

## APPENDIX 3 - GENERAL TERMS AND CONDITIONS

<b>1</b>	<b>INTRODUCTION.....</b>	<b>1</b>
1.1	General Terms and Conditions.....	1
<b>2</b>	<b>AGREEMENT TO PROVIDE AND TO ACCEPT SERVICE.....</b>	<b>1</b>
<b>3</b>	<b>TERM OF AGREEMENT .....</b>	<b>1</b>
3.1	Term and Termination.....	1
3.2	Enhancements not Operational.....	1
3.3	Termination for Failure to Lodge Bond .....	2
<b>4</b>	<b>SERVICE.....</b>	<b>2</b>
4.1	Reference Service.....	2
4.2	Availability.....	2
4.3	Applicability And Character Of Service .....	2
4.4	Supplementary Quantity Option.....	2
<b>5</b>	<b>FORECASTS AND NOMINATION PROCEDURE.....</b>	<b>3</b>
5.1	Monthly Forecasts .....	3
5.2	Daily Nominations .....	4
5.3	Notification of Imbalances .....	4
5.4	Changes to Nominations.....	5
5.5	Metered Quantities of Gas Used for Purposes of Service Agreement .....	5
<b>6</b>	<b>CONNECTION, INLET POINT AND OUTLET POINTS.....</b>	<b>5</b>
6.1	Connection to the Pipeline .....	5
6.2	Inlet Point .....	6
6.3	Temperature and Pressure of Gas at Inlet Point.....	6
6.4	Outlet Points.....	6
6.5	Pressure of Gas at Outlet Point.....	7
6.6	Ownership and Possession.....	8
6.7	Compliance .....	8
6.8	New Outlet Points.....	8
6.9	Alternative or Additional Outlet Points .....	9
6.10	Response by the Owners.....	9
<b>7</b>	<b>QUANTITY VARIATIONS .....</b>	<b>9</b>
7.1	Effect of Quantity Variations.....	9
7.2	Gas Balancing .....	10
7.3	Daily Overrun.....	12

7.4	Hourly Overrun .....	13
7.5	Variance .....	13
<b>8</b>	<b>INTERRUPTION OF SERVICE .....</b>	<b>15</b>
8.1	Pipeline Operations .....	15
8.2	Interruption for Maintenance .....	15
8.3	GGT's Obligations .....	15
8.4	Emergency Interruption.....	15
8.5	Force Majeure Interruption .....	16
<b>9</b>	<b>TRANSPORTATION TARIFF AND CHARGES .....</b>	<b>16</b>
9.1	Transportation Tariff and Charges .....	16
9.2	Transportation Tariff Components .....	16
9.3	Basis of Charges .....	17
9.4	Transportation Charges .....	17
9.5	Other Charges.....	18
9.6	Quantity Variation Charges .....	19
9.7	Multiple Outlet Points.....	19
9.8	Tariffs and Charges Adjustment for Inflation.....	19
9.9	Specified Event.....	20
9.10	Rounding.....	20
9.11	Goods and Services Tax .....	20
9.12	Charges When Flows are Restricted .....	23
9.13	Bond/Deposit.....	23
<b>10</b>	<b>QUALITY AND DELIVERY CONDITIONS .....</b>	<b>24</b>
10.1	Conformity with Gas Specification .....	24
10.2	Gas Delivery Modifications .....	24
10.3	Non-Specification Gas .....	24
10.4	User's Responsibility for Non-Specification Gas.....	24
10.5	Gas May Not Match .....	25
10.6	No Warranty .....	25
<b>11</b>	<b>MEASUREMENT OF GAS .....</b>	<b>25</b>
11.1	Inlet Point Measurement .....	25
11.2	Outlet Point Measurement .....	26
11.3	Technical Requirements .....	26
11.4	Costs to be Borne by User .....	26
11.5	Alternative Arrangements.....	27
11.6	Check Metering.....	27
11.7	Meter Testing.....	27
11.8	Special Test.....	27
11.9	Test Procedures .....	27

---

<b>12</b>	<b>REPRESENTATIONS AND WARRANTIES OF THE USER .....</b>	<b>27</b>
12.1	Representations and Warranties .....	27
12.2	Timing of Warranties .....	29
12.3	Settlements of Royalties .....	29
12.4	Indemnity Against Claims for Royalties .....	29
<b>13</b>	<b>INVOICING AND PAYMENT .....</b>	<b>29</b>
13.1	Invoicing .....	29
13.2	Contents of Invoices .....	30
13.3	Multiple Invoices .....	30
13.4	Payment .....	30
13.5	Disputed Invoices .....	31
13.6	Interest on Disputed Amount .....	31
13.7	Incorrect Invoices .....	31
13.8	Default Interest .....	32
<b>14</b>	<b>POSSESSION, RESPONSIBILITY AND TITLE .....</b>	<b>32</b>
14.1	Control and Possession .....	32
14.2	No Interference .....	32
14.3	Title Transfer .....	32
14.4	Title Re-transfer .....	32
<b>15</b>	<b>RECORDS AND INFORMATION .....</b>	<b>32</b>
15.1	Proper Books and Records .....	32
15.2	Independent Examination .....	33
15.3	Confidentiality of Information .....	33
<b>16</b>	<b>TERMINATION .....</b>	<b>33</b>
16.1	Default by the User .....	33
16.2	Effects of Termination by GGT .....	34
16.3	Subsequent Agreement Regarding Terminated Capacity .....	34
16.4	Additional Remedies .....	35
16.5	Default by the Owners .....	35
16.6	Effect of Termination .....	35
<b>17</b>	<b>FORCE MAJEURE .....</b>	<b>36</b>
17.1	Obligations will be Suspended .....	36
17.2	User Obligated to Pay Moneys .....	36
17.3	Notice of Force Majeure .....	36
17.4	Termination for Extended Force Majeure .....	37

<b>18</b>	<b>LIABILITIES</b> .....	<b>37</b>
18.1	Limitation of Liability.....	37
18.2	Direct Losses Only.....	38
18.3	Proximate Losses.....	38
18.4	Locations.....	39
18.5	Refunds and Credits.....	39
18.6	No Liability for Fault of Others.....	40
18.7	Each Limitation Separate.....	40
<b>19</b>	<b>INSURANCES</b> .....	<b>40</b>
19.1	Insurances to be Effected.....	40
19.2	Endorsements.....	41
19.3	Certificates of Currency.....	41
<b>20</b>	<b>ASSIGNMENT AND TRANSFERS OF CAPACITY</b> .....	<b>41</b>
20.1	Restriction on Assignment.....	41
20.2	Owner's Right to Assign.....	41
20.3	Deed of Covenant.....	41
20.4	GGT May Delegate and Assign.....	41
20.5	Owners May Assign Right to Payment.....	42
20.6	Bare Transfer of Capacity.....	42
20.7	Transfer of Capacity other than a Bare Transfer of Capacity.....	43
20.8	Pipeline Capacity Notices and Public Register of Capacity.....	44
20.9	Security.....	45
<b>21</b>	<b>CONFIDENTIAL INFORMATION</b> .....	<b>45</b>
21.1	Restriction.....	45
21.2	Permitted Disclosure.....	45
21.3	Required Disclosure.....	46
<b>22</b>	<b>DISPUTE RESOLUTION</b> .....	<b>46</b>
22.1	Notice of Dispute.....	46
22.2	Reference to Senior Representatives.....	46
22.3	Reference to Expert or Arbitrator.....	46
22.4	Determination by an Expert.....	46
22.5	Performance of Obligations.....	48
<b>23</b>	<b>ARBITRATION</b> .....	<b>48</b>
23.1	Arbitration in Accordance with the Commercial Arbitration Act 1985.....	48
23.2	Convening the Arbitration.....	48
23.3	Arbitrators.....	48
23.4	Legal Representation.....	49

---

23.5	Award Binding .....	49
23.6	Costs .....	49
23.7	Written Reasons to be Given.....	49
23.8	Performance of Obligations.....	49
<b>24</b>	<b>NOTICES .....</b>	<b>49</b>
24.1	Notices .....	49
24.2	Deemed Delivery.....	49
<b>25</b>	<b>WAIVER.....</b>	<b>50</b>
<b>26</b>	<b>ENTIRE AGREEMENT .....</b>	<b>50</b>
<b>27</b>	<b>SEVERABILITY.....</b>	<b>50</b>
<b>28</b>	<b>GOVERNING LAW .....</b>	<b>50</b>
	<b>First Schedule:Technical Description of the Inlet Facilities .....</b>	<b>51</b>
	<b>Second Schedule:Technical Requirements for Outlet Facilities.....</b>	<b>53</b>
	<b>Third Schedule: Test Procedures .....</b>	<b>56</b>
	<b>Fourth Schedule:Inlet Gas Specification.....</b>	<b>57</b>
	<b>Fifth Schedule:Gas Pipeline Services Performance Bond .....</b>	<b>60</b>
	<b>Sixth Schedule:Statement of Tariffs and Charges .....</b>	<b>62</b>

---

## 1 INTRODUCTION

### 1.1 General Terms and Conditions

These are the General Terms and Conditions applicable to the provision by GGT of the Reference Service to the User under and for the purposes of the Access Arrangement and a Service Agreement.

The definitions and interpretation provisions in Appendix 1 to the Access Arrangement form part of the Service Agreement (including these General Terms and Conditions).

---

## 2 AGREEMENT TO PROVIDE AND TO ACCEPT SERVICE

Upon acceptance of an Order Form by GGT, GGT agrees to provide and the User agrees to accept the Reference Service requested in the Order Form on the terms and conditions set out in the Service Agreement.

---

## 3 TERM OF AGREEMENT

### 3.1 Term and Termination

The Service Agreement shall come into force on the Date of Service Agreement and, subject to termination pursuant to clauses 3.2(d), 3.3, 16.1 or 17.4 shall terminate on the Termination Date.

### 3.2 Enhancements not Operational

If any additions or enhancements to the Pipeline which are required to provide the Service are not operational following the expiry of 12 Months from the Commencement Date the parties may:

- (a) agree to defer the date for commencement of that Service to another date; or
- (b) agree to the provision of a reduced scope of the Service which is feasible with the available Capacity; and
- (c) if either clause 3.2(a) or 3.2(b) applies, agree the charges that will apply to reflect the new date for commencement or the reduced scope for the Service; or
- (d) if they are unable to agree in accordance with either clause 3.2(a), (b) or (c) within 30 days after the date of expiry of the period of 12 Months, either:

- (1) the Service Agreement may be terminated by written notice by either party without penalty or cost to either party; or
- (2) a party may refer the matter for dispute resolution as provided for in clause 22<sup>1</sup>.

### 3.3 Termination for Failure to Lodge Bond

If the deposit or bond which is required pursuant to clause 9.13 is not lodged with GGT prior to the Commencement Date, or such other date as is specified in the Order Form, then GGT may terminate the Service Agreement by a notice at any time given to the User without penalty or cost to either party.

---

## 4 SERVICE

### 4.1 Reference Service

The Reference Service which GGT offers to provide to the User is a Firm Service.

### 4.2 Availability

A User whose executed Firm Service Order Form has been accepted and signed by GGT is entitled to Firm Service on the terms and conditions of the Service Agreement.

### 4.3 Applicability And Character Of Service

- (a) The objective of the Firm Service is to transport energy in the form of natural gas between the Inlet Point and the Outlet Point(s).
- (b) GGT will receive into the Pipeline from the User quantities of Gas up to the MDQ as specified in the Firm Service Order Form and MHQ at the Inlet Point and deliver from the Pipeline quantities of Gas up to the MDQ as specified in the Firm Service Order Form and MHQ at the Outlet Point(s).
- (c) The Outlet Point(s) shall be downstream of the Inlet Point where the direction of flow is defined by GGT.
- (d) The Firm Service will be provided on a firm basis and not be subject to curtailment or interruption except as provided in the Service Agreement.

### 4.4 Supplementary Quantity Option

- (a) In order that Users may correct imbalances or transport Gas in excess of their MDQ on an occasional basis, a User who has a Service Agreement

---

<sup>1</sup> Refer paragraph 716 (Amdt. 6).

- for the Firm Service and who is not in default thereunder may apply to GGT at any time to take up a Supplementary Quantity Option (SQQ).
- (b) GGT will provide a SQQ solely at its discretion. A SQQ will be provided only to the extent that operating circumstances and requirements of the Pipeline permit. GGT will not provide a SQQ in circumstances including, but not limited to, where to do so would restrict GGT from meeting all of its transportation services obligations and Used Gas requirements, or would restrict GGT from operating the Pipeline in a prudent manner.
  - (c) If GGT elects to provide an SQQ it shall give notice to the User to this effect and in order to provide a the SQQ, GGT may will, at its sole discretion, accept from the User at the Inlet Point or deliver to the User at the Outlet Point(s) those quantities of Gas specified in the SQQ Nomination Form upon GGT giving notice to the User that it will provide a SQQ then the User becomes bound to pay the applicable Toll Charge and Capacity Reservation Charge whether or not the User delivers or accepts Gas in respect to the SQQ<sup>2</sup>.
  - (d) A SQQ is interruptible in nature. If GGT interrupts, or intends to interrupt the SQQ then GGT shall give notice as soon as is reasonably practical to the User and may interrupt the SQQ in accordance with such notice.
  - (e) GGT will provide a SQQ on a first-come, first-served priority set by the time and date of the SQQ Nomination Form.

## 5 FORECASTS AND NOMINATION PROCEDURE

### 5.1 ~~Annual~~Monthly<sup>3</sup> Forecasts

Not later than 15 Gas Days prior to the start of each Year the User will give notice to GGT of the quantities of Gas forecast to be required for delivery under the Service Agreement during each Month of the subsequent Year. Such forecasts are to be based on the User's reasonable estimate of the Daily quantities required during each Month of that Year at each Outlet Point but are not to exceed the MDQ for any Gas Day for that Outlet Point.

<sup>2</sup> Drafting amendment for emphasis that it is a discretionary right of GGT to offer the SQQ. This amendment also provides a mechanism for advice and makes clear the application of clause 9 of the General Terms and Conditions, in that the Toll Charge and the Capacity Reservation Charge become payable whether or not the service is used.

<sup>3</sup> Clarifies the operation and application of a rolling monthly forecast.



## 5.2 Monthly-Daily<sup>4</sup> Nominations

Not later than 7 days prior to the start of each Month, the User will give to GGT a nomination of the quantities of Gas required by the User to be received at the Inlet Point and delivered at each Outlet Point, on each Gas Day of that Month, which quantities shall not exceed the MHQ or the MDQ for the Inlet Point or that Outlet Point, respectively. If the User fails to make a nomination then the User's previous valid nomination shall apply.

