

# Template Haulage Contract

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**ATCO Gas Australia Pty Ltd**

ABN 90 089 531 975

**[Insert name of <User>]**

[Insert ABN/ACN/ARBN of <User>]

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# Haulage Contract

## DATE PARTIES

ATCO Gas Australia Pty Ltd  
ABN 90 089 531 975 (<Service Provider>)

[Insert Name of User]  
[Insert ABN/ACN/ARBN] (<User>)

## RECITALS

- A. <Service Provider>:
- (a) owns and operates the AGA GDS; and
  - (b) provides Pipeline Services<sup>1</sup> by means of the AGA GDS, in accordance with the Regulatory Instruments.
- B. The AGA GDS is a Covered Pipeline<sup>2</sup> under the National Gas Access Law.
- C. On 18 July 2000, the Regulator approved the Access Arrangement for the AGA GDS in accordance with the Code<sup>3</sup>.
- D. The Access Arrangement has been revised under the Code (during its currency) and the Access Laws (following their replacement of the Code), taking into account the consistency of the Access Arrangement with, among other things, the National Gas Objective and the Revenue and Pricing Principles<sup>4</sup>. The Access Arrangement will continue to be revised under the Access Laws, while remaining at all times consistent with the National Gas Objective.
- E. <User> wants to obtain access to one or more Haulage Services provided by <Service Provider> by means of the AGA GDS, and recognises that, in doing so, <User> will be subject to certain obligations under the Regulatory Instruments<sup>5</sup>.
- F. In accordance with the requirements set out in the Access Laws<sup>6</sup>, this Haulage Contract specifies the terms and conditions upon which <Service Provider> will provide <User> with access to one or more Haulage Services for the haulage of Gas from specified Receipt Points to specified Delivery Points on the AGA GDS, including

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<sup>1</sup> This Haulage Contract uses the definition of "Pipeline Service" given in s 2 of the National Gas Access Law. Each Haulage Service, as defined in this Haulage Contract, constitutes a Pipeline Service for the purposes of the National Gas Access Law and this Haulage Contract.

<sup>2</sup> This Haulage Contract uses the definition of "Covered Pipeline" given in s 2 of the National Gas Access Law.

<sup>3</sup> The Code was replaced by the National Gas Access Law and the National Gas Rules on 1 January 2010.

<sup>4</sup> This Haulage Contract uses the definition of the "National Gas Objective" and the "Revenue and Pricing Principles" given in s 2 of the National Gas Access Law.

<sup>5</sup> For example, under s 11ZOD of the *Energy Coordination Act 1994* (WA), Users are required to comply with the Retail Market Rules, which govern interactions between pipelines operators, REMCo and other prescribed persons and participants in the WA gas retail market. The Retail Market Rules are given legal effect by s 11ZOF of the *Energy Coordination Act 1994* (WA), and place additional requirements on Users (such as rule 178, which requires a User to procure injections which match the User's likely swing service repayment quantities and the User's good faith estimate of its required withdrawals).

<sup>6</sup> For example, s 132 of the National Gas Access Law in relation to submission of access arrangements and rule 48 of the National Gas Rules in relation to the required content of access arrangements, including the terms and conditions on which Pipeline Services are provided.

<User>'s obligations to be performed in consideration for <Service Provider>'s provision of access and under the Regulatory Instruments.

## OPERATIVE PROVISIONS

### 1. CONDITIONS PRECEDENT

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- (a) Other than this clause 1 and clauses 15, 16, 17, 18, 19, 20, 21, 22 and 23 this Haulage Contract has no force or effect until each and all of the following conditions (**Conditions Precedent**) are satisfied or waived<sup>7</sup>:
- (i) <User> has provided written notice to <Service Provider> that it has obtained all necessary approvals in accordance with its internal policies, procedures and rules for <User>'s entry into this Haulage Contract, and any conditions to the approvals have been duly satisfied or waived;
  - (ii) <User> has made a request to <Service Provider> in accordance with the Access Laws, including rule 112 of the National Gas Rules, for access to Pipeline Services provided by <Service Provider> by means of the AGA GDS;
  - (iii) <User> demonstrates, to <Service Provider>'s reasonable satisfaction, that:
    - (A) <User> is, and will for the duration of this Haulage Contract remain, able to comply with the Approved System Pressure Protection;
    - (B) <User>'s prudential and financial standing meets the minimum prudential and financial requirements specified by <Service Provider> in the Access Offer that led to this Haulage Contract;
    - (C) <User> has obtained the insurances required under clause 16.3<sup>8</sup>;
    - (D) <User> is, and will for the duration of this Haulage Contract remain, able to deliver Gas to the Receipt Point or Receipt Points on the relevant Sub-network or Sub-networks from which <User> is to receive Gas at one or more Delivery Points under this Haulage Contract, in volumes sufficient to meet <User>'s Gas receipt requirements at each Delivery Point<sup>9</sup>; and
    - (E) <User> is and will remain a member of the Retail Market Scheme<sup>10</sup>; and
  - (iv) <User> has provided security to <Service Provider> in accordance with clause 16.2 .

<sup>7</sup> For the purposes of rule 86(1) of the Retail Market Rules, the definition of Haulage Contract in rule 2 requires that any Condition Precedent to this Haulage Contract has been satisfied or waived.

<sup>8</sup> Beyond the insurance required by <Service Provider>, rule 377A of the Retail Market Rules requires all market participants to be insured to a minimum of \$10,000,000 for the purposes of indemnifying REMCo from all losses, costs, expenses, claims, demands, proceedings or liability suffered or incurred by REMCo.

<sup>9</sup> Rules 178 – 181 of the Retail Market Rules set out User obligations in relation to the injection and withdrawal of gas at Receipt Points.

<sup>10</sup> Gas market participants, including gas distribution operators and retail gas operators, are required to comply with the Retail Market Scheme under s 11ZOC of the *Energy Coordination Act 1994* (WA).



- (b) **<User>** must use its best efforts to ensure that each of the Conditions Precedent is satisfied as soon as practicable, and in any event by no later than 30 Business Days after the date on which **<User>** signs this Haulage Contract.
- (c) **<User>** must keep **<Service Provider>** informed of any circumstances which may result in any of the Conditions Precedent not being satisfied in accordance with its terms by the date required under clause 1(b).
- (d) Other than with respect to the Conditions Precedent referred to in clauses 1(a)(ii) and 1(a)(iv), **<Service Provider>** must promptly advise **<User>** in writing of the satisfaction of each of the Conditions Precedent.
- (e) Other than the Condition Precedent referred to in clause 1(a)(i), each of the Conditions Precedent is for the sole benefit of **<Service Provider>** and only **<Service Provider>**, in its absolute discretion, may vary or waive a Condition Precedent, by written notice to **<User>**.
- (f) The Condition Precedent in clause 1(a)(i) is for the sole benefit of User and only User, in its absolute discretion, may vary or waive the Condition Precedent, by written notice to **<Service Provider>**.
- (g) If each Condition Precedent has not been duly satisfied or waived within 30 Business Days after the date of this Haulage Contract, **<Service Provider>** may, in its absolute discretion, terminate this Haulage Contract by written notice to **<User>**, without further liability for either Party.

## 2. DURATION OF THIS HAULAGE CONTRACT

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Subject to clause 1, this Haulage Contract:

- (a) commences at 8:00am on the day after the day on which it is executed by the last Party to do so; and
- (b) ends on the earlier of:
  - (i) the date from which **<User>** is no longer entitled to take delivery of Gas at any Delivery Point under this Haulage Contract; and
  - (ii) the date on which this Haulage Contract is terminated in accordance with its terms.

## 3. HAULAGE SERVICES PROVIDED

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This Haulage Contract specifies the terms and conditions on which **<Service Provider>** agrees to provide **<User>** with access to the Haulage Services by means of the AGA GDS in accordance with the Regulatory Instruments, including the Access Laws<sup>11</sup>.

## 4. FEES AND CHARGES

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### 4.1 Obligation to pay for Haulage Services

**<User>** must pay to **<Service Provider>**:

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<sup>11</sup> Rules 42 and 43 of the National Gas Rules require a Service Provider to submit access arrangement information when submitting an access arrangement proposal, and rule 48 specifies the required content for access arrangements. Also, rule 100 requires that the provisions of an access arrangement be consistent with the National Gas Objective.

- (a) the applicable Haulage Charge for each Haulage Service accessed by **<User>** under this Haulage Contract; and
- (b) all other amounts payable under this Haulage Contract, in the manner and at the times specified in this Haulage Contract.

#### 4.2 Claiming payment of Charges

- (a) **<Service Provider>** must claim payment from **<User>** for Haulage Charges and other amounts payable under this Haulage Contract in accordance with clause 10.
- (b) A failure by **<Service Provider>** to claim payment of Haulage Charges in accordance with clause 4.2(a) will not affect **<User>**'s obligation to make, or **<Service Provider>**'s right to receive, such payment under this Haulage Contract or at Law.
- (c) Nothing in clause 4.1 or this clause 4.2 prevents **<Service Provider>** from recovering any other monies otherwise payable by **<User>** to **<Service Provider>** under this Haulage Contract or at Law.

#### 4.3 Ongoing obligation to pay

**<User>** must pay **<Service Provider>** any applicable Haulage Charges and other amounts payable under this Haulage Contract in accordance with clause 4.1 even if:

- (a) **<Service Provider>** is unable to provide, undertake or complete one or more Haulage Services as a result of:
  - (i) an act or omission of **<User>** that prevented **<Service Provider>** from providing, undertaking or completing the Haulage Service; or
  - (ii) that Haulage Service not being able to be provided or undertaken in respect of the relevant Delivery Point;
- (b) **<User>** uses a Haulage Service intermittently or irregularly;
- (c) **<Service Provider>** refuses under clause 8.2 to accept Gas delivered at a Receipt Point by **<User>** or a Related Shipper of **<User>**;
- (d) **<Service Provider>** Curtails, wholly or partially, the quantity or pressure of Gas deliveries to User at a Delivery Point under clause 8.2 or 8.4;
- (e) **<User>**, for reasons that may be within or outside **<User>**'s control, is unable to use one or more Haulage Services; or
- (f) an event of Force Majeure occurs.

#### 4.4 Haulage Charges payable until Deregistration

For each Delivery Point:

- (a) **<User>** must pay all Haulage Charges and other amounts payable under this Haulage Contract in respect of the Delivery Point, until such time as the Delivery Point is Deregistered; and
- (b) subject to clause 5.6, Haulage Charges and other amounts payable for the Delivery Point will be calculated as though the End Date for the Delivery Point under this Haulage Contract is the date that the Delivery Point is Deregistered.

## 5. RECEIPT AND DELIVERY OF GAS, DELIVERY POINTS AND THE DELIVERY POINT REGISTER

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### 5.1 Obligation to accept and deliver Gas

- (a) **<Service Provider>** must:
- (i) accept into the AGA GDS all Gas delivered to a Receipt Point by any Related Shipper of **<User>**; and
  - (ii) deliver Gas from the AGA GDS to **<User>** at a Delivery Point, in accordance with the terms and conditions of this Haulage Contract.

### 5.2 Right to take delivery of Gas

For each Delivery Point, **<User>** is entitled to take delivery of Gas at the Delivery Point from the start of the Gas Day on the applicable Start Date until the end of the Gas Day on the applicable End Date, in accordance with the terms and conditions of this Haulage Contract.

### 5.3 Pressure of Gas delivered

- (a) **<Service Provider>** must use reasonable endeavours to deliver Gas to **<User>** at a Delivery Point at the Nominal Delivery Pressure for the Delivery Point<sup>12</sup>.
- (b) **<User>** must comply with rule 182 of the Retail Market Rules in relation to system pressure in a Sub-network<sup>13</sup>.

### 5.4 Delivery Point Register<sup>14</sup>

**<Service Provider>** must establish and maintain<sup>15</sup> the Delivery Point Register, in which it must record:

- (a) each Delivery Point at which **<User>** may take delivery of Gas under this Haulage Contract;
- (b) for each Delivery Point:
  - (i) the Haulage Service applicable to the Delivery Point;
  - (ii) the MIRN for the Delivery Point<sup>16</sup>;
  - (iii) the Start Date for the Delivery Point;

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<sup>12</sup> Regulation 4 of the Gas Standards Regulations also prescribes gas pressure requirements for installations that use Gas, while rule 217A of the Retail Market Rules requires pipeline operators to share data in relation to flow data (in the form of flow signals).

<sup>13</sup> Rule 182 of the Retail Market Rules requires Users to collectively keep the Sub-network pressurised, with responsibility falling on each User proportionally to that User's aggregate gas withdrawals out of the Sub-network on a Gas Day.

<sup>14</sup> A similar requirement is imposed by part 2.4 of the Retail Market Rules, which requires ATCO Gas Australia as network operator to maintain and administer a MIRN database to include various information in respect of Delivery Points on the AGA GDS.

<sup>15</sup> Rules 58 and 60 of the Retail Market Rules require ATCO Gas Australia as network operator to create, maintain and administer, respectively, a MIRN database and a MSD database (a database containing the "Meter Standing Data" for a Delivery Point, as set out in rule 60(1)), in relation to each Delivery Point on the AGA GDS.

<sup>16</sup> Part 3.1 of the Retail Market Rules deals with the allocation of MIRNs.

- (iv) one or more Receipt Points at which a Related Shipper of <User> may from time to time deliver Gas into the relevant Sub-network for delivery to the Delivery Point;
- (v) a description and the value of any User Specific Delivery Facilities<sup>17</sup> for the Delivery Point; and
- (vi) the Nominal Delivery Pressure for the Delivery Point<sup>18</sup>;
- (c) for each Delivery Point to which Service A1 or Service A2 applies, the End Date;
- (d) for each Delivery Point to which Service B1, Service B2 or Service B3 applies, the End Date, if any;
- (e) for each Delivery Point to which Service A1 applies:
  - (i) the Interconnection Distance<sup>19</sup>;
  - (ii) the Contracted Peak Rate<sup>20</sup>;
  - (iii) the period (expressed in Years) over which the cost of the User Specific Delivery Facilities for the Delivery Point is to be amortised, for the purpose of calculating the annual User Specific Charge<sup>21</sup> for those User Specific Delivery Facilities; and
  - (iv) the amount of the annual User Specific Charge for the User Specific Delivery Facilities for the Delivery Point;
- (f) for each Delivery Point to which Service A2 or Service B1 applies:
  - (i) the Contracted Peak Rate;

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<sup>17</sup> "User Specific Delivery Facilities" is defined in the Glossary to mean, for a User acquiring access to Service A1, Service A2 or Service B1 under the Haulage Contract:

- (a) a Meter which is not a Standard 8m<sup>3</sup>/h Meter, Standard 10m<sup>3</sup>/h Meter or a Standard 12m<sup>3</sup>/h Meter;
- (b) a Service Pipe from the main to the Delivery Point;
- (c) a User Specific Pressure Regulator;
- (d) any ancillary pipes and equipment (including a valve or valves);
- (e) in the case of Service B1, may take delivery of Gas at a Delivery Point on the Medium Pressure/Low Pressure System using Standard Delivery Facilities which include a Standard 18 m<sup>3</sup>/h Meter or a standard Meter with a badged capacity of more than 18 m<sup>3</sup>/h; and
- (f) in the case of Service A1 and Service A2, also includes Telemetry,

being the facility or facilities which are the most appropriate for that User, as determined by <Service Provider> as a reasonable person.

<sup>18</sup> The nominal delivery pressure is used to derive the pressure correction factor, which must be included in each network operator's MSD database under Rule 60 of the Retail Market Rules. Regulation 4 of the Gas Standards Regulations also prescribes gas pressure requirements for installations that use Gas.

<sup>19</sup> "Interconnection Distance" is defined in the Glossary as "the distance measured along the straight line which represents the shortest distance between the Delivery Point and the nearest Pipeline or storage system from which Gas is (or would be, if Interconnection Arrangements were entered into and necessary Physical Gate Points and associated facilities were constructed) delivered into the AGA GDS".

<sup>20</sup> "Contracted Peak Rate" refers to the highest instantaneous flow rate through the Delivery Point at which the <Service Provider> can be required to deliver Gas. The Glossary contains more information on the rate which applies to each Reference Service.

<sup>21</sup> Annexure A of the Access Arrangement defines a User Specific Charge as an amount per day which reflects the costs to ATCO Gas Australia of providing the User Specific Delivery Facilities, which may consist of capital expenditure and operating expenditure.

- (ii) the period (expressed in Years) over which the cost of the User Specific Delivery Facilities for the Delivery Point is to be amortised, for the purpose of calculating the annual User Specific Charge for those User Specific Delivery Facilities; and
  - (iii) the amount of the annual User Specific Charge for the User Specific Delivery Facilities for the Delivery Point; and
- (g) for each Delivery Point to which Service B2 or Service B3 applies, the type of Meter for the Delivery Point.

### 5.5 New Delivery Points and increasing Contracted Peak Rate

- (a) Subject to clause 5.5(b), <User> may request <Service Provider> to:
- (i) add a new Delivery Point to the Delivery Point Register;
  - (ii) increase the Contracted Peak Rate for a Delivery Point to which Service A1, Service A2 or Service B1 applies; or
  - (iii) change the End Date for a Delivery Point to a date which is later than the End Date specified in the Delivery Point Register for the Delivery Point.
- (b) A request under clause 5.5(a) is subject to:
- (i) the Application Procedure (including the pre-conditions to and restrictions on the provision of Reference Services specified in the Access Arrangement);
  - (ii) <User> being the Current User for the Delivery Point at both:
    - (A) the time <User> makes the request; and
    - (B) the time <Service Provider> makes the requested changes to the Delivery Point Register; and
  - (iii) <Service Provider>'s consent to the requested changes, which may only be withheld on reasonable grounds based on technical or commercial considerations.
- (c) Where the requirements of clause 5.5(b) are met, <Service Provider> must make the requested changes to the Delivery Point Register.

### 5.6 Deregistration of Delivery Points<sup>22</sup>

If:

- (a) the End Date for a Delivery Point is a date other than the date on which the Delivery Point is Deregistered; and
- (b) neither of the following have occurred on or by the End Date:
  - (i) another User is identified as the Current User for the Delivery Point under the Retail Market Rules<sup>23</sup>; or

<sup>22</sup> This is in accordance with Part 3.6 of the Retail Market Rules, which governs the removal of Delivery Points and the deregistration of MIRNs. Note also that under rule 21 of the Retail Market Rules, a Current User of a Delivery Point remains financially responsible until either the MIRN is Deregistered, a transfer occurs or REMCo accepts an error correction transaction.

- (ii) the End Date for the Delivery Point has been changed to a date which is later than the End Date specified for the Delivery Point in the Delivery Point Register, in accordance with clause 5.5(a)(iii),

**<Service Provider>** must immediately Deregister the Delivery Point, provided that to do so would not be inconsistent with any applicable Law.

## 5.7 Receipt Points<sup>24</sup>

- (a) There is one Receipt Point for each Interconnected Pipeline<sup>25</sup> for each Sub-network, regardless of the number of Physical Gate Points<sup>26</sup>.
- (b) If there is more than one Physical Gate Point for an Interconnected Pipeline for a Sub-network, then:
  - (i) Gas flows at the several Physical Gate Points are to be treated as aggregated into the single Receipt Point;
  - (ii) **<User>**'s right to deliver Gas, **<Service Provider>**'s obligation to receive Gas, and any Curtailment or refusal to accept Gas is taken to occur at the Receipt Point; and
  - (iii) it is not **<Service Provider>**'s responsibility to manage how Gas deemed to be delivered at a Receipt Point is apportioned between, or physically transported to, Physical Gate Points.

## 6. Gas quality, balancing and pressure

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### 6.1 Gas quality

- (a) **<User>** must ensure that the Gas that it delivers at a Receipt Point for transportation and delivery through the AGA GDS complies with the Gas Quality Specifications at all times<sup>27</sup>.
- (b) If a contract that exists in respect of the Interconnection Arrangement for a Physical Gate Point associated with a Receipt Point specified in the Delivery Point Register requires **<Service Provider>** to comply with any gas quality specifications, **<User>** agrees to be bound by those gas quality specifications.
- (c) **<User>** acknowledges and agrees that **<Service Provider>**:
  - (i) has no control over the quality of Gas in the AGA GDS; and
  - (ii) makes no representation, warranty or guarantee in respect of the quality of Gas delivered to **<User>** under this Haulage Contract.

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<sup>23</sup> Rule 20 of the Retail Market Rules requires REMCo to maintain a registry containing accurate information in respect of each Delivery Point, including the GBO Identification (the unique gas business operator identifier issued by REMCo under rule 22) of the Current User.

<sup>24</sup> Under rule 178 of the Retail Market Rules, a User is required to procure injections which match the User's likely swing service repayment quantities and the User's required withdrawals.

<sup>25</sup> "Interconnection" and "Interconnected" refer to the physical points of connection between the gas transmission pipeline and the gas distribution network ("Physical Gate Points") and the physical points of connection between the gas distribution network and the end user ("Receipt Point").

<sup>26</sup> This is consistent with Rule 174 of the Retail Market Rules which is entitled 'Only one notional gate point per pipeline for each sub-network'.

<sup>27</sup> Gas is required to comply with the quality standards and odourisation in accordance with Part 2, Division 2 of the Gas Standards Regulations.

