

Part 3: Operational and Commercial Terms

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.

AEMO has the meaning given to that term in the National Gas Law.

Agreement means the contract constituted by:

- (a) the Form of Agreement;
- (b) these Operational and Commercial Terms;
- (c) the Description of Services; and
- (d) the Facility Specific Terms.

Agreement Details means that part of the Form of Agreement described as such.

Allowable Park Balance means the lesser of the Traded Park Service MDQ and the Curtailed Park Balance.

Auction Service means each of the following Services:

- (a) Forward Haul Auction Service;
- (b) Backhaul Auction Service; and
- (c) Compression Auction Service.

Backhaul Auction MDQ means, for a Day and subject to clause 2.2:

- (a) at a Backhaul Receipt Point, the sum of Shipper's Purchased MDQ (expressed in GJ/Day) for that Backhaul Receipt Point;
- (b) at a Backhaul Delivery Point, the sum of Shipper's Purchased MDQ (expressed in GJ/Day) for that Backhaul Delivery Point; and
- (c) between a Backhaul Receipt Point and a Backhaul Delivery Point, the total Shipper's Purchased MDQ (expressed in GJ/Day) able to be used for the provision of Backhaul Auction Services between those points on that Day.

Backhaul Auction Service is defined in the Description of Services.

Backhaul Delivery Point means a Pipeline Service Point on the Facility as specified in the Transportation Service Point Register as a backhaul delivery point.

Backhaul Receipt Point means a Pipeline Service Point on the Facility specified in the Transportation Service Point Register as a backhaul receipt point.

Bilateral Trade means:

- (a) the acquisition by Shipper, other than through the Exchange or the Capacity Auction, of Transportation Capacity from another Transportation Facility User who has entitlements to Transportation Capacity (and excluding, to avoid doubt, the

acquisition of Transportation Capacity by means of a direct contract with Service Provider); or

- (b) the transfer by Shipper of Transportation Capacity to another Transportation Facility User (other than through the Exchange or the Capacity Auction).

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 Facility to safely receive, store, transport and deliver (or in the case of the Compressor, receive, compress and deliver) Gas during that period of time in a manner consistent with all applicable Laws and preserving the operational integrity of the Facility.

Capacity Auction means the capacity auction established and operated by AEMO in accordance with Part 25 of the National Gas Rules.

Capacity Transfer and Auction Procedures means the procedures of that name made by AEMO under the National Gas Law.

Charges means any charges payable by Shipper under this Agreement including without limitation the following charges where set out in the Facility Specific Terms:

- (a) the Standardisation Cost Charge;
- (b) Imbalance Charges;
- (c) Unauthorised Overrun Charges;
- (d) Hourly Overrun Charges;
- (e) Odorisation Charges; and
- (f) Receipt and Delivery Point Charges.

Commencement Date means the Day commencing on the fifteenth Business Day after the execution of this Agreement or such other date specified in the Agreement Details.

Compression Auction Service is defined in the Description of Services.

Compression Auction Service MDQ means, for a Day and subject to clause 2.2:

- (a) at a Compression Receipt Point, the sum of Shipper's Purchased MDQ (expressed in GJ/Day) for that Compression Receipt Point;
- (b) at a Compression Delivery Point, the sum of Shipper's Purchased MDQ (expressed in GJ/Day) for that Compression Delivery Point; and
- (c) between a Compression Receipt Point and a Compression Delivery Point, the total Shipper's Purchased MDQ (expressed in GJ/Day) able to be used for the provision of Compression Auction Services provided by the Compressor on that Day.

Compressor means the compression service facility described in the Form of Agreement.

Compression Delivery Point means for a Compressor a Compression Service Point specified in the Transportation Service Point Register as a compression delivery point for that Compressor.

Compression Receipt Point means for a Compressor a Compression Service Point specified in the Transportation Service Point Register as a compression receipt point for that Compressor.

Compression Service Point has the meaning given to the term “compression service point” in Part 24 of the National Gas Rules.

Compression Zone has the meaning given to the term “compression zone” in Part 24 of the National Gas Rules.

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:

- (a) on and from the Standard Market Timetable Commencement Date, the standard “gas day” as defined in the Standard Market Timetable; and
- (b) before the Standard Market Timetable Commencement Date:
 - (i) the 24 hour period starting at the time specified in the Facility Specific Terms; or
 - (ii) if not specified in the Facility Specific Terms, the 24 hour period starting at 0600 hours Australian Eastern Standard Time.

Default Rate mean the Interest Rate plus 2%.

Delivery Point means a Pipeline Service Point on the Facility specified in the Transportation Service Point Register as a delivery point and (unless expressly provided otherwise or the context suggests otherwise) includes a Backhaul Delivery Point.

Description of Services means Part 4 of the Operational Transportation Service Code.

Exchange means the gas trading exchange established by AEMO under the National Gas Law and Part 22 of the National Gas Rules.

Exchange Agreement has the meaning given to the term “exchange agreement” in Part 22 of the National Gas Rules.

Exchange Trade means the acquisition of Transportation Capacity through the Exchange.

Facility means the Pipeline or Compressor the subject of the Agreement and identified in the Agreement Details.

Facility Agreement has the meaning given to the term “facility agreement” in Part 24 of the National Gas Rules.

Facility Specific Terms means the facility specific terms (as defined in Part 24 of the National Gas Rules) published for the Facility from time to time by Service Provider in accordance with Part 24 of the National Gas Rules.

Firm has the meaning given to the term “firm” in Part 25 of the National Gas Rules (and during the transitional firm service transition period (as defined in the National Gas Rules) has the meaning given in Part 4 of Schedule 5 to the National Gas Rules).

Firm Compression Service has the meaning given to “firm compression service” in Part 25 of the National Gas Rules (and during the transitional firm service transition period (as defined in the National Gas Rules) has the meaning given in Part 4 of Schedule 5 to the National Gas Rules).

Form of Agreement means a document in the form of Part 2 of the Operational Transportation Service Code setting out the matters specified in that Part and executed by Service Provider and Shipper.

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.

Forward Haul Auction MDQ means, for a Day and subject to clause 2.2:

- (a) at a Receipt Point, the sum of Shipper's Purchased MDQ (expressed in GJ/Day) for that Receipt Point;
- (b) at a Delivery Point, the sum of Shipper's Purchased MDQ (expressed in GJ/Day) for that Delivery Point; and
- (c) between a Receipt Point and a Delivery Point, the total Shipper's Purchased MDQ (expressed in GJ/Day) able to be used for the provision of Forward Haul Auction Services between those points on that Day.

Forward Haul Auction Service is defined in the Description of Services.

Full Access Arrangement has the meaning given to "full access arrangement" in the National Gas Law.

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 or 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 Facility 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; and
- (c) a statutory, public, municipal, local or other authority charged with the responsibility for administering any relevant legislation, regulation, ordinance or by-law.

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, for a Day:

- (a) zero; plus

- (b) where for that Day Shipper's Traded Forward Haul Service MDQ is greater than zero, the imbalance allowance set out in, or determined in accordance with, the Facility Specific Terms for the Traded Forward Haul Service.

Imbalance Charges 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; and
- (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 any other person supplying Gas to Shipper immediately upstream of a Receipt Point; or
- (b) another pipeline operator, facility owner or operator or any 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 BBSY 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 means the 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.

Linepack Gas means Gas required from time to time to replenish or increase the level of the Linepack.

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

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

Maintenance Plan is defined in clause 9.1(b).

MDQ (or Maximum Daily Quantity) means, as the case requires, and in relation to a Day, a Service and a Facility, the applicable Backhaul Auction MDQ, Compression Auction Service MDQ, Forward Haul Auction MDQ, Traded Compression Service MDQ, Traded Forward Haul Service MDQ and Traded Park Service MDQ.