## 5.3 Notification of Imbalances

- (a) The User's nominations provided to GGT pursuant to clause 5.2 shall be made in good faith.
- (b) If GGT acting as a reasonable and prudent pipeline operator believes that the User is not making nominations pursuant to clause 5.2 in good faith, then GGT may give a notice to the User ("Variance Notice") requiring the User to nominate in good faith.
- (c) If at the expiry of 21 Gas Days from receipt of a Variance Notice:
- (1) the quantity of Gas supplied by the User at an Inlet Point on a Gas Day; or
  - (2) the quantity of Gas delivered to the User by GGT at an Outlet Point on a Gas Day,
- varies by more than the greater of:
- (A) 8% of the User's nomination at that Inlet Point or that Outlet Point on that Gas Day; and
  - (B) one TJ,
- then the User shall pay GGT the Variance Charge as determined in item 5(1)(e) of the Sixth Schedule until such time as the Variance Notice is withdrawn under clause 5.3(d).
- (d) If GGT has issued the User with a Variance Notice, GGT:
- (1) may withdraw that Variance Notice at any time in its discretion; and
  - (2) shall withdraw that Variance Notice if a period of three consecutive Months has elapsed without the User incurring the Variance Charge<sup>5</sup>.

~~(a) GGT shall determine each Gas Day:~~

<sup>4</sup> Clarifies the operation and application of a rolling monthly forecast.

<sup>5</sup> Refer paragraph 715 (Amdt. 14).

- ~~(1)a Daily Imbalance for each User,  
(2)the Accumulated Imbalance for each User.~~
- ~~(b)GGT will notify each User of its Daily Imbalance and Accumulated Imbalance before 11:00 am on each Gas Day.~~
- ~~(c)Users may, at any time and on any terms they may agree, exchange all or part of their Accumulated Imbalances with other Users, which shall not take effect until both Users give notice in writing of any such exchange to GGT. On receipt of such notices GGT must adjust in each User's Accumulated Imbalance and relevant charges to reflect the exchange.~~

#### 5.4 Changes to Nominations

- (a) The User may at any time before or during a Month (but not less than 18 hours' notice before the ~~time of the proposed change~~ Gas Day<sup>6</sup>) give notice to GGT of any change which is required in the quantities of Gas nominated under clause 5.2.
- (b) If a notice of change of nomination is given with less than 18 hours' notice, GGT shall use reasonable endeavours consistent with the standard of a reasonable and prudent pipeline operator to comply with the change in the nomination so requested but will not be obliged to comply with the changed nomination.

#### 5.5 Metered Quantities of Gas Used for Purposes of Service Agreement

The parties acknowledge and agree that from time to time there may be Measurement Variance. For the purposes of the Service Agreement, the quantities of Gas as measured at the Inlet Point or the Outlet Point(s), or as Used Gas, shall be deemed to be the true and correct measure of the quantity of Gas so measured.

---

## 6 CONNECTION, INLET POINT AND OUTLET POINTS

### 6.1 Connection to the Pipeline

GGT will provide for the benefit of the User at the User's cost unless otherwise specified:

- (a) advice in respect of the engineering and planning for the connection of the User's facilities to the Pipeline;
- ~~(b)the Inlet Facilities and connections to the Pipeline at the Inlet Point;<sup>7</sup>~~

---

<sup>6</sup> Drafting only – use of a defined term provides clarity and reduces ambiguity.

<sup>7</sup> To avoid doubt that there is currently and foreseeably can only be a single Inlet Point.

- ~~(e)(b)~~ an actuated shut off valve and the Outlet Facilities at each Outlet Point;
- ~~(d)(c)~~ supervision of connection activities for connection to the Pipeline or to the Outlet Facilities;
- ~~(e)(d)~~ services related to the commissioning of the Outlet Facilities; and
- ~~(f)(e)~~ access to the SCADA and other systems, including remote terminal units, communications and other equipment required to transmit to GGT parameters which are monitored by instruments and signals to control facilities under the control of GGT;

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

## 6.2 Inlet Point

- (a) Gas shall be delivered by the User to, and received by GGT into the Pipeline at the Inlet Point.
- (b) Inlet Facilities ~~capable of receiving~~ which receive Gas from the Harriet and East Spar Joint Ventures' pipelines at Yarraloola in the vicinity of the inlet to the Pipeline have been installed. The cost of operation and maintenance of these Inlet Facilities will be borne by GGT.
- (c) The Inlet Facilities ~~shall at all times~~ comply with the technical requirements for Inlet Facilities set out in the First Schedule.
- (d) Subject to compliance with GGT's reasonable technical and operational requirements, if new inlet facilities to the GGP are installed at the existing interconnection point between the DBNGP and the GGP at Yarraloola, those facilities may be treated as an Inlet Point under these General Terms and Conditions.<sup>8</sup>

## 6.3 Temperature and Pressure of Gas at Inlet Point

- (a) The User shall deliver Gas to GGT at temperature not exceeding 45°C and not less than 2°C.
- (b) Any Gas delivered by the User to GGT at the Inlet Facilities referred to in clause 6.2(b) will be at a pressure of between 7,800 kPa and 10,200 kPa.

## 6.4 Outlet Points

- (a) Gas shall be delivered by GGT to, and received by the User from the Pipeline at, Outlet Point(s).

~~The User may request GGT to deliver Gas from the Pipeline at an Outlet Point using Outlet Facilities owned and maintained by a third party~~

<sup>8</sup> See letter from Economic Regulation Authority of 12 November 2004 – Refer paragraph 712 (Amdt. 2)

- (b) All Outlet Points will be installed, owned, operated and maintained by GGT but the User shall pay the Connection Charge in respect of the Outlet Point and the cost of operation and maintenance of the Outlet Facilities (including for such spare parts and components as GGT from time to time considers necessary for the effective maintenance of the Outlet Facilities) will be borne by the User.<sup>9</sup> ~~GGT shall not unreasonably reject such a request provided that measurement procedures as outlined in clause 11.2(b) are agreed and~~
- ~~(1) provides such access to the Outlet Point and the Outlet Facilities as GGT may reasonably request for the purposes of the Service Agreement, including, without limitation, for it to audit compliance to its satisfaction of the Outlet Facilities with the Second and Third Schedules;<sup>10</sup>~~
- ~~(2) provides connections for SCADA and communications facilities acceptable to GGT to enable GGT to monitor the functioning and operation of the Outlet Facilities;~~
- ~~(1) ensures that the third party procures and maintains, throughout the period that GGT delivers Gas at such third party Outlet Point, all risk property damage insurance in an amount approved by GGT to indemnify the third party against damage, loss or destruction of its plant and equipment for the Outlet Point, endorsed such that the interests of the Owners and GGT are effectively insured under those policies and for the insurers to waive their rights of subrogation against them. The User will ensure that certificates of currency for these insurances are provided to GGT from time to time and forthwith upon request from GGT; and~~
- ~~(4) pays a Connection Charge in respect of the Outlet Point.~~
- (c) Outlet Facilities shall at all times comply with the technical requirements for Outlet Facilities set out in the Second Schedule, ~~except where 6.4(b) applies, the Outlet Facilities will be constructed by GGT at the User's cost.~~

## 6.5 Pressure of Gas at Outlet Point

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

<sup>9</sup> Consequential amendment as a result of above change.

<sup>10</sup> This clause has been redrafted to correctly reflect that GGT is the owner of all Outlet Points, with the additional obligations of installation, operation and maintenance. However, the User is required to fund the cost of all installation and maintenance activities of GGT in respect of the relevant Outlet Point.

## 6.6 Ownership and Possession

- (a) The User grants or shall procure for GGT the<sup>11</sup> exclusive right to operate and control the Outlet Facilities ~~(except any Outlet Facilities owned and maintained by a third party as accepted by GGT under clause 6.4(b))~~<sup>12</sup> for the Service Period.
- (b) GGT ~~acknowledges that, other than~~ has the exclusive right to operate, maintain (at the User's cost) and control access to the Outlet Facilities referred to in this clause, ~~and has it shall have no all other rights, title or interests~~ in the Outlet Facilities ~~of the User~~<sup>13</sup>.
- (c) The User will provide to GGT or ensure that GGT has access to and across any land and into or through any buildings, and access (including electronic access) to all readings and information generated by User's instruments that handle, process or measure the flow, characteristics of or quantity of User's Gas.
- (d) The User will provide to GGT reasonable electric power necessary for any instrumentation required to be installed as defined in the Second Schedule.

## 6.7 Compliance

Prior to acceptance of, and as a condition of GGT's obligation to accept, any Gas:

- (a) GGT shall have confirmed that the Outlet Facilities comply with the technical requirements set out in the Second Schedule;
- (b) the User will provide to GGT such certificates and documentation as may be required by GGT to satisfy it that the User's Gas consuming equipment supplied at the Outlet Facilities complies with all relevant laws and pays GGT the reasonable costs incurred by GGT in verifying compliance with this clause; and
- (c) any other preconditions for provision of the Service as set out in the Service Agreement shall have been met.

## 6.8 New Outlet Points

If new Outlet Points are required by the User, the Outlet Facilities installed by GGT (at the User's cost) must comply with the specification set out in the Second Schedule.

---

<sup>11</sup> Typo corrected.

<sup>12</sup> Drafting for consistency – no third party ownership of the Outlet Facilities is contemplated by this document.

<sup>13</sup> Drafting for consistency of concepts – GGT installs, owns, operates and maintains all Outlet Facilities.

## 6.9 Alternative or Additional Outlet Points

The User may, by giving GGT at least 14 days prior notice, request that GGT transfers all or part of that User's MDQ with effect from the date specified in the notice, from the Outlet Point nominated in the applicable Order Form to another Outlet Point subject to:

- (a) the User having complied with any other preconditions for the Service to the new Outlet Point including the payment of a further Connection Charge for any new Outlet Point, as required by clause 6.4(b)(4);
- (b) the User remaining liable under the Service Agreement to pay a Capacity Reservation Charge and Toll Charge which, in total, is not less than the aggregate Capacity Reservation Charge and Toll Charge payable prior to the operation of the new Outlet Point;
- (c) where the distance between the Inlet Point and the new Outlet Point is greater than the distance between the Inlet Point and the Outlet Point prior to the operation of the new Outlet Point, the User under the Service Agreement shall pay the Toll Charge, Capacity Reservation Charge and Throughput Charge for the greater distance;
- (d) the Pipeline, in the opinion of GGT, having the capacity to transport Gas from the Inlet Point and deliver Gas to the new Outlet Point, and
- (e) there being no reasonable commercial and technical grounds which, in the opinion of GGT, prevent the delivery of Gas to the new Outlet Point.

## 6.10 Response by the Owners

Within ~~3~~10 days of receipt of a notice under clause 6.9 GGT shall advise the User of its acceptance of the MDQ of the proposed alternative or additional Outlet Point, or an alternative MDQ that will apply, giving reasons for the alteration to the MDQ.<sup>14</sup>

# 7 QUANTITY VARIATIONS

## 7.1 Effect of Quantity Variations

- (a) Quantity variations of the types described in this clause 7 may cause operational disturbances which may potentially disadvantage all other Users of the Pipeline. Such disadvantage may derive from shortages or surpluses of Gas in the Pipeline which can inhibit or otherwise compromise the receipt of Gas at the Inlet Point, compromise the safe and efficient transport of Gas through the Pipeline, inhibit or otherwise compromise the

<sup>14</sup> Amendment for consistency between timeframes.

delivery of Gas at the Outlet Point(s), and compromise the management of the Pipeline.

- (b) Prevention of operational disturbances which may potentially disadvantage other Users promotes the efficient use of the Pipeline.
- (c) GGT acting as a reasonable and prudent pipeline operator will to the extent reasonably practicable provide Users with specific information on a timely basis sufficient for the User to assess potential liability for Quantity Variation Charges and take action to avoid those charges.<sup>15</sup>

## 7.2 Gas Balancing

- (a) The **Daily Imbalance** for a User for a particular Gas Day is the quantity of Gas calculated as follows:

$$DI_n = DGR_n - DGD_n$$

Where:

$DI_n$  is the Daily Imbalance for the User in TJs for the Gas Day  $n$

$DGR_n$  is the Daily quantity of Gas received for the User at the Inlet Point in TJs for the Gas Day  $n$

$DGD_n$  is the Daily quantity of Gas delivered to the User at the Outlet Point(s) in TJs for the Gas Day  $n$

The Daily Imbalance may be a positive or a negative number. A positive Daily Imbalance means the quantity of Gas received was greater than the quantity of Gas delivered for the Gas Day in question. A negative Daily Imbalance means that the quantity of Gas received was less than the quantity of Gas delivered for the Gas Day in question.

- (b) The **Accumulated Imbalance** is the arithmetic sum of all Daily Imbalances corrected for any adjustments made by trading of gas imbalances or purchase or sale of Gas to correct gas imbalances.
- (c) The **Accumulated Imbalance Tolerance** means that quantity of Gas which is calculated as the greater of:

$$AIT = MDQ \times AITF \text{ or}$$

$$AIT = AITV$$

Where:

$AIT$  is the Accumulated Imbalance Tolerance in TJs

$MDQ$  is the Maximum Daily Quantity in TJs

---

<sup>15</sup> Refer paragraph 726 (Amdt. 16).

*AITF* has the value **0.08**

*AITV* has the value **1 TJ**

The values for *AITF* and *AITV* may be modified by GGT through notice in writing to all Users.<sup>16</sup>

- (d) If at the end of any Gas Day the absolute value of the Accumulated Imbalance is greater than the Accumulated Imbalance Tolerance, GGT may at its discretion, require the User to pay to GGT an Accumulated Imbalance Charge or the difference between the absolute value of the Accumulated Imbalance and the Accumulated Imbalance Tolerance.<sup>17</sup>
- (e) The User shall make all reasonable efforts to maintain an Accumulated Imbalance of zero.
- (f) Users may, at any time and on any terms they may agree, exchange all or part of their Accumulated Imbalances with other Users, which shall not take effect until both Users give notice in writing of any such exchange to GGT. On receipt of such notices GGT must adjust in each User's Accumulated Imbalance and relevant charges to reflect the exchange.
- (g) GGT reserves the right to interrupt or reduce receipts and deliveries in and out of the Pipeline if the absolute value of a User's Accumulated Imbalance is greater than the Accumulated Imbalance Tolerance and the safety or the operation of the Pipeline or the rights of other users are prejudiced or likely to be prejudiced by the User's Accumulated Imbalance.
- (h) At the conclusion of the Term, the Accumulated Imbalance shall be set to zero. This may be accomplished by the User trading the Accumulated Imbalance with another User or with GGT within 7 days. If this is not achieved within 7 days, GGT will issue an invoice or refund for the value of the Accumulated Imbalance at gas prices reasonably nominated by GGT, which may vary from time to time.
- (i) In the event that the User is liable for a Accumulated Imbalance Charge for 7 or more consecutive Gas Days, the User shall agree to GGT either purchasing or selling Gas on the User's behalf in order to set the User's Accumulated Imbalance to zero if GGT so desires.
- (j) In the event that:
  - (1) GGT purchases Gas to set a User's Accumulated Imbalance to zero the User will be invoiced for that Gas at a rate of twice the prevailing Used Gas price.

