

# Standardisation Related Reforms and the Capacity Trading Platform

## **Consultation Paper: Attachment 1**

September 2017



# Operational GTA Code

## GMRG Consultation Version 0.1

### September 2017

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## Version Release History

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## PART 1: THIS CODE

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### 1 Introduction

- 1.1 This Operational GTA Code is made and published by [entity] under rule [ ] of the National Gas Rules.
- 1.2 This Code applies to service providers in the manner described in rule [ ] of the National Gas Rules.

### 2 Definitions and interpretation

- 2.1 Terms defined in the National Gas Law or National Gas Rules have the same meanings in Parts 1, 4 and 5 of this Code, unless otherwise defined in that Part.
- 2.2 In this Code:
- (a) **National Gas Law** means the Schedule to the National Gas (South Australia) Act 2008 (SA); and
  - (b) **National Gas Rules** is defined in the National Gas Law.

### 3 Contents of this Code

- 3.1 The Code contains:
- (a) Part 1: this introduction;
  - (b) Part 2: the form of agreement used to enter into an Operational GTA for a facility;
  - (c) Part 3: the operational GTA *standard terms* referred to in rule [ ] of the Rules;
  - (d) Part 4: the requirements for *facility specific terms* referred to in rule [ ] of the Rules; and
  - (e) Part 5: any transitional arrangements determined when amendments are made to this Code.
- 3.2 This Code can only be amended in accordance with rule [ ] of the National Gas Rules.



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## PART 2: FORM OF AGREEMENT

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### Date

### Parties

[ ] ABN OF [ ] (**Service Provider**)

[ ] ABN OF [ ] (**Shipper**)

### Recitals

This document sets out the terms upon which Service Provider has agreed to provide Services to Shipper.

### Operative part

#### 1 Agreement documents

This agreement between Service Provider and Shipper is made up of:

- (a) the agreement details set out in clause 3;
- (b) the Standard Terms set out in Part 2 of the Operational GTA Code as those terms are amended from time to time (provided any amendments will only take effect for the purposes of this contract from the time determined in accordance with the National Gas Rules); and
- (c) the Facility Specific Terms published by Service Provider for the facility identified in this Agreement (in the version identified in clause 3) as those terms are amended from time to time (provided any amendments will only take effect for the purposes of this contract from the time determined in accordance with the National Gas Rules).

#### 2 Definitions and interpretation

In this Agreement:

- (a) **National Gas Law** means the Schedule to the National Gas (South Australia) Act 2008 (SA) as applied as a law of this jurisdiction;
- (b) **National Gas Rules** is defined in the National Gas Law;
- (c) **Operational GTA Code** means the instrument of that name published under the National Gas Law,

and **Standard Terms** and **Facility Specific Terms** are defined in the National Gas Rules.



3

**Agreement details**

<b>Service Provider Name</b>	
<b>Service Provider ABN</b>	
<b>Service Provider Address</b>	
<b>Service Provider Representative for Notices</b>	
<b>Service Provider Address for Notices</b>	
<b>Service Provider Address for Email Notices</b>	
<b>Shipper Name</b>	
<b>Shipper ABN</b>	
<b>Shipper Address</b>	
<b>Shipper Representative for Notices</b>	
<b>Shipper Address for Notices</b>	
<b>Shipper Address for Email Notices</b>	
<b>Facility</b>	
<b>Facility Specific Terms (version number)</b>	
<b>Facility Name</b>	
<b>Pipeline Licences (if applicable)</b>	
<b>General Description Facility Route/Location</b>	
<b>State/Territory</b>	





## Execution

**EXECUTED** as an agreement

**Executed** by **[Service Provider]** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

\_\_\_\_\_  
Director signature

\_\_\_\_\_  
Director/Secretary signature

\_\_\_\_\_  
Director full name  
(BLOCK LETTERS)

\_\_\_\_\_  
Director/Secretary full name  
(BLOCK LETTERS)

**Executed** by **[Shipper]** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

\_\_\_\_\_  
Director signature

\_\_\_\_\_  
Director/Secretary signature

\_\_\_\_\_  
Director full name  
(BLOCK LETTERS)

\_\_\_\_\_  
Director/Secretary full name  
(BLOCK LETTERS)

**[Note: Parties may change to an authorised officer execution clause if they agree to do so]**



## PART 3: STANDARD TERMS

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### 1 Definitions and interpretation

#### 1.1 Definitions

In this Agreement, unless the contrary intention appears:

**Accumulated Imbalance** means, at a given point in time, the aggregate of Shipper's Daily Imbalances up to that point in time as adjusted (if applicable) under clause 8 or clause 7.5.

**Administration Charge** means the charge specified in the Facility Specific Terms as the "Administration Charge".

**Agreement** means the contract constituted by:

- (a) the Agreement Details.
- (b) these Standard Terms; and
- (c) the Facility Specific Terms.

**Agreement Details** means a document in the form of Part 4 of the Operational GTA Code setting out Service Provider's and Shipper's name, ABN and address, the Pipeline Details and other details specific to the contract between Service Provider and Shipper and executed by Service Provider and Shipper.

**Allowable Park Balance** means the lesser of the Park MDQ and the Curtailed Park Balance.

**Bilateral Trade** means the acquisition of a Capacity Entitlement other than through an Exchange Trade.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the State.

**Capacity** means, for a period of time, the capability of the Pipeline to safely receive, store, transport and deliver Gas during that period of time in a manner consistent with all applicable Laws and preserving the operational integrity of the Pipeline.

**Capacity Entitlement** means subject to clause 2.4:

- (a) when referring to the Firm Service, the amount of Capacity (measured in GJ/Day) represented by a Firm Service Purchased Product; and
- (b) when referring to the Park Service, the amount of storage Capacity (measured in GJ/Day) represented by a Park Service Purchased Product.

**Charges** means any charges payable by Shipper under this Agreement including the following charges where set out in the Facility Specific Terms:

- (a) the Administration Charge;
- (b) Imbalance Charges;
- (c) Unauthorised Overrun Charges;



- (d) Hourly Overrun Charges;
- (e) Odourisation Charges;
- (f) Receipt and Delivery Point Charges.

**Compression Service** means a service under which Gas is compressed so as to increase its pressure and allow the Gas to enter the Pipeline or another pipeline or facility.

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

**Curtail** means to curtail or interrupt the provision of Services to Shipper.

**Curtailed Park Balance** is defined in clause 7.5.

**Day** means, unless provided otherwise in the Facility Specific Terms, the period from 0600 hours Eastern Standard Time on one day to 0600 hours Eastern Standard Time on the following day.

**Default Rate** mean the Interest Rate plus 2%.

**Delivery Point** means a delivery point on the Pipeline as identified in the list of Pipeline delivery points published by Service Provider in accordance with the Facility Specific Terms.

**Exchange** means the gas trading exchange established by AEMO under the National Gas Law.

**Exchange Trade** means the acquisition of Capacity Entitlement through a transaction on the Exchange.

**Facility** means the Pipeline or other facility the subject of the Agreement and identified in the Agreement Details.

**Facility Specific Terms** means the terms published for the Facility by Service Provider in accordance with the National Gas Rules and the Facility Specific Terms Requirements.

**Facility Specific Terms Requirements** means Part 3 of the Operational GTA Code.

**Firm MDQ** means, for a Day between two Zones, the sum of Shipper's Capacity Entitlement (expressed in GJ/Day) for all Firm Service Purchased Products which, subject to clause 2.4, give Shipper an entitlement to use Firm Services between those Zones on that Day.

**Firm Service** is defined in clause 2.2.

**Firm Service Purchased Product** means a Bilateral Trade or Exchange Trade for a Firm Service the acquisition of which by Shipper has been validated to Service Provider in accordance with the requirements of the National Gas Rules.

**Force Majeure** means any event or circumstance not within the reasonable control of a Party and which by the exercise of reasonable care that Party is not able to prevent or overcome.

**Gas** means any hydrocarbons occurring in a gaseous state and any naturally occurring mixture of one or more hydrocarbons in a gaseous state which may contain other gases (including the residue resulting from the treatment of processing of gas).

**Gas Specification** means:

- (a) at any given time the then current edition of AS 4564 Specification for General Purpose Natural Gas; or



- (b) if the Facility Specific Terms set out a different gas specification, that gas specification,

in each case as modified (including by the application of additional requirements) by any legislative requirements applying to the Pipeline in respect of gas quality.

**GJ** means gigajoule.

**Government Agency** means:

- (a) a government (whether federal, state, territorial or local);
- (b) a governmental, semi-governmental or judicial entity or authority including a department, office or minister of a government acting in that capacity;
- (c) a statutory, public, municipal, local or other authority charged with the responsibility for administering any relevant legislation, regulation, ordinance or by-law; and
- (d) the Australian Energy Market Operator.

**Hourly Limitation** means a limitation set out in the Facility Specific Terms on the quantity of Gas Shipper may supply or take delivery of in an hour or over a period of consecutive hours (for example a period of 12 consecutive hours).

**Hourly Overrun Charge** means the charge referred to in clause 6.2, which charge is further defined in the Facility Specific Terms.

**Imbalance Allowance** means the imbalance allowance set out in the Facility Specific Terms.

**Imbalance Charge** means the charges specified in the Facility Specific Terms as “Imbalance Charges”.

**Insolvency Event** means the occurrence of one or more of the following:

- (a) an order is made that a body corporate be wound up or a liquidator or provisional liquidator is appointed to a body corporate whether or not under an order;
- (b) an administrator is appointed to a body corporate;
- (c) otherwise than for the purpose of a solvent amalgamation, restructure or reorganisation, a body corporate enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any of its creditors, or it proposes a re-organisation, moratorium or other administration involving any of its creditors;
- (d) a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of its intention to do so (except to reconstruct or amalgamate while solvent on terms approved by the other party) or is otherwise wound up or dissolved;
- (e) a body corporate is, or states that it is, unable to pay its debts as and when they become due and payable;
- (f) in relation to the property of a body corporate, a receiver, or receiver and manager, is appointed in relation to substantially all of that property or a mortgagee of the body corporate takes possession of substantially all of that property for the purpose of enforcing a mortgage.



**Interconnect Party** means:

- (a) a pipeline operator, a gas producer or other persons supplying Gas to Shipper immediately upstream of a Receipt Point;
- (b) another pipeline operator, facility owner or operator or other person who will take delivery of Gas from Shipper immediately downstream of a Delivery Point.

**Interest Rate** means the one month Australian Bank Bill Swap Reference Mid Rate specified by Thomson Reuters Monitor Service Page BBSW at or about 10.00am (Sydney time) on the first Business Day of each month provided that if this rate cannot be so determined then interest rate shall mean the rate (expressed as a percentage yield per annum to maturity) quoted at or about such time by Westpac Banking Corporation as the rate at which it would be prepared to purchase bills of exchange accepted by an Australian trading bank and having a tenor of 90 days and a face value of \$100,000.

**Laws** means:

- (a) the common law;
- (b) all Acts of Parliament;
- (c) all legally binding regulations, codes, ordinances, local laws, by-laws, legislative instruments, orders, judgments, licences, rules, and permits; and
- (d) legally binding requirements of all Government Agencies.

**Linepack Gas** means Gas required to keep the linepack of the Pipeline at a level consistent with the efficient and safe operation of the Pipeline so as to enable transportation of Gas through the Pipeline.

**Losses** means losses, damages, costs, expenses and liabilities.

**Maintenance** means maintenance, repairs, testing, adding to, altering, replacing or cleaning of the Pipeline which affects, or is likely to affect, Shipper's ability to utilise the Firm Service.

**Maintenance Plan** is defined in clause 9.1(b).

**Metering Principles** mean principles setting out:

- (a) the technical standards with which metering installations and associated equipment at Receipt Points and Delivery Points must comply;
- (b) the procedures for measurement and testing of Gas;
- (c) the accuracy requirements with which metering equipment must comply;
- (d) the procedures to apply where metering equipment is shown to have recorded inaccurately for a period; and
- (e) the procedures to apply where metering equipment fails.

**Month** means the period from the beginning of the first Day to commence in a calendar month to the end of the last Day which commences in that calendar month.

**Nominated Delivery Point** means each Delivery Point within a Zone nominated by Shipper in its nomination under clause 4.1.



**Nominated Receipt Point** means each Receipt Point within a Zone nominated by Shipper in its nomination under clause 4.1.

**Odourisation Charge** means a charge payable by Shipper to Service Provider for Service Provider undertaking the odourisation of Gas supplied by Shipper as set out in the Facility Specific Terms.

**Off Specification Gas** means Gas which does not comply with the Gas Specification.

**Operational Transfer Procedures** means the procedures of that name made by AEMO under the National Gas Law.

**Other Services** means any services described as such in the Facility Specific Terms (and which may include park and loan services, backhaul services, authorised overrun services, in-pipe trade services and other park services provided on different terms to the Park Service).

**Park Account** means the account referred to in clause 8.

**Park MDQ** means for a Day the sum of Shipper's Capacity Entitlement (expressed in GJ/Day) for all Park Service Purchased Products which, subject to clause 2.4, give Shipper an entitlement to use Park Service on that Day.

**Park Service** is defined in clause 2.3.

**Park Service Purchased Product** means a Bilateral Trade or an Exchange Trade for Park Service the acquisition of which by Shipper has been validated to Service Provider in accordance with the requirements of the National Gas Rules.

**Party** means each of Shipper and Service Provider.

**Pipeline** means the Pipeline described in the Pipeline Details.

**Pipeline Details** means the name of the Pipeline, the licence details for the Pipeline and a general description of the route of the Pipeline as set out in the Agreement Details.

**Planned Maintenance** means Maintenance set out in a Maintenance Plan (as updated in accordance with clause 9.1(c)).

**Primary Shipper** means a User who has reserved a portion of the Capacity of the Pipeline through a direct contractual relationship with Service Provider, when acting in that capacity.

**Priority Principles** means those principles, set out in the Facility Specific Terms, setting out how available Capacity is allocated between Users on a Day where it is less than either:

- (a) the aggregate nominations of Users for use of services on a Day; or
- (b) the quantities of Gas scheduled for Users for services on a Day.