## 6.2 Amendment to Gas Quality Specifications

- (a) Subject to clause 6.2(b), **<Service Provider>** may, from time to time, amend all or part of the Gas Quality Specifications by written notice to **<User>**.
- (b) A notice amending the Gas Quality Specifications must:
  - (i) specify the date on and from which the amendment is to take effect, which date must be no earlier than [3 months] after the date of the notice unless the amendment is due to circumstances outside **<Service Provider>**'s control; and
  - (ii) not amend or seek to amend the Gas Quality Specifications in a manner that renders them in any way inconsistent with any applicable Law.

## 6.3 Notification of Off-specification Gas

If a Party becomes aware that Off-specification Gas has been, is being, or may be delivered into the AGA GDS, it must immediately notify the other Party of this in writing.

## 6.4 Delivery of Off-specification Gas into the AGA GDS

- (a) If **<Service Provider>** becomes aware that Off-specification Gas has been, is being or may be delivered into the AGA GDS, **<Service Provider>** may:
  - (i) Curtail deliveries of Gas through any Receipt Point or Delivery Point;
  - (ii) flare, vent or otherwise dispose of any Gas from the AGA GDS; and
  - (iii) take whatever other steps **<Service Provider>**, acting reasonably, considers necessary or desirable to ensure that Gas within the AGA GDS complies with the Gas Quality Specifications and does not present a threat to any person or property.
- (b) **<Service Provider>** is under no obligation to deliver to **<User>** any Off-specification Gas delivered by **<User>** into the AGA GDS.

## 6.5 Liability for Off-specification Gas

- (a) Subject to clauses 6.5(b), **<User>** hereby:
  - (i) releases **<Service Provider>** from any Claim **<User>** has or may have against **<Service Provider>** in respect of any Off-specification Gas delivered by any person into the AGA GDS;
  - (ii) indemnifies **<Service Provider>** against all Direct Damage and Indirect Damage suffered or incurred by **<Service Provider>** in relation to or connection with any delivery or attempted delivery of Off-Specification Gas into the AGA GDS by **<User>** or a Related Shipper of **<User>**; and
  - (iii) indemnifies **<Service Provider>** against any loss, damage, cost or expense suffered or incurred by **<Service Provider>** in relation to or connection with any Claim brought by any person against **<Service Provider>** in respect of any delivery or attempted delivery of Off-Specification Gas into the AGA GDS by **<User>** or a Related Shipper of **<User>**.
- (b) Clause 6.5(a) does not apply in respect of any Off-specification Gas delivered or sought to be delivered into the AGA GDS as a result of **<Service Provider>**'s negligence.

- (c) Clause 17.3 does not apply to the indemnities provided under clause 6.5(a).

## 6.6 Authorised conveyance

- (a) Nothing in this Haulage Contract prohibits **<Service Provider>** from conveying Off-specification Gas through the AGA GDS where **<Service Provider>** reasonably believes that the conveyance is necessary for the safety or protection of persons or property.
- (b) **<Service Provider>** will have no liability to **<User>** for any loss, damage, cost or expense **<User>** suffers or incurs in relation to or connection with such conveyance.

## 6.7 Gas balancing

- (a) For each Gas Day, **<User>** must procure the delivery of an amount of Gas into each Sub-network that is equal to **<User>**'s good faith estimate, acting as a reasonable and prudent person, of the quantity of Gas likely to be delivered to **<User>** out of the Sub-network on that Gas Day<sup>28</sup>.
- (b) **<User>** hereby indemnifies **<Service Provider>** against any
- (i) Direct Damage;
  - (ii) Indirect Damage; or
  - (iii) loss, damage, cost or expense suffered or incurred by **<Service Provider>** in relation to or connection with any Claim brought by any person against **<Service Provider>**,
- in relation to or connection with any imbalance between the actual quantity of Gas delivered into each Sub-network and the actual quantity of Gas delivered out of the Sub-network on that Gas Day by, to or for **<User>** or a Related Shipper of **<User>**, except to the extent that such imbalance results from:
- (iv) breach by **<Service Provider>** of this Haulage Contract or any Law;
  - (v) the negligence of **<Service Provider>**; or
  - (vi) the failure of **<Service Provider>** to act as a reasonable and prudent network operator to mitigate the occurrence of such an imbalance.
- (c) **<Service Provider>** may do all reasonable things to maintain a balance between the sum of quantities of Gas delivered by Users at a Receipt Point and the sum of quantities of Gas received by Users at Delivery Points in the Sub-network with which that Receipt Point is associated.
- (d) **<User>** acknowledges and agrees that:
- (i) **<Service Provider>** does not control whether and how the operator of an Interconnected Pipeline delivers Gas into the AGA GDS at a Receipt Point; and
  - (ii) **<Service Provider>** will not be liable to **<User>**, under this Haulage Contract or otherwise, in respect of any loss, damage, cost, expense or other consequence suffered by **<User>** in relation to or connection with:

<sup>28</sup> Rule 178 of the Retail Market Rules requires Users to procure injections into the sub-network which match the User's likely swing service repayment quantities and the User's required withdrawals.



- (A) a failure by the operator of an Interconnected Pipeline or a Related Shipper of **<User>** to deliver Gas into the AGA GDS at a Receipt Point; or
  - (B) any breach by **<User>** of this Haulage Contract.
- (e) **<User>** must not, and must ensure that its Related Shippers and Swing Service Providers do not:
- (i) jeopardise Gas deliveries into a Sub-network in such a way that the Sub-network's system pressure is threatened<sup>29</sup>;
  - (ii) reduce or in any way compromise **<Service Provider>**'s ability to ensure that the system pressure in a Sub-network is maintained; or
  - (iii) cause any User or other person to suffer loss or damage.
- (f) For each Sub-network, without limiting this clause 6.2, **<User>** must ensure that its intra-day Gas flows do not:
- (i) jeopardise the operation of the Sub-network;
  - (ii) cause the obligation under rule 182 of the Retail Market Rules to keep the Sub-network pressurised to fall disproportionately on other Users<sup>30</sup>; or
  - (iii) cause any User or other person to suffer loss or damage.
- (g) Nothing in this clause 6.7 limits clause 8.

## 6.8 Maximum pressure

- (a) **<User>** must use all reasonable endeavours to ensure that the volume or pressure of Gas delivered by **<User>** or a Related Shipper of **<User>** at a Receipt Point does not exceed the physical design capabilities of the Meter at that Receipt Point.
- (b) **<User>** hereby indemnifies **<Service Provider>** against any
- (i) Direct Damage;
  - (ii) Indirect Damage; or
  - (iii) loss, damage, cost or expense in relation to or connection with any Claim brought by any person against **<Service Provider>**,
- suffered or incurred by **<Service Provider>** in relation to or connection with any breach by **<User>** of its obligation under clause 6.8(a).

<sup>29</sup> Regulation 4 of the Gas Standards Regulations prescribes gas pressure requirements for installations that use Gas.

<sup>30</sup> Rule 182 of the Retail Market Rules requires Users to collectively keep the Sub-network pressured, with responsibility falling on each User proportionately to the User's aggregate gas withdrawals out of the Sub-network on a Gas Day.

## 6.9 System Pressure Protection Plan<sup>31</sup>

- (a) **<User>** must comply, and must ensure that its Related Shippers and Swing Service Providers comply, with **<User>**'s Approved System Pressure Protection Plan<sup>32</sup>.
- (b) **<User>** must immediately notify **<Service Provider>** in writing if at any time it knows or suspects that it or a Related Shipper or Swing Service Provider is or may in future be in breach of the Approved System Pressure Protection Plan.
- (c) Where **<User>** relies to any extent on Option 3<sup>33</sup> as a part of its Approved System Pressure Protection Plan, then **<User>** hereby:
- (i) releases **<Service Provider>** from all Claims **<User>** has or may have against **<Service Provider>**; and
  - (ii) indemnifies **<Service Provider>** against all Claims from:
    - (A) any Downstream Person of the **<User>**;
    - (B) any other User; or
    - (C) any Downstream Person of any other User,
 for Direct Damage and Indirect Damage arising out of or in connection with:
    - (D) any Curtailment, restriction or cessation of Gas deliveries into the AGA GDS by or on behalf of **<User>** at a Receipt Point;
    - (E) any Curtailment by **<Service Provider>** under clauses 8.3(b), 8.3(c), or 8.3(d); or
    - (F) any refusal by **<Service Provider>** to accept Gas delivered to a Receipt Point under clauses 8.2(b) or 8.2(f); and
  - (iii) indemnifies **<Service Provider>** (on a solicitor and client basis<sup>34</sup>) in respect of all legal costs incurred by **<Service Provider>** in connection with the release in clause 6.9(c)(i) and the indemnities in clauses 6.9(c)(ii) and 6.9(c)(iii).
- (d) The indemnities referred to in clauses 6.9(c)(ii) and 6.9(c)(iii) apply despite any other provision of this Haulage Contract which might otherwise limit or exclude **<User's>** liability, and clause 17.3 does not apply to the indemnities.

## 6.10 Odourisation

**<Service Provider>** will ensure that all Gas in the AGA GDS is odourised in accordance with the Regulatory Instruments and any other applicable Laws<sup>35</sup>.

<sup>31</sup> The requirements for a System Pressure Protection Plan are outlined in Annexure D of the Access Arrangement.

<sup>32</sup> This is consistent with Users' obligations under Part 5.2 of the Retail Market Rules, such as ensuring the sub-network remains pressurised.

<sup>33</sup> Option 3 is outlined in the definition of System Pressure Protection Plan set out in Annexure D of the Access Arrangement.

<sup>34</sup> This includes all costs payable to a solicitor except those that are of an unreasonable amount or are unreasonably incurred unless approved by the client.

<sup>35</sup> Regulation 6 of the Gas Standards Regulations requires Gas to be odourised.

## 6.11 Emergencies<sup>36</sup>

- (a) In an Emergency, **<Service Provider>** may, without notice to any other person, do all things it considers necessary to prevent injury, death, loss or damage to persons or property and to render the situation safe, including entering onto any land or premises, stopping, disconnecting or reducing any Gas flow, Curtailing any delivery of Gas, refusing to accept any Gas into the AGA GDS, venting, flaring or otherwise disposing of any Gas, and giving any reasonable instructions to **<User>**.
- (b) **<Service Provider>** must, as soon as practicable after determining that an Emergency exists, give written notice of the Emergency to **<User>**, if **<User>** is affected either by the Emergency or by **<Service Provider>**'s actions in dealing with the Emergency.
- (c) A failure to give written notice under clause 6.11(b) does not limit **<Service Provider>**'s powers under clause 6.11(a).
- (d) **<Service Provider>** will, after the Emergency and its aftermath have been dealt with, use reasonable endeavours to remove itself and any person, machinery, equipment or thing under its control from any land or premises onto which it entered under clause 6.11(a), except to the extent that the person, machinery, equipment or thing is required to continue dealing with the Emergency or its aftermath or to prevent its recurrence or to comply with any obligation of **<Service Provider>** under any Law.
- (e) **<User>**:
  - (i) must comply with any reasonable instruction (including any instruction concerning the management of **<User>**'s or its Gas customers' Gas demand and any instruction directed to preservation or restoration of Capacity of the AGA GDS) given to it by **<Service Provider>** during, or related to, an Emergency; and
  - (ii) hereby indemnifies **<Service Provider>** against any:
    - (A) Direct Damage;
    - (B) Indirect Damage; or
    - (C) loss, damage, cost or expense in relation to or connection with any Claim brought by any person against **<Service Provider>**,  
 suffered or incurred by **<Service Provider>** in relation to or connection with any injury, death, loss or damage, suffered by reason of **<User>**'s failure to comply with such an instruction.
- (f) **<Service Provider>**'s rights under this clause 6.11 do not limit any other right or remedy of **<Service Provider>** under the Law, the Access Arrangement or this Haulage Contract.

## 7. GAS OPERATIONS

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### 7.1 Title to Gas

- (a) Title to Gas:

<sup>36</sup> This clause is consistent with the Retail Market Rules and s 24A and Schedule 3 of the *Energy Coordination Act 1994* (WA) as they govern emergencies.

- (i) delivered into the AGA GDS at a Receipt Point passes to **<Service Provider>** at the Receipt Point; and
  - (ii) delivered out of the AGA GDS to **<User>** at a Delivery Point passes to **<User>** at the Delivery Point, subject to any defect to which the title was subject when it passed to **<Service Provider>** under clause 7.1(a)(i).
- (b) **<User>** hereby indemnifies **<Service Provider>** against any loss, damage, cost or expense suffered or incurred by **<Service Provider>** in relation to or connection with any Claim brought by any person in respect of any Gas delivered into the AGA GDS under this Haulage Contract:
- (i) claiming any interest in, or making any Claim of any nature over, the Gas; or
  - (ii) in respect of any liability for unpaid charges, royalties or Taxes in respect of or in connection with the Gas or the production of the Gas incurred by any person (including **<User>** and a Related Shipper of **<User>**) before or arising out of the delivery of the Gas to **<Service Provider>**.

## 7.2 Control and possession of Gas

- (a) **<User>** will have control and possession of Gas:
- (i) prior to its delivery into the AGA GDS at a Receipt Point; and
  - (ii) after its delivery out of the AGA GDS at a Delivery Point.
- (b) **<Service Provider>** will have control and possession of Gas:
- (i) following its delivery into the AGA GDS at a Receipt Point; and
  - (ii) prior to its delivery out of the AGA GDS at a Delivery Point.

## 7.3 Responsibility for Gas

- (a) **<Service Provider>** will have no responsibility or liability whatsoever with respect to any Gas:
- (i) before it is delivered into the AGA GDS; or
  - (ii) after it is delivered out of the AGA GDS,
- and this clause 7.3(a) will survive any termination of this Haulage Contract.
- (b) **<Service Provider>** will replace Gas which is lost while in its control or possession, except where such loss is due to an act or omission of **<User>**.

## 7.4 Receipt of Gas

- (a) Only **<User>** may receive Gas delivered under this Haulage Contract by **<Service Provider>** at a Delivery Point.
- (b) **<User>**'s entitlement to receive Gas under this Haulage Contract is a contractual entitlement and not a proprietary entitlement.

## 7.5 Commingling permitted<sup>37</sup>

<Service Provider> may:

- (a) commingle any Gas delivered into the AGA GDS by or for the account of <User> with other Gas in the AGA GDS; and
- (b) deliver Gas out of the AGA GDS in a commingled state,

in accordance with the Gas Standards Regulations and, to the extent permitted under the Gas Standards Regulations, where and when <Service Provider> considers it necessary or convenient to do so.

## 7.6 Interconnection issues

- (a) If <Service Provider> considers that an Interconnection Event has occurred or is likely to occur, then:
  - (i) as soon as reasonably practicable <Service Provider> will notify <User> in writing of the Interconnection Event, whereupon:
    - (A) <User> must not deliver Gas into the AGA GDS at any Physical Gate Point affected by the Interconnection Event, unless <Service Provider> permits partial delivery under partial Curtailment at that Physical Gate Point; and
    - (B) <User> must not take delivery of Gas at a Delivery Point associated with any Physical Gate Point affected by the Interconnection Event, unless <Service Provider> permits <User> to take part delivery of Gas under partial Curtailment at a Delivery Point associated with that Physical Gate Point; and
  - (ii) <Service Provider>, acting as a reasonable and prudent network operator<sup>38</sup>:
    - (A) may refuse to accept, partly or wholly, any quantity of Gas at the Receipt Point associated with any Physical Gate Point affected by the Interconnection Event; and
    - (B) may wholly or partly Curtail the quantity or pressure of Gas deliveries to <User> at a Delivery Point associated with the Receipt Point associated with any Physical Gate Point affected by the Interconnection Event.
- (b) If a contract that exists in respect of the Interconnection Arrangement for a Physical Gate Point associated with a Receipt Point specified in the Delivery Point Register is terminated or breached:
  - (i) as a result of the negligence or default of <Service Provider> then, subject to this Haulage Contract, <Service Provider> is liable to

<sup>37</sup> S 16 of the *Gas Standards Act 1972* (WA) allows for regulations to be made providing for the commingling of Gas of different qualities in a distribution system, while Part 3A of the Gas Standards Regulations deals with entry and commingling of gas of different qualities. ATCO Gas Australia has an approved management plan (the Higher Heating Value Management Plan) in accordance with Regulation 17C of the Gas Standards Regulations.

<sup>38</sup> This may be interpreted to mean a network operator who exercises that degree of reasonableness, diligence, prudence and foresight that would reasonably and ordinarily be exercised by a skilled and experienced person doing a similar thing in similar circumstances and conditions in accordance with applicable laws and standards that are at least equivalent to practices and standards generally accepted in the gas industry in Australia (this is the definition of "reasonable and prudent person" in rule 2 of the Retail Market Rules).

- <User>** for any Direct Damage suffered by **<User>** as a result of an interruption or Curtailment of Gas delivery under clause 7.6(a)(ii); or
- (ii) other than as a result of the negligence or default of **<Service Provider>**, then **<Service Provider>** may Curtail Gas delivery under clause 7.6(a)(ii) without liability to **<User>**.
- (c) Subject to clause 7.6(d), if **<User>** considers that an event has occurred or is likely to occur that may constitute or cause an Interconnection Event, **<User>** must notify **<Service Provider>** of this in writing as soon as practicable.
- (d) It is **<Service Provider>**, acting as a reasonable and prudent network operator, who determines whether an event is an Interconnection Event for the purposes of this Haulage Contract.
- (e) Subject to clauses 7.6(f) and 21.2, **<Service Provider>** may disclose to an operator of an Interconnected Pipeline information which **<Service Provider>** determines, as a reasonable and prudent network operator, to be the minimum amount of information required to be disclosed for operational reasons relating to the interconnection of that, or any other, Interconnected Pipeline with the AGA GDS.
- (f) **<Service Provider>** must use reasonable endeavours to present any information disclosed to the operator of an Interconnected Pipeline under clause 7.6(e) in a form which does not identify details of **<User>**.

## 7.7 Delivery facilities installation, maintenance and operation

- (a) Except as provided in this clause 7.7 or as otherwise required by Law, **<Service Provider>** will not be liable to pay compensation for or in respect of, or make good any damage done to, the land or premises of **<User>** or **<User>**'s Gas customer by **<Service Provider>** or its officers, servants, or agents in the reasonable course of installing, maintaining or operating User Specific Delivery Facilities or Standard Delivery Facilities, whether that damage is of a temporary or permanent character.
- (b) If, in the course of installing, maintaining or operating User Specific Delivery Facilities or Standard Delivery Facilities, **<Service Provider>** causes damage to land or premises of **<User>** or **<User>**'s Gas customer by opening or breaking up any sealed or paved surface or damaging or disturbing any lawn, landscaping or other improvement, then **<Service Provider>** will:
- (i) fill in any ground to restore it to approximately its previous level, if necessary; and
- (ii) be liable to reinstate or make good, or pay compensation in respect of, the damage, if and to the extent that **<Service Provider>** fails to act reasonably in the course of the installation, maintenance or operation, having regard to the safe and efficient operation of the AGA GDS<sup>39</sup> and prudent Pipeline practices generally accepted in the Gas haulage industry.
- (c) If **<User>** is required to compensate **<User>**'s Gas customer for any damage done in circumstances where **<Service Provider>** would be liable in respect of such damage under clause 7.7(b)(ii), then **<Service Provider>** will indemnify **<User>** to the extent of the lesser of:

<sup>39</sup> Based on the network safety obligations set out in the Gas Standards Regulations and the Gas Distribution System Safety Case that is in place under Schedule 2 of those Regulations.

- (i) the value of the compensation <User>'s Gas customer receives from <User>; and
  - (ii) the value of compensation which would be payable by <Service Provider> to <User> under clause 7.7(b)(ii) if the damage had been suffered wholly by <User> instead of <User>'s Gas customer.
- (d) Except to the extent that <Service Provider> is liable to <User> or <User>'s Gas customer under clause 7.7(b)(ii), <User> hereby:
- (i) releases <Service Provider> from any Claim <User> has or may have against <Service Provider>; and
  - (ii) indemnifies <Service Provider> against any loss, damage, cost or expense suffered or incurred by <Service Provider> in relation to or connection with any Claim brought by <User>'s Gas customer,

in respect of any damage done to the land or premises of <User> or <User>'s Gas customer by <Service Provider> or its officers, servants, or agents acting reasonably in the course of installing, maintaining or operating User Specific Delivery Facilities or Standard Delivery Facilities and having regard to the safe and efficient operation of the AGA GDS and prudent Pipeline practices generally accepted in the Gas haulage industry, whether that damage is of a temporary or permanent character.

## 8. CURTAILMENT

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### 8.1 <Service Provider> to minimise Curtailment

<Service Provider> will, in its operation and maintenance of the AGA GDS, use reasonable endeavours to minimise the magnitude and duration of any Curtailment of Gas deliveries to <User>, except where the Curtailment is attributable to <User>'s negligence or breach of this Haulage Contract.