<sup>16</sup> Refer paragraph 721 (Amdt. 11).

<sup>17</sup> Refer paragraph 722 (Amdt. 12).



- (2) GGT sells Gas to set a User's Accumulated Imbalance to zero the User will be credited for that Gas at a rate of half the prevailing Used Gas price.

### 7.3 Daily Overrun

- (a) When the Daily quantity of Gas received at the Inlet Point is greater than the User's MDQ (which shall where relevant include the SQQO)<sup>18</sup>, and/or the Daily quantity of Gas delivered at the Outlet Point(s) is greater than the User's MDQ (which shall where relevant include the SQQO)<sup>19</sup>, the **Daily Overrun Quantity** for a particular Gas Day means that quantity of Gas which is calculated as follows:

$$DOQ_n = DG_n - [MDQ + SQQO]^{20}$$

Where:

**DOQ<sub>n</sub>** is the Daily Overrun Quantity for the User in TJs for the Gas Day **n**

**DG<sub>n</sub>** is the Daily quantity of Gas received for the User at the Inlet Point and/or Gas delivered to the User at the Outlet Point(s) in TJs for the Gas Day **n**

**MDQ** is the User's Maximum Daily Quantity in TJs

**SQQO** is the Supplementary Quantity Option Quantity in TJs<sup>21</sup>

- (b) If at the end of any Gas Day User's Daily quantity of Gas received at the Inlet Point is greater than the User's MDQ and/or the User's Daily quantity of Gas delivered at the Outlet Point(s) is greater than the User's MDQ, GGT may at its discretion require the User to pay to GGT a Daily Overrun Charge.
- (c) The User shall use all reasonable efforts to ensure that the Daily quantity of Gas received and/or Gas delivered is not more than the User's MDQ.
- (d) If for a period of 30 Gas Days the Daily Overrun Quantity for each of those Days is positive then if after the giving of 7 Gas Days notice the User's Daily Overrun Quantity still remains positive then with effect from the next Gas Day the User's Maximum Daily Quantity will be increased by

<sup>18</sup> To avoid the User becoming obliged to pay a premium charge when this has already been committed to by way of the SQQO.

<sup>19</sup> See 15 above.

<sup>20</sup> See 15 above.

<sup>21</sup> See 15 above.

the average of the Daily Overrun Quantity for the total of that period and notice period.<sup>22</sup>

#### 7.4 Hourly Overrun

- (a) When the Hourly quantity of Gas received at the Inlet Point is greater than the User's MHQ (which shall where relevant include the SQOHO)<sup>23</sup>, and/or the Hourly quantity of Gas delivered at the Outlet Point(s) is greater than the User's MHQ (which shall where relevant include the SQOHO)<sup>24</sup>, the **Hourly Overrun Quantity** for a particular Hour means that quantity of Gas which is calculated as follows:

$$HOQ = HG - [MHQ + SQOHO]^{25}$$

Where:

**HOQ** is the Hourly Overrun Quantity in TJs

**HG** is the Hourly quantity of Gas received from the User at the Inlet Point and/or Gas delivered to the User at the Outlet Point(s) in TJs

**MHQ** is the User's Maximum Hourly Quantity in TJs

**SQOHO** is the Supplementary Quantity Option Quantity divided by 24 and multiplied by 1.2 in TJs<sup>26</sup>

- (b) If at the end of any Hour the Hourly quantity of Gas received at the Inlet Point is more than the User's MHQ and/or the Hourly quantity of Gas delivered at the Outlet Point(s) is more than the User's MHQ, GGT may at its discretion require the User to pay to an Hourly Overrun Charge.
- (c) The User shall use all reasonable efforts to ensure that the Hourly quantity of Gas received and/or delivered is not more than the User's MHQ.

#### 7.5 Variance

- (a) When the Daily quantity of Gas received at the Inlet Point is less than or greater than the User's Nomination for the Inlet Point and/or the Daily quantity of Gas delivered at the Outlet Point(s) is less than or greater than the User's Nomination for the Outlet Point(s), the **Variance Quantity** for a particular Gas Day means that quantity of Gas which is calculated as follows:

---

<sup>22</sup> Refer GGT's response to paragraph 721 (Amdt. 11).

<sup>23</sup> See 15 above.

<sup>24</sup> See 15 above.

<sup>25</sup> See 15 above.

<sup>26</sup> See 15 above.

$$VQ_n = \text{abs}(DG_n - NOM_n)$$

Where:

$VQ_n$  is the Daily Variance Quantity in TJs for the Gas Day  $n$

$DG_n$  is the Daily quantity of Gas received for the User at the Inlet Point and/or Gas delivered to the User at the Outlet Point(s) in TJs for the Gas Day  $n$

$NOM_n$  is the User's Nomination for the Inlet Point or Outlet Point(s) in TJs for the Gas Day  $n$

- (b) **Variance Tolerance** means that quantity of Gas which is calculated as the greater of:

$$VT = NOM_n \times VTF \text{ or}$$

$$VT = VTV$$

Where:

$VT$  is the Variance Tolerance in TJs

$NOM_n$  is the User's Nomination for the Inlet Point and/or Outlet Point(s) in TJs for the Gas Day  $n$

$VTF$  has the value **0.08**

$VTV$  has the value **1 TJ**

~~The values of  $VTF$  and  $VTV$  may be modified by GGT through notice in writing to all Users.<sup>27</sup>~~

- (c) If at the end of any Gas Day the absolute value of the Variance Quantity is more than the Variance Tolerance, ~~GGT may at its discretion require the User to pay a Variance Charge then clause 5.3 applies<sup>28</sup>.~~
- (d) The User shall use all reasonable efforts to ensure that the Daily quantity of Gas received is not more or less than the User's Nomination at the Inlet Point and that the Daily quantity of Gas delivered is not more or less than the User's Nomination at the Outlet Point(s).

<sup>27</sup> Refer paragraph 721 (Amdt. 11).

<sup>28</sup> Refer paragraph 724 (Amdt. 14).

---

## 8 INTERRUPTION OF SERVICE

### 8.1 Pipeline Operations

Subject to its obligations at law, GGT reserves the right to decide the manner in which it may operate, shut in, enhance, maintain or expand all or any part of the Pipeline.

### 8.2 Interruption for Maintenance

In addition to the rights of the Owners or GGT otherwise provided for in the Service Agreement, subject to clause 8.3(b)<sup>29</sup> GGT may without penalty or cost interrupt or reduce the Service either totally or partially for any period which, in its opinion as a reasonable and prudent pipeline operator, is necessary for the purposes of testing, adding to, altering, repairing, replacing, cleaning, upgrading or maintaining any part of the Pipeline (including without limitation, pipelines, compressors, valves and monitoring equipment) or for any other purpose which in GGT's opinion as a reasonable and prudent operator requires interruption or reduction of the Service.

### 8.3 GGT's Obligations

GGT shall:

- (a) be non-discriminatory in the interruption of the transportation services effected as a result of clause 8.2;
- (b) use all reasonable endeavours to ~~notify~~ give the User at least 30 days notice when any of the activities in clause 8.2 are likely prior to the ~~interruption or reduction of the transportation services of its intention~~<sup>30</sup> to interrupt or reduce the transportation services;
- (c) use all reasonable endeavours consistent with the standard of a reasonable and prudent pipeline operator to minimise the period of interruption or reduction of transportation services; and
- (d) when practicable, consult with the User regarding the timing of the interruption or reduction so as to minimise the disturbance to the User's business and other users' businesses.

### 8.4 Emergency Interruption

- (a) GGT shall have the right without penalty or cost to immediately interrupt or reduce transportation services in situations of emergency or risk of

---

<sup>29</sup> Refer paragraph 716 (Amdt. 17).

<sup>30</sup> Refer paragraph 727 (Amdt. 17).

injury or damage to any person or property, including the Pipeline, without notice and for such period as in the opinion of GGT is necessary.

- (b) GGT shall as soon as reasonably practicable inform the User and other users of the circumstances giving rise to the interruption or reduction.

## 8.5 Force Majeure Interruption

If due to a Force Majeure occurrence referred to in clause 17.1 transportation services are interrupted or reduced, then GGT shall use all reasonable endeavours consistent with the standard of a reasonable and prudent pipeline operator to maintain transportation services so that a user who has an agreement for transportation services in the nature of a Firm Service can deliver and take Gas in such quantities as is pro-rated between all users who have entered into agreements for transportation services in the nature of a Firm Service on the basis of their respective MDQs, unless GGT and all such users otherwise agree~~bears to the aggregate MDQs of all the users who have entered into agreements for transportation services in the nature of a Firm Service~~<sup>31</sup>. In doing so GGT will, in a fair and reasonable manner, take account of the location of the Force Majeure occurrence, the relative location of the Inlet Point and Outlet Point(s), the health and safety requirements within the facilities of the Owners, GGT, users and users' gas customers and the potential for damage to those facilities resulting from the interruption or curtailment to transportation services and the Service under the Service Agreement.

---

## 9 TRANSPORTATION TARIFF AND CHARGES

### 9.1 Transportation Tariff and Charges

The User shall pay to GGT the Transportation Tariff and Charges defined in this clause 9 for provision of the Firm Service.

### 9.2 Transportation Tariff Components

The Transportation Tariff for the Reference Service consists of three components:

- (a) Toll Tariff;
- (b) Capacity Reservation Tariff; and
- (c) Throughput Tariff.

---

<sup>31</sup> Drafting for clarity.

### 9.3 Basis of Charges

Unless otherwise agreed, all charges that rely on measurement are to be computed on measured quantities and qualities of Gas generated by the measuring equipment specified in the First Schedule and the Second Schedule.

The Toll Charge and the Capacity Reservation Charge are fixed charges and are payable monthly during the Service Period by the User whether or not the User delivers or accepts Gas under the Service Agreement, except where:-

- (a) the User is unable to deliver or accept Gas due to an event of Force Majeure claimed by GGT; or
- (b) GGT has interrupted or reduced the Services for a period which was not a consequence of an emergency interruption as referred to in clause 8.4 and where GGT did not provide notice as stipulated in clause 8.3(b).<sup>32</sup>

### 9.4 Transportation Charges

The Transportation Charges resulting from the application of the Transportation Tariff for the Firm Service is the sum of the components:

(a) **a Toll Charge**

During the Service Period the Toll Charge in any Billing Period is the applicable Toll Tariff multiplied by the MDQ expressed in GJs for the Outlet Point multiplied by the number of Gas Days in the relevant Billing Period;

(b) **a Capacity Reservation Charge**

Subject to clause 9.7, during the Service Period the Capacity Reservation Charge in any Billing Period is the product of:

- (1) the applicable Capacity Reservation Tariff;
- (2) the distance, in pipeline kilometres, from the Inlet Point to the Outlet Point; and
- (3) the MDQ expressed in GJs for the Outlet Point multiplied by the number of Gas Days in the relevant Billing Period;

(c) **a Throughput Charge**

Subject to clause 9.7, during the Service Period the Throughput Charge for any Billing Period is the product of:

- (1) the quantity of Gas delivered during that Billing Period measured in GJs;
- (2) the applicable Throughput Tariff set out in the Firm Service Order Form; and

---

<sup>32</sup> Refer paragraph 730 (Amdt. 20).

(3) the distance, in pipeline kilometres, from the Inlet Point to the Outlet Point;

(d) **a Used Gas Charge**

The User shall pay the Used Gas Charge which is the product of:

(1) the quotient of the User's actual quantity of Gas delivered at all Outlet Points in a Billing Period and the total quantity of Gas delivered from the Pipeline in the same Billing Period; and

(2) GGT's reasonable assessment of its cost incurred for Used Gas in a Billing Period;

(e) **a Supplementary Quantity Option Charge**

The User shall pay the Supplementary Quantity Option Charge as defined in the Sixth Schedule;

(f) **a Quantity Variation Charge**

The User will pay the Quantity Variation Charge as defined in the Sixth Schedule.<sup>33</sup>

## 9.5 Other Charges

In addition the User shall pay the charges set out below as specified in the relevant Order Form:

(a) **an Account Establishment Charge**

for the establishment of an account for each Service, a once-only, non-refundable Account Establishment Charge, payable on the Date of Service Agreement for each Service;

(b) **a Connection Charge**

for the commencement of a Firm Service, a once-only Connection Charge, payable on the Date of Service Agreement, for each new Outlet Point and, a once-only Connection Charge for each additional Outlet Point nominated or provided during the Service Period;

(c) **an Annual Account Management Charge**

for the annual maintenance of each account, an annual account management charge, payable on the first Business Day in January during each Year of the Term of the Service Agreement; and

all other relevant charges under the Service Agreement including without limitation the charges set out in clause 11.4, if applicable.

<sup>33</sup> To maintain consistency with the Sixth Schedule.

## 9.6 Quantity Variation Charges

- (a) Quantity Variation Charges are intended to constitute a potential disincentive to Users which do not utilise the Pipeline in the manner intended. Operational disturbances caused by such Users may potentially disadvantage all other Pipeline Users
- (b) The Quantity Variation Charges as defined in the Sixth Schedule may be applied or waived solely at GGT's discretion. Waiver of the application of any such charges at any time does not constitute any precedent for waiver of the application of such charges at any time in the future.
- (c) Notwithstanding clause 9.6(b), GGT will waive a User's liability for an Accumulated Imbalance Charge and a Variance Charge where the liabilities are incurred during a period of interruption or reduction of Services that is the direct responsibility of GGT<sup>34</sup>.

## 9.7 Multiple Outlet Points

There is only one Inlet Point to the Pipeline located at Yarraloola. Where a User has more than one Outlet Point, the Capacity Reservation Charge and the Throughput Charge will be calculated using the distance between the Inlet Point and each Outlet Point and the MDQ for the corresponding Outlet Point.