**Purchased Products** means, at a given time, the products purchased by Shipper under a Bilateral Trade or an Exchange Trade the acquisition of which by Shipper has been validated to Service Provider in accordance with the requirements of the National Gas Rules.

**Qualifying Haulage Agreement** is defined in clause 2.3(b).

**Quarter** means a period of 3 consecutive months commencing on the first day of each of the months of January, April, July and October.

**Reasonable and Prudent** means the practices, methods and acts engaged in or approved by a firm or body corporate who, in the conduct of its undertaking, exercises that degree of diligence, prudence and foresight reasonably and ordinarily exercised by skilled and



experienced Australian operators engaged in the same type of undertaking under the same or similar circumstances.

**Receipt Point** means a receipt point on the Pipeline as identified in the list of Pipeline receipt points published by Service Provider in accordance with the Facility Specific Terms.

**Receipt and Delivery Point Charges** means the charges referred to in clause 14.3.

**Related Body Corporate** has the meaning given to that term in the *Corporations Act 2001*.

**Scheduled Quantity** is defined in clause 4.2(a).

**Secondary Shipper** means a User who has or may acquire Firm Service or Park Service from a Primary Shipper under a Bilateral Trade or an Exchange Trade, when acting in that capacity.

**Services** means the services described in clause 2.1(b).

**Service Term** means for a Purchased Product, the period of time that the Capacity the subject of the product can be used.

**Shipper's Daily Imbalance** means, at a point in time on a Day (including as at the end of that Day):

- (a) the quantity of Gas supplied by Shipper to the Receipt Points on that Day under this Agreement (excluding Gas supplied on account of System Use Gas and any part of that quantity of Gas supplied into Shipper's Park Account on that Day); less
- (b) the quantity of Gas delivered to Shipper at the Delivery Points on that Day under this Agreement (less any System Use Gas returned to Shipper on that Day and any quantity of Gas withdrawn by Shipper from its Park Account on that Day).

**State** means the State or Territory nominated in the Agreement Details.

**Subshipper** is defined in clause 24.1.

**System Use Gas** means quantities of Gas required by Service Provider as a Reasonable and Prudent operator for or in connection with the operation of the Pipeline, including without limitation Gas used as fuel for compressors, gas heaters or other equipment, quantities of Gas lost or unaccounted for and Linepack Gas.

**Term** means a period of 3 years commencing from when Shipper and Service Provider have signed the Agreement Details.

**TJ** means terajoule.

**Unauthorised Imbalance Charge** mean the charges specified in the Facility Specific Terms as "Unauthorised Imbalance Charge".

**Unauthorised Overrun Charge** means the charges specified in the Facility Specific Terms as "Unauthorised Overrun Charges".

**Unplanned Maintenance** is defined in clause 9.2.

**User** means a person who has a contract with Service Provider (whether as a Primary Shipper or Secondary Shipper or otherwise) under which Service Provider agrees to provide services to them using the Pipeline.

**Wilful Misconduct** means any act or failure to act taken or not taken with an intentional disregard of foreseeable, harmful and avoidable consequences but does not include:



- (a) an error of judgment, mistake, act or omission (whether or not negligent) which is made, done or omitted to be done in good faith; or
- (b) an act or omission done or omitted to be done at the express instruction or with the express agreement of the other party.

**Zone** means (as the context requires):

- (a) a set of Receipt Points or a single Receipt Point on the Pipeline; or
- (b) a set of Delivery Points or a single Delivery Point on the Pipeline,

which is classified by Service Provider as a zone in accordance with the requirements of the National Gas Law and National Gas Rules (and any instruments applying under that Law and those Rules).

Other terms are defined in the clauses in which they are used.

## **1.2 Rules of Interpretation**

These rules of interpretation apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (e) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced except to the extent prohibited by this Agreement or that other agreement or document.
- (f) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (g) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (h) Mentioning anything after "includes", "including", "for example" or similar expressions does not limit what else might be included.
- (i) A reference to time is to the time in the capital city of the State.

## **1.3 Headings**

Headings are for convenience of reference only and do not affect interpretation.

## **1.4 Unit Terminology**

Terminology used to describe units must, unless otherwise agreed, be in accordance with Australian Standard AS ISO1000 – 1998 The International System of Units (SI System) and its Application, the National Measurement Act 1960 (Cwth), Australian Standard AS/NZS





1376-1996 Conversion Factors and the Australian Gas Association publication Metric Units and Conversion Factors for Use in the Australian Gas Industry.

### **1.5 Rounding**

In this Agreement:

- (a) all quantities in GJ are rounded to the nearest whole GJ;
- (b) rates or tariffs for the purposes of calculating the Charges are rounded to 4 decimal places (or to such other number of decimal places nominated in the Facility Specific Terms); and
- (c) all invoicing amounts are rounded to 2 decimal places.

### **1.6 Deliveries and Receipts**

- (a) References in this Agreement to Shipper supplying Gas to Service Provider at a Receipt Point and taking delivery of Gas from Service Provider at a Delivery Point include, where the context permits, Gas supplied or taken (as applicable) by or on behalf of Shipper.
- (b) References in this Agreement to quantities of Gas being supplied at the Receipt Point or delivered at the Delivery Point are references to, unless the context otherwise requires, quantities so supplied or delivered under this Agreement.

## **2 Services**

### **2.1 Provision of Services**

- (a) On each Day during the Term Service Provider must, subject to the terms of this Agreement, provide the Services to Shipper.
- (b) The Services are:
  - (i) the Firm Service;
  - (ii) the Park Service;
  - (iii) in respect of a Firm Service Product acquired with a Compression Service, a Compression Service; and
  - (iv) any Other Services.

### **2.2 Firm Service**

The Firm Service is a service which consists of transportation of Gas between Zones on the following basis:

- (a) the receipt by Service Provider at one or more Nominated Receipt Points within a Zone on a Day of a quantity of Shipper's Gas not exceeding the Firm MDQ for that Day and that Zone;
- (b) the transportation by Service Provider of that Gas through the Pipeline without interruption or curtailment except as permitted by this Agreement; and
- (c) subject to Shipper supplying at the Nominated Receipt Points the quantity of Gas it is scheduled to supply on that Day, the delivery by Service Provider to the Nominated Delivery Points within a Zone on that Day of a quantity of Gas up to the Firm MDQ for that Day and that Zone.



## 2.3

### **Park Service**

- (a) The Park Service consists of:
  - (i) the storage by Service Provider under a Park Service Purchased Product at a notional point in the Pipeline of a quantity of Gas supplied by Shipper into the Pipeline (pursuant to another Service provided under this Agreement or pursuant to a Qualifying Haulage Agreement) up to the Park MDQ; and
  - (ii) the subsequent withdrawal of that Gas from storage under the Park Service Purchased Product such that it can be delivered to the Delivery Points in accordance with any other service provided by Service Provider to Shipper under:
    - (A) this Agreement; or
    - (B) a Qualifying Haulage Agreement.
- (b) A Qualifying Haulage Agreement means an agreement between Shipper and Service Provider which contains provisions which allow the receipt pursuant to it of Gas to be stored in the Park Account maintained under this Agreement and delivery pursuant to it of Gas stored in the Park Account maintained under this Agreement.
- (c) Service Provider is not required to provide a Park Service to Shipper unless Shipper has rights (whether under another Service provided under this Agreement or under a Qualifying Haulage Agreement) to supply Gas into the Pipeline and have Gas delivered from the Pipeline.

## 2.4 **Validation of Capacity Entitlements**

- (a) Capacity Entitlements must be validated to Service Provider in accordance with the Operational Transfer Procedures.<sup>1</sup>
- (b) Where and to the extent permitted by the Operational Transfer Procedures, the Capacity Entitlement of a Shipper, its Firm MDQ or its Park MDQ for a Day (as applicable) will be reduced and Service Provider's obligation to provide the Services under this Agreement is also reduced to the same extent.

## 3 **Service Standards**

Service Provider must provide the Services:

- (a) as a Reasonable and Prudent operator, acting at all times with due care and skill; and
- (b) in accordance with all applicable Laws.

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<sup>1</sup> The Operational Transfer Procedures will allow transfers of MDQ to be rejected where, for example, the selling Shipper does not have capacity to sell.



## 4 Nominations and Scheduling

### 4.1 Nominations

- (a) Shipper may nominate for the Services it wishes to use on a Day at any time up to 3.00pm ] on the Day prior to that Day (or by such other time as specified by Service Provider in the Facility Specific Terms to ensure Shipper's nomination time is the same as general practice applicable to the Facility).]
- (b) A nomination for Firm Services involves Shipper specifying:
  - (i) the quantity of Gas Shipper wishes to supply to each Receipt Point in a Zone (up to the Firm MDQ for that Zone), each a **Nominated Receipt Point**; and
  - (ii) the quantity of Gas Shipper wishes to take delivery of at each Delivery Point in a Zone (up to the Firm MDQ for that Zone), each a **Nominated Delivery Point**.
- (c) A nomination for the Park Service involves Shipper specifying:
  - (i) the quantity of Gas (supplied to Receipt Points under another Service or a Qualifying Haulage Agreement) which Shipper wishes to be added to its Park Account; or
  - (ii) the quantity of Gas Shipper wishes to be withdrawn from its Park Account for delivery to the Delivery Points under another Service or a Qualifying Haulage Agreement,provided that:
  - (iii) Shipper may not store in its Park Account a quantity of Gas in excess of the Park MDQ; and
  - (iv) Shipper may not take from its Park Account more Gas than is stored in that Park Account.
- (d) Shipper must ensure that:
  - (i) its nominations represent its best estimate of the quantities of Gas it wishes to supply and take delivery of on a Day; and
  - (ii) it has all necessary arrangements in place with parties upstream of Receipt Points and downstream of Delivery Points to enable Shipper to supply at the Receipt Points the quantities of Gas nominated by Shipper and take at the Delivery Points the quantities of Gas nominated by Shipper.
- (e) Service Provider must accept a nomination for the Firm Service or the Park Service except to the extent that:
  - (i) there is insufficient available Capacity in the Pipeline (including at Nominated Receipt Points or Nominated Delivery Points) on a Day to provide all the requirements of Users nominated for that Day in a manner consistent with preserving the operational integrity of the Pipeline;
  - (ii) accepting the nomination would place Service Provider in breach of a Law;



- (iii) scheduling the amounts nominated would (if those amounts were actually received and delivered) result in Shipper's Accumulated Imbalance exceeding the Imbalance Allowance;
  - (iv) an Interconnect Party supplying Gas to Shipper or taking Gas from Shipper notifies Service Provider it will not supply or will not take all or part of the Gas specified in Shipper's nomination; or
  - (v) a nomination for Firm Service exceeds the Firm MDQ.
- (f) Service Provider may adjust the amounts which would otherwise be scheduled for Shipper so as to ensure Shipper's Accumulated Imbalance will not exceed the Imbalance Allowance (if the scheduled amounts are actually received and delivered).
- (g) Where the quantities of Gas nominated by all Users for a Day at a Nominated Receipt Point or Nominated Delivery Point exceeds the available Capacity then the portion of that Capacity available to Shipper will, subject to clause 14.2, be determined in accordance with the Priority Principles. Subject to clauses 14.2, 4.1(e)(ii) to 4.1(e)(iv) and clause 4.1(f) Service Provider must accept Shipper's nomination to the extent that the quantity of Capacity allocated to Shipper through the application of those principles enables it to do so.
- (h) Service Provider is in breach of this Agreement and, subject to the limits of liability in this Agreement and the common law rules for determining compensable loss, liable to Shipper if the insufficient Capacity referred to in clause 4.1(e)(i) arises due to Service Provider's failure to operate and maintain the Pipeline as a Reasonable and Prudent operator.
- (i) The nomination procedures for Other Services will be as detailed by Service Provider in the Facility Specific Terms.

#### **4.2 Scheduling**

- (a) By not later than 4.00pm on a Day ((or by such other time as specified by Service Provider in the Facility Specific Terms to ensure Shipper's scheduling time is the same as general practice applicable to the Facility) Service Provider must notify Shipper of the quantities of Gas scheduled for transportation for Shipper for each of the Firm Service and the Park Service on the following Day, each quantity being the **Scheduled Quantity** for that Service (and such quantities jointly being the **Scheduled Quantities**).
- (b) Subject to clause 4.2(a), scheduling will be undertaken in accordance with the Facility Specific Terms.

#### **4.3 Renominations**

- (a) At any time after being notified of its Scheduled Quantities for the Firm Service or the Park Service for a Day Shipper may request a variation to a Scheduled Quantity.
- (b) Shipper may not request a variation to the Scheduled Quantities for a Day later than 10pm on that Day (or by such other time as specified by Service Provider in the Facility Specific Terms to ensure Shipper's nomination cut-off time is the same as general practice applicable to the Facility).
- (c) Service Provider will use its reasonable endeavours to accept that variation but such obligation does not require Service Provider to:



- (i) accept any variation which would require Service Provider to transport a quantity of Gas in excess of the Firm MDQ between the Zones to which that Firm MDQ relates;
  - (ii) accept any variation which would reduce the revenue Service Provider will earn on a Day;
  - (iii) accept any variation where to do so would create a risk (other than an immaterial risk) of Service Provider incurring liability to another User;
  - (iv) act inconsistently with the Priority Principles or clause 14.2;
  - (v) accept a variation which would reduce a Scheduled Quantity at a Receipt Point below the quantity of Gas already supplied by Shipper to that Receipt Point on the relevant Day;
  - (vi) accept a variation which would reduce a Scheduled Quantity at a Delivery Point below the quantity of Gas already taken by Shipper at that Delivery Point on the relevant Day; or
  - (vii) accept a variation which would result (if the scheduled amounts were actually received and delivered) in Shipper's Accumulated Imbalance exceeding the Imbalance Allowance.
- (d) If Service Provider accepts a requested variation for a Service then it must notify Shipper as soon as practicable of Shipper's revised Scheduled Quantity for that Service.