Metering Principles mean principles setting out:

- (a) the technical standards with which metering installations and associated equipment at Receipt Points and Delivery Points or at the Compressor (or Compression Receipt Point or Compression Delivery Point) 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 Compression Delivery Point means:

- (a) in respect of a quantity of Traded Compression Service MDQ, the Compression Delivery Point (as applicable):
 - (i) in the case of Traded Compression Service MDQ acquired through the Exchange, nominated by Shipper in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures as the Compression Delivery Point at which Shipper may nominate for the delivery of Gas compressed pursuant to the Traded Compression Service; and
 - (ii) in the case of a Bilateral Trade, nominated to Service Provider in the notice by which Service Provider is informed of the undertaking of the Bilateral Trade; and
- (b) in respect of the Compression Auction Service, the Compression Delivery Point Shipper is entitled to use under the Purchased Product acquired by Shipper for the relevant Day in the relevant Capacity Auction.

Nominated Compression Receipt Point means:

- (a) in respect of a quantity of Traded Compression Service MDQ, the Compression Receipt Point (as applicable):
 - (i) in the case of Traded Compression Service MDQ acquired through the Exchange, nominated by Shipper in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures as the Compression Receipt Point at which Shipper may nominate for the supply by Shipper of the Gas to be compressed pursuant to the Traded Compression Service; and
 - (ii) in the case of a Bilateral Trade, nominated to Service Provider in the notice by which Service Provider is informed of the undertaking of the Bilateral Trade; and
- (b) in respect of the Compression Auction Service, the Compression Receipt Point Shipper is entitled to use under the Purchased Product acquired by Shipper for the relevant Day in the relevant Capacity Auction.

Nominated Delivery Point means:

- (a) in respect of a quantity of Traded Forward Haul Service MDQ, the Delivery Point (as applicable):
 - (i) in the case of Traded Forward Haul Service MDQ acquired through the Exchange, nominated by Shipper in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures as the Delivery Point at which Shipper may nominate for the delivery of that Traded Forward Haul Service MDQ; and
 - (ii) in the case of a Bilateral Trade, nominated to Service Provider in the notice by which Service Provider is informed of the undertaking of the Bilateral Trade;
- (b) in respect of the Forward Haul Auction Service, the Delivery Point Shipper is entitled to use under the Purchased Product acquired by Shipper for the relevant Day in the relevant Capacity Auction; and
- (c) in respect of the Backhaul Auction Service, the Backhaul Delivery Point Shipper is entitled to use under the Purchased Product acquired by Shipper for the relevant Day in the relevant Capacity Auction.

Nominated Receipt Point means:

- (a) in respect of a quantity of Traded Forward Haul Service MDQ, the Receipt Point (as applicable):
 - (i) in the case of Traded Forward Haul Service MDQ acquired through the Exchange, nominated by Shipper in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures as the Receipt Point at which Shipper may nominate for the supply by Shipper of Gas to be transported using that Traded Forward Haul Service MDQ; and
 - (ii) in the case of a Bilateral Trade, nominated to Service Provider in the notice by which Service Provider is informed of the undertaking of the Bilateral Trade;

- (b) in respect of the Forward Haul Auction Service, the Receipt Point Shipper is entitled to use under the Purchased Product acquired by Shipper for the relevant Day in the relevant Capacity Auction; and
- (c) in respect of the Backhaul Auction Service, the Backhaul Receipt Point Shipper is entitled to use under the Purchased Product acquired by Shipper for the relevant Day in the relevant Capacity Auction.

Nomination Cut-Off Time means, for a Day:

- (a) on and from the Standard Market Timetable Commencement Date:
 - (i) for an Auction Service, the cut-off time specified in the Standard Market Timetable applicable to Auction Services; and
 - (ii) for a Service that is not an Auction Service, the cut-off time specified in the Standard Market Timetable applicable to Services other than Auction Services; and
- (b) before the Standard Market Timetable Commencement Date:
 - (i) for an Auction Service, 1945 hours Australian Eastern Standard Time on the previous Day; and
 - (ii) for a Service that is not an Auction Service:
 - (A) the 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; or
 - (B) if not specified in the Facility Specific Terms, 1600 hours Australian Eastern Standard Time on the previous Day,

in each case as may be extended through the Capacity Transfer and Auction Procedures.

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.

Other Services means any services Service Provider elects to provide in accordance with the Facility Specific Terms (and which may include park and loan services, backhaul services provided on different terms to the Backhaul Auction Service, authorised overrun services, in-pipe trade services, peaking services, enhanced imbalance services, compression services provided on different terms to the Compression Auction Service or Traded Compression Service and storage services provided on different terms to the Traded Park Service).

Park Account means the account referred to in clause 8.

Park Service Point means a park service point (as defined in Part 24 of the National Gas Rules) on the Facility as specified in the Transportation Service Point Register.

Party means each of Shipper and Service Provider.

Pipeline means the pipeline described in the Form of Agreement.

Pipeline Service Point has the meaning given to the term "pipeline service point" in Part 24 of the National Gas Rules.

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

Primary Facility Agreement has the meaning given to the term “primary facility agreement” in Part 24 of the National Gas Rules.

Primary Shipper has the meaning given to the term “primary shipper” in Part 24 of the National Gas Rules.

Priority Principles means the principles of that name set out in the Facility Specific Terms.

Purchased MDQ means, in relation to a Service and a Purchased Product, the quantity of the Transportation Capacity (measured in GJ/Day) purchased.

Purchased Product means Transportation Capacity purchased by Shipper under a Bilateral Trade, or through the Exchange or the Capacity Auction.

Qualifying Facility Agreement is defined in the Description of Services.

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 Pipeline Service Point on the Facility specified in the Transportation Service Point Register as a receipt point and (unless expressly provided otherwise or the context suggests otherwise) includes a Backhaul Receipt Point.

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.

Renomination is defined in clause 4.7(a).

Renomination Cut-Off Time means, for a Day:

- (a) the time specified by Service Provider in the Facility Specific Terms to ensure Shipper’s renomination cut-off time is the same as general practice applicable to the Facility; or
- (b) if not specified in the Facility Specific Terms, 2200 hours Australian Eastern Standard Time on the Day.

Reserved has the meaning given to the term “reserved” in Part 25 of the National Gas Rules.

Scheduled Quantity is defined in clause 4.6.

Scheduling Time means, for a Day, and subject to the Capacity Transfer and Auction Procedures, up to 90 minutes after the applicable Nomination Cut-Off Time.

Secondary Shipper has the meaning given to the term “secondary shipper” in Part 24 of the National Gas Rules.

Services means the services described in the Description of Services.

Shipper’s Daily Imbalance means, at a point in time on a Day (including 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).

To avoid doubt, the reference in this definition to Receipt Points and Delivery Points includes Backhaul Receipt Points and Backhaul Delivery Points.

Sold MDQ means in relation to a Service and a Sold Product, the amount of Transportation Capacity (measured in GJ/Day) sold.

Sold Product means Transportation Capacity sold by Shipper under a Bilateral Trade or through the Exchange.

Standard Market Timetable means the standard market timetable in Part 26 of the National Gas Rules.

Standard Market Timetable Commencement Date means the date on which the standard market timetable commences as specified in or for the purposes of Part 26 of the National Gas Rules.

Standardisation Cost Charge means the charge specified in the Facility Specific Terms as the "Standardisation Cost Charge", which charge may be levied for the purposes of recovering "standardisation costs" (as that term is defined in rule 634 of the National Gas Rules).

State means the State or Territory nominated in the Form of Agreement.

Subshipper is defined in clause 24.1.

System Use Gas means:

- (a) in respect of a Pipeline, 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; and
- (b) in respect of the Compressor, Gas required by Service Provider as a Reasonable and Prudent operator for or in connection with the operation of the Compressor.

Term means a period of 3 years commencing from the Commencement Date.

TJ means terajoule.

Traded Compression Service is defined in the Description of Services.