## 9.8 Tariffs and Charges Adjustment for Inflation

For the purpose of this clause, the charge applicable in any Billing Period shall be the charge specified in the Order Form adjusted by:

any changes in CPI calculated as follows:

$$C_t = C_b \times \frac{CPI_{t-2}}{CPI_b}$$

Where:

- $C_t$  is the relevant charge in the Quarter  $t$  in which the Billing Period occurs;
- $C_b$  is the relevant charge as specified in the Sixth Schedule; applicable at the Date of Service Agreement;
- $CPI_{t-2}$  is the CPI for the Quarter ended three months prior to the commencement of Quarter  $t$ ; and
- $CPI_b$  is the base CPI, and is 144.8 as at the quarter ending 20 June 2004.

<sup>34</sup> Refer paragraph 731 (Amdt. 21).



~~[120.2]~~<sup>35</sup>.

## **9.9 Specified Event**

In addition to the tariffs and charges payable under this Service Agreement, the User shall pay to the Owners an amount as reflected in any Specified Event pursuant to clause 5.3(c) of the Access Arrangement.<sup>36</sup>

## **9.9 Taxes**

~~In addition to the tariffs and charges payable under this Service Agreement, the User shall pay to the Owners an amount equal to any tax, duty, impost, levy or other charge (but excluding income tax) imposed by the government or other regulatory authority from time to time on or incurred by GGT or the Owners in respect of the Service provided pursuant to the Service Agreement (including without limitation, any increase of any such tax, duty, impost, levy or other charge) at the same time and in the same manner as the User is obliged to pay for the Service plus any tax or impost on the transfer or retransfer of the ownership of Gas.~~<sup>37</sup>

### **9.99.10 Rounding**

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

### **9.109.11 Goods and Services Tax**

- (a) Words or expressions used in this clause 9.11 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* or, if not so defined, then which are defined in the *Trade Practices Act 1974 (Cth)*, have the same meaning in this clause.
- (b) For the purposes of the Service Agreement where the expression GST inclusive is used in relation to an amount payable or other consideration to be provided for a supply under the Service Agreement, the amount or consideration will not be increased on account of any GST payable on that supply.

---

<sup>35</sup> This amount reflects a pre-2004 position. It is in the process of being updated to reflect the current CPI environment.

<sup>36</sup> Refer paragraph 729 (Amdt. 19).

<sup>37</sup> Refer paragraph 729 (Amdt. 19).

- (c) Any consideration to be paid or provided for a supply made under or in connection with the Service Agreement, unless specifically described in the Service Agreement as GST inclusive, does not include an amount on account of GST.
- (d) Despite any other provision in the Service Agreement, if a party (Supplier) makes a supply under or in connection with the Service Agreement on which GST is imposed (not being a supply the consideration for which is specifically described in this Agreement as GST inclusive):
- (1) the consideration payable or to be provided for that supply under the Service Agreement but for the application of this clause (GST exclusive consideration) is increased by, and the recipient of the supply (Recipient), must also pay to the Supplier, an amount equal to the GST payable by the Supplier on that supply; and
  - (2) the amount by which the GST exclusive consideration is increased must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.
- (e) If a payment to a party under the Service Agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.
- ~~(a) Notwithstanding any other term or condition set out herein, GGT is entitled to pass on as part of the Transportation Charges, Quantity Variation Charges, Used Gas Charges for the Service and any other charges, and recover from the User the amount of any GST levied upon GGT or payable by GGT in respect of the Service supplied under a Service Agreement;~~
- ~~(b) If, the amount of GST applicable to the Service supplied under a Service Agreement is subsequently increased or decreased by a GST Rate Change then the amount of any GST charged on the Service supplied will vary proportionately with the movement in the GST Rate Change;~~
- ~~(c) Despite any provision of a Service Agreement to the contrary, if the introduction of a GST, or a subsequent GST Rate Change is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes (including income tax), then the amount (excluding the GST) payable by the User will be reduced by the same proportion as the actual total costs of GGT (including any taxes but excluding any input GST paid or payable by GGT) are reduced as a consequence of the abolition of or reduction in taxes, whether directly by way of the abolition of or a reduction in taxes paid or payable by GGT to its suppliers or to any government, or indirectly by way of a reduction in the prices (excluding GST) charged by the suppliers to GGT;~~

- ~~(d) Upon the introduction of a GST, or subsequent GST Rate Change, the User and GGT shall, as soon as possible thereafter endeavour to agree an adjustment to the Transportation Charges, Quantity Variation Charges, Used Gas Charges, and any other charges to reflect the impact on the net economic benefit derived by GGT from the provision of the Service under a Service Agreement of any contemporaneous or related change in the imposition of any other taxes, imposts or duties levied under legislation of the Commonwealth of Australia or the State of Western Australia which are intended to compensate in whole or in part for the imposition of the GST or GST Rate Change. If GGT and the User are unable to agree an appropriate adjustment within 90 days, either GGT or the User may refer the matter for resolution under clause 22;~~
- ~~(f) If the introduction of a rate of GST is increased above 10 (ten) percent then the parties must agree to, or a subsequent GST Rate Change alters the CPI then the parties agree to adjust the CPI Escalator to reflect the real change in the CPI that would have been calculated by the CPI Escalator but for the introduction of increase in the rate of the GST or the subsequent GST Rate Change. If GGT and the User are unable to agree on an appropriate adjustment to the CPI Escalator within 90 days, either GGT or the User may refer the matter for resolution under clause 22;~~
- ~~(f) If the Commonwealth Government requires GGT to collect and pay GST on dates that precede the User's obligation to pay for the Service supplied under a Service Agreement then GGT and the User agrees to review the existing payment arrangements under that Service Agreement so as to synchronise the timing of the User's payments with the timing of GGT's GST payments to the Commonwealth Government. If GGT and the User are unable to agree an appropriate payment arrangement within 90 days, either GGT or the User may refer the matter for resolution under clause 22;~~
- ~~(g) For the purposes of this clause 9.11, the following expressions have the meaning shown:~~
- ~~GST means any goods and services tax, sales tax, use tax, consumption tax, value added tax or any similar tax or duty levied upon GGT or payable by GGT in respect of the Service supplied under a Service Agreement and includes any GST Rate Change; and~~
- ~~(h) GST Rate Change means an increase or decrease in the amount of GST by reason of:~~
- ~~(1) an alteration in the applicable law;~~
  - ~~(2) the issue of or an alteration in a ruling or advice of the authority responsible for administering the GST;~~
  - ~~(3) the allowance to GGT of a refund of GST in respect of the Service supplied under this Agreement; or~~

~~(4) a decision of the Administrative Appeals Tribunal (or its equivalent) or a court.<sup>38</sup>~~

### **9.119.12 Charges When Flows are Restricted**

In circumstances where the flow of Gas is restricted in accordance with clauses 8 and 17, all tariffs and charges will continue to apply.

### **9.129.13 Bond/Deposit<sup>39</sup>**

- (a) Prior to the Commencement Date, or such other date as may be agreed by the parties, the User shall pay a deposit to GGT or arrange a bank or other person acceptable to GGT acting reasonably (**Surety**) to post a bond, deposit or other security having regard to the:
- (1) nature and extent of the User's obligations under the Service Agreement;
  - (2) financial position of the User and the User's parent company (where applicable);
  - (3) riskiness of the User's project in regard to which the Service is required; and
  - (4) whether provision of the Service to the User requires expenditure of additional capital.
- (b) ~~equivalent to the amount specified in the applicable Order Form by way of security for the performance by the User of its obligations under the Service Agreement. In the event that at the end of any Year during the Term of the Agreement, the User increases its MDQ or other obligations in respect of charges, GGT may require (and the User hereby agrees) that the amount of the bond, deposit or other security shall be correspondingly increased from the beginning of the next Year.~~
- ~~(b)(c)~~ If a deposit is paid then GGT shall deposit the amount in an interest bearing account maintained with a reputable financial institution to be held pending the complete performance by the User of its obligations under the Service Agreement or any default by the User under clause 16.1. If the User defaults under clause 16.1 then in addition to its remedies thereunder GGT may operate the account and apply all principal and interest therein towards remedying the default, if it is capable of remedy. Upon the expiry of 6 months from the completion of all of the User's obligations GGT will pay to the User the balance of the account less any charges or ~~€~~Taxes but including any accrued interest balance.

<sup>38</sup> Reviewed and amended in light of actual GST legislation.

<sup>39</sup> Refer paragraph 732 (Amdt. 22)

~~(e)~~(d) The bond shall be in the form of the performance bond attached as the Fifth Schedule and the User shall be responsible for all costs and expenses and stamp duty incurred in the preparation and delivery of a duly executed and stamped bond in this form. If the User defaults under clause 16.1 then in addition to its remedies thereunder, GGT may enforce the bond in accordance with its terms towards remedying the default. Upon the expiry of 6 Months from the completion of the User's obligations under the Service Agreement, GGT must discharge and release the Surety from its obligations under the bond.

## 10 QUALITY AND DELIVERY CONDITIONS

### 10.1 Conformity with Gas Specification

Subject to the balance of this clause 10, all gas received at the Inlet Point pursuant to the Service Agreement shall conform to the Gas Specification.

### 10.2 Gas Delivery Modifications

All gas delivered to Outlet Point(s) pursuant to the Service Agreement shall conform with the Gas Specification modified to reflect any change in the gas quality arising from the odourisation, compression or transmission of the Gas or the injection of other additives necessary for the operation of the Pipeline.

### 10.3 Non-Specification Gas

GGT is not obliged to accept delivery of any gas which does not comply with the Gas Specification and may immediately terminate receipt of such gas and incur no liability whatsoever to the User for any financial or other consequences arising from its refusal to accept Non-Specification Gas. If the gas delivered by the User is in a commingled stream, the specification of the User's gas will be deemed to be the specification of the commingled stream.

### 10.4 User's Responsibility for Non-Specification Gas

If the User delivers or tenders for delivery Non-Specification Gas into the Pipeline, the User continues to be responsible for all charges as if Gas in accordance with the Gas Specification had been delivered into the Pipeline and in addition shall be liable for any loss, damage or financial or other consequences flowing therefrom and notwithstanding the limitation in clause 18.2,<sup>40</sup> will indemnify and defend the Owners and GGT against all claims, losses (including direct and indirect and consequential losses), expenses or liabilities arising

<sup>40</sup> Drafting for consistency between provisions.

therefrom and GGT shall have the right to take any necessary action at the User's expense to resolve any problems arising therefrom

### 10.5 Gas May Not Match

The User acknowledges and accepts that as one of a number of users of the Pipeline, Gas delivered to it at the Outlet Point(s) may not match exactly the specifications of the gas delivered by the User at the Inlet Point.

### 10.6 No Warranty

Neither the Owners nor GGT make any warranty regarding the reliability of the supply of Gas to be delivered at the Outlet Point(s), or the merchantability or suitability for any purpose of Gas delivered at the Outlet Point(s) and all implied warranties are hereby excluded to the extent permitted by law from the Service Agreement and in respect of the subject matter thereof.

---

## 11 MEASUREMENT OF GAS

### 11.1 Inlet Point Measurement

- (a) GGT shall operate, at or near the Inlet Point, the Inlet Facilities necessary for GGT to be able to properly establish the quality and quantity of Gas delivered by the User to GGT at the Inlet Point.
- (b) Where more than one User delivers Gas in a commingled stream through common Inlet Facilities, each such User (referred to in this clause as the **Common Stream Gas User**) shall advise or cause to be advised to GGT, on a Daily basis or such other basis as may be required by GGT from time to time, the quantity of Gas allocated to it by the transporter of the Gas to the Inlet Point. Should such advice not be provided within 30 minutes of the end of the Gas Day, GGT shall be entitled to determine the Daily Gas quantity delivered by each Common Stream Gas User using the allocation procedure set out in clause 11.1(c) or as it otherwise deems appropriate, acting as a reasonable and prudent pipeline operator. GGT's determination as to quantity and quality shall, in the absence of manifest error, be deemed to be correct.
- (c) Unless GGT is notified otherwise pursuant to clause 11.1(b), each Common Stream Gas User shall be allocated its share of the Gas received by GGT in a commingled stream in proportion to the quantity of Gas nominated by such User at the ~~relevant~~<sup>41</sup> Inlet Facilities for that Gas Day divided by the sum of the quantities of Gas nominated by the Common

---

<sup>41</sup> Drafting only.

Stream Gas Users at the these<sup>42</sup> Inlet Facilities, such that the sum of the quantities allocated to each Common Stream Gas User shall equal the total quantity of Gas as measured at these<sup>43</sup> Inlet Facilities.

## 11.2 Outlet Point Measurement

- (a) GGT shall operate, at or near the Outlet Point, Outlet Facilities necessary for GGT to be able to properly establish the quantity and quality of Gas delivered by GGT to the User at the Outlet Point.
- (b) Where more than one User receives Gas in a commingled stream through common Outlet Facilities, each such User (referred to in this clause as the **Common Stream Gas User**) shall advise or cause to be advised to GGT, on a Daily basis or such other basis as may be required by GGT from time to time, the quantity of Gas allocated to it at the Outlet Point. Should such advice not be provided within 30 minutes of the end of the Gas Day, GGT shall be entitled to determine the Daily Gas quantity delivered by each Common Stream Gas User using the allocation procedure set out in clause 11.2(c) or as it otherwise deems appropriate, acting as a reasonable and prudent pipeline operator. GGT's determination as to quantity and quality shall, in the absence of manifest error, be deemed to be correct.
- (c) If required by clause 11.2(b), each Common Stream Gas User shall be allocated its share of the Gas delivered by GGT in a commingled stream in proportion to the quantity of Gas nominated by such User at the relevant Outlet Facilities for that Gas Day divided by the sum of the volumes of Gas nominated by the Common Stream Gas Users at those Outlet Facilities, such that the sum of the quantities allocated to each Common Stream Gas User shall equal the total quantity of Gas as measured at those Outlet Facilities.

## 11.3 Technical Requirements

The measuring equipment comprised in the Inlet Facilities and in each of the Outlet Facilities shall comply in all respects with the technical requirements in the First Schedule and Second Schedule, respectively, and otherwise with good pipeline industry practice

## 11.4 Costs to be Borne by User

The costs of installation, operation and maintenance of facilities not owned by the Owners referred to in clauses 11.1 and 11.2 shall be for the account of the User.

---

<sup>42</sup> Drafting only.

<sup>43</sup> Drafting only.

## 11.5 Alternative Arrangements

Where the quantities of Gas to be received through the Inlet Point or delivered through an Outlet Point do not in GGT's reasonable opinion justify the installation of bulk measuring equipment and alternative measuring methods are available or GGT and the User can otherwise agree upon alternative measuring techniques, GGT may waive the requirements of clauses 11.1 or 11.2 or both.

