Renominations increasing Daily Nomination 53
8.14 Default provision for Renomination process 53
8.15 Aggregated P1 Service 53
8.16 Nominations at inlet points and outlet points where Shipper does not have sufficient Contracted Capacity 54
8.17 Shipper's Advance Nomination 54

9. IMBALANCES 55

9.1 Operator to maintain balance 55
9.2 Shipper to maintain balance 55
9.3 Shipper's Accumulated Imbalance 55
9.4 Notice of Shipper's imbalances 55
9.5 Accumulated Imbalance Limit 55
9.6 Excess Imbalance Charge 57
9.7 Balancing in particular circumstances 57
9.8 Remedies for breach of imbalance limits 58
9.9 Trading in imbalances 58
9.10 Cashing out imbalances at end of Contract 59
9.11 Charges do not affect Daily Delivery 59

10. PEAKING 60

10.1 Hourly Peaking Limits 60

10.2 Shipper to stay within Hourly Peaking Limit 60
10.3 Consequences of exceeding Hourly Peaking Limit 60
10.4 Outer Hourly Peaking Limit 62
10.5 Charges do not affect Daily Delivery 62
10.6 Remedies for breach of peaking limits 63
10.7 Permissible Peaking Excursion 63

11. OVERRUN 64
11.1 Overrun Charge 64
11.2 Unavailability Notice 64
11.3 Content of an Unavailability Notice 64
11.4 Compliance with Unavailability Notice 65
11.5 Operator may refuse to Deliver Overrun Gas 65
11.6 Unavailable Overrun Charge 65
11.7 Saving and damages 65

12. ADDITIONAL RIGHTS AND OBLIGATIONS OF OPERATOR 67
12.1 Commingling of Gas 67
12.2 Processing 67
12.3 Operation of Pipeline System 67
12.4 Delivery of Gas 67

13. CONTROL, POSSESSION AND TITLE TO GAS 68
13.1 Warranty of Title 68
13.2 Control, Possession, Responsibility and Title of Shipper 68
13.3 Title, Custody, Control and Responsibility of Operator 68
13.4 Entitlements to Receive Gas 68
13.5 Title at outlet points 69

14. RELOCATION 70
14.1 Request for relocation of Contracted Capacity 70
14.2 Assessment of Requested Relocation 70
14.3 Operator to notify Shipper 71
14.4 Requested Relocation is an Authorised Relocation 71
14.5 Requested Relocation is not an Authorised Relocation 72
14.6 Relocated Contracted Capacity to be on same terms and conditions 72
14.7 Charges for relocation 72
14.8 Pressures at New Inlet Point and New Outlet Point 72
14.9 This Contract amended to reflect relocation 72

15. METERING 73
15.1 Shipper's responsibility 73
15.2 Operator's responsibility 73
15.3 Metering uncertainty 73
15.4 Primary Metering Equipment 76
15.5 Provision of information to Shipper 69
15.6 Changes to requirements for Metering Equipment 77
15.7 Approval of Inlet Metering Equipment 77
15.8 Check Metering Equipment 78
15.9 Preservation of accuracy 78
15.10 Presumptions of accuracy 78
15.11 Verification of Primary Metering Equipment 78
15.12 Adjustment or replacement of defective equipment 79

15.13 Inaccurate equipment 80
15.14 Correction of measurements 80
15.15 Metering records 81
15.16 Unused outlet points 81

16. NOT USED 83

17. CURTAILMENT 84
17.1 Operator's obligations and Curtailment principles 84
17.2 Curtailment Generally 84
17.3 Curtailment without liability 84
17.4 Refund of Capacity Reservation Charge 85
17.5 Operator's rights to refuse to Receive or Deliver Gas 85
17.6 Curtailment Notice 86
17.7 Content of a Curtailment Notice 86
17.8 Compliance with Curtailment Notice 87
17.9 Priority of Curtailment 88
17.10 Apportionment of Shipper's Curtailments 91

18. MAINTENANCE AND MAJOR WORKS 93

19. FORCE MAJEURE 94

20. CHARGES 95
20.1 Obligation to pay Charges 95
20.2 Capacity Reservation Charge 95
20.3 Commodity Charge 95
20.4 Other Charges 95
20.5 Adjustment to P1 Reference Tariff 95
20.6 Goods and Services Tax 96
20.7 Other Taxes 97

21. INVOICING AND PAYMENT 98
21.1 Monthly payment of Capacity Reservation Charge 98
21.2 Monthly invoicing 98
21.3 Payment within 10 Working Days 98
21.4 Default in payment 98
21.5 Disputed Tax Invoices 99
21.6 Correction of payment errors 99

22. DEFAULT AND TERMINATION 100
22.1 Default by Shipper 100
22.2 Notice of Shipper’s default 100
22.3 When Operator may exercise remedy 100
22.4 Remedies for Shipper's default 101
22.5 Default by Operator 101
22.6 Notice of Operator's default 101
22.7 When Shipper may exercise remedy 101
22.8 Remedies for Operator's default 102
22.9 Saving of other remedies 102
22.10 Effect of termination 102

23. LIABILITY 104
23.1 Liability for negligence and default limited to Direct Damage 104
23.2 Liability for fraud 104

23.3 No liability for Indirect Damage 104
23.4 No liability arising out of any approval by Operator 104
23.5 Saving of contractual payments 104
23.6 Shipper is responsible for its and its contractors' personnel and property 105
23.7 Operator is responsible for its and its contractors' personnel and property 105
23.8 Each limitation separate 106

24. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS 107
24.1 Method of Resolution 107
24.2 Acknowledgment 107
24.3 Service of Notice 107
24.4 Meeting 107
24.5 Senior Officers 107
24.6 Failure to Resolve Dispute 107
24.7 Technical and Financial Matters 107
24.8 Appointment of Independent Expert 107
24.9 Expert not an Arbitrator 108
24.10 Representation, Evidence, Confidentiality, Powers and Costs 108
24.11 Urgent Relief Condition Precedent to litigation 110

25. ASSIGNMENT 111
25.1 No assignment except under this clause 111
25.2 Charges 111
25.3 Assignment 111
25.4 Assignment: deed of assumption 112
25.5 Pipeline Trustee's Acknowledgments and Undertakings 112
25.6 DBNGP Trustee undertakings 114
25.7 Non complying assignment 115
25.8 Utilising other shippers' Daily Nominations 115

26. GENERAL RIGHT OF RELINQUISHMENT 116
26.1 Shipper may make Relinquishment Offer 116
26.2 Withdrawal of Relinquishment Offer 116
26.3 Operator may accept Relinquishment Offer 116
26.4 Effect of Relinquishment Acceptance 117
26.5 Notification of relinquishment of capacity by other Shippers 118
26.6 Administrative expenses 118

27. TRADING OR TRANSFERRING CONTRACTED CAPACITY 119
27.1 Bare Transfers 119
27.2 No transfer of Shipper’s Contracted Capacity other than Bare Transfer than by this clause 119
27.3 Replacement Shipper must be a shipper or Approved Prospective Shipper 119
27.4 Transfer of Capacity by Shipper – Approval of transfer terms 119
27.5 Posting of Tradeable Capacity 120
27.6 Notification of traded capacity 120
27.7 Replacement Contract 120
27.8 Shipper’s Contract 121
27.9 Resumption of Traded Capacity by Shipper 121
27.10 Administrative expenses 121
27.11 Further marketing service 121
27.12 Relinquishment 122

28. CONFIDENTIALITY 123
28.1 Confidential Information 123
28.2 Exceptions to Confidentiality 123
28.3 Permitted Disclosure 124
28.4 Disclosure by recipient of Confidential Information 125
28.5 Use of Confidential Information 126
28.6 Information received by Operator 126
28.7 Breach by Operator 127
28.8 Publicity 128
28.9 No disclosure of terms of this Contract 129
28.10 Audit 129
28.11 Remedies 129
28.12 Survival 129

29. NOTICES 130
29.1 Notices for nominations, Curtailment, unavailability, balancing, Out-Of-Specification Gas and capacity trading 130
29.2 The CRS 130
29.3 Notices generally 130
29.4 Receipt of notices 131

30. REPRESENTATIONS AND WARRANTIES 132
30.1 Operator's Representations and Warranties 132
30.2 Shipper's Representations and Warranties 133
30.3 Pipeline Trustee's Representations and Warranties 134
30.4 DBNGP Trustee's Representations and Warranties 134
30.5 Creditworthiness of Shipper 135
30.6 Failure to Satisfy Operator of Creditworthiness 135

31. RECORDS AND INFORMATION 136

32. INSURANCES 137

33. NO WAIVER 139

34. ENTIRE AGREEMENT 140

35. SEVERABILITY 141

36. ENTRY AND INSPECTION 142

37. OWNERSHIP, CONTROL, MAINTENANCE AND RISK 143

38. REVOCATION, SUBSTITUTION AND AMENDMENT 144

39. NO COMMON CARRIAGE 145

40. OPERATOR NOT A SUPPLIER OF GAS 146

41. STAMP DUTY 147

42. NO THIRD PARTY BENEFIT 148

43. GOVERNING LAW 149

44. GENERAL 150
44.1 Operator's discretion 150
44.2 Refusal to Receive or deliver Gas 150

45. NON-DISCRIMINATION CLAUSE 151

45.1 Access to DBNGP information 151
45.2 Arms' length dealings 151

46. PIPELINE TRUSTEE'S LIMITATION OF LIABILITY 152

47. DBNGP TRUSTEE'S LIMITATION OF LIABILITY 153

1. INTERPRETATION

In this Contract, except where the context requires another meaning:

ACCC means the Australian Competition and Consumer Commission.

Access Arrangement means the access arrangement from time to time for the DBNGP under the Access Regime, as changed, varied or replaced from time to time.

Access Arrangement Information means the access arrangement information submitted by the Operator to the Regulator from time to time in accordance with the provisions of the Gas Pipelines Access Law.

Access Regime means any legislative, legislative and administrative or administrative regime from time to time governing the terms and conditions of third party access to Capacity Services or Spot Capacity on the DBNGP, and at the time of this Contract includes the *Gas Pipelines Access (Western Australia) Act 1998* (WA) and the Gas Pipelines Access Law applying under it and any access arrangement approved under the Gas Pipelines Access Law and in force for the DBNGP.

Access Request means a request for access as described in the Information Package.

Access Request Form means the Access Request form for lodging Access Requests for P1 Service in accordance with the Access Arrangement or, as the context requires, the Access Request Form in Schedule 1 of this Contract.

Accumulated Imbalance means the accumulated imbalance calculated under clause 9.3 and (if applicable) adjusted under clause 9.9.

Accumulated Imbalance Limit has the meaning given in clause 9.5(a).

Accumulated Imbalance Notice is defined in clause 9.4.

Accurate means measuring the quantity of Gas with an inaccuracy of less than or equal to:

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

(b) plus or minus 3% for Metering Equipment with a design flow of less than 5 TJ/d.

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

Advance Nomination means a Nomination by Shipper under clause 8.17.

Affected Party has the meaning given in clause 19(a).

Aggregated Service Allocated Daily Nomination means, in relation to a particular shipper, the Daily Nomination for Aggregated P1 Service actually allocated to that shipper for the relevant Gas Day plus the material equivalent to such allocation for the relevant Gas Day in respect of Aggregated P1 Service under any other contract for Capacity Service with that shipper.

Aggregated P1 Service has the meaning given in clause 8.16.

Alcoa means Alcoa of Australia Limited (ABN 93 004 879 298).

Alcoa's Exempt Capacity means the Gas Transmission Capacity necessary to transport the quantity of Gas which Operator is required to Deliver from time to time to Alcoa under the Alcoa Exempt Contract (including Alcoa's Exempt Delivery Entitlement).

Alcoa Exempt Contract means the contract originally between the State Energy Commission of Western Australia and Alcoa and now between Operator and Alcoa dated 7 February 1983 as amended from time to time, and including any changes to the quantities of Alcoa's entitlements under that contract taking effect after the date of execution of the Deed of Amendment No 5 of that contract which result from an exercise of rights by Alcoa under that contract which existed upon the execution of Deed of Amendment No 5 of that contract, but excluding any amendments having effect after the date of execution of Deed of Amendment No 5 of that contract which in any way relate to the Capacity Operator must provide to Alcoa under that contract including for the purposes for which that Capacity may be used and the prices Alcoa pays for that Capacity if it uses that Capacity for other than a purpose specified in that contract.

Alcoa's Exempt Delivery Entitlement means the quantity of Gas (including Alcoa's Priority Quantity) of which Alcoa is entitled to take Delivery under the Alcoa Exempt Contract during a Curtailment, which may exceed Alcoa's Priority Quantity.

Alcoa's Priority Quantity means 40 TJ/d of Alcoa's Exempt Delivery Entitlement.

Approved Prospective Shipper means a person who is not a shipper but who has satisfied Operator of its creditworthiness such that, in Operator's reasonable opinion, that person would be capable of meeting the obligations imposed under any relevant contract for Gas Transmission Capacity on the DBNGP.

Approved Tradeable Capacity has the meaning given in clause 27.4(g).

AS followed by a designation, refers to the text from time to time amended and for the time being in force of the document so designated issued by Standards Australia.

ASX means the Australian Stock Exchange Limited (ABN 98 008 624 691).

Associate has the meaning given in section 11 of the Corporations Act.

Associated, when used to describe the relationship between:

(a) a Gate Station and a Sub-network, means that the Gate Station is associated with a Sub-network;

(b) an Inlet Station and an Inlet Point, means that the Inlet Station is used to measure Gas flows and other parameters at the Inlet Point; and

(c) an Outlet Station and an Outlet Point, means that the Outlet Station is used to measure Gas flows and other parameters at the Outlet Point.

Authorised Relocation means a Requested Relocation that has been authorised by Operator under clause 14.2.

B1 Service means the Back Haul Gas transportation Reference Service provided under the Access Arrangement which gives shipper a right, subject to the terms and conditions of the Access Arrangement to access capacity of the DBNGP and which:

(a) can only be Curtailed in the circumstances specified in clause 17.2;

(b) is treated the same in the Curtailment Plan as all other shippers with a B1 Service, and in the order of priority with respect to other Types of Capacity Service set out in clause 17.9; and

(c) is treated the same in the Nominations Plan as all other shippers with a B1 Service, and in the order of priority with respect to other Types of Capacity Service referred to in clause 8.9.

Back Haul means a Gas transportation service on the DBNGP where the inlet point is downstream of the outlet point.

Bank Bill Rate means, for the day of calculation, the average mid rate for bills having a tenor closest to 90 days, as displayed on the "BBSY" page of the Reuters Monitor System on that day. However, if the average mid rate is not displayed by 10:30am (Sydney time) on that Day, or if it is displayed but there is an obvious error in that rate, Bank Bill Rate means the rate (expressed as a yield to maturity) set by Operator in good faith and acting reasonably at approximately 10:30am on that day, having regard, to the extent possible, to the mid rate of the rates otherwise bid and offered for bills of that tenor at or around that time (including any displayed on the "BBSW" page of the Reuters Monitor System). The rate set by Operator must be expressed as a percentage rate per annum and be rounded up to the nearest sixth decimal place.

Bare Transfer has the meaning given in section 3.10(a) of the Code.

Capacity means:

(a) at an inlet point or a proposed inlet point - the capacity of the DBNGP to take delivery at and to transport Gas from that point; and

(b) at an outlet point or a proposed outlet point - the capacity of the DBNGP to transport and deliver Gas to that point,

and is to be expressed in TJ/d. For the avoidance of doubt, a reference in this Contract to Capacity is a reference to Capacity averaged across a Gas Day.

Capacity End Date means 08:00 hours on the date determined in accordance with clause 4 of this Contract and is 08:00 hours on the date on which Shipper's access to the particular Contracted Capacity is to end.

Capacity Reservation Charge means a component of the price for Gas Transmission Capacity to which Shipper has access under this Contract calculated in accordance with clause 20.2.

Capacity Service means any capacity service offered by Operator on the DBNGP excluding capacity under a Spot Transaction, and including, without limitation, P1 Service, T1 Service and B1 Service.

Capacity Start Date has the meaning given to it in clause 4.2.

Charges means the Capacity Reservation Charge, Commodity Charge and Other Charges.

Check Metering Equipment means any Metering Equipment or other equipment installed, maintained or operated by a Party under clause 15.8(a) for checking measurements of Gas quality and quantity.

Code means the National Third Party Access Code for Natural Gas Pipeline Systems as amended and in force for the time being (as defined by section 11 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA).

Commodity Charge means the charge set out in clause 20.3.

Confidential Information has the meaning given in clause 28.1.

Contract means this contract, as revoked, substituted or amended under clause 38, including the queuing policy and trading policy under the Access Arrangement, Access Request Form and these terms and conditions and the Schedules attached hereto.

Contracted Capacity has the meaning given in clause 3.3, and includes Capacity in any Type of Capacity Service so that for example Contracted P1 Capacity means Contracted Capacity in the P1 Service.

Contracted Firm Capacity means Alcoa's Exempt Capacity and Capacity under a T1 Service, B1 Service or P1 Service or a Firm Service.

Contract Year means the period from the Capacity Start Date until 31 December in the same calendar year and thereafter the period commencing 1 January in a calendar year and ending on 31 December in the same calendar year with the last Contract Year ending on the earlier of the Capacity End Date and the sooner termination of this Contract.

Contribution Agreement has the meaning given to it in clause 6.7(b).

Control has the meaning given in the Corporations Act as at the commencement of the Access Arrangement Period.

Controller has the meaning given in the Corporations Act as at the commencement of the Access Arrangement Period.

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

CPI means the Consumer Price Index (All Groups) for Perth, Western Australia, as published for each quarter by the Australian Bureau of Statistics or, if the Consumer Price Index (All Groups) for Perth ceases to be published, such alternative index as Operator as a Reasonable And Prudent Person may determine.

CRS means Operator's electronic customer reporting system.

CS7 means compressor station no.7 on the DBNGP.

Cubic Metre or m^3 means a cubic metre at MSC.

Current Verification means the Verification at which the Primary Metering Equipment is found to be Inaccurate.

Curtail means reduce, interrupt or stop or any combination of them completely or in part.

Curtailment Area means in relation to a particular Curtailment, the area affected by the relevant Curtailment and unless the Curtailment is a Point Specific Curtailment, includes all areas of the DBNGP downstream of that area.

Curtailment Notice has the meaning given in clause 17.6(a).

Curtailment Plan means the regime governing Curtailments of Capacity set out in Schedule 8 and clause 17.9.

Daily Bid has the meaning given to it in clause 3.5(b).

Daily Imbalance means for a particular Gas Day, Shipper's Total Inlet Quantity minus Shipper's Total Outlet Quantity for that Gas Day across all of its Capacity Services and its Spot Transactions.

Daily Nomination means:

(a) in respect of a Type of Capacity Service at an inlet point - the Capacity for the quantity of allocated Gas that Shipper is to Deliver to Operator at the inlet point on a Gas Day and the Type of Capacity Service; and

(b) in respect of a Type of Capacity Service at an outlet point - the Capacity for the quantity of allocated Gas that Shipper is to Receive from Operator at the outlet point on a Gas Day and the Type of Capacity Service,

and in each case as actually allocated under clause 8, and includes the Capacity for a revised quantity of Gas allocated under a Renomination process.

Daily Spot Bid Price has the meaning given to it in clause 3.5(b).

DBNGP means the Gas transmission pipeline system that runs between Dampier and Bunbury in Western Australia, described in Annexure A to the Access Arrangement Information.

DBNGP Operating Agreement means the document so titled dated 25 March 1998 between Operator and the Pipeline Trustee as amended and extended from time to time, under which the Pipeline Trustee grants to Operator a sublicense of the pipeline licence for the DBNGP and the right and obligation to operate the DBNGP.

DBNGP Trust has the meaning given in clause 25.6(a).

DBNGP Trustee means DBNGP Holdings Pty Ltd (ACN 110 721 081).

DBP Act means the *Dampier to Bunbury Pipeline Act 1997* (WA).

Deliver means to deliver or supply Gas and includes Gas deemed by this Contract to be delivered or supplied at an inlet point or outlet point (including a Multi-shipper Inlet Point or Multi-shipper Outlet Point).

Derived Variable means a value computed by electronic, analogue or digital means from primary measurements or other derived variables or a combination of both.

Direct Damage means loss or damage which is not Indirect Damage.

Dispute means any dispute or difference concerning:

(a) the construction of;

(b) anything contained in or arising out of; or

(c) the rights, obligations, duties or liabilities of a Party under,

this Contract and includes any issue which a provision of this Contract contemplates may be referred to dispute resolution under clause 24.

Distance Factor means for each Outlet Point at which Shipper has Part Haul Contracted Capacity the distance in kilometres between the Inlet Point and the Outlet Point divided by 1399 kilometres.

Distribution Network means any Gas distribution system which receives Gas from the DBNGP and includes any Gas distribution system owned or operated by Networks which receives Gas from the DBNGP.

Distribution Networks' IPQ means 40 TJ/d or such greater or lesser amount as may be agreed between the Parties.

Distribution Networks Shipper means any shipper delivering Gas into a Distribution Network (subject to any Law which excludes that shipper from participating in a share of the Distribution Networks' IPQ), from time to time, and may include Shipper.

Duty Equipment means the Metering Equipment in service at a particular time.

Electronic Data Collection System means the system and equipment for collecting, receiving and transferring electronic signals and data from Metering Equipment, used for the measurement of Gas delivered to shippers and for billing.

Environmental And Safety Law means a Law relating to environmental, building, construction, engineering, planning, health, safety or occupational health and safety matters.

ERA means the Economic Regulatory Authority established by the *Economic Regulation Authority Act 2003* (WA).

Excess Imbalance Charge means the charge payable by Shipper identified in clauses 9.5(e) and 9.6(b).

Excess Imbalance Rate means the rate set out in row 1 of Schedule 2.

Existing Gas Supply Contract means a contract between a shipper and a customer for the sale and or transport of Gas to a customer of a shipper under which the Gas is to be supplied to the customer at or immediately downstream of an outlet point, which was in existence as at the date of the relevant change in Law as contemplated in clause 7.10, and excluding any amendments to that contract having effect after such date.

Existing Inlet Point means an Inlet Point on the DBNGP from which Shipper proposes to relocate Contracted Capacity, being an Inlet Point specified in this Contract (including by a prior amendment under clause 14.9) at the time the Requested Relocation is made.

Existing Outlet Point means an Outlet Point on the DBNGP from which Shipper proposes to relocate Contracted Capacity, being an Outlet Point specified in this Contract (including by a prior amendment under clause 14.9) at the time the Requested Relocation is made.

Existing Producer Contract means a contract between a shipper and a Producer for the sale of Gas to the shipper under which the Gas is to be supplied to the shipper at or immediately upstream of an inlet point, which was in existence as at the date of the relevant change in Law as contemplated in clause 7.10, and excluding any amendments to that contract having effect after such date.

Existing Station means:

(a) an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point that was installed and commissioned on or before 1 January 1995; or

(b) an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point that is the subject of a Facility Agreement (which has the meaning given in clause 6.8) or similar agreement, as at the Capacity Start Date.

Financial Matter has the meaning given to it in clause 24.7.

Firm Service has the meaning given in the Access Arrangement in the form the Access Arrangement was in on 13 January 2004.

Force Majeure means any event or circumstance not within a Party's control and which the Party, by the exercise of the standards of a Reasonable And Prudent Person, is not able to prevent or overcome, including (provided the foregoing tests are satisfied):

(a) acts of God, including epidemics, land slides, lightning, earthquakes, fires, storms, floods, wash outs and cyclones;

(b) strikes, lock outs, stoppages, restraints of labour and other industrial disturbances;

(c) acts of the enemy including wars, blockades and insurrection;

(d) acts of terror, terrorism or terrorists;

(e) riots and civil disturbances;

(f) valid Laws of the Commonwealth or any Commonwealth statutory authority;

(g) valid Laws of the State or a local government or any State statutory authority;

(h) shortage of necessary equipment, materials or labour;

(i) refusal or delay in obtaining any necessary consent or approval from any Commonwealth, State or local government or a Commonwealth or State statutory authority;

(j) unavoidable accidents involving, or break down of or loss or damage to, any plant, equipment, materials or facilities necessary for the Party's operations;

(k) any DBNGP shutdown or interruption which is validly required or directed by any Commonwealth, State or local government agency or any Commonwealth or State statutory authority having authority to so require or direct;

(l) any DBNGP shutdown or interruption required to conform with design or regulatory limits on DBNGP facilities, whether arising due to environmental conditions or circumstances or otherwise;

(m) DBNGP ruptures;

(n) collisions or accidents; and

(o) any other matter reasonably beyond the control of the Party.

Forward Haul means a Gas transportation service on the DBNGP where the inlet point is upstream of the outlet point.

Full Haul means a Gas transportation service on the DBNGP where the inlet point is upstream of main line valve 31 on the DBNGP and the outlet point is downstream of Compressor Station 9 on the DBNGP.

Gas means any naturally occurring gas or mixture of gases, intended for use:

(a) as a fuel; or

(b) in any chemical process.

Gas Day means the 24 hour period starting at 08:00 hours on a day and ending at 08:00 hours on the following day and the date of the Gas Day is the date on which it commences.

Gas Hour means a period of 60 minutes, commencing and ending on the hour.

Gas Month means a month starting at 08:00 hours on the first day of the month and ending at 08:00 hours on the first day of the following month.

Gas Pipelines Access Law means:

(a) Schedule 1 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA); and

(b) The Code

Gas Transmission Capacity means the capacity of the DBNGP to transport Gas.

Gas Year means the 12 month period starting at 08:00 hours on 1 January and ending at 08:00 hours on the following 1 January.

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

GJ means gigajoule.

Good Gas Industry Practice means the practices, methods and acts engaged in or approved by a firm or body corporate which, in the conduct of its undertaking, exercises that degree of due diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced persons engaged in providing services to the Australian gas industry under the same or similar circumstances and conditions, and includes complying with the terms of this Contract and taking reasonable steps to ensure that:

(a) manufacturers' instructions and operating manuals are complied with;

(b) adequate materials, resources and supplies are available at the necessary places under normal conditions associated with existing operations;

(c) sufficient experienced and trained operating personnel are available to undertake its responsibilities under this Contract;

(d) appropriate monitoring and testing is carried out to ensure that the equipment will function properly under normal and emergency conditions;

(e) equipment is operated and maintained in accordance with any Laws applicable to that equipment;

(f) in accordance with all applicable Laws:

  (i) it acts in a sound and workmanlike manner;

  (ii) it acts with due skill, care and applying standards required or accepted by a company experienced in the delivery of similar works and the provision of similar services;

  (iii) it acts with due expedition and without unnecessary or unreasonable delays; and

  (iv) it acts in a manner which allows for the work to be efficiently and cost-effectively performed with due regard to safety.

GST means GST as that term is defined in the GST Law and as imposed by the GST Law.

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

Higher Heating Value is to be determined using ISO 6974 for the analysis of natural Gas and using ISO 6976 for the calculations from that analysis, and means the gross number of megajoules produced by the complete combustion of one Cubic Metre of dry Gas at MSC

with air of the same temperature and pressure, when the products of combustion are cooled to the initial temperature of the Gas and air and when all water formed by combustion is condensed to the liquid state, corrected to a water - vapour free basis and expressed at MSC.

Hourly Peaking Charge means the charge payable under clause 10.3(d) or 10.4(b).

Hourly Peaking Limit has the meaning given in clause 10.1.

Hourly Peaking Rate means the rate specified in row 2 of Schedule 2.

Hourly Quantity for a Gas Hour in respect of a particular shipper is to be expressed in terajoules and means the total quantity (across all outlet points) of Gas Received by the relevant shipper from Operator during the Gas Hour.

Inaccurate means measuring the quantity of Gas with an inaccuracy of greater than the relevant limit prescribed by clauses 15.13(a)(i) or 15.13(a)(ii) (as the case may be).

Independent Expert is the expert chosen under clause 24.8.

Indirect Damage suffered by a person, means:

(a) any indirect loss or damage however caused, including any:

(v) consequential loss or damage;

(vi) loss of (or loss of anticipated) use, production, revenue, income, profits, business and savings; or

(vii) business interruption,

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

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

Inert Gases means any one or any mixture of helium, neon, argon, krypton, xenon, radon, nitrogen and carbon dioxide.

Information Package has the meaning in section 5.1 of the Code.

Initial Nomination means a Nomination by Shipper under clause 8.6, unless no such Nomination has been made in which case shall mean an Advance Nomination (if Shipper has made an Advance Nomination).

Inlet Metering Equipment means the Metering Equipment which Shipper is required by clause 15.1(a) to supply, install, Operate and Maintain at an Inlet Station at its own expense.

Inlet Point means a flange, joint, or other point, specified in clause 3.3(a) at which Shipper has Contracted Capacity from time to time.

Inlet Point Operating Specifications means the Operating Specifications specified in column headed “Inlet Points” of Item 1 of Schedule 3.

Inlet Station means the Metering Equipment site Associated with an Inlet Point and includes any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement, any telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services.

Insolvency Event means, in respect of a Party (the ***first person***) any one or more of:

(a) any execution or other process of any court or authority being issued against or levied upon any material part of the first person's property or assets being returned wholly or partly unsatisfied;

(b) an order being made or a resolution being passed for the winding up or dissolution without winding up of the first person otherwise than for the purpose of reconstruction or amalgamation under a scheme to which the other Party has given consent;

(c) a Controller being appointed in respect of the whole or a material part of the first person's property, undertaking or assets;

(d) the first person entering into any arrangement, reconstruction or composition with or for the benefit of its creditors;

(e) an administrator of the first person being appointed or the board of directors of the first person passing a resolution to the effect of that specified in section 436A(1) of the Corporations Act;

(f) the first person failing (as defined by section 459F of the Corporations Act) to comply with a statutory demand for an amount in excess of $1 million; or

(g) an event having a substantially similar effect to an event described in any of paragraphs (a) to (f) (inclusive) which happens in connection with the first person under the law of any jurisdiction.

Interruptible Service means any capacity contracted with a shipper having a priority for curtailment less than for Firm Service and includes Capacity under a Spot Transaction.

ISO means an International Standards Organisation standard.

Kwinana Junction means the location on the DBNGP identified as “Branching Point Kwinana Junction” in the Appendix 1 to the Access Arrangement Information.

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

(a) excludes any provision of the Access Regime (except for provisions which apply by force of law to prevail over any inconsistent clause of this Contract); and

(b) excludes any requirements of the Regulator (except for requirements which apply by force of law to prevail over any inconsistent clause of this Contract).

To avoid doubt, provisions of the Access Regime and requirements of the Regulator which apply by force of law to prevail over an inconsistent clause of this Contract are **Laws** for the purposes of this definition.

Load Characteristics means the relationships between Gas flow and time.

LPG means the sum of propane and butane components of Gas.

Maintain includes, where necessary, renew or replace.

Maintenance Charge has the meaning given in clause 6.6(i).

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

(a) cannot reasonably be scheduled at a time when it will not affect Gas Transmission Capacity; and

(b) by its nature or magnitude would require a Reasonable And Prudent Person to wholly or partially reduce Gas Transmission Capacity.

Metering Equipment means all equipment used to measure either or both the physical quantity or quality of Gas entering the DBNGP at an Inlet Point or exiting the DBNGP at an Outlet Point and all ancillary equipment required to compute Derived Variables and to produce printed reports at the Inlet Station or Outlet Station and to test and Maintain the reliability and calibration accuracy of that equipment (including any metering facilities or equipment that are or could be used for proving, testing and calibration of the equipment).

Metering Information means the information specified in clause 15.5(d).

MHQ for an outlet point on a particular Gas Day in respect of a shipper, means (subject to clause 17.7(b)(vi)) one twenty fourth of the sum of the quantities referred to as Contracted Capacity for that outlet point across all of the shipper's Capacity Services (including P1 Services and any Capacity under Spot Transactions) for that Gas Day in respect of that shipper.

Minimum Bid Price has the meaning given in clause 3.5(e).

MSC means metric standard conditions, being a pressure of 101.325 kPa and a temperature of 15 °C.

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

Multi-shipper Inlet Point means an inlet point at which more than one shipper Delivers Gas to Operator.

Multi-shipper Outlet Point means an outlet point at which more than one shipper Receives Gas from Operator.

Networks means AlintaGas Networks Pty Ltd ABN 90 089 531 975.

New Inlet Point means an inlet point on the DBNGP, whether existing or planned, to which Shipper proposes to relocate Contracted Capacity.

New Outlet Point means an outlet point on the DBNGP, whether existing or planned, to which Shipper proposes to relocate Contracted Capacity.

Nominated Day means a Gas Day in respect of which an Advance Nomination or Initial Nomination is made.

Nominated Inlet Point means an inlet point specified in an Initial Nomination as one at which Shipper proposes to Deliver Gas to Operator during the Nominated Day.

Nominated Outlet Point means an outlet point specified in an Initial Nomination as one at which Shipper proposes to Receive Gas from Operator during the Nominated Day.

Nominations shall mean Initial Nominations or Advance Nominations, and where other contracts for Capacity are being referred to, includes the material equivalent of Initial Nominations or Advance Nominations (as the case may be) under those other contracts.

Nominations Plan means the process for allocating Nominations set out in clause 8.9 which is based upon the priorities set out in the Curtailment Plan.

Notice includes a Tax Invoice, statement, demand, consent, request, application, notification and any other written communication, and includes such a notice communicated by means of facsimile or (if the Parties so agree) by the CRS.

Notional Gate Point has the meaning given in clause 6.10(a).

Operate includes to Maintain, test, or repair.

Operating Arrangement means the instrument titled Operating Arrangement between Transmission Division and Distribution Division of the Gas Corporation under Regulation 199C and dated 9 January 1998 originally annexed to a memorandum of understanding between the Gas Corporation (in its capacity as the corporation's DBNGP business) and the Gas Corporation (in its capacity as the corporation's distribution business), now as a result of transfers under the DBP Act and the *Gas Corporation (Business Disposal) Act 1999* (WA) having effect as a contract between Operator and Networks.

Operating Specification means the Gas quality specification specified in Item 1 of Schedule 3, and includes each component of the specification.

Operationally Feasible means operationally feasible in Operator's opinion (acting as a Reasonable And Prudent Person) in the circumstances prevailing at the relevant time including:

(a) the configuration and status of the DBNGP at the relevant time;

(b) the individual and collective Reserved Capacities and Load Characteristics of all shippers;

(c) Gas Transmission Capacity generally; and

(d) Operator's relevant entitlements and obligations under any contract or written Law.

Operator means the party named as such on the Access Request Form and includes its successors and permitted assigns.

Operator Default Notice has the meaning given in clause 22.6.

Operator Entity means Operator, all of Operator's Related Bodies Corporate and all entities Controlled by any of the foregoing.

Operator Owned Point means an inlet point or an outlet point described in clauses 6.7(a)(ii)(A) or (B).

Option has the meaning given in clause 4.3.

Original Capacity has the meaning given in clause 4.3.

Other Charges has the meaning given in clause 20.4.

Other Reserved Service means a Capacity Service offered under a contract which in Operator's opinion acting reasonably, has a capacity reservation charge or an allocation reservation deposit or any material equivalent to such charge or deposit which is payable up front or from time to time in respect to the reservation of capacity under that contract for at least a reasonable time into the future (but at all times excluding a T1 Service, B1 Service, P1 Service, a Firm Service and Capacity under a Spot Transaction).

Other shipper means any shipper other than:

(a) Alcoa as a shipper under the Alcoa Exempt Contract (but not otherwise); and

(b) Shipper.

Outer Accumulated Imbalance Limit has the meaning given in clause 9.6(a).

Outer Hourly Peaking Limit has the meaning given to it in clause 10.4.

Outlet Metering Equipment means Metering Equipment which Operator is required by clause 15.2(a) to supply, install, Operate and Maintain at an Outlet Station at Shipper's expense.

Outlet Point means a flange, joint or other point, referred to in clause 3.3(b) at which Shipper has Contracted Capacity from time to time.

Outlet Point Operating Specifications means the Operating Specifications specified in column headed “Outlet Points” of Item 1 of Schedule 3 (Operating Specifications).

Outlet Station means either a Gate Station or the Metering Equipment site associated with a Transmission Outlet Point, and includes any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement, and telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services.

Out-Of-Specification Gas means Gas which does not comply with one or more of the temperature or pressure specifications in this Contract or with one or more components of the Operating Specification, or where relevant with clause 7.2 or clause 7.3 (as the case may be).

Overrun Charge has the meaning given in clause 11.1(a).

Overrun Gas for a particular Gas Day and for a particular shipper, means Gas Received by the shipper (across all outlet points) less the aggregate of the quantities referred to as Contracted Capacity across all the shipper's Capacity Services (including P1 Services and any Capacity under Spot Transactions) (across all outlet points) on that Gas Day, and, if the preceding calculation produces a negative result, Overrun Gas for that Gas Day equals zero.

Overrun Rate has the meaning given in clause 11.1(b).

P1 Capacity Reservation Tariff means the T1 Capacity Reservation Tariff as set out in Schedule 2 as amended from time to time in accordance with clause 20.5 multiplied by the Distance Factor.

P1 Commodity Tariff means the T1 Commodity Tariff as set out in Schedule 2 as amended from time to time in accordance with clause 20.5 multiplied by the Distance Factor.

P1 Contract means any contract between Operator and a shipper for a P1 Service, and to avoid doubt includes this Contract.

P1 Permissible Curtailment Limit has the meaning given in clause 17.3(c).

P1 Reference Tariff means the P1 Capacity Reservation Tariff and the P1 Commodity Reservation Tariff.

P1 Service has the meaning given in clause 3.2(a) and clause 6.2A of the Access Arrangement.

Part Haul means a Forward Haul Gas transportation service on the DBNGP which is not Full Haul.

Party means Operator or Shipper or, where the context requires, the Pipeline Trustee or the DBNGP Trustee (as the case may be) and if Shipper comprises more than one person, includes each such person.

Period means in respect of a shipper's Capacity, a Season or a Gas Month as the case may be for which the shipper's Capacity is quantified.

Period of Supply means in respect of particular Contracted Capacity the time period between:

(a) the relevant Capacity Start Date; and

(b) the relevant Capacity End Date,

and for Spot Capacity means the Period of Supply for P1 Service under this Contract.

Physical Gate Point means a flange, joint or other point marked in the description of the DBNGP system in the Access Arrangement Information as a point that marks the boundary between the DBNGP and a Distribution Network. A Physical Gate Point is not an outlet point.

Pipeline Trust has the meaning given in clause 25.5(a).

Pipeline Trustee means DBNGP (WA) Nominees Pty Ltd (ACN 081 609 289).

Pipeline Zone 10 means the area of the DBNGP which is downstream of:

(a) the upstream flange of Kwinana Junction valve V4; and

(b) the upstream flange of Kwinana Junction valve HV401A.

Pipeline Zone 10B means the area of the DBNGP on mainline South, being downstream of the outlet flange of compressor station 10.

Planned Maintenance means maintenance of the DBNGP which is scheduled in advance and of which Shipper is given reasonable, and in any event not less than 3 Gas Days, written notice.

Point Specific Curtailment means a Curtailment as it affects or applies to a particular inlet point or outlet point.

Possession includes custody, control, and an immediate right to possession, custody, or control.

Prescribed Interest Rate means the Bank Bill Rate plus an annual interest rate of 3 percent per annum.

Prescribed Limits of Uncertainty means the limits of metering uncertainty prescribed by clause 15.3.

Previous Verification means the Verification at which the Primary Metering Equipment was last found to be measuring the quantity of Gas accurately.

Primary Metering Equipment means the Inlet Metering Equipment or the Outlet Metering Equipment, as the case may be.

Producer means a producer or supplier of Gas with whom Shipper has entered into a Gas supply contract or contracts under which Gas is to be Delivered at an inlet point.

Reasonable And Prudent Person means a person acting in good faith with the intention of performing his or her contractual obligations and who in so doing and in the general conduct of his or her undertaking exercises that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced person complying with recognised standards and applicable Laws engaged in the same type of undertaking under the same or similar circumstances and conditions.

Receive means to accept or receive Gas and includes Gas deemed by this Contract to be received at an inlet point or outlet point (including a Multi-shipper Inlet Point or Multi-shipper Outlet Point).

Regulator means ***local Regulator*** as this term is defined in section 11 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA), being the ERA.

Related Body Corporate has the meaning given to that expression in the Corporations Act.

Relative Density is expressed at MSC and means the molar mass of a Gas in g/mol divided by 28.9641 g/mol (being the molar mass of dry air as defined in ISO 6976) and corrected for the effect of deviation from ideal Gas behaviour upon both air and Gas.

Relevant Company means the direct and indirect shareholders of Operator, service providers to Operator (including System Operator) and all Related Bodies Corporate of those entities.

REMCo means the company established to administer and operate the approved retail market scheme for the retail gas market in Western Australia and includes any company, person or authority from time to time undertaking that role, being Retail Energy Market Company Limited (ACN 103 318 556) of Level 40, 140 William Street, Melbourne, Victoria 3000.

Remote Data is defined in clause 15.4(d).

Renomination has the meaning given in clause 8.10.

Replacement Contract means the contract which is deemed to arise between Operator and a Replacement Shipper by clause 27.7 following the Transfer of Tradeable Capacity to the Replacement Shipper.

Replacement Shipper has the meaning given in clause 27.3.

Request For Approval has the meaning given in clause 27.4(a).

Requested Relocation has the meaning given in clause 14.1.

Reserved Capacity means, subject to any changes from time to time made pursuant to the Curtailment Plan:

(a) the Distribution Networks IPQ, Alcoa's Priority Quantity, Alcoa's Exempt Delivery Entitlement; and

(b) Capacity referred to in any contract for a Type of Capacity Service as "Contracted Capacity" where such "Contracted Capacity" may, at the relevant time, be nominated for delivery to the relevant inlet point or outlet point (if any) pursuant to that Capacity Service (regardless of the level of interruptibility of the service at an inlet point or an outlet point (as the case may be)).

Resumption means a resumption by Shipper of all or part of Traded Capacity in accordance with the Transfer Terms.

Resumption Notice means a notice issued by Shipper that Shipper intends to Resume all or part of Traded Capacity.

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

Season means either Summer or Winter.

Share of the Distribution Networks' IPQ means a shipper's pro-rata share of the Distribution Networks' IPQ, based on its Nominations into the Distribution Networks, unless the Distribution Networks Shippers all agree to a different allocation policy and advise Operator thereof.

shipper means a person who, from time to time, has a contract with Operator for access to Gas Transmission Capacity, which includes Shipper.

Shipper means the party specified in the Access Request.

Shipper Default Notice has the meaning given in clause 22.2.

SI means the International System of Units set out in AS1000-1979.

Spot Capacity means any capacity on the DBNGP on a Gas Day (being the capacity available after all Nominations for Reserved Capacity for that Gas Day have been allocated by Operator for that Gas Day), which capacity, is, according to Operator (acting in good faith) available for purchase.

Spot Transaction means a transaction for the sale and purchase of Spot Capacity between Operator and a shipper on terms and conditions which are consistent with those contemplated in clause 3.5.

Standard Shipper Contract means the Operator's Standard Shipper Contract as at 27 October 2004.

State means the State of Western Australia.

Sub-network means that part of a Distribution Network which operates at a nominal pressure in excess of 300 kPa, which for the purposes of Gas flow is not directly connected with any other part of the Distribution Network which operates at a nominal pressure in excess of 300 kPa.

Summer means the period from 08:00 hours on 1 November of a year to 08:00 hours on 1 May of the following year.

Surcharges means the charges referred to in clauses 5.11(d) and 20.4(a)(i) to (iv) inclusive.

System Curtailment means a Curtailment which affects more than one inlet point or outlet point.

System Operator has the meaning given in clause 2.5(a).

System Use Gas means Gas used by Operator for the following purposes:

(a) replacing Gas consumed in the operation of the DBNGP (including, but not limited to:

  (i) compressor fuel;

  (ii) gas engine alternator fuel;

  (iii) heater fuel; and

(iv) increases to linepack, other than:

(A) when caused by or for the purposes of a supply of linepack gas to a third party under a balancing or back up service arrangement; or

(B) repacking the linepack of the DBNGP after an Expansion which involves looping of the pipeline); and

(b) replacing Gas which leaks or otherwise escapes from the DBNGP (whether in normal operational circumstances or due to any rupture or other abnormal leakage) and Gas vented as part of the normal operation of the DBNGP.

T1 Capacity or ***Tranche 1 Capacity*** has the meaning given in clause 3.2(b).

T1 Contract means any contract between Operator and a shipper for a T1 Service, and to avoid doubt excludes this Contract.

T1 Cut-off has the meaning given in clause 3.2(b)(ii).

T1 Service means the Full Haul Gas transportation service provided under the Standard Shipper Contract or the Access Arrangement which gives shipper a right, subject to the terms and conditions of the Standard Shipper Contract or the Access Arrangement to access capacity of the DBNGP and which:

(a) can only be Curtailed in the circumstances specified in clause 17.2;

(b) is treated the same in the Curtailment Plan as all other shippers with a T1 Service, and in the order of priority with respect to other Types of Capacity Service set out in clause 17.9; and

(c) is treated the same in the Nominations Plan as all other shippers with a T1 Service, and in the order of priority with respect to other Types of Capacity Service referred to in clause 8.9.

Tax means a tax, levy, charge, impost, fee, deduction, withholding or duty of any nature (other than income tax, capital gains tax, fines or penalties).

Tax Invoice has the meaning given to it in the GST Law.

Technical Matter has the meaning given to it in clause 24.7.

Technically Practicable means technically feasible and practicable consistent with the safe and reliable operation of the DBNGP, in the view of a Reasonable And Prudent Person.

Terminated Capacity has the meaning given in clause 22.10(d).

TJ means terajoule.

TJ/d means a TJ per Gas Day.

Total Contracted Capacity means in respect of a particular shipper in respect of the P1 Service at a particular time:

(a) in relation to inlet points, the sum of the shipper's Contracted Capacity for all inlet points; and

(b) in relation to outlet points, the sum of the shipper's Contracted Capacity for all outlet points.

Total Current Physical Capacity means the total physical Gas throughput Capacity at the relevant time (having regard to all associated facilities) of an inlet point or an outlet point

and operating within its technical design parameters, as the case may be, in Operator's opinion as a Reasonable And Prudent Person.

Total Inlet Quantity means the total quantity (across all inlet points) of Gas Delivered to Operator by Shipper on a Gas Day across all contracts (including Spot Transactions).

Total Outlet Quantity means the total quantity (across all outlet points) of Gas Received by Shipper from Operator on a Gas Day across all contracts (including Spot Transactions).

Total Physical Capacity means the Total Current Physical Capacity as at the commencement of the Access Arrangement Period.

Tradeable Capacity has the meaning given in clause 27.4(a).

Traded Capacity is any Tradeable Capacity which has been Transferred to a Replacement Shipper following the approval or deemed approval of the Transfer Terms of that Tradeable Capacity.

Transfer includes transfer, assign to or otherwise grant an interest in or entitlement to Tradeable Capacity.

Transfer Terms means the terms and conditions, set out in a Request For Approval, on which a shipper is prepared to Transfer Tradeable Capacity to a Replacement Shipper.

Transmission Outlet Point means an outlet point which is not a Notional Gate Point.

Type of Capacity Service has the meaning given in clause 8.9(b).

Unavailable Overrun Charge means the charge payable under clauses 11.6 and 17.8(e).

Unavailable Overrun Rate means the rate specified in row 4 of Schedule 2.

Unavailability Notice has the meaning given in clause 11.2(a).

Verification means the process of testing all Metering Equipment and all components of Metering Equipment to establish its calibration accuracy.

Winter means the period from 08:00 hours on 1 May in a year to 08:00 hours on 1 November of the same year.

WLPG Plant means the LPG extraction plant fronting Leath and Mason Roads, Kwinana, that is operated by Wesfarmers LPG Pty Ltd.

Wobbe Index means the number obtained by the formula:

$$\text{Wobbe Index} = \frac{\text{Higher Heating Value}}{\sqrt{\text{Relative Density}}}$$

Working Day means any Monday, Tuesday, Wednesday, Thursday or Friday which is not gazetted as a public holiday in the Perth metropolitan area.

2. GENERAL

2.1 Construction generally

In the construction of this Contract, unless the context requires otherwise:

(a) a reference to a clause number or Schedule is a reference to a clause or Schedule of this Contract;

(b) words indicating the singular number include the plural number and vice versa;

(c) words indicating one gender include any other gender;

(d) words indicating persons include natural persons, bodies corporate and unincorporated associations;

(e) a reference to any statutory law extends to and includes any amendment of, modification of, or substitution for, that law;

(f) a reference to any contract or agreement is a reference to that contract or agreement as amended, varied, novated or substituted from time to time;

(g) references to dollars or $ are references to Australian dollars;

(h) a reference to a time and date in connection with the performance of an obligation by a Party is a reference to the time and date in Perth, Western Australia, even if the obligation is to be performed elsewhere;

(i) all time is expressed in a 24-hour format, with each day (but not a Gas Day) commencing at 00:00 hours and ending at 24:00 hours; and

(j) unless specified otherwise, reference to a quantity of Gas is a reference to that quantity of Gas measured in GJ;

(k) unless otherwise indicated, all units in this Contract are SI units;

(l) unless the contrary intention appears, the interpretation provisions of the *Interpretation Act 1984* (WA) apply to the interpretation of this Contract;

(m) any grammatical or linguistic variation of a defined word or expression has a corresponding meaning;

(n) any specific reference to or listing of items following the words **including, for example** or **such as** is without limitation and does not exclude application to other items, whether or not in the same class, category or genus as any specified or listed items;

(o) under includes by, by virtue of, pursuant to and in accordance with; and

(p) a reference to rights, entitlements, obligations or terms “materially equivalent” or the “same” (in comparison to rights, entitlements, obligations or terms in this Contract or in comparison to other rights, entitlements, obligations or terms (as the case may be)) or any similar expressions shall be deemed to mean rights, entitlements, obligations or terms that are, in the opinion of a Reasonable And Prudent Person, materially equivalent to the relevant rights, entitlements, obligations or terms in this Contract or those other rights, entitlements, obligations or terms (as the case may be).

2.2 Headings

Headings are inserted for convenience and do not affect the interpretation of this Contract.

2.3 Rounding to a certain number

Any number calculated under this Contract which exceeds six decimal places is to be rounded to six decimal places. For the purposes of such rounding, if the digit at the seventh decimal place is:

(a) between zero and four (inclusive), the number is to be rounded down to the nearest sixth decimal place; and

(b) between five and nine (inclusive), the number is to be rounded up to the nearest sixth decimal place.

2.4 Other contracts

Where the context requires, a term which is defined in this Contract (including P1 Service, B1 Service, T1 Service, Aggregated P1 Service, Other Reserved Service, Contracted Capacity and Total Contracted Capacity) includes the same concept in another contract in relation to Shipper or in relation to another shipper.

2.5 System Operator

(a) Operator's rights and powers under this Contract may be delegated to a contractor (System Operator) who is entitled to exercise, on behalf of Operator, all such rights and powers conferred on Operator.

(b) System Operator will be the person (if any) identified as such in the Access Request Form until such time as Operator gives notice in writing to Shipper that that person no longer acts as System Operator, in which case it must give notice of the person (if any) that is to act as System Operator in that person's place.

(c) Any act, matter or thing done by System Operator in respect of this Contract or in the performance of obligations related to this Contract in either its own name or in the name of Operator is deemed to have been done by Operator and Operator agrees to ratify and confirm whatsoever System Operator does or causes to be done by virtue of, or purportedly by virtue of, the powers contained in this Contract.

(d) Without limiting clause 2.5(c), any communication or notice given, or document signed, by System Operator in respect of this Contract is deemed to have been given or signed by Operator and will bind Operator. Similarly, any communication, notice or document given to System Operator in respect of this Contract is deemed to have been given to Operator and will bind Operator.

(e) Operator must procure that System Operator complies with the requirements of section 4 (Ring Fencing Arrangements) of the Code as if it were a 'Service Provider' for the purposes of that section.

3. CAPACITY SERVICE

3.1 Operator to provide P1 Service to Shipper

During the Period of Supply, Operator will provide the P1 Service to Shipper and Shipper agrees to accept the P1 Service from Operator on the terms and conditions of this Contract.

3.2 Capacity Service

(a) The P1 Service is the Part Haul Gas transportation service that is a category of T1 Service and is provided under this Contract which gives Shipper a right, subject to the terms and conditions of this Contract, to access capacity of the DBNGP and which (subject, in all cases, to clauses 8.15 and 17.9 of this Contract):

(i) can only be Curtailed in the circumstances specified in clause 17.2;

(ii) is treated the same in the Curtailment Plan as all other shippers with a P1 Service, and in the order of priority with respect to other Types of Capacity Service set out in clause 17.9; and

(iii) is treated the same in the Nominations Plan as all other shippers with a P1 Service, and in the order of priority with respect to other Types of Capacity Service referred to in clause 8.9.

(b) Operator acknowledges and agrees:

(i) Tranche 1 Capacity in the DBNGP comprises the amount of Gas Transmission Capacity which lies between zero and the T1 Cut-off;

(ii) the T1 Cut-off is the amount of Gas Transmission Capacity at which the probability of supply for the next GJ of Gas to be transported in the DBNGP is 98% for each Period of a Gas Year;

(iii) whenever there is a material change (other than a short term change) in the configuration of the DBNGP which will or might change the probability of supply at the T1 Cut-off for any or all Periods in a Gas year, Operator, acting as a Reasonable And Prudent Person, shall undertake a re-determination in accordance with clause 3.2(b)(ii) of the T1 Cut-off for each Period in which the T1 Cut-off has changed; and

(iv) acting as a Reasonable And Prudent Person, Operator shall ensure that the sum of:

(A) T1 Service (including under this Contract) which it has contracted to provide to Shipper and all other shippers; and

(B) Alcoa's Exempt Capacity,

does not materially exceed the amount of T1 Capacity in the DBNGP.

(c) In this clause 3.2 probability of supply means the probability that Gas Transmission Capacity in the DBNGP will not, for any reason other than Major Works, fall below a particular cut-off level.

(d) For the avoidance of doubt, Alcoa's Exempt Capacity is provided by Operator out of Tranche 1 Capacity in the DBNGP.

3.3 Contracted Capacity

Subject to this Contract, Shipper's Contracted Capacity for each Gas Day within a Period under this Contract:

(a) at an Inlet Point specified in item 1 of clause 5 of the Access Request Form - is the amount for P1 Service set out in item 1 of clause 5 of the Access Request Form for that Period; and

(b) at an Outlet Point specified in item 2 of clause 5 of the Access Request Form - is the amount for P1 Service set out in item 2 of clause 5 of the Access Request Form for that Period.

3.4 Operator must deliver Gas up to Contracted Capacity

During the Period of Supply, subject to the terms and conditions of this Contract (including clauses 5 and 17), Operator will deliver on each Gas Day (aggregated across all Outlet Points) the quantity of Gas required by Shipper up to Shipper's Total Contracted Capacity plus any Spot Capacity allocated to Shipper for the Gas Day.

3.5 Spot Capacity

(a) The Parties agree that, until otherwise agreed, the following principles shall apply to Spot Capacity and Spot Transactions (as the case may be).

(b) If Shipper seeks to bid for Spot Capacity for a Gas Day it must by notice to Operator at any time no later than 15:00 hours on the Gas Day before that Gas Day notify Operator of the amount of Spot Capacity it requires for that Gas Day (Daily Bid) and the price it offers to pay for that Spot Capacity for that Gas Day (the Daily Spot Bid Price).

(c) Operator must by no later than 16:00 hours on each Gas Day before the relevant Gas Day allocate Spot Capacity for a Gas Day between Daily Bids on the basis (subject to clause 3.5(e)) of the Shipper bidding the highest Daily Spot Bid Price for that Gas Day being allocated the Spot Capacity it bid for, the shipper bidding the second highest Daily Spot Bid Price for that Gas Day being allocated the Spot Capacity it bid for, and so on until all Daily Bids are satisfied or until all available Spot Capacity is allocated to Daily Bids. If two or more shippers bid the same Daily Spot Bid Price and there is not sufficient available Capacity to allocate to each of them the amount of Spot Capacity bid for by each of them, the Spot Capacity available to be allocated between them shall be allocated in proportion to the amount of Spot Capacity bid for by each of them respectively at the said Daily Spot Bid Price for that Gas Day.

(d) Subject to clause 3.5(f), if Shipper is allocated Spot Capacity for a Gas Day in response to a Daily Bid Shipper must pay the Daily Spot Bid Price bid by it for that Spot Capacity for that Gas Day whether or not it uses the Spot Capacity.

(e) Operator may set a minimum bid price (Minimum Bid Price) for Daily Bids and is not obliged to allocate Spot Capacity to any shipper bidding a Daily Spot Bid Price which is less than the Minimum Bid Price. The Minimum Bid Price for Daily Bids may not be set by Operator at a price greater than 115% of the P1 Reference Tariff applying on the relevant Gas Day.

(f) Shipper is relieved from paying the Daily Spot Bid Price in relation to Spot Capacity allocated to it for a Gas Day only where:

(i) Operator interrupts or Curtails the Spot Capacity which has been allocated to Shipper, and then only to the extent of that interruption or Curtailment; or

(ii) Shipper does not use the Spot Capacity which has been allocated to it in circumstances where there were no other shippers bidding for Spot Capacity for that Gas Day to which the Spot Capacity allocated to Shipper could otherwise have been allocated.

(g) Operator must provide the following information to Shipper in respect of each Gas Day as soon as practicable after that Gas Day:

(i) the quantities the subject of Daily Bids which relate to that Gas Day;

(ii) the quantities of Spot Capacity allocated for that Gas Day; and

(iii) the Daily Spot Bid Prices for all bids allocated Spot Capacity for that Gas Day.

(h) Operator will not bid for Spot Capacity and if an Operator Entity, Alcoa, Alinta Limited (ABN 40 087 857 001) or a Related Body Corporate of either Alcoa or Alinta Limited bids and is allocated Spot Capacity, Operator must indicate on the CRS that the relevant Spot Capacity has been allocated to an Operator Entity without disclosing the identity of the entity.

(i) Operator must ensure that the rules governing the market for Spot Capacity are designed with a view to achieving a market with the following objectives:

(i) non-discriminatory in respect of the terms and conditions upon which, and the circumstances in which, Spot Capacity is granted to shippers;

(ii) hindering market manipulation and gaming by Operator or other shippers; and

(iii) consistent with this clause 3.5.

4. DURATION OF THE CONTRACT

4.1 Term

(a) Subject to the terms and conditions of this Contract, including clause 4.3, the Capacity End Date is 08:00 hours on the date specified in the Access Request Form as the Capacity End Date.

(b) Subject to the terms and conditions of this Contract, this Contract ends on the last of the Capacity End Dates.

4.2 Capacity Start Date

The Capacity Start Date is 08:00 hours on the date for commencement of access to the P1 Service as specified in the Access Request Form.

4.3 Option to renew Contract

Subject to clauses 4.4, 4.5, 4.6 and 4.7, Shipper has two options to extend the Capacity End Date in respect of Contracted Capacity the subject of this Contract as at the Capacity Start Date (***Original Capacity***) each for a period of 1 year (***Option***).

4.4 Conditions to be satisfied before exercising an Option

Shipper may only validly give notice exercising an Option if Shipper:

(a) is not in default (within the meaning of clause 22.1) under this Contract in a way which is material in the context of this Contract as a whole at the time Shipper gives notice; and

(b) complies with the requirements of clause 4.5 of this Contract.

4.5 Notice exercising an Option

Not later than 3 months before the Capacity End Date, Shipper may give written notice to Operator that it wishes to exercise an Option. If such notice is not given before such time, the Option lapses, is of no force and effect whatsoever, and cannot be exercised.

4.6 First Option Period

If Shipper gives a notice in accordance with clause 4.5 exercising the first option given to it under clause 4.3, then the Period of Supply for the Original Capacity under this Contract will be extended for a period of 1 year and:

(a) the Capacity End Date for the Original Capacity (as defined in clause 4.1) is amended to 08:00 hours on that date; and

(b) this clause 4.6 (relating to the exercise of the Option) will have no effect after 08:00 hours on the date originally specified in the Access Request Form as the Capacity End Date.

4.7 Second Option Period

If Shipper has exercised the first option under clause 4.3 and gives a notice in accordance with clause 4.5 exercising the second option given to it under clause 4.3 then the Period of Supply for the Original Capacity under this Contract will be extended for a period of another year and:

(a) the Capacity End Date for the Original Capacity (as amended by the previous operation of clause 4.6(a)) is amended to 08:00 hours on that date; and

(b) clauses 4.3, 4.4, 4.5 and this clause 4.7 (all relating to the exercise of the Option) will have no effect after 8:00 hours on the date that is one year after the date that was originally specified in the Access Request Form as the Capacity End Date.

5. RECEIVING AND DELIVERING GAS

5.1 Receipt and Delivery of Gas

Subject to this Contract, during the Period of Supply, Shipper may on each Gas Day Deliver at the Inlet Points on the DBNGP Gas up to its Contracted Capacity aggregated across all inlet points on the DBNGP (plus any Capacity under a Spot Transaction) and may Receive the Gas Delivered by Operator to it at the Outlet Points on the DBNGP on that Gas Day up to its Contracted Capacity aggregated across all outlet points on the DBNGP (plus any Capacity under a Spot Transaction).

5.2 Operator must Receive and Deliver Gas

Subject to this Contract, if Shipper offers Gas for Delivery to Operator at inlet points on the DBNGP, Operator must Receive that Gas from Shipper up to Shipper's Contracted Capacity aggregated across all inlet points on the DBNGP (plus any Capacity under a Spot Transaction) and Operator must deliver Gas to Shipper at nominated outlet points up to its Contracted Capacity aggregated across all outlet points on the DBNGP (plus any Capacity under a Spot Transaction).

5.3 Operator may refuse to Receive Gas

In addition to any other rights and remedies that may be available to it under this Contract or under Law or in equity, Operator may (subject to clause 5.4(a)) without prior notice to Shipper, refuse to Receive Gas from Shipper at an Inlet Point:

(a) to the extent that Operator is entitled to refuse to Receive Gas under:

  (i) clause 7.6 (Operator and Shipper may refuse to Receive Out-Of-Specification Gas);

  (ii) clause 9.5(b)(iv) (Accumulated Imbalance Limit);

  (iii) clause 9.8(c) (Remedies for breach of imbalance limits);

  (iv) clause 17.8(c) (Compliance with a Curtailment Notice); or

  (v) clause 22.4(a) (Remedies for Shipper's default);

(b) to the extent that Operator is relieved from so doing under clause 19 (Force Majeure);

(c) to the extent that Operator considers as a Reasonable And Prudent Person that it would be unsafe to Receive that Gas;

(d) to the extent that Receipt by Operator of that Gas would cause the DBNGP to exceed its maximum allowable operating pressure;

(e) to the extent that Shipper has not entered into any agreement in relation to that inlet point required by clause 6.7; or

(f) to the extent that the Receipt of that Gas for a Gas Day at an inlet point is in excess of the aggregate of the following (in respect of that inlet point for that Gas Day):

  (i) the sum of Shipper’s Contracted Capacity for that inlet point;

(ii) Shipper's Aggregated Service Allocated Daily Nomination in respect of that inlet point for that Gas Day; and

(iii) any Spot Capacity allocated to Shipper for that Gas Day,

if Operator considers as a Reasonable And Prudent Person that to Receive such Gas would interfere with other shippers' rights to their Contracted Firm Capacity.

5.4 Notification of refusal to Receive Gas

Without affecting Operator's rights under clause 5.3, Operator must:

(a) use its reasonable endeavours to give Shipper advance notice which is reasonable in the circumstances of any impending refusal to Receive Gas;

(b) if it does not give Shipper advance notice under clause 5.4(a) of a refusal to Receive Gas, Operator must notify Shipper of that refusal as soon as practicable after that refusal; and

(c) notify Shipper (in reasonable detail) of the reasons for a refusal to Receive Gas as soon as practicable.

5.5 Refusal to Receive Gas is a Curtailment in limited circumstances

To the extent that a refusal to Receive such Gas under clauses 5.3(c) and 5.3(d) would not have occurred if Operator had taken the steps which would be expected of a Reasonable And Prudent Person to avoid the need for, or failing such avoidance, to minimise the magnitude and duration of, the refusal to Receive Gas, a refusal to Receive Gas under clauses 5.3(c) and 5.3(d):

(a) is a Curtailment for the purposes of this Contract; and

(b) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the P1 Permissible Curtailment Limit to be exceeded.

5.6 No liability for refusal to Receive Gas

Subject to clause 23.2 and subject to any liability under clause 17 arising from a refusal of a type referred to in clause 5.5, Operator is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Receive Gas under clause 5.3.

5.7 Refusal to Deliver Gas

In addition to any other rights and remedies that may be available to it under this Contract or under Law or in equity, Operator may refuse to Deliver Gas to Shipper at an Outlet Point:

(a) to the extent that Operator is entitled to refuse to Deliver Gas under:

(i) clause 7.6 (Operator and Shipper may refuse to Receive Out-of-Specification Gas);

(ii) clause 9.5(b)(iv) (Accumulated Imbalance Limit);

(iii) clause 9.8(c) (Remedies for breach of Imbalance Limit);

(iv) clause 10.3(a)(iv) (Consequence of exceeding Hourly Peaking Limit);

(v) clause 10.6(c) (Remedies for breach of Peaking Limits);

(vi) clause 11.5 (Operator may refuse to Deliver Overrun Gas);

(vii) clause 17.8(c) (Compliance with a Curtailment Notice); or

(viii) clause 22.4(a) (Remedies for Shipper's default);

(b) to the extent that Operator is relieved from so doing under clause 19 (Force Majeure);

(c) to the extent that Operator considers as a Reasonable And Prudent Person that it would be unsafe to Deliver that Gas or that such Delivery may exceed the Total Current Physical Capacity of the relevant outlet point; or

(d) to the extent that Shipper has not entered into any agreement in relation to that outlet point required by clause 6.7.

5.8 Notification of refusal to Deliver Gas

When Operator refuses to Deliver Gas to Shipper under clause 5.7, Operator must:

(a) use its reasonable endeavours to give Shipper advance notice which is reasonable in the circumstances of any impending refusal to Deliver Gas;

(b) if it does not give Shipper advance notice under clause 5.8(a) of a refusal to Deliver Gas, Operator must notify Shipper of that refusal as soon as practicable after that refusal; and

(c) notify Shipper of the reasons for a refusal to Deliver Gas in sufficient detail to explain the refusal as soon as practicable.

5.9 Refusal to Deliver Gas is a Curtailment in limited circumstances

To the extent that a refusal to Deliver such Gas under clause 5.7(c) would not have occurred if Operator had taken the steps which would be expected of a Reasonable And Prudent Person to avoid the need for, or failing such avoidance, to minimise the magnitude and duration of, the refusal to Deliver Gas, a refusal to Deliver Gas under clause 5.7(c):

(a) is a Curtailment for the purposes of this Contract; and

(b) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the P1 Permissible Curtailment Limit to be exceeded.

5.10 No liability for refusal to Deliver Gas

Subject to clause 23.2 and subject to any liability under clause 17 arising from a refusal of a type referred to in clause 5.9, Operator is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Deliver Gas under clause 5.7.

5.11 System Use Gas

Operator must supply Shipper's share of System Use Gas.

5.12 Additional Rights to Refuse to Receive or Deliver Gas

(a) In addition to any other rights and remedies that may be available to it under any Law or under this Contract or in equity, if:

(i) the Governor or any other person, regulatory authority or body declares a state of emergency under the *Fuel, Energy and Power Resources Act 1972* (WA) or any successor, supplementary or similar Law and the Governor or such other person, regulatory authority or body makes emergency

regulations or similar which, in the opinion of Operator or the Pipeline Trustee acting reasonably in the context of the declaration, will affect or is likely to affect the operation of the DBNGP; or

(ii) the Coordinator of Energy or any other person, regulatory authority or body declares a state of emergency under the *Energy Coordination Act 1994* (WA) or any successor, supplementary or similar Law and makes emergency orders or similar which, in the opinion of Operator or the Pipeline Trustee acting reasonably in the context of the declaration, will affect or is likely to affect the operation of the DBNGP,

(any and all of these being a ***Declaration***),

then Operator may (with prior notice to Shipper wherever practicable) refuse to Receive Gas at an Inlet Point or refuse to Deliver Gas at an Outlet Point (or both) to the extent that Operator in good faith believes it is necessary or desirable to comply with or deal with the Declaration and any associated emergency regulations, emergency orders, directions or advice received from any governmental or regulatory authority, person or body.

(b) To the extent that the exercise of rights and remedies under clause 5.12(a) would not have occurred if Operator had taken the steps which would have been expected of a Reasonable And Prudent Person to prevent the relevant event occurring, or failing such prevention, to minimise the magnitude and duration of the need to refuse to Receive or Deliver Gas, the exercise of rights and remedies under clause 5.12(a):

(i) is a Curtailment for the purposes of this Contract; and

(ii) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the P1 Permissible Curtailment Limit to be exceeded.

(c) If Operator exercises any rights under clause 5.12(a), it must:

(i) promptly give notice to Shipper of the occurrence giving rise to the right of Operator to exercise such rights, and the steps that Operator intends to take under clause 5.12(a); and

(ii) resume full performance of its obligations under this Contract as soon as reasonably practicable.

6. INLET POINTS AND OUTLET POINTS

6.1 Inlet Points and Outlet Points

(a) The Inlet Points for this Contract are set out in Item 1 of clause 5 of the Access Request Form; and

(b) The Outlet Points for this Contract are set out in Item 2 of clause 5 of the Access Request Form.

6.2 Multi-shipper Agreement

Shipper is taken to be a party to a current Multi-shipper Agreement in respect of an Inlet Point or Outlet Point if at the Capacity Start Date there is an agreement, arrangement or understanding whether or not in writing, between all shippers which use that Inlet Point or Outlet Point, (which agreement, arrangement or understanding may include other parties, such as a Producer or REMCo) under which Operator is notified of how the Gas Delivered to or Received from that Inlet Point or Outlet Point is allocated between those shippers, for as long as that agreement, arrangement or understanding continues in force.

6.3 Multi-shipper Inlet Point and Multi-shipper Outlet Point

(a) The Gas streams delivered to a Multi-shipper Inlet Point by or on behalf of Shipper are to be commingled at a point or points upstream of the Inlet Point with the Gas streams delivered to that Multi-shipper Inlet Point by other shippers.