### 8.2 <Service Provider>'s right to refuse to accept Gas at Receipt Point

In addition to any other rights and remedies that may be available to it under any Law, this Haulage Contract (including clauses 6.4(a)(i), 7.6 and 15.5) or any other agreement, <Service Provider> may refuse to accept, wholly or partly, the quantity of Gas delivered to a Receipt Point by <User> or a Related Shipper of <User> if one or more of the following events occur:

- (a) <Service Provider> considers, as a reasonable and prudent network operator, that accepting the Gas would be inconsistent with a heating value blending management plan under the Gas Standards Regulations, or otherwise will, or might reasonably be expected to, cause the heating value of the Gas in any part of the AGA GDS to depart from any requirement in or under the Gas Standards Regulations;
- (b) <Service Provider> considers, as a reasonable and prudent network operator, that acceptance of all or part of the Gas would be unsafe or may give rise to an unsafe situation for the operation of the AGA GDS;
- (c) any arrangements or operations of <User> or a Related Shipper of <User> in relation to the delivery of the Gas breach any Law;
- (d) <Service Provider> considers, as a reasonable and prudent network operator, that to accept the Gas would, or might reasonably be expected to, be or cause a breach of any Law by <Service Provider>, <User> or any other person;

- (e) either Party experiences an event of Force Majeure;
- (f) acceptance of the Gas by **<Service Provider>** would cause the AGA GDS to exceed its maximum allowable operating pressure; or
- (g) **<Service Provider>** is otherwise permitted or required to do so by this Haulage Contract or any Law.

### 8.3 Curtailment Events<sup>40</sup>

In addition to any other rights and remedies that may be available to it under any Law, this Haulage Contract (including clauses 6.4(a)(i), 7.6, 8.4 and 15.5) or any other agreement, **<Service Provider>** may wholly or partly Curtail the quantity or pressure of Gas deliveries to **<User>** at a Delivery Point if one or more of the following events occur:

- (a) **<User>** exceeds its Contracted Peak Rate at the Delivery Point;
- (b) **<User>** or a Related Shipper of **<User>** is not entitled to have delivered, or fails to have delivered, an equivalent quantity of Gas at one or more Receipt Points on the same Sub-network as the Delivery Point;
- (c) in **<Service Provider>**'s opinion, formed as a reasonable and prudent network operator, **<User>** is in breach of a provision of the Approved System Pressure Protection Plan or a representation and warranty set out in clauses 18.1(a), 18.1(b), 18.1(l), 18.1(n), 18.1(o) or 18.1(p), or may commit such a breach if no Curtailment is effected;
- (d) the operator of an Interconnected Pipeline, in respect of a particular day:
  - (i) has Curtailed, or has given notice that it intends to Curtail, the entitlement of a Related Shipper to receive Gas at a Receipt Point for the Sub-network on which the Delivery Point is located; or
  - (ii) refused, or has given written notice that it intends to refuse, to deliver Gas to a Related Shipper at a Receipt Point for the Sub-network on which the Delivery Point is located,

and the Related Shipper is, or is likely to be, named in **<User>**'s allocation instruction under the Retail Market Rules<sup>41</sup> for the day;

- (e) the level of Capacity of the AGA GDS falls or remains below that necessary to meet all Users' requirements;
- (f) an Emergency occurs or either Party experiences an event of Force Majeure;
- (g) **<Service Provider>** considers, as a reasonable and prudent network operator, that it would be unsafe or may give rise to an unsafe situation or an Emergency (whether for the operation of the AGA GDS or in respect of anything

<sup>40</sup>Part 5.2 of the Retail Market Rules sets out User obligations in relation to injections and withdrawals for each Sub-network, including swing service, which may be impacted by a Curtailment. Schedule 3 of the Energy Coordination Act 1994 (WA) provides for the Curtailment of gas supply by Ministerial order in an emergency. In addition, the Minister has extensive powers under s 57 of the Energy Operators (Powers) Act 1979 (WA) to take necessary measures in the event of a distribution system emergency.

<sup>41</sup>The requirements for Users to give REMCo allocation instructions are set out in Part 5.3 of the Retail Market Rules. A User must give REMCo a valid allocation instruction at least two business days before the gas day on which the User first withdraws gas from a sub-network, and from then on before each gas day on which the user is likely to withdraw gas from a sub-network.



downstream of the Delivery Point) to deliver Gas to **<User>** at the Delivery Point;

- (h) **<Service Provider>** considers, as a reasonable and prudent network operator, that to deliver the Gas would, or might reasonably be expected to, be or result in a breach of any Law by **<Service Provider>**, **<User>** or any other person; or
- (i) without limiting clauses 8.3(g) or 8.3(h), **<Service Provider>** considers, as a reasonable and prudent network operator, that there is, or is a reasonable prospect of, any non-compliance with any Regulatory Instrument by any person downstream of the Delivery Point;
- (j) **<Service Provider>** is otherwise permitted or required to do so by this Haulage Contract or any Law.

#### 8.4 Curtailment for certain activities

**<Service Provider>** may, in addition to any other rights that may be available to it under this Haulage Contract or any Law, at any time:

- (a) by arrangement with **<User>**; or
- (b) at least 30 days after giving **<User>** written notice,

wholly or partially Curtail Gas deliveries to **<User>** to the extent reasonably necessary to permit **<Service Provider>** to undertake any Extension or Expansion<sup>42</sup> of the AGA GDS, or perform any maintenance or operational activities in relation to the AGA GDS, that the Servicer Provider may reasonably require.

#### 8.5 **<User>** to comply with notice of refusal to accept Gas

- (a) In order to enforce a refusal to accept Gas under clause 8.2, **<Service Provider>** may issue a notice to **<User>** requiring **<User>** to:
  - (i) cease delivering Gas to a Physical Gate Point, Receipt Point or Receipt Points, and Curtail taking delivery of Gas from any and all associated Delivery Points; and
  - (ii) comply with any other condition necessary to effect the Curtailment or refusal to accept Gas.
- (b) If **<Service Provider>** considers it appropriate, it may include in any notice issued under clause 8.5(a) the reason or reasons for **<Service Provider>**'s refusal to accept Gas.
- (c) **<User>** must comply with the terms of a notice given by **<Service Provider>** under clause 8.5(a).
- (d) Nothing in this clause 8.5 limits **<Service Provider>**'s rights to refuse to accept Gas in any other way.

#### 8.6 **<User>** to comply with notice of Curtailment

- (a) In order to effect a Curtailment under this Haulage Contract, **<Service Provider>** may issue a notice to **<User>** requiring **<User>** to:

<sup>42</sup> Part 7 of the Access Arrangement lists detailed requirements and processes in relation to the extension and expansion of pipelines.

- (i) Curtail receipt of Gas by **<User>** at one or more Delivery Points, and Curtail its delivery of Gas to every associated Receipt Point; and
  - (ii) comply with any other condition necessary to effect the Curtailment or refusal to accept Gas.
- (b) If **<Service Provider>** considers it appropriate, it may include in any notice issued under clause 8.6(a) the reason or reasons for the Curtailment.
  - (c) **<User>** must comply with the terms of a notice given by **<Service Provider>** under clause 8.6(a).
  - (d) Nothing in this clause 8.5 limits **<Service Provider>**'s rights to effect a Curtailment.

### 8.7 Service Provider entitled to recover reasonable costs

**<User>** must reimburse **<Service Provider>** for all reasonable costs **<Service Provider>** incurs in refusing to accept delivery of Gas under clause 8.2 or Curtailing delivery under clauses 8.3 or 8.4, to the extent that the right to refuse to accept delivery of Gas or Curtail delivery arises from:

- (a) a breach of this Haulage Contract by **<User>**; or
- (b) the negligence of **<User>** or a Related Shipper of **<User>**.

### 8.8 Method of Curtailment or refusal to accept

- (a) When exercising its rights under clauses 8.2, 8.4 or 8.4 **<Service Provider>** will determine, acting as a reasonable and prudent network operator:
  - (i) the quantity of Gas that it refuses to accept delivery of and the Receipt Points at which it will refuse to accept; or
  - (ii) which Delivery Points it will Curtail and the order of that Curtailment, as the case may be.
- (b) **<Service Provider>** may exercise its rights under clauses 8.2, 8.3 or 8.4 even though the need for refusal to accept delivery of Gas or for Curtailment is caused or contributed to by one or more other Users.
- (c) **<Service Provider>** will, where practicable, use reasonable endeavours to provide **<User>** with reasonable warning of the magnitude, starting time and expected duration of a refusal to accept delivery of Gas under clause 8.2 or a Curtailment under clause 8.4, and the reasons for the refusal to accept or Curtailment (as the case may be).
- (d) In the event that the magnitude or expected duration of a refusal to accept delivery of Gas or a Curtailment is materially different to that described in a warning under clause 8.8(c), then **<Service Provider>** will, where practicable, use reasonable endeavours to provide **<User>** with reasonable ongoing notice of the likely magnitude and expected duration of the refusal to accept or Curtailment (as the case may be).
- (e) Without limiting clause 6.7, despite **<Service Provider>**'s rights under clauses 8.2, 8.3 and 8.4, **<User>** acknowledges that:

- (i) **<User>** is responsible for balancing the Gas it delivers to a Sub-network on a Gas Day with the quantity of Gas it receives from the Sub-network on that Gas Day; and
- (ii) **<Service Provider>** has no obligation to wholly or partly refuse to accept delivery of Gas or Curtail the amount or pressure of Gas deliveries to **<User>** for the purpose of avoiding swing service on a Sub-network on a Gas Day.

## 9. **METERING**<sup>43</sup>

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### 9.1 **Operating meters**

**<Service Provider>** must ensure that User Specific Delivery Facilities and Standard Delivery Facilities for Haulage Services are designed, adjusted, operated and maintained:

- (a) so as to achieve the best accuracy of measurement which is, having regard to the nature and duration of this Haulage Contract and the magnitude of **<User>**'s Contracted Peak Rate, technically and economically feasible; and
- (b) consistently with:
  - (i) the Regulatory Instruments; and
  - (ii) the standard of a reasonable and prudent network operator acting efficiently, in accordance with accepted good industry practice.

### 9.2 **Use of Gas Quality Data from other locations**

- (a) **<Service Provider>** may use:
  - (i) historical Gas Quality Data and Meter data; and
  - (ii) Gas Quality Data and Meter data from Meters at one or more other locations,

to estimate the quality and quantity of Gas delivered to a Delivery Point.
- (b) In the absence of manifest error, the rates and quantities so calculated by **<Service Provider>** bind the Parties.

### 9.3 **Access to the Delivery Point and relevant land and premises**

- (a) **<User>** acknowledges that **<Service Provider>**'s ability to provide a Haulage Service to **<User>** in respect of a Delivery Point is subject to **<User>** ensuring that **<Service Provider>** and its officers, agents, employees and contractors have unfettered access to the land and premises on, or through which, the Standard Delivery Facilities or the User Specific Delivery Facilities are to be, or are, installed:
  - (i) during the term of this Haulage Contract; and
  - (ii) if applicable, until the Delivery Point is Deregistered.

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<sup>43</sup> Part 4.2 of the Retail Market Rules sets out meter reading requirements, including scheduling of meter readings, amendments to schedules, special readings and readings by another entity.

- (b) The **<User>** must use reasonable endeavours to provide or procure such unfettered access to the relevant land or premises in a timely manner.
- (c) If **<Service Provider>**:
- (i) does not have unfettered access to the relevant land or premises as described in clause 9.3(a); and
  - (ii) as a consequence incurs a cost in order to obtain access to the land or premises that it would not have incurred had unfettered access been provided,
- then **<Service Provider>** may require **<User>** to pay an amount determined by **<Service Provider>** as reasonable to recover that cost.
- (d) **<Service Provider>**'s rights under this clause 9.3 are in addition to, and do not limit, any other entitlement of **<Service Provider>** under this Haulage Contract or any Law to be paid an amount where the activities required to be undertaken by **<Service Provider>** in consideration for payment include accessing the land or premises on, or through which, the AGA GDS or any Standard Delivery Facilities or User Specific Delivery Facilities are, or are to be, installed.

## 10. INVOICING AND PAYMENT

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### 10.1 Invoicing<sup>44</sup>

- (a) **<Service Provider>** may claim payment, twice a month in arrears, of Haulage Charges and other amounts payable by **<User>** under this Haulage Contract , by issuing to **<User>** a written payment claim prepared in accordance with clause 10.1(a) (**Payment Claim**). A Payment Claim comprises:
- (i) a tax invoice<sup>45</sup> in respect of:
    - (A) all Haulage Charges and other amounts payable under this Haulage Contract in respect of each Delivery Point, for the period covered by the Payment Claim; any other amounts payable under this Haulage Contract for the period covered by the Payment Claim;
    - (B) any outstanding amounts previously invoiced that remain unpaid, and any interest payable on those amounts calculated under clause 10.5;
    - (C) any deduction from or addition to the tax invoice required under clause 10.4 to correct an error in a previous Payment Claim; and
    - (D) any amount required under clause 10.6(a)(iii) to be credited to **<User>** in the Payment Claim;
  - (ii) a summary of the Meter data used to calculate or estimate the Haulage Charges and other Charges included in the Payment Claim;

<sup>44</sup> REMCo publishes an Information Pack and a Specification Pack which provide technical specifications and guidelines for interpreting and implementing the Retail Market Rules, including in relation to invoicing and payment systems. The invoicing and payment terms of the Template Haulage Requirement reflect REMCo's requirements under these documents.

<sup>45</sup> Under clause 23.2(k) of this Haulage Contract, for the purposes of this Haulage Contract the term "tax invoice" has the meaning given to it in the GST Law.

- (iii) the Payment Method or Methods by which payment may be made, and any information required to make payment using the specified Payment Method or Methods; and
  - (iv) such other information as the Parties may agree in writing.
- (b) <Service Provider> will use reasonable endeavours to make Payment Claims on the first and sixteenth days of each month.

## 10.2 Payment within 10 Business Days

- (a) Subject to clause 10.3, <User> must, within 10 Business Days after receiving a Payment Claim, pay to <Service Provider> the amount invoiced in the Payment Claim, using a Payment Method specified in the Payment Claim.
- (b) Without prejudice to <Service Provider>'s other rights, <User> must pay interest in accordance with clause 10.5 on any amount not paid as required under clause 10.2(a).

## 10.3 Disputing Payment Claims prior to payment

- (a) If <User> disputes any amount set out in a Payment Claim, <User> must:
  - (i) within 10 Business Days after receiving the Payment Claim, give <Service Provider> a written notice specifying:
    - (A) the full details of the dispute; and
    - (B) the amount <User> considers should be payable instead of the amount set out in the Payment Claim (**Alternative Payment Amount**),

**(Payment Dispute Notice)**; and
  - (ii) pay the undisputed portion (if any) of the amount in accordance with clause 10.2(a), along with any other undisputed amounts invoiced in the Payment Claim.
- (b) If <User> does not give <Service Provider> a Payment Dispute Notice in respect of a Payment Claim within the period specified in clause 10.3(a)(i), <User> will be deemed to have agreed to the amounts payable set out in the Payment Claim.
- (c) Where <User> gives <Service Provider> a Payment Dispute Notice under clause 10.3(a)(i), <Service Provider> must, within 5 Business Days after receiving it, give <User> a written notice (**Response Notice**) specifying either:
  - (i) that <Service Provider> agrees to the Alternative Payment Amount specified in the Payment Dispute Notice, in which case the Payment Claim is deemed to be modified in accordance with the Response Notice and <User> must pay the Alternative Payment Amount within 10 Business Days after receiving the Response Notice; or
  - (ii) that <Service Provider> does not agree to the Alternative Payment Amount and the reasons for this, in which case clause 10.3(d) applies.
- (d) Where <Service Provider> gives <User> a Response Notice under clause 10.3(c)(ii) specifying that <Service Provider> does not agree to an Alternative Payment Amount, <User> must give <Service Provider> a written notice specifying either:

- (i) that the Payment Dispute Notice is withdrawn (**Dispute Withdrawal Notice**), in which case **<User>** must pay:
    - (A) the relevant amount as set out in the original Payment Claim; and
    - (B) interest calculated on that amount under clause 10.5, within 10 Business Days after the date of the Dispute Withdrawal Notice; or
  - (ii) that **<User>** does not withdraw the Payment Dispute Notice, in which case the dispute is to be resolved in accordance with clause 19.
- (e) Any amount not paid as required under clauses 10.3(c)(i) or 10.3(d)(i) will, without prejudice to **<Service Provider>**'s other rights, attract interest in accordance with clause 10.5.

#### 10.4 Correction of payment errors after payment

- (a) If a Party forms the view after a Payment Claim has been paid that there is an error in the Payment Claim, the Party may give the other Party a written notice providing details of the error, and specifying each Payment Claim line item affected by the error (**Retrospective Error Notice**).
- (b) Where **<User>** provides a Retrospective Error Notice under clause 10.4(a), **<Service Provider>** must, within 5 Business Days after receiving it, give **<User>** a written notice specifying either:
  - (i) that **<Service Provider>** agrees with the Retrospective Error Notice, in which case, subject to clause 10.4(e), **<Service Provider>** will account for:
    - (A) the value of the error; and
    - (B) interest on the value of the error calculated under clause 10.5, in the next Payment Claim; or
  - (ii) that **<Service Provider>** does not agree with the Retrospective Error Notice and the reasons for this, in which case clause 10.4(c) applies.
- (c) Where **<Service Provider>** gives **<User>** notice under clause 10.4(b)(ii) that **<Service Provider>** does not agree with a Retrospective Error Notice, **<User>** must, within 5 Business Days after receiving the notice, give **<Service Provider>** a written notice specifying either:
  - (i) that the Retrospective Error Notice is withdrawn, in which case neither Party will have any liability to the other in respect of the Retrospective Error Notice or the alleged error; or
  - (ii) that **<User>** does not withdraw the Retrospective Error Notice, in which case the dispute is to be resolved in accordance with clause 19.
- (d) Where **<Service Provider>** provides a Retrospective Error Notice under clause 10.4(a), **<Service Provider>** will account for:
  - (i) the value of the error; and
  - (ii) interest on the value of the error calculated under clause 10.5,

in the next Payment Claim.

- (e) If:
- (i) **<Service Provider>** is required under clause 10.4(b)(i) or 10.4(d) to account for an error in a future Payment Claim; and
  - (ii) as at the date of the Retrospective Error Notice for the error, there are no further Payment Claims to be made by **<Service Provider>** under this Haulage Contract,

then:

- (iii) where the error would require a deduction from the future Payment Claim, **<Service Provider>** must pay to **<User>** an amount equal to the amount to be deducted; and
- (iv) where the error would require an addition to the future Payment Claim, **<User>** must pay to **<Service Provider>** an amount equal to the amount to be added,

in each case within 20 Business Days after the date of the Retrospective Error Notice for the error.

## 10.5 Interest

Where applicable, interest on unpaid amounts due under this Haulage Contract will be calculated daily at the Prescribed Interest Rate, from and including the date by which the payment was due until but excluding the date of full and final payment.

## 10.6 Guaranteed Service Level payments<sup>46</sup>

- (a) If **<Service Provider>** is required to pay a Small Use Customer for a failure by **<Service Provider>** to comply with the Guaranteed Service Levels, **<Service Provider>** may notify **<User>** that it wishes to make the payment of the required amount through **<User>**, in which case:
  - (i) **<Service Provider>** must notify **<User>** of the amount owing to the Small Use Customer;
  - (ii) **<User>** must pay that amount to the Small Use Customer or credit that amount to the Small Use Customer as soon as practicable, in accordance with **<User>**'s Small Use Customer invoicing procedures; and
  - (iii) subject to clause 10.6(b), **<Service Provider>** must credit the amount actually paid or credited to the Small Use Customer to the next Payment Claim that it issues to **<User>** under clause 10.1(a).
- (b) If **<Service Provider>** is required to make a payment to a Small Use Customer as a result of not complying with the Guaranteed Service Levels but that non-compliance is a result of **<User>**'s act or omission, then **<User>** must either:

<sup>46</sup> ATCO Gas Australia operates a Guaranteed Service Level scheme which provides for compensation to Small Use Customers (as defined in s 3 of the *Energy Coordination Act 1994* (WA)) who have been inconvenienced by disruption to their gas supply. The specific requirements of this scheme are set out in the Authority's Gas Compliance Reporting Manual and are a condition of ATCO Gas Australia's Gas Distribution Licence (Clause 16 – Individual Performance Standards)) and a requirement of s 11M of the *Energy Coordination Act 1994* (WA).

- (i) reimburse **<Service Provider>** for the payment made to the Small Use Customer; or
  - (ii) if requested by **<Service Provider>**, on its behalf, make the payment to the Small Use Customer or credit that amount to the Small Use Customer's next bill, and **<Service Provider>** is not required to reimburse or credit **<User>** for that amount.
- (c) **<User>** must notify **<Service Provider>** where it is aware that **<Service Provider>** may be required to make a payment to a Small Use Customer under the Guaranteed Service Levels.
  - (d) **<Service Provider>** must notify **<User>** where it makes a payment directly to a Small Use Customer under the Guaranteed Service Levels.

## 11. Taxes and GST

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### 11.1 Taxes

- (a) Subject only to clause 11.2, all Taxes arising in respect of:
  - (i) the transfer of title to Gas to **<Service Provider>** at a Receipt Point;
  - (ii) the delivery, transportation or handling of Gas before receipt at a Receipt Point and after delivery at a Delivery Point; and
  - (iii) the transfer of title to Gas to **<User>** at a Delivery Point in accordance with clause 7.1(a)(ii),

shall be paid by **<User>**.
- (b) All Taxes arising in respect of a Pipeline Service (including a Haulage Service) relating to Gas after receipt at a Receipt Point and before delivery at a Delivery Point shall be paid by **<Service Provider>**.