## 11.6 Check Metering

GGT grants to the User the right to install and maintain check metering equipment to enable the User to check the bulk measuring equipment located at any site provided that such check metering equipment shall not interfere in any way with any measuring equipment (or other equipment) and that the cost of installing and maintaining any such check metering equipment shall be borne by the User.

## 11.7 Meter Testing

The accuracy of the measuring equipment shall be verified by GGT in accordance with the manufacturer's recommendations and otherwise in accordance with good pipeline industry practice at reasonable intervals, and if requested in the presence of representatives of the User, but subject to clause 11.8 GGT shall not be required to verify the accuracy of such equipment more than once in any 60 day period unless it can be shown through check metering or otherwise that the equipment may be out of calibration.

## 11.8 Special Test

If the User notifies GGT that it desires a special test of any measuring equipment, GGT shall co-operate to secure a prompt verification of the accuracy of such equipment. The cost of any such special test shall be borne by the User if the equipment is accurate as that term is used in the Third Schedule.

## 11.9 Test Procedures

The procedures outlined in the Third Schedule shall apply to tests on equipment carried out pursuant to clauses 11.7 and 11.8.

---

## 12 REPRESENTATIONS AND WARRANTIES OF THE USER

### 12.1 Representations and Warranties

The User represents and warrants as follows:

- (a) it has in full force and effect the authorisations necessary to enter into the Service Agreement, observe obligations under it and allow them to be enforced;



- (b) it has title to the Gas to be delivered to GGT and GGT will receive good and merchantable title to the Gas at the Inlet Point and that all such Gas is owned and will be delivered by the User free from all royalties, charges, liens and adverse claims, including liens to secure payment of any royalties or taxes;
- (c) it has in full force and effect the necessary leases, licences or easements to construct, operate and maintain the metering and other facilities for which it is responsible under the Service Agreement;
- (d) its obligations under the Service Agreement are valid and binding and are enforceable against it in accordance with their terms;
- (e) the Service Agreement and the transactions under it do not contravene its constituent documents or any law, regulation or official directive or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers or the powers of its directors to be exceeded;
- (f) its obligations under the Service Agreement rank at least equally with all unsecured and unsubordinated indebtedness of the User except liabilities mandatorily preferred by law;
- (g) neither the User nor any of its Related Bodies Corporate is in default under a law, regulation, official directive, instrument, undertaking or obligation affecting any of them or their respective assets;
- (h) there is no pending or threatened action or proceeding affecting the User or any of its Related Bodies Corporate or any of their respective assets before a court, governmental agency, commission or arbitrator which may materially affect its ability to perform its obligations under the Service Agreement;
- (i) neither the User 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);
- (j) the User has disclosed whether it is or is not a trustee of any trust or settlement in relation to the Service Agreement or the Gas to be delivered under the Service Agreement;
- (k) the User has disclosed whether it is or is not an agent in relation to the Service Agreement or the Gas to be delivered under the Service Agreement; and<sup>44</sup>
- (l) the User's Gas consuming equipment supplied at the Outlet Facilities complies with all relevant laws; ~~and~~

---

<sup>44</sup> Consequential on deletion of old clause 12.1(m).

~~(m) neither the User nor any of its Related Bodies Corporate has impliedly or expressly represented, including by silence or action to any person that a continuous supply of Gas is guaranteed and can be relied upon.<sup>45</sup>~~

## 12.2 Timing of Warranties

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

## 12.3 Settlements of Royalties

The User shall at all times have the obligation to make settlements or cause settlements to be made for all royalties and overriding royalties due and payments to royalty owners under the authority of which the Gas delivered under the Service Agreement is produced and in accordance with the terms of the relevant production licences and related documents and to make settlements with all other persons having any interest in the Gas delivered under the Service Agreement.

## 12.4 Indemnity Against Claims for Royalties

The User agrees to indemnify and defend the Owners and GGT against all suits, actions, debts, accounts, damages, costs, losses, liabilities and expenses arising from or out of claims of any or all persons to Gas or to royalties, taxes, or other charges thereon which attach before the title passes to GGT under clause 14.3 or which may be levied and assessed upon the delivery thereof to GGT. In the event of any adverse claim of any character whatsoever being asserted in respect to any of the Gas GGT may not deliver and may retain, as security for the performance of the User's obligations with respect to such claim under this clause, the Gas to be delivered to the User at the Outlet Point without incurring liability for interest, until such claim has been finally determined or until the User shall have furnished to GGT a form of security reasonably acceptable to GGT for the protection of GGT with respect to such claim.

---

# 13 INVOICING AND PAYMENT

## 13.1 Invoicing

On or before the 10th day of each Month GGT shall render to the User an invoice for the Service provided and all charges incurred in the immediately preceding Billing Period, together with any outstanding amounts in respect of any previous Billing Periods.

---

<sup>45</sup> Refer paragraph 733 (Amdt. 23).

### 13.2 Contents of Invoices

The invoices rendered pursuant to clause 13.1 shall include:

- (a) the quantity of Gas received from the User at the Inlet Point in the Billing Period;
- (b) the quantity of Gas delivered to the User at the Outlet Point(s) in ~~the~~ that<sup>46</sup> Billing Period;
- (c) a statement of Quantity Variation Charges (if any) used by the User during ~~the~~ that<sup>47</sup> Billing Period;
- (d) details of all charges payable pursuant to clause 9 for ~~the~~ that<sup>48</sup> Billing Period;
- (e) a statement of adjustments (if any) made pursuant to clauses 9.4, 9.8, 17.2(b) and 18.5 for that Billing Period<sup>49</sup>;
- (f) any additional tariffs and charges payable pursuant to the Service Agreement for that Billing Period<sup>50</sup>;
- (g) any ~~†~~ Taxes pursuant to clauses 9.9 and 9.11~~9-10~~ for that Billing Period; and<sup>51</sup>; and
- (h) the quantity of Used Gas used, consumed or lost in the Billing Period and the purchase price(s) paid by GGT for gas for system-use purposes used, consumed or lost in that Billing Period.<sup>52</sup>

### 13.3 Multiple Invoices

GGT may provide more than one invoice in respect of the items in clause 13.2.

### 13.4 Payment

The User shall pay to the Owners the aggregate amount stated in the invoice by direct credit to the bank account or accounts nominated in the invoice not later than 14 days after the invoice is delivered in accordance with clause 24. In the event that the 14th day is not a Business Day then payment shall be made on the preceding Business Day. When making payment pursuant to this clause, the User

---

46 Drafting only.

47 Drafting only.

48 Drafting only.

49 Refer paragraph 730 (Amdt. 20).

50 Drafting only.

51 Consequential on deletion of old clause 9.9 Taxes.

52 Refer paragraph 728 (Amdt. 18).

shall identify the invoice numbers and the respective amounts to which the payments relate and shall notify GGT of such payments.

### 13.5 Disputed Invoices

In the event of any dispute concerning an invoiced amount the User shall, within 14 days from the date it receives the invoice, notify GGT in writing identifying the amount in dispute and giving full reasons for the dispute. Notwithstanding this, then:

- (a) unless there is a manifest error whereby the User can elect not to pay the disputed portion of an invoice if acting reasonably and in good faith,<sup>53</sup>;
- (b) the User shall pay the full amount of the invoice; and,~~the~~
- (c) the dispute will then be referred to the dispute resolution procedure contained in clause 22.

### 13.6 Interest on Disputed Amount

Where, as a result of the determination of a dispute of the nature referred to in clause 13.5, either party has to pay money to the other then, in addition to such payment, interest shall be payable thereon from the date of the disputed invoice until actual payment at a rate equal to the Interest Rate calculated on a Daily basis.

### 13.7 Incorrect Invoices

- (a) If it is found at any time that the User has been overcharged or undercharged and the User has actually paid the invoices containing such overcharge or undercharge then, within 30 days after such error has been discovered and the correct amount has been agreed to by the parties or otherwise determined, the Owners shall refund to the User the amount of any such overcharge or the User shall pay to the Owners the amount of any such undercharge.
- (b) In both cases, the payor shall pay interest on the overcharged or undercharged amount at the Interest Rate calculated from the due date for payment of the appropriate invoice to the date of actual payment of the overcharged or undercharged amount provided that there shall be no rights to claim interest<sup>54</sup> attaching to invoices if more than 12 months have elapsed since the date of the invoice before the error is discovered<sup>55</sup>

<sup>53</sup> Refer paragraph 734 (Amdt. 24).

<sup>54</sup> Drafting for clarification

<sup>55</sup> Drafting for clarification.

### **13.8 Default Interest**

If either party makes default without lawful excuse in the payment of moneys payable on the due date for payment (or, where moneys are payable upon demand) then interest shall be payable on the amount unpaid from the due date for payment until actual payment, at a rate equal to the Interest Rate calculated on a Daily basis.

---

## **14 POSSESSION, RESPONSIBILITY AND TITLE**

### **14.1 Control and Possession**

Control and possession of Gas shall pass from the User to GGT upon delivery of the Gas at the Inlet Point. At the Outlet Point control and possession of the Gas shall pass from GGT to the User.

### **14.2 No Interference**

Whilst Gas is in the control and possession of GGT the User shall not interfere or seek to interfere with the manner in which GGT may compress, clean, process, transmit, heat, cool or control the storage or flow of Gas in the Pipeline.

### **14.3 Title Transfer**

Title to Gas shall pass from the User to GGT at the Inlet Point, free and clear of all liens, encumbrances and claims of any nature.

### **14.4 Title Re-transfer**

At the Outlet Point title to Gas delivered shall pass from GGT to the User provided however that the User's obligations under clause 10.4 survive the delivery of the Gas, and GGT warrants to the User that at the time of delivery (except for any lien for unpaid services rendered and claimed under the Service Agreement) it has no lesser title to the Gas than that received from the User under clause 14.3.

---

## **15 RECORDS AND INFORMATION**

### **15.1 Proper Books and Records**

Each party shall prepare and maintain proper books, records and inventories of all matters pertaining to the Service Agreement.

## 15.2 Independent Examination

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

## 15.3 Confidentiality of Information

It is acknowledged by the parties that:

- (a) all information relating to the basis on which the Owners set their charges (other than information required to be disclosed by law) shall be kept confidential;
- (b) in respect of the derivation of the User's fees and charges a certificate prepared by GGT's auditors shall be conclusive evidence of the correctness or otherwise of the calculation of that User's fees and charges based on the applicable Statement of Tariffs and Charges; and
- (c) any firm of chartered accountants appointed under clause 15.2 shall sign a confidentiality undertaking acceptable to GGT prior to commencing their examination.

---

## 16 TERMINATION

### 16.1 Default by the User

- (a) If the User:
  - (1) defaults in payment of any moneys payable under the Service Agreement for a period of 7 days following receipt of a notice of demand from GGT; or
  - (2) defaults in the performance of any of the other obligations imposed upon it by the Service Agreement and, where such default is capable of remedy, fails to remedy or remove the cause or causes of default within a period of 30 days from the receipt of a notice from GGT to remedy or remove the default; or
  - (3) suffers an Insolvency Event to occur,  
then GGT may take action under clause 16.1(b).
- (b) If clause 16.1(a) applies, then GGT may at its sole discretion:

- (1) suspend Service to the User until such time as all monies in default plus interest at the Interest Rate have been paid, any other default has been remedied or removed, or the Insolvency Event has been remedied or removed, as the case may be; or
- (2) by notice to the User immediately terminate the Service Agreement.

## 16.2 Effects of Termination by GGT

The termination of the Service Agreement under clause 16.1 shall not, of itself, relieve the User of its obligations, which must continue to be observed:

- (a) to pay any moneys (including interest) outstanding at that time; and
- (b) subject to clause 16.3, to pay the Toll Charge and the Capacity Reservation Charge for the remainder of the Service Period as set out in the Order Form,

and upon termination GGT and the Owners have no further obligation to the User and the User has no further rights under the Service Agreement.

## 16.3 Subsequent Agreement Regarding Terminated Capacity

- (a) If GGT subsequently enters into an agreement with a User for the provision of the Firm Service and receives payment from that or any other User for some or all of the capacity made spare by the termination of the Service Agreement (such terminated capacity being referred to in this clause as the **Terminated Capacity**) then the User shall be relieved of its obligation under clause 16.2(b) to continue to pay the Toll Charge and the Capacity Reservation Charge to the extent that the Terminated Capacity may be reduced from time to time.
- (b) For the purposes of clause 16.3(a), Terminated Capacity is to be deemed to be reduced by an amount equal to the next Spare Capacity between the Inlet Point and a Outlet Point to be the subject of an agreement for Firm Service between the Owners and any User, and any amounts relating to the Toll Charge and the Capacity Reservation Charge received by GGT under an agreement which includes the whole or any part of the Terminated Capacity are to be assumed to be applied firstly to reduce any Terminated Capacity under the terminated Service Agreement.
- (c) For the purposes of clause 16.3(b), where more than one agreement has been terminated, the obligations of each User under clause 16.2(a) of such terminated agreements in respect of Terminated Capacity in the same section of the Pipeline will be reduced in priority according to the date of termination of each agreement, commencing with the earliest termination, until the Terminated Capacity under each such agreement has been extinguished by one or more agreements for the Firm Service with New Users.

## 16.4 Additional Remedies

The termination rights and remedies set out in clauses 16.1 and 16.2 shall be in addition to and not in substitution for any other rights and remedies available to the Owners and GGT whether pursuant to the Service Agreement, at law, at equity or otherwise.

## 16.5 Default by the Owners

- (a) If the Owners:
- (1) default in the performance of material obligations imposed upon them by the Service Agreement and where such default is capable of remedy fail to proceed to remedy or remove the cause or causes of default within a period of 30 days from the receipt of a notice from the User to GGT to remedy or remove the default; or
  - (2) suffers an Insolvency Event to occur,  
then the User may by notice to GGT, but subject to clause 16.5(b), immediately terminate the Service Agreement.<sup>56</sup>
- (b) Notwithstanding clause 16.5(a):
- (1) immediately upon receipt of any notice pursuant to clause 16.5(a), GGT must provide a copy of the notice to any mortgagee or chargee of the Owner's interest in the Service Agreement who has notified GGT of its mortgage or charge;
  - (2) immediately thereafter, GGT must provide the User with the name, address and facsimile number of each mortgagee or chargee who has been sent a copy of the notice; and
  - (3) the User must not take any action to terminate the Service Agreement under clause 16.5(a) without first allowing the mortgagee or chargee a reasonable opportunity to remedy, or remove the causes of, the default.

## 16.6 Effect of Termination

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

---

<sup>56</sup> Refer paragraph 735 (Amdt. 25).