(b) For any purpose under this Contract, Shipper's proportional share of the commingled inlet stream at a Multi-shipper Inlet Point is to be determined immediately upstream of the inlet point after all Gas streams have been commingled, and Shipper's proportional share of the commingled outlet stream at a Multi-shipper Outlet Point is to be determined immediately downstream of the outlet point.

(c) Subject to any contrary provisions in a Multi-shipper Agreement, Shipper's nominations, obligations and liabilities under this Contract in respect of any quantity, quality, temperature or pressure of Gas at a Multi-shipper Inlet Point are to be determined solely in respect of Shipper's proportional share of the commingled inlet stream determined under clause 6.4, and not by reference to any quantity, quality, temperature or pressure of any Gas delivered by or on behalf of Shipper into the commingled inlet stream.

(d) All shippers using an Inlet Point or an Outlet Point (as the case may be) may enter into (with or without other parties which are not shippers) a written agreement (***Multi-shipper Agreement***) with Operator dealing with, amongst other things, the way in which Gas Delivered by them to an Inlet Point or Received by them from an Outlet Point is to be allocated between them.

(e) Operator must promptly enter into a Multi-shipper Agreement in respect of an Inlet Point or Outlet Point if:

(i)

(A) the agreement contains a formula or mechanism for allocating Gas deliveries to the Inlet Point or Outlet Point (as the case may be) for

each Gas Hour between the shippers in a manner which enables Operator to determine the allocation by applying the formula or mechanism once it knows the total quantity of Gas delivered at that Inlet Point or Outlet Point (as the case may be) during the relevant Gas Hour; or

(B) where the agreement relates to an Inlet Point, it provides that Gas deliveries at the Inlet Point are allocated by a notice to Operator from the Producer that delivers Gas into the Inlet Point on behalf of all shippers using that Inlet Point; or

(C) where the agreement relates to an Outlet Point, it provides that Gas deliveries at that Outlet Point are allocated by a notice provided to Operator from one of the shippers at that Outlet Point or from a third party nominated by one of the shippers at that Outlet Point;

(ii) the agreement allocates deliveries to the Inlet Point or Outlet Point (as the case may be) between the shippers on a daily basis;

(iii) the agreement is between all shippers who use the Inlet Point or Outlet Point (as the case may be) and Operator;

(iv) the agreement provides that, as between each shipper and Operator for the purposes of each shipper's Gas transportation contract, Operator may rely upon the allocation of Gas delivered by the shippers at an Inlet Point, or received by the shippers at an Outlet Point, determined in accordance with the agreement, as being the quantity of Gas delivered by each of those shippers at the Inlet Point and the quantity of Gas received by each of those shippers at the Outlet Point;

(v) the agreement provides that Operator may, in order to give effect to a Curtailment of the Capacity of one or more of the shippers using the Outlet Point, physically reduce the Capacity of the Outlet Point by an amount up to the Contracted Capacity (or the equivalent under that shipper's contract) at that Outlet Point for the shipper to be Curtailed;

(vi) Operator is reasonably satisfied with the metering arrangements for any meters being used for the purpose of allocating Gas deliveries at the Inlet Point or Outlet Point (as the case may be);

(vii) the agreement provides that Operator is not liable to shippers where it acts in accordance with the provisions of the agreement; and

(viii) the agreement does not impose any other obligations or liabilities upon Operator (other than in relation to the provision of metering information of the type contemplated in clause 15.5) and does not directly or indirectly vary or amend this Contract or any other contract between a shipper and Operator other than as specifically contemplated above.

(f) A Multi-shipper Agreement (including a deemed Multi-shipper Agreement under the Retail Market Rules) in relation to a Notional Gate Point, may provide that:

(i) whilst the Retail Market Rules are in force, Gas deliveries at that point are allocated by REMCo, on behalf of all shippers using that Notional Gate Point, by:

(A) REMCo providing Operator with an algorithm for doing so which can be applied by Operator; or

(B) REMCo providing Operator a notice by electronic means within a reasonable period after each Gas Hour and after the end of each Gas Day; and

(ii) at any time during which the Retail Market Rules are inoperative, Gas deliveries at that point are allocated by Networks, on behalf of all shippers using that Notional Gate Point pursuant to the terms of the Operating Arrangement.

(g) A Dispute under clause 6.3(e) is to be referred to an Independent Expert under clause 24 as a Technical Matter.

6.4 Allocation of Gas at Inlet Points

(a) On any Gas Day when Shipper is the only shipper Delivering Gas to Operator at an Inlet Point, Shipper shall be deemed to have Delivered all Gas Received by Operator at the Inlet Point for that Gas Day and clauses 6.4(b) and 6.4(c) shall not apply.

(b) If Shipper and any other shipper Delivers Gas to Operator at an Inlet Point on a Gas Day, and:

(i) there is a relevant Multi-shipper Agreement then Shipper's proportional share of Gas at the Inlet Point will be determined by that Multi-shipper Agreement; or

(ii) Shipper procures the delivery of written confirmation to Operator from, or on behalf of, every shipper which delivers Gas to that Inlet Point on that Gas Day by not later than 08:30 hours on the following Gas Day, of the quantity of Gas supplied by those shippers at that Inlet Point, then (in the absence of evidence to the contrary) that confirmation shall be deemed to show the quantity of Gas Delivered by Shipper to Operator at that Inlet Point.

(c) If there is no Multi-shipper Agreement in relation to an Inlet Point and Shipper or any other shipper Delivering Gas at such Inlet Point fails to provide such written confirmation by the time specified in clause 6.4(b), then Shipper's proportionate share of Gas Received at that Inlet Point may be determined by Operator (acting as a Reasonable And Prudent Person) by (inter alia) reference to Daily Nominations at the Inlet Point for that Gas Day across all Capacity Services and Spot Transactions across all shippers and Shipper shall be deemed to have Delivered that proportionate share so determined of the Gas Received at that Inlet Point on that Gas Day.

(d) Gas Delivered by Shipper to an Inlet Point will be deemed to be Received by Operator in the order specified generally or for a particular Gas Day by Shipper and if Shipper fails to specify for any Gas Day, in the following order:

(i) first, Gas for any available P1 Service which includes Gas for any available Aggregated P1 Service;

(ii) second, Gas for any available Capacity Services (other than P1 Service) in the order set out in clause 8.9(a);

(iii) third, Gas for any available Capacity under any Spot Transaction; and

(iv) fourth, other Gas.

6.5 Allocation of Gas at Outlet Points

(a) On any Gas Day when Shipper is the only person taking Delivery of Gas from Operator at an Outlet Point, Shipper shall be deemed to have taken Delivery of all Gas Delivered by Operator at the Outlet Point for that Gas Day and clauses 6.5(b) and 6.5(c) shall not apply.

(b) If Shipper and any other shipper take Delivery of Gas from Operator at the Outlet Point on a Gas Day then, if there is a Multi-shipper Agreement in relation to the Outlet Point, Shipper's proportional share of Gas at the Outlet Point must be determined under the Multi-shipper Agreement.

(c) If there is no Multi-shipper Agreement in relation to an Outlet Point or if Shipper fails to otherwise reach agreement with other shippers at the Outlet Point in respect of the allocation of Gas Receipts or fails to provide Operator with a copy of a Multi-shipper Agreement referred to in clause 6.5(b) prior to the commencement of the relevant Gas Day, then Shipper's proportional share of Gas at the Outlet Point is to be determined by Operator (acting as a Reasonable And Prudent Person) by (inter alia) reference to Daily Nominations at the Outlet Point for that Gas Day across all Capacity Services and Spot Transactions across all shippers and Shipper will be deemed to have Received that proportionate share so determined of the Gas Delivered to that Outlet Point on that Gas Day.

(d) Gas Delivered by Operator to an Outlet Point will be deemed by this clause to be Received by Shipper in the order specified generally or for a particular Gas Day by Shipper, and if Shipper fails to specify for any Gas Day in the following order:

(i) first, Gas for any available P1 Service (which shall include any available Aggregated P1 Service);

(ii) second, Gas for any available Capacity Services (other than P1 Service) in the order set out in clause 8.9(a);

(iii) third, Gas for any available Capacity under any Spot Transaction; and

(iv) fourth, other Gas.

6.6 Installation, operation and maintenance of inlet stations and outlet stations

(a)

(i) Shipper shall install, operate and maintain or procure the design, installation, operation and maintenance of, Inlet Stations at its own expense and when (if ever) Shipper and other shippers deliver Gas to Operator at an inlet point on the DBNGP, Shipper and those other shippers shall, at their joint expense, collectively install, operate and maintain the Associated Inlet Station.

(ii) Other than in respect of an Existing Station, and unless agreed otherwise, Operator shall install, operate and maintain Outlet Stations that are not Gate Stations, at Shipper's request, and at Shipper's expense to be determined in accordance with clause 6.6(i).

(iii) Other than in respect of an Existing Station, Shipper shall pay a proportion of the Maintenance Charge relating to an Outlet Station associated with an Operator Owned Point (but not otherwise) that:

(A) in the case of an Outlet Station related to an Outlet Point, is equal to the proportion that Shipper's Contracted Capacity (across all Capacity Services) at that Outlet Point bears to the aggregate Contracted Capacity (across all Capacity Services) for all shippers at that Outlet Point, less any amount recovered under clause 6.6(a)(iii)(B); and

(B) in the case of an Outlet Station related to an outlet point at which Shipper does not have Contracted Capacity, is equal to the proportion that the sum of Shipper's deliveries of Gas (across all Capacity Services) at the outlet point, during the previous calendar month to which that Outlet Station relates, bears to the sum of all shippers' delivery of Gas (across all Capacity Services) at such outlet point, during the previous calendar month.

(iv) For the purposes of this clause 6.6, an obligation to install, operate and maintain shall include (but not be limited to) an obligation to ensure that an Inlet Station or Outlet Station (as the case may be) meets the requirements set out in clauses 6.6(b) to (f).

(v) Shipper must use its reasonable endeavours to assist Operator in gaining access to an Outlet Station which is not a Gate Station, to which Operator has no rights of access, for the purpose of maintaining and operating that Outlet Station.

(vi) Other than in respect of an Existing Station, all Gate Stations associated with a Sub-network are to be installed, operated and maintained by Operator at the collective expense of all shippers who receive Gas from Operator at the Notional Gate Point for the Sub-network, and Shipper shall pay a proportion of the Maintenance Charge that is equal to the proportion that the sum of Shipper's Contracted Capacity (across all Capacity Services but prior to any reduction under the Curtailment Plan) at the Notional Gate Point, for the time being bears to the sum of all Shipper's and other shippers' Contracted Capacity (across all Capacity Services but prior to any reduction under the Curtailment Plan) at such Notional Gate Point, for the time being.

(vii) Without limiting the generality of clause 6.6(a)(vi), whenever a new Gate Station is installed, or a Gate Station is enhanced, the amounts referred to in clause 6.6(a)(vi) are to be included in the apportionments between all shippers who receive Gas from Operator at the Notional Gate Point, including shippers with grants of capacity made before the date of installation or enhancement.

(viii) For the purposes of assessing, reporting or otherwise dealing with the commercial viability of any capacity, service or thing related to a Physical Gate Point, a Notional Gate Point or a Gate Station, Operator may have regard to the likely impact of clause 6.6(a)(vi).

(b)

(i) The site for an Inlet Station or Outlet Station must:

(A) be within a security-fenced enclosure;

(B) provide suitable vehicular access and an alternative means of personnel access;

(C) provide adequate space for the installation of all equipment; and

(D) have a concrete, sealed, or gravel surface to enable access in all weather conditions.

(ii) Telemetry, power supply and other sensitive equipment at an Inlet Station or Outlet Station must be located in a weatherproof, secure and ventilated enclosure, with provision to allow for maintenance of equipment in all weather conditions.

(c)

(i) Every Inlet Station or Outlet Station must provide a means, to a standard acceptable to a Reasonable And Prudent Person, of automatically:

(A) preventing the reverse flow of Gas through the Inlet Station or Outlet Station; and

(B) stopping or restricting Gas flow in the event of any excessive pressure upstream of, or any failure, leak or rupture within or downstream of, the Inlet Station or Outlet Station.

(ii) Operator, whenever it is permitted by any written Law or a contract to stop or reduce Gas flow (and whether or not there has been a failure, leak or rupture), may utilize for that purpose any mechanism installed under clause 6.6(c)(i).

(iii) Operator may at any time, for, or in anticipation of, the purposes of clause 6.6(c)(i), make any necessary connections, modifications or additions to any mechanism installed under clause 6.6(c)(i), to enable it to be utilized for the purposes of clause 6.6(c)(ii).

(iv) Operator cannot charge Shipper for any mechanism installed under clause 6.6(c)(i) or clause 6.6(c)(iii).

(d)

(i) Every Inlet Station must include filters or separators, or both, to a standard acceptable to a Reasonable And Prudent Person.

(ii) An Outlet Station must, whenever Operator as a Reasonable And Prudent Person determines it to be necessary, include filters or separators, or both, to a standard acceptable to a Reasonable And Prudent Person.

(iii) Operator may make a determination under clause 6.6(d)(ii) at any time, including after an Outlet Station is commissioned.

(iv) For the purposes of clause 15.4, neither filters nor separators are to be regarded as Metering Equipment.

(e) All facilities upstream of an Inlet Point or downstream from an Outlet Point must be electrically isolated from the DBNGP by an isolating joint or flange located either:

(i) at the Inlet Point or Outlet Point; or

(ii) sufficiently close to the Inlet Point or Outlet Point so as to achieve the same operational effect as if the joint or flange were located in accordance with clause 6.6(e)(i),

which joint or flange must be fitted with a surge diverter or other approved means of discharging excessive potentials.

(f) All facilities at an Inlet Station or Outlet Station must be connected to an effective earthing system of a type acceptable to a Reasonable And Prudent Person.

(g) Any new equipment installed at an Inlet Station or Outlet Station must be compatible with existing equipment and systems.

(h)

(i) The quantity of Gas passing through a Notional Gate Point in any period of time is to be taken to be the sum of the quantities metered as passing through all associated Physical Gate Points in that period of time.

(ii) Nothing in clause 6.6(h)(i) is to prevail over the deeming in clause 6.5 of the quantity of Gas taken by a shipper or shippers at a Notional Gate Point.

(i) For the purposes of this clause 6.6, ***Maintenance Charge*** means, with respect to a particular Inlet Station, Outlet Station or Gate Station Associated with a Sub-network, the charge determined by Operator (acting as a Reasonable And Prudent Person) for designing, installing (which is to be taken as including the capital cost of acquiring and installing all relevant components of an Inlet Station, Outlet Station or Gate Station), maintaining, operating and decommissioning such Inlet Station, Outlet Station or Gate Station (as the case may be) and which shall, in all cases, exceed the actual cost of such design, installation, maintenance, operation and decommissioning by a reasonable premium calculated to recognise Operator's management time and to allow Operator to realise a reasonable rate of return on the cost of such design, installation, maintenance, operation and decommissioning (as the case may be), allowing for the charge to amortise the cost of such design, installation, maintenance, operation and decommissioning over the life of the Inlet Station, Outlet Station or Gate Station. At the request of Shipper, Operator shall provide a statement of the calculations used to determine the Maintenance Charge in the form in which Operator normally calculates the Maintenance Charge as at the Capacity Start Date. Any disagreement as to the level of Maintenance Charge shall be a Dispute for the purposes of clause 24 of this Contract.

(j) Nothing in this clause 6.6 shall affect or derogate from charges payable under any other agreement between Operator and Shipper in respect to the installation, operation and maintenance of Inlet Stations, Outlet Stations and Gate Stations and any upgrades, modifications and expansions to inlet points or outlet points.

(k) Operator agrees that it shall not be entitled to impose any charges under this clause 6.6 or otherwise under this Contract in respect of Existing Stations, except

in relation to the incremental costs of the design, installation, maintenance and operation of a modification of an Existing Station which occurred, or occurs, after 1 January 1995 and which increased or increases the capacity of that Existing Station to receive or deliver Gas into or from the DBNGP, and Operator is entitled to impose charges on Shipper and other shippers who use that Existing Station in relation to their respective proportions of those incremental costs as determined in accordance with the provisions in clause 6.6(a)(iii).

(l) Despite any other provisions of this Contract, each Existing Station and all facilities, ancillary equipment and services at each Existing Station and the metering arrangements entered into with the State Energy Commission of Western Australia prior to 1 January 1995 in respect of each Existing Station are to be taken to comply in all respects with the provisions of this Contract including this clause 6.6.

6.7 Contribution Agreement

(a) Shipper may only Deliver Gas to an inlet point, or Receive Gas from an outlet point, to which it did not Deliver Gas or from which it did not Receive Gas, at the Capacity Start Date if:

(i) the inlet point or outlet point is Associated with an Existing Station;

(ii) the inlet point or outlet point is:

(A) owned by Operator or an Operator Entity; or

(B) leased by Operator or an Operator Entity under an equipment lease,

and Shipper has entered into a Contribution Agreement in respect of the inlet point or outlet point; or

(iii) the inlet point or outlet point is not of a type referred to in clauses 6.7(a)(i) or 6.7(a)(ii)(A) or (B) and Shipper has reached an agreement, arrangement or understanding, whether or not in writing to use that inlet point or outlet point with the owner of the inlet point or outlet point.

For the purposes of clause 6.7(a)(ii) an Operator Entity excludes any Related Bodies Corporate of Alcoa or Alinta Limited.

(b) A Contribution Agreement in respect of an inlet point or an outlet point is an agreement between Operator and Shipper:

(i) under which Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the inlet point or the outlet point, determined in accordance with clause 6.6(i);

(ii) under which Shipper's proportion of the Maintenance Charge is determined under clause 6.6(a)(iii) or is otherwise agreed in the Contribution Agreement; and

(iii) Shipper agrees that another shipper (New Shipper) may deliver Gas to the relevant inlet point or receive Gas from the relevant outlet point, if:

(A) New Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the inlet point or the outlet point determined in a manner consistent with the principles in clause 6.6(a)(iii); and

(B) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 6.7(b)(iii)(A).

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

(d) Nothing in this clause 6.7 requires Shipper to enter into an agreement with any person other than Operator.

6.8 Shipper Specific Facility Agreement

Operator must not grant to any shipper (***New Shipper***) access to or use of (or enter into any agreement or arrangement to do so) any Inlet Point, Outlet Point, Associated inlet station or Associated outlet station, or related equipment (***Facility***) which is or has been the subject of an agreement or arrangement (***Facility Agreement***) under which Shipper has contributed, or is contributing, to the capital costs or operating and maintenance costs (or both) of the Facility without ensuring that:

(a) subject to clause 6.8(b), New Shipper is obliged to contribute to the capital costs or operating and maintenance costs (or both) of the Facility in a manner consistent with clause 6.7(b)(iii); and

(b) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 6.8(a).

6.9 Total Physical Capacity

(a) Operator must not reduce or allow the reduction of the Total Physical Capacity of an Inlet Point or an Outlet Point, or a New Inlet Point or a New Outlet Point or any inlet point or outlet point to which or from which Shipper is regularly Receiving Gas.

(b) Subject to the terms of any Multi-shipper Agreement and subject to the rights of other shippers with a contracted Capacity Service at an inlet point or outlet point, Shipper may use all the Total Current Physical Capacity of an inlet point or outlet point.

6.10 Notional Gate Point

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

(b) All Curtailments of Capacity utilised to Deliver Gas into the Sub-network are to be taken to occur at the Notional Gate Point.

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

7. OPERATING SPECIFICATIONS

7.1 Gas must comply with Gas specifications

Gas Delivered by Shipper to Operator at an inlet point or Delivered to Shipper by Operator at an outlet point must comply with the relevant column in the Gas specifications set out in Item 1 of Schedule 3.

7.2 Gas to be free from certain substances

Gas Delivered by Shipper to Operator at an inlet point or Delivered to Shipper by Operator at an outlet point must be free, by normal commercial standards, from dust and other solid or liquid matters, waxes, gums and gum-forming constituents, aromatic hydrocarbons, hydrogen, mercury and any other substance or thing which might cause injury to or interfere with the proper operation of any equipment through which it flows.

7.3 Gas to be free from objectionable odours

Gas Delivered by Shipper to Operator at an inlet point must be free, by normal commercial standards, from objectionable odours.

7.4 Gas temperature and pressure

(a) The minimum and maximum temperatures and the minimum and maximum pressures at which Shipper may Deliver Gas to Operator at the Inlet Points, and Operator may Deliver Gas to Shipper at the Outlet Points, are those set out in the Access Request Form.

(b) The Parties may at any time agree in writing to vary any one or more of the pressures and temperatures set out in the Access Request Form.

(c) Subject to clause 7.4(d), if Shipper Delivers Gas to Operator at an Inlet Point or Shipper Receives Gas from Operator at an Outlet Point at which the minimum and the maximum temperature and the minimum and maximum pressure are not as set out in the Access Request Form, Shipper is entitled to Deliver Gas to the Inlet Point or Receive Gas at the Outlet Point (as the case may be) under this Contract at the temperature and pressure at which Operator at the relevant Inlet Point or Outlet Point is otherwise Receiving Gas into the DBNGP or Delivering Gas out of the DBNGP at the time the Gas is Delivered or Received by Shipper at that Outlet Point, or if Operator is otherwise not Receiving Gas into the DBNGP or Delivering Gas out of the DBNGP at that time, then at the temperature and pressure at which Operator was last entitled or obliged to Receive Gas into the DBNGP or Deliver Gas out of the DBNGP at that Inlet Point or Outlet Point under the terms of a contract with the relevant shipper.

(d) If the Outlet Point is a Notional Gate Point, Shipper is entitled to Receive Gas at the Outlet Point under this Contract at the temperature and pressure prescribed in or determined under clauses 6 and 7 of the Operating Arrangement for the Physical Gate Points associated with the Sub-network with which those Physical Gate Points are associated.

7.5 Notice of Out-Of-Specification Gas

If either Party becomes aware that any Out-Of-Specification Gas is to enter or has entered the DBNGP at an inlet point or is to leave or has left the DBNGP at an outlet point, it will as soon as reasonably practicable notify the other Party in accordance with clause 29.1(a).

7.6 Operator and Shipper may refuse to Receive Out-Of-Specification Gas

(a) Subject to any agreement under clauses 7.7 and 7.9, Operator may at any time without penalty refuse to Receive from Shipper at an inlet point, and Shipper may at any time without penalty refuse to Receive from Operator at an outlet point, any Out-Of-Specification Gas.

(b) Shipper is entitled to a refund of Capacity Reservation Charges for any Capacity it is unable to use on a Gas Day as a result of Shipper refusing any Out-Of-Specification Gas under clause 7.6(a) to the extent that Operator caused the Gas in the DBNGP to be Out-Of-Specification Gas.

7.7 Operator may Receive Out-Of-Specification Gas

Operator may, at its own risk, agree to Receive Out-Of-Specification Gas from Shipper at an inlet point on whatever terms and conditions (including as to pricing) that Shipper and Operator may agree.

7.8 Shipper's Liability for Out of Specification Gas

If any Out-Of-Specification Gas Delivered by or on behalf of Shipper enters the DBNGP without Operator's agreement under clause 7.7:

(a) Shipper is to be liable to Operator for any loss or damage arising in respect of the Out-Of-Specification Gas; and

(b) Without limitation on any of its other rights at Law, Operator is, to the extent necessary to allow it to deal with that entry of Out-Of-Specification Gas:

(i) entitled to vent the Out-Of-Specification Gas, and Shipper shall be deemed not to have Delivered a quantity of Gas at the inlet point equivalent to the quantity of all Gas necessarily vented by Operator; and

(ii) relieved of any obligation to Deliver Gas to Shipper by an amount no greater than the quantity of Gas vented by Operator under clause 7.8(b)(i) on the basis that Shipper is deemed not to have Delivered that quantity of Gas at the inlet point.

(c) The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Shipper's liability under clause 7.8(a).

7.9 Shipper may Receive Out-Of-Specification Gas

(a) Shipper may, at its own risk, agree to Receive Out-Of-Specification Gas from Operator at an outlet point, on whatever terms and conditions (including as to pricing) that Shipper and Operator may agree.

(b) If any Out-Of-Specification Gas is delivered to Shipper at an outlet point without Shipper's agreement under clause 7.9(a), then except to the extent that Shipper caused the Gas in the DBNGP to be Out-Of-Specification Gas Operator is to be

liable to Shipper for Direct Damage arising in respect of the Out-Of-Specification Gas.

7.10 Change of Law

If:

(a) at any time during the term of this Contract there is a change in Law which requires Operator to Receive Gas into the DBNGP with an operating specification for one or more components outside the Operating Specifications applying to the component or those components of the Operating Specifications (as may be amended from time to time pursuant to this clause 7.10) (Permissible Specifications); and

(b) there is no shipper with an Inconsistent Existing Contractual Specification; and

(c) Operator actually Receives into the DBNGP Gas outside the Operating Specifications but within the Permissible Specifications to such an extent that it is unable to comply with the Operating Specifications for an outlet point set out in Schedule 3,

then Operator may notify Shipper that:

(d) the Inlet Point Operating Specifications (and Item 1 of Schedule 3) are amended so as to substitute each operating specification of the Permissible Specification which is broader than that component of the Inlet Point Operating Specification, for the operating specification of that component of the Inlet Point Operating Specification; and

(e) the Outlet Point Operating Specifications (and Item 1 of Schedule 3) is amended so as to broaden the specification for each component which has been amended in respect of the Inlet Point Operating Specification, by the same amount as the Inlet Point Operating Specification has been broadened by the operation of this clause.

In this clause 7.10 ***Inconsistent Existing Contractual Specification*** means:

(i) in relation to an inlet point, if the amendments to the Inlet Point Operating Specification were made to accommodate the Permissible Specifications, the shipper would be in material breach of an Existing Producer Contract; or

(ii) in relation to an outlet point, if the amendments to the Outlet Point Operating Specifications were made to accommodate the Permissible Specifications, the shipper would be in material breach of an Existing Gas Supply Contract.

7.11 Amendment Notice

The notice under clause 7.10 must:

(a) contain details of the change in Law;

(b) specify the amended operating specification for each component of the Inlet Point Operating Specification;

(c) specify the amended operating specification for each component of the Outlet Point Operating Specification; and

(d) specify the amendments to Item 1 of Schedule 3 which are made to give effect to the amended operating specifications for each component of the Inlet Point Operating Specification and the Outlet Point Operating Specification.

7.12 Odorisation

Operator will Deliver Gas to Shipper, odorised to the specification set out in the *Gas Standards Regulations 1983* (WA), at each Outlet Point:

(a) at which odorising occurred as at the beginning of the Access Arrangement Period; and

(b) as required by the Law.

7.13 Weighted average gas flows

(a) If on a Gas Day at a Multi-shipper Inlet Point the Gas Delivered by Shipper to the inlet point is Out-Of-Specification Gas but the Blended Gas Delivered by all shippers to the inlet point meets the Blended Specifications then (despite clause 7.6) Operator must Receive the Gas from Shipper.

(b) For the purpose of this clause:

(i) ***Blended*** Gas means all Gas Delivered to the relevant inlet point comprising the commingled inlet stream;

(ii) Blended Specifications means the notional operating specifications applying to the Blended Gas determined as a weighted average of the operating specifications for the relevant inlet point applying under all Relevant Contracts calculated by weighting:

(A) the value of each component comprising the Operating Specifications for the inlet point under each Relevant Contract; by

(B) the scheduled Nominations at the inlet point for the Gas Day across all Capacity Services under each Relevant Contract;

(iii) ***Relevant Contracts*** means the contracts for each shipper who is delivering Gas to the inlet point on that day.

8. NOMINATIONS

8.1 Shipper may delegate to a Producer

To the extent that this Contract prescribes certain things to be done by Shipper which relate to Gas being Received by Operator at an inlet point, Shipper may by agreement with a Producer, appoint the Producer to do those things, but nothing in any such agreement relieves Shipper of its obligations to Operator under this Contract.

8.2 Requests for advance information

(a) To assist in its planning and forecasting, Operator may from time to time, acting as a Reasonable And Prudent Person, request Shipper to provide it with advance estimates (covering such periods and in such detail as Operator may determine) in good faith of Shipper's likely Nominations, which information will be governed by the provisions of clause 28.

(b) Shipper must in good faith make reasonable endeavours to comply with any request made by Operator under clause 8.2(a).

(c) Except as provided in clause 8.2(d) below, Shipper may, without penalty, make (or not make) Nominations which differ materially from any estimates provided by it under clause 8.2(a).

(d) Nothing in clause 8.2(c) limits any action against Shipper if Shipper fraudulently or negligently provides to Operator under clause 8.2(a) materially false information.

8.3 Shipper's Daily Nominations do not affect Contracted Capacities

An allocation of a Daily Nomination under this clause 8 does not affect or otherwise change Shipper's Contracted Capacity.

8.4 Nominations and Renominations must be in good faith

(a) If Shipper makes an Advance Nomination, an Initial Nomination, or a Renomination, it must do so in good faith, and must nominate for an amount of the Capacity Service which is Shipper's best estimate as a Reasonable And Prudent Person of the amount of the Capacity Service it proposes to utilize.

(b) Operator and Shipper acknowledge that the purpose of Shipper making an Advance Nomination, an Initial Nomination or a Renomination is to:

(i) assist Operator schedule compressor use on the DBNGP; and

(ii) provide a basis for Operator to manage any Point Specific Curtailments.

8.5 Operator to make available bulletins of available Capacity

(a) Operator must, on regular occasions during each Gas Day (sufficient to assist Shipper in making its Initial Nomination, and any Renomination), make available on the CRS a bulletin specifying:

(i) for at least that Gas Day and the following Gas Day, the amount of Capacity available or anticipated to be available for Nomination or Renomination; and

(ii) subject to obtaining relevant shipper's consent, details of any Tradeable Capacity to be made available under clause 27.5.

(b) No obligation to allocate Capacity under clauses 8.7 and 8.13 or otherwise arises merely by reason of Operator specifying under clause 8.5(a) that Capacity is available for Nomination or Renomination, and nothing in such a bulletin limits Operator's rights, under this Contract or at Law, to wholly or partly Curtail Shipper's P1 Service or to wholly or partly refuse to Receive Gas from, or Deliver Gas, to Shipper.

8.6 Shipper's Initial Nomination

(a) Shipper may, by notice to Operator no later than 14:00 hours on any Gas Day, nominate for the following Gas Day the quantity of Gas that Shipper requires to Deliver to Operator at each Nominated Inlet Point and the quantity of Gas that Shipper requires to Receive from Operator at each Nominated Outlet Point in the P1 Service (Initial Nomination).

(b) In addition to the information required by clause 8.6(a), Shipper's Initial Nomination must:

(i) set out the sum of those Nominations:

(A) across all Inlet Points; and

(B) across all Outlet Points; and

(ii) for each Nominated Inlet Point, identify the Producer or Producers which is or are to supply Gas to Shipper for Delivery to Operator and (if there is more than one) the quantity to be provided by each.

8.7 Allocation of Daily Nominations

(a) Operator must, by no later than 16:00 hours on each Gas Day (that is, within two hours of the last time for Nomination under clause 8.6), by notice to Shipper allocate to Shipper for the Nominated Day, a Daily Nomination for P1 Service and (if applicable under the rules governing the market for Spot Capacity) Spot Capacity determined in accordance with this clause for each Nominated Inlet Point and for each Nominated Outlet Point.

(b) Subject to the terms of any Multi-shipper Agreement, for each Nominated Inlet Point, the Daily Nomination for P1 Service:

(i) may not exceed Shipper's Initial Nomination for P1 Service at the inlet point;

(ii) subject to clauses 8.7(b)(i) and 8.7(c), may not be less than Shipper's Contracted Capacity at the inlet point across all of Shipper's P1 Contracts; and

(iii) subject to clauses 8.7(c) and 8.7(g), may exceed Shipper's Contracted Capacity for that inlet point.

(c) Subject to clause 8.7(h), in no case may the sum (across all inlet points) of Shipper's Daily Nominations for P1 Service exceed Shipper's Total Contracted Capacity across all inlet points.

(d) Subject to the terms of any Multi-shipper Agreement, for each Nominated Outlet Point, the aggregate of the Daily Nominations for P1 Service:

(i) may not exceed Shipper's Initial Nomination for P1 Service at the outlet point;

(ii) subject to clauses 8.7(d)(i) and 8.7(e), may be less than Shipper's Contracted Capacity at the outlet point; and

(iii) subject to clauses 8.7(e) and 8.7(g), may exceed Shipper's Contracted Capacity for that outlet point.

(e) In no case may the sum (across all outlet points) of Shipper's Daily Nominations for P1 Service exceed Shipper's Total Contracted Capacity across all outlet points.

(f) Subject to the terms of any Multi-shipper Agreement, unless the Parties otherwise agree, in allocating a Daily Nomination in respect of Aggregated P1 Services at an inlet point or at an outlet point, Operator must, to the extent that:

(i) it is Operationally Feasible (including it does not, when aggregated with other shippers' Nominations, exceed the Total Current Physical Capacity of the inlet point or outlet point (as the case may be) at the relevant time); and

(ii) it is consistent with clauses 8.7(c), 8.7(e) and 8.7(g),

endeavour as a Reasonable And Prudent Person to ensure that the Daily Nominations for P1 Service either is equal to Shipper's Initial Nomination (calculated across all of Shipper's P1 Contracts) at that inlet point or that outlet point (as the case may be), or (if that is not possible) is less than that Initial Nomination (calculated across all of Shipper's P1 Contracts) by the smallest amount possible.

(g) In all cases subject to it being Operationally Feasible and unless this Contract provides otherwise (for example without limitation in clauses 8.7(b)(i) and (ii) and 8.7(d)(i) and (ii)), if for any Gas Day more than one shipper has made Nominations under different Types of Capacity Service or under the same Type of Capacity Service for delivery or receipt of Gas at an inlet point or an outlet point and Operator determines that it is not Operationally Feasible to meet all those Nominations, Operator must Curtail the shippers' Contracted Capacities and the available Capacity (if any, as determined by Operator, acting as a Reasonable And Prudent Person) must be allocated to those Nominations for that inlet point or outlet point (as the case may be) in accordance with the provisions of clause 17.9.

(h) The Daily Nomination for P1 Service at a Nominated Inlet Point may exceed Shipper's Contracted Capacity in that Capacity Service for that Nominated Inlet Point by a quantity of Gas which is Delivered for the purpose, or which would have the effect, of bringing Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit unless Operator considers as a Reasonable And Prudent Person that to Deliver such Gas would interfere with other shippers' rights to their Contracted Firm Capacity.

(i) If Operator allocates a Daily Nomination for P1 Service to Shipper which is less than Shipper's Initial Nomination for P1 Service at an Inlet Point or an Outlet Point, Operator is to be taken to have issued a Curtailment Notice at the time it makes the allocation of the Daily Nomination in respect of the difference between the

Shipper's Contracted P1 Capacity and the Shipper's Daily Nomination for P1 Service for that Gas Day.

8.8 Default provision for Daily Nomination

If Shipper does not make an Initial Nomination complying with clause 8.6 or an Advance Nomination complying with clause 8.17 for a Gas Day for Capacity at an inlet point or at an outlet point, then Shipper's Daily Nomination for that Gas Day for the inlet point or for the Capacity Service at the outlet point (as the case may be) shall be taken to be Shipper's Contracted Capacity at that inlet point or for the Capacity Service at that outlet point (as the case may be).

8.9 Nominations priority

(a) The priority of allocations of Nominations for Capacity Services and Spot Transactions (from superior to inferior) is so far as is relevant to the inlet point or outlet point, set out in the column of Schedule 8 headed "Point Specific Curtailment" as supplemented by this clause 8 and clause 17.9.

(b) Each category of Capacity Service described in a row of the Curtailment Plan (as relevant to the particular circumstance) refers separately to a ***Type of Capacity Service*** such that, for example, Alcoa's Priority Quantity is a ***Type of Capacity Service***.

8.10 Shipper may give Renomination notice

Shipper may once in respect of each Renomination time (as set out in clause 8.11) for a Gas Day request a variation of its Daily Nomination for the Gas Day (***Renomination***) for one or more inlet points or for one or more outlet points, by giving notice to Operator specifying the amount and duration (which may be any duration up to and including the balance of the Gas Day in respect of which the Renomination is made) of the requested variation.

8.11 Times for Renomination and allocation of revised Daily Nominations

(a) Subject to clause 8.11(c), the Renomination times for each Gas Day are 07:00 hours (at which time Renominations may be given for the Gas Day just about to begin, not the Gas Day just about to end), and 12:00 hours and 20:00 hours in the Gas Day.

(b) Subject to clause 8.11(c), if under clause 8.13 Operator is required to allocate a revised Daily Nomination in response to Shipper's Renomination received prior to a Renomination time, Operator must use reasonable endeavours to make that allocation within 1 hour after the Renomination time.

(c) Operator may, acting as a Reasonable And Prudent Person, from time to time by notice to Shipper (which same notice must be given to all shippers) supplement or vary any one or more of the times prescribed in clause 8.11(a) or the period prescribed in clause 8.11(b).

(d) A notice under clause 8.11(c) may be expressed to continue indefinitely or for a specified time, and may revoke, substitute or amend a previous notice.

8.12 Renominations reducing Daily Nomination

If a Renomination seeks to reduce Shipper's Daily Nomination, Operator must by notice to Shipper allocate a revised Daily Nomination in accordance with the Renomination.

8.13 Renominations increasing Daily Nomination

(a) Operator may only refuse to increase Shipper's Daily Nomination in response to a Renomination:

(i) if accommodating that increase is not Technically Practicable; or

(ii) to the extent that, after applying clauses 8.13(d) and 8.13(e) there is insufficient unallocated Capacity to satisfy the Renomination for that inlet point or outlet point.

(b) Subject to clause 8.13(a), if Shipper's Renomination seeks to increase its Daily Nomination, Operator must within the period prescribed in clause 8.11(b) (as varied, if applicable, by notice under clause 8.11(c)) by notice to Shipper allocate revised Daily Nominations.

(c) A notice under clause 8.13(b) must specify the period in respect of which the revised Daily Nominations are to apply.

(d) Clause 8.7 applies (with appropriate modifications) to Operator's allocation under clause 8.13(b) of revised Daily Nominations.

(e) Without otherwise limiting Operator's discretion in relation to Curtailment, Operator must to the extent practicable and Operationally Feasible in the circumstances, Curtail any Capacity in a Type of Capacity Service (the first Type of Capacity Service), whenever it is necessary to do so in order to satisfy any shipper's Renomination for Reserved Capacity in relation to a Type of Capacity Service which has priority over the first Type of Capacity Service according to the order of priority set out in the column of the Curtailment Plan headed "Point Specific Curtailment".

8.14 Default provision for Renomination process

If any element of the Renomination procedure prescribed in this clause 8 is not completed within the time limit specified, unless the delay is caused or contributed to by Operator not providing information in a timely manner under clause 8.5 or clause 15.5(d) or if for any other reason the Renomination procedure is not complied with, then Shipper's Daily Nominations are to remain unchanged (but if Operator can reasonably continue and complete processing a Renomination after the expiry of the time limit in clause 8.11(b) it must do so).

8.15 Aggregated P1 Service

Subject to the terms of any Multi-shipper Agreement, the Parties agree that, for the purpose of the Nominations Plan, any Nomination for P1 Service which is, according to clause 8.16, deemed to be Aggregated P1 Service, shall be deemed to be a Nomination for a separate Type of Capacity Service which service ranks equally in priority with all other Aggregated P1 Service. For the purposes of applying the Curtailment Plan in a Point Specific Curtailment, the Aggregated P1 Service shall be excluded from the P1 Service.

8.16 Nominations at inlet points and outlet points where Shipper does not have sufficient Contracted Capacity

Subject to this clause 8, Shipper is entitled to nominate that Gas be Delivered under Shipper's P1 Service:

(a) at an inlet point or an outlet point at which Shipper does not have Contracted Capacity for P1 Services; and

(b) in excess of Shipper's Contracted Capacity for P1 Services at an Inlet Point or Outlet Point,

(being ***Aggregated P1 Service***).

8.17 Shipper's Advance Nomination

(a) Shipper may nominate in advance for each Gas Day in any week or any month by giving notice complying with the requirements of clause 8.6 (with appropriate changes) for each of those Gas Days (***Advance Nomination***).

(b) The Advance Nomination must be given:

(i) no later than 17:00 hours on the Wednesday in the week before the nominated week (in the case of a Nomination a week in advance); or

(ii) at least 6 Working Days before the start of the nominated month (in the case of a Nomination a month in advance).

(c) Operator must in response to an Advance Nomination allocate a Daily Nomination for each nominated day determined in accordance with the provisions of clauses 8.7, 8.9, 8.15 and 8.16:

(i) no later than Friday in the week before the nominated week (in the case of a Nomination a week in advance); or

(ii) within 5 Working days of receipt of the Advance Nomination (in the case of a Nomination a month in advance).

(d) Shipper may submit an Initial Nomination for a Gas Day in respect of which it has made an Advance Nomination and been allocated a Daily Nomination, in which case:

(i) the Initial Nomination is not a Renomination; and

(ii) Shipper's Advance Nomination for the Gas Day is of no effect.

9. IMBALANCES

9.1 Operator to maintain balance

Operator may do all things expected of a Reasonable And Prudent Person to maintain a balance between total Gas inputs to, and total Gas outputs from, the DBNGP, including (subject to the provisions of this clause and this Contract) restricting the quantity of Gas it Delivers to Shipper at an outlet point, and restricting the quantity of Gas it Receives from Shipper at an inlet point in accordance with this Contract.

9.2 Shipper to maintain balance

On each Gas Day, Shipper must endeavour to maintain an Accumulated Imbalance of zero, including restricting the quantity of Gas it Delivers to Operator at an inlet point, and restricting the quantity of Gas it Receives from Operator at an outlet point.

9.3 Shipper's Accumulated Imbalance

At the end of any Gas Day, the Accumulated Imbalance is the Accumulated Imbalance at the end of the previous Gas Day plus Shipper's Daily Imbalance on the Gas Day.

9.4 Notice of Shipper's imbalances

Before 11:00 hours on each Gas Day except the Capacity Start Date, Operator must notify Shipper of its Accumulated Imbalance and Daily Imbalance at the end of the preceding Gas Day (***Accumulated Imbalance Notice***).

9.5 Accumulated Imbalance Limit

(a) Shipper's Accumulated Imbalance Limit for a Gas Day is 8% of the sum of Shipper's Capacity under Spot Transactions and quantities referred to as Contracted Capacity across all of Shipper's Capacity Services (including P1 Service and any Capacity under Spot Transactions) for that Gas Day.

(b) If at any time the absolute value of Shipper's Accumulated Imbalance exceeds the Accumulated Imbalance Limit for the Gas Day just finished and Operator, acting as a Reasonable And Prudent Person, considers that a continuation of that condition:

(i) will have a material adverse impact on the integrity or operation of the DBNGP; or

(ii) will adversely impact, or is likely to adversely impact, on any other shipper's entitlement to its Daily Nomination for T1 Capacity, B1 Capacity, P1 Capacity, Contracted Firm Capacity, or any Other Reserved Service,

then, Operator (acting as a Reasonable And Prudent Person) may, subject to clause 9.5(f):

(iii) issue a notice requiring Shipper to reduce its imbalance to the Accumulated Imbalance Limit (to the extent reasonably required to ameliorate the condition in clause 9.5(b)(i) or (ii)) and Shipper must use best endeavours in accordance with clause 9.5(d) to immediately comply, or procure compliance, with the notice, so as to bring Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit; and/or

(iv) refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point so as to bring the absolute value of Shipper's Accumulated Imbalance within, or closer to, the Accumulated Imbalance Limit.

(c) If Operator issues a notice under this clause 9.5 and Shipper's Accumulated Imbalance is:

(i) positive, Operator must issue a similar notice to all other shippers with a positive Accumulated Imbalance in excess of its Accumulated Imbalance Limit; or

(ii) negative, Operator must issue a similar notice to all other shippers with a negative Accumulated Imbalance the absolute value of which is in excess of its Accumulated Imbalance Limit.

(d) If, after Operator issues a notice under clause 9.5(b)(iii):

(i) subject to clause 9.5(d)(ii), the absolute value of Shipper's Accumulated Imbalance is reducing each Gas Day, then Shipper is taken to be using best endeavours to comply, or procure compliance, with the notice for the purposes of clause 9.5(b)(iii); and

(ii) where the absolute value of Shipper's Accumulated Imbalance exceeded Shipper's Outer Accumulated Imbalance Limit and the absolute value of Shipper's Accumulated Imbalance is not less than the Accumulated Imbalance Limit by the end of the following Gas Day, Shipper is taken not to have used best endeavours to comply, or procure compliance, with the notice for the purposes of clause 9.5(b)(iii).

(e) If Shipper does not comply and is not deemed pursuant to clause 9.5(d) to have used best endeavours to have complied with the notice issued for the purposes of clause 9.5(b)(iii) and as a result of such failure the absolute value of Shipper's Accumulated Imbalance remains greater than the Accumulated Imbalance Limit by the end of the following Gas Day, Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of Shipper's Accumulated Imbalance Limit up to the Outer Accumulated Imbalance Limit in accordance with clause 20 in respect of the Gas Day on which the notice is issued and each subsequent Gas Day the absolute value of Shipper's Accumulated Imbalance exceeds Shipper's Accumulated Imbalance Limit until the absolute value of Shipper's Accumulated Imbalance is less than, or closer to the Accumulated Imbalance Limit (as Operator sees fit).

(f) The Operator may not:

(i) issue a notice pursuant to clause 9.5(b)(iii) or refuse to Receive or Deliver Gas pursuant to clause 9.5(b)(iv) unless it has, to the extent reasonable in the circumstances, first endeavoured to co-operate with Shipper to ameliorate the impact of the Shipper exceeding its Accumulated Imbalance Limit; or

(ii) other than when due to Force Majeure or by reason of an emergency, refuse to Receive Gas or Deliver Gas pursuant to clause 9.5(b)(iv) without having issued a notice in accordance with clause 9.5(b)(iii).

9.6 Excess Imbalance Charge

(a) Shipper's Outer Accumulated Imbalance Limit for a Gas Day is 20% of the sum of Shipper's Capacity under Spot Transactions and quantities referred to as Contracted Capacity across all of Shipper's Capacity Services (including P1 Service and any Capacity under Spot Transactions) for that Gas Day.

(b) If the absolute value of Shipper's Accumulated Imbalance at the end of a Gas Day exceeds the Outer Accumulated Imbalance Limit for the Gas Day just finished, then subject to clause 9.6(c), Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of Shipper's Outer Accumulated Imbalance Limit in accordance with clause 20.

(c) No Excess Imbalance Charge under clauses 9.5(e) or 9.6(b) is to be payable to the extent that the imbalance arose because:

(i) Shipper's Capacity Service was Curtailed under clause 17;

(ii) Operator, for any reason not caused by Shipper, does not Receive from Shipper at any Inlet Point a quantity of Gas equal to Shipper's Daily Nomination for that Inlet Point;

(iii) Operator fails to provide Shipper with a materially accurate Accumulated Imbalance Notice within the period set out in clause 9.4; or

(iv) Shipper is unable, for reasons beyond Shipper's control, to remedy an imbalance arising on a prior Gas Day but then only to the extent that such imbalance was caused by an event referred to in one of clauses 9.6(c)(i), 9.6(c)(ii) or 9.6(c)(iii),

but in each case Shipper's Daily Imbalance and Accumulated Imbalance are still to be calculated for the Gas Day.

9.7 Balancing in particular circumstances

(a) If the Parties anticipate a failure of Shipper's Gas supply (including a failure due to an impending cyclone), the Parties may, if they consider it Technically Practicable and appropriate to do so, agree to increase for a short period the Accumulated Imbalance Limit or the Outer Accumulated Imbalance Limit (or both), in order to enable Shipper to deposit additional Gas in the DBNGP in advance of that failure.

(b) The Parties may, during a period in which Shipper's Gas supply has wholly or partially failed, if they consider it Technically Practicable and appropriate to do so, agree to allow Shipper to exceed the Accumulated Imbalance Limit, whether or not Shipper has deposited additional Gas under clause 9.7(a) in anticipation of the failure of Shipper's Gas supply.

(c) Subject to clause 9.7(d), an agreement under clauses 9.7(a) or 9.7(b) may be on any terms and conditions the Parties consider Technically Practicable and appropriate.

(d) Operator may require an agreement under clause 9.7(b) to contain any reasonable provisions it sees fit, including any or all of the following provisions:

(i) that Operator may from time to time during the duration of that agreement by notice to Shipper specify a limit for Shipper's Accumulated Imbalance,

beyond which limit Operator may refuse to Receive Gas from Shipper at an inlet point or Deliver Gas to Shipper at an outlet point, or both; and

(ii) that upon resumption of Shipper's Gas supply, Operator may require Shipper to restore the absolute value of its Accumulated Imbalance to below the Accumulated Imbalance Limit as soon as reasonably practicable.

(e) Nothing in this clause compels a Party to enter into an agreement under clauses 9.7(a) or 9.7(b).

9.8 Remedies for breach of imbalance limits

Except as provided in clause 9.10 below, Operator may not exercise any rights or remedies against Shipper for exceeding the Accumulated Imbalance Limit, other than:

(a) an action for breach of clause 9.5(b)(iii), limited to the recovery of Direct Damages in accordance with clause 23 and Shipper's liability to Operator for Direct Damages suffered by Operator which is caused by or arises out of Shipper's failure to comply with clause 9.5(b)(iii) shall be reduced by any Excess Imbalance Charge or Excess Imbalance Charges paid by Shipper in respect of that failure;

(b) to recover the Excess Imbalance Charge or Excess Imbalance Charges where permitted by and in accordance with this clause 9;

(c) to refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point so as to bring Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit; or

(d) any combination of clauses 9.8(a), 9.8(b) and 9.8(c).

The Parties agree that, because the rights and remedies set out in this clause 9.8 apply across all of Shipper's Capacity Services, when in a particular circumstance, Operator exercises a right or pursues a remedy under this clause 9.8, Operator shall not exercise the equivalent right, or pursue the equivalent remedy, under another contract for Capacity Service or in relation to another Capacity Service in relation to the same circumstance.

9.9 Trading in imbalances

(a) Shipper may exchange all or part of its Accumulated Imbalances with another shipper, on any terms they may agree, or may exchange all or part of its Accumulated Imbalances for accumulated imbalances under any other contract or contracts Shipper has with Operator for Capacity Services, in accordance with this clause 9.9.

(b) Shipper must give notice in writing of any such exchange in respect of a Gas Day to Operator by 12:00 hours on the next Working Day following receipt from Operator of Shipper's Accumulated Imbalance Notice in accordance with clause 9.4 for that Gas Day. If Shipper does not give notice of an exchange by the applicable time, then the exchange is of no effect.

(c) On receipt of a notice under clause 9.9(b), Operator must calculate adjustments in Shipper's Accumulated Imbalance to reflect the exchange and notify both shippers of the adjustments by the beginning of the next Gas Day.

9.10 Cashing out imbalances at end of Contract

(a) The balancing process prescribed in this clause 9.10 is only to be undertaken at the Capacity End Date.

(b) If at the Capacity End Date, Shipper's Accumulated Imbalance is a positive number, Operator is to pay a fair market price to Shipper for that Gas.

(c) If at the Capacity End Date, Shipper's Accumulated Imbalance is a negative number, Shipper is to pay a fair market price to Operator for that Gas.

9.11 Charges do not affect Daily Delivery

Nothing in this clause 9 entitles Shipper to Receive in any Gas Day a total quantity of Gas (across all outlet points) which exceeds the sum (across all outlet points) of Shipper's Total Contracted Capacity.

10. PEAKING

10.1 Hourly Peaking Limits

The Hourly Peaking Limits are:

(a) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points on the DBNGP;

(b) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10; and

(c) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10B,

(each of the limits in (a), (b) and (c) being an ***Hourly Peaking Limit***).

10.2 Shipper to stay within Hourly Peaking Limit

On each Gas Day, Shipper must do all things expected of a Reasonable And Prudent Person to ensure that:

(a) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points on the DBNGP does not exceed the relevant Hourly Peaking Limit described in clause 10.1(a);

(b) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points in Pipeline Zone 10 does not exceed the relevant Hourly Peaking Limit described in clause 10.1(b); and

(c) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points in Pipeline Zone 10B does not exceed the relevant Hourly Peaking Limit described in clause 10.1(c).

10.3 Consequences of exceeding Hourly Peaking Limit

(a) If at any time Shipper exceeds an Hourly Peaking Limit and Operator, acting as a Reasonable And Prudent Person, considers that a continuation of that condition:

(i) will have a material adverse impact on the integrity or operation of the DBNGP; or

(ii) will adversely impact, or is likely to adversely impact, on any other shipper's entitlement to its Daily Nomination for Contracted Capacity, Contracted Firm Capacity, or any Other Reserved Service,

Operator (acting as a Reasonable And Prudent Person) may, subject to clause 10.6 and to clause 10.3(h):

(iii) issue a notice requiring Shipper to reduce its take of Gas, in that or future periods (to the extent reasonably required to ameliorate the condition in clauses 10.3(a)(i) or (ii)) and Shipper must use best endeavours in accordance with clause 10.3(c) to immediately comply, or procure compliance, with the notice so as to cease exceeding the Hourly Peaking Limit; and/or

(iv) refuse to Deliver Gas to Shipper at any outlet point within the relevant pipeline zone until the Shipper's Hourly Quantity is within the Hourly Peaking Limit.

(b) If Operator issues a notice to Shipper under this clause and the Hourly Peaking Limit being exceeded relates to outlet points:

(i) on the DBNGP generally, Operator must issue a similar notice to all shippers;

(ii) in Pipeline Zone 10, Operator must issue a similar notice to all shippers with a contractual entitlement to capacity in Pipeline Zone 10; or

(iii) in Pipeline Zone 10B, Operator must issue a similar notice to all shippers with a contractual entitlement to capacity in Pipeline Zone 10B,

which are exceeding their Hourly Peaking Limit or the equivalent under their relevant contracts.

(c) If, after Operator issues a notice under clause 10.3(a)(iii):

(i) subject to clause 10.3(b), Shipper's Hourly Quantity calculated across the relevant outlet points is reducing, then Shipper is taken to be using best endeavours to comply, or procure compliance, with the notice for the purposes of clause 10.3(a)(iii); and

(ii) Shipper's Hourly Quantity calculated across the relevant outlet points is not within the Hourly Peaking Limit by the end of the following Gas Hour, Shipper is taken not to have used best endeavours to comply, or procure compliance, with the notice for the purposes of clause 10.3(a)(iii).

(d) If Shipper does not comply and is not deemed pursuant to clause 10.3(c) to have used best endeavours to have complied with the notices issued for the purposes of clause 10.3(a)(iii) so that Shipper is still exceeding at least one of the Hourly Peaking Limits by the end of the following Gas Hour, Shipper must pay an Hourly Peaking Charge at the Hourly Peaking Rate for each GJ of Gas Received

(i) in excess of the Hourly Peaking Limit (if a notice has not been issued pursuant to clause 10.4(e)); or

(ii) in excess of the Hourly Peaking Limit up to the Outer Hourly Peaking Limit (if a notice has been issued pursuant to clause 10.4(e)), in accordance with clause 20.

(e) If the Hourly Peaking Charge is payable under clause 10.3(d), that charge is payable in respect of the Gas Hour in which the relevant Hourly Peaking Limit was first exceeded, and each subsequent Gas Hour until the first occasion on which Shipper is no longer exceeding any of the Hourly Peaking Limits (after which Shipper shall not pay any Hourly Peaking Charge until a new notice is issued under clause 10.3(a)(iii)).

(f) If Shipper exceeds more than one Hourly Peaking Limit in respect of the same Gas Hour, then the Hourly Peaking Charge under clause 10.3(d) is calculated using only the amount of the largest excess.

(g) No Hourly Peaking Charge whether under clauses 10.3(d) or 10.4(b) is payable in respect to any Gas Hour in respect of which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate.

(h) Operator may not:

(i) issue a notice pursuant to clause 10.3(a)(iii) or refuse to Deliver Gas pursuant to clause 10.3(a)(iv) unless it has, to the extent reasonable in the circumstances, first endeavoured to co-operate with Shipper to ameliorate the impact of the Shipper exceeding its Hourly Peaking Limit; or

(ii) other than when due to Force Majeure or by reason of an emergency, refuse to Deliver Gas pursuant to clause 10.3(a)(iv) without having issued a notice in accordance with clause 10.3(a)(iii).

10.4 Outer Hourly Peaking Limit

(a) Shipper's Outer Hourly Peaking Limits are:

(i) 140% of the aggregate MHQ calculated across all outlet points on the DBNGP;

(ii) 140% of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10; and

(iii) 140% of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10B,

(each of the limits in (i), (ii) and (iii) being an ***Outer Hourly Peaking Limit***).

(b) For each Gas Hour following the issue of a notice pursuant to clause 10.4(e) that Shipper exceeds an Outer Hourly Peaking Limit, Shipper must pay at the Hourly Peaking Rate an Hourly Peaking Charge for each GJ of Gas Received in excess of the relevant Outer Hourly Peaking Limit during that Gas Hour in accordance with clause 20.

(c) If Shipper exceeds more than one Outer Hourly Peaking Limit in respect of the same Gas Hour, then the Hourly Peaking Charge under clause 10.4(b) is calculated using only the amount of the largest excess.

(d) If an Hourly Peaking Charge is payable under clause 10.3(d) and also 10.4(b) in respect of a Gas Hour, then Shipper is required to pay both the charge under clause 10.3(d) and the charge under clause 10.4(b).

(e) If at any time Shipper's take of Gas is such that Operator, acting as a Reasonable And Prudent Person, believes that Shipper has exceeded or is likely to exceed an Outer Hourly Peaking Limit, Operator may issue a notice to Shipper of that fact. A notice given under this clause 10.4(e) is only valid for the purposes of clause 10.4(b) and clause 10.3(d)(ii) until Shipper has ceased to exceed the Hourly Peaking Limit.

10.5 Charges do not affect Daily Delivery

Nothing in this clause 10 entitles Shipper to Receive in any Gas Day a total quantity of Gas (across all outlet points) which exceeds the sum (across all outlet points) of Shipper's Total Contracted Capacity.

10.6 Remedies for breach of peaking limits

Operator may not exercise any rights or remedies against Shipper for exceeding an Hourly Peaking Limit, other than:

(a) for breach of clause 10.3(a)(iii) limited to the recovery of Direct Damages in accordance with clause 23 and Shipper's liability to Operator for Direct Damages suffered by Operator which is caused by or arises out of Shipper's failure to comply with clause 10.3(a)(iii) shall be reduced by any Hourly Peaking Charge or Hourly Peaking Charges paid by Shipper in respect of that failure;

(b) to recover the Hourly Peaking Charge or Hourly Peaking Charges where permissible by and in accordance with this clause 10;

(c) to refuse to Deliver Gas to Shipper at an outlet point (in accordance with clause 10.3(a)(iv)); or

(d) any combination of clauses 10.6(a), 10.6(b) and 10.6(c).

The Parties agree that, because the rights and remedies set out in this clause 10.6 apply across all of Shipper's Capacity Services, when in a particular circumstance, Operator exercises a right or pursues a remedy under this clause 10.6, Operator shall not exercise the equivalent right or remedy under another contract for Capacity Service or in relation to another Capacity Service in relation to the same circumstance.

10.7 Permissible Peaking Excursion

Operator must not refuse to Deliver Gas under clause 10.3(a)(iv) if Shipper is not exceeding its Outer Hourly Peaking Limit and:

(a) is a Distribution Networks Shipper and the cause of Shipper exceeding its Hourly Peaking Limit is the quantity of Gas Received by Shipper at a Notional Gate Point for a Distribution Network; or

(b) another shipper has recently had or has an absolute peak significantly greater than its Outer Hourly Peaking Limit or a Distribution Networks Shipper has exceeded its Hourly Peaking Limit in the manner permitted by clause 10.7(a), and this causes or contributes to the need for Operator to propose to refuse to Deliver Gas to Shipper at outlet points.

11. OVERRUN

11.1 Overrun Charge

(a) In respect of each GJ of Overrun Gas Received by Shipper on a Gas Day, Shipper must pay an Overrun Charge calculated by applying the Overrun Rate to the total Overrun Gas Received by Shipper on that Gas Day in accordance with clause 20.

(b) The Overrun Rate is the greater of:

(i) 115% of the P1 Reference Tariff; and

(ii) the highest price bid for Spot Capacity which was accepted for that Gas Day other than when the highest price bid was not a bona fide bid, in which case the highest bona fide bid,

(***Overrun Rate***).

(c) All Overrun Gas Delivered on a Gas Day is to be included in the calculation of Shipper's Hourly Quantities, Total Inlet Quantity and Total Outlet Quantity for that Gas Day.

11.2 Unavailability Notice

(a) Operator may at any time, acting as a Reasonable And Prudent Person, and (subject to clause 11.2(b)) without advance notice to Shipper, give notice (an ***Unavailability Notice***) to Shipper that Overrun Gas is unavailable to Shipper, or is only available to Shipper to a limited extent, for one or more Gas Days, but only to the extent that Shipper overrun will impact or is likely to impact on any other shipper's entitlement to its Daily Nomination for T1 Capacity, any Other Reserved Service or allocated Spot Capacity. Operator shall at the same time give an Unavailability Notice to all other shippers that are taking Overrun Gas, the taking of which, due to the location on the DBNGP at which the Overrun Gas is being taken, impacts upon the ability of Operator to Deliver Gas to meet its obligations to shippers.

(b) Operator must use reasonable endeavours to give Shipper advance notice (which may be by written notice or otherwise) which is reasonable in the circumstances of any unavailability or limited availability of Overrun Gas.

(c) Any Curtailment Notice issued under clause 17 for any period is to be taken to constitute an Unavailability Notice indicating that Overrun Gas is wholly unavailable for the same period unless the Curtailment:

(i) is a Point Specific Curtailment;

(ii) does not affect Gas Transmission Capacity generally; and

(iii) does not affect the inlet point or outlet point at which the Overrun Gas is being received by Shipper.

11.3 Content of an Unavailability Notice

An Unavailability Notice:

(a) may apply to the Gas Day on which the Unavailability Notice is issued even though, in order to comply with such an Unavailability Notice, Shipper must cease taking Delivery of Overrun Gas upon receipt of the notice in accordance with clause 11.4;

(b) is to identify the Gas Day or Gas Days to which the notice applies;

(c) may be expressed to continue indefinitely or for a specified period;

(d) may revoke, substitute or amend a previous Unavailability Notice; and

(e) must state the quantity of Overrun Gas which is available to Shipper.

11.4 Compliance with Unavailability Notice

Shipper must use its best endeavours to immediately, and must as soon as practicable and in any event no later than one hour after receipt of the notice, comply, or procure compliance, with an Unavailability Notice, by ensuring that the total of its Overrun Gas for each Gas Day to which the Unavailability Notice applies does not exceed the quantity of Overrun Gas (if any) indicated by the Unavailability Notice to be available to Shipper.

11.5 Operator may refuse to Deliver Overrun Gas

In addition to any other rights Operator has to refuse to Deliver Gas under clause 5.7, Operator may refuse to Deliver Overrun Gas to Shipper at an outlet point if Shipper does not comply with an Unavailability Notice.

11.6 Unavailable Overrun Charge

In addition to any charge payable under clause 11.1, if Shipper does not comply, or procure compliance, with an Unavailability Notice in accordance with clause 11.4, Shipper must pay, in accordance with clause 20, an Unavailable Overrun Charge at the Unavailable Overrun Rate for each GJ of Gas taken by Shipper in excess of the quantity of Overrun Gas specified in the Unavailability Notice as being available to Shipper.

11.7 Saving and damages

(a) Nothing in this clause 11 limits, affects or prejudices Operator's right to refuse to Receive Gas under clause 5.3 or to refuse to Deliver Gas under clause 5.7.

(b) Shipper's liability to Operator for any Direct Damage suffered by Operator which is caused by or arises out of Shipper's failure to comply with an Unavailability Notice shall be reduced by any Unavailable Overrun Charge paid by Shipper under clause 11.6 in respect of that failure.

(c) Shipper is not liable to pay the Overrun Charge under clause 11.1 and the Unavailable Overrun Charge under clause 11.6 in respect of the same quantity of Overrun Gas.

(d) Shipper is not liable to pay the Unavailable Overrun Charge with respect to any Gas Day in which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate,

but shall be liable to pay the Overrun Charge in respect to the relevant quantity of Overrun Gas as if an Unavailability Notice had not been issued.

(e) The Parties agree that, because the rights and remedies set out in this clause 11 apply across all of the Shipper's Capacity Services, when in particular circumstances Operator exercises a right or issues a remedy under this clause 11 Operator shall not exercise the equivalent right or remedy under another contract for Capacity Services or in relation to another Capacity Service in relation to the same circumstances.

12. ADDITIONAL RIGHTS AND OBLIGATIONS OF OPERATOR

12.1 Commingling of Gas

Operator will have the right to commingle the Gas supplied by Shipper at the inlet point with other Gas in the DBNGP during transportation and is entitled to Deliver different molecules to Shipper at the outlet points.

12.2 Processing

Subject to its obligations under this Contract, Operator may (but is not obliged to) compress, cool, heat, clean and apply other processes to Gas during transportation acting as a Reasonable And Prudent Person consistent with its operation of the DBNGP.

12.3 Operation of Pipeline System

(a) In operating, maintaining or expanding the DBNGP, Operator must:

(i) comply with all its obligations under this Contract; and

(ii) use Good Gas Industry Practice.

(b) Except as provided in clause 12.3(a), Operator may decide the manner in which it will operate the DBNGP.

(c) In acting under this Contract, Shipper must use Good Gas Industry Practice.

12.4 Delivery of Gas

Operator may (but only if Operator chooses to do so) satisfy its obligation to Deliver Gas to Shipper by using a Gas pipeline other than the DBNGP, provided;

(a) that Operator meets its obligations under this Contract; and

(b) there is no extra cost or risk to Shipper in doing so.

13. CONTROL, POSSESSION AND TITLE TO GAS

13.1 Warranty of Title

(a) Shipper warrants that at the time it Delivers Gas to Operator at an inlet point, Shipper has good title to the Gas free and clear of all liens, encumbrances and claims of any nature inconsistent with Operator's operation of the DBNGP.

(b) Subject to clause 13.1(a) being true and accurate at all times, Operator warrants that at the time it supplies Gas to Shipper at an outlet point, Operator has good title to the Gas free and clear of all liens, encumbrances and claims of any nature whatsoever.

13.2 Control, Possession, Responsibility and Title of Shipper

Shipper warrants to Operator at each relevant time that Shipper:

(a) is in Possession of the Gas immediately prior to its supply at an inlet point and immediately after its Delivery to Shipper at an outlet point; and

(b) has legal responsibility and liability for Gas while it is within the Possession of Shipper.

13.3 Title, Custody, Control and Responsibility of Operator

(a) Operator will:

(i) take title to and have Possession of Gas from the receipt of Gas from Shipper at an inlet point until Delivery of Gas to Shipper at an outlet point; and

(ii) have legal responsibility and liability for Gas while it is within Operator's Possession.

(b)

(i) Operator shall deliver good title to Gas Delivered to Shipper at an outlet point; and

(ii) Shipper will take title to Gas immediately after its Delivery to Shipper at an outlet point,

free and clear of all liens, encumbrances and claims of any nature whatsoever.

13.4 Entitlements to Receive Gas

(a) Subject to clause 13.4(c), upon the transfer from Shipper to Operator of title to and possession of a quantity (in terajoules) of Gas Delivered at an inlet point, Shipper becomes entitled to:

(i) Receive Gas from Operator at an outlet point other than a Notional Gate Point; or

(ii) subject to clause 13.5(b), Receive Gas from Operator at an outlet point that is a Notional Gate Point.

(b) The quantity of Gas that Shipper becomes entitled to Receive in aggregate under clause 13.4(a) is a quantity equivalent (in terajoules) to the quantity of Gas delivered at the inlet point.

(c) Clauses 13.4(a) and 13.4(b) do not affect a provision of this Contract entitling Operator to wholly or partially Curtail or interrupt Shipper's use of Capacity or to wholly or partially refuse to Deliver Gas to Shipper and do not affect the obligations of Shipper to Deliver Gas and Receive Gas in such a manner as complies with this Contract including so as to ensure Shipper remains within the limits prescribed by this Contract in clauses 9 and 10.

13.5 Title at outlet points

(a) Unless the Delivery is at an outlet point that is a Notional Gate Point, the Delivery of the Gas by Operator to Shipper at an outlet point is a transfer of title to and possession of the Gas from Operator to Shipper, effective at the outlet point and at the time of Delivery, and free and clear of all encumbrances, liens and claims of any nature.

(b) If the Delivery is at an outlet point that is a Notional Gate Point, then:

(i) the Delivery of the Gas by Operator is followed immediately by a Delivery of the Gas from Shipper back to Operator at the outlet point (for transport to a Physical Gate Point associated with the Notional Gate Point) and no transfer of title to and possession of the Gas is involved;

(ii) Operator may in its discretion as a Reasonable And Prudent Person manage the times, extent and manner that Gas deemed to be delivered at a Notional Gate Point is physically transported into the Associated sub-network; and

(iii) subject to any Law or any other agreement to which both Operator and Shipper are parties, the Delivery of Gas by Operator at a Physical Gate Point is by force of this clause a transfer of title to and possession of the Gas from Operator to Shipper, effective at the Physical Gate Point and at the time of Delivery, and free and clear of all encumbrances, liens and claims of any nature.

14. RELOCATION

14.1 Request for relocation of Contracted Capacity

Shipper may by notice in writing to Operator request a relocation of all or any part of its Contracted Capacity from an Existing Inlet Point to a New Inlet Point or from an Existing Outlet Point to a New Outlet Point (***Requested Relocation***).

14.2 Assessment of Requested Relocation

(a) Operator must, as soon as reasonably practicable and in any event not later than 40 Working Days after receiving a notice under clause 14.1, assess as a Reasonable And Prudent Person whether the Requested Relocation is an Authorised Relocation having regard to, among other things, the order, relative to its receipt of equivalent notices received from other shippers, in which Shipper's Requested Relocation was received, (but for the avoidance of doubt the Parties intend this priority to apply only to the extent that requested relocations compete or conflict with each other for utilization of capacity).