### 11.2 GST<sup>47</sup>

- (a) Words defined in the GST Law have the same meaning in this clause 11.2, unless expressly provided otherwise.
- (b) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.
- (c) References to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under the GST Law, and references to an input tax credit extend to any notional input tax credit to which any person is entitled.

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<sup>47</sup> Among other things, this clause ensures that a Party who makes a supply under this Haulage Contract can collect the GST attributable to that supply from the recipient of the supply, in addition to the consideration payable for that supply. Without this clause, the GST Act would operate so that any consideration payable for a supply would be inclusive of GST, meaning that the Party making the supply would not be entitled to collect GST from the recipient in addition to the consideration payable. This would result in the supplier effectively paying the GST liability out of the consideration received for the supply, with the recipient potentially being entitled to claim an input tax credit for the GST liability attributable to that supply, resulting in the recipient effectively being refunded 1/11<sup>th</sup> of that consideration paid to the supplier by the ATO (so in reality only having to bear 10/11ths of the consideration for that supply – a commercially unacceptable outcome).



- (d) In addition to paying or providing the consideration (which is exclusive of GST unless expressly provided otherwise), the recipient must:
- (i) pay to the supplier an amount equal to any GST for which the supplier is liable on any supply by the supplier under or in connection with this document, without deduction or set-off of any other amount; and
  - (ii) make that payment as and when the consideration or part of it must be paid or provided or, if the consideration has already been paid or provided, within 5 Business Days of receiving a written demand from the supplier, except that the recipient need not pay unless the recipient has received a tax invoice for that supply.
- (e) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier:
- (i) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving the recipient notice (in the form of a tax invoice or adjustment note) in the next Payment Claim following the adjustment event, if applicable, or otherwise by giving the recipient 10 Business Day's notice (in the form of a tax invoice or adjustment note); or
  - (ii) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the supplier is entitled to a refund or credit from the Commissioner of Taxation.
- (f) If a Party provides a payment for or any satisfaction of a claim or a right to claim under or in connection with this document (for example, for misleading or deceptive conduct or for misrepresentation or for a breach of any warranty of the supplier or of the recipient or for indemnity or for reimbursement of any expense) which gives rise to a liability for GST, the provider must pay, and indemnify the claimant against the amount of that GST.
- (g) If a Party has a claim under or in connection with this document for a cost on which that Party must pay an amount for GST, the claim is for the cost plus the amount for GST (except any amount for GST for which that Party is entitled to an input tax credit).
- (h) If a Party has a claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

## 12. **FORCE MAJEURE**

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- (a) Subject to the terms of this clause 12, a Party is excused from performance of, and is not liable for any failure in carrying out, any of its obligations under this Haulage Contract if it is prevented from doing so by Force Majeure.
- (b) The occurrence of Force Majeure (whether claimed by **<Service Provider>** or by **<User>**) does not relieve **<User>** of the obligation to pay any Haulage Charge or other amounts payable under this Haulage Contract or any Law.
- (c) To the extent that **<Service Provider>** fails to provide Reference Services under this Haulage Contract and claims the benefit of Force Majeure in respect

of that failure, **<User>** is excused from the obligation to pay the Reference Tariff (including any standing charge or demand charge).

- (d) The inability to pay money, however caused, does not constitute Force Majeure.
- (e) If a Party claims the benefit of Force Majeure under this clause 12, it must:
  - (i) promptly give written notice to the other Party specifying:
    - (A) the occurrence and circumstances in which the claim arises; and
    - (B) the likely duration of the occurrence or circumstance;
  - (ii) at the request of the other Party, provide periodic updates as to the status of each occurrence or circumstance;
  - (iii) promptly give written notice to the other Party once it is able to resume full performance of its obligations;
  - (iv) use reasonable endeavours to resolve the Force Majeure and remedy its consequences without delay; and
  - (v) resume full performance of its obligations under this Haulage Contract as soon as reasonably practicable.
- (f) Settlement of strikes, lock outs, stoppages and restraints of labour or other industrial disturbances are entirely within the discretion of the Party claiming the benefit of Force Majeure under this clause 12 and the Party may refrain from settling industrial disturbances or may settle them on any terms it considers to be in its best interests.
- (g) If at any time during the term of this Haulage Contract a Party:
  - (i) is validly claiming; and
  - (ii) has for a consecutive period of at least one Year validly claimed,

the benefit of this clause 12 in respect of a failure by the Party to comply with its obligations under this Haulage Contract due to Force Majeure, then either Party may in its absolute discretion by written notice to the other Party terminate this Haulage Contract, without further liability for either Party.

## 13. VARIATION

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### 13.1 Replacement of Haulage Services

- (a) **<Service Provider>** may, at any time where permitted by clause 13.1(c), by written notice to **<User>**, vary this Haulage Contract to replace the Haulage Service provided under the Haulage Contract in respect of a Delivery Point with a different Haulage Service for that Delivery Point.
- (b) **<Service Provider>** must consult with **<User>** at least 20 Business Days prior to giving a notice under clause 13.1(a), and **<User>** may, within 5 Business Days after the notice being given, provide information to **<Service Provider>** regarding why the notice should not be given.
- (c) **<Service Provider>** may only replace a Haulage Service with a different Haulage Service by notice under clause 13.1(a) if either:

- (i) in its opinion, acting reasonably, **<Service Provider>** anticipates (having regard to any information provided by **<User>** under clause 13.1(b)) that the quantity of Gas to be delivered to **<User>** in the Year following the date of the notice would fall within the requirements of a Haulage Service<sup>48</sup> other than the Haulage Service applicable to the Delivery Point immediately prior to the date of the notice; or
  - (ii) an Above 10 TJ Determination has been, or is likely to be, made under the Retail Market Rules<sup>49</sup> and the Haulage Service that applies immediately prior to the date of the notice is not already Service A1 or Service A2.
- (d) For the purpose of clause 13.1(a):
- (i) this Haulage Contract is varied by updating the Delivery Point Register to replace the existing Haulage Service in respect of the Delivery Point with the replacement Haulage Service for that Delivery Point; and
  - (ii) the variation takes effect from the start of the Gas Day which occurs 20 Business Days after the date a notice in respect of the variation is issued under clause 13.1(a).
- (e) From the date a variation takes effect under clause 13.1(d), all terms and conditions applying to the replacement Haulage Service (including the Tariff) will apply.

### 13.2 Revisions to Access Arrangement that affect Pipeline Services<sup>50</sup>

- (a) If the Access Arrangement is revised so that:
- (i) an Original Pipeline Service is no longer described as a Pipeline Service that **<Service Provider>** offers to provide by means of the AGA GDS;
  - (ii) an Original Pipeline Service is described as a Pipeline Service that **<Service Provider>** offers to provide by means of the AGA GDS but is no longer specified as a Reference Service; or
  - (iii) the description of an Original Pipeline Service is varied,
- then **<Service Provider>** must, acting reasonably, determine whether a Post-revision Pipeline Service is similar to the Original Pipeline Service.
- (b) If **<Service Provider>** determines under clause 13.2(a) that a Post-revision Pipeline Service is similar to an Original Pipeline Service, then:

<sup>48</sup> The requirements of each Haulage Service (A1, A2, B1, B2 and B3) are set out in clause 1(b) of the corresponding Schedule to this Haulage Contract which describes the Haulage Service.

<sup>49</sup> Rule 139(3) of the Retail Market Rules requires REMCo to make an Above 10 TJ Determination if, in REMCo's opinion, the gas deliveries to the Delivery Point are likely to exceed 10 TJ in the year immediately following the day of determination.

<sup>50</sup> In Australia, third party access to gas infrastructure is regulated by the National Gas Law (NGL) and National Gas Rules (NGR). The uniform national framework has been developed under the Australian Energy Market Agreement (AEMA) by the Council of Australian Governments' (COAG) Ministerial Council on Energy (MCE). In Western Australia, the NGL has been adopted as uniform legislation with some specific amendments to accommodate local circumstances. The amended NGL is applied in Western Australia under the National Gas Access (WA) Act 2009 (NGA). Legislative changes to the NGL are negotiated and developed on a national basis and agreed by State Parliaments. The Australian Energy Market Commission (AEMC) administers the NGR, and interested parties can submit rule changes to the AEMC. Both the NGL and NGR have undergone a number of changes since their inception and will continue to change over time as further amendments are proposed.

- (i) this Haulage Contract is amended to read such that:
    - (A) the Post-revision Pipeline Service replaces the Haulage Service that is derived from the Original Pipeline Service; and
    - (B) any references to the Original Pipeline Service are replaced with references to the Post-revision Pipeline Service;
    - (C) without limiting clause 13.2(b)(i)(A), with respect to any Haulage Service that is derived from the Original Pipeline Service:
      - i. the title of the Haulage Service is replaced with a title that reflects the name of the Post-revision Pipeline Service;
      - ii. any description of the Haulage Service is replaced with a description that is consistent with the description of the Post-revision Pipeline Service set out in the Access Arrangement;
      - iii. all terms and conditions that apply to the Haulage Service are replaced with terms and conditions that are consistent with the terms and conditions on which the Post-revision Pipeline Service is provided, as specified in the Access Arrangement; and
      - iv. the Tariff to be paid for the Haulage Service is the Tariff specified as the Reference Tariff for the Post-revision Pipeline Service in the Access Arrangement; and
    - (D) any consequential amendments are made; and
  - (ii) **<Service Provider>** must, as soon as practicable after making the determination, give **<User>** a Change Notice.
- (c) Unless, within 10 Business Days after receiving a Change Notice under clause 13.2(b), **<User>** disputes the changes set out in the Change Notice under clause 19, this Haulage Contract is amended as described, and with effect from the date specified, in the Change Notice.
  - (d) If **<Service Provider>** determines under clause 13.2(a) that no Post-revision Pipeline Service is similar to an Original Pipeline Service, then:
    - (i) **<Service Provider>** must give **<User>** written notice of that determination; and
    - (ii) the Parties must seek to resolve the amendments required to this Haulage Contract as a result of the change to the Original Pipeline Service in accordance with the procedures set out in clause 19.
  - (e) If this Haulage Contract is varied under this clause 13.2, then **<Service Provider>** must vary the Delivery Point Register accordingly.

### 13.3 Revisions to Access Arrangement that affect the terms and conditions of Pipeline Services

If the Access Arrangement is revised so that the terms and conditions on which an Original Pipeline Service is provided are varied, then:

- (a) this Haulage Contract is amended to read such that:

- (i) with respect to any Haulage Service that is derived from the Original Pipeline Service:
  - (A) the terms and conditions that apply to the Haulage Service under this Haulage Contract are replaced with terms and conditions that reflect the revised terms and conditions; and
  - (B) without limiting clause 13.3(a)(i), the Tariff to be paid for the Haulage Service is the Tariff specified as the Reference Tariff for the Post-revision Pipeline Service in the Access Arrangement; and
- (ii) any consequential amendments are made;
- (b) **<Service Provider>** must, as soon as is practicable, give **<User>** a Change Notice;
- (c) any changes to this Haulage Contract specified in the Change Notice take effect on the date specified in the Change Notice; and
- (d) **<Service Provider>** must vary the Delivery Point Register accordingly.

#### 13.4 Continued application of variation provisions

The provisions set out in clauses 13.2 to clause 13.3 apply, with appropriate modifications, on each successive revision of the Access Arrangement, for the duration of this Haulage Contract.

#### 13.5 Right to terminate if Access Arrangement terminates or expires

- (a) If the Access Arrangement expires or is revised under the Access Laws and **<User>** does not agree to continue this Haulage Contract on the basis of the Haulage Contract being varied to incorporate the changes set out in the **<Service Provider>**'s Change Notice, **<User>** may terminate this Haulage Contract by giving 20 Business Days' written notice to **<Service Provider>**, without further liability for either Party.
- (b) If the Access Arrangement terminates or expires without making provision for how this Haulage Contract will terminate, **<Service Provider>** may at any time terminate this Haulage Contract by giving 20 Business Days' written notice to **<User>**, without further liability for either Party.
- (c) If the AGA GDS ceases to be a Covered Pipeline under the National Gas Access Law or any successor legislation, the Parties agree to enter into good faith discussions with a view to renegotiating this Haulage Contract on mutually acceptable terms and conditions.
- (d) If after:
  - (i) the AGA GDS has ceased to be a Covered Pipeline under the National Gas Access Law or any successor legislation; and
  - (ii) the Parties have renegotiated this Haulage Contract under clause 13.5(c),

the AGA GDS subsequently becomes a Covered Pipeline under the National Gas Access Law or any successor legislation, the Parties agree to enter into good faith discussions with a view to renegotiating this Haulage Contract on mutually acceptable terms and conditions.

### 13.6 Review of this Haulage Contract in response to Regulatory Event

- (a) If there is:
- (i) a change to the Retail Market Scheme<sup>51</sup>; or
  - (ii) a change to a Law,
- (“**Regulatory Event**”) which affects the operation of this Haulage Contract, then:
- (iii) **<Service Provider>** may give a notice to **<User>** specifying the amendments to this Haulage Contract that **<Service Provider>**, acting reasonably, considers necessary to address the Regulatory Event (“**Regulatory Event Notice**”); and
  - (iv) unless, within 15 Business Days after receiving a Regulatory Event Notice, **<User>** disputes the amendments set out in the Regulatory Event Notice under clause 19, this Haulage Contract is amended as described, and with effect from the date specified, in the Regulatory Event Notice.

## 14. ASSIGNMENT, NOVATION AND CAPACITY TRADING

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### 14.1 No assignment except as expressly provided for<sup>52</sup>

**<User>** may not transfer, assign or otherwise grant (by way of subcontract or otherwise) an entitlement to or interest in all or part of its Contracted Peak Rate at a Delivery Point except as provided in clauses 14.2 and 14.3.

### 14.2 Bare transfers

**<User>** may transfer, by way of subcontract, all or any of its Contracted Peak Rate at a Delivery Point to another party (**Third Party**) without the consent of **<Service Provider>**, provided that:

- (a) **<User>**'s rights against, and obligations to, **<Service Provider>** under this Haulage Contract are unaffected by the transfer; and
- (b) **<User>** immediately gives **<Service Provider>** written notice of:
  - (i) the subcontract and its likely duration;
  - (ii) the identity of the Third Party; and
  - (iii) the amount of Capacity transferred.

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<sup>51</sup> The process to change REMCo’s Retail Market Rules is a consultative and inclusive process designed to ensure that any change to the REMCo Scheme (including the Rules, the REMCo Specification Pack, and the REMCo Constitution) is developed and implemented in a controlled and agreed fashion. The Rule change process is overseen by the Rule Change Committee.

<sup>52</sup> Also in relation to assignments, Part 6 of the Access Arrangement states that a User’s right to transfer its contracted capacity to another person will be set out in the User’s Service Agreement (as that term is defined in the Access Arrangement, and which definition includes a haulage contract).

### 14.3 Other transfers

- (a) **<User>** may request **<Service Provider>**, in writing, for consent to transfer all or any of its Contracted Peak Rate at a Delivery Point to a Third Party other than by way of a bare transfer under clause 14.2.
- (b) **<Service Provider>** must not withhold its consent to a transfer under this clause 14.3 except on reasonable grounds, based on commercial or technical considerations.
- (c) Without limiting **<Service Provider>**'s discretion to withhold consent under clause 14.3(b), **<Service Provider>** may make its consent to a transfer conditional upon any one or more of the following:
  - (i) the Third Party making an Application under, and the transfer being subject to, the Application Procedure (including the pre-conditions to and restrictions on the provision of Reference Services specified in the Access Arrangement);
  - (ii) the Third Party complying with one or more pre-conditions to and restrictions on the provision of Reference Services specified in the Access Arrangement, as directed by **<Service Provider>** in writing;
  - (iii) the Third Party complying with any other condition or requirement imposed by **<Service Provider>**; and
  - (iv) **<User>** reimbursing **<Service Provider>** for costs in accordance with clause 14.6.
- (d) Any transfer under this clause 14.3 is subject to, and takes effect in accordance with, clause 14.5.

### 14.4 Novation

- (a) Subject to clause 14.4(b), **<User>** may novate this Haulage Contract to a Third Party with **<Service Provider>**'s prior written consent, and such consent must not be unreasonably withheld.
- (b) **<Service Provider>**'s consent for the purposes of clause 14.4(b) will not be unreasonably withheld if it is withheld on the ground that, if the novation occurred, there would, in **<Service Provider>**'s opinion acting as a reasonable and prudent person, be an increase in the commercial or technical risk to **<Service Provider>**.
- (c) Without limiting **<Service Provider>**'s discretion to withhold consent under clause 14.4(a), **<Service Provider>** may make its consent to a novation conditional upon any one or more of the following:
  - (i) the Third Party complying with one or more pre-conditions to and restrictions on the provision of Reference Services specified in the Access Arrangement, as directed by **<Service Provider>** in writing;
  - (ii) the Third Party complying with any other reasonable condition or requirement imposed by **<Service Provider>**;
  - (iii) the Third Party entering into all documentation reasonably required by **<Service Provider>** and providing any security contemplated under that documentation; and

- (iv) **<User>** reimbursing **<Service Provider>** for costs in accordance with clause 14.6.
- (d) Any novation by **<User>** under clause 14.4(a) is subject to, and takes effect in accordance with, clause 14.5.

#### 14.5 **<User> remains liable to <Service Provider>**

- (a) **<User>**'s obligations under this Haulage Contract remain in full force and effect and binding upon **<User>** notwithstanding a proposed transfer under clause 14.3 or novation under clause 14.4 until **<Service Provider>**:
  - (i) consents by written notice to the transfer or novation; and
  - (ii) **<User>** and the relevant Third Party comply with every condition imposed by **<Service Provider>** under clause 14.3(c) or 14.4(c) ,

at which time, subject to clause 14.5(b), **<User>** is released from its obligations to the extent described in the written notice referred to in clause 14.5(a)(i).
- (b) Transfers in accordance with clause 14.3 and novations in accordance with clause 14.4 do not affect rights or liabilities that have accrued under, or in relation to, this Haulage Contract before the transfer or novation takes effect.

#### 14.6 **Costs**

- (a) **<User>** must reimburse **<Service Provider>** for all reasonable costs **<Service Provider>** incurs in:
  - (i) processing a transfer under clause 14.2;
  - (ii) processing and determining a request for the transfer of its Contracted Peak Rate at a Delivery Point under clause 14.3;
  - (iii) processing and determining a request for a novation under clause 14.4; or
  - (iv) negotiating and completing any documentation contemplated under clause 14.4(c)(iii).
- (b) If requested, **<Service Provider>** must provide its good faith estimate of the costs referred to in 14.6(a).
- (c) A costs estimate provided under clause 14.6(b) does not limit the costs which must be reimbursed under 14.6(a).

#### 14.7 **Changing a Receipt Point or a Delivery Point**<sup>53</sup>

- (a) **<User>** may request **<Service Provider>**, in writing, for consent to change:
  - (i) a Delivery Point; or
  - (ii) a Receipt Point.
- (b) In respect of a request for consent under clause 14.7(a) to change a Delivery Point or Receipt Point, **<Service Provider>** may, acting reasonably in light of relevant technical and commercial considerations:

<sup>53</sup> This clause accords with the requirements in rule 106 of the National Gas Rules and Part 8 of the Access Arrangement in relation to changing a receipt or delivery point.



- (i) give its consent to **<User>'s** request subject to conditions; or
  - (ii) without limiting clause 14.7(b)(i), require **<User>** to comply with the Application Procedure (including pre-conditions to and restrictions on the provision of Reference Services specified in the Access Arrangement); or
  - (iii) withhold its consent to **<User>'s** request.
- (c) **<Service Provider>** must give **<User>** written notice of:
- (i) whether consent requested under clause 14.7(a) is granted or withheld;
  - (ii) where consent is granted:
    - (A) any conditions to which the consent is subject; and
    - (B) the date from which the change to the Delivery Point or Receipt Point is effective; and
  - (iii) where consent is withheld, the reasons for this.
- (d) Where there has been a change to a Delivery Point or Receipt Point under this clause 14.7, **<Service Provider>** will amend the Delivery Point Register in accordance with, and on the date specified in, its written consent in respect of the change.

#### **14.8 Assignments and novations by <Service Provider>**

**<Service Provider>** may assign its rights or novate its obligations under this Haulage Contract on giving reasonable written notice to **<User>**.

### **15. DEFAULT AND TERMINATION**

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#### **15.1 Default by a Party**

A Party is in default under this Haulage Contract in any one or more of the following circumstances:

- (a) if the Party fails to make a payment when due under this Haulage Contract;
- (b) if the Party fails to perform or observe any one or more of its obligations under clause 16.2;
- (c) if the Party otherwise fails to perform or observe any one or more of its obligations under this Haulage Contract, including any obligation implied by the operation of Law;
- (d) if an Insolvency Event occurs in respect of the Party;
- (e) if the Party breaches any warranty given to the other Party whether in this Haulage Contract, the Application which gave rise to this Haulage Contract, or under any applicable Law;
- (f) if any statement or representation made by the Party as described in clause 15.1(e) is found to be false or misleading in any material particular; or
- (g) in any other circumstance specified in this Haulage Contract.