Traded Compression Service MDQ means, for a Day and subject to clause 2.2:

- (a) at a Compression Receipt Point, the sum of Shipper's Purchased MDQ less the sum of Shipper's Sold MDQ (expressed in GJ/Day) for that Compression Receipt Point;
- (b) at a Compression Delivery Point, the sum of Shipper's Purchased MDQ less the sum of Shipper's Sold MDQ (expressed in GJ/Day) for that Compression Delivery Point; and
- (c) between a Compression Receipt Point and a Compression Delivery Point, the sum of Shipper's Purchased MDQ less the sum of Shipper's Sold MDQ (expressed in GJ/Day) able to be used for the provision of the Traded Compression Service between those points on that Day.

Traded Forward Haul Service is defined in the Description of Services.

Traded Forward Haul Service MDQ means, for a Day and subject to clause 2.2:

- (a) at a Receipt Point, the sum of Shipper's Purchased MDQ less the sum of Shipper's Sold MDQ (expressed in GJ/Day) for that Receipt Point;
- (b) at a Delivery Point, the sum of Shipper's Purchased MDQ less the sum of Shipper's Sold MDQ (expressed in GJ/Day) for that Delivery Point; and
- (c) between a Receipt Point and a Delivery Point, the sum of Shipper's Purchased MDQ less the sum of Shipper's Sold MDQ (expressed in GJ/Day) able to be used for the provision of Traded Forward Haul Services between those points on that Day.

Traded Park Service is defined in the Description of Services.

Traded Park Service MDQ means for a Day and subject to clause 2.2, the sum of Shipper's Purchased MDQ less the sum of Shipper's Sold MDQ (expressed in GJ/Day) for the provision of Traded Park Service on the Facility on that Day.

Transportation Capacity has the meaning given to the term "transportation capacity" in the National Gas Law.

Transportation Facility User has the meaning given to the term "transportation facility user" in the National Gas Law.

Transportation Service has the meaning given to the term "transportation service" in the National Gas Law.

Transportation Service Point Register has the meaning given to the term "transportation service point register" in Part 24 of the National Gas Rules.

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

Unauthorised Overrun Charges means the charge or charges specified in the Facility Specific Terms as "Unauthorised Overrun Charges".

Unplanned Maintenance is defined in clause 9.2.

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;
- (b) an act or omission done or omitted to be done at the express instruction or with the express agreement of the other Party; or
- (c) an act or omission undertaken in accordance with the requirements of Laws.

Zone has the meaning given to the term "zone" in Part 24 of the National Gas 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.

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* (Cth), 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 AEMO Notifications

Where this Agreement refers to AEMO giving notification to the Service Provider of a matter (or information in respect of a matter) such notice or information is taken to have been given if AEMO notifies the facility operator (as defined in Part 24 of the National Gas Rules) for the Facility of that matter or information.

1.7 Deliveries and Receipts

- (a) References in this Agreement to Shipper supplying Gas to Service Provider at a Receipt Point or Compression Receipt Point and taking delivery of Gas from Service Provider at a Delivery Point or Compression 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 Compression Receipt Point or delivered at the Delivery Point or Compression 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

On each Day during the Term Service Provider must, subject to the terms of this Agreement, provide the Services to Shipper.

2.2 Validation and adjustments

- (a) Service Provider must validate each purchase and sale of Transportation Capacity in accordance with the Capacity Transfer and Auction Procedures.
- (b) If (or for so long as) a purchase or sale of Transportation Capacity fails validation on a ground provided for in the Capacity Transfer and Auction Procedures, the purchase or sale is disregarded for the purposes of calculating MDQ under this Agreement.
- (c) To the extent that, in accordance with the Capacity Transfer and Auction Procedures, Shipper's MDQ is reduced, Service Provider's obligation to provide the Services under this Agreement is also reduced to the same extent.
- (d) Shipper may only acquire Transportation Capacity from another Transportation Facility User under a Bilateral Trade if the procedures in that other Transportation Facility User's contract with Service Provider allowing for the making of Bilateral Trades are complied with by both Shipper and that other Transportation Facility User.
- (e) Where Shipper has acquired Transportation Capacity from another Transportation Facility User under a Bilateral Trade (irrespective of whether that other Transportation Facility User is a Primary Shipper or acquired the Transportation Capacity directly or indirectly from a Primary Shipper by way of Bilateral Trade) Service Provider may, by notice to Shipper, terminate that acquisition at any time where permitted by the contractual arrangements in place between Service Provider and the Primary Shipper under whose Primary Facility Agreement with Service Provider that Transportation Capacity was Reserved.
- (f) Clause 2.2(e) does not apply to Transportation Capacity which has been acquired by way of an Exchange Trade.
- (g) The Service Provider may rely upon information provided to it by AEMO in accordance with the Capacity Transfer and Auction Procedures as to Transportation Capacity purchased and sold by Shipper and is not required to verify the accuracy of that information.
- (h) Where by virtue of the National Gas Rules Service Provider is not required to continue to give effect to (or provide Services consequent upon) an Exchange Trade then Service Provider may (with immediate effect) by notice to Shipper reduce Shipper's MDQ to reflect the fact Service Provider has ceased to give effect to (or provide Services consequent upon) the Exchange Trade. Such notice may be given in advance of the time Service Provider is no longer required to give further effect to the Exchange Trade and be expressed to take effect as from that time.

2.3 Traded Forward Haul Service MDQ for Receipt Points and Delivery Points

- (a) The Traded Forward Haul Service MDQ for a Nominated Receipt Point at a point in time is any of the Traded Forward Haul Service MDQ nominated by Shipper as allocated to that Nominated Receipt Point at that point in time in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures.
- (b) The Traded Forward Haul Service MDQ for a Nominated Delivery Point at a point in time is any of the Traded Forward Haul Service MDQ nominated by Shipper as allocated to that Nominated Delivery Point at that point in time in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures.
- (c) The Traded Compression Service MDQ for a Nominated Compression Receipt Point at a point in time is any of the Traded Compression Service MDQ nominated by Shipper as allocated to that Nominated Compression Receipt Point at that point in time in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures.
- (d) The Traded Compression Service MDQ for a Nominated Compression Delivery Point at a point in time is any of the Traded Compression Service MDQ nominated by Shipper as allocated to that Nominated Compression Delivery Point at that point in time in accordance with the Exchange Agreement and notified to Service Provider by AEMO in accordance with the Capacity Transfer and Auction Procedures.
- (e) Shipper acknowledges that where it nominates to use Traded Forward Haul Service MDQ at a Nominated Receipt Point or Nominated Delivery Point in a Pipeline Zone which differs from the Receipt Point or Delivery Point from which it was released there may be greater potential for Curtailment of that Traded Forward Haul Service MDQ on account of Capacity conditions at that Nominated Receipt Point or Nominated Delivery Point.
- (f) Shipper acknowledges that where it nominates to use Traded Compression Service MDQ at a Nominated Compression Receipt Point or Nominated Compression Delivery Point in a Compression Zone which differs from the Compression Receipt Point or Compression Delivery Point from which it was released there may be greater potential for Curtailment of that Traded Compression Service MDQ on account of Capacity conditions at that Nominated Compression Receipt Point or Nominated Compression Delivery Point.

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.

4 Nominations and Scheduling

4.1 Nominations - Products other than Auction Services

- (a) This clause 4.1 applies to all Services other than the Auction Services.
- (b) Shipper may nominate for the Services it wishes to use on a Day at any time up to the applicable Nomination Cut-Off Time.