(b) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity will not be an Authorised Relocation if:

(i) the Requested Relocation would cause the sum (after the relocation) of all shippers':

(A) quantities referred to as Contracted Capacity for that inlet point across all of shippers' Capacity Services (including P1 Services and all Other Reserved Services) at the New Inlet Point to exceed the New Inlet Point's Total Current Physical Capacity; or

(B) quantities referred to as Contracted Capacity for that outlet point across all shippers' Capacity Services (including P1 Services and all Other Reserved Services) at the New Outlet Point to exceed the New Outlet Point's Total Current Physical Capacity or to exceed the safe operating capability of the part of the DBNGP at which the New Outlet Point is located;

(ii) in the opinion of Operator, as a Reasonable And Prudent Person, the Requested Relocation would not be Operationally Feasible, and for the avoidance of doubt an increase in compressor fuel costs does not mean the Requested Relocation is not Operationally Feasible; or

(iii) the Requested Relocation is such that the New Inlet Point would be downstream of the New Outlet Point and it would change the normal direction of Gas flow in the DBNGP.

(c) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity to a New Inlet Point will be an Authorised Relocation under the Contract if:

(i) the Requested Relocation would result in the New Inlet Point being downstream of the Existing Inlet Point;

(ii) the Requested Relocation would not cause the sum (after the relocation) of all shippers' quantities referred to as Contracted Capacity for that inlet point across all of shippers' Capacity Services (including P1 Service and all Other Reserved Services) at the New Inlet Point to exceed the New Inlet Point's Total Current Physical Capacity; and

(iii) Shipper has entered into a Contribution Agreement, or any other agreement, arrangement or understanding required by clause 6.7(a)(iii), in relation to that New Inlet Point.

(d) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity to a New Outlet Point will be an Authorised Relocation under this Contract if:

(i) the Requested Relocation would result in the New Outlet Point being upstream, or within a proximity of 2 kilometres, whether upstream or downstream of the Existing Outlet Point;

(ii) the Requested Relocation would not cause the sum (after the relocation) of all shippers' quantities referred to as Contracted Capacity for that outlet point across all shippers' Capacity Services (including P1 Service and all Other Reserved Services) at the New Outlet Point to exceed the New Outlet Point's Total Current Physical Capacity or to exceed the safe operating capability of the part of the DBNGP at which the New Outlet Point is located; and

(iii) Shipper has entered into a Contribution Agreement, or any other agreement, arrangement or understanding required by clause 6.7(a)(iii), in relation to that outlet point .

14.3 Operator to notify Shipper

As soon as practicable after completing its assessment under clause 14.2(a), Operator must give notice in writing to Shipper advising either that the Requested Relocation is:

(a) not an Authorised Relocation; or

(b) an Authorised Relocation.

14.4 Requested Relocation is an Authorised Relocation

If Operator gives notice that the Requested Relocation is an Authorised Relocation under clause 14.3(b):

(a) Operator and Shipper must negotiate in good faith regarding the cost to Shipper (which in no case shall be less than Operator's out-of-pocket costs and shall include a reasonable charge for Operator's management time) in respect of any new facilities (including the New Inlet Point or New Outlet Point) which Shipper will be wholly or partially utilizing.

(b) If such agreement is not reached, the matter shall be regarded as a Dispute to be resolved as a Technical Matter and will be dealt with in accordance with clause 24.

(c) Shipper must pay the charges specified in clause 14.7 in accordance with clause 20.

14.5 Requested Relocation is not an Authorised Relocation

If Operator gives notice that the Requested Relocation is not an Authorised Relocation under clause 14.3(a), Operator and Shipper (acting reasonably) may agree (on any fair and reasonable terms and conditions, including terms and conditions as to price) the operational restrictions which will apply to the use by Shipper of the New Inlet Point or New Outlet Point which will enable the Parties to implement the Requested Relocation of Contracted Capacity.

14.6 Relocated Contracted Capacity to be on same terms and conditions

Subject to clauses 14.7 and 14.8 and unless the Parties agree in writing to the contrary, any Contracted Capacity relocated under this clause 14 is to be on the same terms and conditions as the Contracted Capacity at the Existing Inlet Point or the Existing Outlet Point (as the case may be).

14.7 Charges for relocation

(a) Unless the Parties agree in writing to the contrary, no Charges payable under this Contract are to be reduced as a result of a relocation of Contracted Capacity under this clause 14, even if the relocation causes some or all Gas to be transported over a shorter distance, or the relocation causes a notional reversal of flow of Gas transported under this Contract for Shipper from Forward Haul to Back Haul.

(b) Subject to subsection (c), if a relocation of Capacity under this clause results in Gas being transported to an Outlet Point down stream of Compressor Station 9 on the DBNGP so that a Part Haul service becomes a Full Haul service, any Capacity so relocated is to:

(i) be treated as if it were on the same terms and conditions as Full Haul Capacity, including as to the calculation of the Capacity Reservation Charges and the Commodity Charges; and

(ii) be treated under this Contract as though it was Full Haul Capacity.

(c) Subsection (b) will not apply where Shipper has entered a Spot Transaction for Spot Capacity.

14.8 Pressures at New Inlet Point and New Outlet Point

Operator may in its discretion as a Reasonable And Prudent Person specify the range of pressures within which Shipper may Deliver Gas to Operator at a New Inlet Point, and within which Operator may Deliver Gas to Shipper at a New Outlet Point but in no case may the specified range of pressures be substantially different from the DBNGP operating pressure range at that point.

14.9 This Contract amended to reflect relocation

If the Parties reach agreement under clause 14.4 or 14.5, the Requested Relocation and the terms and conditions so agreed are to be given effect to by an amendment of the Access Request Form in accordance with clause 38.

15. METERING

15.1 Shipper's responsibility

Shipper must, or, must procure another party to:

(a) supply, install, Operate and Maintain Inlet Metering Equipment at each Inlet Station in good working order and condition and in accordance with the standard of a Reasonable And Prudent Person; and

(b) ensure that at all times all data required by Operator from Inlet Metering Equipment is electronically accessible by Operator.

15.2 Operator's responsibility

Operator must:

(a) at Shipper's expense supply, install, Operate and Maintain Outlet Metering Equipment at each Outlet Station in good working order and condition and in accordance with the standard of a Reasonable And Prudent Person; and

(b) calculate and record:

(i) the quantity of Gas Delivered to Operator by Shipper; and

(ii) the quantity of Gas Delivered to Shipper by Operator.

15.3 Metering uncertainty

(a) Primary Metering Equipment must be designed, adjusted and Operated so as to achieve:

(i) measurement to within a maximum uncertainty of:

(A) subject to clause 15.3(b), plus or minus 1% of Actual Mass Flow Rate at a minimum of the 95% confidence level for Metering Equipment with a design maximum flow rate of 5 TJ/d or greater; and

(B) plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level for Metering Equipment with a design maximum flow rate of less than 5 TJ/d; and

(ii) measurement to within a maximum uncertainty of plus or minus one quarter of one percent of Higher Heating Value at a minimum of the 95% confidence level.

(b) Alternative Metering Equipment referred to in clause 15.4(b) need not comply with clause 15.3(a)(i)(A) if:

(i) it is designed, adjusted and Operated so as to achieve measurement to within a maximum uncertainty of plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level; and

(ii) it is not used or likely to be used for more than 72 hours in any Gas Year.

(c) Subject to clauses 15.3(a) and 15.3(b), each component of Primary Metering Equipment may be designed, adjusted and Operated within limits of uncertainty agreed between the Parties.

(d) In this clause 15, **95% confidence level** has the meaning given to that expression by ISO 5168.

15.4 Primary Metering Equipment

(a) Primary Metering Equipment must:

(i) continuously compute and record:

(A) (in the case of Inlet Metering Equipment) the quantity and quality of Gas Delivered by Shipper to Operator under this Contract; and

(B) (in the case of Outlet Metering Equipment) the quantity of Gas Delivered by Operator to Shipper under this Contract;

(ii) be of a standard of manufacture acceptable to Operator acting as a Reasonable And Prudent Person;

(iii) comply with AS 2885 and any Australian or international standards required from time to time by Operator;

(iv) subject to clauses 15.4(b) and 15.4(c), encompass newest proven technology;

(v) be able in all streams to withstand Gas flows of up to 120% of the design flow;

(vi) provide data signals in the form of galvanically isolated 4-20 milliamp current loops or potential free contacts, as appropriate, or in such other form as the Parties as Reasonable And Prudent Persons may agree; and

(vii) include facilities to enable electronic data collection by Operator's Electronic Data Collection System.

(b) Primary Metering Equipment with a design maximum flow rate of 5 TJ/d or more must include:

(i) alternative Metering Equipment capable of measuring Gas quantity and (for Inlet Metering Equipment) Gas quality;

(ii) a means for detecting a fault in Duty Equipment which is likely to materially affect the accuracy of any measurements produced by the Duty Equipment, and a means in the event of such a fault for automatically switching metering from the faulty Duty Equipment to the alternative Metering Equipment referred to in clause 15.4(b)(i); and

(iii) a means for manually switching metering from Duty Equipment to the alternative Metering Equipment referred to in clause 15.4(b)(i).

(c) Inlet Metering Equipment must provide digital signals associated with valve or other equipment status, and must include components for signalling the following primary measurements and Derived Variables associated with Gas quality and quantity:

(i) delivery temperature;

(ii) delivery pressure;

(iii) instantaneous energy flow rate in TJ/d;

(iv) totalised energy flow in GJ;

(v) Relative Density;

(vi) Higher Heating Value in megajoules per cubic metre;

(vii) nitrogen content in mole percent;

(viii) carbon dioxide content in mole percent;

(ix) LPG content in tonnes per TJ of Gas;

(x) moisture level in milligrams per Cubic Metre;

(xi) instantaneous hydrocarbon dew point in degrees Celsius; and

(xii) all primary measurements and Derived Variables used in any computation required by clauses 15.4(c)(i) to 15.4(c)(xi).

(d) Unless Operator and Shipper as Reasonable And Prudent Persons agree to the contrary, Outlet Metering Equipment may utilize Gas quality data from equipment which is not located at the Outlet Station in question (the ***Remote Data***), in which case:

(i) Operator may as a Reasonable And Prudent Person adopt procedures relating to that utilization, including relating to the use of preset Gas quality values when the Remote Data is unavailable for any reason; and

(ii) clauses 15.9 and 15.12 apply, with appropriate modifications, to any procedures adopted under clause 15.4(d)(i).

(e) Outlet Metering Equipment must provide digital signals Associated with valve or other equipment status, and must include components for signalling the following primary measurements and Derived Variables Associated with Gas quantity:

(i) delivery temperature;

(ii) delivery pressure;

(iii) instantaneous energy flow rate in terajoules per day derived using the Higher Heating Value;

(iv) totalised energy flow in GJ;

(v) all primary measures and Derived Variables used in any computation required by clauses 15.4(e)(i) to 15.4(e)(iv); and

(vi) Higher Heating Value in megajoules per cubic metre.

(f) The Inlet Metering Equipment, and any building erected for such equipment, is the property of Shipper (or its nominee), and the Outlet Metering Equipment, and any building erected for such equipment, is (subject to clause 15.4(g)) the property of Operator.

(g) To the extent that:

(i) Shipper has paid for the Outlet Metering Equipment and any building erected for such equipment;

(ii) the Outlet Metering Equipment is detachable from the DBNGP without any damage to or effect on the DBNGP;

(iii) no third party has any interest in or title to the Outlet Metering Equipment or the building; and

(iv) no third party (including a shipper) is deriving any benefit from the Outlet Metering Equipment,

the Outlet Metering Equipment and any building erected for such equipment is, at the end of this Contract, to become the property of Shipper, and may be detached and removed at the expense and risk of Shipper.

15.5 Provision of information to Shipper

(a) Operator must, on request by and at the expense and risk of Shipper, make available to Shipper access to:

(i) the galvanically isolated analogue or digital data signals in a form agreed by the Parties from any Outlet Metering Equipment at the Outlet Station Associated with the Outlet Point at which Shipper has Contracted Capacity; and

(ii) any other form of metering data requested by Shipper from time to time and consented to by Operator acting reasonably and taking into account, inter alia, the commercial sensitivity of the data, whether the data relates solely to Shipper, any requirements of confidentiality, any Law, and provided that such disclosure does not materially or directly detrimentally affect other shippers in the context of their dealings with Operator,

but only insofar as that data relates solely to Shipper.

(b) Operator takes no responsibility for the accuracy of any data obtained by Shipper under clause 15.5(d)(i) and is not liable for any Direct Damage or Indirect Damage suffered by Shipper as a result of any reliance placed by Shipper on any data obtained by Shipper under clause 15.5(d)(i).

(c) In complying with clause 15.5(a), Operator must allow Shipper access to unverified delivery data signals insofar as is relevant to the information referred to in clause 15.5(a).

(d) Operator must make available to Shipper via the CRS or a similar communications system:

(i) within one hour after each Gas Hour, the unverified hourly quantities of Gas Received by Shipper at each outlet point during that Gas Hour;

(ii) within 3 hours after the end of each Gas Day, the unverified quantities of Gas in that Gas Day Delivered by Shipper to each inlet point and Delivered by Operator to Shipper at each outlet point excluding all Physical Gate Points; and

(iii) within three Working Days after the end of the Gas Month, the verified quantities of Gas Delivered by Shipper at each inlet point and each outlet point for each Gas Day during the previous Gas Month.

(e) Operator must make available to Shipper via the CRS or a similar communications system as soon as practicable after receiving from Networks the information referred to in clause 33(1) of the Operating Arrangement, but in any event no later than 72 hours after the end of the Gas Day to which the information relates, the verified quantity of Gas:

(i) Received by Shipper in a Gas Day at each Physical Gate Point; and

(ii) Received by Shipper in a Gas Day aggregated across all outlet points including all Physical Gate Points.

(f) Operator must make available to Shipper via the CRS or a similar communications system within 5 hours after the end of a Gas Day the verified quantity of Gas:

(i) Received by Shipper in that Gas Day at each Physical Gate Point; and

(ii) Received by Shipper aggregated across all outlet points including all Physical Gate Points.

(g) Clauses 15.5(e) and (f) only apply for as long as Shipper is a Distribution Networks Shipper.

15.6 Changes to requirements for Metering Equipment

Operator may by notice in writing require Shipper to modify, or to allow and arrange for Operator to modify, existing Metering Equipment to comply with requirements or standards specified by Operator after that equipment was installed, and if the modification is necessary to comply with safety Laws of general application, or to comply with the standard required by an amendment to this Contract implementing such Laws, the modification is to be made at Shipper's expense, and otherwise the modification is to be made at Operator's expense.

15.7 Approval of Inlet Metering Equipment

(a) Shipper must obtain, or must procure that a third party obtains:

(i) prior to commencing the construction, installation or modification of any Inlet Metering Equipment or any component thereof; and also

(ii) prior to the commissioning of any newly constructed, installed or modified Inlet Metering Equipment or any component thereof,

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

(b) For the purposes of clause 15.7(a), Shipper must give to Operator not less than one month's notice of the anticipated date of commencement of the relevant construction, installation or modification.

(c) Operator must, after receipt of a valid notice of the anticipated date of commencement, use all reasonable endeavours, before that anticipated date, to consider and to give notice to Shipper of Operator's approval of or refusal to approve the Inlet Metering Equipment.

(d) Without limiting the generality of clause 37, Shipper must, for the purposes of clause 15.7(a), prior to and during the construction, installation, modification or commissioning of any Inlet Metering Equipment or any component thereof, afford all reasonable rights of entry and inspection (including all relevant data, drawings and components) to Operator and its agents at Operator's expense and risk.

15.8 Check Metering Equipment

(a) Shipper may at its own expense at an Outlet Station, and Operator may at its own expense at an Inlet Station, supply, install, Maintain and Operate Check Metering Equipment for the purpose of monitoring the accuracy of the Primary Metering Equipment.

(b) Check Metering Equipment (and any associated pressure or quantity control regulators or other equipment) must be located downstream of, and must not interfere with the operation of, the Primary Metering Equipment.

(c) Check Metering Equipment at the Outlet Station is Shipper's property, and Check Metering Equipment at the Inlet Station is Operator's property.

(d) Any Verification of the accuracy of Check Metering Equipment is to be at the expense of the Party owning that equipment.

(e) Subject to clause 15.14(d)(i), data from Check Metering Equipment may not be used for billing purposes.

15.9 Preservation of accuracy

(a) All Primary Metering Equipment is to be installed in a manner which permits an Accurate measurement of the quantity, and (for Inlet Metering Equipment) the quality, of Gas Delivered, and a ready Verification of the Accuracy of measurement.

(b) Each Party must, in the installation, Maintenance and Operation of any Metering Equipment, exercise the care of a Reasonable And Prudent Person to prevent any inaccuracy in the measurement of the quantity of Gas Delivered under this Contract.

15.10 Presumptions of accuracy

(a) Subject to clause 15.13, a measurement of the quantity or quality of Gas from any Primary Metering Equipment is to be presumed to be correct.

(b) If any 2 consecutive Verifications show any Metering Equipment to be operating within the Prescribed Limits of Uncertainty, the Metering Equipment is to be presumed to have been operating within the Prescribed Limits of Uncertainty throughout the intervening period.

(c) The presumptions in clauses 15.10(a) and 15.10(b) are to apply until the contrary is shown.

(d) If either or both of the presumptions in clauses 15.10(a) and 15.10(b) is, or are, shown to be incorrect in respect of any period or periods, clauses 15.13 and 15.14 apply, with appropriate modifications, to measurements taken by the Metering Equipment during the period or periods.

15.11 Verification of Primary Metering Equipment

(a) Operator:

(i) must at least once each month (or other period agreed between the parties) during the duration of this Contract; and

(ii) may at such greater frequency or on any occasion that either Party may request,

verify the accuracy of any Primary Metering Equipment in accordance with a procedure described in clause 15.11(b).

(b) The Verification procedure is to consist of:

(i) a comparison between simultaneous independent measurements of Gas flows;

(ii) the physical substitution of the Primary Metering Equipment to be Verified with similar Metering Equipment having a demonstrated accuracy within the Prescribed Limits of Uncertainty; or

(iii) any Metering Equipment testing procedure complying with applicable Australian or International standards that the Parties agree in writing to use.

(c) Each Party may have representatives present at the time of any Verification of the Accuracy of any Primary Metering Equipment (unless the number of persons present must be restricted for safety or logistical reasons, in which case the Parties are to agree on which representatives are to be present), and Operator must give Shipper sufficient notice of an intended Verification to enable Shipper's representative to be present.

(d) The results of any Verification are binding on both Parties unless within 7 Working Days after a Verification either Party gives notice to the other Party that it disputes the conduct of the Verification, in which case:

(i) the provisions of clause 24 apply; and

(ii) any reference in this clause 15.11 to accuracy figures produced by a Verification means the accuracy figures finally determined for that Verification under a dispute resolution process adopted in accordance with clause 24.

(e) Subject to clause 15.11(f), any Verification under clause 15.11(a) is to be made at Shipper's expense, provided that Operator is to bear the cost of attendance of Operator's representatives.

(f) If a Verification requested by Operator under clause 15.11(a)(ii) reveals that the accuracy of the Primary Metering Equipment is within the Prescribed Limits of Uncertainty, the Verification is to be at Operator's expense and Operator must pay to Shipper Shipper's reasonable expenses of that Verification, in accordance with clause 20.

15.12 Adjustment or replacement of defective equipment

(a) Subject to clause 15.12(b), if any component of Primary Metering Equipment is at any time found to be defective or otherwise out of service or operating outside the Prescribed Limits of Uncertainty, Operator must at an Outlet Station and Shipper must at an Inlet Station (in either case at Shipper's expense) forthwith either:

(i) adjust it to read accurately within the Prescribed Limits of Uncertainty; or

(ii) if such adjustment is not possible, replace it with a serviceable component.

(b) If Primary Metering Equipment with a design maximum flow rate of less than 5 TJ/d is at any time found to be for any reason operating outside the Prescribed Limits of Uncertainty, Operator must at an Outlet Station and Shipper must at an Inlet Station (in either case at Shipper's expense) within 48 hours cause the Primary Metering Equipment to Operate within the Prescribed Limits of Uncertainty.

15.13 Inaccurate equipment

(a) If any Verification reveals that any Primary Metering Equipment is operating outside the Prescribed Limits of Uncertainty but is measuring the quantity of Gas with an inaccuracy of less than or equal to:

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

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

then the measurements from that Primary Metering Equipment shall be taken to be correct.

(b) If any Verification reveals that any Primary Metering Equipment is measuring the quantity of Gas with an inaccuracy of greater than the relevant limit prescribed by clause 15.13(a)(i) or 15.13(a)(ii) or agreed under clause 15.3(c), then (unless the Parties agree otherwise) all measurements affected or potentially affected by that inaccuracy are to be determined in accordance with clause 15.14.

(c) If the Parties have agreed under clause 15.3(c) to limits of uncertainty for a component or components of Primary Metering Equipment, then the Parties may agree to limits which are to apply in substitution for the limits prescribed in clauses 15.13(a)(i) or 15.13(a)(ii) for that Primary Metering Equipment, and clause 15.13(a) has effect accordingly.

15.14 Correction of measurements

(a) All measurements made prior to the Previous Verification shall be taken to be correct.

(b) The period between the Previous Verification and the Current Verification is to be divided into an earlier period and a later period, being:

(i) if the time at which the Primary Metering Equipment became Inaccurate can be established, respectively the period before and the period after that time; or

(ii) if the time at which the Primary Metering Equipment became Inaccurate cannot be established, 2 equal periods.

(c) The measurements produced by the Primary Metering Equipment for the earlier period shall be taken to be correct.

(d) The measurements for the later period are to be estimated:

(i) if Check Metering Equipment is installed and is established to the reasonable satisfaction of both Parties to have been operating during the later period within the Prescribed Limits of Uncertainty, by using the measurements recorded by that Check Metering Equipment;

(ii) if clause 15.14(d)(i) does not apply and if the percentage of error in the measurements is ascertainable to the reasonable satisfaction of both Parties by calibration test or mathematical calculation, by calculating a correction for that percentage error; or

(iii) in any other circumstance, by reference to measurements made under similar conditions when the Primary Metering Equipment was registering accurately.

(e) Following the correction of any measurements in accordance with this clause 15.14, the Parties will determine the relevant overpayment or underpayment that has resulted under this Contract from the measurement error and the appropriate Party shall make an adjusting payment to the other in accordance with clause 21.6.

15.15 Metering records

(a) Any record produced by Primary Metering Equipment:

(i) in paper form is to be retained for 2 years after the date of production; and

(ii) in electronic form is to be retained for 5 years after the date of production,

by and at the expense of the Party owning the equipment which produces the record.

(b) The records and other information produced by, and any calculations and other information derived from, any Primary Metering Equipment or Check Metering Equipment remain the property of the Party owning that equipment.

(c) Each Party must use reasonable endeavours to, within 20 Working Days after receipt of a request from the other Party, submit to the other Party its records and other information produced by its Primary Metering Equipment which solely relate to the other Party, for inspection and verification by that other Party and the other Party may make and return any copies of those records and other information and must return the originals within 10 Working Days of their receipt.

15.16 Unused outlet points

(a) If:

(i) Shipper has no Contracted Capacity at an outlet point; and

(ii) such point has not been used, or is, in Operator's opinion (acting reasonably and after consulting with Shipper), unlikely to be used, to Deliver Gas to Shipper for a period, in aggregate, greater than 12 continuous months,

then Operator may, at the cost of Operator, decommission, remove and deal with or dispose of as it sees fit (including selling for its own benefit) any part or the whole of that outlet point and any Associated Outlet Station. Upon the commencement of such decommissioning, such outlet point shall, subject to clause 15.16(b), cease to be an outlet point for the purpose of this Contract.

(b) If requested by Shipper, Shipper and Operator will discuss in good faith deferring the decommissioning of the outlet point and any Associated Outlet Station on the basis that Shipper will pay ongoing maintenance charges incurred by Operator in maintaining the outlet point and any Associated Outlet Station.

(c) If subsequent to the commencement of such decommissioning, Shipper wishes to use such point as an outlet point under this Contract, Shipper must give at least 10 months written notice to Operator and must fully indemnify Operator for all costs, losses, liabilities and expenses incurred by Operator in respect of such recommissioning of the point as an outlet point for the purposes of this Contract and in respect of recommissioning any Associated Outlet Station.

16. NOT USED

17. CURTAILMENT

17.1 Operator's obligations and Curtailment principles

(a) Operator must use its best endeavours to minimise the magnitude and expected duration of any Curtailment of the P1 Service.

(b) A Curtailment may affect one or more inlet points or outlet points on the DBNGP. Unless the Curtailment affects only one inlet point or outlet point, it is a System Curtailment.

(c) Curtailment occurs in two stages, although in some instances Operator will not need to move to the second stage:

(i) **Stage 1:** Operator identifies that a Curtailment is necessary and, acting as a Reasonable And Prudent Person, determines how much Capacity needs to be Curtailed. In most circumstances this will be a System Curtailment.

(ii) **Stage 2:** If it is necessary (at the same time or subsequently) for Operator to resolve incompatible demands by shippers for the use of a single inlet point or outlet point, Operator undertakes a Point Specific Curtailment at each such point.

(d) In a Curtailment, whether System Curtailment or in any Point Specific Curtailments, Contracted Capacity at a particular point (incumbent capacity) has priority for the use of that point above capacity relocated from another point for that Gas Day, unless the incumbent capacity has been fully curtailed by virtue of the application of the Curtailment Plan in a System Curtailment which affects a Curtailment Area greater than a Point Specific Curtailment.

17.2 Curtailment Generally

Operator may Curtail the provision of the Capacity Services to Shipper from time to time to the extent Operator as a Reasonable And Prudent Person believes it is necessary to Curtail:

(a) if there is an event of Force Majeure where Operator is the Affected Party;

(b) whenever it needs to undertake any Major Works;

(c) by reason of, or in response to a reduction in Gas Transmission Capacity caused by the default, negligence, breach of contractual term or other misconduct of Shipper;

(d) for any Planned Maintenance; and

(e) in circumstances where Operator, acting as a Reasonable And Prudent Person, determines for any other reason (including to avoid or lessen a threat of danger to the life, health or property of any person or to preserve the operational integrity of the DBNGP) that a Curtailment is desirable.

17.3 Curtailment without liability

(a) Subject to clause 17.3(b), Operator is to be liable to Shipper for Direct Damage caused by or arising out of a Curtailment or interruption of Shipper's P1 Service. For the avoidance of doubt the giving of a Curtailment Notice constitutes a

Curtailment and the provision by Operator of Capacity equal to Shipper's reduced Contracted Capacity under clause 17.7(d) during the currency of the Curtailment Notice which gave effect to that reduced Contracted Capacity is a Curtailment for the purposes of this clause 17.3(a).

(b) Operator has no liability to Shipper whatsoever for a Curtailment under clause 17.2 in any of the following circumstances:

(i) where the duration of the Curtailment together with the aggregate duration of all other Curtailments of the P1 Service during the Gas Year does not cause the P1 Permissible Curtailment Limit to be exceeded;

(ii) where the Curtailment is in accordance with any of clauses 17.2(a), (b) or (c); or

(iii) where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment.

This clause 17.3(b) does not derogate from or limit in any way Operator's obligation under clause 17.1(a).

(c) The P1 Permissible Curtailment Limit means 2% of the time in the relevant Gas Year during the Period of Supply (regardless of the amount of Capacity Curtailed during the period of the Curtailment) except that:

(i) a Curtailment in circumstances set out in clauses 17.2(a), (b) or (c);

(ii) a circumstance where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment; and

(iii) a Curtailment pursuant to a Multi-shipper Agreement to the extent that such capacity would not have been Curtailed if the Curtailment Plan had been applied,

is not to be aggregated with other Curtailments in determining whether the accumulated duration of Curtailments in a Gas Year cause the P1 Permissible Curtailment Limit to be exceeded.

17.4 Refund of Capacity Reservation Charge

To the extent that Shipper's P1 Service is Curtailed for any reason other than:

(a) an event of Force Majeure where Shipper is the Affected Party; or

(b) a reason described in clause 17.2(c); or

(c) a circumstance where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment,

Shipper is entitled to a refund of the Capacity Reservation Charge in respect of the Capacity Curtailed for the relevant period.

17.5 Operator's rights to refuse to Receive or Deliver Gas

Subject to clauses 5.5 and 5.9, where Operator exercises its rights to refuse to Receive Gas or Deliver Gas under or in accordance with:

(a) clause 5.3 (Operator may refuse to Receive Gas);

(b) clause 5.7 (Operator may refuse to Deliver Gas),

such act is not to be regarded as a Curtailment for the purposes of clauses 17.3(b)(iii), 17.3(c)(ii) and 17.4(c).

17.6 Curtailment Notice

(a) Operator must give Shipper a notice (***Curtailment Notice***) setting out the matters referred to in clause 17.7(a) and the expected duration of an impending Curtailment and otherwise complying with this clause 17.

(b) Operator must use reasonable endeavours to give Shipper a Curtailment Notice a reasonable period in advance of the starting time of the Curtailment, and in any event (other than when due to Force Majeure or by reason of an emergency it is unable to do so) must give the Curtailment Notice at least one hour before the starting time of the Curtailment. In the case of Major Works, reasonable notice is 90 days notice.

(c) Operator will send a copy of the Curtailment Notice in accordance with clause 29.1(a) and will also endeavour to telephone Shipper to advise that the Curtailment Notice has been or will be provided.

(d) Operator is not responsible for informing all affected Producers and downstream entities that relate to Shipper of the notification of the Curtailment or the Curtailment Notice.

(e) A Curtailment Notice under clause 17.6(a) must give the reasons for the Curtailment.

(f) Operator will, on a reasonable request by Shipper and within a reasonable time after the request is made, provide such information as is reasonably required to explain the issue of a Curtailment Notice.

17.7 Content of a Curtailment Notice

(a) A Curtailment Notice must specify the following details:

(i) the starting time of the Curtailment (which must not be any time before the Gas Day on which the Curtailment Notice is given), including the Gas Day or Gas Days to which the Curtailment Notice applies; and

(ii) the portion of Shipper's Contracted Capacity that is to be Curtailed.

(b) A Curtailment Notice:

(i) takes effect from the time specified in the Curtailment Notice;

(ii) may apply to the Gas Day on which the Curtailment Notice is issued even if, in order to comply with a Curtailment Notice, Shipper must use best endeavours to, and to procure persons to whom Shipper supplies Gas to, cease taking delivery of any Gas upon receipt of the Curtailment Notice in accordance with clause 17.8(a);

(iii) may be expressed to continue indefinitely or for a specified time;

(iv) may revoke, substitute or amend a previous Curtailment Notice;

(v) must not require Shipper to reduce its Receipt of Gas for the Gas Day as a whole to a level less than Shipper has already actually Received for the

Gas Day before the Curtailment Notice takes effect (that is, the Curtailment Notice must not be impossible to comply with); and

(vi) does not retrospectively affect Shipper's compliance with Hourly Peaking Limits or Outer Hourly Peaking Limits prior to the time the Curtailment Notice is issued on the Gas Day (for which purposes Shipper's compliance with those limits for an hour is to be determined having regard to Shipper's Contracted Capacity at the commencement of the hour).

(c) Operator may at any time, whether or not it has specified in a Curtailment Notice an end time for a Curtailment, give notice to Shipper (in accordance with clause 29) wholly or partly terminating a Curtailment either immediately or from any time in the future.

(d) A Curtailment Notice constitutes a variation of this Contract while the Curtailment Notice is in force reducing Shipper's Contracted Capacity to the extent, and in accordance with the apportionment (if any), specified in the notice, except for the purposes of calculating the Charges payable by Shipper under clause 20 and for ascertaining whether Shipper has been Curtailed under this clause 17, for which purposes Shipper's Contracted Capacity remains as specified in the Access Request Form. Further, in respect of a particular shipper when calculating the amount of Total Contracted Capacity (either generally or in respect of a specific Capacity Service, inlet point or outlet point) the amount shall not include any Capacity Curtailed under clause 17.8 either generally or in respect of a specific Capacity Service, inlet point or outlet point, and the material equivalent to such clause in any of the shipper's contracts for Capacity Service.

(e) If a Curtailment Notice takes effect before Shipper's next Nomination or Renomination under clause 8, Shipper's Daily Nominations are to be taken to be reduced (if a reduction is required) to the same amount of Capacity Service as Shipper is to have available under the Curtailment Notice given in respect of Shipper's Contracted Capacity.

(f) Shipper may not:

(i) Nominate or Renominate under clause 8 for Contracted Capacity; or

(ii) Deliver Gas to or Receive Gas from Operator,

in excess of whichever is the lower of:

(iii) its reduced Contracted Capacity because of clause 17.7(e); or

(iv) the quantity specified in a Curtailment Notice as the maximum quantity which Operator will Receive from, or Deliver to, Shipper.

17.8 Compliance with Curtailment Notice

(a) Where the Curtailment is a Point Specific Curtailment, Shipper must use its best endeavours to immediately, and must as soon as practicable and in any event must no later than one hour after receipt of the notice, comply, or procure compliance, with the requirements of a Curtailment Notice by:

(i) not Delivering any Gas at the inlet points; or

(ii) not Receiving any Gas delivered to Shipper at the outlet points,

in excess of the quantity specified for that inlet point or outlet point, as the case may be, in the Curtailment Notice.

(b) Where the Curtailment is not a Point Specific Curtailment, Shipper must comply, or procure compliance, with the requirements of the Curtailment Notice.

(c) If Shipper does not comply with the requirements of the Curtailment Notice in accordance with clause 17.8(a), Operator may take action to the extent necessary to give effect to the requirements set out in the Curtailment Notice, including refusing to Receive Gas from Shipper at an inlet point or refusing to Deliver Gas to Shipper at an outlet point.

(d) If Operator refuses to Receive or Deliver Gas under clause 17.8(c) in order to give effect to the requirements set out in a Curtailment Notice and Operator incidentally refuses to Receive or Deliver Gas in excess of the requirements of the Curtailment Notice (***Excess Curtailment***), to the extent that such Excess Curtailment occurred despite Operator acting as a Reasonable And Prudent Person in attempting to avoid or minimise (as the case may be) such Excess Curtailment is not to be regarded as a Curtailment under this Contract.

(e) If the Curtailment is a Point Specific Curtailment and Shipper Delivers Gas to Operator at an inlet point or Receives Gas from Operator at an outlet point in excess of the quantity specified in the Curtailment Notice for that inlet point or outlet point (as the case may be), then Shipper shall pay Operator an Unavailable Overrun Charge under clause 11 at the Unavailable Overrun Rate in respect of each GJ of Gas which Shipper's actual receipts or deliveries (or both) vary from those specified in the Curtailment Notice.

(f) Other than when due to Force Majeure or by reason of an emergency it is unable to do so, Operator is to give effect to a Curtailment by a Curtailment Notice instead of, or prior to, doing so physically under clause 17.8(c).

(g) Shipper is not liable to pay the Unavailable Overrun Charge under clause 17.8(e) in respect of a Gas Day in respect of which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate.

17.9 Priority of Curtailment

(a) Any Curtailment of Shipper's Total Contracted Capacity or Capacity under a Spot Transaction is to be conducted in accordance with the Curtailment Plan. In applying the Curtailment Plan in a Point Specific Curtailment or System Curtailment, a Type of Capacity Service will only be Curtailed once all Types of Capacity Services listed below it in that column in the Curtailment Plan have been reduced to zero.

(b) The general principle in clause 17.9(a) is subject to the following:

(i) Any Laws regulating the priority of Capacity Services (which for the purposes of this clause shall include capacity under a Spot Transaction) on the DBNGP.

(ii) Where the Curtailment is a Point Specific Curtailment, the Curtailment Plan will be subject to any Multi-shipper Agreement relating to that inlet point or outlet point.

(iii) Any Point Specific Curtailment of the Aggregated P1 Service is not a Curtailment for the purposes of this Contract and is not to be taken into account in determining whether Curtailments aggregated for a Gas Year cause the P1 Permissible Curtailment Limit to be exceeded to the extent that Shipper is entitled to give a Renomination Notice in respect of either of the following:

(A) (subject to clause 17.9(b)(iii)(B)) one or more inlet points or outlet points (as the case may be) where Shipper has unutilised Contracted Capacity for the P1 Service at that point , in which case the Curtailment will not be taken into account in respect of an amount of capacity up to Shipper's unutilised Contracted Capacity for the P1 Service at that or those inlet points or outlet points (as the case may be);

(B) one or more inlet points or outlet points (which may be points referred to in clause 17.9(b)(iii)(A) above) where Shipper can otherwise utilise Capacity.

(iv) If and to the extent that, because of the default, negligence, breach of contractual term, or other conduct of a shipper (in this clause 17.9(b)(iv) called the ***defaulting shipper***):

(A) a reduction in Gas Transmission Capacity is caused that makes necessary any Curtailment of the use of Gas Transmission Capacity by any shipper; or

(B) Operator is entitled to refuse to Receive Gas from or Deliver Gas to any shipper (or, if applicable, to Curtail the use of Gas Transmission Capacity by any shipper),

Operator must, to the extent that it is entitled to do so, wholly refuse to Receive Gas from or Deliver Gas to the defaulting shipper and must reduce the defaulting shipper's use of Gas Transmission Capacity of any kind (but only to the extent necessary to correct the default of the shipper) before it reduces any shippers' (other than the defaulting shipper's) use of Gas Transmission Capacity of any kind, and Operator is not liable to the defaulting shipper for any Direct Damage or Indirect Damage (whatsoever) arising from that Curtailment or refusal.

(v) To the extent that:

(A) the use of Gas Transmission Capacity by a particular shipper would, but for this clause 17.9(b)(v), be included in an apportionment of a Curtailment; and

(B) in the view of Operator (acting fairly and reasonably) the inclusion of that Gas Transmission Capacity would because of the location of the particular shipper's inlet point or inlet points or outlet point or outlet points in relation to the circumstances which gave rise to the

need to Curtail be unlikely to wholly or partially reduce the need to Curtail any other shipper's use of Gas Transmission Capacity,

Operator may exclude that Gas Transmission Capacity from the apportionment of Curtailments (despite what would otherwise be Operator's obligation to include that Gas in the apportionment).

(vi) In a System Curtailment, where the Curtailment Plan is being applied to a Curtailment Area greater than a Point Specific Curtailment, Shipper's:

(A) Aggregated P1 Service which derives from Contracted Capacity for P1 Services at the Outlet Points located within the Curtailment Area shall, when the Curtailment Plan is applied to that Curtailment Area:

(1) not be included in the Aggregated P1 Service; and

(2) be included in the P1 Service,

available to Shipper in the Curtailment Area; and

(B) Aggregated P1 Service which derives from Contracted Capacity for P1 Services at any Outlet Point located outside the Curtailment Area shall, when the Curtailment Plan is applied to that Curtailment Area:

(1) be included in the Aggregated P1 Service;

(2) not be included in the P1 Service,

available to Shipper in the Curtailment Area.

However, nothing in this clause 17.9(b)(vi) affects a Stage 2 Curtailment of any incumbent Contracted Capacity remaining after a Stage 1 Curtailment.

(vii) Despite any provision of the Curtailment Plan or any contract, the Delivery of Gas to Shipper is at all times subject to Operator's absolute right to utilise part of the DBNGP's capability to transport Gas which is required by Operator for operational purposes in relation to the DBNGP.

(viii) Operator must enforce its rights under the Alcoa Exempt Contract in relation to allocating to, and Delivering to, Alcoa no more than Alcoa's Exempt Delivery Entitlement during a Curtailment, including taking the full benefit of any force majeure provisions of the Alcoa Exempt Contract when and to the extent that it is entitled to do so.

(ix) Nothing in this clause 17 limits or affects Operator's right to refuse to Receive or Deliver Gas under clauses 5.3 or 5.7.

(x) This clause 17 is subject to any contrary agreement reached between Shipper and other shippers as to the manner of treating Curtailments between them.

(c)

(i) Subject to clauses (ii) and (iii) below, if when applying the Curtailment Plan there is insufficient relevant available capacity to allow all shippers their full Contracted Capacity in respect of a Type of Capacity Service for that Gas Day, then the capacity available for the Type of Capacity Service to each

such shipper during a particular Gas Day during a Curtailment will (unless relevant shippers agree to the contrary) be calculated, from time to time by Operator acting in good faith, on the basis of the following:

$$\text{Available Capacity} \times \frac{A}{B}$$

where:

Available Capacity = the total amount of relevant capacity which Operator (acting in good faith) deems to be available during the particular Gas Day during the Curtailment for the particular Type of Capacity Service;

A = the particular shipper's relevant Total Contracted Capacity (prior to any Curtailment) in respect of the particular Type of Capacity Service on that Gas Day (in the case of P1 Service only, less any of the shipper's relevant share of the Distribution Networks' IPQ which is to be transported using that P1 Service on that Gas Day); and

B = the aggregate of relevant Total Contracted Capacity (prior to any Curtailment) in respect of the particular Type of Capacity Service across all shippers on that Gas Day (in the case of P1 Service only, less the aggregate of the shippers' relevant shares of the Distribution Networks' IPQ which is to be transported using that P1 Service on that Gas Day).

(ii) If when applying the Curtailment Plan there is insufficient relevant available capacity to allow all shippers their relevant entitlement to a Type of Capacity Service being an Other Reserved Service or an Interruptible Service (other than capacity under a Spot Transaction), then the capacity available for the shipper for that Type of Capacity Service during the Curtailment will be determined by Operator acting as a Reasonable And Prudent Person.

(iii) Capacity under Spot Transactions which resulted from Daily Bids must be Curtailed with the lower priced Daily Spot Bid Price being Curtailed before the higher priced Daily Spot Bid Price.

17.10 Apportionment of Shipper's Curtailments

(a) Subject to clause 17.10(b), if Shipper has:

(i) Daily Nominations for a Capacity Service or otherwise has a right to Deliver Gas at more than one inlet point; Operator must apportion any refusals to Deliver Gas across those inlet points in the manner required by Shipper;

(ii) Daily Nominations for a Capacity Service or otherwise has a right to Receive Gas at more than one outlet point; Operator must apportion any refusals to Receive Gas across those outlet points in the manner required by Shipper; or

(iii) Contracted Capacity or Daily Nominations (or both) at more than one inlet point or outlet point; Operator must apportion any Curtailment of Shipper's Capacity Service at the inlet points or outlet points across those inlet points or outlet points in the manner required by Shipper, except in the case of Point Specific Curtailments.

(b) Operator is not required to make the apportionment referred to in clause 17.10(a) if:

(i) acting as a Reasonable And Prudent Person, Operator considers it is not Technically Practicable to do so;

(ii) acting as a Reasonable And Prudent Person, Operator considers the circumstances do not reasonably allow Operator to consult with Shipper as to the apportionment or wait for Shipper's response following such consultation; or

(iii) Operator has requested Shipper notify Operator of its apportionment, and Shipper has not done so by the end of the relevant Gas Day,

in which case Operator may apportion the refusal across the relevant inlet points or outlet points (as the case may be) in the manner it considers appropriate.

(c) Shipper may at any time and from time to time propose to Operator an apportionment mechanism which will operate as a standing requirement as to how Operator is to apportion any:

(i) refusals to Receive Gas across inlet points;

(ii) refusals to Deliver Gas across outlet points; or

(iii) Curtailments across inlet points and outlet points.

(d) Operator and Shipper must, in good faith, attempt to agree any apportionment mechanism for the purposes of this clause 17.10. If Operator and Shipper have not agreed an apportionment mechanism for the purposes of this clause 17.10 within 1 month from the date of Shipper's proposal, either Party may refer this Dispute to an Independent Expert under clause 24 as a Technical Matter.

(e) If Operator and Shipper have agreed an apportionment mechanism or an apportionment mechanism has been determined by an Independent Expert for the purposes of this clause 17.10, then Operator must apportion any:

(i) refusals to Receive Gas;

(ii) refusals to Deliver Gas; or

(iii) Curtailments,

in accordance with that mechanism.

18. MAINTENANCE AND MAJOR WORKS

(a) By 31 August of each Contract Year, Shipper may provide Operator with a schedule of events which Shipper, acting as a Reasonable And Prudent Person, believes may increase or reduce the Capacity it requires for certain periods during the 12 months starting the following 1 October (***Maintenance Year***) which sets out Shipper's best estimates of the amount and the expected duration of such increase or reduction.

(b) Within 30 days of receiving the schedule referred to in clause 18(a), Operator (acting as a Reasonable And Prudent Person) must in consultation with Shipper and other shippers schedule Major Works and Planned Maintenance for the DBNGP for the Maintenance Year (***Annual DBNGP Maintenance Schedule***), having reasonable regard to the periods during which Shipper's requirements for Capacity are reduced and Shipper's and other shippers' requirements generally.

(c) Operator will issue to all shippers who provided Operator with a schedule pursuant to clause 18(a) a copy of the Annual DBNGP Maintenance Schedule.

(d) At Shipper's request, Operator shall provide Shipper with its estimate of the Curtailment to Capacity available to Shipper on each day of the planned outages specified in the Annual DBNGP Maintenance Schedule.

(e) Operator to the extent practical will notify Shipper of changes to its schedule of Major Works and Planned Maintenance issued to shippers under clause 18(c).

(f) Operator must as a Reasonable And Prudent Person endeavour to:

(i) comply with the Annual DBNGP Maintenance Schedule; and

(ii) give Shipper as much advance notice as is reasonably practicable of any material departure from the Annual DBNGP Maintenance Schedule that is likely to affect Shipper.

(g) If Shipper is affected by any planned Curtailment arising out of any Planned Maintenance, or any Major Works, Operator must use endeavours which are reasonable in the circumstances to:

(i) consult with Shipper concerning the scheduling and duration of;

(ii) accommodate the needs of Shipper in scheduling; and

(iii) minimise the duration and impact of,

the Curtailment.

(h) Despite clause 18(b), but subject to clauses 18(f) and (g), Operator may determine the timing and extent of any Curtailment necessitated by Planned Maintenance or Major Works in its discretion.

19. FORCE MAJEURE

(a) A Party (the ***Affected Party***) is excused from performance of, and is not liable for any failure in carrying out any of its obligations under this Contract, to the extent that it is prevented from doing so by Force Majeure.

(b) Subject to clause 19(f), an obligation to pay money is not excused by Force Majeure.

(c) Without prejudice to Shipper's entitlement to a refund under clause 17.4 in circumstances where a Curtailment is other than as a result of an event of Force Majeure where Shipper is the Affected Party, Shipper is not relieved of its obligation to pay the Capacity Reservation Charge by the occurrence of an event of Force Majeure in respect of it however caused.

(d) If a Party claims the benefit of Force Majeure, it must:

(i) promptly give notice to the other Party of the occurrence and circumstances in which the claim arises;

(ii) use its best endeavours to remedy the consequences without delay; and

(iii) resume full performance of its obligations under this Contract as soon as reasonably practicable.

(e) Settlement of strikes, lock outs, stoppages and restraints of labour or other industrial disturbances are entirely within the discretion of the Party claiming the benefit of this clause and the Party may refrain from settling industrial disturbances or may settle them on any terms it considers to be in its best interests.

(f) Shipper is relieved from paying the Surcharges to the extent that it was unable to prevent such Surcharges accruing due to some event of Force Majeure affecting it.

(g) For the avoidance of doubt, the Parties acknowledge that lack of finances, lack of funds or access to funds, or inability to borrow funds shall not in any circumstances be an event of Force Majeure under this Contract.

20. CHARGES

20.1 Obligation to pay Charges

Shipper must pay the Charges and any other amounts payable under this Contract to Operator in the manner and at the times set out in this Contract, including the charges set out in clauses 20.2, 20.3 and 20.4 (inclusive). The Charges are to be invoiced and payable in accordance with clause 21.

20.2 Capacity Reservation Charge

(a) The Capacity Reservation Charge will be calculated for each Gas Day during the Period of Supply by multiplying the sum of Contracted Capacity for P1 Services at each Outlet Point by the P1 Capacity Reservation Tariff.

(b) Subject to clause 17.4, the Capacity Reservation Charge is payable for each Gas Day during the Period of Supply regardless of whether Shipper provides Gas at any inlet point and regardless of whether Shipper takes Gas at any outlet point.

20.3 Commodity Charge

The Commodity Charge will be calculated for each Gas Day during the Period of Supply by multiplying the P1 Commodity Tariff by each GJ of Gas Delivered to Shipper up to Contracted Capacity for P1 Services at all outlet points by Operator on that Gas Day.

20.4 Other Charges

(a) The following charges apply to this Contract:

(i) Excess Imbalance Charge (clauses 9.5(e) and 9.6(b));

(ii) Hourly Peaking Charge (clauses 10.3(d)) and 10.4(b);

(iii) Overrun Charge (clause 11.1(a));

(iv) Unavailable Overrun Charge (clause 11.6 and clause 17.8(e)); and

(v) any charges or other sums payable under clauses 6.6, 14.7, 15.11 or elsewhere in this Contract,

(together ***Other Charges***).

(b) The Parties agree that the Other Charges are genuine pre-estimates of the unavoidable additional costs, losses and damages that Operator will incur as a result of the conduct entitling such charges to be levied. Shipper will not be entitled to claim or argue (in any proceeding or otherwise), that any Other Charge is not a genuine pre-estimate of loss or damage that may be incurred by Operator or is otherwise a penalty or constitutes penal damages.

20.5 Adjustment to P1 Reference Tariff

(a) The P1 Reference Tariff at the commencement of the Access Arrangement Period is set out in Schedule 2.

(b) The P1 Reference Tariff shall be adjusted each year in accordance with the Access Arrangement until the Revisions Commencement Date, in accordance with CPI on the following basis:

$Tariff_n = Tariff_b \times (CPI_n/CPI_b)$

where:

$Tariff_n$= the adjusted P1 Reference Tariff;

$Tariff_b$= the P1 Reference Tariff as set out in Schedule 2 (unadjusted);

CPI_b means the CPI for the quarter ending on 30 September 2004; and

CPI_n means the CPI for the quarter ending on 30 September of the year before the year for which the P1 Reference Tariff is being adjusted.

(c) In the event that the Access Arrangement does not contain a Reference Service which is materially the same as the P1 Service then for the remaining duration of this Contract the P1 Reference Tariff shall be adjusted each year in accordance with clause 20.5(b) as if the words "until the Revisions Commencement Date" did not exist.

20.6 Goods and Services Tax

(a) Unless otherwise stated, all amounts payable or the value of other consideration provided in respect of the supplies made under this Contract are exclusive of GST.

(b) If a supply under this Contract is subject to GST then the recipient of the supply must pay, in addition to the other consideration payable or to be provided for the supply, an additional amount equal to the GST.

(c) Where any amount is payable to a Party as a reimbursement, indemnification or similar payment calculated by reference to a loss, cost, expense or any other amount incurred by that Party, then such amount shall be reduced by any part of that loss, cost expense or other amount which is attributable to GST for which that Party, or the representative member of any GST group of which that Party is a member, is entitled to an input tax credit.

(d) The additional amount payable under clause 20.6(b) shall be payable at the same time as the payment to which it relates is payable. Where any GST payable is not referable to an actual payment then it shall be payable within 10 days of a Tax Invoice being issued by the Party making the supply.

(e) Where in relation to this Contract a Party makes a taxable supply, that Party shall provide a Tax Invoice in respect of that supply at or before the time the payment to which the supply relates is payable.

(f) If a Party becomes aware of an adjustment event, that party agrees to notify the other Party as soon as practicable after becoming so aware, and the Parties agree to take whatever steps are necessary, including the issue of an adjustment note, 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 Supplier has satisfied itself that the adjustment event has occurred.

(g) If an amount is paid by a party to the Contract as an additional amount under clause 20.6(b) and the amount of GST in not payable or the amount of GST is less than the additional amount paid, the payer shall be entitled to recover the amount paid from the Supplier by serving notice on the Supplier.

(h) This clause 20.6 will continue to apply after the expiration or termination of this Contract.

(i) For the purposes of this clause:

(i) ***GST*** means GST as that term is defined in the GST Law; and

(ii) the terms GST group, member, recipient, representative member, supply, consideration, input tax credit, taxable supply, adjustment, adjustment event and adjustment note have the same meaning as in the GST Law.

20.7 Other Taxes

If at any time during the Term:

(a) any Tax which was not in force as at the commencement of the Access Arrangement Period is validly imposed;

(b) the rate at which a Tax is levied is validly varied from the rate prevailing as at the commencement of the Access Arrangement Period; or

(c) the basis on which a Tax is levied or calculated is validly varied from the basis on which it is levied or calculated as at the commencement of the Access Arrangement Period,

(called the ***Tax Change***) then, to the extent that the Tax Change changes any costs incurred by Operator in performing its obligations under this Contract or otherwise affects the amounts payable under this Contract, Shipper must pay to Operator an amount equal to the increase in costs attributable to the Tax Change, or Operator must pay to Shipper an amount equal to the decrease in costs attributed to the Tax Change (as the case may be), which amount shall be added to amounts, or deducted from (as the case may be) otherwise due under this Contract.

21. INVOICING AND PAYMENT

21.1 Monthly payment of Capacity Reservation Charge

(a) Operator must, no later than 20 days before the start of a month, provide Shipper a Tax Invoice in respect of the Capacity Reservation Charges payable by Shipper for the following Gas Month under this Contract.

(b) Shipper must, no later than 3 days before the start of a month, pay to Operator in advance all Capacity Reservation Charges payable by it for the following Gas Month as specified in the Tax Invoice referred to in clause 21.1(a).

21.2 Monthly invoicing

Operator must, within 5 Working Days after the end of a month, provide Shipper a Tax Invoice or Tax Invoices for the Gas Month just ended showing:

(a) the quantity of Gas Delivered by Shipper at each inlet point and the quantity of Gas Delivered by Operator at each outlet point on each Gas Day in the month;

(b) the Commodity Charges for the month;

(c) all Other Charges payable for that month;

(d) any other amounts which under this Contract are payable in arrears or refundable for the month;

(e) any outstanding amounts (whether those amounts were originally payable in arrears or advance) from previous months and the interest payable thereon;

(f) in the case of the Tax Invoice for the final Gas Month in a Gas Year, any funds payable to Shipper for that Gas Year by reason of any Curtailment of Shipper's P1 Service; and

(g) such other information as may be agreed between the Parties.

21.3 Payment within 10 Working Days

Subject to clause 21.1(b), Shipper must, within 10 Working Days of receipt of a Tax Invoice, pay to Operator in the manner shown on the Tax Invoice all amounts shown on the Tax Invoice as payable under this Contract.

21.4 Default in payment

(a) If Shipper fails by the relevant due date to make full payment of any:

(i) Capacity Reservation Charge;

(ii) Commodity Charge;

(iii) Other Charges; or

(iv) any other amount or amounts payable by it under this Contract and shown on a Tax Invoice,

then, without prejudice to Operator's other rights and remedies under this Contract or in equity, Shipper must (unless Operator in its absolute discretion waives this requirement) pay interest on the unpaid amount (after as well as before judgment), calculated daily at the Prescribed Interest Rate from the due date until payment.

(b) The Prescribed Interest Rate calculated for a day from which interest is to be payable on an amount referred in clause 21.4(a) or clause 21.5 is to apply until payment of that amount, and is not to be recalculated despite any change in the Bank Bill Rate during that period.

(c) This clause 21.4 applies with appropriate changes to a default by Operator in paying or allowing any credit, rebate or other sum under this Contract.

21.5 Disputed Tax Invoices

(a) If Shipper disputes any amount or amounts set out in a Tax Invoice to be due or payable, then Shipper must pay the undisputed portion (if any) of the amount shown on the Tax Invoice in accordance with clause 21.3, and must, within 10 Working Days of the date of the Tax Invoice, give notice in writing to Operator that it disputes the amount or amounts and full details of the dispute.

(b) Any amount withheld by Shipper under this clause but subsequently found to have been payable is, without prejudice to Operator's other rights, to attract interest calculated daily at the Prescribed Interest Rate from 10 Working Days after the date of the Tax Invoice until payment. Shipper must pay any interest payable under this clause at the same time as it pays the amount withheld.

21.6 Correction of payment errors

(a) If a Party detects any underpayment or overpayment by a Party of any amount and clause 20.6(f) does not apply (including under clause 21.5), then the detecting Party must within a reasonable time give notice to the other Party of the underpayment or overpayment, and an adjusting payment is to be made by the appropriate Party within 10 Working Days of that notice, which adjusting payment is, without prejudice to the Parties' other rights, to attract interest calculated daily at the Prescribed Interest Rate from the date of underpayment or overpayment until payment.

(b) Subject to clauses 21.4 and 21.5, in circumstances where there has been an underpayment or overpayment to which clause 21.6(a) applies and the underpayment or overpayment did not result from a failure of the Party which is obliged to pay interest under clause 21.6(a) to perform its obligation under this Contract, the Prescribed Interest Rate for the purposes of clause 21.6(a) is to be the Bank Bill Rate plus an annual interest rate of 1 percent per annum.

22. DEFAULT AND TERMINATION

22.1 Default by Shipper

Shipper is in default under this Contract only if:

(a) Shipper defaults in the due and punctual payment, at the time and in the manner prescribed for payment by this Contract, of any amount payable under this Contract;

(b) Shipper defaults in the due and punctual performance or observance of any of the other covenants, agreements, conditions or other obligations contained in this Contract and such default is material in the context of the Contract as a whole;

(c) without Operator's prior consent, Shipper sells, parts with Possession of or attempts to sell or part with Possession of, the whole or a substantial part of its undertaking;

(d) Shipper suffers an Insolvency Event;

(e) there is any adverse change in the business or financial condition of Shipper or any event occurs which could, in the reasonable opinion of Operator, in any way jeopardise the ability of Shipper to meet its obligations to Operator under this Contract; or

(f) Shipper is found to be materially in breach of any warranty given to Operator in this Contract, or if any statement or representation made by any means or in any document by Shipper to Operator, is found to be false or misleading in any material particular,

and Shipper fails to remedy that event within the relevant period determined in accordance with clause 22.3(b) following the giving of a Shipper Default Notice by Operator.

22.2 Notice of Shipper's default

If an event referred to in any one or more of clauses 22.1(a) to 22.1(f) (inclusive) occurs, then Operator may give notice in writing by certified mail to Shipper specifying the nature of the default and requiring Shipper to rectify the default (***Shipper Default Notice***).

22.3 When Operator may exercise remedy

(a) Subject to clause 22.3(b), Operator may exercise a remedy under clause 22.4 at any time during which Shipper remains in default under this Contract.

(b) Shipper is not in default under this Contract and Operator may not terminate this Contract under clause 22.4(b) or commence the exercise of any remedy under clause 22.4(a):

(i) in respect of an event described in clauses 22.1(a), 22.1(d) or 22.1(e), unless it has given a Shipper Default Notice, and until 5 Working Days have elapsed after Shipper receives that Shipper Default Notice; and

(ii) in respect of an event described in clauses 22.1(b), 22.1(c) or 22.1(f), unless it has given a Shipper Default Notice and until 40 Working Days have elapsed after Shipper receives that Shipper Default Notice,

and the event has not been remedied within the relevant period specified in (i) or (ii) above.

(c) A default of the kind referred to in clause 22.1(d) will be deemed to be remedied when the relevant Insolvency Event is no longer continuing.

22.4 Remedies for Shipper's default

Subject to clause 22.3, if Shipper is in default under this Contract, then Operator may in its sole discretion:

(a) refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point until such time as:

(i) all amounts the failure to pay which constitutes the event described in clause 22.1(a), plus interest on those amounts at the Prescribed Interest Rate, have been paid in full; and

(ii) all other events described in clause 22.1 have been remedied, ceased or removed; or

(b) by notice in writing to Shipper terminate this Contract which termination takes effect immediately upon receipt of such notice.

22.5 Default by Operator

Operator is in default under this Contract only if:

(a) Operator repudiates, disclaims or defaults in the performance of, any obligation under this Contract and such repudiation, disclaimer or default is material in the context of the Contract as a whole; or

(b) an Insolvency Event occurs in respect of Operator,

and Operator fails to remedy that event within the relevant period determined in accordance with clause 22.7 following the giving of a Operator Default Notice by Shipper.

22.6 Notice of Operator's default

If an event referred to in clause 22.5 occurs, then Shipper may give notice in writing by certified mail to Operator specifying the nature of the default and requiring Operator to rectify the default (***Operator Default Notice***).

22.7 When Shipper may exercise remedy

(a) Subject to clauses 22.7(b) and 22.7(c), Shipper may exercise a remedy under clause 22.8 at any time during which Operator remains in default under this Contract.

(b) Operator is not in default under this Contract and Shipper may not terminate this Contract under clause 22.8:

(i) in respect of an event described in clause 22.5(a), unless it has given an Operator Default Notice, and until 40 Working Days have elapsed after Operator receives that Operator Default Notice; and

(ii) in respect of an event described in clause 22.5(b), unless it has given an Operator Default Notice, and until 5 Working Days have elapsed after Operator receives that Operator Default Notice,

and the event has not been remedied within the relevant period specified in (i) or (ii) above.

(c) A default of the kind referred to in clause 22.5(b) above will be deemed to be remedied when the relevant Insolvency Event is no longer continuing. A default of the kind referred to in clause 22.5(a) above that relates to the repudiation or disclaimer of a contract, agreement or deed will be deemed to be remedied when the relevant repudiation or disclaimer is no longer continuing.

22.8 Remedies for Operator's default

Subject in all cases to clause 22.7 if Operator is in default under this Contract and:

(a) Shipper elects to terminate this Contract in respect of a default described in clause 22.5(b), then Shipper may in its sole discretion by notice in writing to Operator terminate this Contract, which termination shall take effect at the start of the Gas Day immediately following Operator's receipt of the notice of termination; or

(b) Shipper elects to terminate this Contract in respect of a default described in clause 22.5(a), then Shipper may, in its sole discretion, by notice in writing to Operator terminate this Contract, which termination shall take effect at the time Shipper specifies in the notice of termination not exceeding 3 years after Operator receives the notice of termination.

22.9 Saving of other remedies

Except where expressly excluded or limited by this Contract, the right to terminate this Contract under this clause 22 is in addition to and is not in substitution for any other rights and remedies available to a Party, whether under any Law, or this Contract or in equity.

22.10 Effect of termination

(a) Termination of this Contract by Operator under clause 22.4(b) or Shipper under clause 22.8:

(i) does not prejudice the rights or remedies accrued to either Party at the date of termination or any of the provisions of clauses 17.2 or 17.3, clauses 23.1 to 23.7 (inclusive), and clause 29; and

(ii) subject to clause 22.10(b), relieves each Party of all further obligations under this Contract to the other Party.

(b) Termination of this Contract by Operator under clause 22.4(b) does not relieve Shipper of its obligations under this Contract to (subject to clause 22.10(c)) pay the Capacity Reservation Charges for the balance of the Period of Supply (but for the termination of this Contract) and to pay all amounts outstanding (and then due and payable) at the time of termination, and termination of this Contract by Shipper under clause 22.8 does not relieve Operator of its obligations to pay all amounts outstanding (and then due and payable) at the time of termination.

(c) Shipper is relieved of its obligation under clause 22.10(b) to continue to pay an amount if and to the extent that Operator subsequently enters into a contract for Capacity Services, and receives payment from Shipper or any other shipper for, some or all of the Contracted Capacity (***Terminated Capacity***) made spare by the termination of this Contract.

(d) For the purposes of clause 22.10(c), Terminated Capacity in any Capacity Service is to be assumed to be the last Capacity available to be committed under a contract for Gas Transmission Capacity, and any amounts received by Operator under such contract are to be assumed to be applied last to any Terminated Capacity committed under that contract.

23. LIABILITY

23.1 Liability for negligence and default limited to Direct Damage

Subject to the terms and conditions of this Contract, a Party who:

(a) is negligent; or

(b) defaults in respect of its obligations to the other Party under this Contract,

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

23.2 Liability for fraud

A Party who is fraudulent in respect of its obligations to the other Party under this Contract is to be liable to the other Party for, and is to indemnify the other Party against, any loss or damage caused by, consequential upon or arising out of the fraud and the exclusion of Indirect Damage in clause 23.3 shall not apply.

23.3 No liability for Indirect Damage

(a) Subject to clause 23.3(c), neither Party is in any circumstances to be liable to the other Party for any Indirect Damage, however arising.

(b) Subject to clause 23.3(c), Operator hereby releases Shipper from, and agrees to indemnify Shipper against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by Operator and Shipper hereby releases Operator from, and agrees to indemnify Operator against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by Shipper.

(c) Where this Contract states that "the exclusion of Indirect Damage in clause 23.3(a) does not apply", or words to the same effect, in relation to a matter, then:

(i) the exclusion of Indirect Damage in clause 23.3(a) and the release and indemnity in clause 23.3(b) do not apply in relation to that matter; and

(ii) the Parties' respective liability in relation to the matter is to be determined by Law, and to avoid doubt the definition of "Indirect Damage" in this Contract is to be disregarded for the purposes of that determination.

23.4 No liability arising out of any approval by Operator

Without limiting the generality of clause 23.3, Operator is not, except as provided in clauses 23.1 and 23.2, in any circumstances to be liable to Shipper for any Direct Damage or Indirect Damage arising out of any approval by Operator of any design, location or construction of, or proposed Operating or Maintenance procedures in relation to, any equipment, apparatus, machine, component, installation, cable, pipe or facility connected to, or adjacent to and associated with, the DBNGP.

23.5 Saving of contractual payments

Nothing in this clause 23 limits the liability of either Party to make all payments due under this Contract.

23.6 Shipper is responsible for its and its contractors' personnel and property

(a) Subject to clause 23.1, Shipper alone is liable for any:

(i) injury to or death of any person employed by Shipper or by any person (except Operator) contracting with Shipper; and

(ii) loss of or damage to any property of Shipper or of any person (except Operator) contracting with or employed by Shipper,

however caused, except to the extent this liability was contributed to by an act or omission of Operator or any person (except Shipper) contracting with Operator, or Operator's directors, servants and agents, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the DBNGP, or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to Shipper or where Operator's property or directors, servants, consultants, independent contractors or agents and Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.

(b) Shipper must indemnify Operator and any person (except Shipper) contracting with Operator, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 23.6(a).

23.7 Operator is responsible for its and its contractors' personnel and property

(a) Subject to clause 23.1, Operator alone is liable for any:

(i) injury to or death of any person employed by Operator or by any person (except Shipper) contracting with Operator; and

(ii) loss of or damage to any property of Operator or of any person (except Shipper) contracting with or employed by Operator,

however caused, except to the extent this liability was contributed to by an act or omission of Shipper or any person (except Operator) contracting with Shipper, or Shipper's directors, servants and agents, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the DBNGP or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to Shipper or where Operator's property or directors, servants, consultants, independent contractors or agents and Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.

(b) Operator must indemnify Shipper and any person (except Operator) contracting with Shipper, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 23.7(a).

23.8 Each limitation separate

Each limitation or exclusion created by this clause 23 and each protection given to Operator or Shipper or to their respective directors, servants, consultants, independent contractors and agents by this clause 23 is a separate limitation, exclusion or protection applying and surviving even if for any reason any provision of this clause 23 is held inapplicable in any circumstances.

24. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS

24.1 Method of Resolution

Any Dispute between the Parties must be resolved in accordance with the provisions of this clause.

24.2 Acknowledgment

The Parties acknowledge that, while Disputes may arise from time to time, their common intent is to ensure that any Dispute is resolved in a timely and cost effective manner.

24.3 Service of Notice

If a Dispute arises at any time which is between the Parties, then either Party may give the other Party a notice in writing which is dated, signed, and must specify the precise nature of the Dispute (***Dispute Notice***).

24.4 Meeting

Within 5 Working Days of service of a Dispute Notice, the Parties must meet and use all reasonable efforts to resolve the Dispute (by negotiation or otherwise).

24.5 Senior Officers

If the Dispute is not resolved within 10 Working Days after the meeting between the Parties under clause 24.4, the Parties must immediately refer the Dispute to their respective senior executive officers who must meet within 5 Working Days and use all reasonable efforts to resolve the Dispute.

24.6 Failure to Resolve Dispute

If the Parties are unable to resolve the Dispute in accordance with clause 24.5, and the Dispute is a Technical Matter or a Financial Matter (as those expressions are defined in clause 24.7), then either Party may require that the Dispute be determined by an independent expert (***Independent Expert***) under clauses 24.8, 24.9 and 24.10 and if the Dispute is not a Technical Matter or a Financial Matter then either Party may commence proceedings in a court of competent jurisdiction in Western Australia.

24.7 Technical and Financial Matters

In this clause 24:

(a) a ***Technical Matter*** means a matter involving issues relating to the receipt, transportation and delivery of Gas under this Contract which is capable of determination by reference to engineering or scientific knowledge and practice (including the grounds on which Operator has issued an Unavailability Notice); and

(b) a ***Financial Matter*** means a matter involving financial calculations which is capable of determination by audit or reference to financial or accounting records, knowledge or practice.

24.8 Appointment of Independent Expert

(a) The Party wishing to have the Dispute determined by an Independent Expert will give written notice to that effect to the other Party.

(b) The Parties will meet and use all reasonable endeavours to agree upon the identity of the Independent Expert, but if they are unable to agree within 10 Working Days of the notice, then either Party may refer the matter:

(i) if it is a Technical Matter, to the President for the time being of the Institute of Engineers, Australia;

(ii) if it is a Financial Matter, to the President for the time being of the Institute of Chartered Accountants in Australia; or

(iii) in either case, if the relevant body referred to in clause 24.8(b)(i) or 24.8(b)(ii) no longer exists, then to the President for the time being of such successor body or association as is then performing the function formerly carried out by the relevant body, or, if there is no successor body or association:

(A) in the case of a Technical Matter, to the President or Chairman for the time being or his/her nominee of a body representing engineers in the State; and

(B) in the case of a Financial Matter, to the President or Chairman for the time being or his/her nominee of a body representing chartered accountants in the State,

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

24.9 Expert not an Arbitrator

The Independent Expert appointed under clause 24.8:

(a) will act as an expert and not as an arbitrator;

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

(c) will not be a current or former employee or representative of, or a person who provides consultancy services on a regular basis to, a Party or to a Related Body Corporate of a Party; and

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

24.10 Representation, Evidence, Confidentiality, Powers and Costs

(a) Each Party may be legally represented at any hearing before the Independent Expert.