## 15.2 Default by <User>

In addition to the circumstances specified in clause 15.1, <User> is in default under this Haulage Contract in any one or more of the following circumstances:

- (a) if there is any adverse change in the business or financial condition of <User> or an event occurs which could, in <Service Provider>'s reasonable opinion, materially affect <User>'s ability to meet its obligations to <Service Provider> under this Haulage Contract; or
- (b) if <User> is in default under any other agreement with <Service Provider> under which <Service Provider> provides Pipeline Services to <User>.

## 15.3 Notice of default

If a Party is in default under this Haulage Contract, then the other Party may give written notice to the defaulting Party specifying the default.

## 15.4 Termination

- (a) Subject to clause 15.4(b), if a Party is in default under this Haulage Contract, then the other Party may, in its absolute discretion, terminate this Haulage Contract by written notice to the defaulting Party.
- (b) A Party may only terminate this Haulage Contract under clause 15.4(a):
  - (i) for a default under clauses 15.1(a) or 15.1(b), where:
    - (A) the Party has given a written notice under clause 15.3 of the default; and
    - (B) the default has not been remedied within 5 Business Days of the defaulting Party receiving the notice; and
  - (ii) for any other default under clauses 15.1 or 15.2, where:
    - (A) the Party has given a written notice under clause 15.3 of the default; and
    - (B) the default has not been remedied within 15 Business Days of the defaulting Party receiving the notice.
- (c) The Parties may terminate this Haulage Contract by written agreement.

## 15.5 Additional remedies in the event of <User>'s default

If <User> is in default under this Haulage Contract, then <Service Provider> may, in its absolute discretion:

- (a) refuse to accept delivery of Gas from a Related Shipper of <User> at a Receipt Point;
- (b) wholly or partly Curtail Gas deliveries to <User> at a Delivery Point;
- (c) reduce or suspend any other Pipeline Service or other service to <User> until such time as all defaults have been remedied; or
- (d) exercise its rights under clause 16.2(d).

## 15.6 Saving of other remedies

A Party's rights under clause 15.4 are in addition to any other rights and remedies available to the Party, whether under any Law, the Access Arrangement, this Haulage Contract or otherwise.

## 15.7 Effect of termination

- (a) Termination of this Haulage Contract:
  - (i) does not prejudice the rights or remedies accrued or available to either Party at the date of termination; and
  - (ii) subject to clause 15.7(b), relieves each Party of all further obligations owed to the other Party under this Haulage Contract on and from the date of termination.
- (b) Termination of this Haulage Contract by a Party does not relieve the other Party of its obligations:
  - (i) to pay all amounts outstanding at the time of termination; and
  - (ii) to pay all amounts which would have become payable under this Haulage Contract but for its termination.

## 15.8 Novation of contracts does not trigger default provisions

A novation of this Haulage Contract in accordance with clauses 14.4 or 14.8 is not an event of default under this Haulage Contract for the purposes of clause 15.1, and does not give rise to a right to terminate this Haulage Contract.

## 15.9 Restructuring or sale of <Service Provider> not a default

- (a) The restructuring or sale of <Service Provider> is not a default for the purposes of clause 15.1 if it is conducted as part of, in preparation for or otherwise to facilitate:
  - (i) a restructure of all or part of <Service Provider>'s corporate group; or
  - (ii) the establishment of ring fencing policies or procedures (or both) specified in or under the Access Laws.
- (b) The term "restructure" in clause 15.9(a) includes the division of <Service Provider> into two or more separate legal entities, and the assignment, sale or other transfer of all or part of <Service Provider>'s business or assets to one or more Related Bodies Corporate of <Service Provider>.
- (c) If <Service Provider> notifies <User> of its intent to effect a restructure as contemplated by this clause 15.9, then <User> agrees to co-operate to enter into the documentation reasonably required to give effect to the restructure, within the timeframe reasonably required by <Service Provider>. In the event that the restructure results in <Service Provider> transferring all or any part of its rights and obligations under this Haulage Contract to one or more Third Parties, then <User> will arrange for any existing security provided or to be provided under clause 16.2 to be replaced by equivalent security in favour of the relevant transferee(s).
- (d) Upon confirmation in writing from any transferee(s) that they have received replacement security in form and substance satisfactory to them as contemplated by clause 15.9(c), <Service Provider> will, within 5 Business

Days, return bank guarantees with an equivalent face value to the amount replaced, provided that where **<Service Provider>** is to continue to provide part of the Haulage Services following the restructure, **<User>** will procure the substitution of the bank guarantees held by **<Service Provider>** with a bank guarantee for an amount determined by **<Service Provider>** in order to guarantee the resulting reduced amount.

## 16. SECURITY AND INSURANCE

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### 16.1 Compliance with obligations

**<Service Provider>** may, by written notice, from time to time under this clause 16.1 require **<User>** to:

- (a) pay all amounts owing under this Haulage Contract to continue to receive Haulage Services under this Haulage Contract;
- (b) provide written evidence that **<User>** has the ability to comply, is complying and will comply, with its Approved System Pressure Protection Plan, including by providing evidence of the identity of its Related Shippers; and
- (c) provide written evidence that **<User>** is complying with Gas Quality Specifications and Gas Standards Regulations in relation to Gas it injects into the AGA GDS,

and (without limiting any other remedies which may be available to it) **<Service Provider>** may wholly or partly refuse to accept delivery of Gas at a Receipt Point, Curtail Gas deliveries to **<User>** at a Delivery Point or reduce or suspend any other Pipeline Service or other service to **<User>** for so long as the relevant requirement remains unsatisfied.

### 16.2 Security for performance

- (a) On the earlier of the date falling 10 Business Days after the date of this Haulage Contract and the date of commencement of Haulage Services, **<User>** must provide to **<Service Provider>** a bank guarantee from an Approved Bank in or substantially in the form set out at Annexure B, as security for the performance of **<User>**'s obligations under this Haulage Contract. The bank guarantee provided must:
  - (i) subject to clause 16.2(b), be for the amount in dollars, notified by **<Service Provider>** to **<User>** in writing, which is the greater of:
    - (A) **<Service Provider>**'s reasonable estimate of all Haulage Charges and other amounts payable that will be incurred by **<User>** under this Haulage Contract in the 3 months following the date of estimation; and
    - (B) an amount that is necessary, in **<Service Provider>**'s reasonable opinion, to protect **<Service Provider>**'s legitimate business interests; and
  - (ii) commence immediately and continue for an unlimited period or, if limited, for a period which ends not less than 20 Business Days after the later of:
    - (A) the end of this Haulage Contract; and

- (B) the time required for **<User>** to satisfy its obligations under this Haulage Contract as determined by **<Service Provider>**, acting reasonably.
- (b) The Parties acknowledge that any amount determined under clause 16.2(a)(i) is based on a forward estimate of the Haulage Services to be provided under this Haulage Contract. If, in **<Service Provider>**'s reasonable opinion, the amount of the bank guarantee required under clause 16.2(a)(i) has increased since the date of **<Service Provider>**'s most recent notice under that clause 16.2(a)(i), **<Service Provider>** may, not more frequently than monthly, give **<User>** a further notice under clause 16.2(a)(i) specifying a revised amount required to be the subject of a bank guarantee under this Haulage Contract, and **<User>** must provide an additional or replacement guarantee such that this revised amount is guaranteed.
- (c) The Parties:
- (i) acknowledge that the Tariffs applicable to Haulage Services are increased annually based on a CPI escalation formula agreed by the Parties under the Access Arrangement; and
- (ii) agree that, other than for the first Variation Period, for each Variation Period:
- (A) the total amount required to be guaranteed under this clause 16.2 for the prior Variation Period will be increased for CPI in accordance with the same formula; and
- (B) accordingly, **<User>** must provide, in addition to the existing guaranteed amount or amounts, an additional or replacement bank guarantee such that the amount of this CPI increase is guaranteed, at least 5 Business Days prior to the commencement of the Variation Period.
- (d) If, in the opinion of **<Service Provider>**, **<User>** has defaulted under this Haulage Contract, **<Service Provider>** may call on any bank guarantee without notice to **<User>** and, in **<Service Provider>**'s sole discretion, apply the proceeds towards remedying the default and/or compensating **<Service Provider>** for any loss or damage caused by the default.
- (e) If **<Service Provider>** calls on all or part of any bank guarantee, **<User>** must give **<Service Provider>** an additional or a replacement guarantee within 5 Business Days of being given notice to do so by **<Service Provider>**, so that the amount referred to in the latest notice issued for the purposes of clause 16.2(a)(i) (as escalated in accordance with clause 16.2(c)) is guaranteed.
- (f) If **<Service Provider>** has called on the bank guarantee and, after **<User>**'s default has been remedied and/or **<Service Provider>** has been compensated for any loss or damage caused by the default, there are surplus funds held by **<Service Provider>**, **<Service Provider>** may hold that surplus as security for the prompt performance of **<User>**'s obligations under this Haulage Contract until **<User>** replaces the bank guarantee. Upon receipt of a replacement guarantee which complies with the requirements of this clause 16.2, **<Service Provider>** will, within 5 Business Days, return those surplus funds to **<User>** or (at **<Service Provider>**'s option), apply those funds in or towards any payment due from **<User>** to **<Service Provider>** which has not been paid when due.

- (g) Subject to clause 15.9(d), **<Service Provider>** will return the bank guarantee to **<User>** on the later of:
- (i) the expiration or termination of this Haulage Contract; and
  - (ii) completion of all of **<User>**'s duties and obligations under this Haulage Contract (including payment to **<Service Provider>** of any damages arising from any breach of this Haulage Contract by **<User>**) to the satisfaction of **<Service Provider>**.
- (h) Any failure by **<User>** to comply with one or more of its obligations under this clause 16.2 constitutes a default under clause 15.1, with any failure by **<User>** to provide a guarantee or increase the amount which may be claimed under any bank guarantee treated as a failure by **<User>** to pay **<Service Provider>** an amount equivalent to the face value of that guarantee or the increased amount required (whichever is applicable).
- (i) Without limiting any other remedies which may be available to it, **<Service Provider>** may wholly or partly refuse to accept delivery of Gas at a Receipt Point, Curtail Gas deliveries to **<User>** at a Delivery Point or reduce or suspend any other Pipeline Service or other service to **<User>** unless and until **<User>** has provided each bank guarantee in the form and for the amount determined under this clause 16.2.

### 16.3 Insurances

- (a) **<User>** must meet **<Service Provider>**'s minimum insurance and prudential requirements, including requirements as to its ability to meet all financial obligations under this Haulage Contract. Unless otherwise agreed in writing, the minimum insurance requirements are:
- (i) a third party liability insurance including product liability policy that includes cover for **<User>**'s and a Related Shipper's liability in the event that Gas that enters the AGA GDS causes loss of, or damage to, the AGA GDS that:
    - (A) is with an insurer with a Standard & Poors rating of "A" or higher or as approved by **<Service Provider>**;
    - (B) names **<Service Provider>** as a separate insured ;
    - (C) shall include a cross liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons constituting the insured and for the purpose of which the insurer accepts the term 'insured' as applying to each of the persons constituting the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased); and
    - (D) is in the amount of not less than \$50,000,000 for any one occurrence, or some other amount as reasonably specified by **<Service Provider>** from time to time; and
  - (ii) workers' compensation insurance that:
    - (A) is with an insurer with a Standard & Poors rating of "A" or higher or as approved by **<Service Provider>**; and
    - (B) complies with the *Workers' Compensation and Injury Management Act 1981* (WA);

- (C) includes common law cover to the greater of \$50,000,000 in respect of any one accident to any one employee or the amount required by the *Workers' Compensation and Injury Management Act 1981* (WA) in respect of any one accident to any one worker; and
  - (D) Otherwise is on terms and for an amount that a prudent person carrying on the business of **<User>** would obtain having regard to the nature of **<User>'s** business.
- (b) **<Service Provider>** may require **<User>** to provide evidence of the matters in clause 16.3(a) and **<User>** will provide that evidence within 14 Business Days of receipt of a written notice from **<Service Provider>** directing the evidence be provided.
  - (c) **<User>** will inform **<Service Provider>** in writing within 7 Business Days of:
    - (i) receipt of notification from an insurer of the insurer's intention to cancel the insurances referred to in this clause 16.3; or
    - (ii) **<User>** determining that it intends to change its insurer.

## 17. LIABILITY OF PARTIES

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### 17.1 Liability for negligence and default limited to Direct Damage

- (a) Subject to clause 17.1(b), if a Party:
  - (i) is negligent in any matter relating to or arising out of this Haulage Contract; or
  - (ii) defaults in respect of any obligation to the other Party under this Haulage Contract,

then the Party is liable to the other Party (including its directors, servants, consultants, independent contractors and agents) for, and indemnifies the other Party (including its directors, servants, consultants, independent contractors and agents) against, any Direct Damage to the other Party caused by or arising out of the negligence or default.
- (b) **<Service Provider>** is not liable to **<User>** for Direct Damage or Indirect Damage caused by or arising out of:
  - (i) any refusal to accept Gas at a Receipt Point or Curtailment undertaken in accordance with this Haulage Contract or any Law;
  - (ii) any non-delivery of Gas into the AGA GDS where non-delivery has not been caused, or contributed to, by **<Service Provider>** (and any refusal to accept Gas at a Receipt Point or Curtailment undertaken in accordance with this Haulage Contract does not amount to **<Service Provider>** causing or contributing to the non-delivery); or
  - (iii) **<Service Provider>** otherwise acting in accordance with its rights under this Haulage Contract or any Law.

### 17.2 Liability for fraud

- (a) A Party who is fraudulent in relation to this Haulage Contract is liable to the other Party for, and indemnifies the other Party against, any:

- (i) Direct Damage;
- (ii) Indirect Damage; or
- (iii) loss, damage, cost or expense in relation to any Claim brought by any person against the other Party,

suffered or incurred by the other Party in relation to the fraud.

- (b) The exclusion of Indirect Damage in clause 17.3 does not apply to clause 17.2(a).

### **17.3 No liability for Indirect Damage**

Except where this Haulage Contract expressly provides otherwise, to the extent permitted by Law, neither Party is in any circumstance to be liable to the other Party for any Indirect Damage, whether under this Haulage Contract or any Law, in relation to a matter related to, or arising out of, this Haulage Contract.

### **17.4 Extended operation of clause 17.3**

To the extent that <Service Provider> is not liable to <User> as a result of clause 17.3, then if a Downstream Person of <User> makes a Claim against <Service Provider> in respect of any matter connected with or arising out of a Curtailment, restriction or cessation of Gas flow, then <User> must indemnify and keep indemnified <Service Provider> against any liability to a Downstream Person (as the case may be) which would exceed <Service Provider>'s liability to <User> if the Claim were brought by <User> rather than the Downstream Person.

### **17.5 No liability arising out of any approval by <Service Provider>**

Without limiting the generality of clause 17.3, <Service Provider> is not, except as provided in clauses 17.1 and 17.2, in any circumstances liable to <User> for any injury, death, loss or damage (including Indirect Damage), caused by or arising out of any approval by <Service Provider> of any design, location or construction of, or proposed operating or maintenance procedures in relation to, any equipment, apparatus, machine, component, installation, cable, pipe or facility connected to, or adjacent to and associated with, the AGA GDS.

### **17.6 Saving of contractual payments**

Nothing in clauses 12, 15 or 17 limits the liability of either Party to make all payments due under this Haulage Contract.

### **17.7 Each limitation separate**

Each limitation and exclusion under this Haulage Contract and each protection given to <Service Provider> or <User> or to their respective directors, servants, consultants, independent contractors and agents under this Haulage Contract is a separate limitation, exclusion or protection, applying and surviving even if for any reason any other provision of this Haulage Contract is held void or inapplicable in any circumstances.

### **17.8 Mitigation of loss**

Each Party must use its best endeavours to mitigate any Direct Damage, Indirect Damage or other loss or damage suffered by it as a result of any breach or negligence of the other Party in connection with this Haulage Contract.



## 17.9 Exercise and survival of indemnities

- (a) An obligation to indemnify under this Haulage Contract will be discharged by payment in full by the indemnifying Party to the indemnified Party (or to such person as the indemnified Party nominates) within 20 Business Days after the date the indemnified Party provides written notice to the indemnifying Party setting out adequately detailed grounds for, and specifying the full quantum of, the claim for indemnification.
- (b) It is not necessary for a Party to incur expense or make payment before enforcing a right of indemnity under this Haulage Contract.
- (c) The right of a Party indemnified under this Haulage Contract to receive payment under the indemnity survives any termination of this Haulage Contract.

## 17.10 Australian Consumer Law liability as between <User> and <Service Provider><sup>54</sup>

- (a) Pursuant to section 64A of the Australian Consumer Law, this clause 17.10:
  - (i) applies in respect of goods or services supplied under this Haulage Contract which are not of a kind ordinarily acquired for personal, domestic or household use or consumption; but
  - (ii) will not apply if a Party establishes that reliance on the clause would not be fair and reasonable.
- (b) The liability of <Service Provider> for failure to comply with a guarantee under Division 1 of Part 3-2 of the Australian Consumer Law (other than a guarantee under section 51, 52 or 53) in respect of goods is limited to any one of the following as determined by <Service Provider>:
  - (i) the replacement of the goods or the supply of equivalent goods;
  - (ii) the repair of the goods;
  - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - (iv) the payment of the cost of having the goods repaired.
- (c) The liability of <Service Provider> for failure to comply with a guarantee under Division 1 of Part 3-2 of the Australian Consumer Law in respect of services is limited to any one of the following as determined by <Service Provider>:
  - (i) the supplying of the services again; or
  - (ii) the payment of the cost of having the services supplied again.
- (d) No clause in this Haulage Contract excludes, restricts or modifies or has the effect of excluding, restricting or modifying the application of Division 1 of Part 3-2 of the Australian Consumer Law, the exercise of a right conferred under that Division or the liability of the Service Provider for failure to comply with a guarantee under that Division, to the extent that doing so would render the clause void.
- (e) This clause 17.10 prevails over any other provision of this Haulage Contract with which it is inconsistent.

<sup>54</sup> This clause reflects the terms of Division 1 of Part 3-2 of the Australian Consumer Law.

## 18. REPRESENTATIONS AND WARRANTIES

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### 18.1 <User> representation and warranties<sup>55</sup>

<User>, by entering into this Haulage Contract, represents and warrants to <Service Provider> that:

- (a) it is and will at all times be able to, and will, comply with its Approved System Pressure Protection Plan;
- (b) it will notify <Service Provider> if at any time it is, suspects that it may be, or suspects that it is likely that it will be, in breach of the representation and warranty set out in clause 18.1(a), as soon as possible after it becomes aware of the fact or the suspicion arises;
- (c) it will at all times comply with all applicable Laws with respect to its obligations connected with, arising out of or in relation to the Access Arrangement or this Haulage Contract;
- (d) in entering into this Haulage Contract, <User> has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under any applicable Law to:
  - (i) enter into this Haulage Contract;
  - (ii) observe its obligations under this Haulage Contract and the Access Arrangement; and
  - (iii) allow those obligations to be enforced and otherwise conduct operations in accordance with this Haulage Contract;
- (e) this Haulage Contract and any transaction under it do not contravene <User>'s constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound, or cause to be exceeded any limitation on its, or its directors', powers;
- (f) its obligations to make payments under this Haulage Contract rank at least equally with all unsecured and unsubordinated indebtedness of <User>, except debts mandatorily preferred by Law;
- (g) neither <User> nor any of its Related Bodies Corporate is in breach of a Law affecting any of them or their respective assets, or any obligation or undertaking by which they or any of their assets are bound, which breach will, or might reasonably be expected to, materially affect <User>'s ability to perform its obligations under this Haulage Contract;
- (h) there is no pending or threatened action or proceeding affecting <User> or any of its Related Bodies Corporate or any of their respective assets before a court, referee, governmental agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect <User>'s ability to perform its obligations under this Haulage Contract;
- (i) it is not an agent or trustee (except if and to the extent that it is disclosed as such in the Application that led to this Haulage Contract) in relation to this

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<sup>55</sup> The representations and warranties given by <User> in clause 18.1 are the market standard representations and warranties that <Service Provider>, acting as a reasonable and prudent network operator, would require a User to give in order for <Service Provider> to enter into a Haulage Contract with the User.

Haulage Contract or the Gas to be delivered or received under this Haulage Contract;

- (j) it has in full force and effect all leases, licences and easements materially necessary to construct, operate and maintain the Delivery Points and all other facilities for which it is responsible under the Access Arrangement or this Haulage Contract;
- (k) it has secured in full force and effect all leases, licences and easements materially necessary to allow **<Service Provider>**, its representatives, agents, employees and contractors, unfettered access to each Delivery Point in the Delivery Point Register and all equipment at the Delivery Point;
- (l) the insurances obtained by **<User>** in accordance with clause 16.3(a) are adequate to meet its obligations in relation to insurance under this Haulage Contract;
- (m) it is and will at all times be a "user" for the purposes of the Retail Market Scheme and will at all times comply with the Retail Market Scheme;
- (n) it will procure compliance by:
  - (i) the operator of an Interconnected Pipeline from which Gas is delivered into the AGA GDS by it or on its behalf; and
  - (ii) a person who delivers Gas to the AGA GDS on its behalf,

with the Retail Market Scheme and any contract applying in respect of the relevant Interconnection Arrangements, to the extent necessary to permit the Parties to perform their respective obligations under this Haulage Contract;
- (o) **<User>** has good legal and beneficial title to all Gas delivered into the AGA GDS at a Receipt Point by, for or on account of **<User>** or a Related Shipper of **<User>**, free and clear of mortgages, charges and other encumbrances; and
- (p) **<User>** has the right to supply Gas at each Receipt Point for delivery into and transportation through the AGA GDS under this Haulage Contract.