- (c) A nomination for Traded Forward Haul Services involves Shipper specifying:
 - (i) the quantity of Gas Shipper wishes to supply to a Nominated Receipt Point (up to the Traded Forward Haul Service MDQ for that Nominated Receipt Point); and
 - (ii) the quantity of Gas Shipper wishes to take delivery of at a Nominated Delivery Point (up to the Traded Forward Haul Service MDQ for that Nominated Delivery Point).
- (d) A nomination for the Traded Park Service involves Shipper specifying:
 - (i) the quantity of Gas (supplied to Receipt Points under another Service or a Qualifying Facility 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 Facility Agreement,provided that:
 - (iii) Shipper may not store in its Park Account a quantity of Gas in excess of the Traded Park Service MDQ; and
 - (iv) Shipper may not take from its Park Account more Gas than is stored in that Park Account.
- (e) A nomination for the Traded Compression Service involves Shipper specifying the quantity of Gas it wishes to supply to a Nominated Compression Receipt Point (up to the Traded Compressor MDQ for that Nominated Compression Receipt Point) for compression on a Day and delivery to a Nominated Compression Delivery Point (up to the Traded Compressor MDQ for that Nominated Compression Delivery Point).

4.2 Nominations - Auction Services

- (a) This clause 4.2 applies to the Auction Services.
- (b) Shipper may nominate for the Services it wishes to use on a Day at any time after completion of the Auction for a Day up to the applicable Nomination Cut-Off Time for that Day.
- (c) A nomination for Forward Haul Auction Service involves Shipper specifying:
 - (i) the quantity of Gas Shipper wishes to supply to a Nominated Receipt Point (up to the Forward Haul Auction MDQ for that Nominated Receipt Point); and
 - (ii) the quantity of Gas Shipper wishes to take delivery of at a Nominated Delivery Point (up to the Forward Haul Auction MDQ for that Nominated Delivery Point).
- (d) A nomination for Backhaul Auction Service involves Shipper specifying:
 - (i) the quantity of Gas Shipper wishes to supply to a Nominated Receipt Point which is a Backhaul Receipt Point (up to the Backhaul Auction MDQ for that Nominated Receipt Point); and

- (ii) the quantity of Gas Shipper wishes to take delivery of at a Nominated Delivery Point which is a Backhaul Delivery Point (up to the Backhaul Auction MDQ for that Nominated Delivery Point).
- (e) A nomination for the Compression Auction Service involves Shipper specifying the quantity of Gas it wishes to supply to a Nominated Compression Receipt Point (up to the Compression Auction Service MDQ for that Nominated Compression Receipt Point) for compression on a Day and delivery to a Nominated Compression Delivery Point (up to the Compression Auction Service MDQ for that Nominated Compression Delivery Point).

4.3 Nomination Principles

Shipper must ensure that:

- (a) its nominations represent its best estimate of the quantities of Gas it wishes to supply and take delivery of on a Day; and
- (b) 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.

4.4 Acceptance of Nominations

- (a) In respect of the Traded Compression Service or Compression Auction Service, Service Provider must accept a nomination made in accordance with clause 4.1 or clause 4.2 except to the extent that:
 - (i) there is insufficient available Capacity in the Compressor on a Day to provide all the requirements of Transportation Facility Users nominated for that Day in a manner consistent with preserving the operational integrity of the Compressor;
 - (ii) accepting the nomination would place Service Provider in breach of a Law;
 - (iii) a nomination for the Traded Compression Service exceeds the Traded Compression Service MDQ of the relevant Nominated Compression Receipt Point or Nominated Compression Delivery Point or between the relevant Nominated Compression Receipt Point and Nominated Compression Delivery Point;
 - (iv) a nomination for the Compression Auction Service exceeds the Compression Auction Service MDQ of the relevant Nominated Compression Receipt Point or Nominated Compression Delivery Point or between the relevant Nominated Compression Receipt Point and Nominated Compression Delivery Point; or
 - (v) Shipper does not have rights under another arrangement required to ensure that it is able to supply Gas to the Compression Receipt Point and take Gas at the Compression Delivery Point.
- (b) Service Provider must accept a nomination for any other Services (to the Traded Compression Service or Compression Auction Service) made in accordance with clause 4.1 or clause 4.2 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 Transportation Facility 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;
 - (v) a nomination for the Traded Forward Haul Service exceeds the Traded Forward Haul Service MDQ of the relevant Nominated Receipt Point or Nominated Delivery Point or between the relevant Nominated Receipt Point and the Nominated Delivery Point;
 - (vi) a nomination for the Forward Haul Auction Service exceeds the Forward Haul Auction MDQ of the relevant Nominated Receipt Point or Nominated Delivery Point or between the relevant Nominated Receipt Point and the Nominated Delivery Point;
 - (vii) a nomination for the Backhaul Auction Service exceeds the Backhaul Auction MDQ of the relevant Nominated Receipt Point and Nominated Delivery Point or between the relevant Nominated Receipt Point and the Nominated Delivery Point; or
 - (viii) in the case of the Backhaul Auction Service there will be insufficient quantities of Gas transported through the Pipeline in an opposite direction to enable Service Provider to provide (in a manner consistent with preserving the operational integrity of the Pipeline) the Backhaul Auction Service.
- (c) 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).
 - (d) Where the quantities of Gas nominated by all Transportation Facility Users at a Nominated Receipt Point, Nominated Delivery Point or for Services provided by the Pipeline on a Day exceed 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 and rule 651 of the National Gas Rules. Subject to clause 14.2, clauses 4.4(b)(ii) to 4.4(b)(viii) and clause 4.4(c) 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.
 - (e) Where the quantities of Gas nominated by all Transportation Facility Users at a Nominated Compression Receipt Point, Nominated Compression Delivery Point or for Services provided by the Compressor on a Day exceed the available Capacity of the Compressor then the portion of that Capacity available to Shipper will be determined in accordance with the Priority Principles and rule 651 of the National Gas Rules. Subject to clauses 4.4(a)(ii) to 4.4(a)(v), 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.
 - (f) 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 4.4(a)(i) or clause 4.4(b)(i) arises due to Service Provider's failure to operate and maintain the Facility as a Reasonable and Prudent operator.

4.5 Other Services

- (a) Clauses 4.1 to 4.4 do not apply to Other Services.
- (b) The nomination procedures for any Other Services provided by Service Provider are as detailed by Service Provider in the Facility Specific Terms.

4.6 Scheduling

- (a) By not later than the applicable Scheduling Time Service Provider must notify Shipper of the quantities of Gas scheduled for transportation or compression for Shipper for each Service, each quantity being the **Scheduled Quantity** for that Service (and such quantities jointly being the **Scheduled Quantities**).
- (b) Scheduling will be undertaken in accordance with the Facility Specific Terms and the requirements of Part 24 and Part 25 of the National Gas Rules (including the Capacity Transfer and Auction Procedures).

4.7 Renominations

- (a) At any time after being notified of its Scheduled Quantities for a Day Shipper may request a variation to a Scheduled Quantity (such a requested variation being a **Renomination**).
- (b) Shipper may not request a Renomination for a Day later than the Renomination Cut-Off Time.
- (c) In determining whether to accept a Renomination Service Provider must comply with the Priority Principles and rule 651 of the National Gas Rules to the extent to which they relate to Renominations.
- (d) Service Provider must use its reasonable endeavours to accept a Renomination but such obligation does not require Service Provider to:
 - (i) in respect of the Traded Forward Haul Service accept any variation which would require Service Provider to transport a quantity of Gas in excess of the Traded Forward Haul Service MDQ of the relevant Nominated Receipt Point or Nominated Delivery Point or between the relevant Nominated Receipt Point and the Nominated Delivery Point;
 - (ii) in respect of the Forward Haul Auction Service accept any variation which would require Service Provider to transport a quantity of Gas in excess of the Forward Haul Auction MDQ of the relevant Nominated Receipt Point or Nominated Delivery Point or between the relevant Nominated Receipt Point and the Nominated Delivery Point;
 - (iii) in respect of the Backhaul Auction Service accept any variation which would require Service Provider to transport a quantity of Gas in excess of the Backhaul Auction MDQ of the relevant Nominated Receipt Point or Nominated Delivery Point or between the relevant Nominated Receipt Point and the Nominated Delivery Point;
 - (iv) in respect of the Traded Compression Service or Compression Auction Service, accept any variation to the extent it would require supply, compression or delivery of a volume of Gas in excess of the Traded Compression Service MDQ or Compression Auction Service MDQ of the