(b) Each Party will be entitled to produce to the Independent Expert any materials or evidence which that Party believes is relevant to the Dispute.

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

(d) The Independent Expert will not be bound by the rules of evidence and, subject to abiding by the rules of natural justice, the Independent Expert will have the power to inform himself or herself independently as to the facts to which the Dispute

relates and to take such measures as he or she thinks fit to expedite the determination of the Dispute.

(e) Subject to the Independent Expert abiding by the rules of natural justice, the Independent Expert is to determine the procedures to be followed in resolving the Dispute (including whether or not any hearing will take place) and the Parties must co-operate promptly with those procedures, but the Independent Expert shall in any event:

(i) provide the Parties with a fair opportunity to make written submissions;

(ii) provide written reasons for the Independent Expert's determination; and

(iii) prior to handing down the determination, issue the determination in draft form to the Parties and allow the Parties an equal and fair opportunity to lodge written submissions concerning the proposed determination which the Independent Expert must consider before settling and handing down the Independent Expert's determination.

(f)

(i) Subject to clause 24.10(f)(ii), all information, material and evidence obtained or made available in the course of or for the purpose of the determination will be kept confidential by the Independent Expert and all the Parties.

(ii) Clause 24.10(f)(i) does not apply if:

(A) all the Parties otherwise agree; or

(B) the disclosure is authorised by Law or the disclosure is required by or under a law of the State or the Commonwealth.

(iii) If either Party becomes legally compelled to disclose information, material or evidence obtained in the course of or for the purpose of the determination, that person must immediately provide the other Party with written notice so that the other Party may seek appropriate relief and may only disclose information, material or evidence which is legally required to be disclosed.

(iv) This clause does not make confidential, information, material or evidence which is in the public domain at the time it is obtained in the course of or for the purpose of the determination.

(v) The Parties acknowledge that damages are not a sufficient remedy for any breach of the obligations of this clause and both Parties are entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies available at Law or in equity.

(g) Subject to any time prescribed anywhere else in this Contract, the Independent Expert will make a determination on the Dispute within a reasonable period of his/her appointment.

(h) The determination of the Independent Expert:

(i) will be final and binding upon the Parties so far as the Law allows, except where a Party has been denied natural justice; and

(ii) will determine what, if any, adjustments may be necessary between the Parties.

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

(i) unless the Parties otherwise agree before the reference of the Dispute, the remuneration of the Independent Expert will be finally determined by the President for the time being of the appropriate body referred to in clause 24.8(b) who will have the power to fix the remuneration of the Independent Expert at the conclusion of the determination or, if requested by the Independent Expert, to determine a fair rate at which the Independent Expert will be remunerated at any time during the conduct of the determination process; and

(ii) unless the Parties otherwise agree, the Independent Expert will determine which Party will bear the costs of:

(A) the determination; and

(B) each Parties' own costs (including out of pocket costs) incurred in the preparation and presentation of any submissions or evidence to the Independent Expert,

and in what proportion, having regard to the degree to which he or she considers that Party was at fault or unreasonable in failing to agree to the matter under reference, and that Party will bear those costs accordingly.

24.11 Urgent Relief Condition Precedent to litigation

(a) A Party must not commence any proceedings before any court in respect of a Dispute which a Party requires to be determined by an Independent Expert under clause 24.6 unless the Dispute has first been referred to an Independent Expert and the Independent Expert does not determine the Dispute within 6 months of the date of the dispute being referred to the Independent Expert.

(b) Nothing in this clause 24.11 will preclude either Party from seeking any urgent interlocutory, injunctive or declaratory relief, or from commencing proceedings before any court to prevent its claim from being statute barred under the *Limitation Act 1935* (WA) or any other relevant statute of limitation.

25. ASSIGNMENT

25.1 No assignment except under this clause

Subject to this clause 25 and clause 27.1, neither Party may assign any right, interest or obligation under this Contract other than by way of a Bare Transfer in accordance with clause 27.1.

25.2 Charges

(a) A Party may without the consent of the other Party (but subject to all other necessary consents and approvals) charge in favour of any recognised bank or financial institution or a Related Body Corporate of the Party the whole or any part of its rights or interests under this Contract (including any right to receive money), provided that the chargee enters into a tripartite agreement with the other Party substantially in the form of Schedule 7. If Shipper is the Party charging its rights and interests under this Contract under this clause 25.2, the tripartite agreement in the form of Schedule 7 is to be modified in the manner necessary to change the charging Party from Operator to Shipper.

(b) The granting of a charge under this clause 25.2 does not constitute the assignment of a right, interest or obligation referred to in this clause 25.

25.3 Assignment

(a) A Party may assign all or part of its rights and interests under this Contract without obtaining the consent of the other Party where that assignment is to a Related Body Corporate provided that:

(i) such assignment does not release the assignor from liability; and

(ii) upon the assignee ceasing to be a Related Body Corporate of the assignor, the assignee must immediately transfer all of its rights and interests, under this Contract to the assignor.

(b) Subject to clauses 25.3(c), 25.3(d), and 25.4, either Party may, with the prior written consent of the other Party, which may not be unreasonably withheld or delayed, assign all or part of its rights, interests and obligations under this Contract to any person.

(c) Without limitation, Operator may withhold its consent to an assignment by Shipper if Operator reasonably considers that the proposed assignee is not in a position to meet Shipper's obligations under this Contract and will not provide, or undertake to provide, security for those obligations on terms and conditions acceptable to Operator, acting reasonably.

(d) Without limitation, Shipper may withhold its consent to an assignment of Operator's obligations under this Contract if Shipper reasonably considers that the proposed assignee does not have:

(i) contractual or ownership rights to access the DBNGP for the purposes of performing all of Operator's obligations under this Contract; or

(ii) financial capability and technical expertise to enable the assignee to effectively operate the DBNGP and to perform all of Operator's obligations under this Contract.

25.4 Assignment: deed of assumption

(a) A Party (in this clause 25.4 called the ***Assignor***) shall not assign all or part of its rights and interests under this Contract (other than by way of Bare Transfer in accordance with clause 27.1) without requiring the assignee to enter into a deed of assumption to the reasonable satisfaction of the other Party under which the assignee assumes all, or the relevant portion, of the Assignor's obligations under this Contract.

(b) Upon the fulfilment of the relevant conditions specified in clause 25.3 and the entry into of a deed of assumption contemplated by clause 25.4(a), the Assignor shall be released from all future liability and obligations under this Contract to the extent that the assignee has agreed to perform them under the deed of assumption, but this release shall not apply to an assignment to a Related Body Corporate under clause 25.3(a) without the written consent of the other Party.

25.5 Pipeline Trustee's Acknowledgments and Undertakings

(a) The Pipeline Trustee in its capacity as trustee of the DBNGP Pipeline Trust (***Pipeline Trust***) undertakes to Shipper that the Pipeline Trustee assumes and shall duly and punctually observe, perform and discharge all of the obligations of Operator under:

(i) this Contract; and

(ii) any other contract with Shipper entered into by, or undertaking given in favour of Shipper by, Operator which requires the use or application of any asset owned by the Pipeline Trust, including the DBNGP, in order to be able to perform the contract or comply with the undertaking,

except to the extent that such obligations are observed, performed or discharged by Operator.

(b) The Pipeline Trustee, in its capacity as trustee of the Pipeline Trust, undertakes to Shipper, that if for any reason the DBNGP Operating Agreement is terminated, the Pipeline Trustee will assume and will duly and punctually observe, perform and discharge all obligations relating to the DBNGP (whether imposed on Operator or any other person) that would have been able, required or fallen to be observed, performed or discharged by Operator had the DBNGP Operating Agreement not been terminated.

(c) Shipper acknowledges and agrees that:

(i) the Pipeline Trustee’s obligation is to comply with obligations under the contracts and undertakings referred to in clauses 25.5(a) and 25.5(b) (***Relevant Agreements***) to the same extent that Operator would have had to comply with those obligations under the Relevant Agreements;

(ii) any limitation on liability, exclusion of liability, excuse from performance (for example, force majeure), qualification on performance or protection contained in a Relevant Agreement for the benefit of Operator will also

apply to the same extent for the benefit of the Pipeline Trustee in respect of its obligations under clauses 25.5(a) and 25.5(b); and

(iii) nothing in clauses 25.5(a) and 25.5(b) gives Shipper any greater right or remedy against the Pipeline Trustee arising from a failure to perform an obligation under a Relevant Agreement by the Pipeline Trustee than the right or remedy that Shipper would have been entitled to against Operator for that failure.

(d) The Pipeline Trustee represents and warrants that it is the legal owner of the DBNGP and owns the DBNGP in its capacity as trustee of the DBNGP Pipeline Trust.

(e) Other than to the extent relating to the transaction documentation entered into on or about the Capacity Start Date, the Pipeline Trustee shall not dispose of the whole or any part of its right, title or interest in the DBNGP without requiring the disponee to enter into a deed of assumption with Shipper to the reasonable satisfaction of Shipper pursuant to which it:

(i) assumes all, or the relevant portion, of the Pipeline Trustee's obligations under this Contract in respect of Shipper (and Shipper agrees that the Pipeline Trustee will be released to the extent that the Pipeline Trustee's obligations are assumed); and

(ii) acknowledges that its obligations under such assumption of obligations extend to Operator's obligations under the Relevant Agreements,

consistent with this clause 25.5.

(f) Subject to clause 25.5(g), if the disponee is a subsidiary of or controlled by another company or another entity, its ultimate holding company (or if it is not a company, its ultimate controlling entity) must, in addition to the disponee, execute the deed of assumption in terms of clause 25.5(e).

In this clause 25.5, ***dispose*** means, in relation to the DBNGP, to sell, transfer, assign, grant an option over, create an encumbrance over, declare oneself a trustee of or part with the benefit or otherwise dispose of the DBNGP (or any interest therein) and includes a transaction which results in a person other than the Pipeline Trustee:

(i) acquiring any equitable interest in the DBNGP, including an equitable interest arising pursuant to a declaration of trust, an agreement for sale and purchase or an option agreement or an agreement creating a charge or other security in respect of the DBNGP; or

(ii) otherwise acquiring legal or equitable rights against the DBNGP which have the effect of placing the person in the same position as would exist if the person had acquired a legal or equitable interest in the DBNGP itself.

(g) If the disponee is a special purpose project vehicle or otherwise part of a project financed structure, the reference in clause 25.5(f) to an ultimate holding company or entity will be construed to be the company, or entity, (if any) within the relevant project structure most appropriate for providing support of the disponee. Nothing in clause 25.5(f) or this clause 25.5(g) requires a company or entity to enter into a deed of assumption which might create recourse beyond the project structure.

25.6 DBNGP Trustee undertakings

(a) The DBNGP Trustee in its capacity as trustee of the DBNGP Trust (***DBNGP Trust***) undertakes to Shipper that the DBNGP Trustee assumes and shall duly and punctually observe, perform and discharge all of the obligations of Operator under:

(i) this Contract; and

(ii) any other contract with Shipper entered into by, or undertaking given in favour of Shipper by, Operator which requires the use or application of any asset owned by the DBNGP Trust in order to be able to perform the contract or comply with the undertaking,

except to the extent that such obligations are observed, performed or discharged by Operator.

(b) Shipper acknowledges and agrees that:

(i) the DBNGP Trustee's obligation is to comply with obligations under the contracts and undertakings referred to in clause 25.6(a) (***Relevant Agreements***) to the same extent that Operator would have had to comply with those obligations under the Relevant Agreements;

(ii) any limitation on liability, exclusion of liability, excuse from performance (for example, force majeure), qualification on performance or protection contained in a Relevant Agreement for the benefit of Operator will also apply to the same extent for the benefit of the DBNGP Trustee in respect of its obligations under clause 25.6(a) ; and

(iii) nothing in clause 25.6(a) gives Shipper any greater right or remedy against the DBNGP Trustee arising from a failure to perform an obligation under a Relevant Agreement by the DBNGP Trustee than the right or remedy that Shipper would have been entitled to against Operator for that failure.

(c) Other than to the extent relating to the transaction documentation entered into on or about the Capacity Start Date, the DBNGP Trustee shall not dispose of the whole or any part of its right, title or interest in the Pipeline Trust without requiring the disponee to enter into a deed of assumption with Shipper to the reasonable satisfaction of Shipper pursuant to which it:

(i) assumes all, or the relevant portion, of the DBNGP Trustee's obligations under this Contract in respect of Shipper (and Shipper agrees that the DBNGP Trustee will be released to the extent that the DBNGP Trustee's obligations are assumed); and

(ii) acknowledges that its obligations under such assumption of obligations extend to Operator's obligations under the Relevant Agreements,

consistent with this clause 25.6.

(d) Subject to clause 25.6(e), if the disponee is a subsidiary of or controlled by another company or another entity, its ultimate holding company (or if it is not a company, its ultimate controlling entity) must, in addition to the disponee, execute the deed of assumption in terms of clause 25.6(c).

In this clause 25.6, ***dispose*** means to sell, transfer, assign, grant an option over, create an encumbrance over, declare oneself a trustee of or part with the benefit or

otherwise dispose of the Pipeline Trust (or any interest therein) and includes a transaction which results in a person other than the DBNGP Trustee:

(i) acquiring any equitable interest in the Pipeline Trust, including an equitable interest arising pursuant to a declaration of trust, an agreement for sale and purchase or an option agreement or an agreement creating a charge or other security in respect of the Pipeline Trust; or

(ii) otherwise acquiring legal or equitable rights against the Pipeline Trust which have the effect of placing the person in the same position as would exist if the person had acquired a legal or equitable interest in the Pipeline Trust itself.

(e) If the disponee is a special purpose project vehicle or otherwise part of a project financed structure, the reference in clause 25.6(d) to an ultimate holding company or entity will be construed to be the company, or entity, (if any) within the relevant project structure most appropriate for providing support of the disponee. Nothing in clause 25.6(d) or this clause 25.6(e) requires a company or entity to enter into a deed of assumption which might create recourse beyond the project structure.

25.7 Non complying assignment

Any purported sale, transfer or assignment (other than by way of a bare transfer in clause 27.1) in breach of the requirements of any of the provisions of this clause 25 is void ab initio.

25.8 Utilising other shippers' Daily Nominations

Clause 25.1 nor clause 27.2 prevent Shipper agreeing to utilize its Daily Nominations on behalf of an Other shipper or an Other shipper agreeing to utilize its Daily Nominations on behalf of Shipper.

~~26.~~ GENERAL RIGHT OF RELINQUISHMENT

26.1 Shipper may make Relinquishment Offer

(a) In addition to its rights under this Contract to relinquish Contracted Capacity in certain circumstances, Shipper may at any time offer to relinquish all or part of its Contracted Capacity by giving notice in writing to Operator (***Relinquishment Offer***).

(b) The Relinquishment Offer must specify the amount of Contracted Capacity under this Contract to be relinquished (***Relinquishable Capacity***) at an Inlet Point, and at an Outlet Point.

(c) The Relinquishment Offer may specify how a Relinquishment Acceptance is to apportion any Relinquished Capacity between Shipper's Contracted Capacities for each Period.

(d) A Relinquishment Offer, unless accepted under clause 26.3(a), has no effect on this Contract.

26.2 Withdrawal of Relinquishment Offer

Shipper may at any time before Shipper is given a Relinquishment Acceptance in relation to a Relinquishment Offer give notice in writing to Operator that it wishes:

(a) to withdraw that Relinquishment Offer; or

(b) to amend that Relinquishment Offer,

and that Relinquishment Offer is by force of this clause 26.2 withdrawn or amended, as the case requires, from the time when that notice is received by Operator.

26.3 Operator may accept Relinquishment Offer

(a) (i) Operator may at any time give notice in writing to Shipper accepting a Relinquishment Offer (***Relinquishment Acceptance***).

(ii) A Relinquishment Acceptance may be given in respect of all or part of the Relinquishable Capacity.

(iii) A Relinquishment Acceptance must not apportion Relinquished Capacity between Shipper's Contracted Capacity for each Period in a manner inconsistent with any specification under clause 26.1(d).

(b) A Relinquishment Acceptance must specify:

(i) the amount of Relinquishable Capacity that Operator has agreed to relinquish (***Relinquished Capacity***);

(ii) the changes to the Access Request Form which are required to give effect to the relinquishment of the Relinquished Capacity; and

(iii) the date the relinquishment is to take effect.

(c) Subject to clause 26.3(b), Operator's discretion in determining:

(i) whether or not to give a Relinquishment Acceptance;

(ii) in respect of how much of the Relinquishable Capacity to give a Relinquishment Acceptance; and

(iii) the order in which it accepts offers of relinquishment from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of P1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26,

is to be absolute and unfettered.

(d) Operator's discretion is not to be limited by:

(i) any circumstances of Shipper;

(ii) the current or projected level of utilization of capacity of the DBNGP;

(iii) the number or magnitude of current or anticipated offers of relinquishment from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of P1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26; or

(iv) the order in which offers of relinquishment are received by Operator from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of P1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26.

26.4 Effect of Relinquishment Acceptance

(a) Upon receipt by Shipper of a Relinquishment Acceptance, or a later date otherwise agreed by the Parties:

(i) Shipper's Contracted Capacity is amended in accordance with the Relinquishment Acceptance;

(ii) if, as a result of a reduction under clause 26.4(a)(i), Shipper's Contracted Capacity is reduced to zero, then this Contract is terminated; and

(iii) if the Relinquishment Acceptance is given in respect of:

(A) part only of the Relinquishable Capacity, the Relinquishment Offer remains in effect, subject to clause 26.2, in respect of the Relinquishable Capacity which has not become Relinquished Capacity; or

(B) all of the Relinquishable Capacity, the Relinquishment Offer ceases to have effect.

(b) Subject to clause 26.4(a)(ii), this Contract, as amended under clause 26.4(a)(i), remains in effect after receipt by Shipper of the Relinquishment Acceptance, and

Operator is not obliged to release all or any part of any bond, deposit, security or other form of assurance provided by Shipper.

26.5 Notification of relinquishment of capacity by other shippers

If another shipper or shippers have rights of relinquishment of P1 Service under clauses materially equivalent to this clause 26, Operator must, whenever requested by Shipper to do so, provide Shipper, at Shipper's expense, with a statement of the current amount of capacity another shipper or shippers have offered to relinquish under clauses materially equivalent to this clause 26.

26.6 Administrative expenses

Shipper must, when requested by Operator to do so, reimburse Operator for all reasonable expenses incurred by Operator by reason of any:

(a) Relinquishment Offer;

(b) notice given under clause 26.2(a); or

(c) Relinquishment Acceptance.

27. TRADING OR TRANSFERRING CONTRACTED CAPACITY

27.1 Bare Transfers

Operator will permit a Bare Transfer of all or any part of a Shipper's Contacted Capacity in accordance with section 3.10 of the Code. For the avoidance of doubt, clause 25 and the remaining provisions in clause 27 will not apply to a Bare Transfer.

27.2 No transfer of Shipper's Contracted Capacity other than Bare Transfer than by this clause

(a) Subject to clause 27.1, Shipper may not Transfer any of its Contracted Capacity other than in accordance with this clause 27 (or clause 25 as the case may be).

(b) Neither clause 27.2(a) nor clause 25.1 prevent Shipper agreeing to utilize its Daily Nominations on behalf of an Other shipper or an Other shipper agreeing to utilize its Daily Nominations on behalf of Shipper.

27.3 Replacement Shipper must be a shipper or Approved Prospective Shipper

Shipper may Transfer Contracted Capacity only to a person who is, prior to the Transfer, an Other shipper or an Approved Prospective Shipper (***Replacement Shipper***).

27.4 Transfer of Capacity by Shipper - Approval of transfer terms

(a) If Shipper desires to transfer all or part of its Contracted Capacity to a Replacement Shipper for a duration less than or equal to the remaining duration of the Period of Supply, Shipper must, prior to transferring or agreeing to transfer that Contracted Capacity (***Tradeable Capacity***), make a written request to Operator for the approval of the Transfer of that Tradeable Capacity (***Request For Approval***).

(b) A Request For Approval must set out in detail the terms and conditions on which Shipper is prepared to Transfer the Tradeable Capacity to a Replacement Shipper, including:

(i) the duration of the Transfer;

(ii) the Inlet Point or Inlet Points and the Outlet Point or Outlet Points at which the Tradeable Capacity is to be Transferred;

(iii) the circumstances in which, and the terms on which, Shipper may interrupt a Replacement Shipper;

(iv) the quantity of Tradeable Capacity; and

(v) whether there are any rights reserved in respect of the Tradeable Capacity by Shipper.

(c) Shipper may retain a right in specified circumstances to Resume the Traded Capacity, either permanently or temporarily.

(d) Operator must, within 5 Working Days of receipt of the Request For Approval, notify Shipper that it either approves, or rejects, the Transfer Terms. Operator may reject the Transfer Terms if Operator as a Reasonable And Prudent Person considers for any reason that its operation of the DBNGP cannot accommodate:

(i) the Transfer of the Tradeable Capacity on the Transfer Terms; or

(ii) the performance of either or both of this Contract and the Replacement Contract following the Transfer of the Tradeable Capacity.

(e) Operator must not unreasonably withhold its approval of Transfer Terms if the Transfer is to an existing shipper who is not in default of any of its contracts for Capacity Services and Spot Transactions and, Operator (acting as a Reasonable And Prudent Person) believes the DBNGP can accommodate:

(i) the Transfer of the Tradeable Capacity on the Transfer Terms; and

(ii) the performance of either or both of this Contract and the Replacement Contract following the Transfer of the Tradeable Capacity.

(f) If Operator does not notify Shipper that it rejects the Transfer Terms in the terms and within the time stipulated in clause 27.4(d), then the Transfer of the Tradeable Capacity on the Transfer Terms shall be taken to have been approved by Operator.

(g) If:

(i) Operator notifies Shipper that it approves the Transfer of the Tradeable Capacity; or

(ii) Operator is taken to have approved the Transfer of the Tradeable Capacity,

(in either case ***Approved Tradeable Capacity***) on the Transfer Terms, then (subject to clause 27.6) Shipper may Transfer the Tradeable Capacity to a Replacement Shipper on those terms.

27.5 Posting of Tradeable Capacity

(a) Operator must, if requested by Shipper, use reasonable endeavours to ensure that all other shippers of which Operator is aware who are or may be interested in taking a Transfer of Tradeable Capacity are notified of details of Approved Tradeable Capacity in such a way that they all receive notice (by the CRS or otherwise) at approximately the same time as Operator makes available to the shippers any bulletin dealing with the amount of Capacity available for Nomination or Renomination on a Gas Day.

(b) Operator must provide a statement of the current details of all other shippers' Approved Tradeable Capacity at Shipper's request.

27.6 Notification of traded capacity

Shipper is to notify Operator of a Transfer of Approved Tradeable Capacity to a Replacement Shipper at least 2 Working Days before the Transfer of Approved Tradeable Capacity is to take effect.

27.7 Replacement Contract

(a) A Transfer of Approved Tradeable Capacity to a Replacement Shipper shall be taken to be a contract between Operator and the Replacement Shipper in respect of the Approved Tradeable Capacity.

(b) A Replacement Contract is governed by the terms and conditions of this Contract only so far as is necessary to accommodate the Transfer Terms.

(c) A Replacement Contract shall include a provision that the Traded Capacity is subject to all Operator's rights over that Traded Capacity under this Contract.

(d) Prior to Operator exercising any rights to terminate the Replacement Contract as a result of the Replacement Shipper's default, Operator must give at least 5 Working Days notice to Shipper specifying the nature of the default, and Operator must not terminate the Replacement Contract if within that period Shipper:

(i) cures the default; or

(ii) resumes the Tradeable Capacity (having cured the default).

27.8 Shipper's Contract

(a) Subject to this clause, this Contract remains in full force and effect following any Transfer of Traded Capacity and Operator is not obliged to release any deposit, bond, security or other form of assurance provided by Shipper.

(b) For the duration of the Replacement Contract, this Contract shall be taken to be amended so that Shipper's Contracted Capacity in respect of the relevant inlet point or inlet points or outlet point or outlet points is reduced by the amount of the Traded Capacity.

27.9 Resumption of Traded Capacity by Shipper

(a) If Shipper wishes to exercise a right under the Transfer Terms to resume the Traded Capacity, Shipper must give a Resumption Notice to Operator and the Replacement Shipper, specifying the amount of Capacity Resumed and the duration of the Resumption.

(b) Operator, on receipt of a Resumption Notice, must as soon as practicable confirm to Shipper and the Replacement Shipper that the Capacity has been Resumed.

(c) In any proceedings brought against Operator in relation to a Resumption, a Resumption Notice is conclusive proof of the validity of its issue and of its contents.

(d) To the extent that a Resumption Notice is invalidly issued or a purported Resumption is not authorised by the Transfer Terms, a Replacement Shipper's remedy lies against Shipper.

(e) For the duration of a Resumption, this Contract and the Replacement Contract shall be taken to be amended to the extent necessary to reflect the Resumption of Traded Capacity and the duration and terms of that Resumption.

(f) Traded Capacity which is resumed by Shipper, or Capacity which is otherwise transferred or reverts to Shipper, is to be subject to the terms of this Contract and treated as the same Capacity Service that applied prior to its Transfer, regardless of the terms applying to it prior to the resumption.

27.10 Administrative expenses

Shipper must, when requested by Operator, reimburse Operator for all reasonable expenses incurred or suffered by Operator by reason of the Request For Approval and any Resumption.

27.11 Further marketing service

(a) Operator may, if requested by Shipper, to the extent that it considers it practicable and prudent to do so, take steps to market (as a broker, but not as a buyer and reseller) Tradeable Capacity in ways other than the posting contemplated by clause 27.5.

(b) Operator and Shipper may agree on the remuneration of Operator in respect of any additional marketing service Operator agrees to provide, and Operator may refrain from providing that additional marketing service until such agreement is reached.

27.12 Relinquishment

(a) Where under this Contract Shipper has given a Relinquishment Notice or a notice indicating that it wishes to relinquish capacity, Operator may request that Shipper instead Transfer the relevant capacity to a third party specified by Operator in the request in accordance with this clause 27.

(b) Operator must procure that the specified third party releases and indemnifies Shipper from any liability which Shipper may incur arising out of the Transfer.

(c) If Operator makes a request under clause 27.12(a), and the third party releases Shipper from liability in accordance with clause 27.12(b), then:

(i) Shipper must comply with that request; and

(ii) Shipper is not required to make a Request For Approval under clause 27.4(a) in connection with the Transfer of the relevant capacity to the specified third party and Operator will be deemed to have approved the Transfer; and

(iii) Shipper will (and Operator will procure the third party to) execute all documents and do all other things reasonably requested of it to give effect to the Transfer contemplated by the request; and

(iv) Shipper will not retain the right to Resume the relevant capacity; and

(d) Operator must reimburse Shipper for all reasonable expenses incurred or suffered by Shipper by reason of the request.

28. CONFIDENTIALITY

28.1 Confidential Information

(a) Subject to clauses 28.2 and 28.3, each Party shall keep the terms and conditions of this Contract, and all information specifically relating to or provided pursuant to or in accordance with this Contract or in the negotiations leading to the execution of this Contract (***Confidential Information***), confidential.

(b) To avoid doubt Confidential Information includes all information received by Operator in the Operation of the DBNGP which relates to Shipper, the disclosure or misuse of which might reasonably be expected to materially affect Shipper's commercial interests, including information relating to Shipper's gas flows and flow rates, billing, and Shipper's maintenance schedules and plant availability.

(c) A reference in this clause 28 to information being **disclosed** to or **received** by a Party, includes information being communicated to or created, ascertained, discovered or derived by it or on its behalf.

28.2 Exceptions to Confidentiality

Either Party may disclose Confidential Information which:

(a) at the time when it is disclosed to the Party, is publicly known;

(b) subject to clauses 28.4 and 28.5, at the time when it is disclosed to the Party, is already known to the Party through some independent means not involving breach of any confidentiality undertaking owed pursuant to clause 28.1, and which the Party can prove by prior or contemporaneous written documentation was already known to it at the time of disclosure (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality);

(c) after the time when it is disclosed to the Party, comes into the public domain otherwise than as a result of any breach of the confidentiality undertaking owed pursuant to clause 28.1;

(d) subject to clauses 28.4 and 28.5, the other Party acquires from a source other than that Party or any Related Body Corporate or representative of that Party where such source is entitled to disclose it and such disclosure is not subject to confidentiality restrictions under this Contract;

(e) that Party is required by the ASX, court order, Law, the Regulator, or requested by the ACCC to disclose, and in such cases, the disclosing Party shall promptly notify the other Party of that requirement or request (as the case may be);

(f) is necessary in relation to any discovery of documents, or any proceedings before a court, tribunal, ACCC, other governmental agency or stock exchange, and in such cases, the disclosing Party shall promptly notify the other Party of that requirement;

(g) with the consent of the other Party and subject to any conditions of that consent;

(h) it is necessary or convenient in relation to any notification by the Shipper to ACCC or ERA under clause 28.7;

(i) is required by Law or any governmental agency or stock exchange to be disclosed in connection with the issue of securities or financial products by a Party, a Related Body Corporate of a Party, the Diversified Utility and Energy Trust No 1 and No 2 or the POWERS Trust, or any funding vehicle of any of those parties; or

(j) comprises the terms of Operator's Standard Shipper Contract.

28.3 Permitted Disclosure

(a) Either Party may disclose Confidential Information to:

(i) subject to clauses 28.4 and 28.5, its, and its Related Bodies Corporate's, employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers (and for the purpose of this clause 28.3(a) Alcoa, Alinta Limited and System Operator are to be considered Related Bodies Corporate of Operator); and

(ii) subject to clauses 28.4 and 28.5, a bona fide proposed or prospective transferee (and their employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial advisers, Related Entities, co-bidders or bid consortium members and actual or proposed joint venturers) of:

(A) a 20% or more legal or equitable interest in a relevant part or the whole of a Party's business;

(B) a 20% or more legal or equitable interest in any property to which the information relates;

(C) 20% or more of the shares in a Party; or

(D) 20% or more (by value) of the shares or units (or both) in a company or trust (or both) which, directly or indirectly, controls (as that term is defined in the Corporations Act) a Party,

to the extent those persons have a need to know the Confidential Information.

(b) Nothing in this clause 28.3 permits disclosure by Operator or System Operator, or by a person or persons to whom Confidential Information from Operator or System Operator has been disclosed under this clause 28, to:

(i) any person who is directly involved in:

(A) the distribution of Gas to customers through the Western Australia – Natural Gas Distribution System as that term is used in the National Third Party Access Code for Natural Gas Pipeline Systems (as amended from time to time);

(B) the retailing of Gas within Western Australia;

(C) the generation or sale of electricity in Western Australia;

(D) contracting for Capacity on the DBNGP; or

(E) the management of the activities referred to in the preceding paragraphs (A) to (D); or

(ii) such person's employees, officers, agents, contractors, consultants and technical advisers who are themselves directly involved in any of the activities described in clause 28.3(b)(i),

except to the extent that such person is:

(iii) the System Operator and requires the disclosure of information to it by Operator or by it to enable it to perform its obligations to Operator under the relevant operating and maintenance services contract (provided that at no time may the System Operator or its employees, officers, agents, contractors, consultants and technical advisers (which, without limiting clauses 28.4 and 28.5, does not include Alinta Limited to the extent it provides corporate and other head office services to the System Operator) be directly or indirectly involved in anything listed in clauses 28.3(b)(i)(B), (C) or (D) or clause 28.3(b)(i)(E) to the extent it relates to clauses 28.3(b)(i)(B), (C) or (D));

(iv) a director or senior manager of Alcoa or Alinta Limited, or any of their Related Bodies Corporate through which they have a direct or indirect equity interest in the DBNGP, and requires the disclosure of information in connection with the management of their respective equity interests in the DBNGP; or

(v) a senior manager of Alcoa or Alinta Limited, or any of their Related Bodies Corporate, who:

(A) is a director of Operator or its Related Bodies Corporate, or of System Operator; or

(B) by virtue of his or her duties as a senior manager is required to assist a director under clause 28.3(b)(iv),

which disclosure under clauses 28.3(b)(iii), (iv) and (v) is, subject to clauses 28.4 and 28.5, permitted in accordance with the provisions of this clause 28.3.

(c) Any Party seeking to disclose information under clause 28.3(a)(ii) must:

(i) seek the consent of the other Party as to the protocols, arrangements and agreements which will govern the disclosure of the information and the prevention of further disclosure of the information, which consent is not to be unreasonably withheld or unreasonably delayed; and

(ii) consult with the other Party to ascertain whether there is any commercially sensitive information which may not be disclosed at all or may only be disclosed on terms and conditions agreed between the Parties, and must give effect to the reasonable requirements of the other Party in these respects.

28.4 Disclosure by recipient of Confidential Information

(a) Any Party disclosing information under clauses 28.2 or 28.3 must ensure that persons receiving Confidential Information from it, or from any person or persons to whom the Confidential Information has been disclosed, do not:

(i) disclose the information except in circumstances permitted in clauses 28.2 or 28.3 (as the case may be); and

(ii) use the information except in the circumstances permitted by clause 28.5.

(b) If Operator and System Operator disclose information to a person under clauses 28.3(b)(iii), (iv) or (v), then Operator must ensure that (unless in the circumstances

of a particular case it is not possible to do so) the information is disclosed in a manner which minimises the disclosure of the Confidential Information referred to in clause 28.1(b), including by one or more of aggregating the information with like information from other shippers, presenting it in summary form, or presenting it (so far as is practicable) in a form which does not identify it as relating to Shipper.

28.5 Use of Confidential Information

A Party who has received Confidential Information from another under this Contract must not use it, and a Party who has disclosed Confidential Information to a person under clause 28.3 must procure that that person, and any person or persons to whom the Confidential Information is subsequently disclosed, does not use it, except for the purpose of exercising the Party's rights or performing the Party's obligations under this Contract or as otherwise contemplated under this Contract, with the exception of those persons set out in clause 28.3(a)(ii), who must not use the Confidential Information received from another under this Contract except for and in relation to assessing the value of, and preparing a bid for, the relevant interest under clause 28.3(a)(ii) that is proposed to be acquired and who must comply with the protocols, arrangements and agreements agreed under clause 28.3(c)(i).

28.6 Information received by Operator

(a) Operator must develop, prior to March 2006, and thereafter implement and enforce, policies and procedures to:

(i) give effect to its obligations under:

(A) clauses 28.3(a)(i), 28.3(b), 28.6(a), 28.6(b) or 28.6(c); and

(B) clauses 28.4 and 28.5 to the extent related to disclosure under clauses 28.3(a)(i), 28.3(b) or 28.6(b); and

(ii) subject to clause 45, ensure that all shippers are treated equally and fairly,

and must procure that its direct and indirect shareholders, service providers (including the System Operator) and all Related Bodies Corporate of these entities comply with those policies and procedures and with the Law.

(b) Operator recognises that information received by its personnel or by System Operator's personnel (which expression includes Operator's and System Operator's employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers), including general operational and gas flow information, is commercially sensitive and Operator undertakes that, in addition to the obligations under clauses 28.1 and 28.5, such Confidential Information will only be distributed by the control room personnel of Operator or System Operator, as the case may be, to other individuals within Operator, or System Operator, to the extent that those other individuals have a bona fide need to receive that Confidential Information for the purposes of Operating the DBNGP. Operator must procure that any Confidential Information distributed under this clause 28.6 is only used for the purpose for which it was distributed.

(c) Operator must make available to Shipper upon request a copy of the policies and procedures developed and implemented under clause 28.6(a). Despite this clause 28, Shipper may in any submissions to the ERA or the ACCC disclose this

clause 28 and the policies and procedures developed and implemented under clause 28.6(a).

(d) Nothing in clause 28.6(c) requires Operator to consult with Shipper regarding, or to seek Shipper's agreement with, any policies and procedures developed and implemented under clause 28.6(a).

28.7 Breach by Operator

(a) Shipper will notify Operator immediately if it has evidence able to be substantiated of a breach by Operator, or any party for whom Operator is responsible under this clause 28, of any of:

(i) clauses 28.3(a)(i), 28.3(b), 28.6(a), 28.6(b) or 28.6(c);

(ii) clauses 28.4 or 28.5 to the extent related to disclosure under clause 28.3(a)(i), 28.3(b) or 28.6(b); or

(iii) the policies or procedures referred to in clause 28.6(a),

(each a ***Relevant Breach***).

(b) Within 30 days after receipt of a notice under clause 28.7(a), Operator must:

(i) notify Shipper as to whether or not it agrees that a Relevant Breach has occurred; and

(ii) if it agrees that a Relevant Breach has occurred, specify the manner in which Operator proposes to address the breach and ensure that it is not repeated and if applicable make a proposal of compensation for Shipper's loss (which proposal must take into account the fact that the exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under clauses 28.7(c) and 28.7(e)).

(c) If Operator does not agree that a Relevant Breach has occurred, or if Operator's response under clause 28.7(b) does not resolve the matter to Shipper's reasonable satisfaction or include a proposal of compensation acceptable to Shipper acting reasonably, or if Operator does not respond within the time required by clause 28.7(b), Shipper may notify the ACCC. If the ACCC confirms that there was a Relevant Breach of this clause 28, Shipper may then pursue any other remedies under this Contract or at Law against Operator, including seeking any loss or damage arising in respect of the Relevant Breach. The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under this clause 28.7(c).

(d) If, following notification from Shipper to ACCC under clause 28.7(c), the ACCC does not resolve the matter to Shipper's reasonable satisfaction within 30 days after Shipper notified the ACCC, Shipper may notify the ERA.

(e) If, following notification from Shipper to ERA under clause 28.7(d), the ERA confirms that there was a Relevant Breach of this clause 28 or does not resolve the matter to Shipper's reasonable satisfaction within 30 days after Shipper notified the ERA, Shipper may then pursue any other remedies under this Contract or at Law against Operator, including seeking any loss or damage arising in respect of the Relevant Breach. The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under this clause 28.7(e).

(f) If Shipper considers that a breach of this clause 28 has occurred by Operator or any party for whom Operator is responsible under this clause 28 but Shipper does not have evidence of such breach, then Shipper may notify Operator.

(g) Within 30 days after receipt of a notice under clause 28.7(f), Operator must:

(i) notify Shipper as to whether or not it agrees that a breach has occurred; and

(ii) if it agrees that a breach has occurred, confirm the manner in which Operator proposes to address the breach and ensure that it is not repeated.

(h) If Operator's response under clause 28.7(g) does not address Shipper's concern to Shipper's reasonable satisfaction, Shipper may notify the ERA.

(i) Following notification under clause 28.7(h), if the ERA determines that there was a breach of this clause 28 it may suggest an appropriate remedy, however the Parties agree that Operator is not liable to Shipper for any damages in these circumstances.

(j) The procedures outlined above represent the sole and exclusive means by which Shipper may obtain damages in relation to such breaches or alleged breaches by Operator. No right of termination arises for a Relevant Breach. This clause 28.7(j) does not limit clause 28.11.

(k) If, and for so long as, either or both of the ERA and the ACCC are unable to accept the role intended for them under this clause 28.7, the Parties agree that the references to the ERA or ACCC, as applicable, will be deemed to be to an Independent Expert under clause 24 and the provisions of clause 24 will apply subject only to the following modifications:

(i) the matter will be considered a Technical Matter;

(ii) the appointing authority in clause 24.8(b)(i) will be the Chairman for the time being of the ERA or, if he or she fails or declines to make the appointment within 10 days of being asked to do so, the President for the time being of the Institute of Chartered Accountants Australia; and

(iii) the following will be added to clause 24.10(g): "and the Independent Expert must, and the Parties must assist as applicable to, make a determination within 30 days of his appointment.".

(l) The Parties agree to cooperate to make submissions to the applicable person or body to seek the conferral of the relevant power on the ERA or ACCC, as applicable, in order that they may accept the role intended for them under this clause 28.7.

28.8 Publicity

A Party may not make press or other announcements or releases relating to this Contract and the transactions the subject of this Contract without the approval of the other Party as to the form and manner of the announcement or release (which approval shall not be unreasonably withheld or delayed) unless and to the extent that the announcement or release is required to be made by the Party by Law or by a stock exchange. This clause 28.8 does not apply:

(a) if the second Party unreasonably delays or withholds approval; or

(b) to the extent that the proposed announcement or release relates to a matter regarding which the Parties are in a bona fide dispute or disagreement.

Nothing in this clause 28.8 authorises the disclosure of Confidential Information.

28.9 No disclosure of terms of this Contract

Except as otherwise agreed or duly required by Law or any regulatory authority, no Party will disclose the terms of this Contract to any person other than pursuant to clauses 28.2(d) to 28.2(f) and 28.3.

28.10 Audit

Operator will procure that, in accordance with the undertakings to the ACCC under section 87B of the *Trade Practices Act 1974* (***Undertakings***) by Alcoa, Alinta Limited, Alinta Network Services Pty Ltd, AMPCI Macquarie Infrastructure Management No 1, AMPCI Macquarie Infrastructure Management No 2 and DBNGP Holdings Pty Limited on 22 October 2004, an independent audit is undertaken in relation to compliance with the Undertakings.

28.11 Remedies

The Parties acknowledge that damages are not a sufficient remedy for any breach of the obligations of this clause 28 and both Parties are entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies available at Law or in equity.

28.12 Survival

This clause 28 survives termination (for whatever reason) of this Contract.

29. NOTICES

29.1 Notices for nominations, Curtailment, unavailability, balancing, Out-Of-Specification Gas and capacity trading

(a) Subject to clause 29.1(b), all Curtailment Notices and Unavailability Notices and notices under clauses 7.5 and 17.6(a) must be communicated by facsimile to the facsimile number, until further notice is given under clause 29.3(c), set out in the Access Request Form.

(b) Operator and Shipper may agree on an alternative means for communication of the notices specified in clause 29.1(a), in which case the notices must be communicated using that alternative method.

(c) Until Operator and Shipper agree an alternative method of communication under clause 29.1(b), Operator and Shipper must each install and maintain a dedicated facsimile machine on a separate facsimile number for the purposes of clause 29.1(a), and from time to time either Party may advise the other Party in writing of a new facsimile number which is to take effect in substitution for the number set out in this clause 29.1.

29.2 The CRS

(a) Subject to clauses 29.2(b) and 29.2(c), Accumulated Imbalance Notices, Resumption Notices and all notices under clause 8 (Nominations) may be provided through the CRS.

(b) If at any time and for any reason the CRS fails to function properly, then each of the notices specified in clause 29.2(a) that are required to be given during the period of failure, must be communicated by the method set out in clause 29.1.

(c) The terms and conditions of access to the CRS will be as published by Operator from time to time, provided that the CRS may not be used for giving notices which have contractual effect unless Shipper has agreed to the terms and conditions (such agreement not to be unreasonably withheld).

29.3 Notices generally

(a) Where under this Contract a notice is required or permitted to be communicated to a Party (other than the notices specified in clauses 29.1(a) and 29.2(a)), the notice shall be taken to have been communicated if it is in writing and it is delivered personally to, or sent by certified mail addressed to, the Party at the address, or is sent by facsimile transmission to the facsimile number, last notified under this clause.

(b) For the purposes of this clause, and until further notice is given under clause 29.3(c), the addresses and facsimile numbers of the Parties are as set out in the Access Request Form.

(c) From time to time, for the purposes of this clause, either Party may advise the other Party in writing of an address located within the State and a facsimile number which are to take effect in substitution for the details set out in this clause.

(d) Nothing in this clause prevents the Parties from agreeing in writing to utilize an alternative means of communication of notices, including via electronic mail or through the CRS.

29.4 Receipt of notices

(a) A reference in this Contract to notice before a certain time means that the notice must be received at the intended address or facsimile machine, or posted to the CRS, by no later than that time.

(b) For the purposes of this Contract, any notice sent by facsimile machine is, subject to clause 29.4(c), to be taken to have been sent and received on the date and at the time printed on a transmission report produced by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the appropriate facsimile number, unless the recipient notifies the sender within one hour (in the case of a notice to which clause 29.1(a) applies) or 12 hours (in any other case) of the time printed on the transmission report that the facsimile was not received in its entirety in legible form.

(c) When the time printed on the transmission report referred to in clause 29.4(b) is between:

(i) 00:00 hours and 09:00 hours; or

(ii) 17:00 hours and 24:00 hours,

on a Working Day, clause 29.4(b) shall apply as if, in respect to 29.4(c)(i), the time on the transmission report was 09:00 hours on the Working Day and, in respect to clause 29.4(c)(ii), the time on the transmission report was 09:00 hours on the next Working Day.

(d) For the purposes of this Contract, any notice sent by email must be sent by and to the email addresses set out in the Access Request Form (***Dedicated Email Address***). Each Party agrees to configure the information systems on which emails are sent from and to the Dedicated Email Addresses so as to generate an automatic response message for each email received by the Dedicated Email Address. Any notice sent from a Dedicated Email Address is, subject to this clause 29.4, taken to be given and received at the time the sender receives an automatic response message to the email.

(e) For the purposes of this Contract, a notice sent by certified mail shall be taken to be received on the earlier of the date of receipt or on the second Working Day after the notice was committed to post.

(f) For the purposes of this Contract:

(i) a notice sent by the CRS between 09:00 hours and 17:00 hours on a Working Day will be taken to have been received on that Working Day; and

(ii) the other notices sent by the CRS will be taken to have been received at the commencement of the next Working Day.

30. REPRESENTATIONS AND WARRANTIES

30.1 Operator's Representations and Warranties

(a) Operator represents and warrants to Shipper that:

(i) it has duly complied, and will up to the termination of this Contract continuously comply, with all Environmental And Safety Laws with respect to any of its obligations connected with, arising out of or in relation to this Contract;

(ii) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Environmental And Safety Laws and all other Laws to enter into this Contract, to observe its obligations under this Contract and to allow those obligations to be enforced;

(iii) it has in full force and effect all materially necessary leases, licences or easements to construct, Operate and Maintain the Outlet Point Station at each Outlet Point specified in the Access Request Form and all metering and other facilities for which it is responsible under this Contract;

(iv) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

(v) Operator does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);

(vi) this Contract and any transaction under it does not contravene Operator's constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;

(vii) it is the operator of the DBNGP;

(viii) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness of the person except debts mandatorily preferred by Law;

(ix) Operator is not in default under a Law affecting it or its assets, or any obligation or undertaking by which it or any of its assets are bound which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Contract;

(x) the Nominations Plan will be applied to the allocation of Gas Transmission Capacity to all shippers on the DBNGP and the Curtailment Plan will be applied to the Curtailment of the Delivery of Gas to all shippers on the DBNGP; and

(xi) subject to a contrary provision in the Access Arrangement, it will not enter into a contract arrangement or understanding for a Capacity Service that has a priority of allocations of Nominations for the purposes of clause 8.9, and for the purposes of Curtailments under clause 17.7(a), that is inconsistent with clause 8.9 and in particular, but without limitation, it will

not allow a Capacity Service to have a priority of allocation of Nominations which sits between Alcoa's Exempt Delivery Entitlement and the T1 Service, or between any of the Types of Capacity Services listed in the Curtailment Plan.

(b) The representations and warranties in clause 30.1(a) are made on and from the Capacity Start Date, and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.2 Shipper's Representations and Warranties

(a) Subject to clause 30.2(b), Shipper represents and warrants to Operator that:

(i) it has duly complied, and will up to the termination of this Contract continuously comply, with all Environmental And Safety Laws with respect to any of its obligations connected with, arising out of or in relation to this Contract;

(ii) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Environmental And Safety Laws and all other Laws to enter into this Contract, to observe its obligations under this Contract, and to allow those obligations to be enforced;

(iii) it has, or its Producers have, in full force and effect all necessary leases, licences or easements to construct, Operate and Maintain all facilities for which it is responsible under this Contract;

(iv) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

(v) this Contract and any transaction under it does not contravene Shipper's constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;

(vi) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness of Shipper except debts mandatorily preferred by Law;

(vii) neither Shipper nor any of its Related Bodies Corporate is in default under a Law affecting any of them or their respective assets, or any obligation or undertaking by which it or any of its assets are bound which will or might reasonably be expected to, materially affect its ability to perform the obligations under this Contract;

(viii) there is no pending or threatened action or proceeding affecting Shipper or any of its Related Bodies Corporate or any of their respective assets before a court, governmental agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Contract;

(ix) neither Shipper nor any of its Related Bodies Corporate have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise); and

(x) Shipper is not an agent or trustee in relation to this Contract or in relation to the Gas to be Received or Delivered under this Contract.

(b) The representations and warranties in clause 30.2(a) are made on and from the Capacity Start Date, and shall be taken to be made anew on each day thereafter for the duration of this Contract.

30.3 Pipeline Trustee's Representations and Warranties

(a) The Pipeline Trustee represents and warrants to Shipper that:

(i) it is empowered by the constitution of its Trust to enter into and perform this Contract, to carry on its business as now conducted or contemplated and to own its assets in its capacity as trustee of the Pipeline Trust, and there is no restriction on or condition of its doing so;

(ii) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the constitution of its Trust for it to enter into and perform this Contract;

(iii) it is the sole trustee and responsible entity of the Pipeline Trust;

(iv) no property of the Pipeline Trust has been re-settled or set aside or transferred to any other trust;

(v) the Pipeline Trust has not been terminated, nor has any event for the vesting of the assets of the Pipeline Trust occurred;

(vi) its right of indemnity out of, and lien over, the assets of the Pipeline Trust has not been limited in any way (other than as required by s601GA(2) of the Corporations Act) including, without limitation, it has no liability which may be set off against that right of indemnity;

(vii) the Pipeline Trust is registered under s601EB of the Corporations Act;

(viii) the Pipeline Trustee holds a dealers licence authorising it to operate the Pipeline Trust;

(ix) the constitution of its Trust complies with all applicable Laws;

(x) it has complied in all material respects with its obligations and duties under the constitution of its Trust and the Corporations Act.

(b) The representations and warranties in clause 30.3(a) are made on and from the Capacity Start Date and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.4 DBNGP Trustee's Representations and Warranties

(a) The DBNGP Trustee represents and warrants to Shipper that:

(i) it is empowered by the constitution of its Trust to enter into and perform this Contract, to carry on its business as now conducted or contemplated and to own its assets in its capacity as trustee of the DBNGP Trust, and there is no restriction or condition of its doing so;

(ii) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to

as required by the constitution of its Trust for it to enter into and perform this Contract;

(iii) it is the sole trustee and responsible entity of the DBNGP Trust;

(iv) no property of the DBNGP Trust has been re-settled or set aside or transferred to any other trust;

(v) the DBNGP Trust has not been terminated, nor has any event for the vesting of the assets of the DBNGP Trust occurred;

(vi) its right of indemnity out of, and lien over, the assets of the DBNGP Trust has not been limited in any way (other than as required by s601GA(2) of the Corporations Act) including, without limitation, it has no liability which may be set off against that right of indemnity;

(vii) the DBNGP Trust is registered under s601EB of the Corporations Act;

(viii) the DBNGP Trustee holds a dealers licence authorising it to operate the DBNGP Trust;

(ix) the constitution of its Trust complies with all applicable Laws;

(x) it has complied in all material respects with its obligations and duties under the constitution of its Trust and the Corporations Act.

(b) The representations and warranties in clause 30.4(a) are made on and from the Capacity Start Date and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.5 Creditworthiness of Shipper

Operator may from time to time seek confirmation from Shipper (including provision of the most recent audited financial accounts of Shipper) that Shipper is in a position to meet its obligations under this Contract.

30.6 Failure to Satisfy Operator of Creditworthiness

If Operator is (acting reasonably) not sufficiently certain that Shipper is in a position to meet or continue to meet its obligations under this Contract, Operator may require, and Shipper must provide, security for those obligations to Operator's reasonable satisfaction.

31. RECORDS AND INFORMATION

(a) Except where otherwise provided in this Contract, both Operator and Shipper must prepare and maintain proper books, accounts, records and inventories of all matters connected with or relating to this Contract, and shall retain those books, accounts, records and inventories for at least seven years.

(b) If Shipper requests (which it may not do more frequently than every 12 months) and without limiting any other obligation on Operator to provide information under this Contract, another contract or at Law, Operator shall provide Shipper with a non-binding indicative summary of its material planned expansions (if any) of the Gas Transmission Capacity for the following 5 years. Shipper agrees that these plans will be prepared and provided to Shipper without any warranty or undertaking that such planned expansions will be undertaken, or if undertaken will be effective and available to Shipper.

32. INSURANCES

(a) Subject to clause 32(d), Shipper must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable And Prudent Person:

(i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981*, and for Shipper's common law liability to workers;

(ii) property damage insurance against damage, loss or destruction of Shipper's plant and equipment (if any) at the Inlet Point Station or Outlet Point Station; and

(iii) liability insurance for such amount as Operator may reasonably require (not exceeding $100 million adjusted for changes in CPI compared to the CPI for the quarter ending immediately prior to 27 October 2004) against risk of loss, damage, death or injury to property or personnel of Operator, Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.

(b) Subject to clause 32(d), Shipper must:

(i) arrange for Operator's interest to be noted on the policies referred to in clauses 32(a)(ii) and 32(a)(iii) to the reasonable satisfaction of Operator so that Operator is covered under those policies; and

(ii) use all reasonable endeavours to arrange for the insurers to waive rights of subrogation against Operator.

(c) Subject to clause 32(d), Shipper must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide Operator with certificates of currency of the insurances and endorsements required by this clause.

(d) Operator may waive compliance by Shipper with any or all of the requirements of clauses 32(a), 32(b)and 32(c), if Operator:

(i) is satisfied that Shipper has adequate alternative arrangements; or

(ii) accepts Shipper as a self-insurer; or

(iii) determines that there is other sufficient reason to do so.

(e) Subject to clause 32(h), Operator must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable And Prudent Person:

(i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981*, and for Operator's common law liability to workers;

(ii) property damage insurance against damage, loss or destruction of the DBNGP and all associated equipment; and

(iii) liability insurance for such amount as Shipper may reasonably require (not exceeding $100 million adjusted for changes in CPI compared to the CPI

for the quarter ending immediately prior to 27 October 2004) against risk of loss, damage, death or injury to property or personnel of Operator, Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.

(f) Subject to clause 32(h), Operator must use all reasonable endeavours to arrange for:

(i)

(A) endorsement on the policies referred to in clauses 32(e)(ii) and 32(e)(iii) of Shipper as an insured or co-insured; or

(B) Shipper's interest to be noted on those policies to the satisfaction of Shipper so that Shipper is covered under those policies; and

(ii) the insurers to waive rights of subrogation against Shipper.

(g) Subject to clause 32(h), Operator must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide Shipper with certificates of currency of the insurances and endorsements required by this clause.

(h) Shipper may waive compliance by Operator with any or all of the requirements of clauses 32(e), 32(f) and 32(g), if Shipper:

(i) is satisfied that Operator has adequate alternative arrangements;

(ii) accepts Operator as a self-insurer; or

(iii) determines that there is other sufficient reason to do so.

33. NO WAIVER

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

34. ENTIRE AGREEMENT

This Contract and the Access Arrangement constitutes the entire agreement between the Parties on the subject matter of this Contract and supersedes all prior negotiations, representations and agreements between the Parties.

35. SEVERABILITY

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

36. ENTRY AND INSPECTION

(a) Each Party shall grant to, or use its reasonable endeavours to procure for, the other Party all reasonable rights of entry:

(i) for the purposes of constructing, installing, operating, maintaining and verifying the accuracy of any Metering Equipment, other equipment or thing (and if the Party is Operator, the DBNGP);

(ii) to inspect for safety or other reasons the construction, installation, Operation, Maintenance and repair of any Metering Equipment, other equipment or thing (and if the Party is Operator, the DBNGP); and

(iii) for any other purpose connected with or arising out of this Contract.

(b) Any entry under clause 36(a) is made in all respects at the expense and risk of the entering Party, who must, subject to clause 23 make good any damage occasioned by or resulting from the entry.

(c) Except in the case of emergency, a Party shall:

(i) when it seeks to exercise a right of entry under this clause 36, give reasonable notice to the other Party specifying the proposed time and duration of entry; and

(ii) take all reasonable steps to ensure that during the entry its employees, servants, consultants, independent contractors and agents cause as little inconvenience to the other Party as possible and at all times comply with all reasonable safety standards and other requirements of that Party.

(d) To the extent that any equipment or thing is located on the premises of a third person, the Parties shall use their reasonable endeavours to secure for either or both of the Parties a right of entry to that third person's premises.

37. OWNERSHIP, CONTROL, MAINTENANCE AND RISK

(a) In the absence of any agreement between the Parties to the contrary, the inlet point and the outlet point on the DBNGP mark the boundaries of ownership of all plant, equipment, pipelines and facilities, and, as between the Parties and in the absence of evidence to the contrary, Shipper is to be presumed to own any relevant thing upstream of the inlet point and downstream of an outlet point, and Operator is to be presumed to own any relevant thing between the inlet point and the outlet point.

(b) In the absence of any agreement between the Parties to the contrary, the responsibility to install, commission, Operate and Maintain, and the risk in relation to, all plant, equipment, pipelines and facilities follows ownership.

38. REVOCATION, SUBSTITUTION AND AMENDMENT

(a) Operator and Shipper may at any time agree in writing to revoke, substitute or amend any provision of this Contract (including the Access Request Form).

(b) Nothing in this clause 38 prevents Shipper from:

(i) relocating Contracted Capacity under this Contract;

(ii) nominating or Renominating for and being allocated Capacity under this Contract which exceeds Shipper's Contracted Capacity;

(iii) contracting for and having Capacity transferred to it by an Other shipper; or

(iv) varying this Contract in accordance with clauses 14.9 or 17.7(e).

(c) If the Parties agree to an increase in Contracted Capacity, this Contract (including the Access Request Form) is to be amended to reflect this.

39. NO COMMON CARRIAGE

Neither Operator nor Shipper is a common carrier of Gas transported through the DBNGP.

40. OPERATOR NOT A SUPPLIER OF GAS

Nothing in this Contract requires Operator to supply Gas to Shipper but Operator is required to Deliver Gas from time to time in accordance with this Contract.

41. STAMP DUTY

Shipper must pay all stamp duty which may be payable in respect of this Contract.

42. NO THIRD PARTY BENEFIT

Subject to clause 23, no person other than Operator or Shipper is to obtain any right, benefit or entitlement under this Contract, despite that person being referred to in this Contract or belonging to a class of persons which is referred to in this Contract.

43. GOVERNING LAW

This Contract is to be construed and interpreted in accordance with the Law of Western Australia and the Parties entering into this Contract submit to the non-exclusive jurisdiction of the courts of Western Australia.

44. GENERAL

44.1 Operator's discretion

Operator acknowledges and agrees that in circumstances in which it has a discretion to take action under this Contract, including any of clauses 9.5(b)(ii), 9.8, 10.3(a)(iii) or 10.4 that may limit the amount of Capacity available to Shipper, or that may affect the way in which Shipper may use Capacity, during a certain period, which action is not governed by the provisions of clauses 8.7, 8.9, 8.15 or 8.16 relating to Nominations or clauses 17.9 or 17.10 relating to Curtailment, Operator must treat Shipper fairly and reasonably in the circumstances with all other shippers who should or may be subject to similar action.

44.2 Refusal to Receive or deliver Gas

Where Operator is entitled under this Contract to refuse to Receive Gas at an inlet point or refuse to Deliver Gas at an outlet point, then Operator may take whatever action it believes, acting as a Reasonable And Prudent Person, is necessary to refuse to Receive Gas at an inlet point or refuse to Deliver Gas at an outlet point, including by physically reducing, interrupting or stopping completely or in part the flow of Gas at the inlet point or outlet point.

45. NON-DISCRIMINATION CLAUSE

45.1 Access to DBNGP information

If Operator, System Operator or any of their contractors or agents, or any person or persons to whom information from Operator or System Operator has been disclosed, provides any information to any shipper or a Related Body Corporate or officer of a shipper (acting in their respective capacity as shippers) about availability of Capacity, including:

(a) information relating to planned and unplanned maintenance;

(b) policies and procedures under which the market for Spot Capacity and Curtailment is administered; or

(c) DBNGP flow data between each compressor station and each other significant point,

then, other than to the extent that such information relates to an inlet point, outlet point or gate station which is specific to an individual shipper, Operator must ensure that Shipper receives that information at substantially the same time and in the same format.

Nothing in this clause 45.1 limits Operator's obligations under clause 28.

45.2 Arms' length dealings

Operator must, and must procure that System Operator does, in Operating and Expanding the DBNGP and exercising the discretions afforded to Operator under this and other contracts:

(a) treat all shippers (including shippers which are Associates of a Relevant Company) on an arms' length basis; and

(b) ensure that no shipper which is an Associate of a Relevant Company receives a benefit, compared with an other shipper which is not, unless the benefit is attributable to an arms' length application of the two shippers' respective contractual entitlements entered into on terms and conditions that are comparable with the Standard Shipper Contract.

46. PIPELINE TRUSTEE'S LIMITATION OF LIABILITY

(a) The Pipeline Trustee enters into this Contract only in its capacity as trustee of the Pipeline Trust and in no other capacity. A liability arising under or in connection with this Contract can be enforced against the Pipeline Trustee only to the extent to which it can be satisfied out of property of the Pipeline Trust out of which the Pipeline Trustee is actually indemnified for the liability. Except as provided in clause 46(b), this limitation of the Pipeline Trustee's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the Pipeline Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

(b) Clause 46(a) does not act to limit:

(i) Shipper's entitlements to seek orders against the Pipeline Trustee (in its capacity as trustee of the Pipeline Trust) for specific performance or injunctive relief, in addition to any other remedies available to Shipper at Law or in equity; or

(ii) Pipeline Trustee's liability arising as a result of its fraud, gross negligence or gross misconduct.

47. DBNGP TRUSTEE'S LIMITATION OF LIABILITY

(a) The DBNGP Trustee enters into this Contract only in its capacity as trustee of the DBNGP Trust and in no other capacity. A liability arising under or in connection with this Contract can be enforced against the DBNGP Trustee only to the extent to which it can be satisfied out of property of the DBNGP Trust out of which the DBNGP Trustee is actually indemnified for the liability. Except as provided in clause 47(b), this limitation of the DBNGP Trustee's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the DBNGP Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

(b) Clause 47(a) does not act to limit:

(i) Shipper's entitlements to seek orders against the DBNGP Trustee (in its capacity as trustee of the DBNGP Trust) for specific performance or injunctive relief, in addition to any other remedies available to Shipper at Law or in equity; or

(ii) DBNGP Trustee's liability arising as a result of its fraud, gross negligence or gross misconduct.

Schedule 1 - Access Request Form

Schedule 2 - Charges

All amounts in this Schedule 2 are exclusive of GST.

P1 Reference Tariff

Tariff	Amount
T1 Capacity Reservation Tariff	$0.899899/GJ MDQ
T1 Commodity Tariff	$0.103122/GJ

Other Charges (clause 20.4)

Row	Description of Charge	Rate at which Charge is determined
1	Excess Imbalance Charge (clause 9.5(e))	200% of the P1 Reference Tariff from time to time
2	Hourly Peaking Charge (clause 10.3(d))	200% of the P1 Reference Tariff from time to time
3	Overrun Charge (clause 11.1(a))	At the rate specified in clause 11.1(b)
4	Unavailable Overrun Charge (clause 17.8(e))	The greater of: (a) 250% of the P1 Reference Tariff from time to time; and (b) the highest price bid for Spot Capacity which was accepted for that Gas Day, other than when the highest price bid was not a bona fide bid, in which case the highest bona fide bid, multiplied by the Distance Factor.

Schedule 3 - Operating Specifications

Item 1 Gas Specifications

Component		Inlet Points and Outlet Points
Maximum carbon dioxide (mol %)		4.0
Maximum inert gases (mol %)		7.0
Minimum higher heating value (MJ/m3)		37.0
Maximum higher heating value (MJ/m3)		42.3
Minimum Wobbe Index		46.5
Maximum Wobbe Index		51.0
Maximum total sulphur (mg/m3)	Unodorised Gas	10
	Odorised Gas	20
Maximum Hydrogen Sulphide (mg/m3)		2
Maximum Oxygen (mol %)		0.2
Maximum Water (mg/m3)		48
Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute		Below 0^0C
Maximum radioactive components (Bq/m3)		600
Minimum Extractable LPGs (t/TJ)		0

Schedule 4 - Not Used

Schedule 5 - Not Used

Schedule 6 - Not Used

Schedule 7 - Tripartite Deed

Schedule 8 - Curtailment Plan

PART A

Order of Priority	System Curtailment
1	Any Capacity Service insofar as it is for Shipper's relevant share of the Distribution Networks' IPQ
2	Alcoa's Priority Quantity
3	Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (including Aggregated T1 Service), P1 Service and B1 Service apportioned in accordance with the provisions of Part B of this Schedule 8
4	The balance of Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) T1 Service (including Aggregated T1 Service), P1 Service and B1 Service which is not dealt with under item 3 above, apportioned in accordance with the provisions of Part B of this Schedule 8
5	Firm Service
6	Other Reserved Service
7	Spot Capacity

Order of Priority	Point Specific Curtailment
1	Any Capacity Service insofar as it is for the shipper's relevant share of the Distribution Networks' IPQ
2	Alcoa's Priority Quantity
3	Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (excluding Aggregated T1 Service), P1 Service and B1 Service at the relevant point apportioned in accordance with the provisions of Part B of this Schedule 8
4	The balance of Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity), T1 Service (excluding Aggregated T1 Service) , P1 Service and B1 Service at the relevant point which is not dealt with under item 3 above, apportioned in accordance with the provisions of Part B of this Schedule 8
5	Firm Service that is Contracted Capacity at the relevant point
6	Other Reserved Service that is Contracted Capacity at the relevant point
7	Aggregated T1 Service at the relevant point
8	Other Reserved Service (if any) nominated by and allocated to the shipper at the relevant point at which the shipper does not have Contracted Capacity in that Other Reserved Service in accordance with the provision of the shipper's contract for the Other Reserved Service
9	Spot Capacity

Schedule 8 – Curtailment Plan

PART B

(a) The amount of Capacity available after allowing for items 1 and 2 in Part A of this Schedule 8, up to the next 253.5TJ/d of Capacity, is to be apportioned as follows:

(iii) ½ of the available Capacity is to be apportioned to Alcoa; and

(iv) ½ of the available Capacity is to be apportioned to P1 Service, which among shippers with Contracted Capacity for P1 Service is to be apportioned in accordance with clause 17.9(c)(i).

(b) The amount of Capacity available after allowing for items 1, 2 and 3 in Part A of this Schedule 8 is to be apportioned as follows:

(i) the Alcoa Proportion of the available Capacity is to be apportioned to Alcoa; and

(ii) the balance of the available Capacity is to be apportioned to P1 Service, which among shippers with Contracted Capacity for P1 Service is to be apportioned in accordance with clause 17.9(c)(i), or if there is available Capacity after all P1 Service has been provided for then to items below P1 Service in the applicable column of the table in Part A of this Schedule 8, which among shippers with the relevant Type of Capacity Service is to be apportioned in accordance with clause 17.9(c)(i).

(c) The Alcoa Proportion is to be determined in accordance with the following:

$$AP = AE / PE$$

Where:

AP = the Alcoa Proportion;

AE = the aggregate of all Alcoa's additional entitlements to Capacity under the Alcoa Exempt Contract which have arisen as a result of Alcoa giving notices requiring additional Capacity under the provisions of the Alcoa Exempt Contract since the date of the Alcoa Exempt Contract which entitlements have not been discontinued or relinquished by Alcoa; and

PE = the aggregate of all increases in Full Haul Capacity on the DBNGP which have resulted from Capacity expansion programmes as contemplated in the Alcoa Exempt Contract since the date of the Alcoa Exempt Contract, less the lesser of $^{1}/_{3}$ of the capacity of the last such Capacity expansion programme or 30TJ/d.