#### **4.4 Receipt and Delivery Obligations**

- (a) Subject to its rights of Curtailment under clause 7, on a Day Service Provider must:
- (i) accept from Shipper at each Nominated Receipt Point the quantity of Gas scheduled to be supplied by Shipper at that Receipt Point; and
  - (ii) deliver to Shipper at each Nominated Delivery Point the quantity of Gas scheduled to be delivered to Shipper at that Delivery Point.
- (b) Service Provider is not in breach of clause 4.4(a)(i) to the extent it is unable, despite acting as a Reasonable and Prudent operator, to accept Gas at a Receipt Point due to the act or omission of an Interconnect Party upstream of that Receipt Point.
- (c) On a Day Shipper must, subject to any Curtailment under clause 7, supply at each Nominated Receipt Point the quantity of Gas scheduled to be supplied by Shipper at that Receipt Point.
- (d) Service Provider is relieved of the obligation to deliver Gas to Shipper on a Day to the extent this is attributable to Shipper's failure to comply with clause 4.4(c).
- (e) Shipper is not in breach of clause 4.4(c) to the extent it is not able to comply with that clause due to Service Provider's failure to act as a Reasonable and Prudent operator.

#### **4.5 Reporting**

- (a) Within [4] hours of the end of each Day Service Provider must notify Shipper of:
- (i) the quantity of Gas supplied by Shipper to each Receipt Point on that Day and in aggregate over all Receipt Points;



- (ii) the quantity of Gas supplied by Shipper to each Receipt Point on that Day under each Service and in aggregate over all Receipt Points for that Service;
- (iii) the quantity of Gas delivered to Shipper at each Delivery Point on that Day and in aggregate over all Delivery Points;
- (iv) the quantity of Gas delivered to Shipper at each Delivery Point on that Day under each Service and in aggregate over all Delivery Points for that Service; and
- (v) the information required under clause 8(f) and clause 12.2.

***[Under consideration if time should be standardised or determined by Facility Specific Terms]***

- (b) If Service Provider's ability to provide an item of information referred to in clause 4.5(a) is dependent upon Service Provider obtaining information from a third party then Service Provider is not liable if it cannot provide the information due to the failure of the third party to provide the relevant information to Service Provider provided Service Provider uses its reasonable endeavours to obtain the information. In such case Service Provider must provide the information to Shipper as soon as reasonably practicable after it becomes available to Service Provider. For the purposes of this clause 4.5(b) a Related Body Corporate of Service Provider is not a third party.
- (c) The amounts notified by Service Provider under clause 4.5(a) may be Service Provider's best estimate of the relevant information. If so Service Provider will update the amounts notified as additional information becomes available.
- (d) Service Provider may not levy any Imbalance Charge upon Shipper to the extent it arises due to Shipper relying upon inaccurate information originally provided under clause 4.5(a) prior to the time Shipper is notified of corrections to that information but only to the extent the inaccuracy was attributable to the act or omission of Service Provider.

## **5 System Use Gas**

- (a) Shipper must supply System Use Gas in accordance with the Facility Specific Terms.
- (b) Service Provider may not require Shipper to provide quantities of System Use Gas above those which would be required by a Reasonable and Prudent operator for the safe and efficient operation of the Pipeline.
- (c) If Service Provider breaches clause 5(b) it must either (as elected by Service Provider) return to Shipper the excess System Use Gas taken by Service Provider (provided Shipper is able to take delivery of and use that System Use Gas), net the excess System Use Gas off against other quantities of System Use Gas Shipper would be required to supply or reimburse Shipper the cost of the excess System Use Gas provided by Shipper.

## **6 Hourly Limitations**

### **6.1 Requirement to Comply with Hourly Limitations**

Shipper must not supply Gas or take delivery of Gas in breach of any Hourly Limitations.



## **6.2 Hourly Overrun Charge**

If Shipper exceeds an Hourly Limitation applicable to Receipt Points or Delivery Points then, if set out in the Facility Specific Terms, Service Provider may levy an Hourly Overrun Charge on Shipper.

## **7 Curtailment**

### **7.1 General Curtailments**

In addition to any other rights under this Agreement to Curtail the Services, Service Provider may Curtail the Services where Service Provider, acting Reasonably and Prudently, considers this is required:

- (a) to undertake Planned Maintenance in respect of the Pipeline;
- (b) to undertake Unplanned Maintenance in respect of the Pipeline which Unplanned Maintenance is required to preserve the operational integrity or safe operation of the Pipeline;
- (c) to take other action (to Unplanned Maintenance) to protect the operational integrity or safe operation of the Pipeline;
- (d) to address an emergency condition which poses a threat to the safety of persons or of causing material damage to property;
- (e) to comply with any applicable Law;
- (f) due to Force Majeure affecting Service Provider; or
- (g) where for any other reason there is insufficient Capacity in the Pipeline on a Day to transport all services scheduled for Users on that Day.

### **7.2 Liability**

Where a circumstance requiring Service Provider to Curtail Shipper under clause 7.1 has arisen due to Service Provider's failure to act as a Reasonable and Prudent operator or any other breach of this Agreement by Service Provider then:

- (a) Service Provider may still Curtail Shipper (where Service Provider acting as a Reasonable and Prudent operator considers this is required); but
- (b) Service Provider is (subject to the limits of liability in this Agreement and the common law rules for determining compensable loss) liable for the existence of the circumstance necessitating the Curtailment to the extent caused by Service Provider's failure to act as a Reasonable and Prudent operator or other breach of this Agreement.

### **7.3 Shipper Specific Curtailments**

In addition to any other rights under this Agreement to Curtail the Services, Service Provider may Curtail the Services where Service Provider, acting as a Reasonable and Prudent operator, considers this is required due to:

- (a) a failure by Shipper to supply at the Receipt Points on a Day the quantity of Gas scheduled to be supplied by Shipper on that Day;
- (b) a failure by Shipper to supply Gas at the Receipt Points at the temperature and pressure required by this Agreement;





- (c) Shipper making available at a Receipt Point any Off Specification Gas that is not accepted by Service Provider under clause 10.3(a);
- (d) a failure by Shipper to take at the Delivery Points on a Day the quantity of Gas scheduled to be taken by Shipper on that Day;
- (e) Shipper taking at the Delivery Points on a Day a quantity of Gas in excess of that scheduled for Shipper for that Day;
- (f) Shipper exceeding an Hourly Limitation applying under the Facility Specific Terms; or
- (g) any other failure by Shipper to comply with the terms of this Agreement on that Day (whether caused by Shipper's breach of this Agreement or due to Force Majeure affecting Shipper).

#### **7.4 Priority of Curtailments**

- (a) Where there is a Curtailment under clause 7.1 and it is necessary for Service Provider to allocate available Capacity of the Pipeline between Users (because the gas nominated by or scheduled for Users on a Day exceeds the available Capacity for that Day) then that allocation will, subject to clause 14.2, be undertaken in accordance with the Priority Principles.
- (b) Where Shipper is being Curtailed under clause 7.3 Shipper may be Curtailed in priority to any other User.

#### **7.5 Park Account Curtailments**

- (a) Where required to give effect to a Curtailment Service Provider may require Shipper to reduce the balance of its Park Account to the level nominated by Service Provider (**Curtailed Park Balance**) and may revise Shipper's Scheduled Quantities so as to ensure the balance of the Park Account is so reduced.
- (b) Where despite Service Provider's direction to Shipper and adjustment of Scheduled Quantities the balance of the Park Account has not been reduced to the level required by Service Provider by the end of the Day following the Day of Service Provider's direction (or by such earlier period as required by Service Provider to preserve the operational integrity of the Pipeline) then the excess quantity (by which the balance of the Park Account exceeds the quantity required by Service Provider) will be transferred to Shipper's Accumulated Imbalance (as though that excess quantity were Gas supplied by Shipper into the Pipeline).

#### **7.6 Giving Effect to Curtailments**

- (a) Where Service Provider is able to give effect to a Curtailment for a Day prior to the commencement of that Day, then Service Provider may do so by adjusting Shipper's Scheduled Quantities.
- (b) Where Service Provider needs to give effect to a Curtailment for a Day after that Day has commenced, Service Provider may give effect to a Curtailment by:
  - (i) issuing a notice to Shipper requiring Shipper to adjust its receipts or deliveries in accordance with the notice within the time specified in the notice; or
  - (ii) Service Provider itself taking action to adjust receipt or deliveries (including closing valves at Receipt Points or Delivery Points or giving instructions





directly to persons supplying Gas to Shipper at the Receipt Points or taking delivery of Gas from Shipper at the Delivery Points),

and in either case Service Provider must notify Shipper of the amount by which Shipper's Scheduled Quantities have been reduced.

- (c) A notice issued under clause 7.6(b) must:
- (i) where the notice is served under clause 7.1, allow Shipper such time as Service Provider is reasonably able to allow Shipper to comply with the notice (without adversely affecting the operational integrity of the Pipeline or creating a risk of Service Provider incurring liability to Users);
  - (ii) where the notice is served under clause 7.3, allow Shipper at least one hour to comply with the notice, provided that Service Provider may reduce such time period where, as a Reasonable and Prudent operator, Service Provider considers this is required to preserve the operational integrity of the Pipeline or avoid Service Provider incurring liability to Users.

## **8 Park Account**

- (a) Where Shipper has a Park MDQ of greater than zero, then Service Provider will maintain for Shipper a Park Account (which account will record the quantity of Gas Shipper has stored in the Pipeline) as determined in accordance with clauses 8(b), 8(c), 8(d) and 8(e).
- (b) The balance of the Park Account at any time is:
- (i) the quantity of Gas delivered into the Park Account over the Term as determined in accordance with clause 8(c); less
  - (ii) the quantity of Gas withdrawn from the Park Account over the Term as determined in accordance with clause 8(d).
- (c) The quantity of Gas delivered into the Park Account on a Day is the lesser of:
- (i) the quantity of Gas scheduled for delivery into the Park Account on that Day (as that scheduled quantity may be reduced due to any Curtailment); and
  - (ii) the actual quantity of Gas (excluding Gas supplied on account of System Use Gas) supplied by Shipper into the Pipeline on the Day under:
    - (A) this Agreement; or
    - (B) subject to the terms of the Qualifying Haulage Agreement, under a Qualifying Haulage Agreement which Shipper and Service Provider have agreed will be used to deliver Gas into the Park Account,
- provided that the maximum quantity of Gas which will be regarded as delivered into the Park Account on a Day is such quantity as causes the balance of the Park Account to equal the Allowable Park Balance.
- (d) The quantity of Gas withdrawn from the Park Account on a Day is the lesser of:



- (i) the quantity of Gas scheduled for withdrawal from the Park Account on that Day (as that scheduled quantity may be reduced due to any Curtailment); and
- (ii) the actual quantity of Gas (excluding System Use Gas) delivered to Shipper from the Pipeline on the Day under:
  - (A) this Agreement; or
  - (B) subject to the terms of the Qualifying Haulage Agreement, under a Qualifying Haulage Agreement which Shipper and Service Provider have agreed will be used to accept Gas withdrawn from the Park Account,

provided that the maximum quantity of Gas which may be removed from the Park Account on a Day is the balance of that Park Account.

- (e) Where due to a decrease in the Allowable Park Balance the balance of the Park Account exceeds the Allowable Park Balance then that excess will be transferred to Shipper's Accumulated Imbalance (and treated as a quantity of Gas supplied by Shipper into the Pipeline).
- (f) Within [4] hours of the end of each Day Service Provider must notify Shipper of:
  - (i) the balance of the Park Account;
  - (ii) the quantity of Gas supplied into the Park Account on that Day; and
  - (iii) the quantity of Gas taken from the Park Account on that Day. ***[Under consideration if time should be standardised or determined by Facility Specific Terms]***

## 9 Maintenance

### 9.1 Planned Maintenance

- (a) Service Provider may undertake such Planned Maintenance in respect of the Pipeline as Service Provider, as a Reasonable and Prudent operator, considers is required.
- (b) On or about the beginning of each year Service Provider must provide to Shipper a plan (**Maintenance Plan**) setting out:
  - (i) a general description of the Maintenance Service Provider proposes to conduct during that year; and
  - (ii) the impact that Maintenance is estimated by Service Provider to have on the available Capacity of the Pipeline.
- (c) Service Provider may at any time amend the current Maintenance Plan by 7 days' notice to Shipper.
- (d) A Maintenance Plan may be provided to Shipper by being published on Service Provider's website (including a secured part of that website, provided Shipper is able to access that part of the website).



## 9.2

### ***Unplanned Maintenance***

- (a) Unplanned Maintenance is Maintenance Service Provider could not reasonably be expected to include in the current version of the Maintenance Plan.
- (b) If Service Provider becomes aware it may have to undertake Unplanned Maintenance it must give Shipper as much notice as practicable of this fact, which notice must set out Service Provider's best estimate of the impact of that Unplanned Maintenance on the available Capacity of the Pipeline and on Service Provider's ability to provide Services to Shipper.

## 10 Gas Quality

### 10.1 ***Obligation to ensure Gas Complies with Gas Specification***

Shipper must:

- (a) ensure all Gas supplied by Shipper to the Receipt Points meets the Gas Specification; and
- (b) notify Service Provider as soon as practicable if Shipper becomes aware or has grounds to suspect that Gas being supplied or to be supplied by Shipper to a Receipt Point does not comply with the Gas Specification or there is a material and probable threat that such Gas will not comply with the Gas Specification, which notification must specify, to the extent known by Shipper, the extent of non-compliance with the Gas Specification.

### 10.2 ***Service Provider Notification***

Service Provider must notify Shipper as soon as practicable if Service Provider becomes aware that Gas supplied by Shipper at a Receipt Point does not comply with the Gas Specification.

### 10.3 ***Acceptance of Off Specification Gas***

- (a) Within 2 hours of Service Provider becoming aware that Gas supplied, or to be supplied, by Shipper is or may be Off Specification Gas Service Provider must notify Shipper whether or not, and if so to what extent, Service Provider will accept delivery of that Gas. If Service Provider fails to give such a notice, Service Provider is taken to have not accepted the Off Specification Gas.
- (b) It is at Service Provider's absolute discretion whether, and to what extent, Service Provider agrees to accept delivery of Off Specification Gas.
- (c) Any acceptance of Off Specification Gas by Service Provider may:
  - (i) specify a maximum volume of Off Specification Gas Service Provider is prepared to accept; and
  - (ii) specify parameters with which Off Specification Gas must comply (such that Service Provider will not be taken to have accepted Off Specification Gas which does not comply with those parameters).
- (d) Service Provider may, at any time after Service Provider has agreed to accept Off Specification Gas, notify Shipper that Service Provider will no longer accept such Gas which notice will take effect 2 hours after Shipper receives such notice from Service Provider.