- relevant Nominated Compression Receipt Point or Nominated Compression Delivery Point or between the relevant Nominated Compression Receipt Point and the Nominated Compression Delivery Point;
- (v) accept any variation where to do so would threaten the operational integrity of the Facility;
 - (vi) act inconsistently with the Priority Principles or clause 14.2;
 - (vii) 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;
 - (viii) 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;
 - (ix) accept a variation which would reduce a Scheduled Quantity for the Traded Compression Service or Compression Auction Service below the quantity of Gas already compressed on the relevant Day; or
 - (x) accept a variation which would result (if the scheduled amounts were actually received and delivered) in Shipper's Accumulated Imbalance exceeding the Imbalance Allowance.
- (e) Service Provider must notify Shipper as soon as practicable (or by such interval (if any) as specified in the Facility Specific Terms) whether and to what extent Service Provider accepts or rejects a Renomination for a Service. To the extent Service Provider has accepted a Renomination it must also notify Shipper of Shipper's revised Scheduled Quantity for that Service.
- (f) The Parties acknowledge that the ability to accept Renominations for the Backhaul Auction Service is dependent upon the quantities of Gas transported through the Pipeline in the opposite direction to the notional flow of Gas under the Backhaul Auction Service.

4.8 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 Scheduled Quantity to be supplied by Shipper at that Receipt Point; and
 - (ii) deliver to Shipper at each Nominated Delivery Point the Scheduled Quantity to be delivered to Shipper at that Delivery Point.
- (b) Service Provider is not in breach of clause 4.8(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 Scheduled Quantity 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 4.8(c).

- (e) Shipper is not in breach of clause 4.8(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.

4.9 Compression Obligations

- (a) Subject to its rights of Curtailment under clause 7, on a Day Service Provider must:
 - (i) accept from Shipper at the Nominated Compression Receipt Point the Scheduled Quantity to be compressed on that Day;
 - (ii) compress that Gas such that its pressure at the Nominated Compression Delivery Point is at the level referred to in the Facility Specific Terms; and
 - (iii) deliver the compressed Gas to Shipper at the Nominated Compression Delivery Point.
- (b) On a Day Shipper must, subject to any Curtailment under clause 7, supply to the Nominated Compression Receipt Point the Scheduled Quantity to be compressed on that Day.
- (c) Service Provider is only required to compress Gas to the extent it is supplied by Shipper to the Nominated Compression Receipt Point on the relevant Day.
- (d) Shipper is not in breach of clause 4.9(b) 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.

4.10 Reporting

- (a) Within 4 hours after the end of each Day on which Services are provided to Shipper 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;
 - (v) the quantity of Gas compressed by Service Provider on that Day; and
 - (vi) the information required under clause 8(f) and clause 12.2.
- (b) If Service Provider's ability to provide an item of information referred to in clause 4.10(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 4.10(b) a Related Body Corporate of Service Provider is not a third party.

- (c) The amounts notified by Service Provider under clause 4.10(a) may be Service Provider's best estimate of the relevant information. If so Service Provider must 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 4.10(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 must 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 Facility.
- (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 Facility;
- (b) to undertake Unplanned Maintenance in respect of the Facility which Unplanned Maintenance is required to preserve the operational integrity or safe operation of the Facility;
- (c) to take other action (to Unplanned Maintenance) to protect the operational integrity or safe operation of the Facility;
- (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;

- (g) in respect of an Auction Service, due to the impact on Service Provider's ability to provide the Auction Service of a Transportation Facility User (with priority over the Auction Service under the Priority Principles) increasing its nomination for the Day;
- (h) in the case of the Backhaul Auction Service, due to the impact on Service Provider's ability to provide the Backhaul Auction Service of a reduction in the quantity of Gas being transported through the Pipeline in an opposite direction; or
- (i) where for any other reason there is insufficient Capacity in the Facility on a Day to provide all services scheduled for Transportation Facility 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 or a Compression Receipt Point 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 or Compression Receipt Point at the temperature and pressure required by this Agreement;
- (c) Shipper making available at a Receipt Point or Compression 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 Facility between Transportation Facility Users (because the Gas nominated by or scheduled for Transportation Facility 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 and rule 651 of the National Gas Rules.

- (b) Where Shipper is being Curtailed under clause 7.3 Shipper may be Curtailed in priority to any other Transportation Facility 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) This clause 7.6 applies subject to any requirements of Part 24 and Part 25 of the National Gas Rules.
- (b) 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.
- (c) 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 (including ceasing use of a Receipt Point or Delivery Point on that Day) in accordance with the notice within the time specified in the notice; or
 - (ii) Service Provider itself taking action to adjust receipts 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.

- (d) A notice issued under clause 7.6(c) must:
 - (i) where the notice implements a Curtailment pursuant to clause 7.1, allow Shipper such time as Service Provider, as a Reasonable and Prudent operator, is reasonably able to allow Shipper to comply with the notice (without adversely affecting the operational integrity of the Facility or creating a risk of Service Provider incurring liability to Transportation Facility Users or Interconnect Parties); and
 - (ii) where the notice implements a Curtailment pursuant to 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 Facility or avoid Service Provider incurring liability to Transportation Facility Users or Interconnect Parties.

8 Park Account

- (a) Where Shipper has a Traded Park Service 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 Facility Agreement, under a Qualifying Facility 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 Facility Agreement, under a Qualifying Facility 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 withdrawn 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 after 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.

9 Maintenance

9.1 *Planned Maintenance*

- (a) Service Provider may undertake such Planned Maintenance in respect of the Facility 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 Facility.
- (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).
- (e) Service Provider is not required to provide a separate Maintenance Plan to Shipper if all the information referred to in clause 9.1(b) is included in information published by Service Provider under the National Gas Rules. For the purposes of the definition of Planned Maintenance any information so published will be regarded as having been included in a Maintenance Plan.

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 or in information published by Service Provider under the National Gas Rules.
- (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 Facility and on Service Provider's ability to provide Services to Shipper.
- (c) Where for a period Shipper has no MDQ then Service Provider's notice to Shipper under clause 9.2(b) only needs to set out Service Provider's best estimate of the impact of that Unplanned Maintenance on the available Capacity of the Facility and does not need to specify the impact of the Unplanned Maintenance 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 or to the Compression 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 or Compression 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 or Compression 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 Point or Compression Receipt Point 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 Facility, then Service Provider must use reasonable endeavours to prevent such Off Specification Gas entering the Facility.

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 Point or Compression Receipt Point 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 Facility 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 or to the Compression 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 Facility, including closing or restricting supply at any Receipt Point or Compression Receipt Point.
- (d) Where Off Specification Gas is supplied by Shipper into the Facility 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 Facility) all technically feasible steps to minimise the impact (or, if possible, avoid any impact) of that Gas on the safety and operational integrity of the Facility and on Service Provider's ability to fulfil its contractual obligations to Transportation Facility 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 Facility (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) (including without limitation taking the steps contemplated by clause 10.4(e)).

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 Facility; and

- (ii) the measures taken by Service Provider as a Reasonable and Prudent operator to deal with such Off Specification Gas.
- (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 (whether for breach of contract, negligence or on any other legal basis whatsoever) due to the supply of Off Specification Gas which Service Provider has agreed to accept.
- (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 (whether for breach of contract, negligence or on any other legal basis whatsoever) in respect of such Losses.
- (d) Where Shipper and other Transportation Facility Users have supplied a commingled stream of Off Specification Gas (for example because Shipper and those Transportation Facility 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.
- (e) Shipper's aggregate liability under the indemnity in clause 10.5(a) and for any common law damages claim in respect of the matters to which that indemnity relates (whether for breach of contract, negligence or on any other legal basis whatsoever) is capped at \$20 million per event or connected series of events.