---

## 17 FORCE MAJEURE

### 17.1 Obligations will be Suspended

Notwithstanding the other provisions of the Service Agreement but subject to clause 17.2, the obligations of the Owners, GGT and the User under the Service Agreement will be suspended in the following cases:

- (a) to the extent that on account of Force Majeure the Owners or GGT have failed to accept or deliver Gas in the quantities required by the User or failed to perform any of their other obligations under the Service Agreement; and
- (b) to the extent that on account of Force Majeure the User has failed to take delivery of Gas from GGT pursuant to the Service Agreement or has failed to perform any of its other obligations under the Service Agreement.

### 17.2 User Obligated to Pay Moneys

- (a) Notwithstanding clause 17.1, if an event of Force Majeure is claimed by the User, then<sup>57</sup> the User shall not be relieved from liability to pay moneys due (including the Toll Charge and the Capacity Reservation Charge which shall continue to accrue and be payable notwithstanding the Force Majeure) or to give any notice which may be required to be given pursuant to the Service Agreement.
- (b) The User is relieved of its obligation to pay the Toll Charge and the Capacity Reservation Charges where the User is unable to deliver or accept Gas due to an event of Force Majeure claimed by GGT and GGT shall include a credit for the value of the Toll Charge and the Capacity Reservation Charges applicable to the period of Force Majeure in the User's next invoice as provided for in clause 13.2(e).<sup>58</sup>

### 17.3 Notice of Force Majeure

If either party seeks relief under clause 17.1, the party shall:

- (a) as soon as reasonably practicable but in any event within 4 days give notice to the other party of the occurrence of the event or circumstance claimed to be Force Majeure and provide to the other party full particulars relating to the event or circumstance and the cause of such failure (such notice shall also contain an estimate of the period of time required to remedy such failure);

---

<sup>57</sup> Refer paragraph 730 (Amdt. 20).

<sup>58</sup> Refer paragraph 730 (Amdt. 20).

- (b) render the other party reasonable opportunity and assistance to examine and investigate the event or circumstance and the matters which caused the event or circumstance and failure;
- (c) exercise reasonable endeavours to mitigate or remove the effects of the Force Majeure event or circumstances but excluding any measures which are not economically feasible for such party; and
- (d) give notice immediately to the other parties upon termination of the event of Force Majeure.

#### 17.4 Termination for Extended Force Majeure

If despite reasonable endeavours on the part of the party affected by Force Majeure to mitigate or remove the effects of the Force Majeure event or circumstance the situation in clause 17.1 continues substantially unabated for a period of 6 Months from the date of notice under clause 17.3(a), then the parties shall meet to seek to find a resolution of the difficulty and if after a further period of 3 Months they are unable to agree a resolution then either party may terminate the Service Agreement upon 3 Months' notice.

---

## 18 LIABILITIES

### 18.1 Limitation of Liability

- (a) Neither party shall be liable to the other party for any loss, injury, or damage arising directly or indirectly from:
  - (1) any act, omission, error, default or delay in respect of the provision, use or termination of Service under the Service Agreement;
  - (2) the failure by a party or one of its directors, officers, employees, contractors or agents to commence acceptance or delivery of Gas or other Services pursuant to the Service Agreement;
  - (3) any failure of any part of the Pipeline, Inlet Facilities or Outlet Facilities;
  - (4) any interruption or reduction of Service, receipts or deliveries of Gas or Non-Specification Gas (made in accordance with the Service Agreement or otherwise); or
  - (5) any act or omission of any other customer of a party and any other third party for whom such party is not responsible,except, subject to clause 18.1(c)<sup>59</sup>, where the loss, injury or damage is the direct or indirect result of a party's negligence or wilful default.

---

<sup>59</sup> Consequential on amendments to clause 18.1(c).

- (b) Nothing in this clause shall operate to limit the liability of the User to pay all appropriate tariffs and charges incurred pursuant to the Service Agreement, for which the User shall remain liable.
- (c) Notwithstanding anything provided in the Service Agreement, the Owners neither party, GGT and their its contractors, and their officers, directors, employees and agents shall not be liable to the User other party for:
- (1) any amount that is more than the equivalent of one Year of charges which would have been payable by the User for the provision of the Service; or
- (2) any liability or loss including consequential loss suffered by the other party to the extent that the negligence of the other party contributes to this liability or loss.<sup>60</sup>

## 18.2 Direct Losses Only

Subject to clause 10.4, if for any reason it is determined that a party (**Liable Party**) is liable to the other party for breach of the Service Agreement, the liability of the Liable Party to the other party shall never exceed the direct loss or damage sustained by the other party resulting from or arising out of that breach (**direct losses**) and under no circumstances will the Liable Party be liable to the other party:

- (a) in contract, tort (including negligence) or otherwise for any and all loss or damage in the nature of:
- (1) consequential, special, contingent, penal or other indirect loss or damage, loss of revenue, income, profits, business, opportunity or anticipated savings, loss or anticipated loss of use, production; or
- (2) business interruption; or
- (b) for any and all claims, demands, actions or proceedings by third parties, (including any person contracting or dealing with or relying upon the provision of goods and services by the other party or having a legitimate expectation as to the reliability of the supply of gas by the other party howsoever caused)<sup>61</sup> and any costs or expenses in connection therewith, that are not otherwise covered by clause 18.2(a).

## 18.3 Proximate Losses

The User alone will be responsible for and liable to pay any monies by way of compensation, damages or repair which may be or become payable in

<sup>60</sup> Refer paragraph 736 (Amdt. 26) and also High Court's 2001/2002 decision in Astley's case re "contractual" proportionate liability.

<sup>61</sup> Refer Victorian Supreme Court decision re Esso Longford case.

consequence of the occurrence during the Term of the Service Agreement in or about or incidental to activities in or about the locations specified in clause 18.4 of:

- (a) any injury to or death of or loss to any person, who is employed by the User or by any person contracting or dealing with the User (except GGT), howsoever caused;
- (b) any loss of or damage to any property of the User or of any person contracting or dealing with the User (except GGT), howsoever caused; and
- (c) any other loss incurred by the User or by any person contracting or dealing with or relying upon the provision of goods or services by the User (except GGT), or having legitimate expectations as to the reliability of the supply of gas howsoever caused

and the User shall indemnify the Owners, GGT or any person contracting with the Owners or GGT (except the User) and their respective employees, agents and servants from and against all liabilities and expenses of whatsoever nature for, under or in connection with any claim, demand, action or proceeding whatsoever made or brought by any person in respect of or in relation to any such injury, death, loss or damage.

#### 18.4 Locations

The locations specified for the purposes of clause 18.3 are:

- (a) Inlet Facilities;
- (b) Outlet Facilities;
- (c) the Pipeline;
- (d) such other premises, facilities or places used for the storage, transportation, distribution, delivery or consumption of Gas, received from or delivered to the User; and
- (e) such other premises or places where any of the following:
  - (1) property of the Owners or GGT or persons employed by or dealing with the Owners or GGT; and
  - (2) property of the User or persons employed by the User; and
  - (3) property of persons relying upon the provision of goods or services of the User

are in proximity with each other.

#### 18.5 ~~Reduction of Average Fixed Charges~~ Refunds and Credits

Notwithstanding clause 18.1.5:

- (a) where the Firm Service is not provided such that the User does not receive Gas for more than 48 consecutive hours and the failure or continuation of the failure to provide Gas is directly or indirectly caused by GGT, GGT will, ~~on request by the User made within 14 days, is entitled to a refund or~~ or give a credit to the User for each period of 24 hours for which the failure continues beyond the 48 consecutive hours;
- (b) ~~The~~ refund or credit will be calculated as " $a \div 30.42$ " where "a" is the sum of the Capacity Reservation Charge and the Toll Charge payable in the Billing Period.<sup>62</sup>

### 18.6 No Liability for Fault of Others

Notwithstanding anything else contained in the Service Agreement, GGT or the Owners or both shall not be liable for any liability or loss to the extent that it is the fault of any other party or person. Where negligence is found to have been contributory each party will bear responsibility in accordance with that party's proportionate fault.

### 18.7 Each Limitation Separate

Each limitation or exclusion of this clause 18 and each protection given to the Owners, GGT and to the User or their respective officers, employees, or agents by any provision of this clause 18 is to be construed as a separate limitation or exclusion applying and surviving even if for any reason any of the provisions is held inapplicable in any circumstances.

---

## 19 INSURANCES

### 19.1 Insurances to be Effected

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

- (a) workers compensation insurances in accordance with the *Workers Compensation and Rehabilitation Act 1981*;
- (b) all risks property damage insurance to indemnify it against damage, loss or destruction of its Inlet Facilities and Outlet Facilities; and
- (c) public liability insurance for an amount of not less than \$~~5~~<sup>10</sup><sup>63</sup>,000,000 to indemnify it against the risk of damage, death or injury to the property or personnel of third parties.

---

<sup>62</sup> Refer paragraph 738 (Amdt. 28).

<sup>63</sup> Amendment due to current day insurance environment.

## 19.2 Endorsements

The User shall arrange for endorsement on the policies in clauses 19.1(b) and 19.1(c) of the interests of the Owners and GGT such that those interests are effectively insured under those policies and for the insurers to waive rights of subrogation against them.

## 19.3 Certificates of Currency

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

---

## 20 ASSIGNMENT AND TRANSFERS OF CAPACITY

### 20.1 Restriction on Assignment

Either party shall be entitled to assign all or part of its rights arising under the Service Agreement, with the consent in writing of the other party, and otherwise in accordance with this clause 20.

### 20.2 Owner's Right to Assign

Notwithstanding clause 20.1 an Owner may at any time without the consent of the User (but having first notified the User) assign all or part of its rights under the Service Agreement to:

- (a) any one or more of its Related Bodies Corporate; or
- (b) any one or more of the other Owners; or
- (c) to any assignee who has acquired the whole or any part of the Owner's right or interest in and to the GGTJV.

### 20.3 Deed of Covenant

Any assignment pursuant to clauses 20.1 or 20.2 shall not take effect until the assignee has executed in favour of the non-assigning party a deed of covenant under which the assignee agrees to comply with the provisions of the Service Agreement in regard to the matters the subject of the assignment and in the case of an assignment pursuant in clauses 20.2(b) or 20.2(c) or 20.4(b) the assignor thereupon shall be released from its obligations under the Service Agreement to the extent of the assignment.

### 20.4 GGT May Delegate and Assign

GGT may:

- (a) delegate to one or more third parties that are technically competent and reputable the performance of all or any of its functions under the Service Agreement but will remain responsible for the performance of those obligations; and
- (b) assign all or part of its rights obligations and interests arising under the Service Agreement where:
  - (1) it is replaced as manager for the GGTJV;
  - (2) it is replaced as the Service Provider under the Access Arrangement; or
  - (3) the Owners resolve this is desirable for the better administration of the Pipeline or of the Owners' obligations under the Code or for a corporate reorganisation of the GGT or the GGTJV or bothprovided it first notifies the User in writing.

## 20.5 Owners May Assign Right to Payment

Notwithstanding the foregoing provisions of this clause 20 each of the Owners may at any time without the consent of the User assign in whole or in part any right to payment arising under the Service Agreement. Notice of any such assignment must be given by GGT to the User as soon as reasonably practicable thereafter.

## 20.6 Bare Transfer of Capacity

- (a) GGT will permit a Bare Transfer in accordance with section 3.10 of the Code and accordingly:<sup>64</sup>
  - (1) aA User is permitted to transfer or may assign or transfer to a third party (referred to as the **New User**) all the whole or any part of its rights and obligations under the Service Agreement (referred to in this clause 20.6 as the **Transferred Capacity**) without the consent of GGT provided if:
    - (A) the User's obligations under the Service Agreement remain in full force and effect after the transfer or assignment of the Transferred Capacity; and
    - (B) the terms of the Service Agreement are not otherwise altered as a result of the transfer or assignment to the New User (a **Bare Transfer**):
  - (2) the New User must notify GGT prior to utilising the Transferred Capacity subject to the Bare Transfer and of the nature of the Transferred Capacity subject to the Bare Transfer.<sup>65</sup>

<sup>64</sup> Acknowledgment of the obligations imposed on a User when a Bare Transfer is undertaken.

(b) ~~GGT may request, The User must,~~ prior to the use of the Transferred Capacity by the New User, and the User may, but is not required to provide, advise GGT of the following information to GGT:

~~(3)~~(1) the portion of the User's Capacity entitlement under the Service Agreement which is to be Transferred Capacity;

~~(4)~~(2) the identity of the New User;

~~(5)~~(3) the Outlet Point(s) to be utilised by the New User;

~~(6)~~(4) the respective MDQ for the Inlet Point and Outlet Point(s);

~~(7)~~(5) the term of the assignment or transfer of that Capacity entitlement to the New User; and

any rights reserved by the User in the Transferred Capacity with respect to priority to Capacity in the event of an interruption or curtailment to the Service, or any other matter relevant to respective rights of the User and the New User.<sup>66</sup>

(c) For the avoidance of doubt, the terms of the Service Agreement will be deemed to be altered as a result of the assignment or transfer and the User will not be able to effect a Bare Transfer if in the reasonable opinion of GGT, the Transferred Capacity and the rights retained by the User under the Service Agreement are in excess of the rights originally granted to the User under the Service Agreement.

## 20.7 Transfer of Capacity other than a Bare Transfer of Capacity

(a) A User may assign or transfer to a New User ~~the whole~~ all or ~~any~~ part of its Transferred Capacity, other than by way of a Bare Transfer, only with the prior written consent of GGT. GGT may withhold its consent on reasonable commercial or technical grounds or may make its approval subject to conditions that are reasonable on commercial or technical grounds. These conditions may include a requirement that the New User enter into a Deed of Covenant under which it agrees to be bound by the Service Agreement insofar as it relates to the Transferred Capacity or to pay a deposit or bond in accordance with clause 9.13.

(b) As a condition to obtaining GGT's consent, a User must advise GGT of the following:

(1) the portion of the User's Capacity entitlement which is to be Transferred Capacity;

(2) the identity of the New User;

<sup>65</sup> Refer paragraph 740 (Amdt. 30).

<sup>66</sup> Refer paragraph 740 (Amdt. 30) See section 3.10 of the Code.