- (e) Where Service Provider notifies Shipper that Service Provider will accept Off Specification Gas then Shipper may, without incurring liability on account of the supply of that Off Specification Gas, supply such Off Specification Gas to the Receipt Points provided that:
  - (i) Shipper complies with any conditions imposed by Service Provider under clause 10.3(c); and
  - (ii) Shipper must cease the supply of such Gas as from the time a notice given by Service Provider under clause 10.3(d) takes effect.
- (f) Any references in this clause 10 to Off Specification Gas which Service Provider has agreed to accept do not include Off Specification Gas supplied by Shipper in breach of any conditions imposed by Service Provider under clause 10.3(c) or Off Specification Gas supplied after the time a notice under clause 10.3(d) takes effect.
- (g) If Service Provider does not accept Off Specification Gas or if Shipper notifies Service Provider that Shipper does not wish to supply Off Specification Gas into the Pipeline, then Service Provider must use reasonable endeavours to prevent such Off Specification Gas entering the Pipeline.

#### **10.4 Actions in Response to Off Specification Gas**

- (a) Unless Service Provider notifies Shipper that Service Provider will accept Off Specification Gas, Shipper must cease the supply of Off Specification Gas to the Receipt Points as soon as is possible.
- (b) Irrespective of whether or not Service Provider agrees to accept Off Specification Gas, upon becoming aware that Gas being supplied, or to be supplied, by Shipper does not comply with the Gas Specification, or there is a material and probable threat such Gas will not comply with the Gas Specification, Shipper must take all necessary measures to ensure Gas that it supplies into the Pipeline complies with the Gas Specification.
- (c) Where Shipper is supplying, or has notified Service Provider that it will supply, or there is a material and probable threat it will supply, Off Specification Gas to a Receipt Point and Service Provider has not agreed to accept that Gas then Service Provider may take such action as Service Provider considers (as a Reasonable and Prudent operator) is required to prevent the supply of such Gas into the Pipeline, including closing or restricting supply at any Receipt Point.
- (d) Where Off Specification Gas is supplied by Shipper into the Pipeline and Service Provider has not agreed to accept that Gas then Service Provider must, as a Reasonable and Prudent operator, use reasonable endeavours to take (having regard to the technical characteristics and limitations of the Pipeline) all technically and feasible steps to minimise the impact (or, if possible, avoid any impact) of that Gas on the safety and operational integrity of the Pipeline and on Service Provider's ability to fulfil its contractual obligations to Users. Such steps may include blending the Off Specification Gas with Gas which does meet the Gas Specification.
- (e) Where Service Provider flares, vents or combusts any Gas supplied by Shipper as a result of Shipper supplying Off Specification Gas into the Pipeline (which Gas Service Provider has not agreed to receive), then for the purposes of calculating Shipper's Daily Imbalance such Gas will be treated as having been delivered by Service Provider to Shipper.



- (f) Service Provider has no liability for failure to receive Gas from or deliver Gas to Shipper (or for Curtailing the receipt of Gas from or delivery of Gas to Shipper) to the extent that failure or Curtailment is a consequence of any steps taken by Service Provider under clause 10.3(g), 10.4(c) or clause 10.4(d).

#### **10.5 Indemnity**

- (a) Subject to clauses 10.5(b) and 10.5(c) Shipper must indemnify Service Provider and keep Service Provider indemnified against all Losses suffered or incurred by Service Provider due to each of the following:
  - (i) Shipper supplying Off Specification Gas into the Pipeline;
  - (ii) the measures taken by Service Provider as a Reasonable and Prudent operator to deal with such Off Specification Gas.

***[See section 3.3.1 Consultation Paper and discussion whether this liability regime is appropriate. In particular (but without limiting the relevant issues) should the indemnity extend to loss of profit/revenue]***

- (b) Clause 10.5(a) does not apply to the supply of Off Specification Gas which Service Provider has agreed to accept and Shipper has no liability to Service Provider under the indemnity or at common law in respect of such Gas.
- (c) Clause 10.5(a) does not apply to Losses which Service Provider would have avoided had Service Provider complied with its obligations under this Agreement, including its obligation to act as a Reasonable and Prudent operator and Shipper has no liability to Service Provider under the indemnity or at common law in respect of such Losses.
- (d) Where Shipper and others Users have supplied a commingled stream of Off Specification Gas (for example because Shipper and those Users have acquired the Off Specification Gas from the same source) then Shipper's liability to Service Provider (under the indemnity and at common law) is capped at a pro-rata share of the Losses suffered by Service Provider, such pro-rata share being determined by reference to the proportion of the Off-Specification Gas which was supplied by Shipper.

#### **10.6 Gas Specification at Delivery Points**

- (a) Service Provider must ensure Gas delivered by Service Provider to the Delivery Points complies with the Gas Specification.
- (b) Service Provider is not in breach of clause 10.6(a) to the extent:
  - (i) Gas does not comply with the Gas Specification because Shipper has supplied Off Specification Gas to Service Provider (whether or not Service Provider has agreed to accept that Off Specification Gas); or
  - (ii) Shipper has agreed to accept the delivery of the Off Specification Gas; or
  - (iii) Off Specification Gas has been supplied into the Pipeline by another User without Service Provider's consent and Service Provider was not, as a Reasonable and Prudent operator, able to prevent the delivery of that Gas to Shipper.
- (c) If a Party becomes aware that Gas being delivered or to be delivered to a Delivery Point does not comply with the Gas Specification or there is a material and probable



threat that such Gas will not comply with the Gas Specification it must as soon as is practicable give notice to the other Party.

- (d) If Shipper does not wish to accept delivery of Off Specification Gas then Shipper must take such steps, within its control, to ensure Shipper does not take delivery of that Gas.

## **11 Pressure and Temperature**

### **11.1 Pressure**

- (a) Shipper must supply Gas to a Receipt Point within the pressure range specified in the Facility Specific Terms.
- (b) Subject to Shipper complying with clause 11.1(a), Service Provider must deliver Gas to a Delivery Point within the pressure range specified in the Facility Specific Terms.

### **11.2 Temperature**

- (a) Shipper must supply Gas to a Receipt Point within the temperature range specified in the Facility Specific Terms.
- (b) Subject to Shipper complying with clause 11.2(a), Service Provider must deliver Gas to a Delivery Point within the temperature range specified in the Facility Specific Terms.

### **11.3 Odourisation**

- (a) If the Facility Specific Terms provide that a Party is responsible for odourisation of Gas then that Party must ensure Gas it supplies into the Pipeline is odourised to the standards required by the Facility Specific Terms.
- (b) If Service Provider is responsible for the odourisation of Gas and if so provided by the Facility Specific Terms then Shipper must pay Service Provider the Odourisation Charge for Service Provider so odourising the Gas.

## **12 Imbalance**

### **12.1 Obligation to Balance**

Shipper must use its reasonable endeavours to ensure that as at the end of each Day Shipper's Accumulated Imbalance is zero.

### **12.2 Service Provider's Obligations**

Within [4] hours after the end of each Day, Service Provider must notify Shipper of its Accumulated Imbalance as at the end of that Day. ***[Under consideration if time should be standardised or determined by Facility Specific Terms]***

### **12.3 Imbalance Charge**

- (a) Where, as at the end of a Day, Shipper's Accumulated Imbalance exceeds the Imbalance Allowance then an Imbalance Charge will be payable by Shipper as determined in accordance with the Facility Specific Terms.
- (b) Shipper's liability to pay an Imbalance Charge will be reduced if and to the extent Shipper's Accumulated Imbalance arises:
  - (i) due to Service Provider providing incorrect information to Shipper; or



- (ii) due to Service Provider's failure to perform its obligations under this Agreement (including failures arising due to Force Majeure affecting Service Provider).

#### 12.4 **Correction of Imbalance**

- (a) Where:
  - (i) Shipper's Accumulated Imbalance (whether during or at the end of a Day) exceeds the Imbalance Allowance; or
  - (ii) Service Provider, as a Reasonable and Prudent operator, considers that Shipper's Accumulated Imbalance at the end of a Day will exceed the Imbalance Allowance or such lower level nominated in the Facility Specific Terms as being the level applicable for the purposes of this clause 12.4(a)(ii),

and in Service Provider's opinion (as a Reasonable and Prudent operator) that Accumulated Imbalance is materially impeding or will materially impede the ongoing reliable operation of the Pipeline, adversely impact Service Provider's ability to provide services to a User or cause Service Provider to incur liability to another User then Service Provider may issue a notice to Shipper requiring Shipper to adjust its receipts or deliveries in accordance with that notice (and within the time specified in that notice).

- (b) If Shipper fails to comply with a notice issued by Service Provider under clause 12.4(a) then Service Provider may take such action as it , acting to the standard of a Reasonable and Prudent operator, considers is required to give effect to the notice including closing or restricting supply or take at Receipt Points or Delivery Points.
- (c) A notice issued by Service Provider under clause 12.4(b) must:
  - (i) not require action beyond that which is required to ensure the Accumulated Imbalance does not have an effect referred to in clause 12.4(a); and
  - (ii) allow Shipper at least 4 hours to comply with the notice, unless Service Provider (as a Reasonable and Prudent operator) considers it necessary to shorten this time period to avoid an effect referred to in clause 12.4(a).

#### 12.5 **Imbalance Trading**

- (a) Shipper may exchange all or part of its Accumulated Imbalance for an equal but opposite quantity of another User's imbalance on such terms as Shipper may agree with that other User, provided that notice of the exchange is received by Service Provider from both Shipper and that other User by no later than [ ] on a Day and that the notice provided by Shipper and the other User nominates the same amount of imbalance to be traded. Where an exchange is made then Shipper's Accumulated Imbalance and the imbalance of the other User will be adjusted as from the end of the Day on which Service Provider receives notice of the exchange. ***[Under consideration if time should be standardised or determined by Facility Specific Terms]***
- (b) No exchange under clause 12.5(a) affects Shipper's liability to pay any Imbalance Charges accrued prior to the time of the exchange.





- (c) In this clause 12.5 a reference to the imbalance of another User is to an imbalance calculated in a similar way to the means by which Shipper's Accumulated Imbalance is calculated.

### **12.6 Accumulated Imbalance at end of a Trade**

Within 24 hours of Shipper's Firm MDQ reducing to zero (that is due to expiry of the term of a Bilateral Trade or the term of a Firm Service Product acquired through the Exchange Service such that Shipper has no current Firm MDQ) Shipper must ensure it reduces its Accumulated Imbalance to zero. If Shippers fails to do so then:

- (a) Shipper must pay the Unauthorised Imbalance Charge set out in the Facility Specific Terms until such time as the Accumulated Imbalance is reduced to zero;
- (b) Service Provider may take such steps as it considers necessary to reduce the Accumulated Imbalance to zero including buying or selling gas (including gas represented by any positive Accumulated Imbalance of Shipper) and may recover from Shipper the costs it incurs in taking such steps.

## **13 Unauthorised Overrun**

### **13.1 Receipt Overrun**

- (a) Shipper must not (without the consent of Service Provider) supply:
  - (i) at the Receipt Points on a Day a quantity of Gas in excess of the quantity scheduled by Service Provider for supply by Shipper to the Receipt Points on that Day; or
  - (ii) where Service Provider also schedules a quantity of Gas for an individual Receipt Point (or group of Receipt Points, for example Receipt Points within a Zone), a quantity of Gas in excess of the quantity so scheduled.
- (b) To avoid doubt failure by Shipper to comply with clause 13.1(a) is a breach of this Agreement.
- (c) References in clause 13.1(a) to quantities scheduled mean the Scheduled Quantities as then varied by any Curtailment or any requested variation by Shipper which is accepted by Service Provider, provided Shipper is not liable to Service Provider, or in breach of this Agreement, if prior to the time a Curtailment takes effect it has already supplied a quantity of Gas in excess of the reduced Scheduled Quantity (but not in excess of the original Scheduled Quantity).

### **13.2 Delivery Overrun**

- (a) Shipper must not (without the consent of Service Provider) take:
  - (i) at the Delivery Points on a Day a quantity of Gas in excess of the quantity scheduled by Service Provider for delivery to Shipper at the Delivery Points on that Day; or
  - (ii) where Service Provider also schedules a quantity of Gas for an individual Delivery Point (or group of Delivery Points, for example Delivery Points within a Zone), a quantity of Gas in excess of the quantity so scheduled.
- (b) To avoid doubt failure by Shipper to comply with clause 13.2(a) is a breach of this Agreement.





- (c) References in clause 13.2(a) to quantities scheduled mean the Scheduled Quantities as then varied by any Curtailment or any requested variation by Shipper which is accepted by Service Provider, provided Shipper is not liable to Service Provider, or in breach of this Agreement, if prior to the time a Curtailment takes effect it has already taken delivery of a quantity of Gas in excess of the reduced Scheduled Quantity (but not in excess of the original Scheduled Quantity).

### **13.3 Overrun Charges**

Where Shipper supplies or takes delivery of Gas in breach of clause 13.1 or clause 13.2 then (without limiting any other remedies and rights to compensation available to Service Provider), in respect of the excess Gas supplied or taken by Shipper, Shipper must pay such Unauthorised Overrun Charge as determined in accordance with the Facility Specific Terms.