10.6 Gas Specification at Delivery Points

- (a) Service Provider must ensure Gas delivered by Service Provider to the Delivery Points or to the Compression 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 or to the Compressor by another Transportation Facility 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 or Compression 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) Shipper must supply Gas to a Compression Receipt Point within the pressure range specified in the Facility Specific Terms.
- (c) 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.
- (d) Subject to Shipper complying with clause 11.1(b), Service Provider must ensure that, once compressed, Shipper's Gas is within the pressure range specified in the Facility Specific Terms.

11.2 Temperature

- (a) Shipper must supply Gas to a Receipt Point or to a Compression 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 or to a Compression 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.

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 safe and reliable operation of the Pipeline, adversely impact Service Provider's ability to provide services to a Transportation Facility User or cause Service Provider to incur liability to another Transportation Facility 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(a) 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 Transportation Facility User's imbalance on such terms as Shipper may agree with that other Transportation Facility User, provided that notice of the exchange is received by Service Provider from both Shipper and that other Transportation Facility User and that the notice provided by Shipper and the other Transportation Facility User nominates the same amount of imbalance to be traded. If Shipper and the other Transportation Facility User wish the trade to be effected after the time they serve the notice this must be nominated in the notice served by each of them and the same time must be nominated.
- (b) Where an exchange is made then Shipper's Accumulated Imbalance and the imbalance of the other Transportation Facility User will be adjusted as from the later of the time Service Provider has received notice of the trade from each of Shipper and the other Transportation Facility User and such time nominated in the notice served by each of Shipper and the Transportation Facility User.
- (c) Service Provider is not required to give effect to a trade:

- (i) if it would result in Shipper's Accumulated Imbalance exceeding the Imbalance Allowance or the imbalance of the other Transportation Facility User exceeding the amount allowed under its Facility Agreement; or
 - (ii) where the exchange is to be made after the time Service Provider is notified of the exchange, if at that time this Agreement or the other Transportation Facility User's Facility Agreement are no longer in effect.
- (d) No exchange under clause 12.5(a) affects Shipper's liability to pay any Imbalance Charges accrued prior to the time of the exchange.
- (e) In this clause 12.5 a reference to the imbalance of another Transportation Facility 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 Traded Forward Haul Service MDQ reducing to zero (that is due to expiry of the service term of a Purchased Product such that Shipper has no current Traded Forward Haul Service MDQ) Shipper must ensure it reduces its Accumulated Imbalance to zero. If Shipper 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; and
- (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.

12.7 Auction Service

- (a) The Imbalance Allowance for the Forward Haul Auction Service and Backhaul Auction Service is zero.
- (b) If at the end of a Day for which Shipper's Imbalance Allowance was zero (because on that Day Shipper was only entitled to Auction Services) Shipper's Accumulated Imbalance exceeds zero then Shipper must ensure it immediately reduces its Accumulated Imbalance to zero. If Shippers fails to do so then:
 - (i) 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; and
 - (ii) Service Provider may take such steps as it considers necessary to reduce the Accumulated Imbalance to zero including buying or selling Gas 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 Pipeline 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 Pipeline 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 Compressor Quantities

- (a) Shipper must not (without the consent of Service Provider) supply to the Compressor on a Day or take from the Compressor on a Day a quantity of Gas in excess of that quantity scheduled by Service Provider to be compressed for Shipper on that Day.
- (b) To avoid doubt failure by Shipper to comply with clause 13.3(a) is a breach of this Agreement.
- (c) References in clause 13.3(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 or taken a quantity of Gas in excess of the reduced Scheduled Quantity (but not in excess of the original Scheduled Quantity).

13.4 Overrun Charges

Where Shipper supplies or takes delivery of Gas in breach of clause 13.1, clause 13.2 or clause 13.3 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) 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 Transportation Facility 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 (provided this does not apply to any consent of a Transportation Facility User where the requirement to obtain that consent arises under a contractual provision entered into on or after 19 March 2018).
- (b) 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 Transportation Facility Users using that point then Shipper may not commence using that Receipt Point or Delivery Point until it has agreed those procedures.
- (c) 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(b) as soon as reasonably practicable after Shipper notifies Service Provider that it wishes to use the relevant Receipt Point or Delivery Point.
- (d) 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 are 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 Transportation Facility Users on a Day then the available Capacity is allocated in the following order of priority:
 - (i) first to Primary Shippers to the extent:
 - (A) they are seeking to utilise that Capacity for the provision of Firm Transportation Services; and
 - (B) they have Reserved Capacity at the relevant Receipt Point or Delivery Point;
 - (ii) then to Primary Shippers (including any Primary Shippers referred to in clause 14.2(a)(i)) to the extent:
 - (A) they are seeking to utilise that Capacity for the provision of Firm Transportation Services; but
 - (B) they do not have Reserved Capacity at the relevant Receipt Point or Delivery Point (or their nominated or scheduled use of Firm Transportation Services on the Day exceeds the Capacity they have Reserved at the relevant Receipt Point or Delivery Point),

and (in equal priority with the Primary Shippers) to Secondary Shippers to the extent required for the provision to them of Firm Transportation Services (including Traded Forward Haul Services);

- (iii) then to Transportation Facility Users to the extent required for the provision to them of Forward Haul Auction Services; and
 - (iv) the remaining Capacity (after the allocations referred to above have been made) will be allocated in accordance with the Priority Principles.
- (b) Subject to clause 14.2(a), shortfalls in Capacity of a Receipt Point or Delivery Point (below the quantities of Gas Transportation Facility Users wish to supply to or take at that Receipt Point or Delivery Point) will be allocated in accordance with the Priority Principles and rule 651 of the National Gas Rules.

14.3 Charges

- (a) Where Service Provider is contractually obliged to pay an amount to existing Transportation Facility Users using a Receipt Point or Delivery Point if new Transportation Facility Users use such Receipt Point or Delivery Point (for example because those existing Transportation Facility 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 that 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

Shipper may in accordance with rule 643 of the National Gas Rules request that Shipper be able to supply Gas to or take Gas under the Traded Forward Haul Service at a Receipt Point or Delivery Point other than a Nominated Receipt Point or Nominated Delivery Point (including a Receipt Point or Delivery Point outside the Pipeline Zone or Pipeline Zones to which Shipper's Traded Forward Haul Service Purchased Products relate).

14.5 Compression

- (a) Where the available Capacity at a Compression Receipt Point or Compression Delivery Point is insufficient to meet all the requirements of Transportation Facility Users on a Day then the available Capacity is allocated in the following order of priority:
- (i) first to Primary Shippers to the extent:
 - (A) they are seeking to utilise that Capacity for the provision of Firm Compression Services; and
 - (B) they have Reserved Capacity at the relevant Compression Receipt Point or Compression Delivery Point;
 - (ii) then to Primary Shippers (including any Primary Shippers referred to in clause 14.5(a)(i)) to the extent:
 - (A) they are seeking to utilise that Capacity for the provision of Firm Compression Services; but

- (B) they do not have Reserved Capacity at the relevant Compression Receipt Point or Compression Delivery Point (or their nominated or scheduled use of Firm Compression Services on the Day exceeds the Capacity they have Reserved at the relevant Compression Receipt Point or Compression Delivery Point),

and (in equal priority with the Primary Shippers) to Secondary Shippers to the extent required for the provision to them of Firm Compression Services (including Traded Compression Services);
 - (iii) then to Transportation Facility Users to the extent required for the provision to them of Compression Auction Services; and
 - (iv) the remaining Capacity (after the allocations referred to above have been made) will be allocated in accordance with the Priority Principles.
- (b) Subject to clause 14.5(a), shortfalls in Capacity at a Compression Receipt Point or Compression Delivery Point (below the quantities of Gas Transportation Facility Users wish to supply to or take at that Compression Receipt Point or Compression Delivery Point) will be allocated in accordance with the Priority Principles and rule 651 of the National Gas Rules.