## 18.2 **<Service Provider> representation and warranties**<sup>56</sup>

**<Service Provider>** represents and warrants to **<User>** that:

- (a) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Laws to enter into this Haulage Contract, to observe its obligations under the Access Arrangement and this Haulage Contract, and to allow those obligations to be enforced;
- (b) this Haulage Contract and any transaction under it do not contravene **<Service Provider>**'s constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;
- (c) it is not in default under a Law affecting it or its assets, or any obligation or undertaking by which it or any of its assets are bound, which default will, or

<sup>56</sup> The representations and warranties given by **<Service Provider>** in clause 18.2 are the market standard representations and warranties that **<Service Provider>**, acting as a reasonable and prudent network operator, would give a User when entering into a Haulage Contract with the User.

might reasonably be expected to, materially affect its ability to perform its obligations under this Haulage Contract; and

- (d) there is no pending or threatened action or proceeding affecting **<Service Provider>** before a court, referee, governmental agency, commission, arbitrator or other tribunal which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Haulage Contract.

### **18.3 Representations and warranties generally**

- (a) The representations and warranties in clauses 18.1 and 18.2 are made on and from the commencement of this Haulage Contract under clause 2 and are made anew each day for the duration of this Haulage Contract.
- (b) The exclusion of Indirect Damage in clause 17.3 does not apply in respect of the representations and warranties set out in clauses 18.1(a), 18.1(b), 18.1(o) and 18.1(p).

## **19. DISPUTE RESOLUTION**

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### **19.1 Interaction between the dispute resolution process under this Haulage Contract and other dispute resolution processes**

- (a) Subject to clauses 19.1(b) and 19.1(c), any dispute arising between the Parties out of or in connection with this Haulage Contract must be resolved in accordance with clauses 19.2 and 19.3.
- (b) To the extent that the National Gas Access Law or the Retail Market Rules apply to a dispute under this Haulage Contract, the Parties agree to apply the dispute resolution process provided for under the applicable instrument to that dispute.
- (c) A Party may only give a notice under clause 19.2(a) to initiate dispute resolution processes under this Haulage Contract in relation to a disputed or erroneous Payment Claim where:
  - (i) if a single line item in the Payment Claim is in dispute, the amount in dispute exceeds [\$5,000.00]; or
  - (ii) if multiple line items in the Payment Claim are in dispute, the aggregated amount in dispute exceeds [\$20,000.00].

### **19.2 Parties to attempt to resolve**

- (a) Either Party may give written notice to the other Party specifying the details of a dispute to which clause 19.1(a) applies.
- (b) The Parties must use reasonable endeavours to resolve the dispute within 20 Business Days from the date of the notice given under clause 19.2(a).
- (c) If the dispute remains unresolved after the period provided for under clause 19.2(b), then duly authorised senior officers of the Parties are to meet within 5 Business Days after the expiry of the period and use reasonable endeavours to negotiate a resolution of the dispute.
- (d) All discussions held and documents exchanged by the Parties under this clause 19.2 are on a without prejudice basis.

### 19.3 Arbitration

- (a) A Party may not refer a dispute to arbitration under this clause 19.3 unless and until:
  - (i) either Party has given a notice under clause 19.2(a) in relation to the dispute; and
  - (ii) the dispute resolution processes under clause 19.2 have been completed in relation to the dispute without achieving a resolution.
- (b) A Party refers a dispute to arbitration under this clause 19.3 by giving written notice to the other Party stating that the dispute is referred to arbitration and specifying with reasonable particularity the matter in dispute.
- (c) A dispute referred to arbitration under this clause 19.3 is to be resolved by a single person appointed as Arbitrator in accordance with clause 19.3(d).
- (d) If the Parties cannot agree on a person to be Arbitrator within 14 Business Days after the date of the notice referring the dispute to arbitration under clause 19.3(b), either Party may request the President for the time being of the Law Society of Western Australia (**President**) to nominate a person to be Arbitrator.
- (e) The Arbitrator appointed under clause 19.3(d) must have reasonable experience in conducting arbitrations and, to the extent possible:
  - (i) if the principal matter in dispute is a question of law—be a qualified legal practitioner of at least 7 Years standing with commercial and practical experience in the area of the principal matter;
  - (ii) if the principal matter is technical or operational in nature—be a person with technical expertise in the principal matter; and
  - (iii) in any other circumstance by a qualified legal practitioner of at least 7 Years standing with commercial and practical experience in the area of the principal matter.
- (f) The Parties will comply with any direction that the President may give in relation to the nomination of the Arbitrator including:
  - (i) payment of any fee or cost required by the President;
  - (ii) the provision of any information that the President may request; and
  - (iii) the execution of any document that the President requests the Parties execute (including any deed or agreement under which the Parties release the Law Society of Western Australia, its employees, servants and officers (including the President) from liability arising from the nomination).
- (g) In any arbitration:
  - (i) the proceedings are to be conducted under the *Commercial Arbitration Act 2012 (WA)* as modified by this Haulage Contract;
  - (ii) a Party may be represented by a legal practitioner; and
  - (iii) the proceedings are to be conducted in Perth.

- (h) The Arbitrator must not order either of the Parties to take any steps to achieve a settlement of the dispute being arbitrated.
- (i) A Party to the arbitration proceedings may appeal to a justice (or acting justice or auxiliary justice) of the Supreme Court of Western Australia on any question of Law arising out of an award by an Arbitrator.
- (j) The Arbitrator may:
  - (i) of his or her own motion, but only to the extent reasonably necessary to facilitate the determination of a dispute presently before him or her, retain the services of any person suitably qualified in any field of expertise to advise the Arbitrator in relation to matters within that field of expertise;
  - (ii) make such award as he or she considers appropriate;
  - (iii) if a Party has overpaid another, whether under a mistake of law or fact, order repayment of the sum overpaid together with interest, whether calculated under clause 10.5 or otherwise; and
  - (iv) rectify any term of this Haulage Contract so as to conform to the true intention of the Parties, provided that any rectification must comply with the Law, the Access Arrangement and the principles of the general law applicable to the rectification of contracts.
- (k) If the Arbitrator retains a person under clause 19.3(j)(i):
  - (i) that person may sit with the Arbitrator during the hearing of all evidence relating to the person's field of expertise and may take part in the proceedings;
  - (ii) the Arbitrator, in making an award, may adopt the opinion of that person, after first disclosing the opinion to the Parties and receiving the Parties' submissions thereon;
  - (iii) the costs and expenses of that person must be reasonable and are to be in the Arbitrator's discretion and, without limiting that discretion, may be dealt with as part of the costs of the proceedings; and
  - (iv) the duration of retainer of that person must end no later than the day on which the Arbitrator publishes his or her final award in the proceedings in question.

## **20. NOTICES AND ADDRESSES FOR NOTICES**

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- (a) Notices and other communications under this Haulage Contract must be provided in accordance with the format and procedure specified in the Retail Market Rules<sup>57</sup> for the provision of notices under the Retail Market Scheme .
- (b) If the Retail Market Rules do not specify a format and procedure for providing a particular notice, consent or other communication, then the following provisions apply:

<sup>57</sup> Part 1.3 of the Retail Market Rules sets out notice requirements, including the need for a notice to be in writing and in the correct format (as specified in rule 9). If no format is specified, a notice can be given by email, facsimile, hand or post.

- (i) a notice, consent or other communication under this Haulage Contract is only effective if it is in writing and transmitted to the addressee by electronic mail; and
- (ii) the notice, consent or other communication is regarded as given and received when the addressee's electronic mail system logs the email message as having been received, and:
  - (A) if logged as having been received before 5.00pm (Western Standard Time or Western Standard Daylight Savings Time (if applicable)) on a Business Day – on that Business Day; or
  - (B) if logged as having been received after 5.00pm (Western Standard Time or Western Standard Daylight Savings Time (if applicable)) on a Business Day, or on a day that is not a Business Day – on the next Business Day.
- (c) Where notices or other communications from **<User>** are not provided in accordance with clause 20(a) or 20(b) (as applicable), **<Service Provider>** may recover from **<User>** the reasonable additional costs involved in dealing with that notice or other communication.
- (d) The address for notices served on **<Service Provider>** is:
 

ATCO Gas Australia  
Level 12,  
2 Mill Street  
Perth WA 6000  
Email: [commercial@atcogas.com.au](mailto:commercial@atcogas.com.au)
- (e) The address for notices served on **<User>** is:
 

[insert address]  
Email: [insert email address]
- (f) A Party may change its postal and electronic mail addresses for notices under this Haulage Contract at any time, by giving the other Party a written notice of the change specifying the new address information to be used.

## 21. INTELLECTUAL PROPERTY, CONFIDENTIALITY AND INFORMATION EXCHANGE

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### 21.1 Intellectual Property<sup>58</sup>

- (a) Subject to clause 21.1(b), all documents, tools, software, reports, diagrams, plans and other materials provided by or on behalf of a Party under this Haulage Contract, and all associated Intellectual Property Rights, remain the property of that Party, and nothing in this Haulage Contract assigns any Intellectual Property Rights to the other Party.
- (b) All documents, tools, software, reports, diagrams, plans and other materials created under this Haulage Contract, and all associated Intellectual Property

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<sup>58</sup> This intellectual property clause represents a balanced position that protects each Party's existing intellectual property rights, while protecting **<Service Provider>**'s legitimate business interest in any intellectual property created under this Haulage Contract, under which it provides Haulage Services as part of its operation of the AGA GDS. **<Service Provider>**, acting as a reasonable and prudent network operator, will require any User to agree to this clause in order for **<Service Provider>** to enter into a Haulage Contract with the User.

Rights, will be owned absolutely by **<Service Provider>** immediately on creation.

## 21.2 When disclosure of Confidential Information is permitted

- (a) Except as otherwise permitted under this Haulage Contract:
  - (i) each Party will:
    - (A) treat as confidential all Confidential Information in its possession;
    - (B) use Confidential Information in its possession only in connection with the exercise of its rights or performance of its obligations under this Haulage Contract;
    - (C) not disclose Confidential Information to any third party without the prior written consent of the other Party or as otherwise permitted under this clause 21.2; and
    - (D) ensure that its employees maintain the confidentiality of Confidential Information on the terms required by this Haulage Contract.
- (b) A Party may disclose Confidential Information:
  - (i) with the prior written consent of the other Party;
  - (ii) if the information is in the public domain, or enters the public domain other than by breach of this clause 21.2;
  - (iii) at the request of the Party to whom the information relates, where the information is about the use of Pipeline Services or the acquisition or consumption of Gas;
  - (iv) when the disclosure is necessary in order to comply with:
    - (A) any Law;
    - (B) an order of a court or tribunal;
    - (C) a requirement imposed by or under any Law (including a regulatory information instrument issued by the Regulator under the National Gas Access Law); or
    - (D) the listing rules of a recognised stock exchange;
  - (v) as necessary to any consultant or adviser to the Party, provided that the consultant or advisor has first agreed in writing to be bound by obligations of confidentiality no less strict than those imposed under this clause 21.2;
  - (vi) subject to the National Gas Access Law, as necessary to its Related Bodies Corporate's employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers, provided that each such party has first agreed in writing to be bound by obligations of confidentiality no less strict than those imposed under this clause 21.2;
  - (vii) when, in the reasonable opinion of **<Service Provider>**, the information is required to be disclosed in the course of any contemplated



restructuring or sale of <Service Provider> as discussed in clause 15.9;  
or

- (viii) when, in the reasonable opinion of the disclosing Party, the information is required to be disclosed to any present or prospective lender to or financier of a Party.

### **21.3 Other provisions concerning disclosure**

- (a) In the case of a disclosure permitted under clause 21.2 or any other provision of this Haulage Contract, the disclosing Party must use reasonable endeavours to make disclosure on terms which preserve as far as practicable the confidentiality of the Confidential Information.
- (b) In the case of a disclosure to which clause 21.2(b)(iv) applies, the disclosing Party must:
  - (i) give advance notice to the other Party of the impending disclosure;
  - (ii) if appropriate, oppose or restrict such disclosure;
  - (iii) make such disclosure on terms which preserve as far as practicable the confidentiality of the Confidential Information to be disclosed; and
  - (iv) take such steps as will permit the other Party to have a reasonable opportunity to oppose or restrict such disclosure by lawful means.

### **21.4 Compliance with privacy laws**

The Parties agree that:

- (a) any obligation under this Haulage Contract to provide information is subject to any applicable Laws imposing obligations in respect of privacy, disclosure, use or confidentiality of information; and
- (b) it will hold, use and maintain, where applicable, the confidentiality of, any information which it receives under this Haulage Contract in accordance with any requirements of this Haulage Contract and any applicable Laws relating to privacy, disclosure, use or confidentiality of information.

### **21.5 Format for information exchange**

- (a) Unless otherwise agreed or provided for in this Haulage Contract, any information provided by one Party to the other under this Haulage Contract must be provided in accordance with the format and procedure specified in the Retail Market Rules<sup>59</sup> (to the extent applicable) including by, wherever possible, providing information in electronic form using a structured electronic file that is capable of being downloaded and is in a format fit for purpose.
- (b) Where a Party provides information, or requests that information be provided, other than in accordance with clause 21.5(a), the other Party may recover from the first Party the reasonable additional costs involved in dealing with the information.

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<sup>59</sup> Part 1.3 of the Retail Market Rules sets out notice requirements, including the need for a notice to be in writing and in the correct format (as specified in rule 9). If no format is specified, a notice can be given by email, facsimile, hand or post.

## 22. MISCELLANEOUS

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### 22.1 Applicable Law and jurisdiction

- (a) This Haulage Contract is governed by the Laws of Western Australia.
- (b) The Parties irrevocably submit themselves to the jurisdiction of the courts of Western Australia and of any court competent to hear appeals from decisions of those courts.

### 22.2 Waiver

- (a) A Party may only waive a right under this Haulage Contract by giving written notice of the waiver to the other Party.
- (b) No conduct of a Party (including a failure to exercise, or delay in exercising, a right under this Haulage Contract) operates as waiver of the right, as an estoppel precluding enforcement of that right or otherwise prevents the exercise of the right.
- (c) A waiver of a right under this Haulage Contract on one or more occasions does not operate as a waiver of the right in the future, or as an estoppel precluding enforcement of that right if it arises again.
- (d) The exercise of a right under this Haulage Contract does not prevent a further exercise of that right or of any other right under this Haulage Contract.

### 22.3 Amendment

This Haulage Contract may only be amended by written agreement of the Parties.

### 22.4 Entire agreement

This Haulage Contract constitutes the entire agreement between the Parties, and supersedes all prior negotiations, representations, proposals and agreements, whether oral or written, with respect to its subject matter.

### 22.5 Duty and costs of Haulage Contract

- (a) **<User>** must pay all Duty that may be payable on or in connection with this Haulage Contract, any transaction evidenced by or effected under this Haulage Contract and any instrument or transaction entered into under this Haulage Contract.
- (b) Each Party must bear its own legal and other costs in relation to the preparation of this Haulage Contract.

### 22.6 Severance

If any provision of this Haulage Contract is held illegal or unenforceable by any tribunal, court or arbitrator having competent jurisdiction, the judgment does not affect the remaining provisions of the Haulage Contract, which remain in full force and effect as if the provision held to be illegal or unenforceable had not been included in the Haulage Contract.

### 22.7 Further Assurance

Each Party must execute any document and perform any action necessary to give full effect to this Haulage Contract, whether prior or subsequent to performance of the Haulage Contract.

## 22.8 Counterparts

This Haulage Contract may be executed in any number of counterparts, all of which, taken together, are deemed to constitute one and the same document.

## 23. INTERPRETATION

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### 23.1 Terms defined in Glossary

Capitalised terms used in this Haulage Contract and the Access Arrangement, including the schedules and annexures to those documents, have the meanings given to them in the Glossary.

### 23.2 Rules for interpreting this Haulage Contract

The following rules apply in interpreting this Haulage Contract and the Access Arrangement, except where the context makes it clear that a rule is not intended to apply.

- (a) Headings are for convenience only, and do not affect interpretation.
- (b) A reference to:
  - (i) a Law, legislative provision or legislation (including subordinate legislation) is a reference to that provision or legislation as amended, substituted, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a rule of the Retail Market Rules or the National Gas Rules or a provision of the Retail Market Scheme or the National Gas Access Law includes any amendment, substitution or replacement of the rule or provision;
  - (iii) a document (including the Access Arrangement or this Haulage Contract) or agreement, or a provision of a document (including the Access Arrangement or this Haulage Contract) or agreement, is a reference to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iv) the Access Arrangement or this Haulage Contract includes all of its schedules and annexures;
  - (v) a Party to the Access Arrangement or this Haulage Contract or to any other document or agreement includes a permitted substitute, successor or assign of that Party;
  - (vi) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
  - (vii) "currency", "dollar" or "\$" is a reference to the Australian dollar; and
  - (viii) anything (including a right, obligation or concept) includes each part of it.
- (c) A reference:
  - (i) in the Access Arrangement to a part, clause, paragraph, schedule or annexure is to a part, clause or paragraph of, or schedule or annexure to, the Access Arrangement; and

- (ii) in this Haulage Contract to a clause, schedule or annexure is to a clause of, or schedule or annexure to this Haulage Contract.
- (d) A singular word includes the plural, and vice versa.
- (e) A word which suggests one gender includes the other gender.
- (f) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (g) The term "including" is not to be interpreted as a term of limitation, and if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (h) The term "under" in relation to a provision of the Access Arrangement or this Haulage Contract includes "by", "in accordance with", "pursuant to" and "by virtue of".
- (i) Where a period of time is expressed to begin at, on or with a specified day, that day is excluded in the calculation of the period.
- (j) A reference:
  - (i) to a Delivery Point being "on" the Medium Pressure/Low Pressure System or a Sub-network means that the Delivery Point is attached to or forms part of the relevant system or Sub-network, such that Gas flowing through the Delivery Point flows from that system or Sub-network;
  - (ii) to a Receipt Point being "on" a Sub-network means that the Physical Gate Points associated with the Receipt Point are attached to or form part of the relevant Sub-network, such that Gas flowing through the Physical Gate Points and associated Receipt Point flows into that Sub-network; and
  - (iii) "associated", when used to describe the relationship between a Receipt Point and a Physical Gate Point, means that each of them is associated with the same Sub-network.
- (k) Words defined in the GST Law have the same meaning in the Access Arrangement or this Haulage Contract, unless expressly provided otherwise.
- (l) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.
- (m) References to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under the GST Law, and references to an input tax credit extend to any notional input tax credit to which any person is entitled.

### **23.3 References to Gas quantities**

Unless otherwise indicated, any reference in the Access Arrangement or this Haulage Contract to a quantity of Gas is a measure of Gas in gigajoules.

**23.4 SI units**

Unless otherwise indicated, all units in the Access Arrangement or this Haulage Contract are SI units in accordance with the international system of units set out in Australian Standard 1000-1998.

**23.5 Provision regarding rounding**

Where a Party is required to calculate a value under the Access Arrangement or this Haulage Contract, any rounding applied in undertaking that calculation is to be applied in accordance with the provisions that relate to rounding under the Retail Market Rules<sup>60</sup>.

**23.6 References to Spare Capacity, Contracted Peak Rate and capacity of the AGA GDS**

Unless the contrary intention appears, if the Access Arrangement or this Haulage Contract generally requires Spare Capacity, Contracted Peak Rate or Capacity of the AGA GDS to be quantified, it is to be quantified as an Instantaneous Flow Rate and is to be expressed in gigajoules per hour.

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<sup>60</sup> Rule 6 and Appendix 5 of the Retail Market Rules require that a derived value has accuracy equal to the accuracy of the least accurate input variable to the calculation.

## Schedule 1

### Service A1

#### SPECIFIC TERMS AND CONDITIONS

##### 1. GENERAL

- (a) The terms and conditions in this Schedule 1 apply to each Delivery Point specified in the Delivery Point Register as being a Delivery Point to which Service A1 applies.
- (b) Service A1 is a Pipeline Service provided under this Haulage Contract by which **<User>** may take delivery of Gas at a Delivery Point on the AGA GDS, and where:
  - (i) at the time **<User>** submitted its Application for Service A1 at a Delivery Point:
    - A. it was reasonably anticipated that **<User>** would take delivery of 35 TJ or more of Gas during each Year that **<User>** requested to obtain access to Service A1 at that Delivery Point;
    - B. **<User>** requested a Contracted Peak Rate for the Delivery Point of 10 GJ or more per hour; and
  - (ii) **<User>** requested User Specific Delivery Facilities at the Delivery Point.
- (c) Service A1 is derived from the Reference Service described as Service A1 in the Access Arrangement.