## **14 Use of Delivery Points and Receipt Points**

### **14.1 Commencement of Use**

- (a) Subject to this clause 14.1 Shipper may use any Receipt Point within a Zone to which Shipper's Firm Service Purchased Product relates and any Delivery Point within the Zone to which Shipper's Firm Service Purchased Product relates.
- (b) Where Service Provider is prohibited by an existing contract to which Service Provider is party from permitting Shipper using a Receipt Point or Delivery Point until Shipper or Service Provider has obtained the consent of existing Users using that point then Shipper may not commence using that Receipt Point or Delivery Point until Shipper or Service Provider have obtained that consent.
- (c) Where Service Provider is prohibited by a contract to which Service Provider is party from permitting Shipper using a Receipt Point or Delivery Point until Shipper has agreed allocation procedures with the existing Users using that point then Shipper may not commence using that Receipt Point or Delivery Point until it has agreed those procedures.
- (d) Service Provider must provide to Shipper all necessary co-operation to enable Shipper to obtain any consent referred to in clause 14.1(a) or to agree procedures referred to in clause 14.1(c) as soon as reasonably practicable after Shipper notifies Service Provider that it wishes to use the relevant Receipt Point or Delivery Point.
- (e) Where there is an existing allocation agreement for a Receipt Point or Delivery Point which contemplates and provides for new users of the Receipt Point or Delivery Point to accede to that agreement, and contemplates they will do so before commencing use of the point, then Shipper must sign such documents as required to enable it to accede to that agreement before it may commence use of that Receipt Point or Delivery Point. Service Provider must provide all necessary co-operation to assist Shipper to accede to such agreement.

### **14.2 Capacity**

- (a) Where the available Capacity at a Receipt Point or Delivery Point is insufficient to meet all the requirements of Users on a Day then:
  - (i) Primary Shippers who have reserved Capacity at the Receipt Point or Delivery Point will have priority to the Capacity at the relevant Receipt Point or Delivery Point over Shipper (except to the extent Shipper has acquired



such reserved Capacity at the Receipt Point or Delivery Point from one of those Primary Shippers by way of a Bilateral Trade); and

- (ii) otherwise Service Provider may, where required to do so to avoid placing Service Provider in breach of a contractual obligation entered into prior to the time Shipper commenced use of the Receipt Point or Delivery Point, allocate that available Capacity in priority to Users who acquired the entitlement to use that Receipt Point or Delivery Point prior to the time Shipper acquired that entitlement.
- (b) Subject to clause 14.2(a), shortfalls in Capacity of a Receipt Point or Delivery Point (below the quantities of Gas Users wish to supply to or take at that Receipt Point or Delivery Point) will be allocated in accordance with the Priority Principles.

### **14.3 Charges**

- (a) Where Service Provider is contractually obliged to pay an amount to existing Users using a Receipt Point or Delivery Point if new Users use such Receipt Point or Delivery Point (for example because those existing Users funded the cost of the Receipt Point or Delivery Point) then Service Provider may charge to Shipper the amount Service Provider is required to pay on account of Shipper's use of the Receipt Point or Delivery Point.
- (b) Where Shipper notifies Service Provider it wishes to use a Receipt Point or Delivery Point and clause 14.3(a) applies to such Receipt Point or Delivery Point, Service Provider must provide to Shipper such information as reasonably required by Shipper to explain how such charges will be calculated.

### **14.4 Changes in Receipt Points and Delivery Points**

- (a) Shipper may request that Shipper be able to supply Gas to or take Gas under the Firm Service at a Receipt Point or Delivery Point outside the Zone or Zones to which Shipper's Firm Service Purchased Products relate.
- (b) Service Provider must not unreasonably withhold or delay consent to a request by Shipper under clause 14.4(a) or give such consent on unreasonable conditions. In determining whether to give consent and the conditions which it will impose Service Provider may have regard to:
  - (i) relevant technical and operational considerations;
  - (ii) whether giving effect to the request may place Service Provider in breach of an existing contractual obligation; and
  - (iii) the time required to give effect to the requested change.
- (c) For the purposes of clause 14.4(b) conditions which Service Provider may impose as a condition of giving consent to the request include:
  - (i) that Shipper pay an additional charge reflecting any additional tariff applicable to the transportation of Gas over a greater distance (provided that charge is reflective of the tariffs applicable to the Pipeline); and
  - (ii) that Shipper reimburse Service Provider its reasonable costs of giving effect to the requested change.
- (d) Within 5 Business Days of receipt of a request from Shipper, Service Provider must notify Shipper that it:



- (i) accepts the request and, if so, any conditions of the acceptance and the reasons for those conditions;
  - (ii) does not accept the request and the reasons why the request is not accepted; or
  - (iii) needs, as a Reasonable and Prudent operator, additional time (which may not exceed 20 Business Days from the time the initial request was received) to consider the request and undertake necessary modelling and if so the reason that additional time is required and the amount of the reasonable costs of the modelling.
- (e) If Service Provider notifies Shipper it needs additional time to consider a request then Shipper may:
- (i) withdraw the request; or
  - (ii) instruct Service Provider to proceed to consider the request further and undertake any necessary modelling, in which case Shipper will reimburse Service Provider the reasonable costs of that modelling as notified under clause 14.4(d)(iii).
- If Service Provider is instructed to consider the request further it must do so and within 20 Business Days from the time the initial request was received respond under clause 14.4(d)(i) or clause 14.4(d)(ii).
- (f) If the conditions upon which Service Provider states it is prepared to accept a request (under clause 14.4(d)(i)) are unacceptable to Shipper, then Shipper may withdraw the request.
- (g) Nothing in this clause 14.4 requires Service Provider to make capital improvements at a Receipt Point or Delivery Point.

## **15 Metering and Apportionment**

### **15.1 Apportionment**

Where more than one User uses a Receipt Point or Delivery Point then the quantities of Gas supplied by or delivered to those Users will be determined:

- (a) in accordance with any apportionment procedure agreed between all the Users of the Receipt Point or Delivery Point, provided such procedure is acceptable to Service Provider acting reasonably; and
- (b) otherwise in accordance with such reasonable method nominated by Service Provider and notified to Shipper and the other Users using the Receipt Point or Delivery Point which methods may (without in any way limiting what is a reasonable method) include:
  - (i) that allocations will be undertaken by a third party (such as a gas producer) where this is consistent with existing practice at the Receipt Point or Delivery Point;
  - (ii) pro-rata allocation;
  - (iii) where the Delivery Point is an inlet to a hub (as defined in Part 20 of the National Gas Rules) that allocations are consistent with the rules governing that hub.



## **15.2 Metering**

- (a) The measurement and testing of Gas at Receipt Points and Delivery Points will be undertaken in accordance with the Metering Principles set out in the Facility Specific Terms.
- (b) Service Provider must permit representatives of Shipper to attend any test of metering equipment owned or controlled by Service Provider and, subject to clause 15.2(c), must ensure Shipper is given at least 7 days' notice of each such test (unless a test needs to be conducted urgently in which case Service Provider must give Shipper as much notice as is practicable in the circumstances).
- (c) Service Provider is only required to give Shipper notice of tests under clause 15.2(b) in respect of such Receipt Points and Delivery Points:
  - (i) which Shipper has a right to use under this Agreement; and
  - (ii) in respect of which Shipper has notified Service Provider it wants to receive notice of tests.
- (d) Shipper may request a test be undertaken of metering equipment owned or controlled by Service Provider if Shipper has reasonable grounds to believe such metering equipment may not be recording accurately. Service Provider must arrange such a test within 14 days of request and must permit representatives of Shipper to be present at such test and provide to them the results of the test. Shipper must pay the costs of undertaking such test (provided they are reasonable) unless the results of the test show the metering equipment is not operating within the margins of accuracy set out in the Metering Principles.

## **16 Title, Risk, Responsibility and Co-ordination**

### **16.1 Title**

- (a) Title to Gas supplied by Shipper to Service Provider remains with Shipper.
- (b) Clause 16.1(a) applies subject to any provisions in the Facility Specific Terms relating to changes in title to System Use Gas.
- (c) Shipper warrants that at the time of supply of Gas to Service Provider, it has good title to that Gas, free and clear of all liens, encumbrances and claims inconsistent with Service Provider's operation of the Pipeline.
- (d) Unless provided otherwise in the Facility Specific Terms, title to the Pipeline's Linepack is held by Service Provider.

### **16.2 Commingling**

- (a) Service Provider may commingle Gas supplied by Shipper to Service Provider with other Gas in the Pipeline and subject that Gas to compression, cleaning and other processes required for its operation of the Pipeline as a Reasonable and Prudent operator.
- (b) By delivering Gas to Shipper at the Delivery Points under this Agreement Service Provider will be deemed to have delivered Shipper's Gas to Shipper. Such Gas delivered at the Delivery Points will be deemed to be that received by Service Provider from Shipper at the Receipt Points.



### **16.3 Responsibility for Gas**

- (a) Shipper is in control and possession of Gas prior to its supply to Service Provider at the Receipt Points and after its delivery to Shipper at the Delivery Points.
- (b) Service Provider is in control and possession of Gas following receipt of the Gas from Shipper at the Receipt Points and prior to delivery of the Gas to Shipper at the Delivery Points.
- (c) Subject to the remaining provisions of this Agreement (including without limitation clause 10), Shipper has no responsibility or liability with respect to any Gas after it has been supplied to Service Provider at the Receipt Points on account of anything which may be done, happen or arise with respect to that Gas prior to its delivery to the Delivery Points.
- (d) Subject to clause 10.6, Service Provider has no responsibility or liability with respect to any Gas prior to its supply to Service Provider at a Receipt Point or after its delivery to Shipper at a Delivery Point on account of anything which may be done, happen or arise with respect to that Gas prior to receipt at the Receipt Point or after delivery at the Delivery Point.

### **16.4 Co-ordination of operations**

- (a) The Parties must consult and co-operate in relation to the operation of the Pipeline and facilities immediately upstream and downstream of the Pipeline with a view to facilitating safe and efficient operations in accordance with applicable Law and in accordance with good industry practice.
- (b) Shipper must use all reasonable endeavours to co-ordinate Gas dispatching and operational matters with Service Provider and with relevant Interconnect Parties.
- (c) If a Party is aware of circumstances which, in its reasonable opinion based on good industry practice:
  - (i) threaten the operational integrity of the Pipeline or any facilities upstream or downstream of the Pipeline; or
  - (ii) adversely affect the ability of Shipper to supply Gas to the Receipt Points or take delivery of Gas at the Delivery Points,

then it must immediately advise the other Party, and (if appropriate) any affected Interconnect Parties. The Parties must consult and co-operate with each other, and with affected Interconnect Parties, to take all reasonable actions, including changes to receipts and deliveries of Gas, to alleviate these adverse conditions promptly.

## **17 Liability**

### **17.1 Shipper's Liability**

- (a) Shipper must indemnify Service Provider and keep Service Provider indemnified against all Losses suffered or incurred by Service Provider (other than Service Provider's loss of profits or revenue) due to claims against Service Provider by:
  - (i) another User; and
  - (ii) a person into whose infrastructure the Pipeline connects,



due to Shipper's breach of this Agreement or negligent act or omission in connection with this Agreement.

- (b) Shipper must indemnify Service Provider and keep Service Provider indemnified against any liability Service Provider incurs to a Subshipper to the extent that such liability, when aggregated with any liability Service Provider incurs to Shipper, exceeds a monetary cap on liability in clause 17.2.
- (c) Clause 17.1(a) does not apply to Losses which Service Provider would have avoided had Service Provider complied with its obligations under this Agreement, including its obligation to act as a Reasonable and Prudent operator.
- (d) Shipper is not liable to Service Provider for any loss of profits or revenue suffered by Service Provider.
- (e) Clause 17.1(d) does not limit:
  - (i) Shipper's liability to pay any charges or interest which accrue due under this Agreement; or
  - (ii) Shipper's liability for Shipper's Wilful Misconduct.

#### **17.2 Service Provider's Liability**

- (a) Service Provider is not liable to Shipper for any Consequential Loss suffered by Shipper.
- (b) Subject to the remainder of this clause 17, Service Provider's liability to Shipper for all acts or omissions of Service Provider (including negligent acts or omissions) over a 12 month period under or in connection with this Agreement is limited to the greater of:
  - (i) \$[ ]; and
  - (ii) the aggregate of the charges paid by Shipper to Service Provider during that period.
- (c) Clause 17.2(b) does not limit Service Provider's liability for any personal injury or death caused by Service Provider.
- (d) Clause 17.2(b) does not limit Service Provider's liability for the cost of repairing or replacing any property damaged by Service Provider but Service Provider's liability for such damage is limited to \$[ ] per event or connected series of events causing such damage.
- (e) The preceding provisions of this clause 17.2 do not limit Service Provider's liability for Service Provider's Wilful Misconduct.
- (f) For the purposes of clause 17.2(a) Consequential Loss means:
  - (i) loss of profits or revenue;
  - (ii) Shipper's liability to third parties (other than for losses arising from personal injury or death or damage caused to the property of those third parties);
  - (iii) incidental, special, remote or unforeseeable loss or damage;



- (iv) loss of bargain, opportunity, production, business, contract, goodwill or anticipated savings, loss caused by business interruption or the cost of obtaining new financing or maintaining existing financing;
- (v) costs or expenses incurred to prevent or reduce loss or damage which otherwise may be incurred or suffered by a third party; or
- (vi) loss or damage of the nature set out above in paragraphs (iii) to (v) that is incurred or suffered by or to a third party

***[See the discussion in the Consultation Paper (section 3.3.2) as to whether the liability regime in this clause 17 is appropriate or requires modification.]***

## **18 Force Majeure Events**

### **18.1 Party Excused**

Non-performance as a result of Force Majeure by either Party of an obligation or condition required by this Agreement to be performed:

- (a) will be excused during the time and to the extent that such performance is prevented, wholly or in part, by Force Majeure; and
- (b) will not to that extent give rise to any liability to the other Party for any Losses of any kind arising out of, or in any way connected with, that non-performance,

but no Party will be relieved by Force Majeure of any obligation to pay a sum of money accrued due under this Agreement.

### **18.2 Obligations**

A Party which is, by reason of Force Majeure, unable to perform an obligation or condition required by this Agreement to be performed will:

- (a) notify the other Party as soon as possible giving:
  - (i) reasonably full particulars of the event or circumstance of Force Majeure;
  - (ii) the date of commencement of the event or circumstance and an estimate of the period of time required to enable it to resume full performance of its obligations; and
  - (iii) where possible, the means proposed to be adopted to remedy or abate the Force Majeure;
- (b) use reasonable diligence and employ all reasonable means to remedy or abate the Force Majeure as expeditiously as possible provided that nothing in this clause 18 will require a Party to settle a strike, lockout, ban or other industrial disturbance against its judgment;
- (c) resume performance as expeditiously as possible after termination of the Force Majeure; and
- (d) notify the other Party when the Force Majeure has terminated or abated to an extent which permits resumption of performance to occur.