15 Metering and Apportionment

15.1 Apportionment

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

- (a) in accordance with any apportionment procedure agreed between all the Transportation Facility Users of the Receipt Point or Delivery Point or Compressor, 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 Transportation Facility Users using the Receipt Point or Delivery Point or Compressor 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 (or by Service Provider in accordance with a methodology advised by a third party) where this is consistent with existing practice at the Receipt Point or Delivery Point;
 - (ii) pro-rata allocation; and
 - (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 or a Compressor (or Compression Receipt Point and Compression Delivery Point) 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 or Compressors:
 - (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 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 Facility.
- (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 or the Compressor and subject that Gas to compression, cleaning and other processes required for its operation of the Facility as a Reasonable and Prudent operator.
- (b) By delivering Gas to Shipper at the Delivery Points or Compression Delivery Points Service Provider will be deemed to have delivered Shipper's Gas to Shipper. Such Gas delivered at the Delivery Points or Compression Delivery Points will be deemed to be that received by Service Provider from Shipper at the Receipt Points or Compression 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 or Compression Receipt Points and after its delivery to Shipper at the Delivery Points or Compression Delivery Points.
- (b) Service Provider is in control and possession of Gas following receipt of the Gas from Shipper at the Receipt Points or Compression Receipt Points and prior to delivery of the Gas to Shipper at the Delivery Points or Compression Delivery Points.

- (c) Subject to the other 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 Facility and facilities immediately upstream and downstream of the Facility with a view to facilitating safe and efficient operations in accordance with applicable Law and in accordance with good industry practice as applied by Reasonable and Prudent operators.
- (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 acting as a Reasonable and Prudent operator:
 - (i) threaten the operational integrity of the Facility or any facilities upstream or downstream of the Facility; or
 - (ii) adversely affect the ability of Shipper to supply Gas to the Receipt Points or Compression Receipt Points or take delivery of Gas at the Delivery Points or Compression 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 the adverse circumstances 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 Transportation Facility User; and
 - (ii) a person into whose infrastructure the Facility 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 of Shipper due to a failure by Service Provider to provide Services to Shipper (of which Services the Subshipper makes use via Shipper) 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) To the extent Service Provider incurs any liability to a Subshipper of the type described in clause 17.1(b) (for which Service Provider is not indemnified under clause 17.1(b)) then for the purposes of applying the liability caps in this Agreement that liability will be treated as if it had been incurred to Shipper (and consequently, unless arising due to Wilful Misconduct, will be taken into account in determining the extent to which the liability caps have been used).
- (d) Nothing in clause 17.1(b) or clause 17.1(c) is to be taken as suggesting that, as a matter of law, Service Provider has liability to a Subshipper.
- (e) 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.
- (f) Subject to clause 17.1(h) and except in the case of the indemnity in clause 10.5, Shipper is not liable to Service Provider for any loss of profits or revenue suffered by Service Provider.
- (g) Subject to clause 17.1(h), Shipper's liability to Service Provider (other than pursuant to the indemnities in clause 10.5, clause 17.1(a) and clause 17.1(b)) is capped at:
 - (i) \$2 million per event or connected series of events which do not cause physical damage to the Facility;
 - (ii) \$20 million per event or connected series of events which do cause physical damage to the Facility; and
 - (iii) \$20 million over the Term,(irrespective of whether Service Provider's claim against Shipper is for breach of contract, negligence or on any other legal basis whatsoever).
- (h) Clause 17.1(f) and clause 17.1(g) do not limit:
 - (i) Shipper's liability to pay any charges or interest which accrue due under this Agreement;
 - (ii) Shipper's liability for any personal injury or death caused by Shipper; or
 - (iii) 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 (irrespective of whether Shipper's claim against Service Provider is for breach of contract, negligence or on any other legal basis whatsoever) over a 12 month period under or in connection with this Agreement is limited to the greater of:
 - (i) \$200,000; 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 \$ 2 million per event or connected series of events causing such damage (irrespective of whether Shipper's claim against Service Provider is for breach of contract, negligence or on any other legal basis whatsoever).
- (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) loss of bargain (other than the bargain represented by this Agreement);
 - (iii) loss of opportunity;
 - (iv) cost of finance; and
 - (v) incidental, special, remote or unforeseeable loss or damage.

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 must:

- (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

An event of Force Majeure does not relieve a Party of liability for failure to discharge an obligation under this Agreement as from the time that Party, had it exercised reasonable diligence and employed all reasonable means, could have resumed performance of that obligation.

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 (but only to the extent the information is relevant to the Services provided in that 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;
 - (iv) Shipper's Accumulated Imbalance as at the end of each Day; and
 - (v) the quantity of Gas compressed pursuant to a Traded Compression Service or Compression Auction Service on each Day of that Month.
- (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 10 Business Days (or such longer period as Service Provider elects) of receipt of the invoice.

- (f) 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 on a daily basis 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 correct for such error must be effected by Service Provider on the next invoice issued under clause 19.2 or paid by the relevant Party who owes an amount within 30 days of ascertainment of the error. The adjustment will include interest at the Interest Rate calculated:

- (a) in the case of an overpayment from the time the amount was received by Service Provider until the time the amount is refunded to Shipper; and
- (b) in the case of an underpayment from the time the relevant invoice was due to be paid by Shipper until the relevant amount is paid by Shipper to Service Provider.

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

Subject to clause 19.3, 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; and
- (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 Standing, Insurance and Credit Support

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 Facility 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 in an amount up to Shipper's Credit Support Amount 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) where Shipper does not have a credit rating from Standard & Poor's, Fitch or Moody's of the type referred to in clause 21.3(a)(i), it has financial substance equivalent to or better than an entity with such a credit rating; or

- (iv) Shipper's obligations under this Agreement are guaranteed (on terms satisfactory to Service Provider acting reasonably) by an Australian resident body corporate which, although not rated by Standard & Poor's, Fitch or Moody's, has financial substance equivalent to or better than an entity with a credit rating referred to in clause 21.3(a)(ii).
- (b) If Service Provider is entitled to require Shipper to provide credit support then Shipper must nominate to Service Provider the quantities to be used to determine Shipper's Credit Support Amount, in this clause called the **Credit Support MDQ**. Shipper may from time to time, by 2 Business Days' notice to Service Provider, change the amount nominated for the purposes of determining the Credit Support MDQ.
- (c) **Shipper's Credit Support Amount** is equal to the amount determined in accordance with the following formula:
- $$30 * \text{Credit Support MDQ} * T$$
- Where:
- (i) Credit Support MDQ is the MDQ nominated by Shipper (in GJs) for credit support purposes; and
- (ii) T is:
- (A) where the Facility is a Pipeline, the reference tariff for the firm forward haul reference service 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 forward haul service as published by Service Provider pursuant to the National Gas Rules (or the service offered by Service Provider which is closest in nature to a firm forward haul service). Where there is more than one tariff which may satisfy these criteria, Service Provider will, acting reasonably, determine which tariff to use; or
- (B) where the Facility is a Compressor, the standard tariff for use of the Compressor as published by Service Provider (and where there is more than one such tariff, Service Provider will, acting reasonably, determine which tariff to use) or where there is no published tariff for the Compressor then such tariff as Service Provider, acting reasonably, determines represents the standard tariff that is charged by Service Provider for use of the capacity of the Compressor.
- (In this paragraph (c) reference service and reference tariff have the meaning given to those terms in the National Gas Law).
- (d) Where Shipper is required to provide credit support, then Service Provider is not required to provide Shipper Services on a Day to the extent Shipper has not provided credit support in respect of a quantity of MDQ equal to or more than the quantity of Service sought to be used by Shipper on the Day. For example, if Shipper has provided credit support for only 10 TJ/Day then Service Provider is not required to recognise and provide Services (in aggregate) for a quantity of capacity of more than 10 TJ/Day.
- (e) 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.