Appendix 1 – Part C

ECONOMIC REGULATION AUTHORITY

B1 Service
Terms and Conditions

TABLE OF CONTENTS

TABLE OF CONTENTS i

1. INTERPRETATION 7

2. GENERAL 25

2.1 Construction generally 25
2.2 Headings 26
2.3 Rounding to a certain number 26
2.4 Other contracts 26
2.5 System Operator 26

3. CAPACITY SERVICE 27

3.1 Operator to provide B1 Service to Shipper 27
3.2 Capacity Service 27
3.3 Contracted Capacity 28
3.4 Operator must deliver Gas up to Contracted Capacity 28
3.5 Spot Capacity 28

4. DURATION OF THE CONTRACT 30

4.1 Term 30
4.2 Capacity Start Date 30
4.3 Option to renew Contract 30
4.4 Conditions to be satisfied before exercising an Option 30
4.5 Notice exercising an Option 30
4.6 First Option Period 30
4.7 Second Option Period 31

5. RECEIVING AND DELIVERING GAS 32

5.1 Receipt and Delivery of Gas 32
5.2 Operator must Receive and Deliver Gas 32
5.3 Operator may refuse to Receive Gas 32
5.4 Notification of refusal to Receive Gas 33
5.5 Refusal to Receive Gas is a Curtailment in limited circumstances 33
5.6 No liability for refusal to Receive Gas 33
5.7 Refusal to Deliver Gas 33
5.8 Notification of refusal to Deliver Gas 34
5.9 Refusal to Deliver Gas is a Curtailment in limited circumstances 34
5.10 No liability for refusal to Deliver Gas 34
5.11 System Use Gas 34
5.12 Additional Rights to Refuse to Receive or Deliver Gas 34

6. INLET POINTS AND OUTLET POINTS 36

6.1 Inlet Points and Outlet Points 36
6.2 Multi-shipper Agreement 36
6.3 Multi-shipper Inlet Point and Multi-shipper Outlet Point 36
6.4 Allocation of Gas at Inlet Points 38
6.5 Allocation of Gas at Outlet Points 39
6.6 Installation, operation and maintenance of inlet stations and outlet stations 39
6.7 Contribution Agreement 43
6.8 Shipper Specific Facility Agreement 44
6.9 Total Physical Capacity 44

6.10 Notional Gate Point 44

7. OPERATING SPECIFICATIONS 45

7.1 Gas must comply with Gas specifications 45
7.2 Gas to be free from certain substances 45
7.3 Gas to be free from objectionable odours 45
7.4 Gas temperature and pressure 45
7.5 Notice of Out-Of-Specification Gas 46
7.6 Operator and Shipper may refuse to Receive Out-Of-Specification Gas 46
7.7 Operator may Receive Out-Of-Specification Gas 46
7.8 Shipper's Liability for Out of Specification Gas 46
7.9 Shipper may Receive Out-Of-Specification Gas 46
7.10 Change of Law 47
7.11 Amendment Notice 47
7.12 Odorisation 48
7.13 Weighted average gas flows 48

8. NOMINATIONS 49

8.1 Shipper may delegate to a Producer 49
8.2 Requests for advance information 49
8.3 Shipper's Daily Nominations do not affect Contracted Capacities 49
8.4 Nominations and Renominations must be in good faith 49
8.5 Operator to make available bulletins of available Capacity 49
8.6 Shipper's Initial Nomination 50
8.7 Allocation of Daily Nominations 50
8.8 Default provision for Daily Nomination 52
8.9 Nominations priority 52
8.10 Shipper may give Renomination notice 52
8.11 Times for Renomination and allocation of revised Daily Nominations 52
8.12 Renominations reducing Daily Nomination 52
8.13 Renominations increasing Daily Nomination 53
8.14 Default provision for Renomination process 53
8.15 Aggregated B1 Service 53
8.16 Nominations at inlet points and outlet points where Shipper does not have sufficient Contracted Capacity 54
8.17 Shipper's Advance Nomination 54

9. IMBALANCES 55

9.1 Operator to maintain balance 55
9.2 Shipper to maintain balance 55
9.3 Shipper's Accumulated Imbalance 55
9.4 Notice of Shipper's imbalances 55
9.5 Accumulated Imbalance Limit 55
9.6 Excess Imbalance Charge 57
9.7 Balancing in particular circumstances 57
9.8 Remedies for breach of imbalance limits 58
9.9 Trading in imbalances 58
9.10 Cashing out imbalances at end of Contract 59
9.11 Charges do not affect Daily Delivery 59

10. PEAKING 60

10.1 Hourly Peaking Limits 60

10.2 Shipper to stay within Hourly Peaking Limit 60
10.3 Consequences of exceeding Hourly Peaking Limit 60
10.4 Outer Hourly Peaking Limit 62
10.5 Charges do not affect Daily Delivery 62
10.6 Remedies for breach of peaking limits 63
10.7 Permissible Peaking Excursion 63

11. OVERRUN 64
11.1 Overrun Charge 64
11.2 Unavailability Notice 64
11.3 Content of an Unavailability Notice 64
11.4 Compliance with Unavailability Notice 65
11.5 Operator may refuse to Deliver Overrun Gas 65
11.6 Unavailable Overrun Charge 65
11.7 Saving and damages 65

12. ADDITIONAL RIGHTS AND OBLIGATIONS OF OPERATOR 67
12.1 Commingling of Gas 67
12.2 Processing 67
12.3 Operation of Pipeline System 67
12.4 Delivery of Gas 67

13. CONTROL, POSSESSION AND TITLE TO GAS 68
13.1 Warranty of Title 68
13.2 Control, Possession, Responsibility and Title of Shipper 68
13.3 Title, Custody, Control and Responsibility of Operator 68
13.4 Entitlements to Receive Gas 68
13.5 Title at outlet points 69

14. RELOCATION 70
14.1 Request for relocation of Contracted Capacity 70
14.2 Assessment of Requested Relocation 70
14.3 Operator to notify Shipper 71
14.4 Requested Relocation is an Authorised Relocation 71
14.5 Requested Relocation is not an Authorised Relocation 72
14.6 Relocated Contracted Capacity to be on same terms and conditions 72
14.7 Charges for relocation 72
14.8 Pressures at New Inlet Point and New Outlet Point 72
14.9 This Contract amended to reflect relocation 72

15. METERING 73
15.1 Shipper's responsibility 73
15.2 Operator's responsibility 73
15.3 Metering uncertainty 73
15.4 Primary Metering Equipment 76
15.5 Provision of information to Shipper 69
15.6 Changes to requirements for Metering Equipment 77
15.7 Approval of Inlet Metering Equipment 77
15.8 Check Metering Equipment 78
15.9 Preservation of accuracy 78
15.10 Presumptions of accuracy 78
15.11 Verification of Primary Metering Equipment 78
15.12 Adjustment or replacement of defective equipment 79

15.13 Inaccurate equipment 80
15.14 Correction of measurements 80
15.15 Metering records 81
15.16 Unused outlet points 81

16. NOT USED 83

17. CURTAILMENT 84
17.1 Operator's obligations and Curtailment principles 84
17.2 Curtailment Generally 84
17.3 Curtailment without liability 84
17.4 Refund of Capacity Reservation Charge 85
17.5 Operator's rights to refuse to Receive or Deliver Gas 85
17.6 Curtailment Notice 86
17.7 Content of a Curtailment Notice 86
17.8 Compliance with Curtailment Notice 87
17.9 Priority of Curtailment 88
17.10 Apportionment of Shipper's Curtailments 91

18. MAINTENANCE AND MAJOR WORKS 93

19. FORCE MAJEURE 94

20. CHARGES 95
20.1 Obligation to pay Charges 95
20.2 Capacity Reservation Charge 95
20.3 Commodity Charge 95
20.4 Other Charges 95
20.5 Adjustment to B1 Reference Tariff 95
20.6 Goods and Services Tax 96
20.7 Other Taxes 97

21. INVOICING AND PAYMENT 98
21.1 Monthly payment of Capacity Reservation Charge 98
21.2 Monthly invoicing 98
21.3 Payment within 10 Working Days 98
21.4 Default in payment 98
21.5 Disputed Tax Invoices 99
21.6 Correction of payment errors 99

22. DEFAULT AND TERMINATION 100
22.1 Default by Shipper 100
22.2 Notice of Shipper’s default 100
22.3 When Operator may exercise remedy 100
22.4 Remedies for Shipper's default 101
22.5 Default by Operator 101
22.6 Notice of Operator's default 101
22.7 When Shipper may exercise remedy 101
22.8 Remedies for Operator's default 102
22.9 Saving of other remedies 102
22.10 Effect of termination 102

23. LIABILITY 104
23.1 Liability for negligence and default limited to Direct Damage 104
23.2 Liability for fraud 104

23.3 No liability for Indirect Damage 104
23.4 No liability arising out of any approval by Operator 104
23.5 Saving of contractual payments 104
23.6 Shipper is responsible for its and its contractors' personnel and property 105
23.7 Operator is responsible for its and its contractors' personnel and property 105
23.8 Each limitation separate 106

24. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS 107
24.1 Method of Resolution 107
24.2 Acknowledgment 107
24.3 Service of Notice 107
24.4 Meeting 107
24.5 Senior Officers 107
24.6 Failure to Resolve Dispute 107
24.7 Technical and Financial Matters 107
24.8 Appointment of Independent Expert 107
24.9 Expert not an Arbitrator 108
24.10 Representation, Evidence, Confidentiality, Powers and Costs 108
24.11 Urgent Relief Condition Precedent to litigation 110

25. ASSIGNMENT 111
25.1 No assignment except under this clause 111
25.2 Charges 111
25.3 Assignment 111
25.4 Assignment: deed of assumption 112
25.5 Pipeline Trustee's Acknowledgments and Undertakings 112
25.6 DBNGP Trustee undertakings 114
25.7 Non complying assignment 115
25.8 Utilising other shippers' Daily Nominations 115

26. GENERAL RIGHT OF RELINQUISHMENT 116
26.1 Shipper may make Relinquishment Offer 116
26.2 Withdrawal of Relinquishment Offer 116
26.3 Operator may accept Relinquishment Offer 116
26.4 Effect of Relinquishment Acceptance 117
26.5 Notification of relinquishment of capacity by other Shippers 118
26.6 Administrative expenses 118

27. TRADING OR TRANSFERRING CONTRACTED CAPACITY 119
27.1 Bare Transfers 119
27.2 No transfer of Shipper’s Contracted Capacity other than Bare Transfer than by this clause 119
27.3 Replacement Shipper must be a shipper or Approved Prospective Shipper 119
27.4 Transfer of Capacity by Shipper – Approval of transfer terms 119
27.5 Posting of Tradeable Capacity 120
27.6 Notification of traded capacity 120
27.7 Replacement Contract 120
27.8 Shipper’s Contract 121
27.9 Resumption of Traded Capacity by Shipper 121
27.10 Administrative expenses 121
27.11 Further marketing service 121
27.12 Relinquishment 122

28. CONFIDENTIALITY 123
28.1 Confidential Information 123
28.2 Exceptions to Confidentiality 123
28.3 Permitted Disclosure 124
28.4 Disclosure by recipient of Confidential Information 125
28.5 Use of Confidential Information 126
28.6 Information received by Operator 126
28.7 Breach by Operator 127
28.8 Publicity 128
28.9 No disclosure of terms of this Contract 129
28.10 Audit 129
28.11 Remedies 129
28.12 Survival 129

29. NOTICES 130
29.1 Notices for nominations, Curtailment, unavailability, balancing, Out-Of-Specification Gas and capacity trading 130
29.2 The CRS 130
29.3 Notices generally 130
29.4 Receipt of notices 131

30. REPRESENTATIONS AND WARRANTIES 132
30.1 Operator's Representations and Warranties 132
30.2 Shipper's Representations and Warranties 133
30.3 Pipeline Trustee's Representations and Warranties 134
30.4 DBNGP Trustee's Representations and Warranties 134
30.5 Creditworthiness of Shipper 135
30.6 Failure to Satisfy Operator of Creditworthiness 135

31. RECORDS AND INFORMATION 136

32. INSURANCES 137

33. NO WAIVER 139

34. ENTIRE AGREEMENT 140

35. SEVERABILITY 141

36. ENTRY AND INSPECTION 142

37. OWNERSHIP, CONTROL, MAINTENANCE AND RISK 143

38. REVOCATION, SUBSTITUTION AND AMENDMENT 144

39. NO COMMON CARRIAGE 145

40. OPERATOR NOT A SUPPLIER OF GAS 146

41. STAMP DUTY 147

42. NO THIRD PARTY BENEFIT 148

43. GOVERNING LAW 149

44. GENERAL 150
44.1 Operator's discretion 150
44.2 Refusal to Receive or deliver Gas 150

45. NON-DISCRIMINATION CLAUSE 151

45.1 Access to DBNGP information 151
45.2 Arms' length dealings 151

46. PIPELINE TRUSTEE'S LIMITATION OF LIABILITY 152

47. DBNGP TRUSTEE'S LIMITATION OF LIABILITY 153

1. INTERPRETATION

In this Contract, except where the context requires another meaning:

ACCC means the Australian Competition and Consumer Commission.

Access Arrangement means the access arrangement from time to time for the DBNGP under the Access Regime, as changed, varied or replaced from time to time.

Access Arrangement Information means the access arrangement information submitted by the Operator to the Regulator from time to time in accordance with the provisions of the Gas Pipelines Access Law.

Access Regime means any legislative, legislative and administrative or administrative regime from time to time governing the terms and conditions of third party access to Capacity Services or Spot Capacity on the DBNGP, and at the time of this Contract includes the *Gas Pipelines Access (Western Australia) Act 1998* (WA) and the Gas Pipelines Access Law applying under it and any access arrangement approved under the Gas Pipelines Access Law and in force for the DBNGP.

Access Request means a request for access as described in the Information Package.

Access Request Form means the Access Request form for lodging Access Requests for B1 Service in accordance with the Access Arrangement or, as the context requires, the Access Request Form in Schedule 1 of this Contract.

Accumulated Imbalance means the accumulated imbalance calculated under clause 9.3 and (if applicable) adjusted under clause 9.9.

Accumulated Imbalance Limit has the meaning given in clause 9.5(a).

Accumulated Imbalance Notice is defined in clause 9.4.

Accurate means measuring the quantity of Gas with an inaccuracy of less than or equal to:

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

(b) plus or minus 3% for Metering Equipment with a design flow of less than 5 TJ/d.

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

Advance Nomination means a Nomination by Shipper under clause 8.17.

Affected Party has the meaning given in clause 19(a).

Aggregated Service Allocated Daily Nomination means in relation to a particular shipper, the Daily Nomination for Aggregated B1 Service actually allocated to that shipper for the relevant Gas Day plus the material equivalent to such allocation for the relevant Gas Day in respect of Aggregated B1 Service under any other contract for Capacity Service with that shipper.

Aggregated B1 Service has the meaning given in clause 8.16.

Alcoa means Alcoa of Australia Limited (ABN 93 004 879 298).

Alcoa's Exempt Capacity means the Gas Transmission Capacity necessary to transport the quantity of Gas which Operator is required to Deliver from time to time to Alcoa under the Alcoa Exempt Contract (including Alcoa's Exempt Delivery Entitlement).

Alcoa Exempt Contract means the contract originally between the State Energy Commission of Western Australia and Alcoa and now between Operator and Alcoa dated 7 February 1983 as amended from time to time, and including any changes to the quantities of Alcoa's entitlements under that contract taking effect after the date of execution of the Deed of Amendment No 5 of that contract which result from an exercise of rights by Alcoa under that contract which existed upon the execution of Deed of Amendment No 5 of that contract, but excluding any amendments having effect after the date of execution of Deed of Amendment No 5 of that contract which in any way relate to the Capacity Operator must provide to Alcoa under that contract including for the purposes for which that Capacity may be used and the prices Alcoa pays for that Capacity if it uses that Capacity for other than a purpose specified in that contract.

Alcoa's Exempt Delivery Entitlement means the quantity of Gas (including Alcoa's Priority Quantity) of which Alcoa is entitled to take Delivery under the Alcoa Exempt Contract during a Curtailment, which may exceed Alcoa's Priority Quantity.

Alcoa's Priority Quantity means 40 TJ/d of Alcoa's Exempt Delivery Entitlement.

Approved Prospective Shipper means a person who is not a shipper but who has satisfied Operator of its creditworthiness such that, in Operator's reasonable opinion, that person would be capable of meeting the obligations imposed under any relevant contract for Gas Transmission Capacity on the DBNGP.

Approved Tradeable Capacity has the meaning given in clause 27.4(g).

AS followed by a designation, refers to the text from time to time amended and for the time being in force of the document so designated issued by Standards Australia.

ASX means the Australian Stock Exchange Limited (ABN 98 008 624 691).

Associate has the meaning given in section 11 of the Corporations Act.

Associated, when used to describe the relationship between:

(a) a Gate Station and a Sub-network, means that the Gate Station is associated with a Sub-network;

(b) an Inlet Station and an Inlet Point, means that the Inlet Station is used to measure Gas flows and other parameters at the Inlet Point; and

(c) an Outlet Station and an Outlet Point, means that the Outlet Station is used to measure Gas flows and other parameters at the Outlet Point.

Authorised Relocation means a Requested Relocation that has been authorised by Operator under clause 14.2.

B1 Capacity Reservation Tariff means the T1 Capacity Reservation Tariff as set out in Schedule 2 as amended from time to time in accordance with clause 20.5 multiplied by the Distance Factor..

B1 Commodity Tariff means the T1 Commodity Tariff as set out in Schedule 2 as amended from time to time in accordance with clause 20.5 multiplied by the Distance Factor.

B1 Contract means any contract between Operator and a shipper for a B1 Service, and to avoid doubt includes this Contract.

B1 Permissible Curtailment Limit has the meaning given in clause 17.3(c).

B1 Reference Tariff means the B1 Capacity Reservation Tariff and the B1 Commodity Reservation Tariff.

B1 Service has the meaning given in clause 3.2(a) and clause 6.2B of the Access Arrangement.

Back Haul means a Gas transportation service on the DBNGP where the inlet point is downstream of the outlet point.

Bank Bill Rate means, for the day of calculation, the average mid rate for bills having a tenor closest to 90 days, as displayed on the "BBSY" page of the Reuters Monitor System on that day. However, if the average mid rate is not displayed by 10:30am (Sydney time) on that Day, or if it is displayed but there is an obvious error in that rate, Bank Bill Rate means the rate (expressed as a yield to maturity) set by Operator in good faith and acting reasonably at approximately 10:30am on that day, having regard, to the extent possible, to the mid rate of the rates otherwise bid and offered for bills of that tenor at or around that time (including any displayed on the "BBSW" page of the Reuters Monitor System). The rate set by Operator must be expressed as a percentage rate per annum and be rounded up to the nearest sixth decimal place.

Bare Transfer has the meaning given in section 3.10(a) of the Code.

Capacity means:

(a) at an inlet point or a proposed inlet point - the capacity of the DBNGP to take delivery at and to transport Gas from that point; and

(b) at an outlet point or a proposed outlet point - the capacity of the DBNGP to transport and deliver Gas to that point,

and is to be expressed in TJ/d. For the avoidance of doubt, a reference in this Contract to Capacity is a reference to Capacity averaged across a Gas Day.

Capacity End Date means 08:00 hours on the date determined in accordance with clause 4 of this Contract and is 08:00 hours on the date on which Shipper's access to the particular Contracted Capacity is to end.

Capacity Reservation Charge means a component of the price for Gas Transmission Capacity to which Shipper has access under this Contract calculated in accordance with clause 20.2.

Capacity Service means any capacity service offered by Operator on the DBNGP excluding capacity under a Spot Transaction, and including, without limitation, B1 Services, P1 Services and T1 Services.

Capacity Start Date has the meaning given to it in clause 4.2.

Charges means the Capacity Reservation Charge, Commodity Charge and Other Charges.

Check Metering Equipment means any Metering Equipment or other equipment installed, maintained or operated by a Party under clause 15.8(a) for checking measurements of Gas quality and quantity.

Code means the National Third Party Access Code for Natural Gas Pipeline Systems as amended and in force for the time being (as defined by section 11 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA).

Commodity Charge means the charge set out in clause 20.3.

Confidential Information has the meaning given in clause 28.1.

Contract means this contract, as revoked, substituted or amended under clause 38, including the queuing policy and trading policy under the Access Arrangement, Access Request Form and these terms and conditions and the Schedules attached hereto.

Contracted Capacity has the meaning given in clause 3.3, and includes Capacity in any Type of Capacity Service so that for example Contracted B1 Capacity means Contracted Capacity in the B1 Service.

Contracted Firm Capacity means Alcoa's Exempt Capacity and Capacity under a T1 Service, B1 Service or P1 Service or a Firm Service.

Contract Year means the period from the Capacity Start Date until 31 December in the same calendar year and thereafter the period commencing 1 January in a calendar year and ending on 31 December in the same calendar year with the last Contract Year ending on the earlier of the Capacity End Date and the sooner termination of this Contract.

Contribution Agreement has the meaning given to it in clause 6.7(b).

Control has the meaning given in the Corporations Act as at the commencement of the Access Arrangement Period.

Controller has the meaning given in the Corporations Act as at the commencement of the Access Arrangement Period.

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

CPI means the Consumer Price Index (All Groups) for Perth, Western Australia, as published for each quarter by the Australian Bureau of Statistics or, if the Consumer Price Index (All Groups) for Perth ceases to be published, such alternative index as Operator as a Reasonable And Prudent Person may determine.

CRS means Operator's electronic customer reporting system.

CS7 means compressor station no.7 on the DBNGP.

Cubic Metre or m^3 means a cubic metre at MSC.

Current Verification means the Verification at which the Primary Metering Equipment is found to be Inaccurate.

Curtail means reduce, interrupt or stop or any combination of them completely or in part.

Curtailment Area means in relation to a particular Curtailment, the area affected by the relevant Curtailment and unless the Curtailment is a Point Specific Curtailment, includes all areas of the DBNGP downstream of that area.

Curtailment Notice has the meaning given in clause 17.6(a).

Curtailment Plan means the regime governing Curtailments of Capacity set out in Schedule 8 and clause 17.9.

Daily Bid has the meaning given to it in clause 3.5(b).

Daily Imbalance means for a particular Gas Day, Shipper's Total Inlet Quantity minus Shipper's Total Outlet Quantity for that Gas Day across all of its Capacity Services and its Spot Transactions.

Daily Nomination means:

(a) in respect of a Type of Capacity Service at an inlet point - the Capacity for the quantity of allocated Gas that Shipper is to Deliver to Operator at the inlet point on a Gas Day and the Type of Capacity Service; and

(b) in respect of a Type of Capacity Service at an outlet point - the Capacity for the quantity of allocated Gas that Shipper is to Receive from Operator at the outlet point on a Gas Day and the Type of Capacity Service,

and in each case as actually allocated under clause 8, and includes the Capacity for a revised quantity of Gas allocated under a Renomination process.

Daily Spot Bid Price has the meaning given to it in clause 3.5(b).

DBNGP means the Gas transmission pipeline system that runs between Dampier and Bunbury in Western Australia, described in Annexure A to the Access Arrangement Information.

DBNGP Operating Agreement means the document so titled dated 25 March 1998 between Operator and the Pipeline Trustee as amended and extended from time to time, under which the Pipeline Trustee grants to Operator a sublicense of the pipeline licence for the DBNGP and the right and obligation to operate the DBNGP.

DBNGP Trust has the meaning given in clause 25.6(a).

DBNGP Trustee means DBNGP Holdings Pty Ltd (ACN 110 721 081).

DBP Act means the *Dampier to Bunbury Pipeline Act 1997* (WA).

Deliver means to deliver or supply Gas and includes Gas deemed by this Contract to be delivered or supplied at an inlet point or outlet point (including a Multi-shipper Inlet Point or Multi-shipper Outlet Point).

Derived Variable means a value computed by electronic, analogue or digital means from primary measurements or other derived variables or a combination of both.

Direct Damage means loss or damage which is not Indirect Damage.

Dispute means any dispute or difference concerning:

(a) the construction of;

(b) anything contained in or arising out of; or

(c) the rights, obligations, duties or liabilities of a Party under,

this Contract and includes any issue which a provision of this Contract contemplates may be referred to dispute resolution under clause 24.

Distance Factor means for each Outlet Point at which Shipper has Back Haul Contracted Capacity the distance in kilometres between the Inlet Point and the Outlet Point divided by 1399 kilometres.

Distribution Network means any Gas distribution system which receives Gas from the DBNGP and includes any Gas distribution system owned or operated by Networks which receives Gas from the DBNGP.

Distribution Networks' IPQ means 40 TJ/d or such greater or lesser amount as may be agreed between the Parties.

Distribution Networks Shipper means any shipper delivering Gas into a Distribution Network (subject to any Law which excludes that shipper from participating in a share of the Distribution Networks' IPQ), from time to time, and may include Shipper.

Duty Equipment means the Metering Equipment in service at a particular time.

Electronic Data Collection System means the system and equipment for collecting, receiving and transferring electronic signals and data from Metering Equipment, used for the measurement of Gas delivered to shippers and for billing.

Environmental And Safety Law means a Law relating to environmental, building, construction, engineering, planning, health, safety or occupational health and safety matters.

ERA means the Economic Regulatory Authority established by the *Economic Regulation Authority Act 2003* (WA).

Excess Imbalance Charge means the charge payable by Shipper identified in clauses 9.5(e) and 9.6(b).

Excess Imbalance Rate means the rate set out in row 1 of Schedule 2.

Existing Gas Supply Contract means a contract between a shipper and a customer for the sale and or transport of Gas to a customer of a shipper under which the Gas is to be supplied to the customer at or immediately downstream of an outlet point, which was in existence as at the date of the relevant change in Law as contemplated in clause 7.10, and excluding any amendments to that contract having effect after such date.

Existing Inlet Point means an Inlet Point on the DBNGP from which Shipper proposes to relocate Contracted Capacity, being an Inlet Point specified in this Contract (including by a prior amendment under clause 14.9) at the time the Requested Relocation is made.

Existing Outlet Point means an Outlet Point on the DBNGP from which Shipper proposes to relocate Contracted Capacity, being an Outlet Point specified in this Contract (including by a prior amendment under clause 14.9) at the time the Requested Relocation is made.

Existing Producer Contract means a contract between a shipper and a Producer for the sale of Gas to the shipper under which the Gas is to be supplied to the shipper at or immediately upstream of an inlet point, which was in existence as at the date of the relevant change in Law as contemplated in clause 7.10, and excluding any amendments to that contract having effect after such date.

Existing Station means:

(a) an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point that was installed and commissioned on or before 1 January 1995; or

(b) an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point that is the subject of a Facility Agreement (which has the meaning given in clause 6.8) or similar agreement, as at the Capacity Start Date.

Financial Matter has the meaning given to it in clause 24.7.

Firm Service has the meaning given in the Access Arrangement in the form the Access Arrangement was in on 13 January 2004.

Force Majeure means any event or circumstance not within a Party's control and which the Party, by the exercise of the standards of a Reasonable And Prudent Person, is not able to prevent or overcome, including (provided the foregoing tests are satisfied):

(a) acts of God, including epidemics, land slides, lightning, earthquakes, fires, storms, floods, wash outs and cyclones;

(b) strikes, lock outs, stoppages, restraints of labour and other industrial disturbances;

(c) acts of the enemy including wars, blockades and insurrection;

(d) acts of terror, terrorism or terrorists;

(e) riots and civil disturbances;

(f) valid Laws of the Commonwealth or any Commonwealth statutory authority;

(g) valid Laws of the State or a local government or any State statutory authority;

(h) shortage of necessary equipment, materials or labour;

(i) refusal or delay in obtaining any necessary consent or approval from any Commonwealth, State or local government or a Commonwealth or State statutory authority;

(j) unavoidable accidents involving, or break down of or loss or damage to, any plant, equipment, materials or facilities necessary for the Party's operations;

(k) any DBNGP shutdown or interruption which is validly required or directed by any Commonwealth, State or local government agency or any Commonwealth or State statutory authority having authority to so require or direct;

(l) any DBNGP shutdown or interruption required to conform with design or regulatory limits on DBNGP facilities, whether arising due to environmental conditions or circumstances or otherwise;

(m) DBNGP ruptures;

(n) collisions or accidents; and

(o) any other matter reasonably beyond the control of the Party.

Forward Haul means a Gas transportation service on the DBNGP where the inlet point is upstream of the outlet point.

Full Haul means a Gas transportation service on the DBNGP where the inlet point is upstream of main line valve 31 on the DBNGP and the outlet point is downstream of Compressor Station 9 on the DBNGP.

Gas means any naturally occurring gas or mixture of gases, intended for use:

(a) as a fuel; or

(b) in any chemical process.

Gas Day means the 24 hour period starting at 08:00 hours on a day and ending at 08:00 hours on the following day and the date of the Gas Day is the date on which it commences.

Gas Hour means a period of 60 minutes, commencing and ending on the hour.

Gas Month means a month starting at 08:00 hours on the first day of the month and ending at 08:00 hours on the first day of the following month.

Gas Pipelines Access Law means:

(a) Schedule 1 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA); and

(b) The Code

Gas Transmission Capacity means the capacity of the DBNGP to transport Gas.

Gas Year means the 12 month period starting at 08:00 hours on 1 January and ending at 08:00 hours on the following 1 January.

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

GJ means gigajoule.

Good Gas Industry Practice means the practices, methods and acts engaged in or approved by a firm or body corporate which, in the conduct of its undertaking, exercises that degree of due diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced persons engaged in providing services to the Australian gas industry under the same or similar circumstances and conditions, and includes complying with the terms of this Contract and taking reasonable steps to ensure that:

(a) manufacturers' instructions and operating manuals are complied with;

(b) adequate materials, resources and supplies are available at the necessary places under normal conditions associated with existing operations;

(c) sufficient experienced and trained operating personnel are available to undertake its responsibilities under this Contract;

(d) appropriate monitoring and testing is carried out to ensure that the equipment will function properly under normal and emergency conditions;

(e) equipment is operated and maintained in accordance with any Laws applicable to that equipment;

(f) in accordance with all applicable Laws:

  (i) it acts in a sound and workmanlike manner;

  (ii) it acts with due skill, care and applying standards required or accepted by a company experienced in the delivery of similar works and the provision of similar services;

  (iii) it acts with due expedition and without unnecessary or unreasonable delays; and

  (iv) it acts in a manner which allows for the work to be efficiently and cost-effectively performed with due regard to safety.

GST means GST as that term is defined in the GST Law and as imposed by the GST Law.

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

Higher Heating Value is to be determined using ISO 6974 for the analysis of natural Gas and using ISO 6976 for the calculations from that analysis, and means the gross number of megajoules produced by the complete combustion of one Cubic Metre of dry Gas at MSC with air of the same temperature and pressure, when the products of combustion are cooled to the initial temperature of the Gas and air and when all water formed by combustion is condensed to the liquid state, corrected to a water - vapour free basis and expressed at MSC.

Hourly Peaking Charge means the charge payable under clause 10.3(d) or 10.4(b).

Hourly Peaking Limit has the meaning given in clause 10.1.

Hourly Peaking Rate means the rate specified in row 2 of Schedule 2.

Hourly Quantity for a Gas Hour in respect of a particular shipper is to be expressed in terajoules and means the total quantity (across all outlet points) of Gas Received by the relevant shipper from Operator during the Gas Hour.

Inaccurate means measuring the quantity of Gas with an inaccuracy of greater than the relevant limit prescribed by clauses 15.13(a)(i) or 15.13(a)(ii) (as the case may be).

Independent Expert is the expert chosen under clause 24.8.

Indirect Damage suffered by a person, means:

(a) any indirect loss or damage however caused, including any:

  (i) consequential loss or damage;

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

  (iii) business interruption,

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

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

Inert Gases means any one or any mixture of helium, neon, argon, krypton, xenon, radon, nitrogen and carbon dioxide.

Information Package has the meaning in section 5.1 of the Code.

Initial Nomination means a Nomination by Shipper under clause 8.6, unless no such Nomination has been made in which case shall mean an Advance Nomination (if Shipper has made an Advance Nomination).

Inlet Metering Equipment means the Metering Equipment which Shipper is required by clause 15.1(a) to supply, install, Operate and Maintain at an Inlet Station at its own expense.

Inlet Point means a flange, joint, or other point, specified in clause 3.3(a) at which Shipper has Contracted Capacity from time to time.

Inlet Point Operating Specifications means the Operating Specifications specified in column headed “Inlet Points” of Item 1 of Schedule 3.

Inlet Station means the Metering Equipment site Associated with an Inlet Point and includes any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement, any

telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services.

Insolvency Event means, in respect of a Party (the ***first person***) any one or more of:

(a) any execution or other process of any court or authority being issued against or levied upon any material part of the first person's property or assets being returned wholly or partly unsatisfied;

(b) an order being made or a resolution being passed for the winding up or dissolution without winding up of the first person otherwise than for the purpose of reconstruction or amalgamation under a scheme to which the other Party has given consent;

(c) a Controller being appointed in respect of the whole or a material part of the first person's property, undertaking or assets;

(d) the first person entering into any arrangement, reconstruction or composition with or for the benefit of its creditors;

(e) an administrator of the first person being appointed or the board of directors of the first person passing a resolution to the effect of that specified in section 436A(1) of the Corporations Act;

(f) the first person failing (as defined by section 459F of the Corporations Act) to comply with a statutory demand for an amount in excess of $1 million; or

(g) an event having a substantially similar effect to an event described in any of paragraphs (a) to (f) (inclusive) which happens in connection with the first person under the law of any jurisdiction.

Interruptible Service means any capacity contracted with a shipper having a priority for curtailment less than for Firm Service and includes Capacity under a Spot Transaction.

ISO means an International Standards Organisation standard.

Kwinana Junction means the location on the DBNGP identified as “Branching Point Kwinana Junction” in the Appendix 1 to the Access Arrangement Information.

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

(a) excludes any provision of the Access Regime (except for provisions which apply by force of law to prevail over any inconsistent clause of this Contract); and

(b) excludes any requirements of the Regulator (except for requirements which apply by force of law to prevail over any inconsistent clause of this Contract).

To avoid doubt, provisions of the Access Regime and requirements of the Regulator which apply by force of law to prevail over an inconsistent clause of this Contract are **Laws** for the purposes of this definition.

Load Characteristics means the relationships between Gas flow and time.

LPG means the sum of propane and butane components of Gas.

Maintain includes, where necessary, renew or replace.

Maintenance Charge has the meaning given in clause 6.6(i).

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

(a) cannot reasonably be scheduled at a time when it will not affect Gas Transmission Capacity; and

(b) by its nature or magnitude would require a Reasonable And Prudent Person to wholly or partially reduce Gas Transmission Capacity.

Metering Equipment means all equipment used to measure either or both the physical quantity or quality of Gas entering the DBNGP at an Inlet Point or exiting the DBNGP at an Outlet Point and all ancillary equipment required to compute Derived Variables and to produce printed reports at the Inlet Station or Outlet Station and to test and Maintain the reliability and calibration accuracy of that equipment (including any metering facilities or equipment that are or could be used for proving, testing and calibration of the equipment).

Metering Information means the information specified in clause 15.5(d).

MHQ for an outlet point on a particular Gas Day in respect of a shipper, means (subject to clause 17.7(b)(vi)) one twenty fourth of the sum of the quantities referred to as Contracted Capacity for that outlet point across all of the shipper's Capacity Services (including B1 Services and any Capacity under Spot Transactions) for that Gas Day in respect of that shipper.

Minimum Bid Price has the meaning given in clause 3.5(e).

MSC means metric standard conditions, being a pressure of 101.325 kPa and a temperature of 15 °C.

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

Multi-shipper Inlet Point means an inlet point at which more than one shipper Delivers Gas to Operator.

Multi-shipper Outlet Point means an outlet point at which more than one shipper Receives Gas from Operator.

Networks means AlintaGas Networks Pty Ltd ABN 90 089 531 975.

New Inlet Point means an inlet point on the DBNGP, whether existing or planned, to which Shipper proposes to relocate Contracted Capacity.

New Outlet Point means an outlet point on the DBNGP, whether existing or planned, to which Shipper proposes to relocate Contracted Capacity.

Nominated Day means a Gas Day in respect of which an Advance Nomination or Initial Nomination is made.

Nominated Inlet Point means an inlet point specified in an Initial Nomination as one at which Shipper proposes to Deliver Gas to Operator during the Nominated Day.

Nominated Outlet Point means an outlet point specified in an Initial Nomination as one at which Shipper proposes to Receive Gas from Operator during the Nominated Day.

Nominations shall mean Initial Nominations or Advance Nominations, and where other contracts for Capacity are being referred to, includes the material equivalent of Initial Nominations or Advance Nominations (as the case may be) under those other contracts.

Nominations Plan means the process for allocating Nominations set out in clause 8.9 which is based upon the priorities set out in the Curtailment Plan.

Notice includes a Tax Invoice, statement, demand, consent, request, application, notification and any other written communication, and includes such a notice communicated by means of facsimile or (if the Parties so agree) by the CRS.

Notional Gate Point has the meaning given in clause 6.10(a).

Operate includes to Maintain, test, or repair.

Operating Arrangement means the instrument titled Operating Arrangement between Transmission Division and Distribution Division of the Gas Corporation under Regulation 199C and dated 9 January 1998 originally annexed to a memorandum of understanding between the Gas Corporation (in its capacity as the corporation's DBNGP business) and the Gas Corporation (in its capacity as the corporation's distribution business), now as a result of transfers under the DBP Act and the *Gas Corporation (Business Disposal) Act 1999* (WA) having effect as a contract between Operator and Networks.

Operating Specification means the Gas quality specification specified in Item 1 of Schedule 3, and includes each component of the specification.

Operationally Feasible means operationally feasible in Operator's opinion (acting as a Reasonable And Prudent Person) in the circumstances prevailing at the relevant time including:

(a) the configuration and status of the DBNGP at the relevant time;

(b) the individual and collective Reserved Capacities and Load Characteristics of all shippers;

(c) Gas Transmission Capacity generally; and

(d) Operator's relevant entitlements and obligations under any contract or written Law.

Operator means the party named as such on the Access Request Form and includes its successors and permitted assigns.

Operator Default Notice has the meaning given in clause 22.6.

Operator Entity means Operator, all of Operator's Related Bodies Corporate and all entities Controlled by any of the foregoing.

Operator Owned Point means an inlet point or an outlet point described in clauses 6.7(a)(ii)(A) or (B).

Option has the meaning given in clause 4.3.

Original Capacity has the meaning given in clause 4.3.

Other Charges has the meaning given in clause 20.4.

Other Reserved Service means a Capacity Service offered under a contract which in Operator's opinion acting reasonably, has a capacity reservation charge or an allocation reservation deposit or any material equivalent to such charge or deposit which is payable up front or from time to time in respect to the reservation of capacity under that contract for at least a reasonable time into the future (but at all times excluding a T1 Service, P1 Service, B1 Service, a Firm Service and Capacity under a Spot Transaction).

Other shipper means any shipper other than:

(a) Alcoa as a shipper under the Alcoa Exempt Contract (but not otherwise); and

(b) Shipper.

Outer Accumulated Imbalance Limit has the meaning given in clause 9.6(a).

Outer Hourly Peaking Limit has the meaning given to it in clause 10.4.

Outlet Metering Equipment means Metering Equipment which Operator is required by clause 15.2(a) to supply, install, Operate and Maintain at an Outlet Station at Shipper's expense.

Outlet Point means a flange, joint or other point, referred to in clause 3.3(b) at which Shipper has Contracted Capacity from time to time.

Outlet Point Operating Specifications means the Operating Specifications specified in column headed “Outlet Points” of Item 1 of Schedule 3 (Operating Specifications).

Outlet Station means either a Gate Station or the Metering Equipment site associated with a Transmission Outlet Point, and includes any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement, and telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services.

Out-Of-Specification Gas means Gas which does not comply with one or more of the temperature or pressure specifications in this Contract or with one or more components of the Operating Specification, or where relevant with clause 7.2 or clause 7.3 (as the case may be).

Overrun Charge has the meaning given in clause 11.1(a).

Overrun Gas for a particular Gas Day and for a particular shipper, means Gas Received by the shipper (across all outlet points) less the aggregate of the quantities referred to as Contracted Capacity across all the shipper's Capacity Services (including B1 Services and any Capacity under Spot Transactions) (across all outlet points) on that Gas Day, and, if the preceding calculation produces a negative result, Overrun Gas for that Gas Day equals zero.

Overrun Rate has the meaning given in clause 11.1(b).

P1 Service means the Part Haul Gas transportation Reference Service provided under the Access Arrangement which gives shipper a right, subject to the terms and conditions of the Access Arrangement to access capacity of the DBNGP and which:

(a) can only be Curtailed in the circumstances specified in clause 17.2;

(b) is treated the same in the Curtailment Plan as all other shippers with a P1 Service, and in the order of priority with respect to other Types of Capacity Service set out in clause 17.9; and

(c) is treated the same in the Nominations Plan as all other shippers with a P1 Service, and in the order of priority with respect to other Types of Capacity Service referred to in clause 8.9.

Part Haul means a Forward Haul Gas transportation service on the DBNGP which is not Full Haul.

Party means Operator or Shipper or, where the context requires, the Pipeline Trustee or the DBNGP Trustee (as the case may be) and if Shipper comprises more than one person, includes each such person.

Period means in respect of a shipper's Capacity, a Season or a Gas Month as the case may be for which the shipper's Capacity is quantified.

Period of Supply means in respect of particular Contracted Capacity the time period between:

(a) the relevant Capacity Start Date; and

(b) the relevant Capacity End Date.

and for Spot Capacity means the Period of Supply for B1 Service under this Contract.

Physical Gate Point means a flange, joint or other point marked in the description of the DBNGP system in the Access Arrangement Information as a point that marks the boundary between the DBNGP and a Distribution Network. A Physical Gate Point is not an outlet point.

Pipeline Trust has the meaning given in clause 25.5(a).

Pipeline Trustee means DBNGP (WA) Nominees Pty Ltd (ACN 081 609 289).

Pipeline Zone 10 means the area of the DBNGP which is downstream of:

(a) the upstream flange of Kwinana Junction valve V4; and

(b) the upstream flange of Kwinana Junction valve HV401A.

Pipeline Zone 10B means the area of the DBNGP on mainline South, being downstream of the outlet flange of compressor station 10.

Planned Maintenance means maintenance of the DBNGP which is scheduled in advance and of which Shipper is given reasonable, and in any event not less than 3 Gas Days, written notice.

Point Specific Curtailment means a Curtailment as it affects or applies to a particular inlet point or outlet point.

Possession includes custody, control, and an immediate right to possession, custody, or control.

Prescribed Interest Rate means the Bank Bill Rate plus an annual interest rate of 3 percent per annum.

Prescribed Limits of Uncertainty means the limits of metering uncertainty prescribed by clause 15.3.

Previous Verification means the Verification at which the Primary Metering Equipment was last found to be measuring the quantity of Gas accurately.

Primary Metering Equipment means the Inlet Metering Equipment or the Outlet Metering Equipment, as the case may be.

Producer means a producer or supplier of Gas with whom Shipper has entered into a Gas supply contract or contracts under which Gas is to be Delivered at an inlet point.

Reasonable And Prudent Person means a person acting in good faith with the intention of performing his or her contractual obligations and who in so doing and in the general conduct of his or her undertaking exercises that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced person complying with recognised standards and applicable laws engaged in the same type of undertaking under the same or similar circumstances and conditions.

Receive means to accept or receive Gas and includes Gas deemed by this Contract to be received at an inlet point or outlet point (including a Multi-shipper Inlet Point or Multi-shipper Outlet Point).

Regulator means ***local Regulator*** as this term is defined in section 11 of the *Gas Pipelines Access (Western Australia) Act 1998* (WA), being the ERA.

Related Body Corporate has the meaning given to that expression in the Corporations Act.

Relative Density is expressed at MSC and means the molar mass of a Gas in g/mol divided by 28.9641 g/mol (being the molar mass of dry air as defined in ISO 6976) and corrected for the effect of deviation from ideal Gas behaviour upon both air and Gas.

Relevant Company means the direct and indirect shareholders of Operator, service providers to Operator (including System Operator) and all Related Bodies Corporate of those entities.

REMCo means the company established to administer and operate the approved retail market scheme for the retail gas market in Western Australia and includes any company, person or authority from time to time undertaking that role, being Retail Energy Market Company Limited (ACN 103 318 556) of Level 40, 140 William Street, Melbourne, Victoria 3000.

Remote Data is defined in clause 15.4(d).

Renomination has the meaning given in clause 8.10.

Replacement Contract means the contract which is deemed to arise between Operator and a Replacement Shipper by clause 27.7 following the Transfer of Tradeable Capacity to the Replacement Shipper.

Replacement Shipper has the meaning given in clause 27.3.

Request For Approval has the meaning given in clause 27.4(a).

Requested Relocation has the meaning given in clause 14.1.

Reserved Capacity means, subject to any changes from time to time made pursuant to the Curtailment Plan:

(a) the Distribution Networks IPQ, Alcoa's Priority Quantity, Alcoa's Exempt Delivery Entitlement; and

(b) Capacity referred to in any contract for a Type of Capacity Service as "Contracted Capacity" where such "Contracted Capacity" may, at the relevant time, be nominated for delivery to the relevant inlet point or outlet point (if any) pursuant to that Capacity Service (regardless of the level of interruptibility of the service at an inlet point or an outlet point (as the case may be)).

Resumption means a resumption by Shipper of all or part of Traded Capacity in accordance with the Transfer Terms.

Resumption Notice means a notice issued by Shipper that Shipper intends to Resume all or part of Traded Capacity.

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

Season means either Summer or Winter.

Share of the Distribution Networks' IPQ means a shipper's pro-rata share of the Distribution Networks' IPQ, based on its Nominations into the Distribution Networks, unless the Distribution Networks Shippers all agree to a different allocation policy and advise Operator thereof.

shipper means a person who, from time to time, has a contract with Operator for access to Gas Transmission Capacity, which includes Shipper.

Shipper means the party specified in the Access Request.

Shipper Default Notice has the meaning given in clause 22.2.

SI means the International System of Units set out in AS1000-1979.

Spot Capacity means any capacity on the DBNGP on a Gas Day (being the capacity available after all Nominations for Reserved Capacity for that Gas Day have been allocated by Operator for that Gas Day), which capacity, is, according to Operator (acting in good faith) available for purchase.

Spot Transaction means a transaction for the sale and purchase of Spot Capacity between Operator and a shipper on terms and conditions which are consistent with those contemplated in clause 3.5.

Standard Shipper Contract means the Operator's Standard Shipper Contract as at 27 October 2004.

State means the State of Western Australia.

Sub-network means that part of a Distribution Network which operates at a nominal pressure in excess of 300 kPa, which for the purposes of Gas flow is not directly connected with any other part of the Distribution Network which operates at a nominal pressure in excess of 300 kPa.

Summer means the period from 08:00 hours on 1 November of a year to 08:00 hours on 1 May of the following year.

Surcharges means the charges referred to in clauses 5.11(d) and 20.4(a)(i) to (iv) inclusive.

System Curtailment means a Curtailment which affects more than one inlet point or outlet point.

System Operator has the meaning given in clause 2.5(a).

System Use Gas means Gas used by Operator for the following purposes:

(a) replacing Gas consumed in the operation of the DBNGP (including, but not limited to:

  (i) compressor fuel;

  (ii) gas engine alternator fuel;

  (iii) heater fuel; and

  (iv) increases to linepack, other than:

    (A) when caused by or for the purposes of a supply of linepack gas to a third party under a balancing or back up service arrangement; or

    (B) repacking the linepack of the DBNGP after an Expansion which involves looping of the pipeline); and

(b) replacing Gas which leaks or otherwise escapes from the DBNGP (whether in normal operational circumstances or due to any rupture or other abnormal leakage) and Gas vented as part of the normal operation of the DBNGP.

T1 Capacity or ***Tranche 1 Capacity*** has the meaning given in clause 3.2(b).

T1 Contract means any contract between Operator and a shipper for a T1 Service, and to avoid doubt excludes this Contract.

T1 Cut-off has the meaning given in clause 3.2(b)(ii).

T1 Service means the Full Haul Gas transportation service provided under the Standard Shipper Contract or the Access Arrangement which gives shipper a right, subject to the terms and conditions of the Standard Shipper Contract or the Access Arrangement to access capacity of the DBNGP and which:

(a) can only be Curtailed in the circumstances specified in clause 17.2;

(b) is treated the same in the Curtailment Plan as all other shippers with a T1 Service, and in the order of priority with respect to other Types of Capacity Service set out in clause 17.9; and

(c) is treated the same in the Nominations Plan as all other shippers with a T1 Service, and in the order of priority with respect to other Types of Capacity Service referred to in clause 8.9.

Tax means a tax, levy, charge, impost, fee, deduction, withholding or duty of any nature (other than income tax, capital gains tax, fines or penalties).

Tax Invoice has the meaning given to it in the GST Law.

Technical Matter has the meaning given to it in clause 24.7.

Technically Practicable means technically feasible and practicable consistent with the safe and reliable operation of the DBNGP, in the view of a Reasonable And Prudent Person.

Terminated Capacity has the meaning given in clause 22.10(d).

TJ means terajoule.

TJ/d means a TJ per Gas Day.

Total Contracted Capacity means in respect of a particular shipper in respect of the B1 Service at a particular time:

(d) in relation to inlet points, the sum of the shipper's Contracted Capacity for all inlet points; and

(e) in relation to outlet points, the sum of the shipper's Contracted Capacity for all outlet points.

Total Current Physical Capacity means the total physical Gas throughput Capacity at the relevant time (having regard to all associated facilities) of an inlet point or an outlet point and operating within its technical design parameters, as the case may be, in Operator's opinion as a Reasonable And Prudent Person.

Total Inlet Quantity means the total quantity (across all inlet points) of Gas Delivered to Operator by Shipper on a Gas Day across all contracts (including Spot Transactions).

Total Outlet Quantity means the total quantity (across all outlet points) of Gas Received by Shipper from Operator on a Gas Day across all contracts (including Spot Transactions).

Total Physical Capacity means the Total Current Physical Capacity as at the commencement of the Access Arrangement Period.

Tradeable Capacity has the meaning given in clause 27.4(a).

Traded Capacity is any Tradeable Capacity which has been Transferred to a Replacement Shipper following the approval or deemed approval of the Transfer Terms of that Tradeable Capacity.

Transfer includes transfer, assign to or otherwise grant an interest in or entitlement to Tradeable Capacity.

Transfer Terms means the terms and conditions, set out in a Request For Approval, on which a shipper is prepared to Transfer Tradeable Capacity to a Replacement Shipper.

Transmission Outlet Point means an outlet point which is not a Notional Gate Point.

Type of Capacity Service has the meaning given in clause 8.9(b).

Unavailable Overrun Charge means the charge payable under clauses 11.6 and 17.8(e).

Unavailable Overrun Rate means the rate specified in row 4 of Schedule 2.

Unavailability Notice has the meaning given in clause 11.2(a).

Verification means the process of testing all Metering Equipment and all components of Metering Equipment to establish its calibration accuracy.

Winter means the period from 08:00 hours on 1 May in a year to 08:00 hours on 1 November of the same year.

WLPG Plant means the LPG extraction plant fronting Leath and Mason Roads, Kwinana, that is operated by Wesfarmers LPG Pty Ltd.

Wobbe Index means the number obtained by the formula:

$$\text{Wobbe Index} = \frac{\text{Higher Heating Value}}{\sqrt{\text{Relative Density}}}$$

Working Day means any Monday, Tuesday, Wednesday, Thursday or Friday which is not gazetted as a public holiday in the Perth metropolitan area.

2. GENERAL

2.1 Construction generally

In the construction of this Contract, unless the context requires otherwise:

(a) a reference to a clause number or Schedule is a reference to a clause or Schedule of this Contract;

(b) words indicating the singular number include the plural number and vice versa;

(c) words indicating one gender include any other gender;

(d) words indicating persons include natural persons, bodies corporate and unincorporated associations;

(e) a reference to any statutory law extends to and includes any amendment of, modification of, or substitution for, that law;

(f) a reference to any contract or agreement is a reference to that contract or agreement as amended, varied, novated or substituted from time to time;

(g) references to dollars or $ are references to Australian dollars;

(h) a reference to a time and date in connection with the performance of an obligation by a Party is a reference to the time and date in Perth, Western Australia, even if the obligation is to be performed elsewhere;

(i) all time is expressed in a 24-hour format, with each day (but not a Gas Day) commencing at 00:00 hours and ending at 24:00 hours; and

(j) unless specified otherwise, reference to a quantity of Gas is a reference to that quantity of Gas measured in GJ;

(k) unless otherwise indicated, all units in this Contract are SI units;

(l) unless the contrary intention appears, the interpretation provisions of the *Interpretation Act 1984* (WA) apply to the interpretation of this Contract;

(m) any grammatical or linguistic variation of a defined word or expression has a corresponding meaning;

(n) any specific reference to or listing of items following the words **including, for example** or **such as** is without limitation and does not exclude application to other items, whether or not in the same class, category or genus as any specified or listed items;

(o) **under** includes **by**, **by virtue of**, **pursuant to** and **in accordance with**; and

(p) a reference to rights, entitlements, obligations or terms “materially equivalent” or the “same” (in comparison to rights, entitlements, obligations or terms in this Contract or in comparison to other rights, entitlements, obligations or terms (as the case may be)) or any similar expressions shall be deemed to mean rights, entitlements, obligations or terms that are, in the opinion of a Reasonable And Prudent Person, materially equivalent to the relevant rights, entitlements, obligations or terms in this Contract or those other rights, entitlements, obligations or terms (as the case may be).

2.2 Headings

Headings are inserted for convenience and do not affect the interpretation of this Contract.

2.3 Rounding to a certain number

Any number calculated under this Contract which exceeds six decimal places is to be rounded to six decimal places. For the purposes of such rounding, if the digit at the seventh decimal place is:

(a) between zero and four (inclusive), the number is to be rounded down to the nearest sixth decimal place; and

(b) between five and nine (inclusive), the number is to be rounded up to the nearest sixth decimal place.

2.4 Other contracts

Where the context requires, a term which is defined in this Contract (including B1 Service, P1 Service, T1 Service, Aggregated B1 Service, Other Reserved Service, Contracted Capacity and Total Contracted Capacity) includes the same concept in another contract in relation to Shipper or in relation to another shipper.

2.5 System Operator

(a) Operator's rights and powers under this Contract may be delegated to a contractor (System Operator) who is entitled to exercise, on behalf of Operator, all such rights and powers conferred on Operator.

(b) System Operator will be the person (if any) identified as such in the Access Request Form until such time as Operator gives notice in writing to Shipper that that person no longer acts as System Operator, in which case it must give notice of the person (if any) that is to act as System Operator in that person's place.

(c) Any act, matter or thing done by System Operator in respect of this Contract or in the performance of obligations related to this Contract in either its own name or in the name of Operator is deemed to have been done by Operator and Operator agrees to ratify and confirm whatsoever System Operator does or causes to be done by virtue of, or purportedly by virtue of, the powers contained in this Contract.

(d) Without limiting clause 2.5(c), any communication or notice given, or document signed, by System Operator in respect of this Contract is deemed to have been given or signed by Operator and will bind Operator. Similarly, any communication, notice or document given to System Operator in respect of this Contract is deemed to have been given to Operator and will bind Operator.

(e) Operator must procure that System Operator complies with the requirements of section 4 (Ring Fencing Arrangements) of the Code as if it were a 'Service Provider' for the purposes of that section.

3. CAPACITY SERVICE

3.1 Operator to provide B1 Service to Shipper

During the Period of Supply, Operator will provide the B1 Service to Shipper and Shipper agrees to accept the B1 Service from Operator on the terms and conditions of this Contract.

3.2 Capacity Service

(a) The B1 Service is the Back Haul Gas transportation service that is a category of T1 Service and is provided under this Contract which gives Shipper a right, subject to the terms and conditions of this Contract, to access capacity of the DBNGP and which (subject, in all cases, to clauses 8.15 and 17.9 of this Contract):

(i) can only be Curtailed in the circumstances specified in clause 17.2;

(ii) is treated the same in the Curtailment Plan as all other shippers with a B1 Service, and in the order of priority with respect to other Types of Capacity Service set out in clause 17.9; and

(iii) is treated the same in the Nominations Plan as all other shippers with a B1 Service, and in the order of priority with respect to other Types of Capacity Service referred to in clause 8.9.

(b) Operator acknowledges and agrees:

(i) Tranche 1 Capacity in the DBNGP comprises the amount of Gas Transmission Capacity which lies between zero and the T1 Cut-off;

(ii) the T1 Cut-off is the amount of Gas Transmission Capacity at which the probability of supply for the next GJ of Gas to be transported in the DBNGP is 98% for each Period of a Gas Year;

(iii) whenever there is a material change (other than a short term change) in the configuration of the DBNGP which will or might change the probability of supply at the T1 Cut-off for any or all Periods in a Gas year, Operator, acting as a Reasonable And Prudent Person, shall undertake a re-determination in accordance with clause 3.2(b)(ii) of the T1 Cut-off for each Period in which the T1 Cut-off has changed; and

(iv) acting as a Reasonable And Prudent Person, Operator shall ensure that the sum of:

(A) T1 Service (including under this Contract) which it has contracted to provide to Shipper and all other shippers; and

(B) Alcoa's Exempt Capacity,

does not materially exceed the amount of T1 Capacity in the DBNGP.

(c) In this clause 3.2 probability of supply means the probability that Gas Transmission Capacity in the DBNGP will not, for any reason other than Major Works, fall below a particular cut-off level.

(d) For the avoidance of doubt, Alcoa's Exempt Capacity is provided by Operator out of Tranche 1 Capacity in the DBNGP.

3.3 Contracted Capacity

Subject to this Contract, Shipper's Contracted Capacity for each Gas Day within a Period under this Contract:

(a) at an Inlet Point specified in item 1 of clause 5 of the Access Request Form - is the amount for B1 Service set out in item 1 of clause 5 of the Access Request Form for that Period; and

(b) at an Outlet Point specified in item 2 of clause 5 of the Access Request Form - is the amount for B1 Service set out in item 2 of clause 5 of the Access Request Form for that Period.

3.4 Operator must deliver Gas up to Contracted Capacity

During the Period of Supply, subject to the terms and conditions of this Contract (including clauses 5 and 17), Operator will deliver on each Gas Day (aggregated across all outlet points) the quantity of Gas required by Shipper up to Shipper's Total Contracted Capacity plus any Spot Capacity allocated to Shipper for the Gas Day.

3.5 Spot Capacity

(a) The Parties agree that, until otherwise agreed, the following principles shall apply to Spot Capacity and Spot Transactions (as the case may be).

(b) If Shipper seeks to bid for Spot Capacity for a Gas Day it must by notice to Operator at any time no later than 15:00 hours on the Gas Day before that Gas Day notify Operator of the amount of Spot Capacity it requires for that Gas Day (Daily Bid) and the price it offers to pay for that Spot Capacity for that Gas Day (the Daily Spot Bid Price).

(c) Operator must by no later than 16:00 hours on each Gas Day before the relevant Gas Day allocate Spot Capacity for a Gas Day between Daily Bids on the basis (subject to clause 3.5(e)) of the Shipper bidding the highest Daily Spot Bid Price for that Gas Day being allocated the Spot Capacity it bid for, the shipper bidding the second highest Daily Spot Bid Price for that Gas Day being allocated the Spot Capacity it bid for, and so on until all Daily Bids are satisfied or until all available Spot Capacity is allocated to Daily Bids. If two or more shippers bid the same Daily Spot Bid Price and there is not sufficient available Capacity to allocate to each of them the amount of Spot Capacity bid for by each of them, the Spot Capacity available to be allocated between them shall be allocated in proportion to the amount of Spot Capacity bid for by each of them respectively at the said Daily Spot Bid Price for that Gas Day.

(d) Subject to clause 3.5(f), if Shipper is allocated Spot Capacity for a Gas Day in response to a Daily Bid Shipper must pay the Daily Spot Bid Price bid by it for that Spot Capacity for that Gas Day whether or not it uses the Spot Capacity.

(e) Operator may set a minimum bid price (Minimum Bid Price) for Daily Bids and is not obliged to allocate Spot Capacity to any shipper bidding a Daily Spot Bid Price which is less than the Minimum Bid Price. The Minimum Bid Price for Daily Bids may not be set by Operator at a price greater than 115% of the B1 Reference Tariff applying on the relevant Gas Day.

(f) Shipper is relieved from paying the Daily Spot Bid Price in relation to Spot Capacity allocated to it for a Gas Day only where:

(i) Operator interrupts or Curtails the Spot Capacity which has been allocated to Shipper, and then only to the extent of that interruption or Curtailment; or

(ii) Shipper does not use the Spot Capacity which has been allocated to it in circumstances where there were no other shippers bidding for Spot Capacity for that Gas Day to which the Spot Capacity allocated to Shipper could otherwise have been allocated.

(g) Operator must provide the following information to Shipper in respect of each Gas Day as soon as practicable after that Gas Day:

(i) the quantities the subject of Daily Bids which relate to that Gas Day;

(ii) the quantities of Spot Capacity allocated for that Gas Day; and

(iii) the Daily Spot Bid Prices for all bids allocated Spot Capacity for that Gas Day.

(h) Operator will not bid for Spot Capacity and if an Operator Entity, Alcoa, Alinta Limited (ABN 40 087 857 001) or a Related Body Corporate of either Alcoa or Alinta Limited bids and is allocated Spot Capacity, Operator must indicate on the CRS that the relevant Spot Capacity has been allocated to an Operator Entity without disclosing the identity of the entity.

(i) Operator must ensure that the rules governing the market for Spot Capacity are designed with a view to achieving a market with the following objectives:

(i) non-discriminatory in respect of the terms and conditions upon which, and the circumstances in which, Spot Capacity is granted to shippers;

(ii) hindering market manipulation and gaming by Operator or other shippers; and

(iii) consistent with this clause 3.5.

4. DURATION OF THE CONTRACT

4.1 Term

(a) Subject to the terms and conditions of this Contract, including clause 4.3, the Capacity End Date is 08:00 hours on the date specified in the Access Request Form as the Capacity End Date.

(b) Subject to the terms and conditions of this Contract, this Contract ends on the last of the Capacity End Dates.

4.2 Capacity Start Date

The Capacity Start Date is 08:00 hours on the date for commencement of access to the B1 Service as specified in the Access Request Form.

4.3 Option to renew Contract

Subject to clauses 4.4, 4.5, 4.6 and 4.7, Shipper has two options to extend the Capacity End Date in respect of Contracted Capacity the subject of this Contract as at the Capacity Start Date (***Original Capacity***) each for a period of 1 year (***Option***).

4.4 Conditions to be satisfied before exercising an Option

Shipper may only validly give notice exercising an Option if Shipper:

(a) is not in default (within the meaning of clause 22.1) under this Contract in a way which is material in the context of this Contract as a whole at the time Shipper gives notice; and

(b) complies with the requirements of clause 4.5 of this Contract.

4.5 Notice exercising an Option

Not later than 3 months before the Capacity End Date, Shipper may give written notice to Operator that it wishes to exercise an Option. If such notice is not given before such time, the Option lapses, is of no force and effect whatsoever, and cannot be exercised.

4.6 First Option Period

If Shipper gives a notice in accordance with clause 4.5 exercising the first option given to it under clause 4.3, then the Period of Supply for the Original Capacity under this Contract will be extended for a period of 1 year and:

(a) the Capacity End Date for the Original Capacity (as defined in clause 4.1) is amended to 08:00 hours on that date; and

(b) this clause 4.6 (relating to the exercise of the Option) will have no effect after 08:00 hours on the date originally specified in the Access Request Form as the Capacity End Date.

4.7 Second Option Period

If Shipper has exercised the first option under clause 4.3 and gives a notice in accordance with clause 4.5 exercising the second option given to it under clause 4.3 then the Period of

Supply for the Original Capacity under this Contract will be extended for a period of another year and:

(a) the Capacity End Date for the Original Capacity (as amended by the previous operation of clause 4.6(a)) is amended to 08:00 hours on that date; and

(b) clauses 4.3, 4.4, 4.5 and this clause 4.7 (all relating to the exercise of the Option) will have no effect after 8:00 hours on the date that is one year after the date that was originally specified in the Access Request Form as the Capacity End Date.

5. RECEIVING AND DELIVERING GAS

5.1 Receipt and Delivery of Gas

Subject to this Contract, during the Period of Supply, Shipper may on each Gas Day Deliver at the Inlet Points on the DBNGP Gas up to its Contracted Capacity aggregated across all inlet points on the DBNGP (plus any Capacity under a Spot Transaction and may Receive the Gas Delivered by Operator to it at the Outlet Points on the DBNGP on that Gas Day up to its Contracted Capacity aggregated across all outlet points on the DBNGP (plus any Capacity under a Spot Transaction).

5.2 Operator must Receive and Deliver Gas

Subject to this Contract, if Shipper offers Gas for Delivery to Operator at inlet points on the DBNGP, Operator must Receive that Gas from Shipper up to Shipper's Contracted Capacity aggregated across all inlet points on the DBNGP (plus any Capacity under a Spot Transaction) and Operator must deliver Gas to Shipper at nominated outlet points up to its Contracted Capacity aggregated across all outlet points on the DBNGP (plus any Capacity under a Spot Transaction).

5.3 Operator may refuse to Receive Gas

In addition to any other rights and remedies that may be available to it under this Contract or under Law or in equity, Operator may (subject to clause 5.4(a)) without prior notice to Shipper, refuse to Receive Gas from Shipper at an Inlet Point:

(a) to the extent that Operator is entitled to refuse to Receive Gas under:

  (i) clause 7.6 (Operator and Shipper may refuse to Receive Out-Of-Specification Gas)

  (ii) clause 9.5(b)(iv) (Accumulated Imbalance Limit);

  (iii) clause 9.8(c) (Remedies for breach of imbalance limits);

  (iv) clause 17.8(c) (Compliance with a Curtailment Notice); or

  (v) clause 22.4(a) (Remedies for Shipper's default);

(b) to the extent that Operator is relieved from so doing under clause 19 (Force Majeure);

(c) to the extent that Operator considers as a Reasonable And Prudent Person that it would be unsafe to Receive that Gas;

(d) to the extent that Receipt by Operator of that Gas would cause the DBNGP to exceed its maximum allowable operating pressure;

(e) to the extent that Shipper has not entered into any agreement in relation to that inlet point required by clause 6.7; or

(f) to the extent that the Receipt of that Gas for a Gas Day at an inlet point is in excess of the aggregate of the following (in respect of that inlet point for that Gas Day):

  (i) the sum of Shipper’s Contracted Capacity for that inlet point;

  (ii) Shipper's Aggregated Service Allocated Daily Nomination in respect of that inlet point for that Gas Day; and

(iii) any Spot Capacity allocated to Shipper for that Gas Day,

if Operator considers as a Reasonable And Prudent Person that to Receive such Gas would interfere with other shippers' rights to their Contracted Firm Capacity.

5.4 Notification of refusal to Receive Gas

Without affecting Operator's rights under clause 5.3, Operator must:

(a) use its reasonable endeavours to give Shipper advance notice which is reasonable in the circumstances of any impending refusal to Receive Gas;

(b) if it does not give Shipper advance notice under clause 5.4(a) of a refusal to Receive Gas, Operator must notify Shipper of that refusal as soon as practicable after that refusal; and

(c) notify Shipper (in reasonable detail) of the reasons for a refusal to Receive Gas as soon as practicable.

5.5 Refusal to Receive Gas is a Curtailment in limited circumstances

To the extent that a refusal to Receive such Gas under clauses 5.3(c) and 5.3(d) would not have occurred if Operator had taken the steps which would be expected of a Reasonable And Prudent Person to avoid the need for, or failing such avoidance, to minimise the magnitude and duration of, the refusal to Receive Gas, a refusal to Receive Gas under clauses 5.3(c) and 5.3(d):

(a) is a Curtailment for the purposes of this Contract; and

(b) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the B1 Permissible Curtailment Limit to be exceeded.

5.6 No liability for refusal to Receive Gas

Subject to clause 23.2 and subject to any liability under clause 17 arising from a refusal of a type referred to in clause 5.5, Operator is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Receive Gas under clause 5.3.

5.7 Refusal to Deliver Gas

In addition to any other rights and remedies that may be available to it under this Contract or under Law or in equity, Operator may refuse to Deliver Gas to Shipper at an Outlet Point:

(a) to the extent that Operator is entitled to refuse to Deliver Gas under:

(i) clause 7.6 (Operator and Shipper may refuse to Receive Out-of-Specification Gas);

(ii) clause 9.5(b)(iv) (Accumulated Imbalance Limit);

(iii) clause 9.8(c) (Remedies for breach of Imbalance Limit);

(iv) clause 10.3(a)(iv) (Consequence of exceeding Hourly Peaking Limit);

(v) clause 10.6(c) (Remedies for breach of Peaking Limits);

(vi) clause 11.5 (Operator may refuse to Deliver Overrun Gas);

(vii) clause 17.8(c) (Compliance with a Curtailment Notice); or

(viii) clause 22.4(a) (Remedies for Shipper's default);

(b) to the extent that Operator is relieved from so doing under clause 19 (Force Majeure);

(c) to the extent that Operator considers as a Reasonable And Prudent Person that it would be unsafe to Deliver that Gas or that such Delivery may exceed the Total Current Physical Capacity of the relevant outlet point; or

(d) to the extent that Shipper has not entered into any agreement in relation to that outlet point required by clause 6.7.

5.8 Notification of refusal to Deliver Gas

When Operator refuses to Deliver Gas to Shipper under clause 5.7, Operator must:

(a) use its reasonable endeavours to give Shipper advance notice which is reasonable in the circumstances of any impending refusal to Deliver Gas;

(b) if it does not give Shipper advance notice under clause 5.8(a) of a refusal to Deliver Gas, Operator must notify Shipper of that refusal as soon as practicable after that refusal; and

(c) notify Shipper of the reasons for a refusal to Deliver Gas in sufficient detail to explain the refusal as soon as practicable.

5.9 Refusal to Deliver Gas is a Curtailment in limited circumstances

To the extent that a refusal to Deliver such Gas under clause 5.7(c) would not have occurred if Operator had taken the steps which would be expected of a Reasonable And Prudent Person to avoid the need for, or failing such avoidance, to minimise the magnitude and duration of, the refusal to Deliver Gas, a refusal to Deliver Gas under clause 5.7(c):

(a) is a Curtailment for the purposes of this Contract; and

(b) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the B1 Permissible Curtailment Limit to be exceeded.

5.10 No liability for refusal to Deliver Gas

Subject to clause 23.2 and subject to any liability under clause 17 arising from a refusal of a type referred to in clause 5.9, Operator is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Deliver Gas under clause 5.7.

5.11 System Use Gas

Operator must supply Shipper's share of System Use Gas.

5.12 Additional Rights to Refuse to Receive or Deliver Gas

(a) In addition to any other rights and remedies that may be available to it under any Law or under this Contract or in equity, if:

(i) the Governor or any other person, regulatory authority or body declares a state of emergency under the *Fuel, Energy and Power Resources Act 1972* (WA) or any successor, supplementary or similar Law and the Governor or such other person, regulatory authority or body makes emergency regulations or similar which, in the opinion of Operator or the Pipeline Trustee acting reasonably in the context of the declaration, will affect or is likely to affect the operation of the DBNGP; or

(ii) the Coordinator of Energy or any other person, regulatory authority or body declares a state of emergency under the *Energy Coordination Act 1994* (WA) or any successor, supplementary or similar Law and makes emergency orders or similar which, in the opinion of Operator or the Pipeline Trustee acting reasonably in the context of the declaration, will affect or is likely to affect the operation of the DBNGP,

(any and all of these being a ***Declaration***),

then Operator may (with prior notice to Shipper wherever practicable) refuse to Receive Gas at an Inlet Point or refuse to Deliver Gas at an Outlet Point (or both) to the extent that Operator in good faith believes it is necessary or desirable to comply with or deal with the Declaration and any associated emergency regulations, emergency orders, directions or advice received from any governmental or regulatory authority, person or body.

(b) To the extent that the exercise of rights and remedies under clause 5.12(a) would not have occurred if Operator had taken the steps which would have been expected of a Reasonable And Prudent Person to prevent the relevant event occurring, or failing such prevention, to minimise the magnitude and duration of the need to refuse to Receive or Deliver Gas, the exercise of rights and remedies under clause 5.12(a):

(i) is a Curtailment for the purposes of this Contract; and

(ii) shall be taken into account in determining whether Curtailments aggregated over a Gas Year cause the B1 Permissible Curtailment Limit to be exceeded.