### **18.3 Rights of Other Party**

No event of Force Majeure affecting the performance of this Agreement by either Party will operate to prevent a cause of action arising from and after the expiration of the period of time within which, by the exercise of reasonable diligence and the employment of all reasonable means, that Party could have remedied the situation preventing its performance.

## **19 Charges and Payment**

### **19.1 Charges**

Shipper must pay to Service Provider any Charges referred to in this Agreement which are incurred by Shipper.

### **19.2 Invoicing**

- (a) Each Month Service Provider may issue an invoice to Shipper for any Charges incurred by Shipper under this Agreement in respect of the previous Month. An invoice must include such information as is reasonably required to substantiate the Charges payable by Shipper.
- (b) Each invoice must be accompanied by a report showing for each Day of the previous Month:
  - (i) the quantity of Gas supplied by Shipper at each Receipt Point under each Service in that Month on each Day and in aggregate across all Receipt Points;
  - (ii) the quantity of Gas delivered to Shipper at each Delivery Point under each Service in that Month on each Day and in aggregate across all Delivery Points;
  - (iii) the balance of Shipper's Park Account as at the end of each Day and the quantity of Gas delivered into and taken from the Park Account on each such Day; and
  - (iv) Shipper's Accumulated Imbalance as at the end of each Day.
- (c) Service Provider must provide to Shipper such additional information in respect of an invoice as Shipper reasonably requests to explain or substantiate amounts included in that invoice.
- (d) An invoice may be based upon estimated data where actual data is not available to Service Provider at the time it prepares the invoice. In such circumstances Service Provider must issue an adjustment invoice to Shipper once the actual data becomes available to Service Provider.
- (e) Shipper must pay an invoice within 14 days (or such longer period as Service Provider elects) of receipt of the invoice.
- (f) If the day on which an invoice falls due for payment is not a Business Day, then Shipper must pay the invoice by the next Business Day.
- (g) Unless otherwise agreed by Service Provider, Shipper must pay Service Provider by electronic funds transfer to such account notified by Service Provider to Shipper from time to time.





### **19.3 Disputed invoices**

- (a) Where Shipper, in good faith, disputes an invoice then it may withhold payment of the disputed portion of the invoice but only where it notifies Service Provider of the amount disputed and the reason for the dispute not less than 5 Business Days before the invoice is due for payment.
- (b) Where Shipper withholds an amount of an invoice under clause 19.3(a) and it is subsequently agreed or determined that such amount was due under this Agreement then Shipper must pay such amount within 5 Business Days of that agreement or determination with interest at the Interest Rate calculated on a daily basis from the date the relevant invoice was due for payment under clause 19.2 until such time as the amount is paid.
- (c) Where it is agreed or determined that Shipper has paid an amount invoiced by Service Provider to Shipper and such amount was not in fact due to Service Provider then Service Provider must refund that amount to Shipper with interest at the Interest Rate calculated from the time the amount was received by Service Provider until the time the amount is refunded to Shipper.
- (d) Payment of an invoice by Shipper does not prevent Shipper subsequently disputing its liability to pay that invoice provided Shipper disputes the invoice within 12 months of the date of receipt of the invoice.

### **19.4 Adjustments**

Where an error is discovered in an invoice issued under clause 19.2, an adjustment to compensate for such error will be effected on the next invoice issued under clause 19.2 or paid within 30 days of ascertainment of the error. However, no party will be entitled to rectify errors discovered in, or reopen, any invoice more than 12 months after the invoice was rendered.

### **19.5 Late Payments**

If Shipper fails to pay an amount due under this Agreement by the due date then it must pay interest at the Default Rate on the amount overdue, calculated on a daily basis from its due date until the date of actual payment.

## **20 GST**

### **20.1 GST Gross-Up**

If a party (Supplier) is required to pay GST in respect of a supply made under or in connection with (including by reason of a breach of) this Agreement, the recipient of the supply must (in addition to any other payment for, or in connection with, the supply) pay to the Supplier an amount equal to such GST (GST gross-up).

### **20.2 GST Invoice**

If a GST gross-up is payable, then the Supplier must give the recipient a tax invoice for the supply.

### **20.3 Payment**

Provided a tax invoice has been given, the GST gross-up must be paid by the recipient:

- (a) if any monetary consideration is payable for the supply, at the same time and in the same manner as such monetary consideration;



- (b) if no monetary consideration is payable for the supply, within 10 Business Days after the day on which the tax invoice is given.

#### **20.4 Reimbursements**

If any payment to be made to a party under or in connection with this Agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with clause 20.1.

#### **20.5 Adjustments**

If an adjustment event has occurred in respect of a supply made under or in connection with this Agreement, any party that becomes aware of the occurrence of that adjustment event must notify the other party as soon as practicable, and the parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that supply, or any refund of GST (or part thereof), is paid no later than 20 Business Days after the Supplier first becomes aware that the adjustment event has occurred.

#### **20.6 Definitions**

- (a) Terms used in this clause 20 which are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) have the meaning given to them in that Act.
- (b) In this clause 20, a reference to a payment includes any payment of money and any form of consideration other than payment of money.
- (c) In this Agreement, all references to payments and obligations to make payments, including all references to compensation (including by way of reimbursement or indemnity), are, but for the operation of this clause 20, exclusive of GST.

### **21 Credit**

#### **21.1 Standing**

Service Provider is not required to provide Services to Shipper unless:

- (a) Shipper is resident in Australia or has a permanent establishment in Australia;
- (b) Shipper is incorporated or constituted under the Corporations Act or, if not, satisfies Service Provider (acting reasonably) that:
  - (i) it is duly incorporated;
  - (ii) it has the legal capacity to enter into and perform this Agreement; and
  - (iii) it has duly executed this Agreement and this Agreement is enforceable against it
- (c) Shipper is capable of being sued in its own name in courts established under the laws of Australia; and
- (d) Shipper does not enjoy any immunity from legal proceedings or legal process (including, but without limitation, any immunity from execution).



## **21.2 Insurance**

- (a) Shipper must maintain throughout the Term third party public and product liability insurance covering liability for death or bodily injury (including illness) and loss of, damage to and loss of use of, property arising out of anything done or omitted to be done by Shipper under or in connection with this Agreement (including damage caused to the Pipeline by Off Specification Gas) for a liability of not less than \$20 million in respect of any one occurrence and, in respect of the public liability component, unlimited as to the number of occurrences.
- (b) Shipper may discharge its obligations under this clause 21.2 by substantiating to Service Provider's reasonable satisfaction that Shipper is part of a corporate group with self-insurance arrangements (which apply for the benefit of Shipper) providing equivalent financial support to Shipper, for liabilities which Shipper may incur, to that which would be provided by the third party public and product liability insurance referred to in clause 21.2(a).
- (c) Service Provider is not required to provide any Services to Shipper until Shipper provides Service Provider a certificate of currency evidencing that the insurance referred to in clause 21.2(a) is in effect or establishes to Service Provider's reasonable satisfaction that the arrangements referred to in clause 21.2(b) are in place.
- (d) Service Provider may, from time to time, but not more than once in any 6 month period unless Service Provider has reasonable grounds for believing the insurance or self-insurance may no longer be in effect, request Shipper to provide a certificate of currency evidencing the insurance referred to in clause 21.2(a) is in effect or otherwise substantiate to Service Provider's reasonable satisfaction that the self-insurance arrangements are in effect.

## **21.3 Credit Support**

- (a) Service Provider may require Shipper to provide credit support under this clause 21 except where one or more of the following apply:
  - (i) Shipper has a Standard & Poor's or Fitch credit rating of BBB-, or Moody's credit rating of Baa3, or better;
  - (ii) Shipper's obligations under this Agreement are guaranteed (on terms satisfactory to Service Provider acting reasonably) by an Australian resident body corporate with a Standard & Poor's or Fitch credit rating of BBB-, or Moody's credit rating of Baa3, or better;
  - (iii) even though Shipper does not have such a credit rating, it has financial substance equivalent to or better than an entity with such a credit rating;
  - (iv) Shipper's obligations under this Agreement are guaranteed (on terms satisfactory to Service Provider acting reasonably) by an Australian resident body corporate with financial substance equivalent to or better than an entity with a credit rating referred to in this clause 21.3(a).
- (b) If Service Provider is entitled to require Shipper to provide credit support then Shipper must nominate to Service Provider the Firm MDQ and Park MDQ to be used to determine Shipper's Credit Support Amount. Shipper may, from time to time, by 2 Business days' notice to Service Provider change the nominated quantities.



(c) **Shipper's Credit Support Amount** is equal to the sum of the Firm MDQ Credit Support Amount and the Park MDQ Credit Support Amount.

(d) The Firm MDQ Credit Support Amount is the amount determined in accordance with the following formula:

$$60 * MDQ * T$$

Where:

- (i) MDQ is the Firm MDQ nominated by Shipper (in GJs); and
- (ii) T is the tariff for Firm MDQ in \$/GJ (being either the reference tariff for Firm MDQ where there is a Full Access Arrangement for the Pipeline setting out an applicable reference tariff or, if not, then the price for a GJ of Firm MDQ as published by Service Provider pursuant to Part 23 of the National Gas Rules). Where there is more than one tariff applicable to Firm MDQ Service Provider will, acting reasonably, determine which tariff to use.

(e) The Park MDQ Credit Support Amount is the amount determined in accordance with the following formula:

$$60 * MDQ * T$$

Where:

- (i) MDQ is the Park MDQ nominated by Shipper (in GJs); and
- (ii) T is the tariff for Park MDQ in \$/GJ (being either the reference tariff for Park MDQ where there is a Full Access Arrangement for the Pipeline setting out an applicable reference tariff or, if not, then the price for a GJ of Park MDQ as published by Service Provider pursuant to Part 23 of the National Gas Rules). Where there is more than one tariff applicable to Park MDQ Service Provider will, acting reasonably, determine which tariff to use.

(f) Where Shipper is required to provide credit support then Service Provider is not required to provide Shipper Services in respect of Firm MDQ and Park MDQ to the extent Shipper has not provided credit support in respect of that Firm Service MDQ or Park Service MDQ. For example if Shipper has provided credit support for only 10 TJ/Day of Firm MDQ then Service Provider is not required to recognise and provide Services in respect of any acquisition by Shipper of Firm MDQ above 10 TJ/Day.

(g) Where Shipper is not originally required to provide credit support but, due to a change in circumstances, Shipper is no longer relieved by clause 21.3(a) from the obligation to provide credit support then Shipper must provide credit support within 10 Business Days of request by Service Provider.

***[See the discussion in the Consultation Paper (section 3.3.3) as to whether the credit support regime in this clause 17 is appropriate or requires modification. Query whether the credit support has been set at an appropriate level.]***

## **21.4 Type of Credit Support**

Where Shipper is required to provide credit support that credit support must be in the form of (as elected by Shipper):



- (a) a bank guarantee for Shipper's Credit Support Amount from a bank, and on terms, reasonably acceptable to Service Provider; or
- (b) a cash deposit of an amount equal to Shipper's Credit Support Amount; or
- (c) such other form of credit support acceptable to Service Provider in its absolute discretion.

#### **21.5 Recourse to Credit Support**

Service Provider may have recourse to the credit support provided by Shipper to recover:

- (a) any amounts due from Shipper to Service Provider under this Agreement but unpaid by the due date and which are not paid within a further 5 Business Days after receipt by Shipper of notice from Service Provider; and
- (b) any Losses suffered or incurred by Service Provider (for which Shipper is liable) due to Shipper's act or omission which are not paid within 20 Business Days after notice from Service Provider seeking payment of such amounts.

#### **21.6 No Injunction**

Shipper must not bring an application to injunct or otherwise seek to restrain Service Provider from having recourse to the credit support provided by Shipper.

#### **21.7 Replacement**

- (a) If Service Provider draws upon credit support then Shipper must within 5 Business Days of the credit support being drawn upon provide replacement credit support to Service Provider complying with the requirements of this Agreement and so that the total credit support held by Service Provider is equal to Shipper's Credit Support Amount.
- (b) If:
  - (i) a provider of credit support is subject to an Insolvency Event;
  - (ii) a credit support ceases to be valid or to comply with the reasonable requirements of Service Provider;
  - (iii) the provider of the credit support claims it is not binding or valid,then that credit support will no longer be regarded as complying with the requirements of this Agreement. In such case Shipper must within 5 Business Days of the existing credit support ceasing to comply with the requirements of this Agreement, provide replacement credit support which complies with the requirements of this Agreement.
- (c) Shipper must ensure that any credit support provided by it which has an expiry date is replaced with a new valid form of credit support complying with the requirements of this Agreement not later than 10 Business Days prior to that expiry date. Service Provider will release the existing credit support upon a new valid credit support being provided by Shipper, provided that upon release of such existing credit support Service Provider will still hold credit support complying with the requirements (including as to amount) of this Agreement.
- (d) If Shipper fails to comply with clause 21.7(c) Service Provider may have recourse to the existing credit support and hold any monies obtained by Service Provider as security until such time as the new valid credit support is provided.



## **21.8 Return**

- (a) If at any time the credit support held by Service Provider exceeds Shipper's Credit Support Amount then Shipper may request Service Provider to return the excess amount and if so Service Provider will return any excess credit support then held by it unless Service Provider has reasonable grounds to believe it has a claim in damages against Shipper in which case Service Provider may continue to hold that credit support until the claim is resolved or until Service Provider ceases to have reasonable grounds to believe it has such a claim.
- (b) Upon the expiry or termination of this Agreement and Service Provider receiving all payments to which it is entitled under this Agreement in immediately available funds, Service Provider will return any credit support then held by it unless Service Provider has reasonable grounds to believe it has a claim in damages against Shipper in which case Service Provider may continue to hold that credit support until the claim is resolved or until Service Provider ceases to have reasonable grounds to believe it has such a claim.