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;
- (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; or
- (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 must 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 must 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 must 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 21.2 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, in which case the suspension may continue until Shipper has paid all outstanding invoiced amounts (plus any interest accrued due) to Service Provider; or
 - (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 Facility, in which case Service Provider may suspend the

Services until Shipper satisfies Service Provider (acting reasonably) 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)(iii) 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;
- (d) Shipper is subject to an Insolvency Event;
- (e) Shipper has incurred liability to Service Provider under clause 10.5 in an amount equal to the liability cap in clause 10.5(e); or
- (f) Shipper has incurred liability to Service Provider in an amount equal to the liability cap in clause 17.1(g) on liability over the Term (excluding any amounts which are not subject to that cap).

22.3 Termination by Shipper

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

22.8 Effect of Expiration or Termination

The provisions of this clause 22 allowing termination for Insolvency Events apply subject to the changes made to the Corporations Act by the *Treasury Laws Amendment (2017 Enterprise Incentives No. 2) Act 2017*.

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 ABN 69 008 651 232 (or its successor body) in the form those expert determination rules take at the time the relevant dispute is referred for determination; 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 the resolution of which 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 or park Gas or have Gas compressed 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 all of its rights and obligations under this Agreement to any person to whom Service Provider:
 - (i) transfers ownership of the entire Facility; 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 Facility provided that:
 - (i) the fractional part of the rights and obligations novated equates to the percentage interest in ownership of the Facility 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 Facility).
- (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

Each Party represents and warrants to the other 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) its 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 it 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, professional advisers or 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;
 - (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 representative for notices, 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

- (a) 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.
- (b) Each such communication must be attached to an email that states that the attachment is a communication under this Agreement.
- (c) The Party sending the communication by email must maintain an electronic or printed copy of the email and the attached communication.
- (d) This clause 27.2 does not apply to a notice which notice falls within clause 27.4.

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; and
- (c) in the case of emails, as determined by the electronic transactions legislation applying in the State.

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 or communications are taken to be received for the purposes of this Agreement when actually received.
- (b) Each operational notice sent by email must state that it is a communication under this Agreement.
- (c) The Party sending the communication by email must maintain an electronic or printed copy of the email and any document attached to the email.
- (d) 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 **Bilateral Trades**

28.1 *Application*

This clause 28 sets out the procedures by which Shipper may, by Bilateral Trade, trade to other Transportation Facility Users Transportation Capacity purchased by Shipper under a Bilateral Trade or through the Exchange.

28.2 *Bilateral Trades*

- (a) Shipper may transfer to a Transportation Facility User some or all of its Traded Forward Haul Service MDQ, Traded Park Service MDQ or Traded Compression Service MDQ by means of a Bilateral Trade made in accordance with this clause 28.
- (b) Shipper may only enter into a Bilateral Trade with:
 - (i) a Transportation Facility User who is party to an operational transportation service agreement (as that term is defined in the National Gas Law) which is in the form of the standard operational transportation service agreement (as that term is defined in Part 24 of the National Gas Rules) for the Facility; or
 - (ii) such other Transportation Facility User approved by Service Provider (which approval is not to be unreasonably withheld),

(Valid Trading Party).
- (c) Service Provider is not required to give effect to a Bilateral Trade unless Service Provider receives:
 - (i) joint notice of the Bilateral Trade from Shipper and a Valid Trading Party at Service Provider's email address set out in the Agreement Details (or by such other reasonable means nominated by Service Provider, including lodgement on an electronic bulletin board maintained by Service Provider) at least 2 Business Days prior to the first Day for which the Trade will have effect setting out:
 - (A) the quantity of Traded Forward Haul Service MDQ, Traded Park Service MDQ or Traded Compression Service MDQ to which the Bilateral Trade relates;

- (B) in the case of Traded Forward Haul Service MDQ or Traded Compression Service MDQ, the Zones to which the Bilateral Trade relates;
 - (C) where the Bilateral Trade relates to Traded Forward Haul Service MDQ:
 - (1) the Nominated Receipt Point and Nominated Delivery Point from which that Traded Forward Haul Service MDQ is being released by Shipper; and
 - (2) the Receipt Point and Delivery Point within the Pipeline Zones to which the Bilateral Trade relates at which the Valid Trading Party will use the Traded Forward Haul Service MDQ;
 - (D) where the Bilateral Trade relates to Traded Compression Service MDQ:
 - (1) the Nominated Compression Receipt Point and Nominated Compression Delivery Point from which that Traded Compression Service MDQ is being released by Shipper; and
 - (2) the Compression Receipt Point and Compression Delivery Point within the Compression Zones to which the Bilateral Trade relates at which the Valid Trading Party will use the Traded Compression Service MDQ; and
 - (E) the term of the Bilateral Trade; and
 - (ii) a notice from Shipper setting out where Shipper has sourced the MDQ being traded (that is from the Exchange or from a Bilateral Trade with another Transportation Facility User (who must be identified in Shipper's notice)).
- (d) Provided that Service Provider receives notices in accordance with clause 28.2(c), Service Provider may only refuse to give effect to a Bilateral Trade if:
 - (i) under clause 28.3 Shipper is not entitled to make the Bilateral Trade;
 - (ii) the quantity of Traded Forward Haul Service MDQ, Traded Park Service MDQ or Traded Compression Service MDQ to which the Bilateral Trade relates will, for any part of the term of the Bilateral Trade, exceed Shipper's Traded Forward Haul Service MDQ, Traded Park Service MDQ or Traded Compression Service MDQ (assessed prior to the Bilateral Trade); or
 - (iii) the Traded Forward Haul Service MDQ or Traded Compression Service MDQ is not able to be used by the Valid Trading Party in the Zones to which the Bilateral Trade relates.
- (e) Service Provider must notify Shipper within 1 Business Day of receipt of notice under clause 28.2(c):
 - (i) that it will give effect to the Bilateral Trade; or
 - (ii) that it is refusing to give effect to the Bilateral Trade which notice must set out the reason for which Service Provider is refusing to give effect to the Bilateral Trade.

28.3 ***Grounds to refuse Bilateral Trades***

Service Provider is not required to give effect to a Bilateral Trade if:

- (a) Shipper is in breach of this Agreement; or
- (b) Shipper is an externally-administered body corporate (as defined in the Corporations Act) or under a similar form of administration under the laws of some other jurisdiction; or
- (c) the Valid Trading Party is in breach of its agreement with Service Provider under which it would use the Traded Forward Haul Service MDQ, Traded Park Service MDQ or Traded Compression Service MDQ proposed to be acquired under the Bilateral Trade.

28.4 ***No Responsibility for Use by Counterparty***

- (a) Shipper has no liability to Service Provider for any acts or omissions of the acquiring Transportation Facility User during the period of a Bilateral Trade relating to the Traded Forward Haul Service MDQ, Traded Park Service MDQ or Traded Compression Service MDQ acquired by that Transportation Facility User from Shipper.
- (b) Without limiting clause 28.4(a) Shipper is not liable to Service Provider for any overrun charges incurred by the acquiring Transportation Facility User during the period of a Bilateral Trade, for breach by the acquiring Transportation Facility User of imbalance requirements or hourly limits or for the acquiring Transportation Facility User supplying Off Specification Gas to the Facility.
- (c) Clause 28.4(a) does not apply to liability of Shipper which arises independently of the Bilateral Trade or this Agreement.

28.5 ***Entitlement to Charge***

- (a) The Service Provider may levy a charge on Shipper for each Bilateral Trade undertaken by Shipper under this clause 28 in accordance with such schedule of charges published by Service Provider on its website from time to time.
- (b) Any such schedule of charges must comply with the requirements of the National Gas Rules.

29 **Miscellaneous**

29.1 ***Governing Law***

This Agreement is governed by the law of the State.

29.2 ***Further Assurance***

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