(c) If Operator exercises any rights under clause 5.12(a), it must:

(i) promptly give notice to Shipper of the occurrence giving rise to the right of Operator to exercise such rights, and the steps that Operator intends to take under clause 5.12(a); and

(ii) resume full performance of its obligations under this Contract as soon as reasonably practicable.

6. INLET POINTS AND OUTLET POINTS

6.1 Inlet Points and Outlet Points

(a) The Inlet Points for this Contract are set out in Item 1 of clause 5 of the Access Request Form; and

(b) The Outlet Points for this Contract are set out in Item 2 of clause 5 of the Access Request Form.

6.2 Multi-shipper Agreement

Shipper is taken to be a party to a current Multi-shipper Agreement in respect of an Inlet Point or Outlet Point if at the Capacity Start Date there is an agreement, arrangement or understanding whether or not in writing, between all shippers which use that Inlet Point or Outlet Point, (which agreement, arrangement or understanding may include other parties, such as a Producer or REMCo) under which Operator is notified of how the Gas Delivered to or Received from that Inlet Point or Outlet Point is allocated between those shippers, for as long as that agreement, arrangement or understanding continues in force.

6.3 Multi-shipper Inlet Point and Multi-shipper Outlet Point

(a) The Gas streams delivered to a Multi-shipper Inlet Point by or on behalf of Shipper are to be commingled at a point or points upstream of the Inlet Point with the Gas streams delivered to that Multi-shipper Inlet Point by other shippers.

(b) For any purpose under this Contract, Shipper's proportional share of the commingled inlet stream at a Multi-shipper Inlet Point is to be determined immediately upstream of the inlet point after all Gas streams have been commingled, and Shipper's proportional share of the commingled outlet stream at a Multi-shipper Outlet Point is to be determined immediately downstream of the outlet point.

(c) Subject to any contrary provisions in a Multi-shipper Agreement, Shipper's nominations, obligations and liabilities under this Contract in respect of any quantity, quality, temperature or pressure of Gas at a Multi-shipper Inlet Point are to be determined solely in respect of Shipper's proportional share of the commingled inlet stream determined under clause 6.4, and not by reference to any quantity, quality, temperature or pressure of any Gas delivered by or on behalf of Shipper into the commingled inlet stream.

(d) All shippers using an Inlet Point or an Outlet Point (as the case may be) may enter into (with or without other parties which are not shippers) a written agreement (***Multi-shipper Agreement***) with Operator dealing with, amongst other things, the way in which Gas Delivered by them to an Inlet Point or Received by them from an Outlet Point is to be allocated between them.

(e) Operator must promptly enter into a Multi-shipper Agreement in respect of an Inlet Point or Outlet Point if:

(i)

(A) the agreement contains a formula or mechanism for allocating Gas deliveries to the Inlet Point or Outlet Point (as the case may be) for

each Gas Hour between the shippers in a manner which enables Operator to determine the allocation by applying the formula or mechanism once it knows the total quantity of Gas delivered at that Inlet Point or Outlet Point (as the case may be) during the relevant Gas Hour; or

(B) where the agreement relates to an Inlet Point, it provides that Gas deliveries at the Inlet Point are allocated by a notice to Operator from the Producer that delivers Gas into the Inlet Point on behalf of all shippers using that Inlet Point; or

(C) where the agreement relates to an Outlet Point, it provides that Gas deliveries at that Outlet Point are allocated by a notice provided to Operator from one of the shippers at that Outlet Point or from a third party nominated by one of the shippers at that Outlet Point;

(ii) the agreement allocates deliveries to the Inlet Point or Outlet Point (as the case may be) between the shippers on a daily basis;

(iii) the agreement is between all shippers who use the Inlet Point or Outlet Point (as the case may be) and Operator;

(iv) the agreement provides that, as between each shipper and Operator for the purposes of each shipper's Gas transportation contract, Operator may rely upon the allocation of Gas delivered by the shippers at an Inlet Point, or received by the shippers at an Outlet Point, determined in accordance with the agreement, as being the quantity of Gas delivered by each of those shippers at the Inlet Point and the quantity of Gas received by each of those shippers at the Outlet Point;

(v) the agreement provides that Operator may, in order to give effect to a Curtailment of the Capacity of one or more of the shippers using the Outlet Point, physically reduce the Capacity of the Outlet Point by an amount up to the Contracted Capacity (or the equivalent under that shipper's contract) at that Outlet Point for the shipper to be Curtailed;

(vi) Operator is reasonably satisfied with the metering arrangements for any meters being used for the purpose of allocating Gas deliveries at the inlet point or outlet point (as the case may be);

(vii) the agreement provides that Operator is not liable to shippers where it acts in accordance with the provisions of the agreement; and

(viii) the agreement does not impose any other obligations or liabilities upon Operator (other than in relation to the provision of metering information of the type contemplated in clause 15.5) and does not directly or indirectly vary or amend this Contract or any other contract between a shipper and Operator other than as specifically contemplated above.

(f) A Multi-shipper Agreement (including a deemed Multi-shipper Agreement under the Retail Market Rules) in relation to a Notional Gate Point, may provide that:

(i) whilst the Retail Market Rules are in force, Gas deliveries at that point are allocated by REMCo, on behalf of all shippers using that Notional Gate Point, by:

(A) REMCo providing Operator with an algorithm for doing so which can be applied by Operator; or

(B) REMCo providing Operator a notice by electronic means within a reasonable period after each Gas Hour and after the end of each Gas Day; and

(ii) at any time during which the Retail Market Rules are inoperative, Gas deliveries at that point are allocated by Networks, on behalf of all shippers using that Notional Gate Point pursuant to the terms of the Operating Arrangement.

(g) A Dispute under clause 6.3(e) is to be referred to an Independent Expert under clause 24 as a Technical Matter.

6.4 Allocation of Gas at Inlet Points

(a) On any Gas Day when Shipper is the only shipper Delivering Gas to Operator at an Inlet Point, Shipper shall be deemed to have Delivered all Gas Received by Operator at the Inlet Point for that Gas Day and clauses 6.4(b) and 6.4(c) shall not apply.

(b) If Shipper and any other shipper Delivers Gas to Operator at an Inlet Point on a Gas Day, and:

(i) there is a relevant Multi-shipper Agreement then Shipper's proportional share of Gas at the Inlet Point will be determined by that Multi-shipper Agreement; or

(ii) Shipper procures the delivery of written confirmation to Operator from, or on behalf of, every shipper which delivers Gas to that Inlet Point on that Gas Day by not later than 08:30 hours on the following Gas Day, of the quantity of Gas supplied by those shippers at that Inlet Point, then (in the absence of evidence to the contrary) that confirmation shall be deemed to show the quantity of Gas Delivered by Shipper to Operator at that Inlet Point.

(c) If there is no Multi-shipper Agreement in relation to an Inlet Point and Shipper or any other shipper Delivering Gas at such Inlet Point fails to provide such written confirmation by the time specified in clause 6.4(b), then Shipper's proportionate share of Gas Received at that Inlet Point may be determined by Operator (acting as a Reasonable And Prudent Person) by (inter alia) reference to Daily Nominations at the Inlet Point for that Gas Day across all Capacity Services and Spot Transactions across all shippers and Shipper shall be deemed to have Delivered that proportionate share so determined of the Gas Received at that Inlet Point on that Gas Day.

(d) Gas Delivered by Shipper to an Inlet Point will be deemed to be Received by Operator in the order specified generally or for a particular Gas Day by Shipper and if Shipper fails to specify for any Gas Day, in the following order:

(i) first, Gas for any available B1 Service which includes Gas for any available Aggregated B1 Service;

(ii) second, Gas for any available Capacity Services (other than B1 Service) in the order set out in clause 8.9(a);

(iii) third Gas for any available Capacity under any Spot Transaction; and

(iv) fourth, other Gas.

6.5 Allocation of Gas at Outlet Points

(a) On any Gas Day when Shipper is the only person taking Delivery of Gas from Operator at an Outlet Point, Shipper shall be deemed to have taken Delivery of all Gas Delivered by Operator at the Outlet Point for that Gas Day and clauses 6.5(b) and 6.5(c) shall not apply.

(b) If Shipper and any other shipper take Delivery of Gas from Operator at the Outlet Point on a Gas Day then, if there is a Multi-shipper Agreement in relation to the Outlet Point, Shipper's proportional share of Gas at the Outlet Point must be determined under the Multi-shipper Agreement.

(c) If there is no Multi-shipper Agreement in relation to an Outlet Point or if Shipper fails to otherwise reach agreement with other shippers at the Outlet Point in respect of the allocation of Gas Receipts or fails to provide Operator with a copy of a Multi-shipper Agreement referred to in clause 6.5(b) prior to the commencement of the relevant Gas Day, then Shipper's proportional share of Gas at the Outlet Point is to be determined by Operator (acting as a Reasonable And Prudent Person) by (inter alia) reference to Daily Nominations at the Outlet Point for that Gas Day across all Capacity Services and Spot Transactions across all shippers and Shipper will be deemed to have Received that proportionate share so determined of the Gas Delivered to that Outlet Point on that Gas Day.

(d) Gas Delivered by Operator to an Outlet Point will be deemed by this clause to be Received by Shipper in the order specified generally or for a particular Gas Day by Shipper, and if Shipper fails to specify for any Gas Day in the following order:

(i) first, Gas for any available B1 Service (which shall include any available Aggregated B1 Service);

(ii) second, Gas for any available Capacity Services (other than B1 Service) in the order set out in clause 8.9(a);

(iii) third, Gas for any available Capacity under any Spot Transaction; and

(iv) fourth, other Gas.

6.6 Installation, operation and maintenance of inlet stations and outlet stations

(a)

(i) Shipper shall install, operate and maintain or procure the design, installation, operation and maintenance of, Inlet Stations at its own expense and when (if ever) Shipper and other shippers deliver Gas to Operator at an inlet point on the DBNGP, Shipper and those other shippers shall, at their joint expense, collectively install, operate and maintain the Associated Inlet Station.

(ii) Other than in respect of an Existing Station, and unless agreed otherwise, Operator shall install, operate and maintain Outlet Stations that are not Gate

Stations, at Shipper's request, and at Shipper's expense to be determined in accordance with clause 6.6(i).

(iii) Other than in respect of an Existing Station, Shipper shall pay a proportion of the Maintenance Charge relating to an Outlet Station associated with an Operator Owned Point (but not otherwise) that:

(A) in the case of an Outlet Station related to an Outlet Point, is equal to the proportion that Shipper's Contracted Capacity (across all Capacity Services) at that Outlet Point bears to the aggregate Contracted Capacity (across all Capacity Services) for all shippers at that Outlet Point, less any amount recovered under clause 6.6(a)(iii)(B); and

(B) in the case of an Outlet Station related to an outlet point at which Shipper does not have Contracted Capacity, is equal to the proportion that the sum of Shipper's deliveries of Gas (across all Capacity Services) at the outlet point, during the previous calendar month to which that Outlet Station relates, bears to the sum of all shippers' delivery of Gas (across all Capacity Services) at such outlet point, during the previous calendar month.

(iv) For the purposes of this clause 6.6, an obligation to install, operate and maintain shall include (but not be limited to) an obligation to ensure that an Inlet Station or Outlet Station (as the case may be) meets the requirements set out in clauses 6.6(b) to (f).

(v) Shipper must use its reasonable endeavours to assist Operator in gaining access to an Outlet Station which is not a Gate Station, to which Operator has no rights of access, for the purpose of maintaining and operating that Outlet Station.

(vi) Other than in respect of an Existing Station, all Gate Stations associated with a Sub-network are to be installed, operated and maintained by Operator at the collective expense of all shippers who receive Gas from Operator at the Notional Gate Point for the Sub-network, and Shipper shall pay a proportion of the Maintenance Charge that is equal to the proportion that the sum of Shipper's Contracted Capacity (across all Capacity Services but prior to any reduction under the Curtailment Plan) at the Notional Gate Point, for the time being bears to the sum of all Shipper's and other shippers' Contracted Capacity (across all Capacity Services but prior to any reduction under the Curtailment Plan) at such Notional Gate Point, for the time being.

(vii) Without limiting the generality of clause 6.6(a)(vi), whenever a new Gate Station is installed, or a Gate Station is enhanced, the amounts referred to in clause 6.6(a)(vi) are to be included in the apportionments between all shippers who receive Gas from Operator at the Notional Gate Point, including shippers with grants of capacity made before the date of installation or enhancement.

(viii) For the purposes of assessing, reporting or otherwise dealing with the commercial viability of any capacity, service or thing related to a Physical

Gate Point, a Notional Gate Point or a Gate Station, Operator may have regard to the likely impact of clause 6.6(a)(vi).

(b)

(i) The site for an Inlet Station or Outlet Station must:

(A) be within a security-fenced enclosure;

(B) provide suitable vehicular access and an alternative means of personnel access;

(C) provide adequate space for the installation of all equipment; and

(D) have a concrete, sealed, or gravel surface to enable access in all weather conditions.

(ii) Telemetry, power supply and other sensitive equipment at an Inlet Station or Outlet Station must be located in a weatherproof, secure and ventilated enclosure, with provision to allow for maintenance of equipment in all weather conditions.

(c)

(i) Every Inlet Station or Outlet Station must provide a means, to a standard acceptable to a Reasonable And Prudent Person, of automatically:

(A) preventing the reverse flow of Gas through the Inlet Station or Outlet Station; and

(B) stopping or restricting Gas flow in the event of any excessive pressure upstream of, or any failure, leak or rupture within or downstream of, the Inlet Station or Outlet Station.

(ii) Operator, whenever it is permitted by any written Law or a contract to stop or reduce Gas flow (and whether or not there has been a failure, leak or rupture), may utilize for that purpose any mechanism installed under clause 6.6(c)(i).

(iii) Operator may at any time, for, or in anticipation of, the purposes of clause 6.6(c)(i), make any necessary connections, modifications or additions to any mechanism installed under clause 6.6(c)(i), to enable it to be utilized for the purposes of clause 6.6(c)(ii).

(iv) Operator cannot charge Shipper for any mechanism installed under clause 6.6(c)(i) or clause 6.6(c)(iii).

(d)

(i) Every Inlet Station must include filters or separators, or both, to a standard acceptable to a Reasonable And Prudent Person.

(ii) An Outlet Station must, whenever Operator as a Reasonable And Prudent Person determines it to be necessary, include filters or separators, or both, to a standard acceptable to a Reasonable And Prudent Person.

(iii) Operator may make a determination under clause 6.6(d)(ii) at any time, including after an Outlet Station is commissioned.

(iv) For the purposes of clause 15.4, neither filters nor separators are to be regarded as Metering Equipment.

(e) All facilities upstream of an Inlet Point or downstream from an Outlet Point must be electrically isolated from the DBNGP by an isolating joint or flange located either:

(i) at the Inlet Point or Outlet Point; or

(ii) sufficiently close to the Inlet Point or Outlet Point so as to achieve the same operational effect as if the joint or flange were located in accordance with clause 6.6(e)(i),

which joint or flange must be fitted with a surge diverter or other approved means of discharging excessive potentials.

(f) All facilities at an Inlet Station or Outlet Station must be connected to an effective earthing system of a type acceptable to a Reasonable And Prudent Person.

(g) Any new equipment installed at an Inlet Station or Outlet Station must be compatible with existing equipment and systems.

(h)

(i) The quantity of Gas passing through a Notional Gate Point in any period of time is to be taken to be the sum of the quantities metered as passing through all associated Physical Gate Points in that period of time.

(ii) Nothing in clause 6.6(h)(i) is to prevail over the deeming in clause 6.5 of the quantity of Gas taken by a shipper or shippers at a Notional Gate Point.

(i) For the purposes of this clause 6.6, ***Maintenance Charge*** means, with respect to a particular Inlet Station, Outlet Station or Gate Station Associated with a Sub-network, the charge determined by Operator (acting as a Reasonable And Prudent Person) for designing, installing (which is to be taken as including the capital cost of acquiring and installing all relevant components of an Inlet Station, Outlet Station or Gate Station), maintaining, operating and decommissioning such Inlet Station, Outlet Station or Gate Station (as the case may be) and which shall, in all cases, exceed the actual cost of such design, installation, maintenance, operation and decommissioning by a reasonable premium calculated to recognise Operator's management time and to allow Operator to realise a reasonable rate of return on the cost of such design, installation, maintenance, operation and decommissioning (as the case may be), allowing for the charge to amortise the cost of such design, installation, maintenance, operation and decommissioning over the life of the Inlet Station, Outlet Station or Gate Station. At the request of Shipper, Operator shall provide a statement of the calculations used to determine the Maintenance Charge in the form in which Operator normally calculates the Maintenance Charge as at the Capacity Start Date. Any disagreement as to the level of Maintenance Charge shall be a Dispute for the purposes of clause 24 of this Contract.

(j) Nothing in this clause 6.6 shall affect or derogate from charges payable under any other agreement between Operator and Shipper in respect to the installation, operation and maintenance of Inlet Stations, Outlet Stations and Gate Stations and any upgrades, modifications and expansions to inlet points or outlet points.

(k) Operator agrees that it shall not be entitled to impose any charges under this clause 6.6 or otherwise under this Contract in respect of Existing Stations, except in relation to the incremental costs of the design, installation, maintenance and operation of a modification of an Existing Station which occurred, or occurs, after 1 January 1995 and which increased or increases the capacity of that Existing Station to receive or deliver Gas into or from the DBNGP, and Operator is entitled to impose charges on Shipper and other shippers who use that Existing Station in relation to their respective proportions of those incremental costs as determined in accordance with the provisions in clause 6.6(a)(iii).

(l) Despite any other provisions of this Contract, each Existing Station and all facilities, ancillary equipment and services at each Existing Station and the metering arrangements entered into with the State Energy Commission of Western Australia prior to 1 January 1995 in respect of each Existing Station are to be taken to comply in all respects with the provisions of this Contract including this clause 6.6.

6.7 Contribution Agreement

(a) Shipper may only Deliver Gas to an inlet point, or Receive Gas from an outlet point, to which it did not Deliver Gas or from which it did not Receive Gas, at the Capacity Start Date if:

(i) the inlet point or outlet point is Associated with an Existing Station;

(ii) the inlet point or outlet point is:

(A) owned by Operator or an Operator Entity; or

(B) leased by Operator or an Operator Entity under an equipment lease,

and Shipper has entered into a Contribution Agreement in respect of the inlet point or outlet point; or

(iii) the inlet point or outlet point is not of a type referred to in clauses 6.7(a)(i) or 6.7(a)(ii)(A) or (B) and Shipper has reached an agreement, arrangement or understanding, whether or not in writing to use that inlet point or outlet point with the owner of the inlet point or outlet point.

For the purposes of clause 6.7(a)(ii) an Operator Entity excludes any Related Bodies Corporate of Alcoa or Alinta Limited.

(b) A Contribution Agreement in respect of an inlet point or an outlet point is an agreement between Operator and Shipper:

(i) under which Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the inlet point or the outlet point, determined in accordance with clause 6.6(i);

(ii) under which Shipper's proportion of the Maintenance Charge is determined under clause 6.6(a)(iii) or is otherwise agreed in the Contribution Agreement; and

(iii) Shipper agrees that another shipper (New Shipper) may deliver Gas to the relevant inlet point or receive Gas from the relevant outlet point, if:

(A) New Shipper agrees to pay to Operator an amount in order to contribute to the Maintenance Charge for the inlet point or the outlet

point determined in a manner consistent with the principles in clause 6.6(a)(iii); and

(B) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 6.7(b)(iii)(A).

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

(d) Nothing in this clause 6.7 requires Shipper to enter into an agreement with any person other than Operator.

6.8 Shipper Specific Facility Agreement

Operator must not grant to any shipper (***New Shipper***) access to or use of (or enter into any agreement or arrangement to do so) any Inlet Point, Outlet Point, Associated inlet station or Associated outlet station, or related equipment (***Facility***) which is or has been the subject of an agreement or arrangement (***Facility Agreement***) under which Shipper has contributed, or is contributing, to the capital costs or operating and maintenance costs (or both) of the Facility without ensuring that:

(a) subject to clause 6.8(b), New Shipper is obliged to contribute to the capital costs or operating and maintenance costs (or both) of the Facility in a manner consistent with clause 6.7(b)(iii); and

(b) Operator agrees to rebate to Shipper the contributions it receives from New Shipper under clause 6.8(a).

6.9 Total Physical Capacity

(a) Operator must not reduce or allow the reduction of the Total Physical Capacity of an Inlet Point or an Outlet Point, or a New Inlet Point or a New Outlet Point or any inlet point or outlet point to which or from which Shipper is regularly Receiving Gas.

(b) Subject to the terms of any Multi-shipper Agreement and subject to the rights of other shippers with a contracted Capacity Service at an inlet point or outlet point, Shipper may use all the Total Current Physical Capacity of an inlet point or outlet point.

6.10 Notional Gate Point

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

(b) All Curtailments of Capacity utilised to Deliver Gas into the Sub-network are to be taken to occur at the Notional Gate Point.

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

7. OPERATING SPECIFICATIONS

7.1 Gas must comply with Gas specifications

Gas Delivered by Shipper to Operator at an inlet point or Delivered to Shipper by Operator at an outlet point must comply with the relevant column in the Gas specifications set out in Item 1 of Schedule 3.

7.2 Gas to be free from certain substances

Gas Delivered by Shipper to Operator at an inlet point or Delivered to Shipper by Operator at an outlet point must be free, by normal commercial standards, from dust and other solid or liquid matters, waxes, gums and gum forming constituents, aromatic hydrocarbons, hydrogen, mercury and any other substance or thing which might cause injury to or interfere with the proper operation of any equipment through which it flows.

7.3 Gas to be free from objectionable odours

Gas Delivered by Shipper to Operator at an inlet point must be free, by normal commercial standards, from objectionable odours.

7.4 Gas temperature and pressure

(a) The minimum and maximum temperatures and the minimum and maximum pressures at which Shipper may Deliver Gas to Operator at the Inlet Points, and Operator may Deliver Gas to Shipper at the Outlet Points, are those set out in the Access Request Form.

(b) The Parties may at any time agree in writing to vary any one or more of the pressures and temperatures set out in the Access Request Form.

(c) Subject to clause 7.4(d), if Shipper Delivers Gas to Operator at an Inlet Point or Shipper Receives Gas from Operator at an Outlet Point at which the minimum and the maximum temperature and the minimum and maximum pressure are not as set out in the Access Request Form, Shipper is entitled to Deliver Gas to the Inlet Point or Receive Gas at the Outlet Point (as the case may be) under this Contract at the temperature and pressure at which Operator at the relevant Inlet Point or Outlet Point is otherwise Receiving Gas into the DBNGP or Delivering Gas out of the DBNGP at the time the Gas is Delivered or Received by Shipper at that Outlet Point, or if Operator is otherwise not Receiving Gas into the DBNGP or Delivering Gas out of the DBNGP at that time, then at the temperature and pressure at which Operator was last entitled or obliged to Receive Gas into the DBNGP or Deliver Gas out of the DBNGP at that Inlet Point or Outlet Point under the terms of a contract with the relevant shipper.

(d) If the Outlet Point is a Notional Gate Point, Shipper is entitled to Receive Gas at the Outlet Point under this Contract at the temperature and pressure prescribed in or determined under clauses 6 and 7 of the Operating Arrangement for the Physical Gate Points associated with the Sub-network with which those Physical Gate Points are associated.

7.5 Notice of Out-Of-Specification Gas

If either Party becomes aware that any Out-Of-Specification Gas is to enter or has entered the DBNGP at an inlet point or is to leave or has left the DBNGP at an outlet point, it will as soon as reasonably practicable notify the other Party in accordance with clause 29.1(a).

7.6 Operator and Shipper may refuse to Receive Out-Of-Specification Gas

(a) Subject to any agreement under clauses 7.7 and 7.9, Operator may at any time without penalty refuse to Receive from Shipper at an inlet point, and Shipper may at any time without penalty refuse to Receive from Operator at an outlet point, any Out-Of-Specification Gas.

(b) Shipper is entitled to a refund of Capacity Reservation Charges for any Capacity it is unable to use on a Gas Day as a result of Shipper refusing any Out-Of-Specification Gas under clause 7.6(a) to the extent that Operator caused the Gas in the DBNGP to be Out-Of-Specification Gas.

7.7 Operator may Receive Out-Of-Specification Gas

Operator may, at its own risk, agree to Receive Out-Of-Specification Gas from Shipper at an inlet point on whatever terms and conditions (including as to pricing) that Shipper and Operator may agree.

7.8 Shipper's Liability for Out of Specification Gas

If any Out-Of-Specification Gas Delivered by or on behalf of Shipper enters the DBNGP without Operator's agreement under clause 7.7:

(a) Shipper is to be liable to Operator for any loss or damage arising in respect of the Out-Of-Specification Gas; and

(b) Without limitation on any of its other rights at Law, Operator is, to the extent necessary to allow it to deal with that entry of Out-Of-Specification Gas:

(i) entitled to vent the Out-Of-Specification Gas, and Shipper shall be deemed not to have Delivered a quantity of Gas at the inlet point equivalent to the quantity of all Gas necessarily vented by Operator; and

(ii) relieved of any obligation to Deliver Gas to Shipper by an amount no greater than the quantity of Gas vented by Operator under clause 7.8(b)(i) on the basis that Shipper is deemed not to have Delivered that quantity of Gas at the inlet point.

(c) The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Shipper's liability under clause 7.8(a).

7.9 Shipper may Receive Out-Of-Specification Gas

(a) Shipper may, at its own risk, agree to Receive Out-Of-Specification Gas from Operator at an outlet point, on whatever terms and conditions (including as to pricing) that Shipper and Operator may agree.

(b) If any Out-Of-Specification Gas is delivered to Shipper at an outlet point without Shipper's agreement under clause 7.9(a), then except to the extent that Shipper

caused the Gas in the DBNGP to be Out-Of-Specification Gas Operator is to be liable to Shipper for Direct Damage arising in respect of the Out-Of-Specification Gas.

7.10 Change of Law

If:

(a) at any time during the term of this Contract there is a change in Law which requires Operator to Receive Gas into the DBNGP with an operating specification for one or more components outside the Operating Specifications applying to the component or those components of the Operating Specifications (as may be amended from time to time pursuant to this clause 7.10) (Permissible Specifications); and

(b) there is no shipper with an Inconsistent Existing Contractual Specification; and

(c) Operator actually Receives into the DBNGP Gas outside the Operating Specifications but within the Permissible Specifications to such an extent that it is unable to comply with the Operating Specifications for an outlet point set out in Schedule 3,

then Operator may notify Shipper that:

(d) the Inlet Point Operating Specifications (and Item 1 of Schedule 3) are amended so as to substitute each operating specification of the Permissible Specification which is broader than that component of the Inlet Point Operating Specification, for the operating specification of that component of the Inlet Point Operating Specification; and

(e) the Outlet Point Operating Specifications (and Item 1 of Schedule 3) is amended so as to broaden the specification for each component which has been amended in respect of the Inlet Point Operating Specification, by the same amount as the Inlet Point Operating Specification has been broadened by the operation of this clause.

In this clause 7.10 ***Inconsistent Existing Contractual Specification*** means:

(i) in relation to an inlet point, if the amendments to the Inlet Point Operating Specification were made to accommodate the Permissible Specifications, the shipper would be in material breach of an Existing Producer Contract; or

(ii) in relation to an outlet point, if the amendments to the Outlet Point Operating Specifications were made to accommodate the Permissible Specifications, the shipper would be in material breach of an Existing Gas Supply Contract.

7.11 Amendment Notice

The notice under clause 7.10 must:

(a) contain details of the change in Law;

(b) specify the amended operating specification for each component of the Inlet Point Operating Specification;

(c) specify the amended operating specification for each component of the Outlet Point Operating Specification; and

(d) specify the amendments to Item 1 of Schedule 3 which are made to give effect to the amended operating specifications for each component of the Inlet Point Operating Specification and the Outlet Point Operating Specification.

7.12 Odorisation

Operator will Deliver Gas to Shipper, odorised to the specification set out in the *Gas Standards Regulations 1983* (WA), at each Outlet Point:

(a) at which odorising occurred as at the beginning of the Access Arrangement Period; and

(b) as required by the Law.

7.13 Weighted average gas flows

(a) If on a Gas Day at a Multi-shipper Inlet Point the Gas Delivered by Shipper to the inlet point is Out-Of-Specification Gas but the Blended Gas Delivered by all shippers to the inlet point meets the Blended Specifications then (despite clause 7.6) Operator must Receive the Gas from Shipper.

(b) For the purpose of this clause:

(i) ***Blended*** Gas means all Gas Delivered to the relevant inlet point comprising the commingled inlet stream;

(ii) Blended Specifications means the notional operating specifications applying to the Blended Gas determined as a weighted average of the operating specifications for the relevant inlet point applying under all Relevant Contracts calculated by weighting:

(A) the value of each component comprising the Operating Specifications for the inlet point under each Relevant Contract; by

(B) the scheduled Nominations at the inlet point for the Gas Day across all Capacity Services under each Relevant Contract;

(iii) ***Relevant Contracts*** means the contracts for each shipper who is delivering Gas to the inlet point on that day.

8. NOMINATIONS

8.1 Shipper may delegate to a Producer

To the extent that this Contract prescribes certain things to be done by Shipper which relate to Gas being Received by Operator at an inlet point, Shipper may by agreement with a Producer, appoint the Producer to do those things, but nothing in any such agreement relieves Shipper of its obligations to Operator under this Contract.

8.2 Requests for advance information

(a) To assist in its planning and forecasting, Operator may from time to time, acting as a Reasonable And Prudent Person, request Shipper to provide it with advance estimates (covering such periods and in such detail as Operator may determine) in good faith of Shipper's likely Nominations, which information will be governed by the provisions of clause 28.

(b) Shipper must in good faith make reasonable endeavours to comply with any request made by Operator under clause 8.2(a).

(c) Except as provided in clause 8.2(d) below, Shipper may, without penalty, make (or not make) Nominations which differ materially from any estimates provided by it under clause 8.2(a).

(d) Nothing in clause 8.2(c) limits any action against Shipper if Shipper fraudulently or negligently provides to Operator under clause 8.2(a) materially false information.

8.3 Shipper's Daily Nominations do not affect Contracted Capacities

An allocation of a Daily Nomination under this clause 8 does not affect or otherwise change Shipper's Contracted Capacity.

8.4 Nominations and Renominations must be in good faith

(a) If Shipper makes an Advance Nomination, an Initial Nomination, or a Renomination, it must do so in good faith, and must nominate for an amount of the Capacity Service which is Shipper's best estimate as a Reasonable And Prudent Person of the amount of the Capacity Service it proposes to utilize.

(b) Operator and Shipper acknowledge that the purpose of Shipper making an Advance Nomination, an Initial Nomination or a Renomination is to:

(i) assist Operator schedule compressor use on the DBNGP; and

(ii) provide a basis for Operator to manage any Point Specific Curtailments.

8.5 Operator to make available bulletins of available Capacity

(a) Operator must, on regular occasions during each Gas Day (sufficient to assist Shipper in making its Initial Nomination, and any Renomination), make available on the CRS a bulletin specifying:

(i) for at least that Gas Day and the following Gas Day, the amount of Capacity available or anticipated to be available for Nomination or Renomination; and

(ii) subject to obtaining relevant shipper's consent, details of any Tradeable Capacity to be made available under clause 27.5.

(b) No obligation to allocate Capacity under clauses 8.7 and 8.13 or otherwise arises merely by reason of Operator specifying under clause 8.5(a) that Capacity is available for Nomination or Renomination, and nothing in such a bulletin limits Operator's rights, under this Contract or at Law, to wholly or partly Curtail Shipper's B1 Service or to wholly or partly refuse to Receive Gas from, or Deliver Gas, to Shipper.

8.6 Shipper's Initial Nomination

(a) Shipper may, by notice to Operator no later than 14:00 hours on any Gas Day, nominate for the following Gas Day the quantity of Gas that Shipper requires to Deliver to Operator at each Nominated Inlet Point and the quantity of Gas that Shipper requires to Receive from Operator at each Nominated Outlet Point in the B1 Service (Initial Nomination).

(b) In addition to the information required by clause 8.6(a), Shipper's Initial Nomination must:

(i) set out the sum of those Nominations:

(A) across all Inlet Points; and

(B) across all Outlet Points; and

(ii) for each Nominated Inlet Point, identify the Producer or Producers which is or are to supply Gas to Shipper for Delivery to Operator and (if there is more than one) the quantity to be provided by each.

8.7 Allocation of Daily Nominations

(a) Operator must, by no later than 16:00 hours on each Gas Day (that is, within two hours of the last time for Nomination under clause 8.6), by notice to Shipper allocate to Shipper for the Nominated Day, a Daily Nomination for B1 Service and (if applicable under the rules governing the market for Spot Capacity) Spot Capacity determined in accordance with this clause for each Nominated Inlet Point and for each Nominated Outlet Point.

(b) Subject to the terms of any Multi-shipper Agreement, for each Nominated Inlet Point, the Daily Nomination for B1 Service:

(i) may not exceed Shipper's Initial Nomination for B1 Service at the inlet point;

(ii) subject to clauses 8.7(b)(i) and 8.7(c), may not be less than Shipper's Contracted Capacity at the inlet point across all of Shipper's B1 Contracts; and

(iii) subject to clauses 8.7(c) and 8.7(g), may exceed Shipper's Contracted Capacity for that inlet point.

(c) Subject to clause 8.7(h), in no case may the sum (across all inlet points) of Shipper's Daily Nominations for B1 Service exceed Shipper's Total Contracted Capacity across all inlet points.

(d) Subject to the terms of any Multi-shipper Agreement, for each Nominated Outlet Point, the aggregate of the Daily Nominations for B1 Service:

(i) may not exceed Shipper's Initial Nomination for B1 Service at the outlet point;

(ii) subject to clauses 8.7(d)(i) and 8.7(e), may be less than Shipper's Contracted Capacity at the outlet point; and

(iii) subject to clauses 8.7(e) and 8.7(g), may exceed Shipper's Contracted Capacity for that outlet point.

(e) In no case may the sum (across all outlet points) of Shipper's Daily Nominations for B1 Service exceed Shipper's Total Contracted Capacity across all outlet points.

(f) Subject to the terms of any Multi-shipper Agreement, unless the Parties otherwise agree, in allocating a Daily Nomination in respect of Aggregated B1 Services at an inlet point or at an outlet point, Operator must, to the extent that:

(i) it is Operationally Feasible (including it does not, when aggregated with other shippers' Nominations, exceed the Total Current Physical Capacity of the inlet point or outlet point (as the case may be) at the relevant time); and

(ii) it is consistent with clauses 8.7(c), 8.7(e) and 8.7(g),

endeavour as a Reasonable And Prudent Person to ensure that the Daily Nominations for B1 Service either is equal to Shipper's Initial Nomination (calculated across all of Shipper's B1 Contracts) at that inlet point or that outlet point (as the case may be), or (if that is not possible) is less than that Initial Nomination (calculated across all of Shipper's B1 Contracts) by the smallest amount possible.

(g) In all cases subject to it being Operationally Feasible and unless this Contract provides otherwise (for example without limitation in clauses 8.7(b)(i) and (ii) and 8.7(d)(i) and (ii)), if for any Gas Day more than one shipper has made Nominations under different Types of Capacity Service or under the same Type of Capacity Service for delivery or receipt of Gas at an inlet point or an outlet point and Operator determines that it is not Operationally Feasible to meet all those Nominations, Operator must Curtail the shippers' Contracted Capacities and the available Capacity (if any, as determined by Operator, acting as a Reasonable And Prudent Person) must be allocated to those Nominations for that inlet point or outlet point (as the case may be) in accordance with the provisions of clause 17.9.

(h) The Daily Nomination for B1 Service at a Nominated Inlet Point may exceed Shipper's Contracted Capacity in that Capacity Service for that Nominated Inlet Point by a quantity of Gas which is Delivered for the purpose, or which would have the effect, of bringing Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit unless Operator considers as a Reasonable And Prudent Person that to Deliver such Gas would interfere with other shippers' rights to their Contracted Firm Capacity.

(i) If Operator allocates a Daily Nomination for B1 Service to Shipper which is less than Shipper's Initial Nomination for B1 Service at an Inlet Point or an Outlet Point, Operator is to be taken to have issued a Curtailment Notice at the time it makes the allocation of the Daily Nomination in respect of the difference between the Shipper's Contracted B1 Capacity and the Shipper's Daily Nomination for B1 Service for that Gas Day.

8.8 Default provision for Daily Nomination

If Shipper does not make an Initial Nomination complying with clause 8.6 or an Advance Nomination complying with clause 8.17 for a Gas Day for Capacity at an inlet point or at an

outlet point, then Shipper's Daily Nomination for that Gas Day for the inlet point or for the Capacity Service at the outlet point (as the case may be) shall be taken to be Shipper's Contracted Capacity at that inlet point or for the Capacity Service at that outlet point (as the case may be).

8.9 Nominations priority

(a) The priority of allocations of Nominations for Capacity Services and Spot Transactions (from superior to inferior) is so far as is relevant to the inlet point or outlet point, set out in the column of Schedule 8 headed "Point Specific Curtailment" as supplemented by this clause 8 and clause 17.9.

(b) Each category of Capacity Service described in a row of the Curtailment Plan (as relevant to the particular circumstance) refers separately to a ***Type of Capacity Service*** such that, for example, Alcoa's Priority Quantity is a ***Type of Capacity Service***.

8.10 Shipper may give Renomination notice

Shipper may once in respect of each Renomination time (as set out in clause 8.11) for a Gas Day request a variation of its Daily Nomination for the Gas Day (***Renomination***) for one or more inlet points or for one or more outlet points, by giving notice to Operator specifying the amount and duration (which may be any duration up to and including the balance of the Gas Day in respect of which the Renomination is made) of the requested variation.

8.11 Times for Renomination and allocation of revised Daily Nominations

(a) Subject to clause 8.11(c), the Renomination times for each Gas Day are 07:00 hours (at which time Renominations may be given for the Gas Day just about to begin, not the Gas Day just about to end), and 12:00 hours and 20:00 hours in the Gas Day.

(b) Subject to clause 8.11(c), if under clause 8.13 Operator is required to allocate a revised Daily Nomination in response to Shipper's Renomination received prior to a Renomination time, Operator must use reasonable endeavours to make that allocation within 1 hour after the Renomination time.

(c) Operator may, acting as a Reasonable And Prudent Person, from time to time by notice to Shipper (which same notice must be given to all shippers) supplement or vary any one or more of the times prescribed in clause 8.11(a) or the period prescribed in clause 8.11(b).

(d) A notice under clause 8.11(c) may be expressed to continue indefinitely or for a specified time, and may revoke, substitute or amend a previous notice.

8.12 Renominations reducing Daily Nomination

If a Renomination seeks to reduce Shipper's Daily Nomination, Operator must by notice to Shipper allocate a revised Daily Nomination in accordance with the Renomination.

8.13 Renominations increasing Daily Nomination

(a) Operator may only refuse to increase Shipper's Daily Nomination in response to a Renomination:

(i) if accommodating that increase is not Technically Practicable; or

(ii) to the extent that, after applying clauses 8.13(d) and 8.13(e) there is insufficient unallocated Capacity to satisfy the Renomination for that inlet point or outlet point.

(b) Subject to clause 8.13(a), if Shipper's Renomination seeks to increase its Daily Nomination, Operator must within the period prescribed in clause 8.11(b) (as varied, if applicable, by notice under clause 8.11(c)) by notice to Shipper allocate revised Daily Nominations.

(c) A notice under clause 8.13(b) must specify the period in respect of which the revised Daily Nominations are to apply.

(d) Clause 8.7 applies (with appropriate modifications) to Operator's allocation under clause 8.13(b) of revised Daily Nominations.

(e) Without otherwise limiting Operator's discretion in relation to Curtailment, Operator must to the extent practicable and Operationally Feasible in the circumstances, Curtail any Capacity in a Type of Capacity Service (the first Type of Capacity Service), whenever it is necessary to do so in order to satisfy any shipper's Renomination for Reserved Capacity in relation to a Type of Capacity Service which has priority over the first Type of Capacity Service according to the order of priority set out in the column of the Curtailment Plan headed "Point Specific Curtailment".

8.14 Default provision for Renomination process

If any element of the Renomination procedure prescribed in this clause 8 is not completed within the time limit specified, unless the delay is caused or contributed to by Operator not providing information in a timely manner under clause 8.5 or clause 15.5(d) or if for any other reason the Renomination procedure is not complied with, then Shipper's Daily Nominations are to remain unchanged (but if Operator can reasonably continue and complete processing a Renomination after the expiry of the time limit in clause 8.11(b) it must do so).

8.15 Aggregated B1 Service

Subject to the terms of any Multi-shipper Agreement, the Parties agree that, for the purpose of the Nominations Plan, any Nomination for B1 Service which is, according to clause 8.16, deemed to be Aggregated B1 Service, shall be deemed to be a Nomination for a separate Type of Capacity Service which service ranks equally in priority with all other Aggregated B1 Service. For the purposes of applying the Curtailment Plan in a Point Specific Curtailment, the Aggregated B1 Service shall be excluded from the B1 Service.

8.16 Nominations at inlet points and outlet points where Shipper does not have sufficient Contracted Capacity

Subject to this clause 8, Shipper is entitled to nominate that Gas be Delivered under Shipper's B1 Service:

(a) at an inlet point or an outlet point at which Shipper does not have Contracted Capacity for B1 Services; and

(b) in excess of Shipper's Contracted Capacity for B1 Services at an Inlet Point or Outlet Point,

(being ***Aggregated B1 Service***).

8.17 Shipper's Advance Nomination

(a) Shipper may nominate in advance for each Gas Day in any week or any month by giving notice complying with the requirements of clause 8.6 (with appropriate changes) for each of those Gas Days (***Advance Nomination***).

(b) The Advance Nomination must be given:

(i) no later than 17:00 hours on the Wednesday in the week before the nominated week (in the case of a Nomination a week in advance); or

(ii) at least 6 Working Days before the start of the nominated month (in the case of a Nomination a month in advance).

(c) Operator must in response to an Advance Nomination allocate a Daily Nomination for each nominated day determined in accordance with the provisions of clauses 8.7, 8.9, 8.15 and 8.16:

(i) no later than Friday in the week before the nominated week (in the case of a Nomination a week in advance); or

(ii) within 5 Working days of receipt of the Advance Nomination (in the case of a Nomination a month in advance).

(d) Shipper may submit an Initial Nomination for a Gas Day in respect of which it has made an Advance Nomination and been allocated a Daily Nomination, in which case:

(i) the Initial Nomination is not a Renomination; and

(ii) Shipper's Advance Nomination for the Gas Day is of no effect.

9. IMBALANCES

9.1 Operator to maintain balance

Operator may do all things expected of a Reasonable And Prudent Person to maintain a balance between total Gas inputs to, and total Gas outputs from, the DBNGP, including (subject to the provisions of this clause and this Contract) restricting the quantity of Gas it Delivers to Shipper at an outlet point, and restricting the quantity of Gas it Receives from Shipper at an inlet point in accordance with this Contract.

9.2 Shipper to maintain balance

On each Gas Day, Shipper must endeavour to maintain an Accumulated Imbalance of zero, including restricting the quantity of Gas it Delivers to Operator at an inlet point, and restricting the quantity of Gas it Receives from Operator at an outlet point.

9.3 Shipper's Accumulated Imbalance

At the end of any Gas Day, the Accumulated Imbalance is the Accumulated Imbalance at the end of the previous Gas Day plus Shipper's Daily Imbalance on the Gas Day.

9.4 Notice of Shipper's imbalances

Before 11:00 hours on each Gas Day except the Capacity Start Date, Operator must notify Shipper of its Accumulated Imbalance and Daily Imbalance at the end of the preceding Gas Day (***Accumulated Imbalance Notice***).

9.5 Accumulated Imbalance Limit

(a) Shipper's Accumulated Imbalance Limit for a Gas Day is 8% of the sum of Shipper's Capacity under Spot Transactions and quantities referred to as Contracted Capacity across all of Shipper's Capacity Services (including B1 Service and any Capacity under Spot Transactions) for that Gas Day.

(b) If at any time the absolute value of Shipper's Accumulated Imbalance exceeds the Accumulated Imbalance Limit for the Gas Day just finished and Operator, acting as a Reasonable And Prudent Person, considers that a continuation of that condition:

(i) will have a material adverse impact on the integrity or operation of the DBNGP; or

(ii) will adversely impact, or is likely to adversely impact, on any other shipper's entitlement to its Daily Nomination for B1 Capacity, T1 Capacity, P1 Capacity, Contracted Firm Capacity, or any Other Reserved Service,

then, Operator (acting as a Reasonable And Prudent Person) may, subject to clause 9.5(f):

(iii) issue a notice requiring Shipper to reduce its imbalance to the Accumulated Imbalance Limit (to the extent reasonably required to ameliorate the condition in clause 9.5(b)(i) or (ii)) and Shipper must use best endeavours in accordance with clause 9.5(d) to immediately comply, or procure compliance, with the notice, so as to bring Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit; and/or

(iv) refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point so as to bring the absolute value of Shipper's Accumulated Imbalance within, or closer to, the Accumulated Imbalance Limit.

(c) If Operator issues a notice under this clause 9.5 and Shipper's Accumulated Imbalance is:

(i) positive, Operator must issue a similar notice to all other shippers with a positive Accumulated Imbalance in excess of its Accumulated Imbalance Limit; or

(ii) negative, Operator must issue a similar notice to all other shippers with a negative Accumulated Imbalance the absolute value of which is in excess of its Accumulated Imbalance Limit.

(d) If, after Operator issues a notice under clause 9.5(b)(iii):

(i) subject to clause 9.5(d)(ii), the absolute value of Shipper's Accumulated Imbalance is reducing each Gas Day, then Shipper is taken to be using best endeavours to comply, or procure compliance, with the notice for the purposes of clause 9.5(b)(iii); and

(ii) where the absolute value of Shipper's Accumulated Imbalance exceeded Shipper's Outer Accumulated Imbalance Limit and the absolute value of Shipper's Accumulated Imbalance is not less than the Accumulated Imbalance Limit by the end of the following Gas Day, Shipper is taken not to have used best endeavours to comply, or procure compliance, with the notice for the purposes of clause 9.5(b)(iii).

(e) If Shipper does not comply and is not deemed pursuant to clause 9.5(d) to have used best endeavours to have complied with the notice issued for the purposes of clause 9.5(b)(iii) and as a result of such failure the absolute value of Shipper's Accumulated Imbalance remains greater than the Accumulated Imbalance Limit by the end of the following Gas Day, Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of Shipper's Accumulated Imbalance Limit up to the Outer Accumulated Imbalance Limit in accordance with clause 20 in respect of the Gas Day on which the notice is issued and each subsequent Gas Day the absolute value of Shipper's Accumulated Imbalance exceeds Shipper's Accumulated Imbalance Limit until the absolute value of Shipper's Accumulated Imbalance is less than, or closer to the Accumulated Imbalance Limit (as Operator sees fit).

(f) The Operator may not:

(i) issue a notice pursuant to clause 9.5(b)(iii) or refuse to Receive or Deliver Gas pursuant to clause 9.5(b)(iv) unless it has, to the extent reasonable in the circumstances, first endeavoured to co-operate with Shipper to ameliorate the impact of the Shipper exceeding its Accumulated Imbalance Limit; or

(ii) other than when due to Force Majeure or by reason of an emergency, refuse to Receive Gas or Deliver Gas pursuant to clause 9.5(b)(iv) without having issued a notice in accordance with clause 9.5(b)(iii).

9.6 Excess Imbalance Charge

(a) Shipper's Outer Accumulated Imbalance Limit for a Gas Day is 20% of the sum of Shipper's Capacity under Spot Transactions and quantities referred to as Contracted Capacity across all of Shipper's Capacity Services (including B1 Service and any Capacity under Spot Transactions) for that Gas Day.

(b) If the absolute value of Shipper's Accumulated Imbalance at the end of a Gas Day exceeds the Outer Accumulated Imbalance Limit for the Gas Day just finished, then subject to clause 9.6(c), Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of Shipper's Outer Accumulated Imbalance Limit in accordance with clause 20.

(c) No Excess Imbalance Charge under clauses 9.5(e) or 9.6(b) is to be payable to the extent that the imbalance arose because:

(i) Shipper's Capacity Service was Curtailed under clause 17;

(ii) Operator, for any reason not caused by Shipper, does not Receive from Shipper at any Inlet Point a quantity of Gas equal to Shipper's Daily Nomination for that Inlet Point;

(iii) Operator fails to provide Shipper with a materially accurate Accumulated Imbalance Notice within the period set out in clause 9.4; or

(iv) Shipper is unable, for reasons beyond Shipper's control, to remedy an imbalance arising on a prior Gas Day but then only to the extent that such imbalance was caused by an event referred to in one of clauses 9.6(c)(i), 9.6(c)(ii) or 9.6(c)(iii),

but in each case Shipper's Daily Imbalance and Accumulated Imbalance are still to be calculated for the Gas Day.

9.7 Balancing in particular circumstances

(a) If the Parties anticipate a failure of Shipper's Gas supply (including a failure due to an impending cyclone), the Parties may, if they consider it Technically Practicable and appropriate to do so, agree to increase for a short period the Accumulated Imbalance Limit or the Outer Accumulated Imbalance Limit (or both), in order to enable Shipper to deposit additional Gas in the DBNGP in advance of that failure.

(b) The Parties may, during a period in which Shipper's Gas supply has wholly or partially failed, if they consider it Technically Practicable and appropriate to do so, agree to allow Shipper to exceed the Accumulated Imbalance Limit, whether or not Shipper has deposited additional Gas under clause 9.7(a) in anticipation of the failure of Shipper's Gas supply.

(c) Subject to clause 9.7(d), an agreement under clauses 9.7(a) or 9.7(b) may be on any terms and conditions the Parties consider Technically Practicable and appropriate.

(d) Operator may require an agreement under clause 9.7(b) to contain any reasonable provisions it sees fit, including any or all of the following provisions:

(i) that Operator may from time to time during the duration of that agreement by notice to Shipper specify a limit for Shipper's Accumulated Imbalance, beyond

which limit Operator may refuse to Receive Gas from Shipper at an inlet point or Deliver Gas to Shipper at an outlet point, or both; and

(ii) that upon resumption of Shipper's Gas supply, Operator may require Shipper to restore the absolute value of its Accumulated Imbalance to below the Accumulated Imbalance Limit as soon as reasonably practicable.

(e) Nothing in this clause compels a Party to enter into an agreement under clauses 9.7(a) or 9.7(b).

9.8 Remedies for breach of imbalance limits

Except as provided in clause 9.10 below, Operator may not exercise any rights or remedies against Shipper for exceeding the Accumulated Imbalance Limit, other than:

(a) an action for breach of clause 9.5(b)(iii), limited to the recovery of Direct Damages in accordance with clause 23 and Shipper's liability to Operator for Direct Damages suffered by Operator which is caused by or arises out of Shipper's failure to comply with clause 9.5(b)(iii) shall be reduced by any Excess Imbalance Charge or Excess Imbalance Charges paid by Shipper in respect of that failure;

(b) to recover the Excess Imbalance Charge or Excess Imbalance Charges where permitted by and in accordance with this clause 9;

(c) to refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point so as to bring Shipper's Accumulated Imbalance within the Accumulated Imbalance Limit; or

(d) any combination of clauses 9.8(a), 9.8(b) and 9.8(c).

The Parties agree that, because the rights and remedies set out in this clause 9.8 apply across all of Shipper's Capacity Services, when in a particular circumstance, Operator exercises a right or pursues a remedy under this clause 9.8, Operator shall not exercise the equivalent right, or pursue the equivalent remedy, under another contract for Capacity Service or in relation to another Capacity Service in relation to the same circumstance.

9.9 Trading in imbalances

(a) Shipper may exchange all or part of its Accumulated Imbalances with another shipper, on any terms they may agree, or may exchange all or part of its Accumulated Imbalances for accumulated imbalances under any other contract or contracts Shipper has with Operator for Capacity Services, in accordance with this clause 9.9.

(b) Shipper must give notice in writing of any such exchange in respect of a Gas Day to Operator by 12:00 hours on the next Working Day following receipt from Operator of Shipper's Accumulated Imbalance Notice in accordance with clause 9.4 for that Gas Day. If Shipper does not give notice of an exchange by the applicable time, then the exchange is of no effect.

(c) On receipt of a notice under clause 9.9(b), Operator must calculate adjustments in Shipper's Accumulated Imbalance to reflect the exchange and notify both shippers of the adjustments by the beginning of the next Gas Day.

9.10 Cashing out imbalances at end of Contract

(a) The balancing process prescribed in this clause 9.10 is only to be undertaken at the Capacity End Date.

(b) If at the Capacity End Date, Shipper's Accumulated Imbalance is a positive number, Operator is to pay a fair market price to Shipper for that Gas.

(c) If at the Capacity End Date, Shipper's Accumulated Imbalance is a negative number, Shipper is to pay a fair market price to Operator for that Gas.

9.11 Charges do not affect Daily Delivery

Nothing in this clause 9 entitles Shipper to Receive in any Gas Day a total quantity of Gas (across all outlet points) which exceeds the sum (across all outlet points) of Shipper's Total Contracted Capacity.

10. PEAKING

10.1 Hourly Peaking Limits

The Hourly Peaking Limits are:

(a) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points on the DBNGP;

(b) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10; and

(c) 125% in Winter and 120% in Summer of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10B,

(each of the limits in (a), (b) and (c) being an ***Hourly Peaking Limit***).

10.2 Shipper to stay within Hourly Peaking Limit

On each Gas Day, Shipper must do all things expected of a Reasonable And Prudent Person to ensure that:

(a) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points on the DBNGP does not exceed the relevant Hourly Peaking Limit described in clause 10.1(a);

(b) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points in Pipeline Zone 10 does not exceed the relevant Hourly Peaking Limit described in clause 10.1(b); and

(c) Shipper's Hourly Quantity for each Gas Hour calculated across all outlet points in Pipeline Zone 10B does not exceed the relevant Hourly Peaking Limit described in clause 10.1(c).

10.3 Consequences of exceeding Hourly Peaking Limit

(a) If at any time Shipper exceeds an Hourly Peaking Limit and Operator, acting as a Reasonable And Prudent Person, considers that a continuation of that condition:

(i) will have a material adverse impact on the integrity or operation of the DBNGP; or

(ii) will adversely impact, or is likely to adversely impact, on any other shipper's entitlement to its Daily Nomination for Contracted Capacity, Contracted Firm Capacity, or any Other Reserved Service,

Operator (acting as a Reasonable And Prudent Person) may, subject to clause 10.6 and to clause 10.3(h):

(iii) issue a notice requiring Shipper to reduce its take of Gas, in that or future periods (to the extent reasonably required to ameliorate the condition in clauses 10.3(a)(i) or (ii)) and Shipper must use best endeavours in accordance with clause 10.3(c) to immediately comply, or procure compliance, with the notice so as to cease exceeding the Hourly Peaking Limit; and/or

(iv) refuse to Deliver Gas to Shipper at any outlet point within the relevant pipeline zone until the Shipper's Hourly Quantity is within the Hourly Peaking Limit.

(b) If Operator issues a notice to Shipper under this clause and the Hourly Peaking Limit being exceeded relates to outlet points:

(i) on the DBNGP generally, Operator must issue a similar notice to all shippers;

(ii) in Pipeline Zone 10, Operator must issue a similar notice to all shippers with a contractual entitlement to capacity in Pipeline Zone 10; or

(iii) in Pipeline Zone 10B, Operator must issue a similar notice to all shippers with a contractual entitlement to capacity in Pipeline Zone 10B,

which are exceeding their Hourly Peaking Limit or the equivalent under their relevant contracts.

(c) If, after Operator issues a notice under clause 10.3(a)(iii):

(i) subject to clause 10.3(b), Shipper's Hourly Quantity calculated across the relevant outlet points is reducing, then Shipper is taken to be using best endeavours to comply, or procure compliance, with the notice for the purposes of clause 10.3(a)(iii); and

(ii) Shipper's Hourly Quantity calculated across the relevant outlet points is not within the Hourly Peaking Limit by the end of the following Gas Hour, Shipper is taken not to have used best endeavours to comply, or procure compliance, with the notice for the purposes of clause 10.3(a)(iii).

(d) If Shipper does not comply and is not deemed pursuant to clause 10.3(c) to have used best endeavours to have complied with the notices issued for the purposes of clause 10.3(a)(iii) so that Shipper is still exceeding at least one of the Hourly Peaking Limits by the end of the following Gas Hour, Shipper must pay an Hourly Peaking Charge at the Hourly Peaking Rate for each GJ of Gas Received

(i) in excess of the Hourly Peaking Limit (if a notice has not been issued pursuant to clause 10.4(e)); or

(ii) in excess of the Hourly Peaking Limit up to the Outer Hourly Peaking Limit (if a notice has been issued pursuant to clause 10.4(e)), in accordance with clause 20.

(e) If the Hourly Peaking Charge is payable under clause 10.3(d), that charge is payable in respect of the Gas Hour in which the relevant Hourly Peaking Limit was first exceeded, and each subsequent Gas Hour until the first occasion on which Shipper is no longer exceeding any of the Hourly Peaking Limits (after which Shipper shall not pay any Hourly Peaking Charge until a new notice is issued under clause 10.3(a)(iii)).

(f) If Shipper exceeds more than one Hourly Peaking Limit in respect of the same Gas Hour, then the Hourly Peaking Charge under clause 10.3(d) is calculated using only the amount of the largest excess.

(g) No Hourly Peaking Charge whether under clauses 10.3(d) or 10.4(b) is payable in respect to any Gas Hour in respect of which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate.

(h) Operator may not:

(i) issue a notice pursuant to clause 10.3(a)(iii) or refuse to Deliver Gas pursuant to clause 10.3(a)(iv) unless it has, to the extent reasonable in the circumstances, first endeavoured to co-operate with Shipper to ameliorate the impact of the Shipper exceeding its Hourly Peaking Limit; or

(ii) other than when due to Force Majeure or by reason of an emergency, refuse to Deliver Gas pursuant to clause 10.3(a)(iv) without having issued a notice in accordance with clause 10.3(a)(iii).

10.4 Outer Hourly Peaking Limit

(a) Shipper's Outer Hourly Peaking Limits are:

(i) 140% of the aggregate MHQ calculated across all outlet points on the DBNGP;

(ii) 140% of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10; and

(iii) 140% of the aggregate MHQ calculated across all outlet points in Pipeline Zone 10B,

(each of the limits in (i), (ii) and (iii) being an ***Outer Hourly Peaking Limit***).

(b) For each Gas Hour following the issue of a notice pursuant to clause 10.4(e) that Shipper exceeds an Outer Hourly Peaking Limit, Shipper must pay at the Hourly Peaking Rate an Hourly Peaking Charge for each GJ of Gas Received in excess of the relevant Outer Hourly Peaking Limit during that Gas Hour in accordance with clause 20.

(c) If Shipper exceeds more than one Outer Hourly Peaking Limit in respect of the same Gas Hour, then the Hourly Peaking Charge under clause 10.4(b) is calculated using only the amount of the largest excess.

(d) If an Hourly Peaking Charge is payable under clause 10.3(d) and also 10.4(b) in respect of a Gas Hour, then Shipper is required to pay both the charge under clause 10.3(d) and the charge under clause 10.4(b).

(e) If at any time Shipper's take of Gas is such that Operator, acting as a Reasonable And Prudent Person, believes that Shipper has exceeded or is likely to exceed an Outer Hourly Peaking Limit, Operator may issue a notice to Shipper of that fact. A notice given under this clause 10.4(e) is only valid for the purposes of clause 10.4(b) and clause 10.3(d)(ii) until Shipper has ceased to exceed the Hourly Peaking Limit.

10.5 Charges do not affect Daily Delivery

Nothing in this clause 10 entitles Shipper to Receive in any Gas Day a total quantity of Gas (across all outlet points) which exceeds the sum (across all outlet points) of Shipper's Total Contracted Capacity.

10.6 Remedies for breach of peaking limits

Operator may not exercise any rights or remedies against Shipper for exceeding an Hourly Peaking Limit, other than:

(a) for breach of clause 10.3(a)(iii) limited to the recovery of Direct Damages in accordance with clause 23 and Shipper's liability to Operator for Direct Damages suffered by Operator which is caused by or arises out of Shipper's failure to comply with clause 10.3(a)(iii) shall be reduced by any Hourly Peaking Charge or Hourly Peaking Charges paid by Shipper in respect of that failure;

(b) to recover the Hourly Peaking Charge or Hourly Peaking Charges where permissible by and in accordance with this clause 10;

(c) to refuse to Deliver Gas to Shipper at an outlet point (in accordance with clause 10.3(a)(iv)); or

(d) any combination of clauses 10.6(a), 10.6(b) and 10.6(c).

The Parties agree that, because the rights and remedies set out in this clause 10.6 apply across all of Shipper's Capacity Services, when in a particular circumstance, Operator exercises a right or pursues a remedy under this clause 10.6, Operator shall not exercise the equivalent right or remedy under another contract for Capacity Service or in relation to another Capacity Service in relation to the same circumstance.

10.7 Permissible Peaking Excursion

Operator must not refuse to Deliver Gas under clause 10.3(a)(iv) if Shipper is not exceeding its Outer Hourly Peaking Limit and:

(a) is a Distribution Networks Shipper and the cause of Shipper exceeding its Hourly Peaking Limit is the quantity of Gas Received by Shipper at a Notional Gate Point for a Distribution Network; or

(b) another shipper has recently had or has an absolute peak significantly greater than its Outer Hourly Peaking Limit or a Distribution Networks Shipper has exceeded its Hourly Peaking Limit in the manner permitted by clause 10.7(a), and this causes or contributes to the need for Operator to propose to refuse to Deliver Gas to Shipper at outlet points.

11. OVERRUN

11.1 Overrun Charge

(a) In respect of each GJ of Overrun Gas Received by Shipper on a Gas Day, Shipper must pay an Overrun Charge calculated by applying the Overrun Rate to the total Overrun Gas Received by Shipper on that Gas Day in accordance with clause 20.

(b) The Overrun Rate is the greater of:

(i) 115% of the B1 Reference Tariff; and

(ii) the highest price bid for Spot Capacity which was accepted for that Gas Day other than when the highest price bid was not a bona fide bid, in which case the highest bona fide bid,

(***Overrun Rate***).

(c) All Overrun Gas Delivered on a Gas Day is to be included in the calculation of Shipper's Hourly Quantities, Total Inlet Quantity and Total Outlet Quantity for that Gas Day.

11.2 Unavailability Notice

(a) Operator may at any time, acting as a Reasonable And Prudent Person, and (subject to clause 11.2(b)) without advance notice to Shipper, give notice (an ***Unavailability Notice***) to Shipper that Overrun Gas is unavailable to Shipper, or is only available to Shipper to a limited extent, for one or more Gas Days, but only to the extent that Shipper overrun will impact or is likely to impact on any other shipper's entitlement to its Daily Nomination for T1 Capacity, any Other Reserved Service or allocated Spot Capacity. Operator shall at the same time give an Unavailability Notice to all other shippers that are taking Overrun Gas, the taking of which, due to the location on the DBNGP at which the Overrun Gas is being taken, impacts upon the ability of Operator to Deliver Gas to meet its obligations to shippers.

(b) Operator must use reasonable endeavours to give Shipper advance notice (which may be by written notice or otherwise) which is reasonable in the circumstances of any unavailability or limited availability of Overrun Gas.

(c) Any Curtailment Notice issued under clause 17 for any period is to be taken to constitute an Unavailability Notice indicating that Overrun Gas is wholly unavailable for the same period unless the Curtailment:

(i) is a Point Specific Curtailment;

(ii) does not affect Gas Transmission Capacity generally; and

(iii) does not affect the inlet point or outlet point at which the Overrun Gas is being received by Shipper.

11.3 Content of an Unavailability Notice

An Unavailability Notice:

(a) may apply to the Gas Day on which the Unavailability Notice is issued even though, in order to comply with such an Unavailability Notice, Shipper must cease taking Delivery of Overrun Gas upon receipt of the notice in accordance with clause 11.4;

(b) is to identify the Gas Day or Gas Days to which the notice applies;

(c) may be expressed to continue indefinitely or for a specified period;

(d) may revoke, substitute or amend a previous Unavailability Notice; and

(e) must state the quantity of Overrun Gas which is available to Shipper.

11.4 Compliance with Unavailability Notice

Shipper must use its best endeavours to immediately, and must as soon as practicable and in any event no later than one hour after receipt of the notice, comply, or procure compliance, with an Unavailability Notice, by ensuring that the total of its Overrun Gas for each Gas Day to which the Unavailability Notice applies does not exceed the quantity of Overrun Gas (if any) indicated by the Unavailability Notice to be available to Shipper.

11.5 Operator may refuse to Deliver Overrun Gas

In addition to any other rights Operator has to refuse to Deliver Gas under clause 5.7, Operator may refuse to Deliver Overrun Gas to Shipper at an outlet point if Shipper does not comply with an Unavailability Notice.

11.6 Unavailable Overrun Charge

In addition to any charge payable under clause 11.1, if Shipper does not comply, or procure compliance, with an Unavailability Notice in accordance with clause 11.4, Shipper must pay, in accordance with clause 20, an Unavailable Overrun Charge at the Unavailable Overrun Rate for each GJ of Gas taken by Shipper in excess of the quantity of Overrun Gas specified in the Unavailability Notice as being available to Shipper.

11.7 Saving and damages

(a) Nothing in this clause 11 limits, affects or prejudices Operator's right to refuse to Receive Gas under clause 5.3 or to refuse to Deliver Gas under clause 5.7.

(b) Shipper's liability to Operator for any Direct Damage suffered by Operator which is caused by or arises out of Shipper's failure to comply with an Unavailability Notice shall be reduced by any Unavailable Overrun Charge paid by Shipper under clause 11.6 in respect of that failure.

(c) Shipper is not liable to pay the Overrun Charge under clause 11.1 and the Unavailable Overrun Charge under clause 11.6 in respect of the same quantity of Overrun Gas.

(d) Shipper is not liable to pay the Unavailable Overrun Charge with respect to any Gas Day in which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate,

but shall be liable to pay the Overrun Charge in respect to the relevant quantity of Overrun Gas as if an Unavailability Notice had not been issued.

(e) The Parties agree that, because the rights and remedies set out in this clause 11 apply across all of the Shipper's Capacity Services, when in particular circumstances Operator exercises a right or issues a remedy under this clause 11 Operator shall not exercise the equivalent right or remedy under another contract for Capacity Services or in relation to another Capacity Service in relation to the same circumstances.

12. ADDITIONAL RIGHTS AND OBLIGATIONS OF OPERATOR

12.1 Commingling of Gas

Operator will have the right to commingle the Gas supplied by Shipper at the inlet point with other Gas in the DBNGP during transportation and is entitled to Deliver different molecules to Shipper at the outlet points.

12.2 Processing

Subject to its obligations under this Contract, Operator may (but is not obliged to) compress, cool, heat, clean and apply other processes to Gas during transportation acting as a Reasonable And Prudent Person consistent with its operation of the DBNGP.

12.3 Operation of Pipeline System

(a) In operating, maintaining or expanding the DBNGP, Operator must:

(i) comply with all its obligations under this Contract; and

(ii) use Good Gas Industry Practice.

(b) Except as provided in clause 12.3(a), Operator may decide the manner in which it will operate the DBNGP.

(c) In acting under this Contract, Shipper must use Good Gas Industry Practice.

12.4 Delivery of Gas

Operator may (but only if Operator chooses to do so) satisfy its obligation to Deliver Gas to Shipper by using a Gas pipeline other than the DBNGP, provided;

(a) that Operator meets its obligations under this Contract; and

(b) there is no extra cost or risk to Shipper in doing so.

13. CONTROL, POSSESSION AND TITLE TO GAS

13.1 Warranty of Title

(a) Shipper warrants that at the time it Delivers Gas to Operator at an inlet point, Shipper has good title to the Gas free and clear of all liens, encumbrances and claims of any nature inconsistent with Operator's operation of the DBNGP.

(b) Subject to clause 13.1(a) being true and accurate at all times, Operator warrants that at the time it supplies Gas to Shipper at an outlet point, Operator has good title to the Gas free and clear of all liens, encumbrances and claims of any nature whatsoever.

13.2 Control, Possession, Responsibility and Title of Shipper

Shipper warrants to Operator at each relevant time that Shipper:

(a) is in Possession of the Gas immediately prior to its supply at an inlet point and immediately after its Delivery to Shipper at an outlet point; and

(b) has legal responsibility and liability for Gas while it is within the Possession of Shipper.

13.3 Title, Custody, Control and Responsibility of Operator

(a) Operator will:

(i) take title to and have Possession of Gas from the receipt of Gas from Shipper at an inlet point until Delivery of Gas to Shipper at an outlet point; and

(ii) have legal responsibility and liability for Gas while it is within Operator's Possession.

(b)

(i) Operator shall deliver good title to Gas Delivered to Shipper at an outlet point; and

(ii) Shipper will take title to Gas immediately after its Delivery to Shipper at an outlet point,

free and clear of all liens, encumbrances and claims of any nature whatsoever.

13.4 Entitlements to Receive Gas

(a) Subject to clause 13.4(c), upon the transfer from Shipper to Operator of title to and possession of a quantity (in terajoules) of Gas Delivered at an inlet point, Shipper becomes entitled to:

(i) Receive Gas from Operator at an outlet point other than a Notional Gate Point; or

(ii) subject to clause 13.5(b), Receive Gas from Operator at an outlet point that is a Notional Gate Point.

(b) The quantity of Gas that Shipper becomes entitled to Receive in aggregate under clause 13.4(a) is a quantity equivalent (in terajoules) to the quantity of Gas delivered at the inlet point.

(c) Clauses 13.4(a) and 13.4(b) do not affect a provision of this Contract entitling Operator to wholly or partially Curtail or interrupt Shipper's use of Capacity or to wholly or partially refuse to Deliver Gas to Shipper and do not affect the obligations of Shipper to Deliver Gas and Receive Gas in such a manner as complies with this Contract including so as to ensure Shipper remains within the limits prescribed by this Contract in clauses 9 and 10.

13.5 Title at outlet points

(a) Unless the Delivery is at an outlet point that is a Notional Gate Point, the Delivery of the Gas by Operator to Shipper at an outlet point is a transfer of title to and possession of the Gas from Operator to Shipper, effective at the outlet point and at the time of Delivery, and free and clear of all encumbrances, liens and claims of any nature.