## **21.9 Cash Deposits – Specific Provisions**

- (a) Where credit support is provided to Service Provider in the form of a cash deposit, then Service Provider must deposit the amount in an interest bearing account maintained with such financial institution determined by Service Provider. Any interest which accrues on the cash deposit shall form part of the credit support. Service Provider may deduct from such interest any fees and taxes attributable to maintaining the account (and to the extent the fees and taxes exceed that amount may recover the excess from Shipper).
- (b) Nothing in this Agreement is to be taken as imposing any obligation on Service Provider to maximise or obtain any return on cash deposit amounts held by Service Provider as security.

## **22 Suspension and Termination**

### **22.1 Suspension**

- (a) Service Provider may suspend the provision of Services to Shipper:
  - (i) if the insurance required by clause 21.1 is not in place, in which case Service Provider may suspend the Services until such time as that insurance is put in place;
  - (ii) if Shipper fails to pay any amount due under this Agreement by the due date (other than amounts validly withheld under clause 19.3) and fails to remedy that default within 7 days of notice from Service Provider;
  - (iii) if Shipper shows a repeated disregard of its obligations under this Agreement relating to imbalance, overrun, gas specification, or any other obligations breach of which poses a material threat to the operational integrity of the Pipeline, in which case Service Provider may suspend the Services until Shipper satisfies Service Provider that Shipper will be able to and will endeavour to comply with such obligations.
- (b) No suspension of the Services by Service Provider under this clause 22.1 relieves Shipper of its payment obligations.



## **22.2 Termination by Service Provider**

Service Provider may by notice to Shipper terminate this Agreement with immediate effect if:

- (a) a suspension under clause 22.1(a)(i) or clause 22.1(a)(ii) continues for more than 14 days;
- (b) a suspension under clause 22.1(a)(ii) continues for more than 30 days;
- (c) Shipper commits a material breach of this Agreement (other than a failure to pay amounts due) and fails to remedy that breach within 21 days of receipt of notice from Service Provider of the breach; or
- (d) Shipper is subject to an Insolvency Event.

## **22.3 Termination by Shipper**

Shipper may by notice to Service Provider terminate this Agreement if:

- (a) Service Provider commits a material breach of this Agreement and does not remedy that breach within 21 days of receipt of notice from Shipper of the breach; or
- (b) Service Provider is subject to an Insolvency Event.

## **22.4 Termination for Convenience**

Shipper may at any time terminate this Agreement for convenience by 30 days' notice to Service Provider.

## **22.5 Termination for Extended Force Majeure**

Service Provider may terminate this Agreement by notice if Force Majeure affects Service Provider's ability to provide the Services for a period of more than 12 months.

## **22.6 No Common Law Termination Rights**

Any common law rights to terminate this Agreement are excluded.

## **22.7 Effect of Expiration or Termination**

The expiry or termination of this Agreement is without prejudice to the accrued rights of the Parties as at the date of expiration or termination or to the continued operation of clauses which of their nature are intended to survive, or which evidence an intention to survive, termination or expiration.

# **23 Dispute Resolution**

## **23.1 Limitation on Legal Proceedings**

Except where a Party, in good faith, considers it necessary to seek urgent injunctive or declaratory relief to preserve its position, a party may only commence legal proceedings in respect of a dispute relating to this Agreement (**Dispute**) if it has complied with the procedures in this clause 23.

## **23.2 Notice of Dispute**

If a Dispute arises between the Parties, a Party may give notice to the other Party specifying in reasonable detail the nature of the Dispute. During the 21 day period following the service of that notice (or such longer period as the Parties may agree) the Parties must use their respective reasonable endeavours to resolve the Dispute.





### **23.3 Proceedings**

If the Parties have not resolved the Dispute within the period specified in clause 23.2 then either Party may:

- (a) if the Dispute is a Financial Dispute or Technical Dispute, refer the matter to resolution by an expert in accordance with the “Expert Determination Rules” of the Resolution Institute; and
- (b) otherwise, commence court proceedings in respect of the Dispute.

### **23.4 Meaning of Financial Dispute or Technical Dispute**

- (a) A Financial Dispute is a Dispute as to whether an invoice under this Agreement has been calculated correctly and which Dispute does not require a determination to be made as to a disagreement between the Parties as to the correct construction of this Agreement.
- (b) A Technical Dispute is a Dispute whose resolution primarily depends on matters of engineering or mathematical expertise and which Dispute does not require a determination to be made as to a disagreement between the Parties as to the correct construction of this Agreement.

### **23.5 Expert Determination**

The determination of an Expert will be final and binding on the Parties unless the determination is affected by bias or an error of law.

## **24 Assignment/Novation**

### **24.1 Use of Rights**

Shipper may use its rights under this Agreement to transport Gas on behalf of any other person (**Subshipper**) and is not required to notify Service Provider of the identity of any such person.

### **24.2 Prohibition on Assignment**

- (a) Shipper may not assign, transfer or otherwise deal with its rights under this Agreement.
- (b) Nothing in clause 24.2(a) limits clause 24.1.

### **24.3 Service Provider Novation**

- (a) Service Provider may novate the whole of its rights and obligations under this Agreement to any person to whom Service Provider:
  - (i) transfers ownership of the entire Pipeline; or
  - (ii) transfers the Pipeline Licences held by Service Provider in respect of the Pipeline.
- (b) Service Provider may novate a fractional part of its rights and obligations under this Agreement to any person to whom Service Provider transfers ownership of a percentage interest share of the entire Pipeline provided that:
  - (i) the fractional part of the rights and obligations novated equates to the percentage interest in ownership of the Pipeline which has been transferred; and





- (ii) the sum of the ownership percentage interest of Service Provider and that new person is 100%; and
  - (iii) as a consequence of that novation both Service Provider and the new person are liable to Shipper for ensuring the discharge of Service Provider's obligations under this Agreement (provided each person's liability may be limited by reference to its percentage ownership interest share of the Pipeline)
- (c) Shipper must execute such documentation reasonably requested by Service Provider to give effect to a novation under clause 24.3(a) or clause 24.3(b).

#### **24.4 Security**

Service Provider may mortgage, pledge, charge or otherwise encumber its rights and interests under this Agreement to any financier of Service Provider.

### **25 Representations and Warranties**

#### **25.1 Shipper's Representations and Warranties**

Shipper represents and warrants to Service Provider that:

- (a) it has full power and authority to enter into this Agreement, and has taken all necessary action to authorise the execution and performance of this Agreement;
- (b) its obligations under this Agreement are legally valid and binding and are enforceable against it in accordance with their terms;
- (c) Shipper's execution and performance of this Agreement does not:
  - (i) contravene its constituent documents or any law or any obligations or undertakings by which it or any of its assets are bound; or
  - (ii) exceed any limitation on its, or its directors', powers;
- (d) it is not in default under any law affecting it or its assets, or any obligation or undertaking by which it or any of its assets are bound which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Agreement;
- (e) it does not have immunity from the jurisdiction of a court or from legal process which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Agreement; and
- (f) there is no pending or threatened action or proceeding affecting Shipper or any of its assets before a court, referee, government agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Agreement.

#### **25.2 Service Provider's Representations and Warranties**

Service Provider represents and warrants to Shipper that:

- (a) it has full power and authority to enter into this Agreement, and has taken all necessary action to authorise the execution and performance of this Agreement;
- (b) its obligations under this Agreement are legally valid and binding and are enforceable against it in accordance with their terms;



- (c) Service Provider's execution and performance of this Agreement does not:
  - (i) contravene its constituent documents or any law or any obligations or undertakings by which it or any of its assets are bound; or
  - (ii) exceed any limitation on its, or its directors', powers;
- (d) it is not in default under any law affecting it or its assets, or any obligation or undertaking by which it or any of its assets are bound which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Agreement;
- (e) it does not have immunity from the jurisdiction of a court or from legal process which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Agreement; and
- (f) there is no pending or threatened action or proceeding affecting Service Provider or any of its assets before a court, referee, government agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Agreement.

## 26 Confidentiality

### 26.1 Confidential Information

Each party will treat and keep confidential all information disclosed to that party, under this Agreement, pursuant to the transactions contemplated by this Agreement or during the negotiations preceding the execution of this Agreement by the other party, (**Confidential Information**) irrespective of the form in which that information was provided.

### 26.2 Permitted Disclosure

- (a) Despite clause 26.1, Confidential Information may be disclosed by a party receiving that information in the following circumstances:
  - (i) to its employees, its professional advisers or its financiers who require that information for the purpose of carrying out the functions assigned to them by the party;
  - (ii) to its insurers;
  - (iii) with the consent of the party who provided the information, which consent may not be unreasonably withheld;
  - (iv) where the information was already known to it at the time it received it in the manner contemplated by clause 26.1;
  - (v) the information is known publicly other than as a consequence of a breach of clause 26.1 by that party;
  - (vi) to a bona fide prospective purchaser of its share capital or of any relevant part of its business undertaking;



- (vii) when required by Law or by the requirements of any stock exchange on which the shares of the party or any of its Related Bodies Corporate are listed;
  - (viii) in connection with the refinancing of any debt of that party;
  - (ix) to any Related Body Corporate (as defined in the Corporations Act);
  - (x) to any entity which controls a party (even if not recognised as a Related Body Corporate), including any entity which Service Provider nominates in the Facility Specific Terms as an entity which controls Service Provider;
  - (xi) as necessary to enable a party to claim force majeure under another contract or to enable a party to deal with any claim that it is in breach of another contract;
  - (xii) to persons upstream and downstream of Receipt Points and Delivery Points as required to co-ordinate receipt and delivery of Gas; and
  - (xiii) as required to discharge a party's obligations under this Agreement or to exercise its rights under this Agreement;
- (b) Except in the case of clause 26.2(a)(iii), clause 26.2(a)(iv), clause 26.2(a)(v) and clause 26.2(a)(vii), a party disclosing Confidential Information under clause 26.2 must use its reasonable endeavours to ensure that the persons to whom it discloses that information undertake to keep the information confidential.

## **27 Notices**

### **27.1 Form of Notices**

Except where otherwise provided in this Agreement, any notice or other communication required of a Party by this Agreement:

- (a) must be in writing in English; and
- (b) must be sent by priority post or email, or delivered, to the address or email of the recipient, and sent to the attention of the recipient's contact, each as set out in the Agreement Details.

A Party may replace its address and other details for receipt of communications set out in the Agreement Details by giving not less than 5 Business Days' notice to the other Party.

### **27.2 Email communications**

Any communication required by this Agreement that is sent by email must be in a format (such as a scanned pdf) that is an accurate and legible image of the original of the communication including the signature. Each such communication must be attached to an email that states that the attachment is a communication under this Agreement. The party sending the communication by email must maintain an electronic or printed copy of the email and the attached communication.



### **27.3** *Time of receipt*

A notice or other communication will be taken to be received:

- (a) if hand-delivered, at the time of delivery;
- (b) if sent by pre-paid priority post, three days after the date of posting.

If due to this clause a communication would be taken to be received on a day that is not a Business Day, or after 5.00pm on a Business Day, the communication is taken to have been received at 9.00 am on the first Business Day after that day.

### **27.4** *Operational Notices*

- (a) Operational notices must be sent by email or by using such electronic communications system set out in the Facility Specific Terms. Such emails take effect when actually received.
- (b) Operational notices means notices relating to nominations, scheduling, Off Specification Gas and Curtailments and such other day to day operational matters nominated by Service Provider (acting reasonably from time to time).

## **28** *Miscellaneous*

### **28.1** *Governing Law*

This Agreement is governed by the law of the State.

### **28.2** *Further Assurance*

Each Party must, at its own expense, do all that is reasonably necessary to give effect to this Agreement.



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## PART 4: REQUIREMENTS FOR FACILITY SPECIFIC TERMS

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### 1 General

#### 1.1 *Over-riding Principles*

Facility Specific Terms for a Facility:

- (a) must identify the Facility to which the terms relate and specify the version number, date of publication and commencement;
- (b) must specify the matters required to be specified by this Part and may specify the matter that this Part or the Standard Terms allow to be specified; and
- (c) must comply with the Facility Specific Terms Principles in the National Gas Rules.

#### 1.2 *Variation of Standard Terms*

- (a) Except as provided in this clause 1.2, Facility Specific Terms may not vary the Standard Terms.
- (b) Facility Specific Terms may vary the Standard Terms where this is permitted or contemplated by the Standard Terms.
- (c) Facility Specific Terms may vary the Standard Terms to the extent required to ensure:
  - (i) Service Provider does not breach any Australian statutory obligation binding upon Service Provider; or
  - (ii) Service Provider does not breach any legal binding undertaking given by Service Provider to the ACCC, the AER or the Crown in the right of a State, the Commonwealth or a Territory.

#### 1.3 *Defined terms*

Capitalised terms used in this Part 4 that are defined in Part 3 have the meaning given to them in Part 3.

### 2 Definitions in Facility Specific Terms

- (a) The Facility Specific Terms may vary the definition of Day if a “gas day” as that term is commonly applied in gas markets and under haulage and sale contracts in a State or Territory in which the Pipeline is located is a period different from that described in that definition of Day.
- (b) The Facility Specific Terms:
  - (i) may vary the definition of “Day” if it differs from a definition of “Day” which the Pipeline is required to use by legislative provision (or instruments made under a legislative provision); and



- (ii) may not vary the definition of “Day” so as to make it inconsistent with any definition of “Day” which the Pipeline is required to use by legislative provision (or instruments made under a legislative provision).
- (c) The Facility Specific Terms may nominate a different Gas specification to the current edition of AS 4564 Specification for General Purpose Natural Gas only if that different specification is representative of the current specifications applying under haulage agreements for use of the Pipeline.
- (d) Any different gas specification so nominated must clearly specify quality requirements with which Gas must comply.
- (e) The Facility Specific Terms may not permit Service Provider to vary the Gas specification without the consent of Shipper.

### 3 Other Services

- (a) Service Provider may, at its absolute discretion, provide in the Facility Specific Terms for the provision of additional services to those referred in the Standard Terms (such additional services being **Other Services**) and set out the terms (including charges) upon which these Other Services are provided.
- (b) Service Provider may not require or pressure a Shipper to acquire an Other Service.
- (c) The terms (including charges) upon which an Other Service is provided must:
  - (i) be reasonable; and
  - (ii) not derogate from or adversely affect a Shipper’s rights and entitlements under the Standard Terms.