- (3) the Outlet Point(s) to be utilised by the New User;
  - (4) the respective MDQ for the Inlet Point and Outlet Point(s);
  - (5) the term of the assignment or transfer of that Capacity entitlement to the New User; and
  - (6) any rights reserved by the User in the Transferred Capacity with respect to priority to Capacity in the event of an interruption or curtailment to the Service, or any other matter relevant to GGT's obligations to perform the Service in accordance with the respective rights of the User and the New User.
- (c) The User shall be obliged to pay Connection Charges for any new Outlet Facilities to be used by the New User in respect of Transferred Capacity and the administration charges that GGT would apply to any new User entering into a gas transmission agreement with GGT, in accordance with the Statement of Tariffs and Charges prevailing at the time of the transfer. The User shall ensure that any new Outlet Facilities used by the New User shall comply with the technical requirements for Outlet Facilities set out in the Second Schedule.
- (d) GGT will advise the User within 30 days of its consent to the transfer of the Transferred Capacity or it shall specify reasonable technical or commercial conditions that must be complied with in order for GGT to consent to the transfer of the Transferred Capacity.

## 20.8 Pipeline Capacity Notices and Public Register of Capacity

GGT:

- (a) may publish a Pipeline Capacity Notice; and
- (b) will establish and maintain a public register which includes:
  - (1) information as to any Spare Capacity that it reasonably expects to exist in relation to the Pipeline (including the quantity, type, and timing of the Spare Capacity and the terms and conditions relating to its supply);
  - (2) information as to any Developable Capacity that it reasonably expects to be available in relation to the Pipeline (including the quantity, type and timing of the Developable Capacity and the terms and conditions relating to its supply); and
  - (3) any information provided to GGT by a User in respect of Capacity that the User may wish to transfer or assign in accordance with the Service Agreement, including the quantity, type and timing of such Capacity.

## 20.9 Security

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

---

## 21 CONFIDENTIAL INFORMATION

### 21.1 Restriction

Subject to clauses 20.8 and 21.2 and except as required by the GGP Agreement (in the case of the Owners only), and in any contracts in respect of which either party is a party as at the Date of Service Agreement neither party shall communicate or comment upon any details contained in the Service Agreement or disclosed in respect of any Enquiry Form or Order Form delivered under clause 6 of the Access Arrangement to third parties without the prior written consent of the other party.

### 21.2 Permitted Disclosure

A party shall be entitled to disclose any details contained in the Service Agreement without the consent of the other party to such of the following persons who on reasonable grounds have a clear need to know:

- (a) employees, directors, officers, contractors and agents of the party;
- (b) the party's Related Bodies Corporate or employees, officers and agents of the Related Body Corporate;
- (c) any professional consultant or expert retained by the party;
- (d) any person with whom the User is in bona fide negotiations for transfer of capacity;
- (e) a prospective purchaser of an Owner's interest in the GGTJV or GGT;
- (f) a prospective purchaser of any of the issued shares in an Owner, GGT, or User or any Related Body Corporate of an Owner or GGT or User; and
- (g) any financier or prospective financier of an Owner, GGT, the User or any Related Body Corporate of an Owner, GGT or the User,

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

### 21.3 Required Disclosure

Nothing in this clause 21 restricts a party's obligation as is required by law, any legally binding order of a court or ~~government, governmental~~ Authority or ~~administrative body,~~ by the listing rules of any stock exchange, ~~or regulatory agency~~ having jurisdiction over the party or its ultimate holding company<sup>67</sup>.

## 22 DISPUTE RESOLUTION

### 22.1 Notice of Dispute

In the event of any dispute or difference arising between the User and GGT as to the construction of the Service Agreement or as to any matter or thing arising under or in connection with the Service Agreement then either party will give to the other written notice identifying the matters the subject of the dispute or difference.

### 22.2 Reference to Senior Representatives

Upon receipt of a notice pursuant to clause 22.1 each of the User and GGT will designate a representative for the negotiation who will have authority to settle the dispute on behalf of that party and those representatives will meet promptly and use their best endeavours to resolve the dispute by negotiation.

### 22.3 Reference to Expert or Arbitrator

- (a) If, within 21 days of receipt of the notice, the User and GGT have been unable to resolve the matter, or to agree a method of resolving the matter, by negotiation, then if the dispute or difference is in respect of an amount of \$500,000 or less the parties will refer the matter for determination by an Expert in accordance with clause 22.4.
- (b) If the dispute or difference is in respect of an amount in excess of \$500,000 then, unless the parties agree that the matter should be determined by an Expert in accordance with clause 22.4, the parties will resolve the matter by arbitration in accordance with clause 23.
- (c) Any dispute which is referred to an Expert by the agreement of the parties made under clause 22.3(b) will thereupon cease to be referable to arbitration.

### 22.4 Determination by an Expert

- (a) If a matter is referred for determination by an Expert pursuant to clause 22.3, an Expert will be appointed by the parties, or in default of agreement

<sup>67</sup> See Appendix 1 – Definitions and Interpretation for new definition of "Governmental Authority".

upon such appointment within 10 days of the referral, either party may refer the appointment of the Expert to:

- (1) in the case of financial matters, the President for the time being of the Institute of Chartered Accountants of Australia;
- (2) in the case of technical matters, the President for the time being of the Institution of Engineers, Australia; and
- (3) in the case of any other matters (including without limitation a dispute as to the interpretation of this Service Agreement) the President for the time being of the Law Society of Western Australia.

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

- (b) The Expert will be instructed to:
  - (1) promptly fix a reasonable time and place for receiving submissions or information from the parties or from any other persons as the Expert may think fit;
  - (2) accept oral or written submissions from the parties as to the subject matter of the dispute within 20 days of being appointed;
  - (3) not be bound by the rules of evidence; and
  - (4) make a determination in writing with appropriate reasons for that determination within 20 days of the expiry of the period referred to in clause 22.4(b)(2).
- (c) The Expert will be required to undertake to keep confidential matters coming to the Expert's knowledge by reason of being appointed under this clause 22 and the performance of his or her duties.
- (d) The Expert will have the following powers:
  - (1) to inform himself or herself independently as to facts and if necessary technical and/or financial matters to which the dispute relates;
  - (2) to receive written submissions sworn and unsworn written statements and photocopy documents and to act upon the same;
  - (3) to consult with such other professionally qualified persons as the Expert in his or her absolute discretion thinks fit; and
  - (4) to take such reasonable measures as he or she thinks fit to expedite the completion of the resolution of the dispute.
- (e) Any person appointed as an Expert will be deemed not to be an arbitrator but an expert and the law relating to arbitration will not apply to the

- Expert or the Expert's determination or the procedures by which he or she may reach his or her determination.
- (f) The dispute resolution will be held in Perth unless the User and GGT otherwise agree.
  - (g) In the absence of manifest error, the decision of the Expert will be valid and binding upon the parties.
  - (h) The costs of the Expert and any advisers appointed pursuant to clause 22.4(d)(3) will be borne by the User or GGT or both as determined in the discretion of the Expert taking into account the Expert's decision in the dispute.
  - (i) The User and GGT will give the Expert all information and assistance that the Expert may reasonably require. The User and GGT will be entitled to be legally represented in respect of any representations that they may wish to make to the Expert, whether orally or in writing.

## 22.5 Performance of Obligations

Notwithstanding a reference of a dispute or difference to the dispute resolution procedure in this clause 22 the parties will, so far as it is reasonably practicable, continue to perform and comply with their respective obligations under the Service Agreement.

---

## 23 ARBITRATION

### 23.1 Arbitration in Accordance with the Commercial Arbitration Act 1985

If clause 22.3(b) applies the matter in dispute shall be referred to arbitration in accordance with the *Commercial Arbitration Act 1985 (WA)*.

### 23.2 Convening the Arbitration

The arbitration shall be convened by either party giving to the other notice in writing stating the subject matter and details of the dispute, including the amount of the dispute for the purposes of clause 22.3(b) and that party's desire to have the matter referred to arbitration.

### 23.3 Arbitrators

The arbitration shall be by one arbitrator to be agreed upon by the parties or, in the event that a single arbitrator cannot be agreed, then before two arbitrators one to be appointed by each party and their umpire to be appointed by the arbitrators before they enter upon the reference, as provided for in the *Commercial Arbitration Act 1985 (WA)*.

### **23.4 Legal Representation**

The User and GGT will be entitled to be legally represented in respect of any representations that they may wish to make to the Arbitrator, whether orally or in writing.

### **23.5 Award Binding**

The award in the arbitration shall be final and binding on the parties.

### **23.6 Costs**

The apportionment of the costs of and incidental to the reference to arbitration shall be at the discretion of the arbitrator, who may determine the amount thereof and the basis upon which the same shall be ascertained provided that where one party has behaved unreasonably in the view of the arbitrator, that party shall bear the costs of the arbitration. Each party shall bear its own counsel - client costs, and any costs associated with witnesses called by such party (if any).

### **23.7 Written Reasons to be Given**

The arbitrator shall give his determination in writing with reasons.

### **23.8 Performance of Obligations**

Pending resolution of any dispute or difference, the parties shall continue to perform their respective obligations under the Service Agreement.

---

## **24 NOTICES**

### **24.1 Notices**

All notices, demands, consents and requests required or permitted to be given or made to either party pursuant to the Service Agreement, shall be in writing and shall be deemed to be sufficiently given or made if personally delivered, if sent by registered mail, or facsimile addressed in the case of GGT as set forth in the Applicable Terms and in the case of the User to the address specified in the Order Form or in either case to such other address as the party to be notified shall designate by written notice given to the other party.

### **24.2 Deemed Delivery**

A notice sent by registered mail shall be deemed served on the earlier of the date of receipt or 4 days after the same was committed to post. If sent by facsimile transmission such notice shall, if sent prior to 4:00pm on any Business Day, be deemed served on that Business Day. If sent after 4:00pm on any Business Day, it shall be deemed served on the next Business Day.

---

## 25 WAIVER

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

---

## 26 ENTIRE AGREEMENT

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

---

## 27 SEVERABILITY

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

---

## 28 GOVERNING LAW

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

---

## **First Schedule: Technical Requirements for Description of the Inlet Facilities**

### **~~Inlet Facilities to Comprise~~**

~~In this Service Agreement, **Inlet Facilities** means are the facilities provided in the vicinity of located at the Inlet Point which ~~comply with~~ meet the technical requirements description in this Schedule and include overpressure protection, reverse flow protection, Gas quality monitoring and Gas measurement. The parties recognise that other facilities may be installed upstream of the Inlet Facilities to perform a number of functions including gas conditioning, flow control, and pressure enhancement and regulation, and that those facilities are not the Inlet Facilities for the purpose of this Service Agreement.~~

### **Inlet Point**

The Inlet Point is the flange on the outlet or downstream side of the Inlet Facilities, where the Pipeline connects to the Inlet Facilities.

### **Gas Quantity Measurement**

The Inlet Facilities include a gas quantity measurement system, comprising a primary volume or mass measurement device (**Meter**), temperature, pressure, and density measuring devices as necessary, and a device for the correction of primary measurements to standard conditions.

Provision has been made for redundancy to enable calibration of each component of the measurement system without interruption of measurement.

The Inlet Facilities include a gas filter to prevent contamination of the measurement system, and in particular the Meter.

### **Gross Heating Value Measurement**

The Inlet Facilities include a device for the measurement of Gross Heating Value of the Gas (**GHV Device**).

### **Gas Quality Monitoring**

The Inlet Facilities include devices for the monitoring of the quality of the Gas.

### **Instruments**

The Inlet Facilities are fitted with electronic instrument systems to permit remote monitoring and control of the Inlet Facilities.

The Instruments are sufficient to monitor and permanently record:

- meter output;
- pressure, temperature, density, and other measurement input signals;
- GHV;
- corrected instantaneous and totalised Gas volume, mass and energy;
- Gas composition, moisture, and other Gas quality signals;



- overpressure protection device position; and
- such other parameters as GGT may reasonably require.

~~The control systems are sufficient to control:~~

- meter run selection (where appropriate);
- overpressure protection device position (local and remote); and
- ~~such other parameters as GGT may reasonably require.~~

#### SCADA

~~The Inlet Facilities include a system capable of~~ include a system for transmitting to GGT's SCADA those parameters monitored by the instruments, and ~~capable of receiving~~ from GGT's SCADA<sub>2</sub> signals to adjust those settings which are under the control of GGT.

---

## Second Schedule: Technical Requirements for Outlet Facilities

### Outlet Facilities to Comprise

In this Service Agreement, **Outlet Facilities** ~~means~~ are the facilities to be ~~located at~~ ~~nominated by~~ or provided for the User in the vicinity of the Outlet Point(s), which ~~comply with~~ meet the technical ~~requirements~~ description in this Schedule and include reverse flow protection, Gas quality monitoring and Gas measurement.

The parties recognise that other facilities may be installed upstream of the Outlet Facilities to perform a number of functions including gas conditioning, flow control, and pressure enhancement and regulation, and that those facilities are not Outlet Facilities for the purpose of this Service Agreement.

### Outlet Point

The Outlet Point is to be the flange on the outlet or downstream side of the Outlet Facilities.

### Approval of GGT Required

The design of the Outlet Facilities, and the selection, including the type and make, of equipment to be installed ~~will~~ must be as approved by GGT.

### Standards

The design and construction of the Outlet Facilities ~~must~~ will be in accordance with all relevant Acts, Regulations and Australian Standards applicable at the time of construction, and ~~must~~ will be in accordance with good pipeline industry practice.

### Site

The site on which the Outlet Facilities are located ~~will~~ must be fully enclosed with security fencing, suitable vehicular and personnel access. The Outlet Facilities ~~are to~~ will be separately fenced from any other User or third party facilities located on the site.

The ground at the site ~~will~~ must be concrete, seal, or gravel to enable access in all weather conditions to the Outlet Facilities.

Telemetry, power supply and other sensitive equipment ~~must~~ will be located in a weatherproof, secure, ventilated enclosure, with provision to allow for maintenance of equipment in all weather conditions.

### Electrical Equipment

All electrical and electronic equipment on site ~~will~~ must comply with the requirements for hazardous locations pursuant to Australian Standards.

### Electrical Isolation and Earthing

The Outlet Facilities will include an isolating joint to isolate the Outlet Facilities from the Pipeline. The isolating joint ~~will~~ must be fitted with a surge diverter or other approved means of discharging pipeline potentials.

All Outlet Facilities ~~will~~must be connected to an effective earthing system of a type as approved by GGT.

### Excess Flow Protection

The Outlet Facilities ~~must~~will include a flow control device. This device will be used by GGT to prevent excess quantities of Gas from being delivered to the User.

The device is to be located on the upstream side of the Outlet Facilities.

### Reverse Flow Prevention

The Outlet Facilities ~~must~~will include a reverse flow prevention device designed to prevent the flow of Gas in the reverse direction through the Outlet Facilities.