##### 2. DELIVERY FACILITIES

- (a) **<Service Provider>** will provide User Specific Delivery Facilities to measure the amount of Gas delivered to **<User>** at each Delivery Point to which Service A1 applies which will include, as a minimum, a Meter which:
  - (i) is read by means of Telemetry; and
  - (ii) aggregates the flow of Gas across time and records that flow for each Gas Hour.
- (b) **<Service Provider>** will design and construct all User Specific Delivery Facilities, and will have regard to **<User>**'s reasonable requirements in doing so.
- (c) **<Service Provider>** will own, operate and maintain, and may from time to time modify, subject to consultation with **<User>**, any User Specific Delivery Facilities.
- (d) **<User>** must use its reasonable endeavours to cooperate with **<Service Provider>** in installing, operating, maintaining, and modifying any User Specific Delivery Facilities.
- (e) Nothing in this Schedule 1 limits **<Service Provider>**'s powers under any Law (including under the *Energy Coordination Act 1994 (WA)* or the *Energy Operators (Powers) Act 1979 (WA)* and subordinate legislation).

### 3. ACCURACY VERIFICATION

- (a) <Service Provider> will verify the accuracy of the Meter forming part of any User Specific Delivery Facilities as required by good industry practice and applicable Laws, with the frequency of verification determined by <Service Provider> if not specified by that good industry practice or those applicable Laws.
- (b) If <User> requests <Service Provider> to verify the accuracy of a Meter forming part of User Specific Delivery Facilities and <Service Provider> determines that the Meter is accurate, <User> must pay <Service Provider>'s reasonable costs in verifying the accuracy of the Meter.

### 4. GAS PRESSURE

- (a) Subject to clause 4(b) of this Schedule 1 and any applicable Laws, the Nominal Delivery Pressure at which <Service Provider> will deliver Gas to <User> is:
  - (i) unless the Parties agree that a particular pressure is to apply as the Nominal Delivery Pressure, the Nominal Delivery Pressure associated with the User Specific Facilities at the Delivery Point; or
  - (ii) if the Parties agree that a particular pressure is to apply as the Nominal Delivery Pressure, the agreed pressure.
- (b) Notwithstanding clause 4(a) of this Schedule 1, the pressure described at clause 4(a) of this Schedule 1 will be amended to the pressure that <Service Provider> determines, from time to time as a reasonable and prudent network operator, as the minimum nominal operating pressure for the main to which the Delivery Point is connected.

### 5. METER READING

- (a) <Service Provider> will be responsible for calculating and recording the quantity of Gas delivered to <User> at the Delivery Point by Telemetry reading.
- (b) <Service Provider> will take such Telemetry readings every day.

### 6. PRICES

- (a) Service A1 is made available at Tariff A1.
- (b) The Haulage Charge for provision of access to Service A1 at a Delivery Point is calculated by applying Tariff A1.
- (c) If Tariff A1 consists (in whole or in part) of a User Specific Charge, then the User Specific Charge must be pro-rated on the basis of a 365 day Year starting on the Start Date for the Delivery Point to which the User Specific Delivery Facilities relate.

### 7. CONTRACTED PEAK RATE

The Contracted Peak Rate for a Delivery Point is the rate agreed between the Parties for the Delivery Point and specified in the Delivery Point Register.

### 8. EXCEEDING CONTRACTED PEAK RATE

- (a) If <User>'s Instantaneous Flow Rate exceeds its Contracted Peak Rate for a Delivery Point, then <User> has acquired "Overrun Service" and must pay <Service Provider> an Overrun Charge calculated as follows:

OC = OSR x Q Overrun

where:

OC = the Overrun Charge payable by **<User>** to **<Service Provider>** for the Delivery Point for the month;

OSR = the "Overrun Service Rate" which is calculated by multiplying the Usage Charge Rate for the Delivery Point for the month by 200; and

Q Overrun = the total for the month of each gigajoule or part of a gigajoule of Gas in excess of **<User>**'s Contracted Peak Rate that was delivered to **<User>** at the Delivery Point during a period of time in which **<User>**'s Instantaneous Flow Rate exceeded its Contracted Peak Rate.

(b) Despite any provision to the contrary, a requirement under this clause 8 of this Schedule 1 to pay an Overrun Charge in respect of a gigajoule or part of a gigajoule does not relieve **<User>** of the obligation to pay the Haulage Charge determined under Tariff A1, or any other Charge payable under this Haulage Contract, the Access Arrangement or any applicable Law, in respect of that gigajoule or part gigajoule.

(c) If **<User>**'s Instantaneous Flow Rate exceeds its Contracted Peak Rate for a Delivery Point on:

- (i) 3 or more days during any 30 day period; or
- (ii) 8 or more days during a Year,

then **<Service Provider>** must, as soon as reasonably practicable, notify **<User>** of this fact and of whether:

(iii) **<Service Provider>** is prepared to, having regard to the restrictions and pre-conditions specified in the Application Procedure, increase **<User>**'s Contracted Peak Rate, in which case **<User>** must within 10 Business Days elect between:

- A. an increase in its Contracted Peak Rate, with effect from the last of the days referred to in clause 8(c)(i) or 8(c)(ii) of this Schedule 1, as applicable, so that it is equal to the highest Instantaneous Flow Rate at the Delivery Point during the days referred to in 8(c)(i) or 8(c)(ii), as applicable, in which case **<Service Provider>** will increase the Contracted Peak Rate for that Delivery Point and update the Delivery Point Register; and
- B. **<Service Provider>** installing, and to **<User>** paying the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<User>** to no more than the Contracted Peak Rate, in which case **<Service Provider>** may install, and **<User>** must pay the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<User>** to no more than the Contracted Peak Rate,

and if **<User>** does not so elect within 10 Business Days, **<Service Provider>** may make the election on **<User>**'s behalf; or



- (iv) **<Service Provider>** is not prepared, having regard to the restrictions and pre-conditions specified in the Application Procedure, to increase **<User>**'s Contracted Peak Rate in accordance with this clause 8 of this Schedule 1, in which case **<Service Provider>** may install, and **<User>** must pay the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<User>** to no more than the Contracted Peak Rate.

## 9. DEREGISTERING A DELIVERY POINT

- (a) **<User>** may request (and if required by clause 5.6 of this Haulage Contract, must request) **<Service Provider>** to permanently deregister a Delivery Point by lodging a valid permanent removal request under the Retail Market Rules<sup>61</sup> with **<Service Provider>**.
- (b) Once **<Service Provider>** has received a request to permanently deregister a Delivery Point, **<Service Provider>** will permanently deregister the Delivery Point by:
- (i) removing the User Specific Delivery Facilities to the extent **<Service Provider>** considers necessary;
  - (ii) permanently removing the Delivery Point in accordance with the Retail Market Rules; and
  - (iii) removing the Delivery Point from the Delivery Point Register,
- in the manner it considers appropriate.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable to **<User>** in respect of any Claim, loss, damage, cost or expense (including Indirect Damage and Direct Damage) if it fails to permanently deregister the Delivery Point.
- (d) **<Service Provider>** will notify **<User>** in writing once the Delivery Point has been deregistered.
- (e) If **<Service Provider>** deregisters the Delivery Point, then **<User>** must pay **<Service Provider>**'s reasonable costs incurred in deregistering the Delivery Point (such costs will include all reasonable direct and indirect costs incurred by the **<Service Provider>** in relation to deregistering the Delivery Point).
- (f) If **<Service Provider>** attempts to deregister the Delivery Point, but is unable to do so because it cannot gain access to the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) If **<User>** cancels its request before **<Service Provider>** deregisters, or attempts to deregister, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (h) The activities of **<Service Provider>** described in this clause 9 of this Schedule 1 are a Pipeline Service derived from the Reference Service described as Deregistering a Delivery Point in the Access Arrangement.

<sup>61</sup> Rule 125 of the Retail Market Rules sets out the processes and requirements for permanently removing delivery points, and states that a network operator must permanently remove a delivery point after receiving a valid permanent removal request from the User.

## Schedule 2

### Service A2

#### Specific Terms and Conditions

#### 1. GENERAL

- (a) The terms and conditions in this Schedule 2 apply to each Delivery Point specified on the Delivery Point Register as being a Delivery Point to which Service A2 applies.
- (b) Service A2 is a Pipeline Service provided under this Haulage Contract by which **<User>** may take delivery of Gas at a Delivery Point on the AGA GDS and where:
  - (i) at the time **<User>** submitted its Application for Service A2, **<User>** requested User Specific Delivery Facilities at the Delivery Point; and
  - (ii) either (or both):
    - A. at the time **<User>** submitted its Application for Service A2:
      - i. it was reasonably anticipated that **<User>** would take delivery of 10 TJ or more of Gas, but less than 35 TJ of Gas, during each Year that **<User>** requested to obtain access to Service A2 at that Delivery Point; or
      - ii. **<User>** requested a Contracted Peak Rate for the Delivery Point of 10 GJ or more per hour; or
    - B. an Above 10 TJ Determination was, or was likely to have been, made under the Retail Market Rules.
- (c) Service A2 is derived from the Reference Service described as Service A2 in the Access Arrangement.

#### 2. DELIVERY FACILITIES

- (a) **<Service Provider>** will provide User Specific Delivery Facilities to measure the amount of Gas taken by **<User>** at each Delivery Point to which Service A2 applies which will include, as a minimum, a Meter which:
  - (i) is read by means of Telemetry; and
  - (ii) aggregates the flow of Gas across time and records that flow for each Gas Hour.
- (b) **<Service Provider>** will design and construct all User Specific Delivery Facilities, and will have regard to **<User>**'s reasonable requirements in doing so.
- (c) **<Service Provider>** will own, operate and maintain, and may from time to time modify, subject to consultation with **<User>**, any User Specific Delivery Facilities.
- (d) **<User>** must use its reasonable endeavours to cooperate with **<Service Provider>** in installing, operating, maintaining, and modifying any User Specific Delivery Facilities.

- (e) Nothing in this Schedule 2 limits **<Service Provider>**'s powers under any Law (including under the *Energy Coordination Act 1994 (WA)* or the *Energy Operators (Powers) Act 1979 (WA)* and subordinate legislation).

### 3. ACCURACY VERIFICATION

- (a) **<Service Provider>** will verify the accuracy of the Meter forming part of any User Specific Delivery Facilities as required by good industry practice and applicable Laws with the frequency of verification determined by **<Service Provider>** if not specified by that good industry practice or those applicable Laws.
- (b) If **<User>** requests **<Service Provider>** to verify the accuracy of a Meter forming part of User Specific Delivery Facilities and **<Service Provider>** determines that the Meter is accurate, **<User>** must pay **<Service Provider>**'s reasonable costs in verifying the accuracy of the Meter.

### 4. GAS PRESSURE

- (a) Subject to clause 4(b) of this Schedule 2 and any applicable Laws, the Nominal Delivery Pressure at which **<Service Provider>** will deliver Gas to **<User>** is:
  - (i) unless the Parties agree that a particular pressure is to apply as the Nominal Delivery Pressure, the Nominal Delivery Pressure associated with the User Specific Facilities at the Delivery Point; or
  - (ii) if the Parties agree that a particular pressure is to apply as the Nominal Delivery Pressure, the agreed pressure.
- (b) Notwithstanding clause 4(a) of this Schedule 2, the pressure described at clause 4(a) will be amended to the pressure that the **<Service Provider>** determines, from time to time as a reasonable and prudent network operator, as the minimum nominal operating pressure for the main to which the Delivery Point is connected.

### 5. METER READING

- (a) **<Service Provider>** will be responsible for calculating and recording the quantity of Gas delivered to **<User>** at the Delivery Point by Telemetry reading.
- (b) **<Service Provider>** will take such Telemetry readings every day.

### 6. PRICES

- (a) Service A2 is made available at Tariff A2.
- (b) The Haulage Charge for provision of access to Service A2 at a Delivery Point is calculated by applying Tariff A2.
- (c) If Tariff A2 consists (in whole or in part) of a User Specific Charge, then the User Specific Charge must be pro-rated on the basis of a 365 day Year starting on the Start Date for the Delivery Point to which the User Specific Delivery Facilities relate.

### 7. CONTRACTED PEAK RATE

The Contracted Peak Rate for a Delivery Point is the rate agreed between the Parties for the Delivery Point and specified in the Delivery Point Register.

## 8. EXCEEDING CONTRACTED PEAK RATE

If **<User>**'s Instantaneous Flow Rate for a Delivery Point exceeds its Contracted Peak Rate for a Delivery Point on:

- (a) 3 or more days during any 30 day period; or
- (b) 8 or more days during a Year,

then **<Service Provider>** must, as soon as reasonably practicable, notify **<User>** of this fact and of whether:

- (c) **<Service Provider>** is prepared to, having regard to the restrictions and pre-conditions specified in the Application Procedure, increase **<User>**'s Contracted Peak Rate in accordance with this clause 8 of this Schedule 2, in which case **<User>** must within 10 Business Days elect between:
  - (i) an increase in its Contracted Peak Rate, with effect from the last of the days referred to in clause 8(a) or 8(b) of this Schedule 2, as applicable, so that it is equal to the highest Instantaneous Flow Rate at the Delivery Point during the days referred to in clause 8(a) or 8(b), as applicable, in which case **<Service Provider>** will increase the Contracted Peak Rate for that Delivery Point and update the Delivery Point Register; and
  - (ii) **<Service Provider>** installing, and to **<User>** paying the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<User>** to no more than the Contracted Peak Rate, in which case **<Service Provider>** may install, and **<User>** must pay the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<User>** to no more than the Contracted Peak Rate, and if **<User>** does not so elect within 10 Business Days, **<Service Provider>** may make the election on **<User>**'s behalf; or
- (d) **<Service Provider>** is not prepared to, having regard to the restrictions and pre-conditions specified in the Application Procedure, increase **<User>**'s Contracted Peak Rate in accordance with this clause 8 of this Schedule 2, in which case **<Service Provider>** may install, and **<User>** must pay the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<User>** to no more than the Contracted Peak Rate.

## 9. DEREGISTERING A DELIVERY POINT

- (a) **<User>** may request (and if required by clause 5.6 of this Haulage Contract, must request) **<Service Provider>** to permanently deregister a Delivery Point by lodging a valid permanent removal request under the Retail Market Rules<sup>62</sup> with **<Service Provider>**.
- (b) Once **<Service Provider>** has received a request to permanently deregister a Delivery Point, **<Service Provider>** will permanently deregister the Delivery Point by:
  - (i) removing the User Specific Delivery Facilities to the extent **<Service Provider>** considers necessary;

<sup>62</sup> Rule 125 of the Retail Market Rules sets out the processes and requirements for permanently removing delivery points, and states that a network operator must permanently remove a delivery point after receiving a valid permanent removal request from the User.

- (ii) permanently removing the Delivery Point in accordance with the Retail Market Rules; and
  - (iii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) **<User>** acknowledges and agrees that:
  - (i) **<Service Provider>** is not liable to **<User>** in respect of any Claim, loss, damage, cost or expense (including Indirect Damage and Direct Damage) if it fails to permanently deregister the Delivery Point; and
  - (ii) **<Service Provider>** will notify **<User>** in writing once the Delivery Point has been deregistered.
- (d) If **<Service Provider>** deregisters the Delivery Point, then **<User>** must pay **<Service Provider>**'s reasonable costs incurred in deregistering the Delivery Point (such costs will include all reasonable direct and indirect costs incurred by the **<Service Provider>** in relation to deregistering the Delivery Point).
- (e) If **<Service Provider>** attempts to deregister the Delivery Point, but is unable to do so because it cannot gain access to the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<User>** cancels its request before **<Service Provider>** deregisters, or attempts to deregister, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 9 of this Schedule 2 are a Pipeline Service derived from the Reference Service described as Deregistering a Delivery Point in the Access Arrangement.

## Schedule 3

### Service B1

#### Specific Terms and Conditions

#### 1. GENERAL

- (a) The terms and conditions in this Schedule 3 apply to each Delivery Point specified on the Delivery Point Register as being a Delivery Point to which Service B1 applies.
- (b) Service B1 is a Pipeline Service provided under this Haulage Contract by which **<User>** may take delivery of Gas at a Delivery Point on the AGA GDS, where:
  - (i) at the time **<User>** submitted its application for Service B1 at a Delivery Point either (or both):
    - A. it was reasonably anticipated that **<User>** would take delivery of less than 10 TJ of Gas during each Year Service B1 was requested to obtain access to Service B1 under this Haulage Contract;
    - B. **<User>** requested a Contracted Peak Rate for the Delivery Point of less than 10 GJ per hour; and
  - (ii) **<User>** requested User Specific Delivery Facilities at the Delivery Point; or
  - (iii) **<User>** may take delivery of Gas at a Delivery Point on the Medium Pressure/Low Pressure System using Standard Delivery Facilities which include a standard Meter with a badged capacity of greater than or equal to 18 m<sup>3</sup>/h
- (c) Service B1 is derived from the Reference Service described as Service B1 in the Access Arrangement.

#### 2. DELIVERY FACILITIES

- (a) **<Service Provider>** will provide User Specific Delivery Facilities to measure the amount of Gas taken by **<User>** at each Delivery Point to which Service B1 applies.
- (b) **<Service Provider>** will design and construct all User Specific Delivery Facilities, and will have regard to **<User>**'s reasonable requirements in doing so.
- (c) The User Specific Delivery Facilities at the Delivery Point will include a Meter which aggregates the flow of Gas across time.
- (d) **<Service Provider>** will own, operate and maintain, and may from time to time modify, subject to consultation with **<User>**, any User Specific Delivery Facilities.
- (e) **<User>** must use its reasonable endeavours to cooperate with **<Service Provider>** in installing, operating, maintaining, and modifying any User Specific Delivery Facilities.

- (f) Nothing in this Schedule 3 limits **<Service Provider>**'s powers under any Law (including under the *Energy Coordination Act 1994 (WA)* or the *Energy Operators (Powers) Act 1979 (WA)* and subordinate legislation).

### 3. ACCURACY VERIFICATION

- (a) **<Service Provider>** will verify the accuracy of the Meter forming part of any User Specific Delivery Facilities as required by good industry practice and applicable Laws with the frequency of verification determined by **<Service Provider>** if not specified by that good industry practice or those applicable Laws.
- (b) If **<User>** requests **<Service Provider>** to verify the accuracy of a Meter forming part of User Specific Delivery Facilities and **<Service Provider>** determines that the Meter is accurate, **<User>** must pay **<Service Provider>**'s reasonable costs in verifying the accuracy of the Meter.

### 4. GAS PRESSURE

- (a) Subject to clause 4(b) of this Schedule 3 and any applicable Laws, the Nominal Delivery Pressure at which **<Service Provider>** will deliver Gas to **<User>** is:
- (i) unless the Parties agree that a particular pressure is to apply as the Nominal Delivery Pressure, the Nominal Delivery Pressure associated with the User Specific Facilities at the Delivery Point; or
- (ii) if the Parties agree that a particular pressure is to apply as the Nominal Delivery Pressure, the agreed pressure.
- (b) Notwithstanding clause 4(a) of this Schedule 3, the pressure described at clause 4(a) will be amended to the pressure that the **<Service Provider>** determines, from time to time as a reasonable and prudent network operator, as the minimum nominal operating pressure for the main to which the Delivery Point is connected.

### 5. METER READING

- (a) **<Service Provider>** will be responsible for calculating and recording the quantity of Gas delivered to **<User>** at the Delivery Point.
- (b) **<Service Provider>** will read the Meter in accordance with the Retail Market Rules<sup>63</sup> or otherwise approximately 12 times each Year.

### 6. PRICES

- (a) Service B1 is made available at Tariff B1.
- (b) The Haulage Charge for provision of access to Service B1 at a Delivery Point is calculated by applying Tariff B1.
- (c) If Tariff B1 consists (in whole or in part) of a User Specific Charge, then the User Specific Charge must be pro-rated on the basis of a 365 day Year starting on the Start Date for the Delivery Point to which the User Specific Delivery Facilities relate.

<sup>63</sup> Part 4.2 of the Retail Market Rules sets out meter reading requirements, including scheduling of meter readings, amendments to schedules, special readings and readings by another entity.

## 7. CONTRACTED PEAK RATE

The Contracted Peak Rate for a Delivery Point is the lesser of:

- (a) the highest Instantaneous Flow Rate at which Gas can be delivered by **<Service Provider>** at the Delivery Point using the User Specific Delivery Facilities at the Delivery Point; and
- (b) 18 m<sup>3</sup>/h.

## 8. DEREGISTERING A DELIVERY POINT

- (a) **<User>** may request (and if required by clause 5.6 of this Haulage Contract, must request) **<Service Provider>** to permanently deregister a Delivery Point by lodging a valid permanent removal request under the Retail Market Rules<sup>64</sup> with **<Service Provider>**.
- (b) Once **<Service Provider>** has received a request to permanently deregister a Delivery Point, **<Service Provider>** will permanently deregister the Delivery Point by:
  - (i) removing the User Specific Delivery Facilities to the extent **<Service Provider>** considers necessary;
  - (ii) permanently removing the Delivery Point in accordance with the Retail Market Rules; and
  - (iii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable to **<User>** in respect of any Claim, loss, damage, cost or expense (including Indirect Damage and Direct Damage) if it fails to permanently deregister the Delivery Point,
- (d) **<Service Provider>** will notify **<User>** in writing once the Delivery Point has been deregistered.
- (e) If **<Service Provider>** deregisters the Delivery Point, then **<User>** must pay **<Service Provider>**'s reasonable costs incurred in deregistering the Delivery Point (such costs will include all reasonable direct and indirect costs incurred by the **<Service Provider>** in relation to deregistering the Delivery Point).
- (f) If **<Service Provider>** attempts to deregister the Delivery Point, but is unable to do so because it cannot gain access to the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) If **<User>** cancels its request before **<Service Provider>** deregisters, or attempts to deregister, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

<sup>64</sup> Rule 125 of the Retail Market Rules sets out the processes and requirements for permanently removing delivery points, and states that a network operator must permanently remove a delivery point after receiving a valid permanent removal request from the User.