### 4 Scheduling

- (a) The Facility Specific Terms may set out the procedures used by Service Provider to schedule quantities of Gas for receipt, storage and delivery on a Day and to notify Shipper of the quantities of System Use Gas required to be supplied by, or which will be returned to, Shipper on a Day.
- (b) The scheduling procedures nominated in the Facility Specific Terms must:
  - (i) be consistent with the scheduling procedures used by Service Provider generally under the Primary Shipper haulage agreements for the Pipeline; and
  - (ii) not discriminate against Secondary Shippers (as compared to the manner in which Primary Shippers are treated).

### 5 Priority Principles

- (a) Facility Specific Terms must set out the principles (**Priority Principles**) to be applied by Service Provider to determine how available Capacity is allocated between Users on a Day where it is less than either:
  - (i) the aggregate nominations of Users for use of services on a Day; or
  - (ii) the quantities of Gas scheduled for Users for services on a Day.
- (b) The Priority Principles must:



- (i) be consistent with the principles used by Service Provider under the Primary Shipper haulage agreements for the Pipeline to allocate Capacity in the circumstances referred to in clause 5(a); and
- (ii) subject to the provisions of the Standard Terms relating to access to Capacity at Receipt Points or Delivery Points and to clause 5(c):
  - (A) not discriminate against Secondary Shippers (as compared to the manner in which Primary Shippers are treated); and
  - (B) give Secondary Shippers with an entitlement to Firm Services equal priority to Capacity with Primary Shippers using the highest priority service provided in respect of the Pipeline.
- (c) The Priority Principles may accord priority to Foundation Shippers where Service Provider is contractually obliged to accord priority to such Foundation Shippers to available Capacity over other Primary Shippers.
- (d) For the purposes of this clause 5, a Foundation Shipper means a Primary Shipper who:
  - (i) entered into one of the original haulage agreements for use of the Pipeline (or the assignee or novatee of the rights of such a person) and thereby facilitated the initial construction of the Pipeline; or
  - (ii) has funded (including by committing to purchase capacity) major works on the Pipeline (for example major expansions or major projects to reverse the flow of Gas) and by so funding the works facilitated them being undertaken.

## **6 System Use Gas**

- (a) Facility Specific Terms may require Shipper to provide System Use Gas to Service Provider and may contain provisions setting out:
  - (i) how the quantity of System Use Gas to be supplied by Shipper on a Day is to be determined;
  - (ii) how System Use Gas quantities are scheduled for supply;
  - (iii) how the quantities of System Use Gas actually supplied on a Day are determined;
  - (iv) providing for the circumstances (if any) in which Service Provider may return System Use Gas; and
  - (v) ancillary matters relevant to System Use Gas (including provisions relating to transfer of title to that Gas).
- (b) Different procedures may apply for different types of System Use Gas (for example different procedures may apply to determine the quantity of Linepack Gas required to be supplied, from Gas used to operate compressors or gas heaters from other types of System Use Gas).
- (c) Provisions relating to System Use Gas must:
  - (i) be consistent with the provisions under Primary Shipper haulage agreements for the Pipeline relating to System Use Gas; and



- (ii) not discriminate against Secondary Shippers (as compared to the manner in which Primary Shippers are treated).

## 7 Hourly Limitations

- (a) Facility Specific Terms may set out limits on the quantities of Gas Shipper may supply or take delivery of in an hour or over a period of consecutive hours but only where:
  - (i) such limits are consistent with the provisions under existing Primary Shipper haulage agreements for the Pipeline;
  - (ii) such limits do not discriminate against Secondary Shippers (as compared to the manner in which Primary Shippers are treated); and
  - (iii) Shipper has ready access to, or is able to implement a mechanism to have ready access to, the data required to monitor its hourly take of gas.
- (b) Facility Specific Terms may impose a charge upon Shipper where it exceeds a Receipt Point or Delivery Point hourly limit (which is validly set out in the Facility Specific Terms) but only where such charge:
  - (i) is set out in a Full Access Arrangement for the Pipeline; or
  - (ii) where the Pipeline does not have a Full Access Arrangement, is consistent with the manner in which such charges are levied upon existing Primary Shippers who use the Pipeline

## 8 Pressure and Temperature

- (a) The Facility Specific Terms must set out the pressure, or a pressure range, at which Shipper must supply Gas at each separate Receipt Point.
- (b) The Facility Specific Terms may set out the temperature, or a temperature range, at which Shipper must supply Gas at each separate Receipt Point.
- (c) The Facility Specific Terms must specify a pressure, or pressure range, and temperature or temperature range, at which Service Provider will deliver Gas to each separate Delivery Point.
- (d) The nominated pressures and temperatures must be actual numbers (expressed in kPa or degrees Celsius) and may not be “such pressure as nominated by Service Provider from time to time” or similar concepts.
- (e) The pressure and temperature set out in the Facility Specific Terms must be consistent with the pressure and temperature ranges applying to the Primary Shippers haulage agreements for the Pipeline.
- (f) The Facility Specific Terms must not permit Service Provider to change the nominated Receipt Point or Delivery Point pressures or temperatures without the consent of Shipper (but may provide such consent is not to be unreasonably withheld or delayed or given on unreasonable conditions).

## 9 Charges

- (a) The Facility Specific Terms may set out:
  - (i) the Administration Charge;





- (ii) an Imbalance Charge or Charges; and
  - (iii) an Unauthorised Overrun Charge or Charges.
- (b) Each such charge may be escalated by reference to a generally accepted index (such as the Consumer Price Index).
- (c) The Administration Charge:
  - (i) may be set at such reasonable amount determined by Service Provider as is required to allow the Service Provider to recoup its incremental costs (including a commercial rate of return) (not recouped by other charges already payable to Service Provider by Primary Shippers) of entering into and administering its contract with the Secondary Shipper; and
  - (ii) is to consist of a fixed component and a variable component, the fixed component to recover fixed costs Service Provider incurs and the variable component costs which vary with the volume of services provided to the Secondary Shipper.
- (d) The Imbalance Charges and Unauthorised Overrun Charges specified in the Facility Specific Terms and the manner of their escalation must:
  - (i) where there is a Full Access Arrangement for the Pipeline, be consistent with that Full Access Arrangement; and
  - (ii) otherwise:
    - (A) be consistent with the equivalent charges set out in Primary Shipper haulage agreements and the manner of their escalation; and
    - (B) not discriminate against Secondary Shippers.
- (e) Subject to clause 9(f) the Facility Specific Terms may include other charges for use of a Firm Service (other than a charge for reservation of the Capacity Entitlement for that Firm Service) provided that either:
  - (i) such charge is payable under the majority of the Primary Shipper haulage agreements for the Pipeline; or
  - (ii) such charge is payable under the majority of the Primary Shipper haulage agreements for the Pipeline where services are being provided in analogous circumstances to the circumstances described in the Facility Specific Terms (for example a charge payable only by Primary Shippers who deliver into a Short Term Trading Market); or
  - (iii) such charges represent (and do not exceed) such amount Service Provider is required to rebate to other Users of the Pipeline where a lateral, compressor, gas heater or other similar item of infrastructure funded by such Users (whether by direct capital contribution or by committing to reserve capacity) is used to provide services to another person.

Whether a charge is payable under a majority of contracts is determined by reference to the number of separate contracts for the provision of Firm Services entered into by Service Provider.



- (f) Nothing in clause 9(e) limits Service Provider's entitlement to levy any other charge referred to in this document or in the Standard Terms.
- (g) No charge, other than the Administration Charge, may be levied upon Shipper or a Primary Shipper as consideration for the costs of administering the contract between Service Provider and the Shipper or for Service Provider's legal and administrative costs of entering into such a contract.
- (h) Subject to the requirement they be reasonable, Service Provider may set the charges for an Other Service at such level as Service Provider considers appropriate.

## 10 Imbalance

- (a) The Facility Specific Terms must set out the Shipper's Imbalance Allowance which must be set at a level:
  - (i) consistent with the requirements of any Full Access Arrangement applicable to the Pipeline; or
  - (ii) if there is no Full Access Arrangement applicable to the Pipeline, consistent with practice under the Primary Shipper haulage agreements for the Pipeline.
- (b) The Facility Specific Terms must set out the Imbalance Charges applicable where the Shipper's Accumulated Imbalance exceeds the Imbalance Allowance which charges must be:
  - (i) consistent with the requirements of any Full Access Arrangement applicable to the Pipeline; and
  - (ii) if there is no Full Access Arrangement applicable to the Pipeline, consistent with practice under the Primary Shipper haulage agreements for the Pipeline.

There may be more than one level of Imbalance Charge (that is there may be a step up in the level of the charge once Accumulated Imbalance exceeds a certain level or there may be a higher charge for a negative imbalance than a positive imbalance).

- (c) The Facility Specific Terms may nominate a level below the Imbalance Allowance for the purposes of clause 12.4(a)(ii) of the Standard Terms but only where this is consistent with practice under the Primary Shipper haulage agreements for the Pipeline.
- (d) The Facility Specific Terms may set out an Unauthorised Imbalance Charge for the purposes of clause 12.6(a) of the Standard Terms which charge may be set at such level as Service Provider, acting reasonably, determines is appropriate given the potential adverse impact on the operational integrity of the Pipeline, and the rights of other Users, of Shipper failing to clear an Accumulated Imbalance as required by that clause 12.6.

## 11 Odourisation

- (a) The Facility Specific Terms may provide that one of Service Provider or Shipper is responsible for odourising Gas but must do so in a manner which is consistent with:



- (i) where there is a Full Access Arrangement for the Pipeline, the Full Access Arrangement; and
  - (ii) otherwise, practice under Primary Shipper haulage agreements.
- (b) Where Service Provider is responsible for undertaking odorisation and:
  - (i) the Full Access Arrangement provides for such a charge for Service Provider doing so; or
  - (ii) it is consistent with practice under Primary Shipper haulage agreements for Service Provider to levy a charge for doing so,then the Facility Specific Terms may specify the amount of the charge and how it is calculated but must do so in a manner which is consistent with:
  - (iii) where there is a Full Access Arrangement for the Pipeline, the Full Access Arrangement; and
  - (iv) otherwise, practice under Primary Shipper haulage agreements.

## 12 Metering Principles

- (a) The Facility Specific Terms must set out the Metering Principles applicable to the Pipeline, which principles must deal with the following:
  - (i) the technical standards with which metering installations and associated equipment at Receipt Points and Delivery Points must comply;
  - (ii) the procedures for measurement and testing of Gas;
  - (iii) the accuracy requirements with which metering equipment must comply;
  - (iv) the procedures to apply where metering equipment is shown to have recorded inaccurately for a period;
  - (v) the party responsible for the installation and maintenance of metering equipment (which may differ between Receipt Points and Delivery Points); and
  - (vi) the procedures to apply where metering equipment fails.
- (b) The Metering Principles must be:
  - (i) consistent with good industry practice; and
  - (ii) consistent with the requirements of any Full Access Arrangement applicable to the Pipeline; and
  - (iii) consistent with practice under the Primary Shipper haulage agreements.
- (c) Service Provider is solely responsible for metering equipment owned or controlled by Service Provider and the Metering Principles must require Service Provider to ensure any metering equipment which Service Provider owns or controls complies with the Metering Principles.
- (d) Where Service Provider is party to contractual arrangements with the owner or controller of metering equipment requiring that metering equipment to meet specified standards then the Metering Principles must require Service Provider to use its



reasonable endeavours to ensure that such metering equipment complies with the Metering Principles.

- (e) Where neither clause 12(c) or clause 12(d) applies to metering equipment then the Metering Principles may make Shipper responsible for ensuring that metering equipment complies with the Metering Principles but may not require Shipper to make any modification to the metering equipment or to the way the metering equipment is operated as at the time Shipper commences use of the relevant Receipt Point or Delivery Point.

### **13 Operational Communications**

- (a) The Facility Specific Terms may make provision for operational notices (including those relating to nominations, scheduling, curtailment and off-specification gas) to be made through a customer reporting system or other electronic communications system and require Shipper to use such system where such a system is generally used by existing Primary Shippers.
- (b) Service Provider may impose reasonable conditions upon any use of such system by Shipper.
- (c) The Facility Specific Terms may require Shipper to bear the reasonable costs of Service Provider updating such system so that Shipper may use it. Shipper is responsible for implementing any systems required to enable Shipper to connect to and use the system.

### **14 Compression Services**

- (a) The Facility Specific Terms must set out, in respect of a Firm Service Product acquired with a Compression Service, the terms upon which the Service Provider will provide the Compression Service.
- (b) Service Provider may levy such charge for the provision of a Compression Service as is consistent with the charges levied upon Primary Shippers for the provision of such a service (but may not levy a charge which duplicates the fixed capacity charge payment for the firm capacity to which the Compression Service relates).

### **15 Receipt and Delivery Points**

- (a) The Facility Specific Terms must set out each receipt point and delivery point of the Pipeline or specify an internet address (accessible by Secondary Shippers) at which each Receipt Point and Delivery Point is listed.
- (b) In respect of each such Receipt Point and Delivery Point the Facility Specific Terms (or the internet address to which they refer) must set out:
  - (i) the location of the Receipt Point or Delivery Point;
  - (ii) the zone to which each Receipt Point and Delivery Point is allocated (which must be consistent with the requirements of the National Gas Rules);
  - (iii) the physical daily capacity of the Receipt Point or Delivery Point;
  - (iv) the physical hourly capacity of the Receipt Point or Delivery Point;
  - (v) any consents required to be obtained before a Shipper may use the Receipt Point or the Delivery Point;



- (vi) any charges (including through contribution agreements) applicable to use of a Receipt Point or Delivery Point;
- (vii) any allocation agreement to which Shipper must accede before Shipper may use the Receipt Point or the Delivery Point; and
- (viii) any persons with whom Shipper must agree allocation procedures before Service Provider is entitled (without placing Service Provider in breach of contract) to allow Shipper to use the Receipt Point or Delivery Point



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## **PART 5: TRANSITIONAL PROVISIONS**

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As at the date of commencement of this Code, there are no transitional provisions.