### Gas Quantity Measurement

The Outlet Facilities ~~must~~will include a gas quantity measurement system, comprising a primary volume or mass measurement device (**Meter**), temperature, pressure, and density measuring devices, and a device for the correction of primary measurements to standard conditions.

Provision ~~must~~will be made for redundancy to enable calibration of each component of the measurement system without interruption of measurement. Where the Meter is a mechanical device, such as a turbine meter, provision ~~must~~will be made for in-situ series testing with a calibrated standard meter.

The measurement system ~~must~~will include a gas filter to prevent contamination of the measurement system, and in particular the Meter.

Where a Meter is installed in-line with other components which may result in automatic closure of the Meter piping, systems ~~must~~will be installed to automatically transfer to an alternative Meter.

### Gross Heating Value Measurement

The Outlet Facilities ~~must~~will include a device for the measurement of Gross Heating Value of the Gas (**GHV Device**). ~~Unless otherwise agreed to~~ The GHV Device shall be an on-line gas chromatograph.

The tapping point for the GHV Device ~~must~~will be midstream in the vicinity of the Meter. The stream for the GHV Device ~~must~~will not be filtered or treated in any way which could alter the effective GHV of the stream.

Where a gas chromatograph is used, only Alpha grade reference standards shall be used for calibration.

GGT may excuse certain smaller Outlet Facilities from GHV measurement at its sole discretion.

### Gas Quality Monitoring

The Outlet Facilities ~~must~~will include devices for the monitoring of the quality of the Gas. Depending on the Gas composition, such devices may include a gas chromatograph, CO<sub>2</sub> monitor, moisture analyser, automatic gas sampler, and other devices.

The tapping point for such devices shall be midstream, in the vicinity of the Meter.

---

GGT may excuse certain smaller Outlet Facilities from specific Gas Quality measurement at its sole discretion.

### Instruments

The Outlet Facilities are to be fitted with electronic instrument systems to permit remote monitoring and control of the Outlet Facilities. Instruments must be sufficient to monitor and permanently record:

- meter output;
- pressure, temperature, density, and other measurement input signals;
- GHV;
- corrected instantaneous and totalised Gas volume, mass and energy;
- Gas composition, moisture, and other Gas quality signals; and
- such other parameters as GGT may reasonably require.

Control systems ~~must be sufficient~~ are to control:

- meter run selection (where appropriate); and
- excess flow protection device position; and
- ~~such other parameters as GGT may reasonably require.~~

### SCADA

The Outlet Facilities ~~must~~ will include a system ~~capable of~~ for transmitting to GGT's SCADA those parameters monitored by the instruments, and ~~capable of receiving~~ receive from GGT's SCADA signals to adjust those settings which are under the control of GGT.

GGT may require that other parameters and control facilities be available through the SCADA link.

### ~~Spare Parts~~

~~The User must provide GGT with such spare parts and components as GGT from time to time considers necessary for the effective maintenance of the Outlet Facilities.~~

## Third Schedule: Test Procedures

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

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

---

## Fourth Schedule: Inlet Gas Specification

The quality of Gas supplied hereunder at the Inlet Point shall, on delivery, conform to the following.

### 1. Fuel Components

(a) Merchantable Gas

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

(b) Oxygen

The gas will contain less than 0.2% by volume of oxygen.

(c) Total Inert Gases

The gas will contain a cumulative sum of less than 7% by volume of inert gases.

### 2. Gas Contaminants

(a) Total Sulphur

The gas will not contain total sulphur, including hydrogen sulphide and mercaptans, in concentration greater than 10 mg/m<sup>3</sup>.

(b) Hydrogen Sulphide

The gas will not contain hydrogen sulphide in concentration greater than 5 mg/m<sup>3</sup>.

(c) Water

The water content will not exceed 48.0 mg/m<sup>3</sup>.

(d) Carbon Dioxide

The gas will contain less than 3.6% by volume of carbon dioxide.

(e) Radioactive Components

The gas will contain less than 600 becquerels per Cubic Metre of radioactive components including radon.

### 3. Additives

(a) Glycols

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

(b) Methanol

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

**4. Gas Properties**

(a) Gross Heating Value

The gas will have a Gross Heating Value of not less than 35.5 MJ/m<sup>3</sup> and not more than 42.5 MJ/m<sup>3</sup>.

(b) Wobbe Index

The Wobbe Index of the gas shall be not less than 46.0 and not more than 51.5 and shall not vary by more than 10% from time to time.

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

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

(c) Flammability Limit

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

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

(d) Hydrocarbon Dewpoint

The gas will have a phase envelope, cricondenthem temperature of less than 0°C and shall be physically proven to be free of hydrocarbon liquids at a temperature of 0°C or greater, and in the pressure range 102 to 10,000 kPa absolute.

**5. Test Methods**

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

**5.1 Fuel Components**

(a) Merchantable Gas

Not applicable.

(b) Oxygen

ASTM D 1945 Chemical analysis of natural gas by gas chromatography.

(c) Total Inert Gases

To be agreed.

**5.2 Gas Contaminants**

- (a) Total Sulphur  
ASTM D 1072 Test method for total sulphur in fuelled gases.
- (b) Hydrogen Sulphide  
ASTM D 2385 Hydrogen sulphide content by methylene blue method.
- (c) Water  
ASTM D 1142 Water vapour content of gas fuel by measurement of dew point temperatures.
- (d) Carbon Dioxide  
ASTM D 1945 Chemical analysis of natural gas by gas chromatography.

### 5.3 Additives

- (a) Glycols  
Thermal desorption Perkin-Elmer Model ATD-50.
- (b) Methanol  
Limits and test method to be advised where use of methanol is agreed.

### 5.4 Gas Properties

- (a) Gross Heating Value  
GPA 2145-92 Calculation method of natural gas parameters from compositional data using gas analysis obtained by ASTM D 1945.
- (b) Wobbe Index  
ASTM D 1070 Test methods for specific gravity. Gross Heating Value is to be calculated using the method specified in clause 5.4(a) of this Schedule.



---

## **Fifth Schedule: Gas Pipeline Services Performance Bond**

### **INTRODUCTION**

1. GGT, as agent for each of the Owners, has entered into a written contract with the User for the provision of the Service (**Service Agreement**).
2. The User is required to provide certain deposit monies to be retained by GGT as more fully set out in the Service Agreement.
3. The User has requested GGT to accept an undertaking from the Surety in the form of this deed as the required security.

### **NOW THIS DEED WITNESS:**

1. At the request of the User and in consideration of GGT agreeing to accept this undertaking in lieu of lodgment by the User of a cash deposit in the amount of the Security Sum the Surety unconditionally undertakes to pay on demand to GGT any sum which from time to time may be demanded by GGT to a maximum of the Security Sum. GGT may make demand without statement of reason or cause.
2. This undertaking shall continue in force either until 6 months after notification has been received by the Surety from GGT that this undertaking is no longer required by GGT or until payment has been made to GGT of the whole Security Sum.
3. If GGT notifies the Surety in writing that GGT desires payment to be made to it of the whole or any part or parts of the Security Sum it is unconditionally agreed by the Surety that such payment or payments will be made to GGT forthwith to the address for payment specified in the notice and without further reference to the User and notwithstanding any notice given by the User to the Surety not to pay the same.
4. The liability of the Surety will not exceed the Security Sum in the aggregate.
5. The Security Sum, the Surety, the User, the Owners and GGT are as described in the Schedule.

## SCHEDULE

Security Sum: [ \$ ]

**Surety:**

Full Name:

Address:

**The User:**

Full Name:

Address:

Fax No:

<b>Owners</b>	<b>Percentage</b>
Southern Cross Pipelines Australia Pty Limited (ACN 084 521 997)	62.664%
Southern Cross Pipelines (NPL) Australia Pty Ltd (ACN 085 991 948)	25.493%
<del>Alinta DEWAP Duke Energy WA Power Pty Ltd (ACN 058 070 689)<sup>68</sup></del>	11.843%
<b>GGT</b>	
Goldfields Gas Transmission Pty Ltd (ACN 004 273 241)	

Contract Reference Number:

EXECUTED as a deed this            day of

[Execution clause for Surety]

Notes: If executed under power of attorney a certified copy of the Power of Attorney must be annexed and a declaration made by the Attorney that he or she has no notice of revocation of the power under which he or she executed this Deed.

<sup>68</sup> Company has changed its name.

## Sixth Schedule: Statement of Tariffs and Charges

### 1. Transportation Tariffs

The following table outlines the Transportation Tariffs for the Firm Service:

<u>Tariff</u>	<u>Toll</u> <u>\$/GJ</u>	<u>Capacity</u> <u>Reservation</u> <u>\$/GJ km</u>	<u>Throughput</u> <u>\$/GJ km</u>
	<u>0.327903</u>	<u>0.001928</u>	<u>0.000518</u>

The Transportation Tariff applies as at 1 January 2005 and will be adjusted by the CPI in accordance with Clause 9.8 of the General Terms and Conditions<sup>69</sup>.

<u>Tariff</u>	<u>Toll</u> <u>\$/GJ</u>	<u>Capacity</u> <u>Reservation</u> <u>\$/GJ km</u>	<u>Throughput</u> <u>\$/GJ km</u>
<u>1–5 year contract</u>	<u>0.269392</u>	<u>0.001556</u>	<u>0.000494</u>
<u>6–10 year contract</u>	<u>0.246943</u>	<u>0.001427</u>	<u>0.000453</u>
<u>11–15 year contract</u>	<u>0.235718</u>	<u>0.001362</u>	<u>0.000433</u>
<u>16–20 year contract</u>	<u>0.224494</u>	<u>0.001297</u>	<u>0.000412</u>

### 2. Used Gas Charge

The Used Gas Charge is at cost. GGT will make all reasonable endeavours to ensure that the price paid for this gas is reasonable.

### 3. Other Charges

#### (a) Connection Charge

Users will be charged GGT's direct costs for the installation of facilities associated with the connection of the User's facilities to the GGT Pipeline.

#### (b) Account Establishment Charge

~~\$1,500~~\$1,800<sup>70</sup> and will be adjusted by the CPI in accordance with clause 9.8 of the General Terms and Conditions

<sup>69</sup> These tariffs have been derived using revised ICB, cost of capital and non-capital costs.

<sup>70</sup> These charges have been escalated by CPI to 1 January 2005

(c) **Annual Account Management Charge**

~~\$1,500~~<sup>\$1,800</sup><sup>71</sup> per annum and will be adjusted by the CPI in accordance with clause 9.8 of the General Terms and Conditions

**4. Supplementary Quantity Option Charge**

When applied the Supplementary Quantity Option Charge is calculated as follows:

$$SQO\_C = SQOQ \times 1000 \times (Trans\_Tariff \times SQO\_F)$$

Where:

- SQO\_C*** is the Supplementary Quantity Option Charge in \$
- SQOQ*** is the Supplementary Quantity Option Quantity in TJs
- Trans\_Tariff*** is the applicable tariff in \$/GJ as defined in item 5(a)
- SQO\_F*** is the Supplementary Quantity Option Factor and has the value **1.05**, and may be varied by GGT through notice in writing to all Users.

**5. Quantity Variation Charges**

(a) **Transportation Tariff**

The total transportation tariff to be applied to the Daily Overrun Charge, the Hourly Overrun Charge and the Variance Charge and the SQO Charge is defined as follows the aggregate of the following<sup>72</sup>:

$$Trans\_Tariff = Toll + CapRes + Thruput$$

Where:

- Trans\_Tariff*** is the total transportation tariff
- Toll*** is the Toll Tariff.
- CapRes*** is the Capacity Reservation Tariff multiplied by ***distance***.
- Thruput*** is the Throughput Tariff multiplied by ***distance***.

Where: ***distance*** is the pipeline distance in kilometres between the Inlet Point and Outlet Point(s) which are the furthest apart.

(b) **Accumulated Imbalance Charge**

If applied the Accumulative Imbalance Charge is calculated as follows:

$$AI\_C = \frac{(abs(AI) - AIT) \times 1000 \times AI\_T}{}$$

<sup>71</sup> These charges have been escalated by CPI to 1 January 2005

<sup>72</sup> For clarity and consistency.

$$\underline{AI\_C = (abs(AI) - AIT) \times 1000 \times AI\_T}$$

Where:

*AI\_C* is the Accumulated Imbalance Charge in \$

*AI* is the Accumulated Imbalance in TJs

*AIT* is the Accumulated Imbalance Tolerance in TJs<sup>73</sup>

*AI\_T* is the Accumulated Imbalance Tariff and has the value **\$2.50** per Gigajoule, adjusted by the CPI in accordance clause 9.8 of the General Terms and Conditions, and may be varied by GGT through notice in writing to all Users.

(c) **Daily Overrun Charge**

If applied the Daily Overrun Charge is calculated as follows:

$$DO\_C = DOQ \times 1000 \times (Trans\_Tariff \times DO\_CF)$$

Where:

*DO\_C* is the Daily Overrun Charge in \$

*DOQ* is the Daily Overrun Quantity in TJs

*Trans\_Tariff* is the applicable tariff in \$/GJ as defined in item 5(a).

*DO\_CF* is the Daily Overrun Charge Factor and has the value **3.5**, and may be varied by GGT through notice in writing to all Users.

(d) **Hourly Overrun Charge**

If applied the Hourly Overrun Charge is calculated as follows:

$$HO\_C = HOQ \times 1000 \times (Trans\_Tariff \times HO\_CF)$$

Where:

*HO\_C* is the Hourly Overrun Charge in \$

*HOQ* is the Hourly Overrun Quantity in TJs

*Trans\_Tariff* is the applicable tariff in \$/GJ as defined in item 5(a)

*HO\_CF* is the Hourly Overrun Charge Factor and has the value **3.5**, and may be varied by GGT through notice in writing to all Users

(e) **Variance Charge**

If applied the Variance Charge is calculated as follows:

---

<sup>73</sup> Refer paragraph 722 (Amdt. 12).

---

$$V\_C = (abs(VQ) - VT) \times 1000 \times (Trans\_Tariff \times V\_CF)$$

$$V\_C = (abs(VQ) - VT) \times 1000 \times (Trans\_Tariff \times V\_CF)$$

Where:

$V\_C$  is the Variance Charge in \$

$VQ$  is the Variance Quantity in TJs

$VT$  is the Variance Tolerance in TJs<sup>74</sup>

$Trans\_Tariff$  is the applicable tariff in \$/GJ as defined in item 5(a)

$V\_CF$  is the Variance Charge Factor and has the value **2.0**, and may be varied by GGT through notice in writing to all Users.

---

<sup>74</sup> Refer paragraph 725 (Amdt. 15).