(b) If the Delivery is at an outlet point that is a Notional Gate Point, then:

(i) the Delivery of the Gas by Operator is followed immediately by a Delivery of the Gas from Shipper back to Operator at the outlet point (for transport to a Physical Gate Point associated with the Notional Gate Point) and no transfer of title to and possession of the Gas is involved;

(ii) Operator may in its discretion as a Reasonable And Prudent Person manage the times, extent and manner that Gas deemed to be delivered at a Notional Gate Point is physically transported into the Associated sub-network; and

(iii) subject to any Law or any other agreement to which both Operator and Shipper are parties, the Delivery of Gas by Operator at a Physical Gate Point is by force of this clause a transfer of title to and possession of the Gas from Operator to Shipper, effective at the Physical Gate Point and at the time of Delivery, and free and clear of all encumbrances, liens and claims of any nature.

14. RELOCATION

14.1 Request for relocation of Contracted Capacity

Shipper may by notice in writing to Operator request a relocation of all or any part of its Contracted Capacity from an Existing Inlet Point to a New Inlet Point or from an Existing Outlet Point to a New Outlet Point (***Requested Relocation***).

14.2 Assessment of Requested Relocation

(a) Operator must, as soon as reasonably practicable and in any event not later than 40 Working Days after receiving a notice under clause 14.1, assess as a Reasonable And Prudent Person whether the Requested Relocation is an Authorised Relocation having regard to, among other things, the order, relative to its receipt of equivalent notices received from other shippers, in which Shipper's Requested Relocation was received, (but for the avoidance of doubt the Parties intend this priority to apply only to the extent that requested relocations compete or conflict with each other for utilization of capacity).

(b) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity will not be an Authorised Relocation if:

(i) the Requested Relocation would cause the sum (after the relocation) of all shippers':

(A) quantities referred to as Contracted Capacity for that inlet point across all of shippers' Capacity Services (including B1 Services and all Other Reserved Services) at the New Inlet Point to exceed the New Inlet Point's Total Current Physical Capacity; or

(B) quantities referred to as Contracted Capacity for that outlet point across all shippers' Capacity Services (including B1 Services and all Other Reserved Services) at the New Outlet Point to exceed the New Outlet Point's Total Current Physical Capacity or to exceed the safe operating capability of the part of the DBNGP at which the New Outlet Point is located;

(ii) in the opinion of Operator, as a Reasonable And Prudent Person, the Requested Relocation would not be Operationally Feasible, and for the avoidance of doubt an increase in compressor fuel costs does not mean the Requested Relocation is not Operationally Feasible; or

(iii) the Requested Relocation is such that the New Inlet Point would be downstream of the New Outlet Point and it would change the service to a Forward Haul Service.

(c) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity to a New Inlet Point will be an Authorised Relocation under the Contract if:

(i) the Requested Relocation would result in the New Inlet Point being downstream of the Existing Inlet Point;

(ii) the Requested Relocation would not cause the sum (after the relocation) of all shippers' quantities referred to as Contracted Capacity for that inlet point

across all of shippers' Capacity Services (including B1 Service and all Other Reserved Services) at the New Inlet Point to exceed the New Inlet Point's Total Current Physical Capacity; and

(iii) Shipper has entered into a Contribution Agreement, or any other agreement, arrangement or understanding required by clause 6.7(a)(iii), in relation to that New Inlet Point.

(d) For the purposes of clause 14.2(a), a Requested Relocation of Contracted Capacity to a New Outlet Point will be an Authorised Relocation under this Contract if:

(i) the Requested Relocation would result in the New Outlet Point being upstream, or within a proximity of 2 kilometres, whether upstream or downstream of the Existing Outlet Point;

(ii) the Requested Relocation would not cause the sum (after the relocation) of all shippers' quantities referred to as Contracted Capacity for that outlet point across all shippers' Capacity Services (including B1 Service and all Other Reserved Services) at the New Outlet Point to exceed the New Outlet Point's Total Current Physical Capacity or to exceed the safe operating capability of the part of the DBNGP at which the New Outlet Point is located; and

(iii) Shipper has entered into a Contribution Agreement, or any other agreement, arrangement or understanding required by clause 6.7(a)(iii), in relation to that outlet point .

14.3 Operator to notify Shipper

As soon as practicable after completing its assessment under clause 14.2(a), Operator must give notice in writing to Shipper advising either that the Requested Relocation is:

(a) not an Authorised Relocation; or

(b) an Authorised Relocation.

14.4 Requested Relocation is an Authorised Relocation

If Operator gives notice that the Requested Relocation is an Authorised Relocation under clause 14.3(b):

(a) Operator and Shipper must negotiate in good faith regarding the cost to Shipper (which in no case shall be less than Operator's out-of-pocket costs and shall include a reasonable charge for Operator's management time) in respect of any new facilities (including the New Inlet Point or New Outlet Point) which Shipper will be wholly or partially utilizing.

(b) If such agreement is not reached, the matter shall be regarded as a Dispute to be resolved as a Technical Matter and will be dealt with in accordance with clause 24.

(c) Shipper must pay the charges specified in clause 14.7 in accordance with clause 20.

14.5 Requested Relocation is not an Authorised Relocation

If Operator gives notice that the Requested Relocation is not an Authorised Relocation under clause 14.3(a), Operator and Shipper (acting reasonably) may agree (on any fair and reasonable terms and conditions, including terms and conditions as to price) the operational

restrictions which will apply to the use by Shipper of the New Inlet Point or New Outlet Point which will enable the Parties to implement the Requested Relocation of Contracted Capacity.

14.6 Relocated Contracted Capacity to be on same terms and conditions

Subject to clauses 14.7 and 14.8 and unless the Parties agree in writing to the contrary, any Contracted Capacity relocated under this clause 14 is to be on the same terms and conditions as the Contracted Capacity at the Existing Inlet Point or the Existing Outlet Point (as the case may be).

14.7 Charges for relocation

(a) Unless the Parties agree in writing to the contrary, no Charges payable under this Contract are to be reduced as a result of a relocation of Contracted Capacity under this clause 14, even if the relocation causes some or all Gas to be transported over a shorter distance, or the relocation causes a notional reversal of flow of Gas transported under this Contract for Shipper from Back Haul to Forward Haul.

(b) Subject to subsection (c), if a relocation of Capacity under this clause results in Gas being transported to an Outlet Point down stream of Compressor Station 9 on the DBNGP so that a Part Haul service becomes a Full Haul service, any Capacity so relocated is to:

(i) be treated as if it were on the same terms and conditions as Full Haul Capacity, including as to the calculation of the Capacity Reservation Charges and the Commodity Charges; and

(ii) be treated under this Contract as though it was Full Haul Capacity.

(c) Subsection (b) will not apply where Shipper has entered a Spot Transaction for Spot Capacity.

14.8 Pressures at New Inlet Point and New Outlet Point

Operator may in its discretion as a Reasonable And Prudent Person specify the range of pressures within which Shipper may Deliver Gas to Operator at a New Inlet Point, and within which Operator may Deliver Gas to Shipper at a New Outlet Point but in no case may the specified range of pressures be substantially different from the DBNGP operating pressure range at that point.

14.9 This Contract amended to reflect relocation

If the Parties reach agreement under clause 14.4 or 14.5, the Requested Relocation and the terms and conditions so agreed are to be given effect to by an amendment of the Access Request Form in accordance with clause 38.

15. METERING

15.1 Shipper's responsibility

Shipper must, or, must procure another party to:

(a) supply, install, Operate and Maintain Inlet Metering Equipment at each Inlet Station in good working order and condition and in accordance with the standard of a Reasonable And Prudent Person; and

(b) ensure that at all times all data required by Operator from Inlet Metering Equipment is electronically accessible by Operator.

15.2 Operator's responsibility

Operator must:

(a) at Shipper's expense supply, install, Operate and Maintain Outlet Metering Equipment at each Outlet Station in good working order and condition and in accordance with the standard of a Reasonable And Prudent Person; and

(b) calculate and record:

(i) the quantity of Gas Delivered to Operator by Shipper; and

(ii) the quantity of Gas Delivered to Shipper by Operator.

15.3 Metering uncertainty

(a) Primary Metering Equipment must be designed, adjusted and Operated so as to achieve:

(i) measurement to within a maximum uncertainty of:

(A) subject to clause 15.3(b), plus or minus 1% of Actual Mass Flow Rate at a minimum of the 95% confidence level for Metering Equipment with a design maximum flow rate of 5 TJ/d or greater; and

(B) plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level for Metering Equipment with a design maximum flow rate of less than 5 TJ/d; and

(ii) measurement to within a maximum uncertainty of plus or minus one quarter of one percent of Higher Heating Value at a minimum of the 95% confidence level.

(b) Alternative Metering Equipment referred to in clause 15.4(b) need not comply with clause 15.3(a)(i)(A) if:

(i) it is designed, adjusted and Operated so as to achieve measurement to within a maximum uncertainty of plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level; and

(ii) it is not used or likely to be used for more than 72 hours in any Gas Year.

(c) Subject to clauses 15.3(a) and 15.3(b), each component of Primary Metering Equipment may be designed, adjusted and Operated within limits of uncertainty agreed between the Parties.

(d) In this clause 15, **95% confidence level** has the meaning given to that expression by ISO 5168.

15.4 Primary Metering Equipment

(a) Primary Metering Equipment must:

(i) continuously compute and record:

(A) (in the case of Inlet Metering Equipment) the quantity and quality of Gas Delivered by Shipper to Operator under this Contract; and

(B) (in the case of Outlet Metering Equipment) the quantity of Gas Delivered by Operator to Shipper under this Contract;

(ii) be of a standard of manufacture acceptable to Operator acting as a Reasonable And Prudent Person;

(iii) comply with AS 2885 and any Australian or international standards required from time to time by Operator;

(iv) subject to clauses 15.4(b) and 15.4(c), encompass newest proven technology;

(v) be able in all streams to withstand Gas flows of up to 120% of the design flow;

(vi) provide data signals in the form of galvanically isolated 4-20 milliamp current loops or potential free contacts, as appropriate, or in such other form as the Parties as Reasonable And Prudent Persons may agree; and

(vii) include facilities to enable electronic data collection by Operator's Electronic Data Collection System.

(b) Primary Metering Equipment with a design maximum flow rate of 5 TJ/d or more must include:

(i) alternative Metering Equipment capable of measuring Gas quantity and (for Inlet Metering Equipment) Gas quality;

(ii) a means for detecting a fault in Duty Equipment which is likely to materially affect the accuracy of any measurements produced by the Duty Equipment, and a means in the event of such a fault for automatically switching metering from the faulty Duty Equipment to the alternative Metering Equipment referred to in clause 15.4(b)(i); and

(iii) a means for manually switching metering from Duty Equipment to the alternative Metering Equipment referred to in clause 15.4(b)(i).

(c) Inlet Metering Equipment must provide digital signals associated with valve or other equipment status, and must include components for signalling the following primary measurements and Derived Variables associated with Gas quality and quantity:

(i) delivery temperature;

(ii) delivery pressure;

(iii) instantaneous energy flow rate in TJ/d;

(iv) totalised energy flow in GJ;

(v) Relative Density;

(vi) Higher Heating Value in megajoules per cubic metre;

(vii) nitrogen content in mole percent;

(viii) carbon dioxide content in mole percent;

(ix) LPG content in tonnes per TJ of Gas;

(x) moisture level in milligrams per Cubic Metre;

(xi) instantaneous hydrocarbon dew point in degrees Celsius; and

(xii) all primary measurements and Derived Variables used in any computation required by clauses 15.4(c)(i) to 15.4(c)(xi).

(d) Unless Operator and Shipper as Reasonable And Prudent Persons agree to the contrary, Outlet Metering Equipment may utilize Gas quality data from equipment which is not located at the Outlet Station in question (the ***Remote Data***), in which case:

(i) Operator may as a Reasonable And Prudent Person adopt procedures relating to that utilization, including relating to the use of preset Gas quality values when the Remote Data is unavailable for any reason; and

(ii) clauses 15.9 and 15.12 apply, with appropriate modifications, to any procedures adopted under clause 15.4(d)(i).

(e) Outlet Metering Equipment must provide digital signals Associated with valve or other equipment status, and must include components for signalling the following primary measurements and Derived Variables Associated with Gas quantity:

(i) delivery temperature;

(ii) delivery pressure;

(iii) instantaneous energy flow rate in terajoules per day derived using the Higher Heating Value;

(iv) totalised energy flow in GJ;

(v) all primary measures and Derived Variables used in any computation required by clauses 15.4(e)(i) to 15.4(e)(iv); and

(vi) Higher Heating Value in megajoules per cubic metre.

(f) The Inlet Metering Equipment, and any building erected for such equipment, is the property of Shipper (or its nominee), and the Outlet Metering Equipment, and any building erected for such equipment, is (subject to clause 15.4(g)) the property of Operator.

(g) To the extent that:

(i) Shipper has paid for the Outlet Metering Equipment and any building erected for such equipment;

(ii) the Outlet Metering Equipment is detachable from the DBNGP without any damage to or effect on the DBNGP;

(iii) no third party has any interest in or title to the Outlet Metering Equipment or the building; and

(iv) no third party (including a shipper) is deriving any benefit from the Outlet Metering Equipment,

the Outlet Metering Equipment and any building erected for such equipment is, at the end of this Contract, to become the property of Shipper, and may be detached and removed at the expense and risk of Shipper.

15.5 Provision of information to Shipper

(a) Operator must, on request by and at the expense and risk of Shipper, make available to Shipper access to:

(i) the galvanically isolated analogue or digital data signals in a form agreed by the Parties from any Outlet Metering Equipment at the Outlet Station Associated with the Outlet Point at which Shipper has Contracted Capacity; and

(ii) any other form of metering data requested by Shipper from time to time and consented to by Operator acting reasonably and taking into account, inter alia, the commercial sensitivity of the data, whether the data relates solely to Shipper, any requirements of confidentiality, any Law, and provided that such disclosure does not materially or directly detrimentally affect other shippers in the context of their dealings with Operator,

but only insofar as that data relates solely to Shipper.

(b) Operator takes no responsibility for the accuracy of any data obtained by Shipper under clause 15.5(d)(i) and is not liable for any Direct Damage or Indirect Damage suffered by Shipper as a result of any reliance placed by Shipper on any data obtained by Shipper under clause 15.5(d)(i).

(c) In complying with clause 15.5(a), Operator must allow Shipper access to unverified delivery data signals insofar as is relevant to the information referred to in clause 15.5(a).

(d) Operator must make available to Shipper via the CRS or a similar communications system:

(i) within one hour after each Gas Hour, the unverified hourly quantities of Gas Received by Shipper at each outlet point during that Gas Hour;

(ii) within 3 hours after the end of each Gas Day, the unverified quantities of Gas in that Gas Day Delivered by Shipper to each inlet point and Delivered by Operator to Shipper at each outlet point excluding all Physical Gate Points; and

(iii) within three Working Days after the end of the Gas Month, the verified quantities of Gas Delivered by Shipper at each inlet point and each outlet point for each Gas Day during the previous Gas Month.

(e) Operator must make available to Shipper via the CRS or a similar communications system as soon as practicable after receiving from Networks the information referred to in clause 33(1) of the Operating Arrangement, but in any event no later than 72 hours after the end of the Gas Day to which the information relates, the verified quantity of Gas:

(i) Received by Shipper in a Gas Day at each Physical Gate Point; and

(ii) Received by Shipper in a Gas Day aggregated across all outlet points including all Physical Gate Points.

(f) Operator must make available to Shipper via the CRS or a similar communications system within 5 hours after the end of a Gas Day the verified quantity of Gas:

(i) Received by Shipper in that Gas Day at each Physical Gate Point; and

(ii) Received by Shipper aggregated across all outlet points including all Physical Gate Points.

(g) Clauses 15.5(e) and (f) only apply for as long as Shipper is a Distribution Networks Shipper.

15.6 Changes to requirements for Metering Equipment

Operator may by notice in writing require Shipper to modify, or to allow and arrange for Operator to modify, existing Metering Equipment to comply with requirements or standards specified by Operator after that equipment was installed, and if the modification is necessary to comply with safety Laws of general application, or to comply with the standard required by an amendment to this Contract implementing such Laws, the modification is to be made at Shipper's expense, and otherwise the modification is to be made at Operator's expense.

15.7 Approval of Inlet Metering Equipment

(a) Shipper must obtain, or must procure that a third party obtains:

(i) prior to commencing the construction, installation or modification of any Inlet Metering Equipment or any component thereof; and also

(ii) prior to the commissioning of any newly constructed, installed or modified Inlet Metering Equipment or any component thereof,

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

(b) For the purposes of clause 15.7(a), Shipper must give to Operator not less than one month's notice of the anticipated date of commencement of the relevant construction, installation or modification.

(c) Operator must, after receipt of a valid notice of the anticipated date of commencement, use all reasonable endeavours, before that anticipated date, to consider and to give notice to Shipper of Operator's approval of or refusal to approve the Inlet Metering Equipment.

(d) Without limiting the generality of clause 37, Shipper must, for the purposes of clause 15.7(a), prior to and during the construction, installation, modification or commissioning of any Inlet Metering Equipment or any component thereof, afford all reasonable rights of entry and inspection (including all relevant data, drawings and components) to Operator and its agents at Operator's expense and risk.

15.8 Check Metering Equipment

(a) Shipper may at its own expense at an Outlet Station, and Operator may at its own expense at an Inlet Station, supply, install, Maintain and Operate Check Metering Equipment for the purpose of monitoring the accuracy of the Primary Metering Equipment.

(b) Check Metering Equipment (and any associated pressure or quantity control regulators or other equipment) must be located downstream of, and must not interfere with the operation of, the Primary Metering Equipment.

(c) Check Metering Equipment at the Outlet Station is Shipper's property, and Check Metering Equipment at the Inlet Station is Operator's property.

(d) Any Verification of the accuracy of Check Metering Equipment is to be at the expense of the Party owning that equipment.

(e) Subject to clause 15.14(d)(i), data from Check Metering Equipment may not be used for billing purposes.

15.9 Preservation of accuracy

(a) All Primary Metering Equipment is to be installed in a manner which permits an Accurate measurement of the quantity, and (for Inlet Metering Equipment) the quality, of Gas Delivered, and a ready Verification of the Accuracy of measurement.

(b) Each Party must, in the installation, Maintenance and Operation of any Metering Equipment, exercise the care of a Reasonable And Prudent Person to prevent any inaccuracy in the measurement of the quantity of Gas Delivered under this Contract.

15.10 Presumptions of accuracy

(a) Subject to clause 15.13, a measurement of the quantity or quality of Gas from any Primary Metering Equipment is to be presumed to be correct.

(b) If any 2 consecutive Verifications show any Metering Equipment to be operating within the Prescribed Limits of Uncertainty, the Metering Equipment is to be presumed to have been operating within the Prescribed Limits of Uncertainty throughout the intervening period.

(c) The presumptions in clauses 15.10(a) and 15.10(b) are to apply until the contrary is shown.

(d) If either or both of the presumptions in clauses 15.10(a) and 15.10(b) is, or are, shown to be incorrect in respect of any period or periods, clauses 15.13 and 15.14 apply, with appropriate modifications, to measurements taken by the Metering Equipment during the period or periods.

15.11 Verification of Primary Metering Equipment

(a) Operator:

(i) must at least once each month (or other period agreed between the parties) during the duration of this Contract; and

(ii) may at such greater frequency or on any occasion that either Party may request,

verify the accuracy of any Primary Metering Equipment in accordance with a procedure described in clause 15.11(b).

(b) The Verification procedure is to consist of:

(i) a comparison between simultaneous independent measurements of Gas flows;

(ii) the physical substitution of the Primary Metering Equipment to be Verified with similar Metering Equipment having a demonstrated accuracy within the Prescribed Limits of Uncertainty; or

(iii) any Metering Equipment testing procedure complying with applicable Australian or International standards that the Parties agree in writing to use.

(c) Each Party may have representatives present at the time of any Verification of the Accuracy of any Primary Metering Equipment (unless the number of persons present must be restricted for safety or logistical reasons, in which case the Parties are to agree on which representatives are to be present), and Operator must give Shipper sufficient notice of an intended Verification to enable Shipper's representative to be present.

(d) The results of any Verification are binding on both Parties unless within 7 Working Days after a Verification either Party gives notice to the other Party that it disputes the conduct of the Verification, in which case:

(i) the provisions of clause 24 apply; and

(ii) any reference in this clause 15.11 to accuracy figures produced by a Verification means the accuracy figures finally determined for that Verification under a dispute resolution process adopted in accordance with clause 24.

(e) Subject to clause 15.11(f), any Verification under clause 15.11(a) is to be made at Shipper's expense, provided that Operator is to bear the cost of attendance of Operator's representatives.

(f) If a Verification requested by Operator under clause 15.11(a)(ii) reveals that the accuracy of the Primary Metering Equipment is within the Prescribed Limits of Uncertainty, the Verification is to be at Operator's expense and Operator must pay to Shipper Shipper's reasonable expenses of that Verification, in accordance with clause 20.

15.12 Adjustment or replacement of defective equipment

(a) Subject to clause 15.12(b), if any component of Primary Metering Equipment is at any time found to be defective or otherwise out of service or operating outside the Prescribed Limits of Uncertainty, Operator must at an Outlet Station and Shipper must at an Inlet Station (in either case at Shipper's expense) forthwith either:

(i) adjust it to read accurately within the Prescribed Limits of Uncertainty; or

(ii) if such adjustment is not possible, replace it with a serviceable component.

(b) If Primary Metering Equipment with a design maximum flow rate of less than 5 TJ/d is at any time found to be for any reason operating outside the Prescribed Limits of Uncertainty, Operator must at an Outlet Station and Shipper must at an Inlet Station

(in either case at Shipper's expense) within 48 hours cause the Primary Metering Equipment to Operate within the Prescribed Limits of Uncertainty.

15.13 Inaccurate equipment

(a) If any Verification reveals that any Primary Metering Equipment is operating outside the Prescribed Limits of Uncertainty but is measuring the quantity of Gas with an inaccuracy of less than or equal to:

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

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

then the measurements from that Primary Metering Equipment shall be taken to be correct.

(b) If any Verification reveals that any Primary Metering Equipment is measuring the quantity of Gas with an inaccuracy of greater than the relevant limit prescribed by clause 15.13(a)(i) or 15.13(a)(ii) or agreed under clause 15.3(c), then (unless the Parties agree otherwise) all measurements affected or potentially affected by that inaccuracy are to be determined in accordance with clause 15.14.

(c) If the Parties have agreed under clause 15.3(c) to limits of uncertainty for a component or components of Primary Metering Equipment, then the Parties may agree to limits which are to apply in substitution for the limits prescribed in clauses 15.13(a)(i) or 15.13(a)(ii) for that Primary Metering Equipment, and clause 15.13(a) has effect accordingly.

15.14 Correction of measurements

(a) All measurements made prior to the Previous Verification shall be taken to be correct.

(b) The period between the Previous Verification and the Current Verification is to be divided into an earlier period and a later period, being:

(i) if the time at which the Primary Metering Equipment became Inaccurate can be established, respectively the period before and the period after that time; or

(ii) if the time at which the Primary Metering Equipment became Inaccurate cannot be established, 2 equal periods.

(c) The measurements produced by the Primary Metering Equipment for the earlier period shall be taken to be correct.

(d) The measurements for the later period are to be estimated:

(i) if Check Metering Equipment is installed and is established to the reasonable satisfaction of both Parties to have been operating during the later period within the Prescribed Limits of Uncertainty, by using the measurements recorded by that Check Metering Equipment;

(ii) if clause 15.14(d)(i) does not apply and if the percentage of error in the measurements is ascertainable to the reasonable satisfaction of both Parties

by calibration test or mathematical calculation, by calculating a correction for that percentage error; or

(iii) in any other circumstance, by reference to measurements made under similar conditions when the Primary Metering Equipment was registering accurately.

(e) Following the correction of any measurements in accordance with this clause 15.14, the Parties will determine the relevant overpayment or underpayment that has resulted under this Contract from the measurement error and the appropriate Party shall make an adjusting payment to the other in accordance with clause 21.6.

15.15 Metering records

(a) Any record produced by Primary Metering Equipment:

(i) in paper form is to be retained for 2 years after the date of production; and

(ii) in electronic form is to be retained for 5 years after the date of production,

by and at the expense of the Party owning the equipment which produces the record.

(b) The records and other information produced by, and any calculations and other information derived from, any Primary Metering Equipment or Check Metering Equipment remain the property of the Party owning that equipment.

(c) Each Party must use reasonable endeavours to, within 20 Working Days after receipt of a request from the other Party, submit to the other Party its records and other information produced by its Primary Metering Equipment which solely relate to the other Party, for inspection and verification by that other Party and the other Party may make and return any copies of those records and other information and must return the originals within 10 Working Days of their receipt.

15.16 Unused outlet points

(a) If:

(i) Shipper has no Contracted Capacity at an outlet point; and

(ii) such point has not been used, or is, in Operator's opinion (acting reasonably and after consulting with Shipper), unlikely to be used, to Deliver Gas to Shipper for a period, in aggregate, greater than 12 continuous months,

then Operator may, at the cost of Operator, decommission, remove and deal with or dispose of as it sees fit (including selling for its own benefit) any part or the whole of that outlet point and any Associated Outlet Station. Upon the commencement of such decommissioning, such outlet point shall, subject to clause 15.16(b), cease to be an outlet point for the purpose of this Contract.

(b) If requested by Shipper, Shipper and Operator will discuss in good faith deferring the decommissioning of the outlet point and any Associated Outlet Station on the basis that Shipper will pay ongoing maintenance charges incurred by Operator in maintaining the outlet point and any Associated Outlet Station.

(c) If subsequent to the commencement of such decommissioning, Shipper wishes to use such point as an outlet point under this Contract, Shipper must give at least 10 months written notice to Operator and must fully indemnify Operator for all costs, losses, liabilities and expenses incurred by Operator in respect of such

recommissioning of the point as an outlet point for the purposes of this Contract and in respect of recommissioning any Associated Outlet Station.

16. NOT USED

17. CURTAILMENT

17.1 Operator's obligations and Curtailment principles

(a) Operator must use its best endeavours to minimise the magnitude and expected duration of any Curtailment of the B1 Service.

(b) A Curtailment may affect one or more inlet points or outlet points on the DBNGP. Unless the Curtailment affects only one inlet point or outlet point, it is a System Curtailment.

(c) Curtailment occurs in two stages, although in some instances Operator will not need to move to the second stage:

(i) **Stage 1:** Operator identifies that a Curtailment is necessary and, acting as a Reasonable And Prudent Person, determines how much Capacity needs to be Curtailed. In most circumstances this will be a System Curtailment.

(ii) **Stage 2:** If it is necessary (at the same time or subsequently) for Operator to resolve incompatible demands by shippers for the use of a single inlet point or outlet point, Operator undertakes a Point Specific Curtailment at each such point.

(d) In a Curtailment, whether System Curtailment or in any Point Specific Curtailments, Contracted Capacity at a particular point (incumbent capacity) has priority for the use of that point above capacity relocated from another point for that Gas Day, unless the incumbent capacity has been fully curtailed by virtue of the application of the Curtailment Plan in a System Curtailment which affects a Curtailment Area greater than a Point Specific Curtailment.

17.2 Curtailment Generally

Operator may Curtail the provision of the Capacity Services to Shipper from time to time to the extent Operator as a Reasonable And Prudent Person believes it is necessary to Curtail:

(a) if there is an event of Force Majeure where Operator is the Affected Party;

(b) whenever it needs to undertake any Major Works;

(c) by reason of, or in response to a reduction in Gas Transmission Capacity caused by the default, negligence, breach of contractual term or other misconduct of Shipper;

(d) in circumstances where actual Forward Haul Gas flow is less than the B1 Service demand across all shippers with a B1 Service;

(e) for any Planned Maintenance; and

(f) in circumstances where Operator, acting as a Reasonable And Prudent Person, determines for any other reason (including to avoid or lessen a threat of danger to the life, health or property of any person or to preserve the operational integrity of the DBNGP) that a Curtailment is desirable.

17.3 Curtailment without liability

(a) Subject to clause 17.3(b), Operator is to be liable to Shipper for Direct Damage caused by or arising out of a Curtailment or interruption of Shipper's B1 Service. For

the avoidance of doubt the giving of a Curtailment Notice constitutes a Curtailment and the provision by Operator of Capacity equal to Shipper's reduced Contracted Capacity under clause 17.7(d) during the currency of the Curtailment Notice which gave effect to that reduced Contracted Capacity is a Curtailment for the purposes of this clause 17.3(a).

(b) Operator has no liability to Shipper whatsoever for a Curtailment under clause 17.2 in any of the following circumstances:

(i) where the duration of the Curtailment together with the aggregate duration of all other Curtailments of the B1 Service during the Gas Year does not cause the B1 Permissible Curtailment Limit to be exceeded;

(ii) where the Curtailment is in accordance with any of clauses 17.2(a), (b) or (c); or

(iii) where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment.

This clause 17.3(b) does not derogate from or limit in any way Operator's obligation under clause 17.1(a).

(c) The B1 Permissible Curtailment Limit means 2% of the time in the relevant Gas Year during the Period of Supply (regardless of the amount of Capacity Curtailed during the period of the Curtailment) except that:

(i) a Curtailment in circumstances set out in clauses 17.2(a), (b) or (c);

(ii) a circumstance where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment; and

(iii) a Curtailment pursuant to a Multi-shipper Agreement to the extent that such capacity would not have been Curtailed if the Curtailment Plan had been applied,

is not to be aggregated with other Curtailments in determining whether the accumulated duration of Curtailments in a Gas Year cause the B1 Permissible Curtailment Limit to be exceeded.

17.4 Refund of Capacity Reservation Charge

To the extent that Shipper's B1 Service is Curtailed for any reason other than:

(a) an event of Force Majeure where Shipper is the Affected Party; or

(b) a reason described in clause 17.2(c); or

(c) a circumstance where clause 17.5 provides that the circumstance is not to be regarded as a Curtailment,

Shipper is entitled to a refund of the Capacity Reservation Charge in respect of the Capacity Curtailed for the relevant period.

17.5 Operator's rights to refuse to Receive or Deliver Gas

Subject to clauses 5.5 and 5.9, where Operator exercises its rights to refuse to Receive Gas or Deliver Gas under or in accordance with:

(a) clause 5.3 (Operator may refuse to Receive Gas);

(b) clause 5.7 (Operator may refuse to Deliver Gas),

such act is not to be regarded as a Curtailment for the purposes of clauses 17.3(b)(iii), 17.3(c)(ii) and 17.4(c).

17.6 Curtailment Notice

(a) Operator must give Shipper a notice (***Curtailment Notice***) setting out the matters referred to in clause 17.7(a) and the expected duration of an impending Curtailment and otherwise complying with this clause 17.

(b) Operator must use reasonable endeavours to give Shipper a Curtailment Notice a reasonable period in advance of the starting time of the Curtailment, and in any event (other than when due to Force Majeure or by reason of an emergency it is unable to do so) must give the Curtailment Notice at least one hour before the starting time of the Curtailment. In the case of Major Works, reasonable notice is 90 days notice.

(c) Operator will send a copy of the Curtailment Notice in accordance with clause 29.1(a) and will also endeavour to telephone Shipper to advise that the Curtailment Notice has been or will be provided.

(d) Operator is not responsible for informing all affected Producers and downstream entities that relate to Shipper of the notification of the Curtailment or the Curtailment Notice.

(e) A Curtailment Notice under clause 17.6(a) must give the reasons for the Curtailment.

(f) Operator will, on a reasonable request by Shipper and within a reasonable time after the request is made, provide such information as is reasonably required to explain the issue of a Curtailment Notice.

17.7 Content of a Curtailment Notice

(a) A Curtailment Notice must specify the following details:

(i) the starting time of the Curtailment (which must not be any time before the Gas Day on which the Curtailment Notice is given), including the Gas Day or Gas Days to which the Curtailment Notice applies; and

(ii) the portion of Shipper's Contracted Capacity that is to be Curtailed.

(b) A Curtailment Notice:

(i) takes effect from the time specified in the Curtailment Notice;

(ii) may apply to the Gas Day on which the Curtailment Notice is issued even if, in order to comply with a Curtailment Notice, Shipper must use best endeavours to, and to procure persons to whom Shipper supplies Gas to, cease taking delivery of any Gas upon receipt of the Curtailment Notice in accordance with clause 17.8(a);

(iii) may be expressed to continue indefinitely or for a specified time;

(iv) may revoke, substitute or amend a previous Curtailment Notice;

(v) must not require Shipper to reduce its Receipt of Gas for the Gas Day as a whole to a level less than Shipper has already actually Received for the Gas

Day before the Curtailment Notice takes effect (that is, the Curtailment Notice must not be impossible to comply with); and

(vi) does not retrospectively affect Shipper's compliance with Hourly Peaking Limits or Outer Hourly Peaking Limits prior to the time the Curtailment Notice is issued on the Gas Day (for which purposes Shipper's compliance with those limits for an hour is to be determined having regard to Shipper's Contracted Capacity at the commencement of the hour).

(c) Operator may at any time, whether or not it has specified in a Curtailment Notice an end time for a Curtailment, give notice to Shipper (in accordance with clause 29) wholly or partly terminating a Curtailment either immediately or from any time in the future.

(d) A Curtailment Notice constitutes a variation of this Contract while the Curtailment Notice is in force reducing Shipper's Contracted Capacity to the extent, and in accordance with the apportionment (if any), specified in the notice, except for the purposes of calculating the Charges payable by Shipper under clause 20 and for ascertaining whether Shipper has been Curtailed under this clause 17, for which purposes Shipper's Contracted Capacity remains as specified in the Access Request Form. Further, in respect of a particular shipper when calculating the amount of Total Contracted Capacity (either generally or in respect of a specific Capacity Service, inlet point or outlet point) the amount shall not include any Capacity Curtailed under clause 17.8 either generally or in respect of a specific Capacity Service, inlet point or outlet point, and the material equivalent to such clause in any of the shipper's contracts for Capacity Service.

(e) If a Curtailment Notice takes effect before Shipper's next Nomination or Renomination under clause 8, Shipper's Daily Nominations are to be taken to be reduced (if a reduction is required) to the same amount of Capacity Service as Shipper is to have available under the Curtailment Notice given in respect of Shipper's Contracted Capacity.

(f) Shipper may not:

(i) Nominate or Renominate under clause 8 for Contracted Capacity; or

(ii) Deliver Gas to or Receive Gas from Operator,

in excess of whichever is the lower of:

(iii) its reduced Contracted Capacity because of clause 17.7(e); or

(iv) the quantity specified in a Curtailment Notice as the maximum quantity which Operator will Receive from, or Deliver to, Shipper.

17.8 Compliance with Curtailment Notice

(a) Where the Curtailment is a Point Specific Curtailment, Shipper must use its best endeavours to immediately, and must as soon as practicable and in any event must no later than one hour after receipt of the notice, comply, or procure compliance, with the requirements of a Curtailment Notice by:

(i) not Delivering any Gas at the inlet points; or

(ii) not Receiving any Gas delivered to Shipper at the outlet points,

in excess of the quantity specified for that inlet point or outlet point, as the case may be, in the Curtailment Notice.

(b) Where the Curtailment is not a Point Specific Curtailment, Shipper must comply, or procure compliance, with the requirements of the Curtailment Notice.

(c) If Shipper does not comply with the requirements of the Curtailment Notice in accordance with clause 17.8(a), Operator may take action to the extent necessary to give effect to the requirements set out in the Curtailment Notice, including refusing to Receive Gas from Shipper at an inlet point or refusing to Deliver Gas to Shipper at an outlet point.

(d) If Operator refuses to Receive or Deliver Gas under clause 17.8(c) in order to give effect to the requirements set out in a Curtailment Notice and Operator incidentally refuses to Receive or Deliver Gas in excess of the requirements of the Curtailment Notice (***Excess Curtailment***), to the extent that such Excess Curtailment occurred despite Operator acting as a Reasonable And Prudent Person in attempting to avoid or minimise (as the case may be) such Excess Curtailment is not to be regarded as a Curtailment under this Contract.

(e) If the Curtailment is a Point Specific Curtailment and Shipper Delivers Gas to Operator at an inlet point or Receives Gas from Operator at an outlet point in excess of the quantity specified in the Curtailment Notice for that inlet point or outlet point (as the case may be), then Shipper shall pay Operator an Unavailable Overrun Charge under clause 11 at the Unavailable Overrun Rate in respect of each GJ of Gas which Shipper's actual receipts or deliveries (or both) vary from those specified in the Curtailment Notice.

(f) Other than when due to Force Majeure or by reason of an emergency it is unable to do so, Operator is to give effect to a Curtailment by a Curtailment Notice instead of, or prior to, doing so physically under clause 17.8(c).

(g) Shipper is not liable to pay the Unavailable Overrun Charge under clause 17.8(e) in respect of a Gas Day in respect of which Operator:

(i) fails to provide Shipper with the information required in accordance with clause 15.5(d)(i); or

(ii) provides Shipper with information under clause 15.5(d)(i) which is materially inaccurate.

17.9 Priority of Curtailment

(a) Any Curtailment of Shipper's Total Contracted Capacity or Capacity under a Spot Transaction is to be conducted in accordance with the Curtailment Plan. In applying the Curtailment Plan in a Point Specific Curtailment or System Curtailment, a Type of Capacity Service will only be Curtailed once all Types of Capacity Services listed below it in that column in the Curtailment Plan have been reduced to zero.

(b) The general principle in clause 17.9(a) is subject to the following:

(i) Any Laws regulating the priority of Capacity Services (which for the purposes of this clause shall include capacity under a Spot Transaction) on the DBNGP.

(ii) Where the Curtailment is a Point Specific Curtailment, the Curtailment Plan will be subject to any Multi-shipper Agreement relating to that inlet point or outlet point.

(iii) Any Point Specific Curtailment of the Aggregated B1 Service is not a Curtailment for the purposes of this Contract and is not to be taken into account in determining whether Curtailments aggregated for a Gas Year cause the T1 Permissible Curtailment Limit to be exceeded to the extent that Shipper is entitled to give a Renomination Notice in respect of either of the following:

(A) (subject to clause 17.9(b)(iii)(B)) one or more inlet points or outlet points (as the case may be) where Shipper has unutilised Contracted Capacity for the T1 Service at that point , in which case the Curtailment will not be taken into account in respect of an amount of capacity up to Shipper's unutilised Contracted Capacity for the T1 Service at that or those inlet points or outlet points (as the case may be);

(B) one or more inlet points or outlet points (which may be points referred to in clause 17.9(b)(iii)(A) above) where Shipper can otherwise utilise Capacity.

(iv) If and to the extent that, because of the default, negligence, breach of contractual term, or other conduct of a shipper (in this clause 17.9(b)(iv) called the ***defaulting shipper***):

(A) a reduction in Gas Transmission Capacity is caused that makes necessary any Curtailment of the use of Gas Transmission Capacity by any shipper; or

(B) Operator is entitled to refuse to Receive Gas from or Deliver Gas to any shipper (or, if applicable, to Curtail the use of Gas Transmission Capacity by any shipper),

Operator must, to the extent that it is entitled to do so, wholly refuse to Receive Gas from or Deliver Gas to the defaulting shipper and must reduce the defaulting shipper's use of Gas Transmission Capacity of any kind (but only to the extent necessary to correct the default of the shipper) before it reduces any shippers' (other than the defaulting shipper's) use of Gas Transmission Capacity of any kind, and Operator is not liable to the defaulting shipper for any Direct Damage or Indirect Damage (whatsoever) arising from that Curtailment or refusal.

(v) To the extent that:

(A) the use of Gas Transmission Capacity by a particular shipper would, but for this clause 17.9(b)(v), be included in an apportionment of a Curtailment; and

(B) in the view of Operator (acting fairly and reasonably) the inclusion of that Gas Transmission Capacity would because of the location of the particular shipper's inlet point or inlet points or outlet point or outlet points in relation to the circumstances which gave rise to the need to

Curtail be unlikely to wholly or partially reduce the need to Curtail any other shipper's use of Gas Transmission Capacity,

Operator may exclude that Gas Transmission Capacity from the apportionment of Curtailments (despite what would otherwise be Operator's obligation to include that Gas in the apportionment).

(vi) In a System Curtailment, where the Curtailment Plan is being applied to a Curtailment Area greater than a Point Specific Curtailment, Shipper's:

(A) Aggregated B1 Service which derives from Contracted Capacity for B1 Services at the Outlet Points located within the Curtailment Area shall, when the Curtailment Plan is applied to that Curtailment Area:

(1) not be included in the Aggregated B1 Service; and

(2) be included in the B1 Service,

available to Shipper in the Curtailment Area; and

(B) Aggregated B1 Service which derives from Contracted Capacity for B1 Services at any Outlet Point located outside the Curtailment Area shall, when the Curtailment Plan is applied to that Curtailment Area:

(1) be included in the Aggregated B1 Service;

(2) not be included in the B1 Service,

available to Shipper in the Curtailment Area.

However, nothing in this clause 17.9(b)(vi) affects a Stage 2 Curtailment of any incumbent Contracted Capacity remaining after a Stage 1 Curtailment.

(vii) Despite any provision of the Curtailment Plan or any contract, the Delivery of Gas to Shipper is at all times subject to Operator's absolute right to utilise part of the DBNGP's capability to transport Gas which is required by Operator for operational purposes in relation to the DBNGP.

(viii) Operator must enforce its rights under the Alcoa Exempt Contract in relation to allocating to, and Delivering to, Alcoa no more than Alcoa's Exempt Delivery Entitlement during a Curtailment, including taking the full benefit of any force majeure provisions of the Alcoa Exempt Contract when and to the extent that it is entitled to do so.

(ix) Nothing in this clause 17 limits or affects Operator's right to refuse to Receive or Deliver Gas under clauses 5.3 or 5.7.

(x) This clause 17 is subject to any contrary agreement reached between Shipper and other shippers as to the manner of treating Curtailments between them.

(c)

(i) Subject to clauses (ii) and (iii) below, if when applying the Curtailment Plan there is insufficient relevant available capacity to allow all shippers their full Contracted Capacity in respect of a Type of Capacity Service for that Gas Day, then the capacity available for the Type of Capacity Service to each such shipper during a particular Gas Day during a Curtailment will (unless

relevant shippers agree to the contrary) be calculated, from time to time by Operator acting in good faith, on the basis of the following:

$$\text{Available Capacity} \times \frac{A}{B}$$

where:

Available Capacity = the total amount of relevant capacity which Operator (acting in good faith) deems to be available during the particular Gas Day during the Curtailment for the particular Type of Capacity Service;

A = the particular shipper's relevant Total Contracted Capacity (prior to any Curtailment) in respect of the particular Type of Capacity Service on that Gas Day (in the case of B1 Service only, less any of the shipper's relevant share of the Distribution Networks' IPQ which is to be transported using that B1 Service on that Gas Day); and

B = the aggregate of relevant Total Contracted Capacity (prior to any Curtailment) in respect of the particular Type of Capacity Service across all shippers on that Gas Day (in the case of B1 Service only, less the aggregate of the shippers' relevant shares of the Distribution Networks' IPQ which is to be transported using that B1 Service on that Gas Day).

(ii) If when applying the Curtailment Plan there is insufficient relevant available capacity to allow all shippers their relevant entitlement to a Type of Capacity Service being an Other Reserved Service or an Interruptible Service (other than capacity under a Spot Transaction), then the capacity available for the shipper for that Type of Capacity Service during the Curtailment will be determined by Operator acting as a Reasonable And Prudent Person.

(iii) Capacity under Spot Transactions which resulted from Daily Bids must be Curtailed with the lower priced Daily Spot Bid Price being Curtailed before the higher priced Daily Spot Bid Price.

17.10 Apportionment of Shipper's Curtailments

(a) Subject to clause 17.10(b), if Shipper has:

(i) Daily Nominations for a Capacity Service or otherwise has a right to Deliver Gas at more than one inlet point; Operator must apportion any refusals to Deliver Gas across those inlet points in the manner required by Shipper;

(ii) Daily Nominations for a Capacity Service or otherwise has a right to Receive Gas at more than one outlet point; Operator must apportion any refusals to Receive Gas across those outlet points in the manner required by Shipper; or

(iii) Contracted Capacity or Daily Nominations (or both) at more than one inlet point or outlet point; Operator must apportion any Curtailment of Shipper's Capacity Service at the inlet points or outlet points across those inlet points or outlet points in the manner required by Shipper, except in the case of Point Specific Curtailments.

(b) Operator is not required to make the apportionment referred to in clause 17.10(a) if:

(i) acting as a Reasonable And Prudent Person, Operator considers it is not Technically Practicable to do so;

(ii) acting as a Reasonable And Prudent Person, Operator considers the circumstances do not reasonably allow Operator to consult with Shipper as to the apportionment or wait for Shipper's response following such consultation; or

(iii) Operator has requested Shipper notify Operator of its apportionment, and Shipper has not done so by the end of the relevant Gas Day,

in which case Operator may apportion the refusal across the relevant inlet points or outlet points (as the case may be) in the manner it considers appropriate.

(c) Shipper may at any time and from time to time propose to Operator an apportionment mechanism which will operate as a standing requirement as to how Operator is to apportion any:

(i) refusals to Receive Gas across inlet points;

(ii) refusals to Deliver Gas across outlet points; or

(iii) Curtailments across inlet points and outlet points.

(d) Operator and Shipper must, in good faith, attempt to agree any apportionment mechanism for the purposes of this clause 17.10. If Operator and Shipper have not agreed an apportionment mechanism for the purposes of this clause 17.10 within 1 month from the date of Shipper's proposal, either Party may refer this Dispute to an Independent Expert under clause 24 as a Technical Matter.

(e) If Operator and Shipper have agreed an apportionment mechanism or an apportionment mechanism has been determined by an Independent Expert for the purposes of this clause 17.10, then Operator must apportion any:

(i) refusals to Receive Gas;

(ii) refusals to Deliver Gas; or

(iii) Curtailments,

in accordance with that mechanism.

18. MAINTENANCE AND MAJOR WORKS

(a) By 31 August of each Contract Year, Shipper may provide Operator with a schedule of events which Shipper, acting as a Reasonable And Prudent Person, believes may increase or reduce the Capacity it requires for certain periods during the 12 months starting the following 1 October (***Maintenance Year***) which sets out Shipper's best estimates of the amount and the expected duration of such increase or reduction.

(b) Within 30 days of receiving the schedule referred to in clause 18(a), Operator (acting as a Reasonable And Prudent Person) must in consultation with Shipper and other shippers schedule Major Works and Planned Maintenance for the DBNGP for the Maintenance Year (***Annual DBNGP Maintenance Schedule***), having reasonable regard to the periods during which Shipper's requirements for Capacity are reduced and Shipper's and other shippers' requirements generally.

(c) Operator will issue to all shippers who provided Operator with a schedule pursuant to clause 18(a) a copy of the Annual DBNGP Maintenance Schedule.

(d) At Shipper's request, Operator shall provide Shipper with its estimate of the Curtailment to Capacity available to Shipper on each day of the planned outages specified in the Annual DBNGP Maintenance Schedule.

(e) Operator to the extent practical will notify Shipper of changes to its schedule of Major Works and Planned Maintenance issued to shippers under clause 18(c).

(f) Operator must as a Reasonable And Prudent Person endeavour to:

(i) comply with the Annual DBNGP Maintenance Schedule; and

(ii) give Shipper as much advance notice as is reasonably practicable of any material departure from the Annual DBNGP Maintenance Schedule that is likely to affect Shipper.

(g) If Shipper is affected by any planned Curtailment arising out of any Planned Maintenance, or any Major Works, Operator must use endeavours which are reasonable in the circumstances to:

(i) consult with Shipper concerning the scheduling and duration of;

(ii) accommodate the needs of Shipper in scheduling; and

(iii) minimise the duration and impact of,

the Curtailment.

(h) Despite clause 18(b), but subject to clauses 18(f) and (g), Operator may determine the timing and extent of any Curtailment necessitated by Planned Maintenance or Major Works in its discretion.

19. FORCE MAJEURE

(a) A Party (the ***Affected Party***) is excused from performance of, and is not liable for any failure in carrying out any of its obligations under this Contract, to the extent that it is prevented from doing so by Force Majeure.

(b) Subject to clause 19(f), an obligation to pay money is not excused by Force Majeure.

(c) Without prejudice to Shipper's entitlement to a refund under clause 17.4 in circumstances where a Curtailment is other than as a result of an event of Force Majeure where Shipper is the Affected Party, Shipper is not relieved of its obligation to pay the Capacity Reservation Charge by the occurrence of an event of Force Majeure in respect of it however caused.

(d) If a Party claims the benefit of Force Majeure, it must:

(i) promptly give notice to the other Party of the occurrence and circumstances in which the claim arises;

(ii) use its best endeavours to remedy the consequences without delay; and

(iii) resume full performance of its obligations under this Contract as soon as reasonably practicable.

(e) Settlement of strikes, lock outs, stoppages and restraints of labour or other industrial disturbances are entirely within the discretion of the Party claiming the benefit of this clause and the Party may refrain from settling industrial disturbances or may settle them on any terms it considers to be in its best interests.

(f) Shipper is relieved from paying the Surcharges to the extent that it was unable to prevent such Surcharges accruing due to some event of Force Majeure affecting it.

(g) For the avoidance of doubt, the Parties acknowledge that lack of finances, lack of funds or access to funds, or inability to borrow funds shall not in any circumstances be an event of Force Majeure under this Contract.

20. CHARGES

20.1 Obligation to pay Charges

Shipper must pay the Charges and any other amounts payable under this Contract to Operator in the manner and at the times set out in this Contract, including the charges set out in clauses 20.2, 20.3 and 20.4 (inclusive). The Charges are to be invoiced and payable in accordance with clause 21.

20.2 Capacity Reservation Charge

(a) The Capacity Reservation Charge will be calculated for each Gas Day during the Period of Supply by multiplying the sum of Contracted Capacity for B1 Services at each Outlet Point by the B1 Capacity Reservation Tariff.

(b) Subject to clause 17.4, the Capacity Reservation Charge is payable for each Gas Day during the Period of Supply regardless of whether Shipper provides Gas at any inlet point and regardless of whether Shipper takes Gas at any outlet point.

20.3 Commodity Charge

The Commodity Charge will be calculated for each Gas Day during the Period of Supply by multiplying the B1 Commodity Tariff by each GJ of Gas Delivered to Shipper up to Contracted Capacity for B1 Services at all outlet points by Operator on that Gas Day.

20.4 Other Charges

(a) The following charges apply to this Contract:

(i) Excess Imbalance Charge (clauses 9.5(e) and 9.6(b));

(ii) Hourly Peaking Charge (clauses 10.3(d) and 10.4(b));

(iii) Overrun Charge (clause 11.1(a));

(iv) Unavailable Overrun Charge (clause 11.6 and clause 17.8(e)); and

(v) any charges or other sums payable under clauses 6.6, 14.7, 15.11 or elsewhere in this Contract,

(together ***Other Charges***).

(b) The Parties agree that the Other Charges are genuine pre-estimates of the unavoidable additional costs, losses and damages that Operator will incur as a result of the conduct entitling such charges to be levied. Shipper will not be entitled to claim or argue (in any proceeding or otherwise), that any Other Charge is not a genuine pre-estimate of loss or damage that may be incurred by Operator or is otherwise a penalty or constitutes penal damages.

20.5 Adjustment to B1 Reference Tariff

(a) The B1 Reference Tariff at the commencement of the Access Arrangement Period is set out in Schedule 2.

(b) The B1 Reference Tariff shall be adjusted each year in accordance with the Access Arrangement until the Revisions Commencement Date, in accordance with CPI on the following basis:

$Tariff_n = Tariff_b \times (CPI_n/CPI_b)$

where:

$Tariff_n$= the adjusted B1 Reference Tariff;

$Tariff_b$= the B1 Reference Tariff as set out in Schedule 2 (unadjusted);

CPI_b means the CPI for the quarter ending on 30 September 2004; and

CPI_n means the CPI for the quarter ending on 30 September of the year before the year for which the B1 Reference Tariff is being adjusted.

(c) In the event that the Access Arrangement does not contain a Reference Service which is materially the same as the B1 Service then for the remaining duration of this Contract the B1 Reference Tariff shall be adjusted each year in accordance with clause 20.5(b) as if the words "until the Revisions Commencement Date" did not exist.

20.6 Goods and Services Tax

(a) Unless otherwise stated, all amounts payable or the value of other consideration provided in respect of the supplies made under this Contract are exclusive of GST.

(b) If a supply under this Contract is subject to GST then the recipient of the supply must pay, in addition to the other consideration payable or to be provided for the supply, an additional amount equal to the GST.

(c) Where any amount is payable to a Party as a reimbursement, indemnification or similar payment calculated by reference to a loss, cost, expense or any other amount incurred by that Party, then such amount shall be reduced by any part of that loss, cost expense or other amount which is attributable to GST for which that Party, or the representative member of any GST group of which that Party is a member, is entitled to an input tax credit.

(d) The additional amount payable under clause 20.6(b) shall be payable at the same time as the payment to which it relates is payable. Where any GST payable is not referable to an actual payment then it shall be payable within 10 days of a Tax Invoice being issued by the Party making the supply.

(e) Where in relation to this Contract a Party makes a taxable supply, that Party shall provide a Tax Invoice in respect of that supply at or before the time the payment to which the supply relates is payable.

(f) If a Party becomes aware of an adjustment event, that party agrees to notify the other Party as soon as practicable after becoming so aware, and the Parties agree to take whatever steps are necessary, including the issue of an adjustment note, 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 Supplier has satisfied itself that the adjustment event has occurred.

(g) If an amount is paid by a party to the Contract as an additional amount under clause 20.6(b) and the amount of GST in not payable or the amount of GST is less than the additional amount paid, the payer shall be entitled to recover the amount paid from the Supplier by serving notice on the Supplier.

(h) This clause 20.6 will continue to apply after the expiration or termination of this Contract.

(i) For the purposes of this clause:

(i) ***GST*** means GST as that term is defined in the GST Law; and

(ii) the terms GST group, member, recipient, representative member, supply, consideration, input tax credit, taxable supply, adjustment, adjustment event and adjustment note have the same meaning as in the GST Law.

20.7 Other Taxes

If at any time during the Term:

(a) any Tax which was not in force as at the commencement of the Access Arrangement Period is validly imposed;

(b) the rate at which a Tax is levied is validly varied from the rate prevailing as at the commencement of the Access Arrangement Period; or

(c) the basis on which a Tax is levied or calculated is validly varied from the basis on which it is levied or calculated as at the commencement of the Access Arrangement Period,

(called the ***Tax Change***) then, to the extent that the Tax Change changes any costs incurred by Operator in performing its obligations under this Contract or otherwise affects the amounts payable under this Contract, Shipper must pay to Operator an amount equal to the increase in costs attributable to the Tax Change, or Operator must pay to Shipper an amount equal to the decrease in costs attributed to the Tax Change (as the case may be), which amount shall be added to amounts, or deducted from (as the case may be) otherwise due under this Contract.

21. INVOICING AND PAYMENT

21.1 Monthly payment of Capacity Reservation Charge

(a) Operator must, no later than 20 days before the start of a month, provide Shipper a Tax Invoice in respect of the Capacity Reservation Charges payable by Shipper for the following Gas Month under this Contract.

(b) Shipper must, no later than 3 days before the start of a month, pay to Operator in advance all Capacity Reservation Charges payable by it for the following Gas Month as specified in the Tax Invoice referred to in clause 21.1(a).

21.2 Monthly invoicing

Operator must, within 5 Working Days after the end of a month, provide Shipper a Tax Invoice or Tax Invoices for the Gas Month just ended showing:

(a) the quantity of Gas Delivered by Shipper at each inlet point and the quantity of Gas Delivered by Operator at each outlet point on each Gas Day in the month;

(b) the Commodity Charges for the month;

(c) all Other Charges payable for that month;

(d) any other amounts which under this Contract are payable in arrears or refundable for the month;

(e) any outstanding amounts (whether those amounts were originally payable in arrears or advance) from previous months and the interest payable thereon;

(f) in the case of the Tax Invoice for the final Gas Month in a Gas Year, any funds payable to Shipper for that Gas Year by reason of any Curtailment of Shipper's B1 Service; and

(g) such other information as may be agreed between the Parties.

21.3 Payment within 10 Working Days

Subject to clause 21.1(b), Shipper must, within 10 Working Days of receipt of a Tax Invoice, pay to Operator in the manner shown on the Tax Invoice all amounts shown on the Tax Invoice as payable under this Contract.

21.4 Default in payment

(a) If Shipper fails by the relevant due date to make full payment of any:

(i) Capacity Reservation Charge;

(ii) Commodity Charge;

(iii) Other Charges; or

(iv) any other amount or amounts payable by it under this Contract and shown on a Tax Invoice,

then, without prejudice to Operator's other rights and remedies under this Contract or in equity, Shipper must (unless Operator in its absolute discretion waives this

requirement) pay interest on the unpaid amount (after as well as before judgment), calculated daily at the Prescribed Interest Rate from the due date until payment.

(b) The Prescribed Interest Rate calculated for a day from which interest is to be payable on an amount referred in clause 21.4(a) or clause 21.5 is to apply until payment of that amount, and is not to be recalculated despite any change in the Bank Bill Rate during that period.

(c) This clause 21.4 applies with appropriate changes to a default by Operator in paying or allowing any credit, rebate or other sum under this Contract.

21.5 Disputed Tax Invoices

(a) If Shipper disputes any amount or amounts set out in a Tax Invoice to be due or payable, then Shipper must pay the undisputed portion (if any) of the amount shown on the Tax Invoice in accordance with clause 21.3, and must, within 10 Working Days of the date of the Tax Invoice, give notice in writing to Operator that it disputes the amount or amounts and full details of the dispute.

(b) Any amount withheld by Shipper under this clause but subsequently found to have been payable is, without prejudice to Operator's other rights, to attract interest calculated daily at the Prescribed Interest Rate from 10 Working Days after the date of the Tax Invoice until payment. Shipper must pay any interest payable under this clause at the same time as it pays the amount withheld.

21.6 Correction of payment errors

(a) If a Party detects any underpayment or overpayment by a Party of any amount and clause 20.6(f) does not apply (including under clause 21.5), then the detecting Party must within a reasonable time give notice to the other Party of the underpayment or overpayment, and an adjusting payment is to be made by the appropriate Party within 10 Working Days of that notice, which adjusting payment is, without prejudice to the Parties' other rights, to attract interest calculated daily at the Prescribed Interest Rate from the date of underpayment or overpayment until payment.

(b) Subject to clauses 21.4 and 21.5, in circumstances where there has been an underpayment or overpayment to which clause 21.6(a) applies and the underpayment or overpayment did not result from a failure of the Party which is obliged to pay interest under clause 21.6(a) to perform its obligation under this Contract, the Prescribed Interest Rate for the purposes of clause 21.6(a) is to be the Bank Bill Rate plus an annual interest rate of 1 percent per annum.

22. DEFAULT AND TERMINATION

22.1 Default by Shipper

Shipper is in default under this Contract only if:

(a) Shipper defaults in the due and punctual payment, at the time and in the manner prescribed for payment by this Contract, of any amount payable under this Contract;

(b) Shipper defaults in the due and punctual performance or observance of any of the other covenants, agreements, conditions or other obligations contained in this Contract and such default is material in the context of the Contract as a whole;

(c) without Operator's prior consent, Shipper sells, parts with Possession of or attempts to sell or part with Possession of, the whole or a substantial part of its undertaking;

(d) Shipper suffers an Insolvency Event;

(e) there is any adverse change in the business or financial condition of Shipper or any event occurs which could, in the reasonable opinion of Operator, in any way jeopardise the ability of Shipper to meet its obligations to Operator under this Contract; or

(f) Shipper is found to be materially in breach of any warranty given to Operator in this Contract, or if any statement or representation made by any means or in any document by Shipper to Operator, is found to be false or misleading in any material particular,

and Shipper fails to remedy that event within the relevant period determined in accordance with clause 22.3(b) following the giving of a Shipper Default Notice by Operator.

22.2 Notice of Shipper's default

If an event referred to in any one or more of clauses 22.1(a) to 22.1(f) (inclusive) occurs, then Operator may give notice in writing by certified mail to Shipper specifying the nature of the default and requiring Shipper to rectify the default (***Shipper Default Notice***).

22.3 When Operator may exercise remedy

(a) Subject to clause 22.3(b), Operator may exercise a remedy under clause 22.4 at any time during which Shipper remains in default under this Contract.

(b) Shipper is not in default under this Contract and Operator may not terminate this Contract under clause 22.4(b) or commence the exercise of any remedy under clause 22.4(a):

(i) in respect of an event described in clauses 22.1(a), 22.1(d) or 22.1(e), unless it has given a Shipper Default Notice, and until 5 Working Days have elapsed after Shipper receives that Shipper Default Notice; and

(ii) in respect of an event described in clauses 22.1(b), 22.1(c) or 22.1(f), unless it has given a Shipper Default Notice and until 40 Working Days have elapsed after Shipper receives that Shipper Default Notice,

and the event has not been remedied within the relevant period specified in (i) or (ii) above.

(c) A default of the kind referred to in clause 22.1(d) will be deemed to be remedied when the relevant Insolvency Event is no longer continuing.

22.4 Remedies for Shipper's default

Subject to clause 22.3, if Shipper is in default under this Contract, then Operator may in its sole discretion:

(a) refuse to Receive Gas from Shipper at an inlet point or refuse to Deliver Gas to Shipper at an outlet point until such time as:

(i) all amounts the failure to pay which constitutes the event described in clause 22.1(a), plus interest on those amounts at the Prescribed Interest Rate, have been paid in full; and

(ii) all other events described in clause 22.1 have been remedied, ceased or removed; or

(b) by notice in writing to Shipper terminate this Contract which termination takes effect immediately upon receipt of such notice.

22.5 Default by Operator

Operator is in default under this Contract only if:

(a) Operator repudiates, disclaims or defaults in the performance of, any obligation under this Contract and such repudiation, disclaimer or default is material in the context of the Contract as a whole; or

(b) an Insolvency Event occurs in respect of Operator,

and Operator fails to remedy that event within the relevant period determined in accordance with clause 22.7 following the giving of a Operator Default Notice by Shipper.

22.6 Notice of Operator's default

If an event referred to in clause 22.5 occurs, then Shipper may give notice in writing by certified mail to Operator specifying the nature of the default and requiring Operator to rectify the default (***Operator Default Notice***).

22.7 When Shipper may exercise remedy

(a) Subject to clauses 22.7(b) and 22.7(c), Shipper may exercise a remedy under clause 22.8 at any time during which Operator remains in default under this Contract.

(b) Operator is not in default under this Contract and Shipper may not terminate this Contract under clause 22.8:

(i) in respect of an event described in clause 22.5(a), unless it has given an Operator Default Notice, and until 40 Working Days have elapsed after Operator receives that Operator Default Notice; and

(ii) in respect of an event described in clause 22.5(b), unless it has given an Operator Default Notice, and until 5 Working Days have elapsed after Operator receives that Operator Default Notice,

and the event has not been remedied within the relevant period specified in (i) or (ii) above.

(c) A default of the kind referred to in clause 22.5(b) above will be deemed to be remedied when the relevant Insolvency Event is no longer continuing. A default of the kind referred to in clause 22.5(a) above that relates to the repudiation or disclaimer of a contract, agreement or deed will be deemed to be remedied when the relevant repudiation or disclaimer is no longer continuing.

22.8 Remedies for Operator's default

Subject in all cases to clause 22.7 if Operator is in default under this Contract and:

(a) Shipper elects to terminate this Contract in respect of a default described in clause 22.5(b), then Shipper may in its sole discretion by notice in writing to Operator terminate this Contract, which termination shall take effect at the start of the Gas Day immediately following Operator's receipt of the notice of termination; or

(b) Shipper elects to terminate this Contract in respect of a default described in clause 22.5(a), then Shipper may, in its sole discretion, by notice in writing to Operator terminate this Contract, which termination shall take effect at the time Shipper specifies in the notice of termination not exceeding 3 years after Operator receives the notice of termination.

22.9 Saving of other remedies

Except where expressly excluded or limited by this Contract, the right to terminate this Contract under this clause 22 is in addition to and is not in substitution for any other rights and remedies available to a Party, whether under any Law, or this Contract or in equity.

22.10 Effect of termination

(a) Termination of this Contract by Operator under clause 22.4(b) or Shipper under clause 22.8:

(i) does not prejudice the rights or remedies accrued to either Party at the date of termination or any of the provisions of clauses 17.2 or 17.3, clauses 23.1 to 23.7 (inclusive), and clause 29; and

(ii) subject to clause 22.10(b), relieves each Party of all further obligations under this Contract to the other Party.

(b) Termination of this Contract by Operator under clause 22.4(b) does not relieve Shipper of its obligations under this Contract to (subject to clause 22.10(c)) pay the Capacity Reservation Charges for the balance of the Period of Supply (but for the termination of this Contract) and to pay all amounts outstanding (and then due and payable) at the time of termination, and termination of this Contract by Shipper under clause 22.8 does not relieve Operator of its obligations to pay all amounts outstanding (and then due and payable) at the time of termination.

(c) Shipper is relieved of its obligation under clause 22.10(b) to continue to pay an amount if and to the extent that Operator subsequently enters into a contract for Capacity Services, and receives payment from Shipper or any other shipper for, some or all of the Contracted Capacity (***Terminated Capacity***) made spare by the termination of this Contract.

(d) For the purposes of clause 22.10(c), Terminated Capacity in any Capacity Service is to be assumed to be the last Capacity available to be committed under a contract for

Gas Transmission Capacity, and any amounts received by Operator under such contract are to be assumed to be applied last to any Terminated Capacity committed under that contract.

23. LIABILITY

23.1 Liability for negligence and default limited to Direct Damage

Subject to the terms and conditions of this Contract, a Party who:

(a) is negligent; or

(b) defaults in respect of its obligations to the other Party under this Contract,

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

23.2 Liability for fraud

A Party who is fraudulent in respect of its obligations to the other Party under this Contract is to be liable to the other Party for, and is to indemnify the other Party against, any loss or damage caused by, consequential upon or arising out of the fraud and the exclusion of Indirect Damage in clause 23.3 shall not apply.

23.3 No liability for Indirect Damage

(a) Subject to clause 23.3(c), neither Party is in any circumstances to be liable to the other Party for any Indirect Damage, however arising.

(b) Subject to clause 23.3(c), Operator hereby releases Shipper from, and agrees to indemnify Shipper against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by Operator and Shipper hereby releases Operator from, and agrees to indemnify Operator against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by Shipper.

(c) Where this Contract states that "the exclusion of Indirect Damage in clause 23.3(a) does not apply", or words to the same effect, in relation to a matter, then:

(i) the exclusion of Indirect Damage in clause 23.3(a) and the release and indemnity in clause 23.3(b) do not apply in relation to that matter; and

(ii) the Parties' respective liability in relation to the matter is to be determined by Law, and to avoid doubt the definition of "Indirect Damage" in this Contract is to be disregarded for the purposes of that determination.

23.4 No liability arising out of any approval by Operator

Without limiting the generality of clause 23.3, Operator is not, except as provided in clauses 23.1 and 23.2, in any circumstances to be liable to Shipper for any Direct Damage or Indirect Damage arising out of any approval by Operator of any design, location or construction of, or proposed Operating or Maintenance procedures in relation to, any equipment, apparatus, machine, component, installation, cable, pipe or facility connected to, or adjacent to and associated with, the DBNGP.

23.5 Saving of contractual payments

Nothing in this clause 23 limits the liability of either Party to make all payments due under this Contract.

23.6 Shipper is responsible for its and its contractors' personnel and property

(a) Subject to clause 23.1, Shipper alone is liable for any:

(i) injury to or death of any person employed by Shipper or by any person (except Operator) contracting with Shipper; and

(ii) loss of or damage to any property of Shipper or of any person (except Operator) contracting with or employed by Shipper,

however caused, except to the extent this liability was contributed to by an act or omission of Operator or any person (except Shipper) contracting with Operator, or Operator's directors, servants and agents, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the DBNGP, or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to Shipper or where Operator's property or directors, servants, consultants, independent contractors or agents and Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.

(b) Shipper must indemnify Operator and any person (except Shipper) contracting with Operator, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 23.6(a).

23.7 Operator is responsible for its and its contractors' personnel and property

(a) Subject to clause 23.1, Operator alone is liable for any:

(i) injury to or death of any person employed by Operator or by any person (except Shipper) contracting with Operator; and

(ii) loss of or damage to any property of Operator or of any person (except Shipper) contracting with or employed by Operator,

however caused, except to the extent this liability was contributed to by an act or omission of Shipper or any person (except Operator) contracting with Shipper, or Shipper's directors, servants and agents, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the DBNGP or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to Shipper or where Operator's property or directors, servants, consultants, independent contractors or agents and Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.

(b) Operator must indemnify Shipper and any person (except Operator) contracting with Shipper, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in

connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 23.7(a).

23.8 Each limitation separate

Each limitation or exclusion created by this clause 23 and each protection given to Operator or Shipper or to their respective directors, servants, consultants, independent contractors and agents by this clause 23 is a separate limitation, exclusion or protection applying and surviving even if for any reason any provision of this clause 23 is held inapplicable in any circumstances.

24. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS

24.1 Method of Resolution

Any Dispute between the Parties must be resolved in accordance with the provisions of this clause.

24.2 Acknowledgment

The Parties acknowledge that, while Disputes may arise from time to time, their common intent is to ensure that any Dispute is resolved in a timely and cost effective manner.

24.3 Service of Notice

If a Dispute arises at any time which is between the Parties, then either Party may give the other Party a notice in writing which is dated, signed, and must specify the precise nature of the Dispute (***Dispute Notice***).

24.4 Meeting

Within 5 Working Days of service of a Dispute Notice, the Parties must meet and use all reasonable efforts to resolve the Dispute (by negotiation or otherwise).

24.5 Senior Officers

If the Dispute is not resolved within 10 Working Days after the meeting between the Parties under clause 24.4, the Parties must immediately refer the Dispute to their respective senior executive officers who must meet within 5 Working Days and use all reasonable efforts to resolve the Dispute.