- (h) The activities of **<Service Provider>** described in this clause 8 of this Schedule 3 are a Pipeline Service derived from the Reference Service described as Deregistering a Delivery Point in the Access Arrangement.

## Schedule 4

### Service B2

#### Specific Terms and Conditions

##### 1. GENERAL

- (a) The terms and conditions in this Schedule 4 apply to each Delivery Point specified on the Delivery Point Register as being a Delivery Point to which Pipeline Service B2 applies.
- (b) Service B2 is a Pipeline Service provided under this Haulage Contract by which <User> may take delivery of Gas at a Delivery Point on the Medium Pressure/Low Pressure System using Standard Delivery Facilities which include a standard Meter with a badged capacity of greater than or equal to 12 m<sup>3</sup>/h and less than 18 m<sup>3</sup>/h.
- (c) Service B2 is derived from the Reference Service described as Service B2 in the Access Arrangement.

##### 2. DELIVERY FACILITIES

- (a) <Service Provider> will provide Standard Delivery Facilities to measure the amount of Gas taken by <User> at each Delivery Point to which Pipeline Service B2 applies, with Gas flow volumes as measured by the Standard Delivery Facilities to be aggregated between readings.
- (b) <Service Provider> will own, operate and maintain, and may from time to time modify, subject to consultation with <User>, any Standard Delivery Facilities.
- (c) <User> must use its reasonable endeavours to cooperate with <Service Provider> in installing, operating, maintaining and modifying any Standard Delivery Facilities.
- (d) Nothing in this Schedule 4 limits <Service Provider>'s powers under any Law (including under the *Energy Coordination Act 1994 (WA)* or the *Energy Operators (Powers) Act 1979 (WA)* and subordinate legislation).

##### 3. GAS PRESSURE

Provided it is within the capability of the AGA GDS at the Delivery Point and subject to any applicable Laws, the Nominal Delivery Pressure at which <Service Provider> will deliver Gas to <User> is a pressure that will not exceed 7 kPa, as regulated by the Standard Delivery Facilities at the Delivery Point.

##### 4. METER READING

- (a) <Service Provider> will be responsible for calculating and recording the quantity of Gas delivered to <User> at the Delivery Point.
- (b) <Service Provider> must use reasonable endeavours to read the Meter approximately 4 times each Year at intervals of approximately 100 days.

##### 5. PRICES

- (a) Service B2 is made available at Tariff B2.

- (b) The Haulage Charge for provision of access to Service B2 at a Delivery Point is calculated by applying Tariff B2.

## 6. CONTRACTED PEAK RATE

The Contracted Peak Rate for a Delivery Point is the lesser of:

- (a) the highest Instantaneous Flow Rate at which Gas can be delivered by **<Service Provider>** at the Delivery Point using the Standard Delivery Facilities at the Delivery Point; and
- (b) 12m<sup>3</sup>/h.

## 7. DEREGISTERING A DELIVERY POINT

- (a) **<User>** may request (and if required by clause 5.6 of this Haulage Contract, must request) **<Service Provider>** to permanently deregister a Delivery Point by lodging a valid permanent removal request under the Retail Market Rules<sup>65</sup> with **<Service Provider>**.
- (b) Once **<Service Provider>** has received a request to permanently deregister a Delivery Point, **<Service Provider>** will permanently deregister the Delivery Point by:
  - (i) removing the Standard Delivery Facilities to the extent **<Service Provider>** considers necessary;
  - (ii) permanently removing the Delivery Point in accordance with the Retail Market Rules; and
  - (iii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable to **<User>** in respect of any Claim, loss, damage, cost or expense (including Indirect Damage and Direct Damage) if it fails to permanently deregister the Delivery Point.
- (d) **<Service Provider>** will notify **<User>** in writing once the Delivery Point has been deregistered.
- (e) If **<Service Provider>** deregisters the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Service Provider>** attempts to deregister the Delivery Point, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) If **<User>** cancels its request before **<Service Provider>** deregisters, or attempts to deregister, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

<sup>65</sup> Rule 125 of the Retail Market Rules sets out the processes and requirements for permanently removing delivery points, and states that a network operator must permanently remove a delivery point after receiving a valid permanent removal request from the User.

- (h) The activities of **<Service Provider>** described in this clause 7 of this Schedule 4 are a Pipeline Service derived from the Reference Service described as Deregistering a Delivery Point in the Access Arrangement.

## 8. APPLYING A METER LOCK TO A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to apply a lock to the valve that comprises part of the Standard Delivery Facilities to prevent Gas from being received at the relevant Delivery Point.
- (b) **<Service Provider>** will use reasonable endeavours to apply a lock to the valve that comprises part of the Standard Delivery Facilities in a manner that will prevent the valve from being turned on, in the manner **<Service Provider>** considers appropriate, within 3 Business Days of receiving **<User>**'s request.
- (c) **<User>** acknowledges and agrees that:
- (i) **<Service Provider>** is not liable for a failure to comply with **<User>**'s request, or if Gas continues to flow at the Delivery Point; and
  - (ii) it may not be physically possible for **<Service Provider>** to apply a lock to certain types of valves and in those circumstances **<User>** will still be liable to pay the Charge referred to at clause 8(d) of this Schedule.
- (d) If **<Service Provider>** applies, or attempts to apply, a lock to the valve that comprises part of the Standard Delivery Facilities, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If **<Service Provider>** attempts to apply a lock to a valve that comprises part of the Standard Delivery Facilities, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<User>** cancels its request before **<Service Provider>** applies or attempts to apply a lock to the valve that comprises part of the Standard Delivery Facilities, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 8 of this Schedule 4 are a Pipeline Service derived from the Reference Service described as Applying a Meter Lock in the Access Arrangement.

## 9. REMOVING A METER LOCK FROM A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to remove a lock that **<Service Provider>** applied to a valve that comprises part of the Standard Delivery Facilities.
- (b) **<Service Provider>** will use reasonable endeavours to physically remove the lock, in the manner **<Service Provider>** considers appropriate, within 3 Business Days of receiving **<User>**'s request.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<User>**'s request.

- (d) If **<Service Provider>** removes the lock, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If **<Service Provider>** attempts to remove the lock, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<User>** cancels its request before **<Service Provider>** removes, or attempts to remove, the lock, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 9 of this Schedule 4 are a Pipeline Service derived from the Reference Service described as Removing a Meter Lock in the Access Arrangement.

## 10. DISCONNECTING A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to disconnect a Delivery Point by lodging a disconnection notice with **<Service Provider>** under the Retail Market Rules<sup>66</sup>.
- (b) **<Service Provider>** will use reasonable endeavours to physically disconnect the Delivery Point in a manner that will prevent Gas from being delivered to the Delivery Point, in the manner **<Service Provider>** considers appropriate, within 3 Business Days of receiving **<User>**'s request.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<User>**'s request, or if Gas continues to flow at the Delivery Point.
- (d) If **<Service Provider>** disconnects the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If **<Service Provider>** attempts to disconnect the Delivery Point, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<User>** cancels its request before **<Service Provider>** disconnects or attempts to disconnect, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 10 of this Schedule 4 are a Pipeline Service derived from the Reference Service described as Disconnecting a Delivery Point in the Access Arrangement.

## 11. RECONNECTING A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to reconnect a Delivery Point that was disconnected by **<Service Provider>** under this Haulage

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<sup>66</sup> Rule 105 of the Retail Market Rules sets out the processes and requirements for disconnecting delivery points, and states that a network operator must disconnect a delivery point after receiving a valid disconnection notice.

Contract by lodging a reconnection notice with **<Service Provider>** under the Retail Market Rules<sup>67</sup>.

- (b) **<Service Provider>** will use reasonable endeavours to physically reconnect the Delivery Point in a manner that will allow Gas to be delivered to the Delivery Point, in the manner it considers appropriate, within 2 Business Days of receiving **<User>**'s request.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<User>**'s request.
- (d) If **<Service Provider>** reconnects the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If **<Service Provider>** attempts to reconnect the Delivery Point, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<User>** cancels its request before **<Service Provider>** reconnects, or attempts to reconnect, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 11 of this Schedule 4 are a Pipeline Service derived from the Reference Service described as Reconnecting a Delivery Point in the Access Arrangement.

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<sup>67</sup> Rule 117 of the Retail Market Rules sets out the processes and requirements for reconnecting delivery points, and states that a network operator must reconnect a delivery point after receiving a valid reconnection notice.

## Schedule 5

### Service B3

#### Specific Terms and Conditions

#### 1. GENERAL

- (a) The terms and conditions in this Schedule 5 apply to each Delivery Point specified on the Delivery Point Register as being a Delivery Point to which Pipeline Service B3 applies.
- (b) Service B3 is a Pipeline Service provided under this Haulage Contract by which <User> may take delivery of Gas at a Delivery Point on the Medium Pressure/Low Pressure System using Standard Delivery Facilities which include a standard Meter with a badged capacity of less than 12m<sup>3</sup>/h.
- (c) Service B3 is derived from the Reference Service described as Service B3 in the Access Arrangement.

#### 2. DELIVERY FACILITIES

- (a) <Service Provider> will provide Standard Delivery Facilities to measure the amount of Gas taken by <User> at each Delivery Point to which Pipeline Service B2 applies, with Gas flow volumes as measured by the Standard Delivery Facilities to be aggregated between readings.
- (b) <Service Provider> will own, operate and maintain, and may from time to time modify, subject to consultation with <User>, any Standard Delivery Facilities.
- (c) <User> must use its reasonable endeavours to cooperate with <Service Provider> in installing, operating, maintaining and modifying any Standard Delivery Facilities.
- (d) Nothing in this Schedule 5 limits <Service Provider>'s powers under any Law (including under the *Energy Coordination Act 1994 (WA)* or the *Energy Operators (Powers) Act 1979 (WA)* and subordinate legislation).

#### 3. GAS PRESSURE

Provided it is within the capability of the AGA GDS at the Delivery Point and subject to any applicable Laws, the Nominal Delivery Pressure at which <Service Provider> will deliver Gas to <User> is a pressure that will not exceed 7 kPa, as regulated by the Standard Delivery Facilities at the Delivery Point.

#### 4. METER READING

- (a) <Service Provider> will be responsible for calculating and recording the quantity of Gas delivered to <User> at the Delivery Point.
- (b) <Service Provider> must use reasonable endeavours to read the Meter approximately 4 times each Year at intervals of approximately 100 days.

#### 5. PRICES

- (a) Service B3 is made available at Tariff B3.
- (b) The Haulage Charge for provision of access to Service B3 at a Delivery Point is calculated by applying Tariff B3.

## 6. CONTRACTED PEAK RATE

The Contracted Peak Rate for a Delivery Point is the lesser of:

- (a) the highest Instantaneous Flow Rate at which Gas can be delivered by **<Service Provider>** at the Delivery Point using the Standard Delivery Facilities at the Delivery Point; and
- (b) 8m<sup>3</sup>/h.

## 7. DEREGISTERING A DELIVERY POINT

- (a) **<User>** may request (and if required by clause 5.6 of this Haulage Contract, must request) **<Service Provider>** to permanently deregister a Delivery Point by lodging a valid permanent removal request under the Retail Market Rules<sup>68</sup> with **<Service Provider>**.
- (b) Once **<Service Provider>** has received a request to permanently deregister a Delivery Point, **<Service Provider>** will permanently deregister the Delivery Point by:
  - (i) removing the Standard Delivery Facilities to the extent **<Service Provider>** considers necessary;
  - (ii) permanently removing the Delivery Point in accordance with the Retail Market Rules; and
  - (iii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable to **<User>** in respect of any Claim, loss, damage, cost or expense (including Indirect Damage and Direct Damage) if it fails to permanently deregister the Delivery Point.
- (d) **<Service Provider>** will notify **<User>** in writing once the Delivery Point has been deregistered.
- (e) If **<Service Provider>** deregisters the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Service Provider>** attempts to deregister the Delivery Point, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) If **<User>** cancels its request before **<Service Provider>** deregisters, or attempts to deregister, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (h) The activities of **<Service Provider>** described in this clause 7 of this Schedule 5 are a Pipeline Service derived from the Reference Service described as Deregistering a Delivery Point in the Access Arrangement.

<sup>68</sup> Rule 125 of the Retail Market Rules sets out the processes and requirements for permanently removing delivery points, and states that a network operator must permanently remove a delivery point after receiving a valid permanent removal request from the User.



## 8. APPLYING A METER LOCK TO A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to apply a lock to the valve that comprises part of the Standard Delivery Facilities to prevent Gas from being received at the relevant Delivery Point.
- (b) **<Service Provider>** will use reasonable endeavours to apply a lock to the valve that comprises part of the Standard Delivery Facilities in a manner that will prevent the valve from being turned on, in the manner **<Service Provider>** considers appropriate, within 3 Business Days of receiving **<User>**'s request.
- (c) **<User>** acknowledges and agrees that:
  - (i) **<Service Provider>** is not liable for a failure to comply with **<User>**'s request, or if Gas continues to flow at the Delivery Point;
  - (ii) it may not be physically possible for **<Service Provider>** to apply a lock to certain types of valves and in those circumstances **<User>** will still be liable to pay the Charge referred to at clause 8(d) of this Schedule 5.
- (d) If **<Service Provider>** applies, or attempts to apply, a lock to the valve that comprises part of the Standard Delivery Facilities, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If **<Service Provider>** attempts to apply a lock to the valve that comprises part of the Standard Delivery Facilities, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<User>** cancels its request before **<Service Provider>** applies or attempts to apply a lock to the valve that comprises part of the Standard Delivery Facilities, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 8 of this Schedule 5 are a Pipeline Service derived from the Reference Service described as Applying a Meter Lock in the Access Arrangement.

## 9. REMOVING A METER LOCK FROM A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to remove a lock that **<Service Provider>** applied to a valve that comprises part of the Standard Delivery Facilities.
- (b) **<Service Provider>** will use reasonable endeavours to physically remove the lock, in the manner **<Service Provider>** considers appropriate, within 3 Business Days of receiving **<User>**'s request.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<User>**'s request.
- (d) If **<Service Provider>** removes the lock, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If **<Service Provider>** attempts to remove the lock, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>**

must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

- (f) If **<User>** cancels its request before **<Service Provider>** removes, or attempts to remove, the lock, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 9 are a Pipeline Service derived from the Reference Service described as Removing a Meter Lock in the Access Arrangement.

## 10. DISCONNECTING A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to disconnect a Delivery Point by lodging a disconnection notice with **<Service Provider>** under the Retail Market Rules<sup>69</sup>.
- (b) **<Service Provider>** will use reasonable endeavours to physically disconnect the Delivery Point in a manner that will prevent Gas from being delivered to the Delivery Point, in the manner **<Service Provider>** considers appropriate, within 3 Business Days of receiving **<User>**'s request.
- (c) **<User>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<User>**'s request, or if Gas continues to flow at the Delivery Point.
- (d) If **<Service Provider>** disconnects the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If **<Service Provider>** attempts to disconnect the Delivery Point, but is unable to do so because it cannot gain access to the relevant land or premises, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<User>** cancels its request before **<Service Provider>** disconnects or attempts to disconnect, the Delivery Point, then **<User>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of **<Service Provider>** described in this clause 10 of this Schedule 5 are a Pipeline Service derived from the Reference Service described as Disconnecting a Delivery Point in the Access Arrangement.

## 11. RECONNECTING A DELIVERY POINT

- (a) **<User>** may request **<Service Provider>**, in writing, to reconnect a Delivery Point that was disconnected by **<Service Provider>** under this Haulage Contract by lodging a disconnection notice with **<Service Provider>** under the Retail Market Rules<sup>70</sup>.
- (b) **<Service Provider>** will use reasonable endeavours to physically reconnect the Delivery Point in a manner that will allow Gas to be delivered to the Delivery

<sup>69</sup> Rule 105 of the Retail Market Rules sets out the processes and requirements for disconnecting delivery points, and states that a network operator must disconnect a delivery point after receiving a valid disconnection notice.

<sup>70</sup> Rule 117 of the Retail Market Rules sets out the processes and requirements for reconnecting delivery points, and states that a network operator must reconnect a delivery point after receiving a valid reconnection notice.

Point, in the manner it considers appropriate, within 2 Business Days of receiving <User>'s request.

- (c) <User> acknowledges and agrees that <Service Provider> is not liable for a failure to comply with <User>'s request.
- (d) If <Service Provider> reconnects the Delivery Point, then <User> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) If <Service Provider> attempts to reconnect the Delivery Point, but is unable to do so because it cannot gain access to the relevant land or premises, then <User> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If <User> cancels its request before <Service Provider> reconnects, or attempts to reconnect, the Delivery Point, then <User> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) The activities of <Service Provider> described in this clause 11 of this Schedule 5 are a Pipeline Service derived from the Reference Service described as Reconnecting a Delivery Point in the Access Arrangement.

**EXECUTED** as an agreement.

## Annexure A – Gas Quality Specifications

1. Subject to clause 2 of this Annexure A, "Gas Quality Specifications" in this Haulage Contract means the specifications, standards and requirements described at (a) and (b) of this clause 1 and where there are conflicting specifications, standards or requirements the most stringent specification, standard or requirement applies:
  - (a) regulations 5 and 6 of the Gas Standards Regulations; and
  - (b) the Western Australian standard specification as defined in the *Gas Supply (Gas Quality Specifications) Regulations 2010*.
  
2. The specifications, standards and requirements for maximum water content, maximum hydrogen sulphide and hydrocarbon dewpoint in the Gas Quality Specifications referred to in clauses 1(a) and 1(b) of this Annexure A are replaced with the following requirements:

<b>Component</b>	<b>Unit of Measurement</b>	<b>Specification Limit</b>
Maximum water content	mg/m <sup>3</sup>	100
Maximum hydrogen sulphide	mg/m <sup>3</sup>	4.6
Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute	°C	Below the Minimum Receipt Temperature applying for the Physical Gate Point

## Annexure B – Bank Guarantee

**[Name of Issuer]**

ABN/ACN/ARBN [number]

To: **[Name and address of Beneficiary]**

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**IRREVOCABLE BANK GUARANTEE No [number]**

DATED [date]

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**On Account of:** [Name of Company] (**Company**)

**Beneficiary:** [Name of Beneficiary] (**Beneficiary**)

**Maximum Liability:** AUD[amount] (as reduced by each amount paid)

**Expiry Date:** 4:00pm on [date]

**Payable on demand to:** [name of Issuer] at [Place]

**Issued in Connection with:** [Details of arrangements guaranteed by the Bank Guarantee]

**[Name of Issuer]** ABN/ACN/ARBN [number] (**Bank**) at the request and for the account of the Company, undertakes that:

### TERMS AND CONDITIONS

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1. The Bank, as principal debtor and not as a surety, irrevocably and unconditionally undertakes to pay any amounts demanded by the Beneficiary under and in accordance with this Bank Guarantee (not exceeding in aggregate the Maximum Liability) upon receipt of the demand:
  - (a) without reference to the Company;
  - (b) irrespective of any dispute between the Beneficiary and the Company in relation to any amount payable under this Bank Guarantee;
  - (c) without the Beneficiary first being required to exhaust any remedy it may have against the Company or to enforce any other guarantee or security it may hold relating to the amount guaranteed by this Bank Guarantee; and
  - (d) notwithstanding the grant of any time or other indulgence to the Company or any other circumstance, act or omission which, but for this provision, might otherwise affect it at law or in equity.
  
2. Any demand under this Bank Guarantee must be in writing and delivered to the address of the Bank stated above before close of business on a business day (being a day on which the bank is open for business at that address) on or before the expiry date specified above and must be accompanied by a notice signed by an officer of the Beneficiary stating:
  - (a) the number and date of this Bank Guarantee;
  - (b) that the notice is given pursuant to the terms of this Bank Guarantee; and
  - (c) the amount demanded and that the amount is not more than the Maximum Liability then outstanding,

and the Maximum Liability will automatically reduce by each amount paid by the Bank when so demanded.

3. Payment of amounts demanded under this Bank Guarantee must be made:
  - (a) by bank cheque or by telegraphic transfer to any account of the Beneficiary nominated by it in writing for this purpose; and
  - (b) without any deduction or withholding except as may be required by law.
4. This Bank Guarantee terminates automatically and immediately and must be returned by the Beneficiary to the Bank for cancellation upon the first to occur of:
  - (a) the date the Beneficiary notifies the Bank that this Bank Guarantee is no longer required;
  - (b) the Expiry Date; or
  - (c) the Bank has paid amounts in aggregate equal to the Maximum Liability to the Beneficiary.
5. The Bank may elect, at any time before the Expiry Date, to terminate its liability to the Beneficiary under this Bank Guarantee by paying to the Beneficiary an amount equal to the then outstanding Maximum Liability.
6. This Bank Guarantee may not be assigned or transferred by the Beneficiary without the prior written consent of the Bank.
7. This Bank Guarantee is governed by the laws in force in the place at which demands must be made.