24.6 Failure to Resolve Dispute

If the Parties are unable to resolve the Dispute in accordance with clause 24.5, and the Dispute is a Technical Matter or a Financial Matter (as those expressions are defined in clause 24.7), then either Party may require that the Dispute be determined by an independent expert (***Independent Expert***) under clauses 24.8, 24.9 and 24.10 and if the Dispute is not a Technical Matter or a Financial Matter then either Party may commence proceedings in a court of competent jurisdiction in Western Australia.

24.7 Technical and Financial Matters

In this clause 24:

(a) a ***Technical Matter*** means a matter involving issues relating to the receipt, transportation and delivery of Gas under this Contract which is capable of determination by reference to engineering or scientific knowledge and practice (including the grounds on which Operator has issued an Unavailability Notice); and

(b) a ***Financial Matter*** means a matter involving financial calculations which is capable of determination by audit or reference to financial or accounting records, knowledge or practice.

24.8 Appointment of Independent Expert

(a) The Party wishing to have the Dispute determined by an Independent Expert will give written notice to that effect to the other Party.

(b) The Parties will meet and use all reasonable endeavours to agree upon the identity of the Independent Expert, but if they are unable to agree within 10 Working Days of the notice, then either Party may refer the matter:

(i) if it is a Technical Matter, to the President for the time being of the Institute of Engineers, Australia;

(ii) if it is a Financial Matter, to the President for the time being of the Institute of Chartered Accountants in Australia; or

(iii) in either case, if the relevant body referred to in clause 24.8(b)(i) or 24.8(b)(ii) no longer exists, then to the President for the time being of such successor body or association as is then performing the function formerly carried out by the relevant body, or, if there is no successor body or association:

(A) in the case of a Technical Matter, to the President or Chairman for the time being or his/her nominee of a body representing engineers in the State; and

(B) in the case of a Financial Matter, to the President or Chairman for the time being or his/her nominee of a body representing chartered accountants in the State,

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

24.9 Expert not an Arbitrator

The Independent Expert appointed under clause 24.8:

(a) will act as an expert and not as an arbitrator;

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

(c) will not be a current or former employee or representative of, or a person who provides consultancy services on a regular basis to, a Party or to a Related Body Corporate of a Party; and

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

24.10 Representation, Evidence, Confidentiality, Powers and Costs

(a) Each Party may be legally represented at any hearing before the Independent Expert.

(b) Each Party will be entitled to produce to the Independent Expert any materials or evidence which that Party believes is relevant to the Dispute.

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

(d) The Independent Expert will not be bound by the rules of evidence and, subject to abiding by the rules of natural justice, the Independent Expert will have the power to

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

(e) Subject to the Independent Expert abiding by the rules of natural justice, the Independent Expert is to determine the procedures to be followed in resolving the Dispute (including whether or not any hearing will take place) and the Parties must co-operate promptly with those procedures, but the Independent Expert shall in any event:

(i) provide the Parties with a fair opportunity to make written submissions;

(ii) provide written reasons for the Independent Expert's determination; and

(iii) prior to handing down the determination, issue the determination in draft form to the Parties and allow the Parties an equal and fair opportunity to lodge written submissions concerning the proposed determination which the Independent Expert must consider before settling and handing down the Independent Expert's determination.

(f)

(i) Subject to clause 24.10(f)(ii), all information, material and evidence obtained or made available in the course of or for the purpose of the determination will be kept confidential by the Independent Expert and all the Parties.

(ii) Clause 24.10(f)(i) does not apply if:

(A) all the Parties otherwise agree; or

(B) the disclosure is authorised by Law or the disclosure is required by or under a law of the State or the Commonwealth.

(iii) If either Party becomes legally compelled to disclose information, material or evidence obtained in the course of or for the purpose of the determination, that person must immediately provide the other Party with written notice so that the other Party may seek appropriate relief and may only disclose information, material or evidence which is legally required to be disclosed.

(iv) This clause does not make confidential, information, material or evidence which is in the public domain at the time it is obtained in the course of or for the purpose of the determination.

(v) The Parties acknowledge that damages are not a sufficient remedy for any breach of the obligations of this clause and both Parties are entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies available at Law or in equity.

(g) Subject to any time prescribed anywhere else in this Contract, the Independent Expert will make a determination on the Dispute within a reasonable period of his/her appointment.

(h) The determination of the Independent Expert:

(i) will be final and binding upon the Parties so far as the Law allows, except where a Party has been denied natural justice; and

(ii) will determine what, if any, adjustments may be necessary between the Parties.

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

(i) unless the Parties otherwise agree before the reference of the Dispute, the remuneration of the Independent Expert will be finally determined by the President for the time being of the appropriate body referred to in clause 24.8(b) who will have the power to fix the remuneration of the Independent Expert at the conclusion of the determination or, if requested by the Independent Expert, to determine a fair rate at which the Independent Expert will be remunerated at any time during the conduct of the determination process; and

(ii) unless the Parties otherwise agree, the Independent Expert will determine which Party will bear the costs of:

(A) the determination; and

(B) each Parties' own costs (including out of pocket costs) incurred in the preparation and presentation of any submissions or evidence to the Independent Expert,

and in what proportion, having regard to the degree to which he or she considers that Party was at fault or unreasonable in failing to agree to the matter under reference, and that Party will bear those costs accordingly.

24.11 Urgent Relief Condition Precedent to litigation

(a) A Party must not commence any proceedings before any court in respect of a Dispute which a Party requires to be determined by an Independent Expert under clause 24.6 unless the Dispute has first been referred to an Independent Expert and the Independent Expert does not determine the Dispute within 6 months of the date of the dispute being referred to the Independent Expert.

(b) Nothing in this clause 24.11 will preclude either Party from seeking any urgent interlocutory, injunctive or declaratory relief, or from commencing proceedings before any court to prevent its claim from being statute barred under the *Limitation Act 1935* (WA) or any other relevant statute of limitation.

25. ASSIGNMENT

25.1 No assignment except under this clause

Subject to this clause 25 and clause 27.1, neither Party may assign any right, interest or obligation under this Contract other than by way of a Bare Transfer in accordance with clause 27.1.

25.2 Charges

(a) A Party may without the consent of the other Party (but subject to all other necessary consents and approvals) charge in favour of any recognised bank or financial institution or a Related Body Corporate of the Party the whole or any part of its rights or interests under this Contract (including any right to receive money), provided that the chargee enters into a tripartite agreement with the other Party substantially in the form of Schedule 7. If Shipper is the Party charging its rights and interests under this Contract under this clause 25.2, the tripartite agreement in the form of Schedule 7 is to be modified in the manner necessary to change the charging Party from Operator to Shipper.

(b) The granting of a charge under this clause 25.2 does not constitute the assignment of a right, interest or obligation referred to in this clause 25.

25.3 Assignment

(a) A Party may assign all or part of its rights and interests under this Contract without obtaining the consent of the other Party where that assignment is to a Related Body Corporate provided that:

(i) such assignment does not release the assignor from liability; and

(ii) upon the assignee ceasing to be a Related Body Corporate of the assignor, the assignee must immediately transfer all of its rights and interests, under this Contract to the assignor.

(b) Subject to clauses 25.3(c), 25.3(d), and 25.4, either Party may, with the prior written consent of the other Party, which may not be unreasonably withheld or delayed, assign all or part of its rights, interests and obligations under this Contract to any person.

(c) Without limitation, Operator may withhold its consent to an assignment by Shipper if Operator reasonably considers that the proposed assignee is not in a position to meet Shipper's obligations under this Contract and will not provide, or undertake to provide, security for those obligations on terms and conditions acceptable to Operator, acting reasonably.

(d) Without limitation, Shipper may withhold its consent to an assignment of Operator's obligations under this Contract if Shipper reasonably considers that the proposed assignee does not have:

(i) contractual or ownership rights to access the DBNGP for the purposes of performing all of Operator's obligations under this Contract; or

(ii) financial capability and technical expertise to enable the assignee to effectively operate the DBNGP and to perform all of Operator's obligations under this Contract.

25.4 Assignment: deed of assumption

(a) A Party (in this clause 25.4 called the ***Assignor***) shall not assign all or part of its rights and interests under this Contract (other than by way of Bare Transfer in accordance with clause 27.1) without requiring the assignee to enter into a deed of assumption to the reasonable satisfaction of the other Party under which the assignee assumes all, or the relevant portion, of the Assignor's obligations under this Contract.

(b) Upon the fulfilment of the relevant conditions specified in clause 25.3 and the entry into of a deed of assumption contemplated by clause 25.4(a), the Assignor shall be released from all future liability and obligations under this Contract to the extent that the assignee has agreed to perform them under the deed of assumption, but this release shall not apply to an assignment to a Related Body Corporate under clause 25.3(a) without the written consent of the other Party.

25.5 Pipeline Trustee's Acknowledgments and Undertakings

(a) The Pipeline Trustee in its capacity as trustee of the DBNGP Pipeline Trust (***Pipeline Trust***) undertakes to Shipper that the Pipeline Trustee assumes and shall duly and punctually observe, perform and discharge all of the obligations of Operator under:

(i) this Contract; and

(ii) any other contract with Shipper entered into by, or undertaking given in favour of Shipper by, Operator which requires the use or application of any asset owned by the Pipeline Trust, including the DBNGP, in order to be able to perform the contract or comply with the undertaking,

except to the extent that such obligations are observed, performed or discharged by Operator.

(b) The Pipeline Trustee, in its capacity as trustee of the Pipeline Trust, undertakes to Shipper, that if for any reason the DBNGP Operating Agreement is terminated, the Pipeline Trustee will assume and will duly and punctually observe, perform and discharge all obligations relating to the DBNGP (whether imposed on Operator or any other person) that would have been able, required or fallen to be observed, performed or discharged by Operator had the DBNGP Operating Agreement not been terminated.

(c) Shipper acknowledges and agrees that:

(i) the Pipeline Trustee’s obligation is to comply with obligations under the contracts and undertakings referred to in clauses 25.5(a) and 25.5(b) (***Relevant Agreements***) to the same extent that Operator would have had to comply with those obligations under the Relevant Agreements;

(ii) any limitation on liability, exclusion of liability, excuse from performance (for example, force majeure), qualification on performance or protection contained in a Relevant Agreement for the benefit of Operator will also apply to the

same extent for the benefit of the Pipeline Trustee in respect of its obligations under clauses 25.5(a) and 25.5(b); and

(iii) nothing in clauses 25.5(a) and 25.5(b) gives Shipper any greater right or remedy against the Pipeline Trustee arising from a failure to perform an obligation under a Relevant Agreement by the Pipeline Trustee than the right or remedy that Shipper would have been entitled to against Operator for that failure.

(d) The Pipeline Trustee represents and warrants that it is the legal owner of the DBNGP and owns the DBNGP in its capacity as trustee of the DBNGP Pipeline Trust.

(e) Other than to the extent relating to the transaction documentation entered into on or about the Capacity Start Date, the Pipeline Trustee shall not dispose of the whole or any part of its right, title or interest in the DBNGP without requiring the disponee to enter into a deed of assumption with Shipper to the reasonable satisfaction of Shipper pursuant to which it:

(i) assumes all, or the relevant portion, of the Pipeline Trustee's obligations under this Contract in respect of Shipper (and Shipper agrees that the Pipeline Trustee will be released to the extent that the Pipeline Trustee's obligations are assumed); and

(ii) acknowledges that its obligations under such assumption of obligations extend to Operator's obligations under the Relevant Agreements,

consistent with this clause 25.5.

(f) Subject to clause 25.5(g), if the disponee is a subsidiary of or controlled by another company or another entity, its ultimate holding company (or if it is not a company, its ultimate controlling entity) must, in addition to the disponee, execute the deed of assumption in terms of clause 25.5(e).

In this clause 25.5, ***dispose*** means, in relation to the DBNGP, to sell, transfer, assign, grant an option over, create an encumbrance over, declare oneself a trustee of or part with the benefit or otherwise dispose of the DBNGP (or any interest therein) and includes a transaction which results in a person other than the Pipeline Trustee:

(i) acquiring any equitable interest in the DBNGP, including an equitable interest arising pursuant to a declaration of trust, an agreement for sale and purchase or an option agreement or an agreement creating a charge or other security in respect of the DBNGP; or

(ii) otherwise acquiring legal or equitable rights against the DBNGP which have the effect of placing the person in the same position as would exist if the person had acquired a legal or equitable interest in the DBNGP itself.

(g) If the disponee is a special purpose project vehicle or otherwise part of a project financed structure, the reference in clause 25.5(f) to an ultimate holding company or entity will be construed to be the company, or entity, (if any) within the relevant project structure most appropriate for providing support of the disponee. Nothing in clause 25.5(f) or this clause 25.5(g) requires a company or entity to enter into a deed of assumption which might create recourse beyond the project structure.

25.6 DBNGP Trustee undertakings

(a) The DBNGP Trustee in its capacity as trustee of the DBNGP Trust (***DBNGP Trust***) undertakes to Shipper that the DBNGP Trustee assumes and shall duly and punctually observe, perform and discharge all of the obligations of Operator under:

(i) this Contract; and

(ii) any other contract with Shipper entered into by, or undertaking given in favour of Shipper by, Operator which requires the use or application of any asset owned by the DBNGP Trust in order to be able to perform the contract or comply with the undertaking,

except to the extent that such obligations are observed, performed or discharged by Operator.

(b) Shipper acknowledges and agrees that:

(i) the DBNGP Trustee's obligation is to comply with obligations under the contracts and undertakings referred to in clause 25.6(a) (***Relevant Agreements***) to the same extent that Operator would have had to comply with those obligations under the Relevant Agreements;

(ii) any imitation on liability, exclusion of liability, excuse from performance (for example, force majeure), qualification on performance or protection contained in a Relevant Agreement for the benefit of Operator will also apply to the same extent for the benefit of the DBNGP Trustee in respect of its obligations under clause 25.6(a) ; and

(iii) nothing in clause 25.6(a) gives Shipper any greater right or remedy against the DBNGP Trustee arising from a failure to perform an obligation under a Relevant Agreement by the DBNGP Trustee than the right or remedy that Shipper would have been entitled to against Operator for that failure.

(c) Other than to the extent relating to the transaction documentation entered into on or about the Capacity Start Date, the DBNGP Trustee shall not dispose of the whole or any part of its right, title or interest in the Pipeline Trust without requiring the disponee to enter into a deed of assumption with Shipper to the reasonable satisfaction of Shipper pursuant to which it:

(i) assumes all, or the relevant portion, of the DBNGP Trustee's obligations under this Contract in respect of Shipper (and Shipper agrees that the DBNGP Trustee will be released to the extent that the DBNGP Trustee's obligations are assumed); and

(ii) acknowledges that its obligations under such assumption of obligations extend to Operator's obligations under the Relevant Agreements,

consistent with this clause 25.6.

(d) Subject to clause 25.6(e), if the disponee is a subsidiary of or controlled by another company or another entity, its ultimate holding company (or if it is not a company, its ultimate controlling entity) must, in addition to the disponee, execute the deed of assumption in terms of clause 25.6(c).

In this clause 25.6, ***dispose*** means to sell, transfer, assign, grant an option over, create an encumbrance over, declare oneself a trustee of or part with the benefit or otherwise dispose of the Pipeline Trust (or any interest therein) and includes a transaction which results in a person other than the DBNGP Trustee:

(iv) acquiring any equitable interest in the Pipeline Trust, including an equitable interest arising pursuant to a declaration of trust, an agreement for sale and purchase or an option agreement or an agreement creating a charge or other security in respect of the Pipeline Trust; or

(v) otherwise acquiring legal or equitable rights against the Pipeline Trust which have the effect of placing the person in the same position as would exist if the person had acquired a legal or equitable interest in the Pipeline Trust itself.

(e) If the disponee is a special purpose project vehicle or otherwise part of a project financed structure, the reference in clause 25.6(d) to an ultimate holding company or entity will be construed to be the company, or entity, (if any) within the relevant project structure most appropriate for providing support of the disponee. Nothing in clause 25.6(d) or this clause 25.6(e) requires a company or entity to enter into a deed of assumption which might create recourse beyond the project structure.

25.7 Non complying assignment

Any purported sale, transfer or assignment (other than by way of a bare transfer in clause 27.1) in breach of the requirements of any of the provisions of this clause 25 is void ab initio.

25.8 Utilising other shippers' Daily Nominations

Clause 25.1 nor clause 27.2 prevent Shipper agreeing to utilize its Daily Nominations on behalf of an Other shipper or an Other shipper agreeing to utilize its Daily Nominations on behalf of Shipper.

26. GENERAL RIGHT OF RELINQUISHMENT

26.1 Shipper may make Relinquishment Offer

(a) In addition to its rights under this Contract to relinquish Contracted Capacity in certain circumstances, Shipper may at any time offer to relinquish all or part of its Contracted Capacity by giving notice in writing to Operator (***Relinquishment Offer***).

(b) The Relinquishment Offer must specify the amount of Contracted Capacity under this Contract to be relinquished (***Relinquishable Capacity***) at an Inlet Point, and at an Outlet Point.

(c) The Relinquishment Offer may specify how a Relinquishment Acceptance is to apportion any Relinquished Capacity between Shipper's Contracted Capacities for each Period.

(d) A Relinquishment Offer, unless accepted under clause 26.3(a), has no effect on this Contract.

26.2 Withdrawal of Relinquishment Offer

Shipper may at any time before Shipper is given a Relinquishment Acceptance in relation to a Relinquishment Offer give notice in writing to Operator that it wishes:

(a) to withdraw that Relinquishment Offer; or

(b) to amend that Relinquishment Offer,

and that Relinquishment Offer is by force of this clause 26.2 withdrawn or amended, as the case requires, from the time when that notice is received by Operator.

26.3 Operator may accept Relinquishment Offer

(a) (i) Operator may at any time give notice in writing to Shipper accepting a Relinquishment Offer (***Relinquishment Acceptance***).

(ii) A Relinquishment Acceptance may be given in respect of all or part of the Relinquishable Capacity.

(iii) A Relinquishment Acceptance must not apportion Relinquished Capacity between Shipper's Contracted Capacity for each Period in a manner inconsistent with any specification under clause 26.1(d).

(b) A Relinquishment Acceptance must specify:

(i) the amount of Relinquishable Capacity that Operator has agreed to relinquish (***Relinquished Capacity***);

(ii) the changes to the Access Request Form which are required to give effect to the relinquishment of the Relinquished Capacity; and

(iii) the date the relinquishment is to take effect.

(c) Subject to clause 26.3(b), Operator's discretion in determining:

(i) whether or not to give a Relinquishment Acceptance;

(ii) in respect of how much of the Relinquishable Capacity to give a Relinquishment Acceptance; and

(iii) the order in which it accepts offers of relinquishment from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of B1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26,

is to be absolute and unfettered.

(d) Operator's discretion is not to be limited by:

(i) any circumstances of Shipper;

(ii) the current or projected level of utilization of capacity of the DBNGP;

(iii) the number or magnitude of current or anticipated offers of relinquishment from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of B1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26; or

(iv) the order in which offers of relinquishment are received by Operator from:

(A) Shipper under this clause 26; and

(B) if another shipper or shippers have rights of relinquishment of B1 Service under clauses materially equivalent to this clause 26, another shipper or shippers under clauses materially equivalent to this clause 26.

26.4 Effect of Relinquishment Acceptance

(a) Upon receipt by Shipper of a Relinquishment Acceptance, or a later date otherwise agreed by the Parties:

(i) Shipper's Contracted Capacity is amended in accordance with the Relinquishment Acceptance;

(ii) if, as a result of a reduction under clause 26.4(a)(i), Shipper's Contracted Capacity is reduced to zero, then this Contract is terminated; and

(iii) if the Relinquishment Acceptance is given in respect of:

(A) part only of the Relinquishable Capacity, the Relinquishment Offer remains in effect, subject to clause 26.2, in respect of the Relinquishable Capacity which has not become Relinquished Capacity; or

(B) all of the Relinquishable Capacity, the Relinquishment Offer ceases to have effect.

(b) Subject to clause 26.4(a)(ii), this Contract, as amended under clause 26.4(a)(i), remains in effect after receipt by Shipper of the Relinquishment Acceptance, and

Operator is not obliged to release all or any part of any bond, deposit, security or other form of assurance provided by Shipper.

26.5 Notification of relinquishment of capacity by other shippers

If another shipper or shippers have rights of relinquishment of B1 Service under clauses materially equivalent to this clause 26, Operator must, whenever requested by Shipper to do so, provide Shipper, at Shipper's expense, with a statement of the current amount of capacity another shipper or shippers have offered to relinquish under clauses materially equivalent to this clause 26.

26.6 Administrative expenses

Shipper must, when requested by Operator to do so, reimburse Operator for all reasonable expenses incurred by Operator by reason of any:

(a) Relinquishment Offer;

(b) notice given under clause 26.2(a); or

(c) Relinquishment Acceptance.

27. TRADING OR TRANSFERRING CONTRACTED CAPACITY

27.1 Bare Transfers

Operator will permit a Bare Transfer of all or any part of a Shipper's Contacted Capacity in accordance with section 3.10 of the Code. For the avoidance of doubt, clause 25 and the remaining provisions in clause 27 will not apply to a Bare Transfer.

27.2 No transfer of Shipper's Contracted Capacity other than Bare Transfer than by this clause

(a) Subject to clause 27.1, Shipper may not Transfer any of its Contracted Capacity other than in accordance with this clause 27 (or clause 25 as the case may be).

(b) Neither clause 27.2(a) nor clause 25.1 prevent Shipper agreeing to utilize its Daily Nominations on behalf of an Other shipper or an Other shipper agreeing to utilize its Daily Nominations on behalf of Shipper.

27.3 Replacement Shipper must be a shipper or Approved Prospective Shipper

Shipper may Transfer Contracted Capacity only to a person who is, prior to the Transfer, an Other shipper or an Approved Prospective Shipper (***Replacement Shipper***).

27.4 Transfer of Capacity by Shipper - Approval of transfer terms

(a) If Shipper desires to transfer all or part of its Contracted Capacity to a Replacement Shipper for a duration less than or equal to the remaining duration of the Period of Supply, Shipper must, prior to transferring or agreeing to transfer that Contracted Capacity (***Tradeable Capacity***), make a written request to Operator for the approval of the Transfer of that Tradeable Capacity (***Request For Approval***).

(b) A Request For Approval must set out in detail the terms and conditions on which Shipper is prepared to Transfer the Tradeable Capacity to a Replacement Shipper, including:

(i) the duration of the Transfer;

(ii) the Inlet Point or Inlet Points and the Outlet Point or Outlet Points at which the Tradeable Capacity is to be Transferred;

(iii) the circumstances in which, and the terms on which, Shipper may interrupt a Replacement Shipper;

(iv) the quantity of Tradeable Capacity; and

(v) whether there are any rights reserved in respect of the Tradeable Capacity by Shipper.

(c) Shipper may retain a right in specified circumstances to Resume the Traded Capacity, either permanently or temporarily.

(d) Operator must, within 5 Working Days of receipt of the Request For Approval, notify Shipper that it either approves, or rejects, the Transfer Terms. Operator may reject the Transfer Terms if Operator as a Reasonable And Prudent Person considers for any reason that its operation of the DBNGP cannot accommodate:

(i) the Transfer of the Tradeable Capacity on the Transfer Terms; or

(ii) the performance of either or both of this Contract and the Replacement Contract following the Transfer of the Tradeable Capacity.

(e) Operator must not unreasonably withhold its approval of Transfer Terms if the Transfer is to an existing shipper who is not in default of any of its contracts for Capacity Services and Spot Transactions and, Operator (acting as a Reasonable And Prudent Person) believes the DBNGP can accommodate:

(i) the Transfer of the Tradeable Capacity on the Transfer Terms; and

(ii) the performance of either or both of this Contract and the Replacement Contract following the Transfer of the Tradeable Capacity.

(f) If Operator does not notify Shipper that it rejects the Transfer Terms in the terms and within the time stipulated in clause 27.4(d), then the Transfer of the Tradeable Capacity on the Transfer Terms shall be taken to have been approved by Operator.

(g) If:

(i) Operator notifies Shipper that it approves the Transfer of the Tradeable Capacity; or

(ii) Operator is taken to have approved the Transfer of the Tradeable Capacity,

(in either case ***Approved Tradeable Capacity***) on the Transfer Terms, then (subject to clause 27.6) Shipper may Transfer the Tradeable Capacity to a Replacement Shipper on those terms.

27.5 Posting of Tradeable Capacity

(a) Operator must, if requested by Shipper, use reasonable endeavours to ensure that all other shippers of which Operator is aware who are or may be interested in taking a Transfer of Tradeable Capacity are notified of details of Approved Tradeable Capacity in such a way that they all receive notice (by the CRS or otherwise) at approximately the same time as Operator makes available to the shippers any bulletin dealing with the amount of Capacity available for Nomination or Renomination on a Gas Day.

(b) Operator must provide a statement of the current details of all other shippers' Approved Tradeable Capacity at Shipper's request.

27.6 Notification of traded capacity

Shipper is to notify Operator of a Transfer of Approved Tradeable Capacity to a Replacement Shipper at least 2 Working Days before the Transfer of Approved Tradeable Capacity is to take effect.

27.7 Replacement Contract

(a) A Transfer of Approved Tradeable Capacity to a Replacement Shipper shall be taken to be a contract between Operator and the Replacement Shipper in respect of the Approved Tradeable Capacity.

(b) A Replacement Contract is governed by the terms and conditions of this Contract only so far as is necessary to accommodate the Transfer Terms.

(c) A Replacement Contract shall include a provision that the Traded Capacity is subject to all Operator's rights over that Traded Capacity under this Contract.

(d) Prior to Operator exercising any rights to terminate the Replacement Contract as a result of the Replacement Shipper's default, Operator must give at least 5 Working Days notice to Shipper specifying the nature of the default, and Operator must not terminate the Replacement Contract if within that period Shipper:

(i) cures the default; or

(ii) resumes the Tradeable Capacity (having cured the default).

27.8 Shipper's Contract

(a) Subject to this clause, this Contract remains in full force and effect following any Transfer of Traded Capacity and Operator is not obliged to release any deposit, bond, security or other form of assurance provided by Shipper.

(b) For the duration of the Replacement Contract, this Contract shall be taken to be amended so that Shipper's Contracted Capacity in respect of the relevant inlet point or inlet points or outlet point or outlet points is reduced by the amount of the Traded Capacity.

27.9 Resumption of Traded Capacity by Shipper

(a) If Shipper wishes to exercise a right under the Transfer Terms to resume the Traded Capacity, Shipper must give a Resumption Notice to Operator and the Replacement Shipper, specifying the amount of Capacity Resumed and the duration of the Resumption.

(b) Operator, on receipt of a Resumption Notice, must as soon as practicable confirm to Shipper and the Replacement Shipper that the Capacity has been Resumed.

(c) In any proceedings brought against Operator in relation to a Resumption, a Resumption Notice is conclusive proof of the validity of its issue and of its contents.

(d) To the extent that a Resumption Notice is invalidly issued or a purported Resumption is not authorised by the Transfer Terms, a Replacement Shipper's remedy lies against Shipper.

(e) For the duration of a Resumption, this Contract and the Replacement Contract shall be taken to be amended to the extent necessary to reflect the Resumption of Traded Capacity and the duration and terms of that Resumption.

(f) Traded Capacity which is resumed by Shipper, or Capacity which is otherwise transferred or reverts to Shipper, is to be subject to the terms of this Contract and treated as the same Capacity Service that applied prior to its Transfer, regardless of the terms applying to it prior to the resumption.

27.10 Administrative expenses

Shipper must, when requested by Operator, reimburse Operator for all reasonable expenses incurred or suffered by Operator by reason of the Request For Approval and any Resumption.

27.11 Further marketing service

(a) Operator may, if requested by Shipper, to the extent that it considers it practicable and prudent to do so, take steps to market (as a broker, but not as a buyer and reseller) Tradeable Capacity in ways other than the posting contemplated by clause 27.5.

(b) Operator and Shipper may agree on the remuneration of Operator in respect of any additional marketing service Operator agrees to provide, and Operator may refrain from providing that additional marketing service until such agreement is reached.

27.12 Relinquishment

(a) Where under this Contract Shipper has given a Relinquishment Notice or a notice indicating that it wishes to relinquish capacity, Operator may request that Shipper instead Transfer the relevant capacity to a third party specified by Operator in the request in accordance with this clause 27.

(b) Operator must procure that the specified third party releases and indemnifies Shipper from any liability which Shipper may incur arising out of the Transfer.

(c) If Operator makes a request under clause 27.12(a), and the third party releases Shipper from liability in accordance with clause 27.12(b), then:

(i) Shipper must comply with that request; and

(ii) Shipper is not required to make a Request For Approval under clause 27.4(a) in connection with the Transfer of the relevant capacity to the specified third party and Operator will be deemed to have approved the Transfer; and

(iii) Shipper will (and Operator will procure the third party to) execute all documents and do all other things reasonably requested of it to give effect to the Transfer contemplated by the request; and

(iv) Shipper will not retain the right to Resume the relevant capacity; and

(d) Operator must reimburse Shipper for all reasonable expenses incurred or suffered by Shipper by reason of the request.

28. CONFIDENTIALITY

28.1 Confidential Information

(a) Subject to clauses 28.2 and 28.3, each Party shall keep the terms and conditions of this Contract, and all information specifically relating to or provided pursuant to or in accordance with this Contract or in the negotiations leading to the execution of this Contract (***Confidential Information***), confidential.

(b) To avoid doubt Confidential Information includes all information received by Operator in the Operation of the DBNGP which relates to Shipper, the disclosure or misuse of which might reasonably be expected to materially affect Shipper's commercial interests, including information relating to Shipper's gas flows and flow rates, billing, and Shipper's maintenance schedules and plant availability.

(c) A reference in this clause 28 to information being **disclosed** to or **received** by a Party, includes information being communicated to or created, ascertained, discovered or derived by it or on its behalf.

28.2 Exceptions to Confidentiality

Either Party may disclose Confidential Information which:

(a) at the time when it is disclosed to the Party, is publicly known;

(b) subject to clauses 28.4 and 28.5, at the time when it is disclosed to the Party, is already known to the Party through some independent means not involving breach of any confidentiality undertaking owed pursuant to clause 28.1, and which the Party can prove by prior or contemporaneous written documentation was already known to it at the time of disclosure (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality);

(c) after the time when it is disclosed to the Party, comes into the public domain otherwise than as a result of any breach of the confidentiality undertaking owed pursuant to clause 28.1;

(d) subject to clauses 28.4 and 28.5, the other Party acquires from a source other than that Party or any Related Body Corporate or representative of that Party where such source is entitled to disclose it and such disclosure is not subject to confidentiality restrictions under this Contract;

(e) that Party is required by the ASX, court order, Law, the Regulator, or requested by the ACCC to disclose, and in such cases, the disclosing Party shall promptly notify the other Party of that requirement or request (as the case may be);

(f) is necessary in relation to any discovery of documents, or any proceedings before a court, tribunal, ACCC, other governmental agency or stock exchange, and in such cases, the disclosing Party shall promptly notify the other Party of that requirement;

(g) with the consent of the other Party and subject to any conditions of that consent;

(h) it is necessary or convenient in relation to any notification by the Shipper to ACCC or ERA under clause 28.7;

(i) is required by Law or any governmental agency or stock exchange to be disclosed in connection with the issue of securities or financial products by a Party, a Related Body Corporate of a Party, the Diversified Utility and Energy Trust No 1 and No 2 or the POWERS Trust, or any funding vehicle of any of those parties; or

(j) comprises the terms of Operator's Standard Shipper Contract.

28.3 Permitted Disclosure

(a) Either Party may disclose Confidential Information to:

(i) subject to clauses 28.4 and 28.5, its, and its Related Bodies Corporate's, employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers (and for the purpose of this clause 28.3(a) Alcoa, Alinta Limited and System Operator are to be considered Related Bodies Corporate of Operator); and

(ii) subject to clauses 28.4 and 28.5, a bona fide proposed or prospective transferee (and their employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial advisers, Related Entities, co-bidders or bid consortium members and actual or proposed joint venturers) of:

(A) a 20% or more legal or equitable interest in a relevant part or the whole of a Party's business;

(B) a 20% or more legal or equitable interest in any property to which the information relates;

(C) 20% or more of the shares in a Party; or

(D) 20% or more (by value) of the shares or units (or both) in a company or trust (or both) which, directly or indirectly, controls (as that term is defined in the Corporations Act) a Party,

to the extent those persons have a need to know the Confidential Information.

(b) Nothing in this clause 28.3 permits disclosure by Operator or System Operator, or by a person or persons to whom Confidential Information from Operator or System Operator has been disclosed under this clause 28, to:

(i) any person who is directly involved in:

(A) the distribution of Gas to customers through the Western Australia – Natural Gas Distribution System as that term is used in the National Third Party Access Code for Natural Gas Pipeline Systems (as amended from time to time);

(B) the retailing of Gas within Western Australia;

(C) the generation or sale of electricity in Western Australia;

(D) contracting for Capacity on the DBNGP; or

(E) the management of the activities referred to in the preceding paragraphs (A) to (D); or

(ii) such person's employees, officers, agents, contractors, consultants and technical advisers who are themselves directly involved in any of the activities described in clause 28.3(b)(i),

except to the extent that such person is:

(iii) the System Operator and requires the disclosure of information to it by Operator or by it to enable it to perform its obligations to Operator under the relevant operating and maintenance services contract (provided that at no time may the System Operator or its employees, officers, agents, contractors, consultants and technical advisers (which, without limiting clauses 28.4 and 28.5, does not include Alinta Limited to the extent it provides corporate and other head office services to the System Operator) be directly or indirectly involved in anything listed in clauses 28.3(b)(i)(B), (C) or (D) or clause 28.3(b)(i)(E) to the extent it relates to clauses 28.3(b)(i)(B), (C) or (D));

(iv) a director or senior manager of Alcoa or Alinta Limited, or any of their Related Bodies Corporate through which they have a direct or indirect equity interest in the DBNGP, and requires the disclosure of information in connection with the management of their respective equity interests in the DBNGP; or

(v) a senior manager of Alcoa or Alinta Limited, or any of their Related Bodies Corporate, who:

(A) is a director of Operator or its Related Bodies Corporate, or of System Operator; or

(B) by virtue of his or her duties as a senior manager is required to assist a director under clause 28.3(b)(iv),

which disclosure under clauses 28.3(b)(iii), (iv) and (v) is, subject to clauses 28.4 and 28.5, permitted in accordance with the provisions of this clause 28.3.

(c) Any Party seeking to disclose information under clause 28.3(a)(ii) must:

(i) seek the consent of the other Party as to the protocols, arrangements and agreements which will govern the disclosure of the information and the prevention of further disclosure of the information, which consent is not to be unreasonably withheld or unreasonably delayed; and

(ii) consult with the other Party to ascertain whether there is any commercially sensitive information which may not be disclosed at all or may only be disclosed on terms and conditions agreed between the Parties, and must give effect to the reasonable requirements of the other Party in these respects.

28.4 Disclosure by recipient of Confidential Information

(a) Any Party disclosing information under clauses 28.2 or 28.3 must ensure that persons receiving Confidential Information from it, or from any person or persons to whom the Confidential Information has been disclosed, do not:

(i) disclose the information except in circumstances permitted in clauses 28.2 or 28.3 (as the case may be); and

(ii) use the information except in the circumstances permitted by clause 28.5.

(b) If Operator and System Operator disclose information to a person under clauses 28.3(b)(iii), (iv) or (v), then Operator must ensure that (unless in the circumstances of a particular case it is not possible to do so) the information is disclosed in a manner which minimises the disclosure of the Confidential Information referred to in clause

28.1(b), including by one or more of aggregating the information with like information from other shippers, presenting it in summary form, or presenting it (so far as is practicable) in a form which does not identify it as relating to Shipper.

28.5 Use of Confidential Information

A Party who has received Confidential Information from another under this Contract must not use it, and a Party who has disclosed Confidential Information to a person under clause 28.3 must procure that that person, and any person or persons to whom the Confidential Information is subsequently disclosed, does not use it, except for the purpose of exercising the Party's rights or performing the Party's obligations under this Contract or as otherwise contemplated under this Contract, with the exception of those persons set out in clause 28.3(a)(ii), who must not use the Confidential Information received from another under this Contract except for and in relation to assessing the value of, and preparing a bid for, the relevant interest under clause 28.3(a)(ii) that is proposed to be acquired and who must comply with the protocols, arrangements and agreements agreed under clause 28.3(c)(i).

28.6 Information received by Operator

(a) Operator must develop, prior to March 2006, and thereafter implement and enforce, policies and procedures to:

(i) give effect to its obligations under:

(A) clauses 28.3(a)(i), 28.3(b), 28.6(a), 28.6(b) or 28.6(c); and

(B) clauses 28.4 and 28.5 to the extent related to disclosure under clauses 28.3(a)(i), 28.3(b) or 28.6(b); and

(ii) subject to clause 45, ensure that all shippers are treated equally and fairly,

and must procure that its direct and indirect shareholders, service providers (including the System Operator) and all Related Bodies Corporate of these entities comply with those policies and procedures and with the Law.

(b) Operator recognises that information received by its personnel or by System Operator's personnel (which expression includes Operator's and System Operator's employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers), including general operational and gas flow information, is commercially sensitive and Operator undertakes that, in addition to the obligations under clauses 28.1 and 28.5, such Confidential Information will only be distributed by the control room personnel of Operator or System Operator, as the case may be, to other individuals within Operator, or System Operator, to the extent that those other individuals have a bona fide need to receive that Confidential Information for the purposes of Operating the DBNGP. Operator must procure that any Confidential Information distributed under this clause 28.6 is only used for the purpose for which it was distributed.

(c) Operator must make available to Shipper upon request a copy of the policies and procedures developed and implemented under clause 28.6(a). Despite this clause 28, Shipper may in any submissions to the ERA or the ACCC disclose this clause 28 and the policies and procedures developed and implemented under clause 28.6(a).

(d) Nothing in clause 28.6(c) requires Operator to consult with Shipper regarding, or to seek Shipper's agreement with, any policies and procedures developed and implemented under clause 28.6(a).

28.7 Breach by Operator

(a) Shipper will notify Operator immediately if it has evidence able to be substantiated of a breach by Operator, or any party for whom Operator is responsible under this clause 28, of any of:

(i) clauses 28.3(a)(i), 28.3(b), 28.6(a), 28.6(b) or 28.6(c);

(ii) clauses 28.4 or 28.5 to the extent related to disclosure under clause 28.3(a)(i), 28.3(b) or 28.6(b); or

(iii) the policies or procedures referred to in clause 28.6(a),

(each a ***Relevant Breach***).

(b) Within 30 days after receipt of a notice under clause 28.7(a), Operator must:

(i) notify Shipper as to whether or not it agrees that a Relevant Breach has occurred; and

(ii) if it agrees that a Relevant Breach has occurred, specify the manner in which Operator proposes to address the breach and ensure that it is not repeated and if applicable make a proposal of compensation for Shipper's loss (which proposal must take into account the fact that the exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under clauses 28.7(c) and 28.7(e)).

(c) If Operator does not agree that a Relevant Breach has occurred, or if Operator's response under clause 28.7(b) does not resolve the matter to Shipper's reasonable satisfaction or include a proposal of compensation acceptable to Shipper acting reasonably, or if Operator does not respond within the time required by clause 28.7(b), Shipper may notify the ACCC. If the ACCC confirms that there was a Relevant Breach of this clause 28, Shipper may then pursue any other remedies under this Contract or at Law against Operator, including seeking any loss or damage arising in respect of the Relevant Breach. The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under this clause 28.7(c).

(d) If, following notification from Shipper to ACCC under clause 28.7(c), the ACCC does not resolve the matter to Shipper's reasonable satisfaction within 30 days after Shipper notified the ACCC, Shipper may notify the ERA.

(e) If, following notification from Shipper to ERA under clause 28.7(d), the ERA confirms that there was a Relevant Breach of this clause 28 or does not resolve the matter to Shipper's reasonable satisfaction within 30 days after Shipper notified the ERA, Shipper may then pursue any other remedies under this Contract or at Law against Operator, including seeking any loss or damage arising in respect of the Relevant Breach. The exclusion of Indirect Damage in clause 23.3 does not apply in relation to Operator's liability under this clause 28.7(e).

(f) If Shipper considers that a breach of this clause 28 has occurred by Operator or any party for whom Operator is responsible under this clause 28 but Shipper does not have evidence of such breach, then Shipper may notify Operator.

(g) Within 30 days after receipt of a notice under clause 28.7(f), Operator must:

(i) notify Shipper as to whether or not it agrees that a breach has occurred; and

(ii) if it agrees that a breach has occurred, confirm the manner in which Operator proposes to address the breach and ensure that it is not repeated.

(h) If Operator's response under clause 28.7(g) does not address Shipper's concern to Shipper's reasonable satisfaction, Shipper may notify the ERA.

(i) Following notification under clause 28.7(h), if the ERA determines that there was a breach of this clause 28 it may suggest an appropriate remedy, however the Parties agree that Operator is not liable to Shipper for any damages in these circumstances.

(j) The procedures outlined above represent the sole and exclusive means by which Shipper may obtain damages in relation to such breaches or alleged breaches by Operator. No right of termination arises for a Relevant Breach. This clause 28.7(j) does not limit clause 28.11.

(k) If, and for so long as, either or both of the ERA and the ACCC are unable to accept the role intended for them under this clause 28.7, the Parties agree that the references to the ERA or ACCC, as applicable, will be deemed to be to an Independent Expert under clause 24 and the provisions of clause 24 will apply subject only to the following modifications:

(i) the matter will be considered a Technical Matter;

(ii) the appointing authority in clause 24.8(b)(i) will be the Chairman for the time being of the ERA or, if he or she fails or declines to make the appointment within 10 days of being asked to do so, the President for the time being of the Institute of Chartered Accountants Australia; and

(iii) the following will be added to clause 24.10(g): "and the Independent Expert must, and the Parties must assist as applicable to, make a determination within 30 days of his appointment.".

(l) The Parties agree to cooperate to make submissions to the applicable person or body to seek the conferral of the relevant power on the ERA or ACCC, as applicable, in order that they may accept the role intended for them under this clause 28.7.

28.8 Publicity

A Party may not make press or other announcements or releases relating to this Contract and the transactions the subject of this Contract without the approval of the other Party as to the form and manner of the announcement or release (which approval shall not be unreasonably withheld or delayed) unless and to the extent that the announcement or release is required to be made by the Party by Law or by a stock exchange. This clause 28.8 does not apply:

(a) if the second Party unreasonably delays or withholds approval; or

(b) to the extent that the proposed announcement or release relates to a matter regarding which the Parties are in a bona fide dispute or disagreement.

Nothing in this clause 28.8 authorises the disclosure of Confidential Information.

28.9 No disclosure of terms of this Contract

Except as otherwise agreed or duly required by Law or any regulatory authority, no Party will disclose the terms of this Contract to any person other than pursuant to clauses 28.2(d) to 28.2(f) and 28.3.

28.10 Audit

Operator will procure that, in accordance with the undertakings to the ACCC under section 87B of the *Trade Practices Act 1974* (***Undertakings***) by Alcoa, Alinta Limited, Alinta Network Services Pty Ltd, AMPCI Macquarie Infrastructure Management No 1, AMPCI Macquarie Infrastructure Management No 2 and DBNGP Holdings Pty Limited on 22 October 2004, an independent audit is undertaken in relation to compliance with the Undertakings.

28.11 Remedies

The Parties acknowledge that damages are not a sufficient remedy for any breach of the obligations of this clause 28 and both Parties are entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies available at Law or in equity.

28.12 Survival

This clause 28 survives termination (for whatever reason) of this Contract.

29. NOTICES

29.1 Notices for nominations, Curtailment, unavailability, balancing, Out-Of-Specification Gas and capacity trading

(a) Subject to clause 29.1(b), all Curtailment Notices and Unavailability Notices and notices under clauses 7.5 and 17.6(a) must be communicated by facsimile to the facsimile number, until further notice is given under clause 29.3(c), set out in the Access Request Form.

(b) Operator and Shipper may agree on an alternative means for communication of the notices specified in clause 29.1(a), in which case the notices must be communicated using that alternative method.

(c) Until Operator and Shipper agree an alternative method of communication under clause 29.1(b), Operator and Shipper must each install and maintain a dedicated facsimile machine on a separate facsimile number for the purposes of clause 29.1(a), and from time to time either Party may advise the other Party in writing of a new facsimile number which is to take effect in substitution for the number set out in this clause 29.1.

29.2 The CRS

(a) Subject to clauses 29.2(b) and 29.2(c), Accumulated Imbalance Notices, Resumption Notices and all notices under clause 8 (Nominations) may be provided through the CRS.

(b) If at any time and for any reason the CRS fails to function properly, then each of the notices specified in clause 29.2(a) that are required to be given during the period of failure, must be communicated by the method set out in clause 29.1.

(c) The terms and conditions of access to the CRS will be as published by Operator from time to time, provided that the CRS may not be used for giving notices which have contractual effect unless Shipper has agreed to the terms and conditions (such agreement not to be unreasonably withheld).

29.3 Notices generally

(a) Where under this Contract a notice is required or permitted to be communicated to a Party (other than the notices specified in clauses 29.1(a) and 29.2(a)), the notice shall be taken to have been communicated if it is in writing and it is delivered personally to, or sent by certified mail addressed to, the Party at the address, or is sent by facsimile transmission to the facsimile number, last notified under this clause.

(b) For the purposes of this clause, and until further notice is given under clause 29.3(c), the addresses and facsimile numbers of the Parties are as set out in the Access Request Form.

(c) From time to time, for the purposes of this clause, either Party may advise the other Party in writing of an address located within the State and a facsimile number which are to take effect in substitution for the details set out in this clause.

(d) Nothing in this clause prevents the Parties from agreeing in writing to utilize an alternative means of communication of notices, including via electronic mail or through the CRS.

29.4 Receipt of notices

(a) A reference in this Contract to notice before a certain time means that the notice must be received at the intended address or facsimile machine, or posted to the CRS, by no later than that time.

(b) For the purposes of this Contract, any notice sent by facsimile machine is, subject to clause 29.4(c), to be taken to have been sent and received on the date and at the time printed on a transmission report produced by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the appropriate facsimile number, unless the recipient notifies the sender within one hour (in the case of a notice to which clause 29.1(a) applies) or 12 hours (in any other case) of the time printed on the transmission report that the facsimile was not received in its entirety in legible form.

(c) When the time printed on the transmission report referred to in clause 29.4(b) is between:

(i) 00:00 hours and 09:00 hours; or

(ii) 17:00 hours and 24:00 hours,

on a Working Day, clause 29.4(b) shall apply as if, in respect to 29.4(c)(i), the time on the transmission report was 09:00 hours on the Working Day and, in respect to clause 29.4(c)(ii), the time on the transmission report was 09:00 hours on the next Working Day.

(d) For the purposes of this Contract, any notice sent by email must be sent by and to the email addresses set out in the Access Request Form (***Dedicated Email Address***). Each Party agrees to configure the information systems on which emails are sent from and to the Dedicated Email Addresses so as to generate an automatic response message for each email received by the Dedicated Email Address. Any notice sent from a Dedicated Email Address is, subject to this clause 29.4, taken to be given and received at the time the sender receives an automatic response message to the email.

(e) For the purposes of this Contract, a notice sent by certified mail shall be taken to be received on the earlier of the date of receipt or on the second Working Day after the notice was committed to post.

(f) For the purposes of this Contract:

(i) a notice sent by the CRS between 09:00 hours and 17:00 hours on a Working Day will be taken to have been received on that Working Day; and

(ii) the other notices sent by the CRS will be taken to have been received at the commencement of the next Working Day.

30. REPRESENTATIONS AND WARRANTIES

30.1 Operator's Representations and Warranties

(a) Operator represents and warrants to Shipper that:

(i) it has duly complied, and will up to the termination of this Contract continuously comply, with all Environmental And Safety Laws with respect to any of its obligations connected with, arising out of or in relation to this Contract;

(ii) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Environmental And Safety Laws and all other Laws to enter into this Contract, to observe its obligations under this Contract and to allow those obligations to be enforced;

(iii) it has in full force and effect all materially necessary leases, licences or easements to construct, Operate and Maintain the Outlet Point Station at each Outlet Point specified in the Access Request Form and all metering and other facilities for which it is responsible under this Contract;

(iv) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

(v) Operator does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);

(vi) this Contract and any transaction under it does not contravene Operator's constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;

(vii) it is the operator of the DBNGP;

(viii) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness of the person except debts mandatorily preferred by Law;

(ix) Operator is not in default under a Law affecting it or its assets, or any obligation or undertaking by which it or any of its assets are bound which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Contract;

(x) the Nominations Plan will be applied to the allocation of Gas Transmission Capacity to all shippers on the DBNGP and the Curtailment Plan will be applied to the Curtailment of the Delivery of Gas to all shippers on the DBNGP; and

(xi) subject to a contrary provision in the Access Arrangement, it will not enter into a contract arrangement or understanding for a Capacity Service that has a priority of allocations of Nominations for the purposes of clause 8.9, and for the purposes of Curtailments under clause 17.7(a), that is inconsistent with clause 8.9 and in particular, but without limitation, it will not allow a Capacity

Service to have a priority of allocation of Nominations which sits between Alcoa's Exempt Delivery Entitlement and the T1 Service, or between any of the Types of Capacity Services listed in the Curtailment Plan.

(b) The representations and warranties in clause 30.1(a) are made on and from the Capacity Start Date, and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.2 Shipper's Representations and Warranties

(a) Subject to clause 30.2(b), Shipper represents and warrants to Operator that:

(i) it has duly complied, and will up to the termination of this Contract continuously comply, with all Environmental And Safety Laws with respect to any of its obligations connected with, arising out of or in relation to this Contract;

(ii) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Environmental And Safety Laws and all other Laws to enter into this Contract, to observe its obligations under this Contract, and to allow those obligations to be enforced;

(iii) it has, or its Producers have, in full force and effect all necessary leases, licences or easements to construct, Operate and Maintain all facilities for which it is responsible under this Contract;

(iv) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

(v) this Contract and any transaction under it does not contravene Shipper's constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;

(vi) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness of Shipper except debts mandatorily preferred by Law;

(vii) neither Shipper nor any of its Related Bodies Corporate is in default under a Law affecting any of them or their respective assets, or any obligation or undertaking by which it or any of its assets are bound which will or might reasonably be expected to, materially affect its ability to perform the obligations under this Contract;

(viii) there is no pending or threatened action or proceeding affecting Shipper or any of its Related Bodies Corporate or any of their respective assets before a court, governmental agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Contract;

(ix) neither Shipper nor any of its Related Bodies Corporate have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise); and

(x) Shipper is not an agent or trustee in relation to this Contract or in relation to the Gas to be Received or Delivered under this Contract.

(b) The representations and warranties in clause 30.2(a) are made on and from the Capacity Start Date, and shall be taken to be made anew on each day thereafter for the duration of this Contract.

30.3 Pipeline Trustee's Representations and Warranties

(a) The Pipeline Trustee represents and warrants to Shipper that:

(i) it is empowered by the constitution of its Trust to enter into and perform this Contract, to carry on its business as now conducted or contemplated and to own its assets in its capacity as trustee of the Pipeline Trust, and there is no restriction on or condition of its doing so;

(ii) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the constitution of its Trust for it to enter into and perform this Contract;

(iii) it is the sole trustee and responsible entity of the Pipeline Trust;

(iv) no property of the Pipeline Trust has been re-settled or set aside or transferred to any other trust;

(v) the Pipeline Trust has not been terminated, nor has any event for the vesting of the assets of the Pipeline Trust occurred;

(vi) its right of indemnity out of, and lien over, the assets of the Pipeline Trust has not been limited in any way (other than as required by s601GA(2) of the Corporations Act) including, without limitation, it has no liability which may be set off against that right of indemnity;

(vii) the Pipeline Trust is registered under s601EB of the Corporations Act;

(viii) the Pipeline Trustee holds a dealers licence authorising it to operate the Pipeline Trust;

(ix) the constitution of its Trust complies with all applicable Laws;

(x) it has complied in all material respects with its obligations and duties under the constitution of its Trust and the Corporations Act.

(b) The representations and warranties in clause 30.3(a) are made on and from the Capacity Start Date and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.4 DBNGP Trustee's Representations and Warranties

(a) The DBNGP Trustee represents and warrants to Shipper that:

(i) it is empowered by the constitution of its Trust to enter into and perform this Contract, to carry on its business as now conducted or contemplated and to own its assets in its capacity as trustee of the DBNGP Trust, and there is no restriction or condition of its doing so;

(ii) all necessary resolutions have been duly passed and all consents, approvals and other procedural matters have been obtained or attended to as required by the constitution of its Trust for it to enter into and perform this Contract;

(iii) it is the sole trustee and responsible entity of the DBNGP Trust;

(iv) no property of the DBNGP Trust has been re-settled or set aside or transferred to any other trust;

(v) the DBNGP Trust has not been terminated, nor has any event for the vesting of the assets of the DBNGP Trust occurred;

(vi) its right of indemnity out of, and lien over, the assets of the DBNGP Trust has not been limited in any way (other than as required by s601GA(2) of the Corporations Act) including, without limitation, it has no liability which may be set off against that right of indemnity;

(vii) the DBNGP Trust is registered under s601EB of the Corporations Act;

(viii) the DBNGP Trustee holds a dealers licence authorising it to operate the DBNGP Trust;

(ix) the constitution of its Trust complies with all applicable Laws;

(x) it has complied in all material respects with its obligations and duties under the constitution of its Trust and the Corporations Act.

(b) The representations and warranties in clause 30.4(a) are made on and from the Capacity Start Date and are to be taken to be made anew on each day thereafter for the duration of this Contract.

30.5 Creditworthiness of Shipper

Operator may from time to time seek confirmation from Shipper (including provision of the most recent audited financial accounts of Shipper) that Shipper is in a position to meet its obligations under this Contract.

30.6 Failure to Satisfy Operator of Creditworthiness

If Operator is (acting reasonably) not sufficiently certain that Shipper is in a position to meet or continue to meet its obligations under this Contract, Operator may require, and Shipper must provide, security for those obligations to Operator's reasonable satisfaction.

31. RECORDS AND INFORMATION

(a) Except where otherwise provided in this Contract, both Operator and Shipper must prepare and maintain proper books, accounts, records and inventories of all matters connected with or relating to this Contract, and shall retain those books, accounts, records and inventories for at least seven years.

(b) If Shipper requests (which it may not do more frequently than every 12 months) and without limiting any other obligation on Operator to provide information under this Contract, another contract or at Law, Operator shall provide Shipper with a non-binding indicative summary of its material planned expansions (if any) of the Gas Transmission Capacity for the following 5 years. Shipper agrees that these plans will be prepared and provided to Shipper without any warranty or undertaking that such planned expansions will be undertaken, or if undertaken will be effective and available to Shipper.

32. INSURANCES

(a) Subject to clause 32(d), Shipper must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable And Prudent Person:

(i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981*, and for Shipper's common law liability to workers;

(ii) property damage insurance against damage, loss or destruction of Shipper's plant and equipment (if any) at the Inlet Point Station or Outlet Point Station; and

(iii) liability insurance for such amount as Operator may reasonably require (not exceeding $100 million adjusted for changes in CPI compared to the CPI for the quarter ending immediately prior to 27 October 2004) against risk of loss, damage, death or injury to property or personnel of Operator, Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.

(b) Subject to clause 32(d), Shipper must:

(i) arrange for Operator's interest to be noted on the policies referred to in clauses 32(a)(ii) and 32(a)(iii) to the reasonable satisfaction of Operator so that Operator is covered under those policies; and

(ii) use all reasonable endeavours to arrange for the insurers to waive rights of subrogation against Operator.

(c) Subject to clause 32(d), Shipper must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide Operator with certificates of currency of the insurances and endorsements required by this clause.

(d) Operator may waive compliance by Shipper with any or all of the requirements of clauses 32(a), 32(b)and 32(c), if Operator:

(i) is satisfied that Shipper has adequate alternative arrangements; or

(ii) accepts Shipper as a self-insurer; or

(iii) determines that there is other sufficient reason to do so.

(e) Subject to clause 32(h), Operator must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable And Prudent Person:

(i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981*, and for Operator's common law liability to workers;

(ii) property damage insurance against damage, loss or destruction of the DBNGP and all associated equipment; and

(iii) liability insurance for such amount as Shipper may reasonably require (not exceeding $100 million adjusted for changes in CPI compared to the CPI for the quarter ending immediately prior to 27 October 2004) against risk of loss, damage, death or injury to property or personnel of Operator, Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.

(f) Subject to clause 32(h), Operator must use all reasonable endeavours to arrange for:

(i)

(A) endorsement on the policies referred to in clauses 32(e)(ii) and 32(e)(iii) of Shipper as an insured or co-insured; or

(B) Shipper's interest to be noted on those policies to the satisfaction of Shipper so that Shipper is covered under those policies; and

(ii) the insurers to waive rights of subrogation against Shipper.

(g) Subject to clause 32(h), Operator must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide Shipper with certificates of currency of the insurances and endorsements required by this clause.

(h) Shipper may waive compliance by Operator with any or all of the requirements of clauses 32(e), 32(f) and 32(g), if Shipper:

(i) is satisfied that Operator has adequate alternative arrangements;

(ii) accepts Operator as a self-insurer; or

(iii) determines that there is other sufficient reason to do so.

33. NO WAIVER

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

34. ENTIRE AGREEMENT

This Contract and the Access Arrangement constitutes the entire agreement between the Parties on the subject matter of this Contract and supersedes all prior negotiations, representations and agreements between the Parties.

35. SEVERABILITY

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

36. ENTRY AND INSPECTION

(a) Each Party shall grant to, or use its reasonable endeavours to procure for, the other Party all reasonable rights of entry:

(i) for the purposes of constructing, installing, operating, maintaining and verifying the accuracy of any Metering Equipment, other equipment or thing (and if the Party is Operator, the DBNGP);

(ii) to inspect for safety or other reasons the construction, installation, Operation, Maintenance and repair of any Metering Equipment, other equipment or thing (and if the Party is Operator, the DBNGP); and

(iii) for any other purpose connected with or arising out of this Contract.

(b) Any entry under clause 36(a) is made in all respects at the expense and risk of the entering Party, who must, subject to clause 23 make good any damage occasioned by or resulting from the entry.

(c) Except in the case of emergency, a Party shall:

(i) when it seeks to exercise a right of entry under this clause 36, give reasonable notice to the other Party specifying the proposed time and duration of entry; and

(ii) take all reasonable steps to ensure that during the entry its employees, servants, consultants, independent contractors and agents cause as little inconvenience to the other Party as possible and at all times comply with all reasonable safety standards and other requirements of that Party.

(d) To the extent that any equipment or thing is located on the premises of a third person, the Parties shall use their reasonable endeavours to secure for either or both of the Parties a right of entry to that third person's premises.

37. OWNERSHIP, CONTROL, MAINTENANCE AND RISK

(a) In the absence of any agreement between the Parties to the contrary, the inlet point and the outlet point on the DBNGP mark the boundaries of ownership of all plant, equipment, pipelines and facilities, and, as between the Parties and in the absence of evidence to the contrary, Shipper is to be presumed to own any relevant thing upstream of the inlet point and downstream of an outlet point, and Operator is to be presumed to own any relevant thing between the inlet point and the outlet point.

(b) In the absence of any agreement between the Parties to the contrary, the responsibility to install, commission, Operate and Maintain, and the risk in relation to, all plant, equipment, pipelines and facilities follows ownership.

38. REVOCATION, SUBSTITUTION AND AMENDMENT

(a) Operator and Shipper may at any time agree in writing to revoke, substitute or amend any provision of this Contract (including the Access Request Form).

(b) Nothing in this clause 38 prevents Shipper from:

(i) relocating Contracted Capacity under this Contract;

(ii) nominating or Renominating for and being allocated Capacity under this Contract which exceeds Shipper's Contracted Capacity;

(iii) contracting for and having Capacity transferred to it by an Other shipper; or

(iv) varying this Contract in accordance with clauses 14.9 or 17.7(e).

(c) If the Parties agree to an increase in Contracted Capacity, this Contract (including the Access Request Form) is to be amended to reflect this.

39. NO COMMON CARRIAGE

Neither Operator nor Shipper is a common carrier of Gas transported through the DBNGP.

40. OPERATOR NOT A SUPPLIER OF GAS

Nothing in this Contract requires Operator to supply Gas to Shipper but Operator is required to Deliver Gas from time to time in accordance with this Contract.

41. STAMP DUTY

Shipper must pay all stamp duty which may be payable in respect of this Contract.

42. NO THIRD PARTY BENEFIT

Subject to clause 23, no person other than Operator or Shipper is to obtain any right, benefit or entitlement under this Contract, despite that person being referred to in this Contract or belonging to a class of persons which is referred to in this Contract.

43. GOVERNING LAW

This Contract is to be construed and interpreted in accordance with the Law of Western Australia and the Parties entering into this Contract submit to the non-exclusive jurisdiction of the courts of Western Australia.

44. GENERAL

44.1 Operator's discretion

Operator acknowledges and agrees that in circumstances in which it has a discretion to take action under this Contract, including any of clauses 9.5(b)(ii), 9.8, 10.3(a)(iii) or 10.4 that may limit the amount of Capacity available to Shipper, or that may affect the way in which Shipper may use Capacity, during a certain period, which action is not governed by the provisions of clauses 8.7, 8.9, 8.15 or 8.16 relating to Nominations or clauses 17.9 or 17.10 relating to Curtailment, Operator must treat Shipper fairly and reasonably in the circumstances with all other shippers who should or may be subject to similar action.

44.2 Refusal to Receive or deliver Gas

Where Operator is entitled under this Contract to refuse to Receive Gas at an inlet point or refuse to Deliver Gas at an outlet point, then Operator may take whatever action it believes, acting as a Reasonable And Prudent Person, is necessary to refuse to Receive Gas at an inlet point or refuse to Deliver Gas at an outlet point, including by physically reducing, interrupting or stopping completely or in part the flow of Gas at the inlet point or outlet point.

45. NON-DISCRIMINATION CLAUSE

45.1 Access to DBNGP information

If Operator, System Operator or any of their contractors or agents, or any person or persons to whom information from Operator or System Operator has been disclosed, provides any information to any shipper or a Related Body Corporate or officer of a shipper (acting in their respective capacity as shippers) about availability of Capacity, including:

(a) information relating to planned and unplanned maintenance;

(b) policies and procedures under which the market for Spot Capacity and Curtailment is administered; or

(c) DBNGP flow data between each compressor station and each other significant point,

then, other than to the extent that such information relates to an inlet point, outlet point or gate station which is specific to an individual shipper, Operator must ensure that Shipper receives that information at substantially the same time and in the same format.

Nothing in this clause 45.1 limits Operator's obligations under clause 28.

45.2 Arms' length dealings

Operator must, and must procure that System Operator does, in Operating and Expanding the DBNGP and exercising the discretions afforded to Operator under this and other contracts:

(a) treat all shippers (including shippers which are Associates of a Relevant Company) on an arms' length basis; and

(b) ensure that no shipper which is an Associate of a Relevant Company receives a benefit, compared with an other shipper which is not, unless the benefit is attributable to an arms' length application of the two shippers' respective contractual entitlements entered into on terms and conditions that are comparable with the Standard Shipper Contract.

46. PIPELINE TRUSTEE'S LIMITATION OF LIABILITY

(a) The Pipeline Trustee enters into this Contract only in its capacity as trustee of the Pipeline Trust and in no other capacity. A liability arising under or in connection with this Contract can be enforced against the Pipeline Trustee only to the extent to which it can be satisfied out of property of the Pipeline Trust out of which the Pipeline Trustee is actually indemnified for the liability. Except as provided in clause 46(b), this limitation of the Pipeline Trustee's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the Pipeline Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

(b) Clause 46(a) does not act to limit:

(i) Shipper's entitlements to seek orders against the Pipeline Trustee (in its capacity as trustee of the Pipeline Trust) for specific performance or injunctive relief, in addition to any other remedies available to Shipper at Law or in equity; or

(ii) Pipeline Trustee's liability arising as a result of its fraud, gross negligence or gross misconduct.

47. DBNGP TRUSTEE'S LIMITATION OF LIABILITY

(a) The DBNGP Trustee enters into this Contract only in its capacity as trustee of the DBNGP Trust and in no other capacity. A liability arising under or in connection with this Contract can be enforced against the DBNGP Trustee only to the extent to which it can be satisfied out of property of the DBNGP Trust out of which the DBNGP Trustee is actually indemnified for the liability. Except as provided in clause 47(b), this limitation of the DBNGP Trustee's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the DBNGP Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.

(b) Clause 47(a) does not act to limit:

(i) Shipper's entitlements to seek orders against the DBNGP Trustee (in its capacity as trustee of the DBNGP Trust) for specific performance or injunctive relief, in addition to any other remedies available to Shipper at Law or in equity; or

(ii) DBNGP Trustee's liability arising as a result of its fraud, gross negligence or gross misconduct.

Schedule 1 - Access Request Form

Schedule 2 - Charges

All amounts in this Schedule 2 are exclusive of GST.

B1 Reference Tariff

Tariff	Amount
T1 Capacity Reservation Tariff	$0.899899/GJ MDQ
T1 Commodity Tariff	$0.103122/GJ

Other Charges (clause 20.4)

Row	Description of Charge	Rate at which Charge is determined
1	Excess Imbalance Charge (clause 9.5(e))	200% of the B1 Reference Tariff from time to time
2	Hourly Peaking Charge (clause 10.3(d))	200% of the B1 Reference Tariff from time to time
3	Overrun Charge (clause 11.1(a))	At the rate specified in clause 11.1(b)
4	Unavailable Overrun Charge (clause 17.8(e))	The greater of: (a) 250% of the B1 Reference Tariff from time to time; and (b) the highest price bid for Spot Capacity which was accepted for that Gas Day, other than when the highest price bid was not a bona fide bid, in which case the highest bona fide bid, multiplied by the Distance Factor.

Schedule 3 - Operating Specifications

Item 1 Gas Specifications

Component		Inlet Points and Outlet Points
Maximum carbon dioxide (mol %)		4.0
Maximum inert gases (mol %)		7.0
Minimum higher heating value (MJ/m3)		37.0
Maximum higher heating value (MJ/m3)		42.3
Minimum Wobbe Index		46.5
Maximum Wobbe Index		51.0
Maximum total sulphur (mg/m3)	Unodorised Gas	10
	Odorised Gas	20
Maximum Hydrogen Sulphide (mg/m3)		2
Maximum Oxygen (mol %)		0.2
Maximum Water (mg/m3)		48
Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute		Below 0^0C
Maximum radioactive components (Bq/m3)		600
Minimum Extractable LPGs (t/TJ)		0

Schedule 4 - Not Used

Schedule 5 - Not Used

Schedule 6 - Not Used

Schedule 7 - Tripartite Deed

Schedule 8 - Curtailment Plan

PART A

Order of Priority	System Curtailment
1	Any Capacity Service insofar as it is for Shipper's relevant share of the Distribution Networks' IPQ
2	Alcoa's Priority Quantity
3	Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (including Aggregated T1 Service), P1 Service and B1 Service apportioned in accordance with the provisions of Part B of this Schedule 8
4	The balance of Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) T1 Service (including Aggregated T1 Service) , P1 Service and B1 Service which is not dealt with under item 3 above, apportioned in accordance with the provisions of Part B of this Schedule 8
5	Firm Service
6	Other Reserved Service
7	Spot Capacity

Order of Priority	Point Specific Curtailment
1	Any Capacity Service insofar as it is for the shipper's relevant share of the Distribution Networks' IPQ
2	Alcoa's Priority Quantity
3	Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity) and T1 Service (excluding Aggregated T1 Service), P1 Service and B1 Service at the relevant point apportioned in accordance with the provisions of Part B of this Schedule 8
4	The balance of Alcoa's Exempt Delivery Entitlement (excluding Alcoa's Priority Quantity), T1 Service (excluding Aggregated T1 Service) , P1 Service and B1 Service at the relevant point which is not dealt with under item 3 above, apportioned in accordance with the provisions of Part B of this Schedule 8
5	Firm Service that is Contracted Capacity at the relevant point
6	Other Reserved Service that is Contracted Capacity at the relevant point
7	Aggregated T1 Service at the relevant point
8	Other Reserved Service (if any) nominated by and allocated to the shipper at the relevant point at which the shipper does not have Contracted Capacity in that Other Reserved Service in accordance with the provision of the shipper's contract for the Other Reserved Service
9	Spot Capacity

Schedule 8 – Curtailment Plan

PART B

(a) The amount of Capacity available after allowing for items 1 and 2 in Part A of this Schedule 8, up to the next 253.5TJ/d of Capacity, is to be apportioned as follows:

(i) ½ of the available Capacity is to be apportioned to Alcoa; and

(ii) ½ of the available Capacity is to be apportioned to B1 Service, which among shippers with Contracted Capacity for B1 Service is to be apportioned in accordance with clause 17.9(c)(i).

(b) The amount of Capacity available after allowing for items 1, 2 and 3 in Part A of this Schedule 8 is to be apportioned as follows:

(i) the Alcoa Proportion of the available Capacity is to be apportioned to Alcoa; and

(ii) the balance of the available Capacity is to be apportioned to B1 Service, which among shippers with Contracted Capacity for B1 Service is to be apportioned in accordance with clause 17.9(c)(i), or if there is available Capacity after all B1 Service has been provided for then to items below B1 Service in the applicable column of the table in Part A of this Schedule 8, which among shippers with the relevant Type of Capacity Service is to be apportioned in accordance with clause 17.9(c)(i).

(c) The Alcoa Proportion is to be determined in accordance with the following:

$$AP = AE / PE$$

Where:

AP = the Alcoa Proportion;

AE = the aggregate of all Alcoa's additional entitlements to Capacity under the Alcoa Exempt Contract which have arisen as a result of Alcoa giving notices requiring additional Capacity under the provisions of the Alcoa Exempt Contract since the date of the Alcoa Exempt Contract which entitlements have not been discontinued or relinquished by Alcoa; and

PE = the aggregate of all increases in Full Haul Capacity on the DBNGP which have resulted from Capacity expansion programmes as contemplated in the Alcoa Exempt Contract since the date of the Alcoa Exempt Contract, less the lesser of $^{1}/_{3}$ of the capacity of the last such Capacity expansion programme or 30TJ/d.